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

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510, 520, 522, 524, 529, and 558

[Docket No. FDA–2015–N–0002]

New Animal Drugs; Approval of New Animal Drug Applications; Withdrawal of Approval of New Animal Drug Applications; Change of Sponsor; Change of Sponsor's Name; Change of Sponsor's Address

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendments.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect application-related actions for new animal drug applications (NADAs) and abbreviated new animal drug applications (ANADAs) during January and February 2015. FDA is also informing the public of the availability of summaries of the basis of approval and of environmental review documents, where applicable. The animal drug regulations are also being amended to reflect several non-substantive changes. These technical amendments are being made to improve the accuracy of the regulations.

DATES: This rule is effective April 8, 2015, except for the amendment to 21 CFR 522.1004, which is effective April 20, 2015.

FOR FURTHER INFORMATION CONTACT: George K. Haibel, Center for Veterinary Medicine (HFV–6), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–276–9019, *george.haibel@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: FDA is amending the animal drug regulations to reflect approval actions for NADAs and ANADAs during January and February 2015, as listed in table 1. In addition, FDA is informing the public of the availability, where applicable, of documentation of environmental review required under the National Environmental Policy Act (NEPA) and, for actions requiring review of safety or effectiveness data, summaries of the basis of approval (FOI Summaries) under the Freedom of Information Act (FOIA). These public documents may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday. Persons with access to the Internet may obtain these documents at the CVM FOIA Electronic Reading Room: *http://www.fda.gov/AboutFDA/CentersOffices/OfficeofFoods/CVM/CVMFOIAElectronicReadingRoom/default.htm*. Marketing exclusivity and patent information may be accessed in FDA's publication, Approved Animal Drug Products Online (Green Book) at: *http://www.fda.gov/AnimalVeterinary/Products/ApprovedAnimalDrugProducts/default.htm*.

TABLE 1—ORIGINAL AND SUPPLEMENTAL NADAS AND ANADAS APPROVED DURING JANUARY AND FEBRUARY 2015

NADA/ANADA	Sponsor	New animal drug product name	Action	21 CFR sections	FOIA summary	NEPA review
141–435	Piedmont Animal Health, 204 Muirs Chapel Rd., Suite 200, Greensboro, NC 27410.	ADVANTUS (imidacloprid) Chewable Tablets.	Original approval for the treatment of flea infestations on dogs and puppies.	520.1156	yes	CE[1,2]
141–418	Luitpold Pharmaceuticals, Inc., Animal Health Division, Shirley, NY 11967.	BETAVET (betamethasone sodium phosphate and betamethasone acetate) Injectable Suspension.	Original approval for the control of pain and inflammation associated with osteoarthritis in horses.	522.167	yes	CE[1,2]
200–527	Putney, Inc., One Monument Sq., suite 400, Portland, ME 04101.	Enrofloxacin Antibacterial Injectable Solution.	Original approval as a generic copy of NADA 140–913.	522.812	yes	CE[1,3]
200–576	Akorn Animal Health, Inc., 1925 West Field Ct., suite 300, Lake Forest, IL 60045.	Gentamicin Sulfate Ophthalmic Solution.	Original approval as a generic copy of NADA 099–008.	524.1044a	yes	CE[1,3]

TABLE 1—ORIGINAL AND SUPPLEMENTAL NADAS AND ANADAS APPROVED DURING JANUARY AND FEBRUARY 2015—Continued

NADA/ANADA	Sponsor	New animal drug product name	Action	21 CFR sections	FOIA summary	NEPA review
141–280 [4]	Intervet, Inc., 556 Morris Ave., Summit, NJ 07901.	ZILMAX (zilpaterol hydrochloride) plus RUMENSIN (monensin) plus TYLAN (tylosin phosphate) plus MGA (melengestrol acetate) Type A medicated articles.	Supplemental approval to provide for component feeding of combination drug Type C medicated feeds to heifers fed in confinement for slaughter.	558.665	yes	CE [1 5]
141–406	Merial, Inc., 3239 Satellite Blvd., Bldg. 500, Duluth, GA 30096–4640.	NEXGARD (afoxolaner) Chewable Tablets.	Supplemental approval for the treatment and control of an additional tick species in dogs and puppies.	520.43	yes	CE [1 2]

[1] The Agency has determined that this action is categorically excluded (CE) from the requirement to submit an environmental assessment or an environmental impact statement because it is of a type that does not have a significant effect on the human environment.
[2] CE granted under 21 CFR 25.33(d)(1).
[3] CE granted under 21 CFR 25.33(a)(1).
[4] This application is affected by guidance for industry (GFI) #213, ''New Animal Drugs and New Animal Drug Combination Products Administered in or on Medicated Feed or Drinking Water of Food-Producing Animals: Recommendations for Drug Sponsors for Voluntarily Aligning Product Use Conditions with GFI #209'', December 2013.
[5] CE granted under 21 CFR 25.33(a)(2).

In addition during January and February 2015, ownership of, and all rights and interest in, the following approved applications have been transferred as follows:

NADA/ANADA	Previous sponsor	New animal drug product name	New sponsor	21 CFR Section
141–098	Abbott Laboratories, North Chicago, IL 60064.	PROPOFLO (propofol) Injectable Suspension.	Zoetis Inc., 333 Portage St., Kalamazoo, MI 49007.	522.2005
141–103	Abbott Laboratories, North Chicago, IL 60064.	SEVOFLO (sevoflurane) Inhalation Anesthetic.	Zoetis Inc., 333 Portage St., Kalamazoo, MI 49007.	529.2150
141–346	Abbott Laboratories, North Chicago, IL 60064.	OROCAM (meloxicam) Oral Spray	Zoetis Inc., 333 Portage St., Kalamazoo, MI 49007.	529.1350
141–434	Abbott Laboratories, North Chicago, IL 60064.	SIMBADOL (buprenorphine) Injectable Solution.	Zoetis Inc., 333 Portage St., Kalamazoo, MI 49007.	522.230
200–070	Abbott Laboratories, North Chicago, IL 60064.	ISOFLO (isoflurane) Inhalation Anesthetic.	Zoetis Inc., 333 Portage St., Kalamazoo, MI 49007.	529.1186
048–480	ADM Alliance Nutrition., Inc., 1000 North 30th St., Quincy, IL 62305–3115.	CHLORATET 90 and 100 (chlortetracycline) Type A medicated articles.	Pharmgate LLC, 161 North Franklin Turnpike, suite 2C, Ramsey, NJ 07446.	558.128
065–256	ADM Alliance Nutrition., Inc., 1000 North 30th St., Quincy, IL 62305–3115.	CHLORTET-SOLUBLE-O (chlortetracycline) Powder.	Pharmgate LLC, 161 North Franklin Turnpike, suite 2C, Ramsey, NJ 07446.	520.441
200–197	Contemporary Products, Inc., 3788 Elm Springs Rd., Springdale, AR 72764–6067.	Streptomycin Oral Solution	Huvepharma AD, 5th Floor, 3A Nikolay Haitov Str., 1113 Sofia, Bulgaria.	520.2158
141–084	Novartis Animal Health US, Inc., 3200 Northline Ave., suite 300, Greensboro, NC 27408.	SENTINEL (milbemycin oxime and lufenuron) FLAVOR TABS.	Virbac AH, Inc., 3200 Meacham Blvd., Ft. Worth, TX 76137.	522.1143
141–204	Novartis Animal Health US, Inc., 3200 Northline Ave., suite 300, Greensboro, NC 27408.	SENTINEL (milbemycin oxime and lufenuron) FLAVOR TABS and CAPSTAR (nitenpyram) Tablets Flea Management Program.	Virbac AH, Inc., 3200 Meacham Blvd., Ft. Worth, TX 76137.	520.1510
141–333	Novartis Animal Health US, Inc., 3200 Northline Ave., suite 300, Greensboro, NC 27408.	SENTINEL SPECTRUM (milbemycin oxime/lufenuron/praziquantel) Tablets.	Virbac AH, Inc., 3200 Meacham Blvd., Ft. Worth, TX 76137.	520.1447
141–067	OPK Biotech, LLC, 11 and 39 Hurley St., Cambridge, MA.	OXYGLOBIN (hemoglobin glutamer-200 (bovine)).	Hemoglobin Oxygen Therapeutics, LLC, 674 Souder Rd., Souderton, PA 18964.	522.1125

At this time, the regulations are being amended to reflect these changes of sponsorship.

In addition, Paladin Labs (USA), Inc., 160 Greentree Dr., Suite 101, Dover, DE 19904 has requested that FDA withdraw approval of NADA 141–075 for ANTIZOL–VET (fomepizole) Injection. Elsewhere in this issue of the **Federal Register,** FDA gave notice that approval of NADA 141–075, and all supplements and amendments thereto, is withdrawn, effective April 20, 2015. As provided in the regulatory text of this document, the animal drug regulations are being amended to reflect this voluntary withdrawal of approval.

Following these changes of sponsorship and withdrawal of approval, Hemoglobin Oxygen Therapeutics, LLC is now the sponsor of an approved application while OPK Biotech, LLC and Paladin Labs (USA), Inc., are no longer the sponsor of an approved application. Also, Merial Ltd., 3239 Satellite Blvd., Bldg. 500, Duluth, GA 30096–4640, has informed FDA that it has changed its name to Merial, Inc., and Intervet, Inc., 556 Morris Ave., Summit, NJ 07901, has informed FDA that it has changed its address to 2 Giralda Farms, Madison, NJ 07940. Accordingly, § 510.600 (21 CFR 510.600) is being amended to reflect these changes.

In addition, FDA is amending the tables in § 510.600(c) to remove listings for International Nutrition, Inc.; NutriBasics Co.; Seeco Inc.; Southern Micro-Blenders, Inc.; and Wellmark International because these firms are no longer the sponsor of an approved application. These technical amendments are being made to improve the accuracy of the regulations.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Parts 520, 522, 524, and 529

Animal drugs.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510, 520, 522, 524, 529, and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

■ 2. Amend § 510.600 as follows:

■ a. In the table in paragraph (c)(1), remove the entries for ''Contemporary Products, Inc.'', ''International Nutrition, Inc.'', ''NutriBasics Co.'', ''OPK Biotech, LLC'', ''Paladin Labs (USA), Inc.'', ''Seeco Inc.'', ''Southern Micro-Blenders, Inc.'', and ''Wellmark International'';

■ b. In the table in paragraph (c)(1), revise the entries for ''Intervet, Inc.'' and ''Merial Ltd.''; and add an entry, in alphabetical order, for ''Hemoglobin Oxygen Therapeutics, LLC'';

■ c. In the table in paragraph (c)(2), remove the entries for ''011536'', ''043733'', ''046129'', and ''055462''; and

■ d. In the table in paragraph (c)(2), revise the entries for ''000061'', ''050604'', and ''063075''.

The additions and revisions read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Hemoglobin Oxygen Therapeutics, LLC, 674 Souder Rd., Souderton, PA 18964	063075
* * * * *	
Intervet, Inc., 2 Giralda Farms, Madison, NJ 07940	000061
* * * * *	
Merial, Inc., 3239 Satellite Blvd., Bldg. 500, Duluth, GA 30096–4640	050604
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
000061	Intervet, Inc., 2 Giralda Farms, Madison, NJ 07940.
* * * * *	
050604	Merial, Inc., 3239 Satellite Blvd., Bldg. 500, Duluth, GA 30096–4640.
* * * * *	
063075	Hemoglobin Oxygen Therapeutics, LLC, 674 Souder Rd., Souderton, PA 18964.
* * * * *	

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 3. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 4. In § 520.43, revise paragraph (c)(2) to read as follows:

§ 520.43 Afoxolaner.

* * * * *

(c) * * *

(2) *Indications for use.* Kills adult fleas; for the treatment and prevention of flea infestations (*Ctenocephalides felis*); for the treatment and control of black-legged tick (*Ixodes scapularis*), American dog tick (*Dermacentor variabilis*), lone star tick (*Amblyomma americanum*), and brown dog tick (*Rhipicephalus sanguineus*) infestations in dogs and puppies 8 weeks of age and older, weighing 4 lb of body weight or greater, for 1 month.

* * * * *

§ 520.441 [Amended]

■ 5. In § 520.441, in paragraph (b)(4), remove ''012286'' and in its place add ''069254''.

■ 6. Add § 520.1156 to read as follows:

§ 520.1156 Imidacloprid.

(a) *Specifications.* Each chewable tablet contains 7.5 or 37.5 milligrams (mg) imidacloprid.

(b) *Sponsor.* See No. 000859 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount.* Administer daily one 7.5-mg chewable tablet to dogs weighing 4 to 22 pounds (lb) or one 37.5-mg chewable table to dogs weighing 23 to 110 lb.

(2) *Indications for use.* Kills adult fleas and is indicated for the treatment of flea infestations on dogs and puppies 10 weeks of age and older and weighing 4 lb or greater.

(3) *Limitations.* Do not give to puppies younger than 10 weeks of age or to dogs weighing less than 4 lb. Do not give more than one tablet a day.

§ 520.1443 [Amended]

■ 7. In § 520.1443, in paragraph (b), remove ''058198'' and in its place add ''051311''.

§ 520.1447 [Amended]

■ 8. In § 520.1447, in paragraph (b), remove ''058198'' and in its place add ''051311''.

■ 9. In § 520.1510, in paragraph (d)(1)(ii)(B), remove ''§ 520.1446(d)(1) of this chapter'' and in its place add ''§ 520.1443(d)(1)''; and revise the section heading and paragraph (b) to read as follows:

§ 520.1510 Nitenpyram.

* * * * *

(b) *Sponsors.* See sponsor numbers in § 510.600(c) of this chapter:

(1) No. 058198 for use as in paragraphs (d)(1)(i)(A), (d)(1)(ii)(A), and (d)(2) of this section.

(2) No. 051311 for use as in paragraphs (d)(1)(i)(B) and (d)(1)(ii)(B) of this section.

* * * * *

§ 520.2158 [Amended]

■ 10. In § 520.2158, in paragraph (b), remove ''Nos. 016592 and 055462'' and in its place add ''No. 016592''.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

■ 11. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 12. Add § 522.167 to read as follows:

§ 522.167 Betamethasone sodium phosphate and betamethasone acetate.

(a) *Specifications.* Each milliliter (mL) of suspension contains 6 milligrams (mg) betamethasone (3.15 mg betamethasone sodium phosphate and 2.85 mg betamethasone acetate).

(b) *Sponsor.* See No. 010797 in § 510.600(c) of this chapter.

(c) *Conditions of use in horses*—(1) *Amount.* Administer 1.5 mL (9 mg total betamethasone) per joint by intra-articular injection. May be administered concurrently in up to two joints per horse.

(2) *Indications for use.* For the control of pain and inflammation associated with osteoarthritis in horses.

(3) *Limitations.* Do not use in horses intended for human consumption. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

§ 522.230 [Amended]

■ 13. In § 522.230, in paragraph (b), remove ''000044'' and in its place add ''054771''.

■ 14. In § 522.812, add paragraph (b)(3) to read as follows:

§ 522.812 Enrofloxacin.

* * * * *

(b) * * *

(3) No. 026637 for use of product described in paragraph (a)(1) as in paragraph (e)(1) of this section.

* * * * *

§ 522.1004 [Removed]

■ 15. Remove § 522.1004.

■ 16. In § 522.2005, remove paragraph (b)(3); and revise paragraph (b)(2) to read as follows:

§ 522.2005 Propofol.

* * * * *

(b) * * *

(2) No. 054771 for use as in paragraph (c) of this section.

* * * * *

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

■ 17. The authority citation for 21 CFR part 524 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 18. Revise § 524.1044a to read as follows:

§ 524.1044a Gentamicin ophthalmic solution.

(a) *Specifications.* Each milliliter of solution contains gentamicin sulfate equivalent to 3 milligrams of gentamicin.

(b) *Sponsors.* See Nos. 000061 and 059399 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs and cats*—(1) *Amount.* Administer 1 or 2 drops into the conjunctival sac 2 to 4 times a day.

(2) *Indications for use.* For the topical treatment of infections of the conjunctiva caused by susceptible bacteria.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

PART 529—CERTAIN OTHER DOSAGE FORM NEW ANIMAL DRUGS

■ 19. The authority citation for 21 CFR part 529 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 529.1186 [Amended]

■ 20. In § 529.1186, in paragraph (b), remove ''000044'' and add ''054771,'' after ''012164,''.

§ 529.1350 [Amended]

■ 21. In § 529.1350, in paragraph (b), remove ''000074'' and in its place add ''054771''.

§ 529.2150 [Amended]

■ 22. In § 529.2150, in paragraph (b), remove ''000044'' and add ''054771,'' after ''012164,''.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

■ 23. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

§ 558.128 [Amended]

■ 24. Amend § 558.128 as follows:

■ a. In paragraph (b)(2), remove ''No. 012286'' and in its place add ''No. 069254'';

■ b. In paragraph (e)(3)(iv), in the ''Limitations'' column, remove ''012286'' and in its place add ''069254''; and

■ c. In the tables in paragraphs (e)(1), (e)(2), (e)(3), and (e)(4), in the ''Sponsor'' column, remove ''012286,'' wherever it occurs.

■ 25. In § 558.665, add paragraph (e)(9) to read as follows:

§ 558.665 Zilpaterol.

* * * * *

(e) * * *

Zilpaterol in grams/ton	Combination in grams/ton	Indications for use	Limitations	Sponsor
*	*	* * *	*	*
(9) 6.8 to 24	Monensin 10 to 40, plus tylosin 8 to 10, plus melengestrol acetate to provide 0.25 to 0.5 mg/head/day.	Heifers fed in confinement for slaughter: For increased rate of weight gain, improved feed efficiency, and increased carcass leanness in cattle fed in confinement for slaughter during the last 20 to 40 days on feed; for prevention and control of coccidiosis due to *Eimeria bovis* and *E. zuernii;* and for reduction of incidence of liver abscesses caused by *Fusobacterium necrophorum* and *Arcanobacterium (Actinomyces) pyogenes;* and for suppression of estrus (heat).	Feed continuously to heifers during the last 20 to 40 days on feed to provide 60 mg zilpaterol hydrochloride per head per day. See §§ 558.342(d), 558.355(d), and 558.625(c). Monensin and tylosin as provided by No. 000986; melengestrol acetate as provided by No. 054771 in § 510.600(c) of this chapter. Withdrawal period: 3 days.	000061

Dated: April 3, 2015.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. 2015–08025 Filed 4–7–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

[Docket No. FDA–2015–N–0002]

Implantation or Injectable Dosage Form New Animal Drugs; Withdrawal of Approval of New Animal Drug Application; Fomepizole

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of withdrawal.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) for a fomepizole injectable solution used as an antidote for ethylene glycol poisoning in dogs. This action is being taken at the sponsor's request because this product is no longer manufactured or marketed.

DATES: Withdrawal of approval is effective April 20, 2015.

FOR FURTHER INFORMATION CONTACT: Sujaya Dessai, Center for Veterinary Medicine (HFV–212), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–276–9075, *sujaya.dessai@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Paladin Labs (USA), Inc., 160 Greentree Dr., suite 101, Dover, DE 19904 has requested that FDA withdraw approval of NADA 141–075 for ANTIZOL–VET (fomepizole) Injection because the product is no longer manufactured or marketed.

Therefore, under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, and in accordance with § 514.116 *Notice of withdrawal of approval of application* (21 CFR 514.116), notice is given that approval of NADA 141–075, and all supplements and amendments thereto, is hereby withdrawn.

Elsewhere in this issue of the **Federal Register,** FDA is amending the animal drug regulations to reflect the voluntary withdrawal of approval of this application.

Dated: April 3, 2015.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. 2015–08024 Filed 4–7–15; 8:45 am]

BILLING CODE 4164–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260 and 261

[EPA–HQ–RCRA–2015–0118; FRL_9923–12–OSWER]

Response to Vacaturs of the Comparable Fuels Rule and the Gasification Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is revising regulations associated with the comparable fuels exclusion and the gasification exclusion, originally issued by EPA under the Resource Conservation and Recovery Act (RCRA). These revisions implement vacaturs ordered by the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit), on June 27, 2014.

DATES: Effective April 8, 2015.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–RCRA–2015–0118. All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the EPA Docket Center, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744 and the telephone number for the RCRA Docket is (202) 566–0270.

FOR FURTHER INFORMATION CONTACT: Office of Resource Conservation and Recovery, Materials Recovery and Waste Management Division, MC 5304P, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460, Tracy Atagi, at (703) 308–8672, (*atagi.tracy@epa.gov*) or Frank Behan, at (703) 308–8476, *behan.frank@epa.gov*.

SUPPLEMENTARY INFORMATION:

Preamble Outline

I. General Information

A. Does this action apply to me?

Today's final rule applies to generators, transporters, and facilities treating, storing, disposing or otherwise managing hazardous wastes previously excluded from RCRA regulation under the comparable fuels rule or previously excluded from RCRA regulation under the gasification rule. EPA has not identified any entities currently operating under the gasification rule, but has identified 31 facilities that appear to be managing previously-excluded comparable fuels. A list of these facilities is available in the docket for today's rule (Docket ID no. EPA–HQ–RCRA–2015–0118).

B. Why is EPA issuing a final rule?

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the Agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for removing these provisions without prior proposal and opportunity for comment, because these revisions are consistent with court orders vacating these rules. As a matter of law, the orders issued by the United States Court of Appeals for the District of Columbia Circuit on June 27, 2014, vacated the ''comparable fuels rule'' and the gasification rule issued by EPA under the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901, *et seq.* It is, therefore, unnecessary to provide notice and an opportunity for comment on this action, which merely carries out the court's orders. For the same reasons, EPA finds that it has good cause to make the revisions effective under 5 U.S.C. 553(d) and section 3010(b) of RCRA 42 U.S.C. 6930(b).

II. Statutory Authority

These regulations are promulgated under the authority of sections 2002, 3001, 3002, 3003, 3004, 3006, 3007, 3010, and 3017 of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), 42 U.S.C. 6921, 6922, 6923, and 6924. This statute is commonly referred to as ''RCRA.''

III. Which regulations is EPA removing?

EPA is removing provisions at 40 CFR 261.4(a)(16) and 40 CFR 261.38 related to comparable fuels, and revising 40 CFR 261.4(a)(12)(i) by removing gasification from the list of specific petroleum refining processes into which oil-bearing hazardous secondary materials may be inserted. The effect of the removal of 40 CFR 261.4(a)(16) and 261.38 will be to make comparable fuels that were previously excluded from the RCRA definition of solid waste subject to regulation under RCRA subtitle C. The removal of gasification from 40 CFR 261.4(a)(12)(i) will prevent hazardous secondary materials generated at petroleum refineries from being inserted into gasifiers at refineries without being deemed hazardous wastes and therefore being subject to hazardous waste regulations under RCRA subtitle C. As a result of these previously excluded materials now being identified as hazardous waste under 40 CFR 261.3, facilities burning these materials will be subject to regulation as Hazardous Waste Combustors under 40 CFR part 63 subpart EEE, as well as applicable regulations under RCRA subtitle C.

IV. Background on the Comparable Fuels Rule and the Gasification Rule

A. The Comparable Fuels Rule

EPA promulgated the Comparable Fuels Rule in 1998.[1] The rule provided that fuels made from materials identified as hazardous wastes were excluded from the RCRA definition of solid waste if, as generated or after treatment and blending, they were sufficiently comparable to commercial fossil fuels for which they were substituted with respect to levels of hazardous constituents and physical properties that affect fuel burning efficiency, such as viscosity and heating value. Because the fuels, as burned, would contain contaminants no greater than commercial fossil fuels, and were otherwise indistinguishable from the fossil fuels that would be burned in their place, EPA found that the comparable fuels would pose no greater risk than commercial fuels when burned, and could be legitimately classified as non-waste fuels rather than as solid and hazardous waste fuels.

The Agency took the position that comparable fuels were not being ''discarded'' within the meaning of the definition of solid waste in RCRA section 1004(27), 42 U.S.C. 6903(27). RCRA defines solid wastes, for relevant purposes, as materials that have been discarded in the plain sense of the term, meaning that the material has been thrown away, disposed of or abandoned. Under RCRA a material regulated as a hazardous waste must first be a solid waste—that is, a discarded material. Thus, even though the comparable fuels were derived from materials that are listed hazardous wastes, EPA had concluded that fuels that met specified comparability criteria were not solid wastes because they looked no different from commercial fuels.

The comparable fuels rule was vacated by United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit), on June 27, 2014 (*Natural Resources Defense Council* v. *EPA*, 755 F. 3d 1010 (June 27, 2014)). In its decision, the court held that the unambiguous language of section 3004(q) requires that fuels produced from hazardous wastes must remain classified as hazardous wastes under subtitle C (other than in limited specified instances not relevant here). Section 3004(q), according to the court, unequivocally provides that EPA ''shall'' promulgate regulations as ''may'' be necessary to protect human health and the environment for the production of fuels from ''any'' materials identified as hazardous waste under RCRA. All hazardous secondary materials from which the comparable fuels were made were identified in RCRA regulations as hazardous wastes.

On November 3, 2014, the court granted EPA's motion to stay the issuance of the mandate for the comparable fuels rule until March 30, 2015, in order to allow affected facilities time to come into compliance with applicable subtitle C regulations.

B. Gasification Rule

Under the gasification rule, which was promulgated in 2008,[2] EPA determined that oil-bearing hazardous secondary materials, even though otherwise identified as hazardous wastes under RCRA if discarded, are not in fact discarded and not solid wastes if they are inserted into a gasification unit located at a petroleum refinery to produce synthesis gas.[3] Therefore, they were excluded from hazardous waste regulation.

The gasification rule was vacated by United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit), on June 27, 2014. (*Sierra Club*

[1] See ''Hazardous Waste Combustors; Revised Standards,'' 63 FR 33782 (June 19, 1998).

[2] See ''Regulation of Oil-Bearing Hazardous Secondary Materials From the Petroleum Refining Industry Processed in a Gasification System To Produce Synthesis Gas,'' 73 FR 57–72 (Jan. 2, 2008).

[3] Synthesis gas is a type of fuel that may be burned for the recovery of energy.

v. *EPA*, 755 F. 3d 968).The court held, similar to its decision on the Comparable Fuels Rule, that the Gasification Rule violates the plain language of RCRA section 3004(q) because fuels produced from hazardous wastes remain solid and hazardous wastes. Thus, all hazardous wastes inserted into a gasification unit at petroleum refineries remain subject to RCRA regulations as hazardous wastes.

The court issued its mandate for the vacatur of the gasification rule on November 3, 2014.

V. When will the final rule become effective?

The removal of the comparable fuels exclusion and the revisions removing gasification as an exclusion are effective immediately.

VI. State Authorization

A. Applicability of Rules in Authorized States

Under section 3006 of RCRA, EPA may authorize a qualified state to administer and enforce a hazardous waste program within the state in lieu of the federal program, and to issue and enforce permits in the state. A state may receive authorization by following the approval process described in 40 CFR 271.21 (see 40 CFR part 271 for the overall standards and requirements for authorization). EPA continues to have independent authority to bring enforcement actions under RCRA sections 3007, 3008, 3013, and 7003. An authorized state also continues to have independent authority to bring enforcement actions under state law.

After a state receives initial authorization, new federal requirements promulgated under RCRA authority existing prior to the 1984 Hazardous and Solid Waste Amendments (HSWA) do not apply in that state until the state adopts and receives authorization for equivalent state requirements. In contrast, under RCRA section 3006(g) (42 U.S.C. 6926(g)), new federal requirements and prohibitions imposed under subtitle C pursuant to HSWA provisions take effect in authorized states at the same time that they take effect in unauthorized states. As such, EPA carries out the HSWA requirements and prohibitions in authorized states, including the issuance of new permits implementing those requirements, until EPA authorizes the state to do so.

Authorized states are required to modify their programs only when EPA enacts federal requirements that are more stringent or broader in scope than the existing federal requirements. RCRA section 3009 allows the states to impose standards more stringent than those in the federal program (see also 40 CFR 271.1(i)). Therefore, authorized states are not required to adopt federal regulations that are considered less stringent than previous federal regulations or that narrow the scope of the RCRA program. Previously authorized hazardous waste regulations would continue to apply in those states.

B. Effect on State Authorization of D.C. Circuit Court Vacaturs

On March 30, 2015, the D.C. Circuit Court issued its mandate, effectuating the vacatur of the comparable fuels rule, as described earlier in this document. The mandate for the gasification rule was issued on November 3, 2014. The court's vacaturs mean that these federal rules are legally null and void. Therefore, the court's mandates reinstate the regulatory status of the materials previously in effect as if the vacated rules never existed. Because excluded comparable fuels and gasified hazardous waste were, or would have been, previously regulated as discarded solid waste, these materials, if hazardous, must be handled as hazardous waste in compliance with requirements applicable to the generation, transportation, treatment, storage, or disposal of hazardous waste after March 30, 2015. At the federal level, because the effect of the vacaturs means, in essence, that these rules should not have been promulgated, this document simply removes them from the exclusions in the federal regulations. At the state level, because no state rules were challenged in the litigation, the court decision does not affect any state exclusions. However, the vacaturs do have an impact on the authorization status of states. The multiple scenarios that exist in the states are discussed below.

1. States Without Final RCRA Authorization

For states that have no RCRA authorization status (Iowa, Alaska), the vacaturs simply mean that the federal rules will no longer be in effect in those states and by this document, EPA is alerting interested parties of the removal of the vacated rules from the Code of Federal Regulations. The subject materials are federally regulated and EPA may bring enforcement actions under RCRA Section 3008 at facilities that do not comply with the RCRA hazardous waste regulations. The state programs are completely unaffected by the vacaturs and these states do not have to modify their programs in any way regardless of how they currently regulate the materials.

2. States That Have Final Authorization but Did Not Promulgate Similar Rules

For states that have been authorized under RCRA but did not adopt rules similar to the comparable fuels and gasification rules (and therefore were not authorized for them), there were no federal comparable fuels and gasification rules in effect prior to vacatur because the federal comparable fuels and gasification rules were less stringent than the federal hazardous waste regulations and states were not required to adopt or become authorized for these rules. Therefore, these vacaturs will have no effect on the authorization status in these states. The subject materials remain regulated under the authorized state hazardous waste program and EPA may continue to bring enforcement actions under RCRA Section 3008 at facilities that do not comply with the RCRA hazardous waste regulations. These states do not have to modify their programs.

3. States That Adopted Similar Rules But Are Not Yet Authorized for Them

For states that have adopted similar rules but have not yet been authorized for them, the vacatur of the federal rules will not change the authorization status of the state programs. The authorization status that was established prior to the adoption of the state counterpart rules remains in effect and EPA may continue to bring enforcement actions under RCRA Section 3008 at facilities that do not comply with the RCRA hazardous waste regulations. The vacaturs and subsequent removal of the federal rules will result in state programs that are less stringent than the federal program as long as state provisions that exclude the subject materials from regulation remain in effect in the state programs. EPA encourages these states to expeditiously remove these rules from their programs.

4. States That Adopted Similar Rules and Have Been Authorized for Them

For states that have previously been authorized for the comparable fuels and gasification rules, the effect of the vacaturs is that the previously authorized comparable fuels and gasification rules from the state program will no longer be considered part of the federally authorized program. Thus, EPA may bring enforcement actions under RCRA Section 3008 at facilities that do not comply with the RCRA hazardous waste regulations. In other words, the authorization status of the state program that was in place prior to authorization of the state comparable fuels and gasification rules is reinstated with regard to these rules. EPA strongly

encourages these states to proceed expeditiously to remove these counterpart rules. Once the counterpart rules are removed, these states should notify their EPA regional office by letter to verify the status of the state program.

VII. Statutory and Executive Order (EO) Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993) and Executive Order 13563 (76 FR 3821, January 21, 2011), this action is not a ''significant regulatory action'' and is therefore not subject to OMB review. Because this action is not subject to notice and comment requirements under the Administrative Procedures Act or any other statute, it is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) or Sections 202 and 205 of the Unfunded Mandates Reform Act of 1999 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments. This action does not create new binding legal requirements that substantially and directly affect Tribes under Executive Order 13175 (65 FR 67249, November 9, 2000). This action does not have significant Federalism implications under Executive Order 13132 (64 FR 43255, August 10, 1999). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994). This action does not involve technical standards; thus, the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before certain actions may take effect, the agency promulgating the action must submit a report, which includes a copy of the action, to each House of the Congress and to the Comptroller General of the United States. This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 260

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Reporting and recordkeeping requirements.

40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Solid Waste.

Dated: April 1, 2015.

Mathy Stanislaus,

Assistant Administrator, Office of Solid Waste and Emergency Response.

For the reasons stated in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

■ 1. The authority citation for part 260 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921–6927, 6930, 6934, 6935, 6937, 6938, 6939 and 6974.

Subpart B—Definitions

§ 260.10 [Amended]

■ 2. Section 260.10 is amended by removing the definition of ''Gasification.''

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

■ 3. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y), and 6938.

■ 4. Section 261.4 is amended by revising paragraph (a)(12)(i), and removing and reserving paragraph (a)(16) to read as follows:

§ 261.4 Exclusions.

(a) * * *

* * * * *

(12)(i) Oil-bearing hazardous secondary materials (*i.e.*, sludges, byproducts, or spent materials) that are generated at a petroleum refinery (SIC code 2911) and are inserted into the petroleum refining process (SIC code 2911—including, but not limited to, distillation, catalytic cracking, fractionation, or thermal cracking units (*i.e.*, cokers)) unless the material is placed on the land, or speculatively accumulated before being so recycled. Materials inserted into thermal cracking units are excluded under this paragraph, provided that the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated, or sent directly to another petroleum refinery and still be excluded under this provision. Except as provided in paragraph (a)(12)(ii) of this section, oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry (*i.e.*, from sources other than petroleum refineries) are not excluded under this section. Residuals generated from processing or recycling materials excluded under this paragraph (a)(12)(i), where such materials as generated would have otherwise met a listing under subpart D of this part, are designated as F037 listed wastes when disposed of or intended for disposal.

* * * * *

(16) [Reserved]

* * * * *

§ 261.38 [Removed and Reserved]

■ 5. Remove and reserve § 261.38.

[FR Doc. 2015–07992 Filed 4–7–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1991–0006; FRL–9925–83–Region 8]

National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List: Deletion of the Midvale Slag Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) Region 8 announces the deletion of the Midvale Slag Superfund Site (Site), located in Salt Lake County, Utah, from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of Utah, through the Utah Department of Environmental Quality (UDEQ), have determined that all

appropriate response actions under CERCLA, other than operation, maintenance and five-year reviews of the Site, have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: This action is effective April 8, 2015.

ADDRESSES:

Docket: EPA has established a docket for this action under Docket ID No. EPA–HQ–SFUND–1991–0006. 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, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov* or in hard copy at Ruth Tyler Branch Library, 8041 South Wood, Midvale, UT 84047; Phone: (801–944–7641); Hours: M–Th: 9 a.m.–9 p.m.; Fri–Sat: 9:00 a.m.–5:30 p.m.

FOR FURTHER INFORMATION CONTACT: Erna Waterman, Remedial Project Manager, U.S. EPA Region 8, Mail code: 8EPR–SR, 1595 Wynkoop Street, Denver, CO 80202–1129; Phone: (303) 312–6762; Email: *waterman.erna@epa.gov.* You may contact Erna to request a hard copy of publicly available docket materials.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: Midvale Slag Superfund Site (Site), located in Salt Lake County, Utah. A Notice of Intent to Delete for this Site was published in the **Federal Register** (80 FR 6496) on February 5, 2015.

The closing date for comments on the Notice of Intent to Delete was March 9, 2015. One public comment was received. The comment requested that the Site not be deleted over concerns that water quality in the Jordan River would not be protected from the potential release of hazardous substances from the Kennecott North and Kennecott South Sites. The EPA believes the deletion action is appropriate as the remediation goals for this Site have been met and the water monitoring data shows that the Jordan River is not being adversely affected by this Site. A responsiveness summary was prepared and placed in both the docket, EPA–HQ–SFUND EPA–HQ–SFUND–1991–0006, on *www.regulations.gov,* and in the local repository listed above.

EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Deletion from the NPL does not preclude further remedial action. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system. Deletion of a site from the NPL does not affect responsible party liability in the unlikely event that future conditions warrant further actions.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: March 26, 2015.

Shaun L. McGrath,

Regional Administrator, Region 8.

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 13626, 77 FR 56749, 3 CFR 2013 Comp., p. 306; E.O. 12777, 56 FR 54757; 3 CFR, 1991 Comp., p. 351; E.O. 12580. 52 FR 2923, 3 CFR 1987 Comp., p. 193.

Appendix B to Part 300—[Amended]

■ 2. Table 1 of Appendix B to part 300 is amended by removing the entry ''UT Midvale Slag, Midvale.''

[FR Doc. 2015–07950 Filed 4–7–15; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 140107014–4014–01]

RIN 0648–XD868

Fisheries Off West Coast States; Modifications of the West Coast Commercial Salmon Fisheries; Inseason Actions #1 and #2

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

ACTION: Modification of fishing seasons; request for comments.

SUMMARY: NMFS announces two inseason actions in the ocean salmon fisheries. These inseason actions modified the commercial salmon fisheries in the area from the Cape Falcon, OR, to Point Arena, CA.

DATES: The effective dates for the inseason actions are set out in this document under the heading Inseason Actions. Comments will be accepted through April 23, 2015.

ADDRESSES: You may submit comments, identified by NOAA–NMFS–2014–0005, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0005,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* William W. Stelle, Jr., Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–6349

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

FOR FURTHER INFORMATION CONTACT: Peggy Mundy at 206–526–4323.

SUPPLEMENTARY INFORMATION:

Background

In the 2014 annual management measures for ocean salmon fisheries (79 FR 24580, May 1, 2014), NMFS announced the commercial and recreational fisheries in the area from the U.S./Canada border to the U.S./Mexico border, beginning May 1, 2014, and 2015 salmon seasons opening earlier than May 1, 2015. NMFS is authorized to implement inseason management actions to modify fishing seasons and quotas as necessary to provide fishing opportunity while meeting management objectives for the affected species (50 CFR 660.409). Inseason actions in the salmon fishery may be taken directly by NMFS (50 CFR

660.409(a)—Fixed inseason management provisions) or upon consultation with the Pacific Fishery Management Council (Council) and the appropriate State Directors (50 CFR 660.409(b)—Flexible inseason management provisions). The state management agencies that participate in these consultations are: California Department of Fish and Wildlife (CDFW), Oregon Department of Fish and Wildlife (ODFW), and Washington Department of Fish and Wildlife (WDFW).

Management of the salmon fisheries is generally divided into two geographic areas: North of Cape Falcon (U.S./Canada border to Cape Falcon, OR) and south of Cape Falcon (Cape Falcon, OR, to the U.S./Mexico border). The inseason actions reported in this document affect fisheries south of Cape Falcon. Within the south of Cape Falcon area, the Klamath Management Zone (KMZ) extends from Humbug Mountain, OR, to Humboldt South Jetty, CA, and is divided at the Oregon/California border into the Oregon KMZ to the north and California KMZ to the south. All times mentioned refer to Pacific daylight time.

Inseason Actions

Inseason Action #1

Description of action: Inseason action #1 modified the dates for the pre-May 2015 commercial salmon fishery from Cape Falcon, OR, to Humbug Mountain, OR (Newport/Tillamook and Coos Bay subareas) and from Humbug Mountain, OR, to the Oregon/California border (Oregon KMZ). These fisheries opened on April 1, 2015 rather than March 15, 2015, as previously scheduled (79 FR 24580).

Effective dates: Inseason action #1 took effect on March 15, 2015, and remains in effect through April 30, 2015.

Reason and authorization for the action: This action was taken to limit fishery impacts on age-4 Klamath River fall Chinook salmon (KRFC), the surrogate for managing impacts on California coastal Chinook salmon, which are listed as threatened under the Endangered Species Act (ESA). Inseason action to modify quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

Consultation date and participants: Consultation on inseason action #1 occurred at the Council meeting on March 11, 2015. The state of Oregon recommended the Council adopt this action for recommendation to NMFS.

Inseason Action #2

Description of action: Inseason action #2 cancelled the pre-May 2015 commercial salmon fishery from Horse Mountain, CA, to Point Arena, CA (Fort Bragg subarea), previously scheduled to open on April 16, 2015 (79 FR 24580).

Effective dates: Inseason action #2 takes effect on April 16, 2015, and remains in effect until April 30, 2015.

Reason and authorization for the action: This action was taken to limit fishery impacts on age-4 Klamath River fall Chinook salmon (KRFC), the surrogate for managing impacts on California coastal Chinook salmon, which are listed as threatened under the Endangered Species Act (ESA). Inseason action to modify quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

Consultation date and participants: Consultation on inseason action #2 occurred at the Council meeting on March 11, 2015. The state of California recommended the Council adopt this action for recommendation to NMFS.

All other restrictions and regulations remain in effect as announced for the 2014 ocean salmon fisheries and 2015 fisheries opening prior to May 1, 2015 (79 FR 24580, May 1, 2014).

The RA determined that the best available information indicated that Chinook salmon abundance forecasts and estimates of fishery impacts supported the above inseason actions recommended by the states of Oregon and California. The states manage the fisheries in state waters adjacent to the areas of the U.S. exclusive economic zone in accordance with these Federal actions. As provided by the inseason notice procedures of 50 CFR 660.411, actual notice of the described regulatory actions was given, prior to the time the action was effective, by telephone hotline numbers 206–526–6667 and 800–662–9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF–FM and 2182 kHz.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds that good cause exists for this notification to be issued without affording prior notice and opportunity for public comment under 5 U.S.C. 553(b)(B) because such notification would be impracticable. As previously noted, actual notice of the regulatory actions was provided to fishers through telephone hotline and radio notification. These actions comply with the requirements of the annual management measures for ocean salmon fisheries (79 FR 24580, May 1, 2014), the West Coast Salmon Fishery Management Plan (Salmon FMP), and regulations implementing the Salmon FMP, 50 CFR 660.409 and 660.411. Prior notice and opportunity for public comment was impracticable because NMFS and the state agencies had insufficient time to provide for prior notice and the opportunity for public comment between the time Chinook salmon abundance forecasts and catch and effort projections were developed and fisheries impacts were calculated, and the time the fishery modifications had to be implemented in order to ensure that fisheries are managed based on the best available scientific information, ensuring that conservation objectives and ESA consultation standards are not exceeded. The AA also finds good cause to waive the 30-day delay in effectiveness required under 5 U.S.C. 553(d)(3), as a delay in effectiveness of these actions would allow fishing at levels inconsistent with the goals of the Salmon FMP and the current management measures.

These actions are authorized by 50 CFR 660.409 and 660.411 and are exempt from review under Executive Order 12866.

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

Dated: April 3, 2015.

Emily H. Menashes,

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

[FR Doc. 2015–08054 Filed 4–7–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 131021878–4158–02]

RIN 0648–XD886

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Less Than 60 Feet (18.3 meters) Length Overall Using Jig or Hook-and-Line Gear in the Bogoslof Pacific Cod Exemption Area in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by catcher vessels less than 60 feet (18.3 meters (m)) length overall (LOA) using jig or hook-and-line gear in the Bogoslof Pacific cod

exemption area of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the limit of Pacific cod for catcher vessels less than 60 feet (18.3 m) LOA using jig or hook-and-line gear in the Bogoslof Pacific cod exemption area in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 3, 2015, through 2400 hrs, A.l.t., December 31, 2015.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.22(a)(7)(i)(C)(*2*), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that 113 metric tons of Pacific cod have been caught by catcher vessels less than 60 feet (18.3 m) LOA using jig or hook-and-line gear in the Bogoslof exemption area described at § 679.22(a)(7)(i)(C)(*1*). Consequently, the Regional Administrator is prohibiting directed fishing for Pacific cod by catcher vessels less than 60 feet (18.3 m) LOA using jig or hook-and-line gear in the Bogoslof Pacific cod exemption area.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the directed fishery closure of Pacific cod by catcher vessels less than 60 feet (18.3 m) LOA using jig or hook-and-line gear in the Bogoslof Pacific cod exemption area. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of April 2, 2015.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.22 and is exempt from review under Executive Order 12866.

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

Dated: April 3, 2015.

Emily H. Menashes,

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

[FR Doc. 2015–08051 Filed 4–3–15; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 80, No. 67
Wednesday, April 8, 2015

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

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

2 CFR Part 1201

[Docket DOT–OST–2015–0013]

RIN 2105–AE38

Geographic-Based Hiring Preferences in Administering Federal Awards

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT).

ACTION: Extension of comment period on proposed rule.

SUMMARY: This action extends the comment period for the Notice of Proposed Rulemaking (NPRM) proposing to amend the DOT's implementation of the Government-wide Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards to permit recipients and subrecipients to impose geographic-based hiring preferences whenever not otherwise prohibited by Federal statute. This NPRM was published in the **Federal Register** on March 6, 2015, at 80 FR 12092. We are extending the end of the comment period from April 6, 2015, to May 6, 2015. The extension of the comment period is intended to provide all interested parties sufficient time prior to submit comments to the docket for this proposed rulemaking.

DATES: Comments must be received by May 6, 2015. Comments received after this date will be considered to the extent practicable.

ADDRESSES: You may file comments identified by the docket number DOT–OST–2015–0013 by any of the following methods:

- Federal eRulemaking Portal: go to *http://www.regulations.gov* and follow the online instructions for submitting comments.
- Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE., Room W12–140, Washington, DC 20590–0001.
- Hand Delivery or Courier: West Building Ground Floor, Room W12–140, 1200 New Jersey Ave. SE., between 9:00 a.m. and 5:00 p.m. ET, Monday through Friday, except Federal Holidays.
- Fax: (202) 493–2251.

Instructions: You must include the agency name and docket number DOT–OST–2015–0013 or the Regulatory Identification Number, RIN No. 2105–AE11, for the rulemaking at the beginning of your comment. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment if submitted on behalf of an association, a business, a labor union, etc.). You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://Docketslnfo.dot.gov.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or to the street address listed above. Follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Michael Harkins, Deputy Assistant General Counsel for General Law (OST–C10), U.S. Department of Transportation, 1200 New Jersey Ave. SE., Washington, DC 20590, 202–366–0590.

SUPPLEMENTARY INFORMATION: On March 6, 2015, the Department published a NPRM proposing to amend the DOT's implementation of the Government-wide Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards to permit recipients and subrecipients to impose geographic-based hiring preferences whenever not otherwise prohibited by Federal statute. On March 13, the American Public Transportation Association (APTA) posted a comment requesting DOT extent the comment period for this NPRM by 30 days to May 6. With this notice, the DOT is granting this request by further extending the comment period to May 6.

The DOT has also received a comment to the docket asking whether this proposed rule applies to rolling stock. The DOT specifically requests comments on this issue and whether the DOT should clarify the proposed rule's application to the procurement of rolling stock.

Issued this 1st day of April, 2015, in Washington, DC.

Kathryn B. Thomson,

General Counsel.

[FR Doc. 2015–08084 Filed 4–7–15; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket Number EERE–2014–BT–STD–0045]

RIN 1904–AD48

Energy Conservation Program for Consumer Products: Definitions for Residential Water Heaters

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

ACTION: Notice of proposed rulemaking (NOPR).

SUMMARY: The Energy Policy and Conservation Act of 1975 (EPCA), as amended, prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including residential water heaters. EPCA also requires the U.S. Department of Energy (DOE) to determine whether more stringent amended standards would be technologically feasible and economically justified, and would save a significant amount of energy. Accordingly, DOE established amended energy conservation standards for several classes of residential water heaters in an April 2010 final rule. In this notice, DOE proposes to amend its definitions pertaining to residential water heaters and to clarify the applicability of energy conservation standards for residential water heaters that are utilized as a secondary back-up heat source in solar-thermal water heating systems. Specifically, DOE is proposing to create a definition for ''solar-assisted fossil fuel storage water heater'' and ''solar-assisted electric storage water heater'' and clarify that water heaters meeting these definitions are not subject to the amended energy

conservation standards for residential water heaters established by the April 2010 final rule.

DATES: DOE will accept comments, data, and information regarding this notice of proposed rulemaking (NOPR) no later than May 8, 2015. See section V, ''Public Participation'' for details.

ADDRESSES: Any comments submitted must identify the NOPR for Energy Conservation Standards for Residential Water Heaters, and provide docket number EERE–2014–BT–STD–0045 and/or regulatory information number (RIN) number 1904–AD48. Comments may be submitted using any of the following methods:

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

2. *Email: ResWaterHeater2014STD0045@ee.doe.gov.* Include the docket number and/or RIN in the subject line of the message.

3. *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a CD. It is not necessary to include printed copies.

4. *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Telephone: (202) 586–2945. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

For detailed instructions on submitting comments and additional information on the rulemaking process, see section V of this document (Public Participation).

Docket: The docket, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at regulations.gov. All documents in the docket are listed in the regulations.gov index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

A link to the docket Web page can be found at: *http://www.regulations.gov/#!docketDetail;D=EERE-2014-BT-STD-0045*. This Web page will contain a link to the docket for this notice on the regulations.gov site. The regulations.gov Web page will contain simple instructions on how to access all documents, including public comments, in the docket. See section V for further information on how to submit comments through *www.regulations.gov.*

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

FOR FURTHER INFORMATION CONTACT: Ashley Armstrong, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–6590. Email: *Ashley.Armstrong@ee.doe.gov.*

Johanna Hariharan, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–6307. Email: *Johanna.Hariharan@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The following section briefly discusses the statutory authority underlying DOE's standards for residential water heaters and this NOPR, as well as some of the relevant historical background related to the establishment of standards for residential water heaters.

A. Authority

Title III of the Energy Policy and Conservation Act, as amended [1] (42 U.S.C. 6291 *et seq.; hereinafter ''EPCA''*) sets forth various provisions designed to improve energy efficiency. Part A of title III of EPCA (42 U.S.C. 6291–6309) establishes the ''Energy Conservation Program for Consumer Products Other Than Automobiles,'' which covers consumer products and certain commercial products (hereinafter referred to as ''covered products'').[2] These covered products include residential water heaters, which are the subject of this notice. (42 U.S.C. 6292(a)(4))

Under EPCA, energy conservation programs generally consist of four parts: (1) Testing, (2) labeling, (3) establishing Federal energy conservation standards, and (4) certification and enforcement procedures. The Federal Trade Commission (FTC) is primarily responsible for labeling consumer products, and DOE implements the remainder of the program.

EPCA contains what is known as an ''anti-backsliding'' provision, which prevents the Secretary from prescribing any amended standard that either increases the maximum allowable energy use or decreases the minimum required energy efficiency of a covered product. (42 U.S.C. 6295(o)(1)) Also, the Secretary may not prescribe an amended or new standard if interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States of any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States. (42 U.S.C. 6295(o)(4))

B. Background

EPCA prescribed energy conservation standards for residential water heaters (42 U.S.C. 6295(e)(1)) and directed DOE to conduct rulemakings to determine whether to amend these standards. (42 U.S.C. 6295(e)(4)) DOE notes that under 42 U.S.C. 6295(m), the agency must periodically review its already established energy conservation standards for a covered product. Under this requirement, the next review that

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

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

DOE would need to conduct must occur no later than six years from the issuance of a final rule establishing or amending a standard for a covered product.

On January 17, 2001, DOE published a final rule prescribing the Federal energy conservation standards for residential water heaters that are currently in effect for units manufactured on or after January 20, 2004. 66 FR 4474 (''January 2001 Final Rule''). The January 2001 Final Rule set minimum energy factors (EFs) that vary based on the storage volume of the water heater, the type of energy it uses (*i.e.,* gas, oil, or electricity), and whether it is a storage, instantaneous, or tabletop model. 66 FR 4474; 10 CFR 430.32(d). Table I.1 presents the current Federal energy conservation standards for residential water heaters.

TABLE I.1—CURRENT FEDERAL ENERGY EFFICIENCY STANDARDS FOR RESIDENTIAL WATER HEATERS

Product class	Energy factor as of January 20, 2004
Gas-fired Water Heater	EF = 0.67 − (0.0019 × Rated Storage Volume in gallons).
Oil-fired Water Heater	EF = 0.59 − (0.0019 × Rated Storage Volume in gallons).
Electric Water Heater	EF = 0.97 − (0.00132 × Rated Storage Volume in gallons).
Tabletop Water Heater	EF = 0.93 − (0.00132 × Rated Storage Volume in gallons).
Instantaneous Gas-fired Water Heater	EF = 0.62 − (0.0019 × Rated Storage Volume in gallons).
Instantaneous Electric Water Heater	EF = 0.93 − (0.00132 × Rated Storage Volume in gallons).

On April 16, 2010, DOE published a final rule in the **Federal Register** amending the energy conservation standards for residential water heaters for a second time (hereinafter ''April 2010 final rule''). 75 FR 20111. The updated standards maintained the existing product class structure, dividing water heaters based on the type of energy used (*i.e.,* gas, oil, or electricity) and whether it is a storage, instantaneous, or tabletop model, but also differentiated standard levels for electric and gas-fired storage water heaters based on whether the rated storage volume is greater than 55 gallons, or less than or equal to 55 gallons. Compliance with the energy conservation standards contained in the April 2010 final rule will be required starting on April 16, 2015. *Id.*

Table I.2 presents the amended Federal energy conservation standards for residential water heaters, which are also set forth in 10 CFR 430.32(d).

TABLE I.2—AMENDED FEDERAL ENERGY CONSERVATION STANDARDS FOR RESIDENTIAL WATER HEATERS ESTABLISHED BY APRIL 2010 FINAL RULE

Product class	Energy factor as of April 16, 2015
Gas-fired Water Heater	For tanks with a Rated Storage Volume at or below 55 gallons: EF = 0.675 − (0.0015 × Rated Storage Volume in gallons). For tanks with a Rated Storage Volume above 55 gallons: EF = 0.8012 − (0.00078 × Rated Storage Volume in gallons).
Oil-fired Water Heater	EF = 0.68 − (0.0019 × Rated Storage Volume in gallons).
Electric Water Heater	For tanks with a Rated Storage Volume at or below 55 gallons: EF = 0.960 − (0.0003 × Rated Storage Volume in gallons). For tanks with a Rated Storage Volume above 55 gallons: EF = 2.057 − (0.00113 × Rated Storage Volume in gallons).
Tabletop Water Heater	EF = 0.93 − (0.00132 × Rated Storage Volume in gallons).
Instantaneous Gas-Fired Water Heater	EF = 0.82 − (0.0019 × Rated Storage Volume in gallons).
Instantaneous Electric Water Heater	EF = 0.93 − (0.00132 × Rated Storage Volume in gallons).

On October 21, 2014, DOE published a Request for Information (RFI) in the **Federal Register** regarding test procedures and energy conservation standards for residential solar water heaters (hereinafter the ''October 2014 RFI''). 79 FR 62891. Specifically, the October 2014 RFI requested comment on the following topics:

1. Solar water heating technologies that utilize a secondary heating source that are currently available to the consumer.

2. Design differences between water heaters that are designed to be part of a solar water heating system compared to those meant for typical residences without a solar water heating system.

3. Heating rates and the amount of hot water that can be supplied by water heaters meant to serve as a secondary heat source for a solar collector compared to the heating rates and hot water supply capacity water heaters.

4. The fractions of single tank and dual tank solar water heating systems, and whether the secondary water heaters used include design features that differ from conventional residential water heaters.

5. The manufacturers of water heaters used in solar thermal installations, the market share of each manufacturer, and whether any of them are small businesses.

6. The total annual shipments of the market for solar water heating systems that utilize secondary heat sources, the fractions of water heaters that are used to provide secondary water heating by rated volume, input capacity, and fuel type.

7. Any other attributes of solar water heating tanks which distinguish them from conventional storage or instantaneous water heaters. 79 FR 62891, 62893–94 (Oct. 21, 2014).

II. Summary of the Proposed Rule

After considering the comments on the RFI and the characteristics and applications of hot water storage tanks used in solar thermal systems and having a backup gas, oil, or electric heat source, DOE has tentatively concluded that the analysis conducted for the April 2010 final rule did not adequately consider such applications and the accompanying backup tanks. Therefore, in this NOPR, DOE is proposing to add clarifying text to 10 CFR 430.32(d) indicating that the energy conservation standards for residential water heaters

do not apply to water heaters meeting the new definitions of ''solar-assisted fossil fuel storage water heater'' and ''solar-assisted electric storage water heater,'' that are also proposed in this NOPR. (See section III.D of this NOPR for the proposed definitions.)

III. General Discussion

As stated in section I.B, compliance with an amended energy conservation standard for residential water heaters will be required beginning on April 16, 2015. 75 FR 20111. DOE has tentatively concluded that hot water storage tanks used in solar thermal systems that have a backup gas, oil, or electric heat source were not adequately considered in the analysis for the April 2010 rule. Therefore, DOE is undertaking this rulemaking to clarify the scope of DOE's existing energy conservation standards for residential water heaters.

In response to the October 2014 RFI, DOE received 4 written comments from the following interested parties: American Council for an Energy-Efficient Economy (ACEEE),[3] Air-Conditioning, Heating and Refrigeration Institute (AHRI), Rheem Manufacturing Company (Rheem) and Solar Energy Industries Association (SEIA).[4] These comments are discussed further in the sections below as they relate to the specific issues discussed in this NOPR.

Generally, the ACEEE joint comment recommended that DOE not consider a rulemaking to adopt a new minimum efficiency standard for residential solar-thermal water heaters because the extremely small sales volume of these products does not justify the effort to set a standard. The ACEEE joint comment argued that customers of these expensive systems would buy only from reputable manufacturers and installers and use either the ENERGY STAR brand or a high rating under the SRCC program to guide their purchasing decision. (ACEEE joint comment, No. 2 at p. 1–2) The ACEEE joint comment also recommended that DOE not consider a rulemaking to adopt a new test method for residential solar-thermal water heating systems because a widely accepted non-federal test method and rating program for solar water heaters built around OG–300 solar system ratings already exists. (ACEEE joint comment, No. 2 at p. 1) The SEIA joint comment recommended an exemption be established for backup water heaters which prioritize solar heating over the secondary heat source and that the volume heated by the secondary heat source be less than or equal to 55 gallons. (SEIA joint comment, No. 5 at p. 6) Similarly, Rheem commented that the residential water heater standard for conventional water heaters should not be applied to solar water heaters because they are different systems and not direct substitutes. (Rheem, No. 4 at p. 2)

DOE generally agrees with these commenters' points and notes that the purpose of this NOPR is not to consider new energy conservation standards or test methods for solar water heating systems, but rather to clarify the scope of DOE's existing standards. Specifically, DOE is proposing amendments to clarify that DOE's standards for residential water heaters are not applicable to water heaters that are used as a backup heat source in solar thermal water heating systems.

A. Product Classes

When evaluating and establishing energy conservation standards, DOE divides covered products into product classes by the type of energy used or by capacity or other performance-related features that justify a different standard. In making a determination whether a performance-related feature justifies a different standard, DOE must consider such factors as the utility to the consumer of the feature and other factors DOE determines are appropriate. (42 U.S.C. 6295(q))

Existing energy conservation standards divide residential water heaters into product classes based on primary energy source (*i.e.,* gas, oil, or electricity), whether it is instantaneous or storage, and whether it is a ''tabletop'' model. Storage capacity and input rate are used to determine whether a water heater is characterized as storage or instantaneous. (42 U.S.C. 6291(27)) For example, an instantaneous water heater must contain no more than one gallon of water per 4,000 Btu per hour of input. (42 U.S.C. 6291(27)(B)). EPCA establishes the input-rate limitations for residential water heaters (42 U.S.C. 6291(27)), and DOE has further established limitations at 10 CFR 430.2 based on rated storage volume and the temperature to which the water can be delivered. Table III.1 shows the input and volume limitations that define the current range of water heaters subject to standards. In addition to the criteria listed in Table III.1, if a water heater is designed to heat water to a temperature of less than 180 °F, it is classified as residential, while any water heater that heats water to temperatures at or above 180 °F is classified as commercial. In the amended energy conservation standard established by the April 2010 final rule and effective April 16, 2015, rated storage volume is used to determine the applicable standard. Gas and electric water heaters with rated storage volumes above 55 gallons are subject to more stringent standards than smaller water heaters of the same fuel type. 10 CFR 430.32(d).

Residential water heaters that use solar energy only are not covered by DOE regulations for residential water heaters since they do not utilize gas, oil, or electricity as required by the definition of a ''water heater'' under EPCA. (42 U.S.C. 6291(27)) However, residential water heaters that use solar energy but that are combined with storage tanks with secondary or backup energy sources that use electricity, gas, or oil are covered, provided that they meet all other requirements to be considered a ''water heater''. This rule considers only solar-thermal tanks designed for residential use; therefore, the water heater must be described by the fuel type and volumes specified in Table I.2 and reiterated in Table III.1 and meet the input capacity limitations set forth in EPCA and shown below in Table III.1. (42 U.S.C. 6291(16))

TABLE III.1—RESIDENTIAL STORAGE WATER HEATER SCOPE OF COVERAGE

Product class	Rated storage volume	Input capacity
Gas-Fired Storage	≥20 gal and ≤100 gal.	≤75 kBtu/h
Oil-Fired Storage ...	≤50 gal	≤105 kBtu/h
Electric Storage	≥20 gal and ≤120 gal.	≤12 kW
Tabletop	≥20 gal and ≤100 gal.	≤12 kW

B. Solar Water Heating Technologies

1. General Description

Solar water heating systems that are the subject of this NOPR generally consist of a solar collector to capture heat from the sun and a storage tank that stores the potable water that has been heated by the solar collector for use on demand. These systems typically require a secondary heat source for times when solar energy is not sufficient to provide adequate hot water. In the October 2014 RFI, DOE requested

[3] ACEEE submitted a joint comment on behalf of ACEEE, Appliance Standards Awareness Project (ASAP), and Natural Resources Defense Council (NRDC), and this comment is referred to throughout this document as the ''ACEEE joint comment.''

[4] SEIA submitted a joint comment on behalf of SEIA, International Association of Plumbing and Mechanical Officials (IAPMO) and Solar Rating and Certification Corporation (SRCC), and this comment is referred to throughout this document as the ''SEIA joint comment.''

comment on current solar water heating technology practices in the United States and, specifically, on solar water heating technologies that utilize a secondary heating source and are currently available to consumers. 79 FR 62891, 62893 (Oct. 21, 2014).

Both Rheem's comment and the SEIA joint comment stated that all solar water heating systems sold in the U.S. today are paired with a conventional backup heating source (SEIA joint comment, No. 5 at p. 2, Rheem, No. 4 at p. 2). Furthermore, the SEIA joint comment specified that a single-tank electric/solar water heating system consists of a single tank which serves as both a solar storage tank and a conventional water heater (when adequate solar energy is unavailable). In these tanks, a 4.5 kW electric element is commonly located in the upper part of the tank, leaving one-half to two-thirds of the tank unheated by the electric element due to temperature stratification, which causes the heated water to remain mostly in the upper part of the tank. (SEIA joint comment, No. 5 at p. 2)

2. Comments on the General Advantages of Solar Heating Systems

In the October 2014 RFI, DOE requested comment on any other attributes of solar water heating systems that utilize secondary heating tanks, which distinguish them from conventional storage or instantaneous water heaters. 79 FR 62891, 62893 (Oct. 21, 2014).

The SEIA joint comment stated that solar water heating systems offer advantages over conventional water heating equipment that are overlooked or not understood. For example, solar water heating systems provide lower peak load requirements (which can be beneficial to utility companies), are not sensitive to flow rates, and have lower maintenance requirements than instantaneous heating systems. (SEIA joint comment, No. 5 at p. 8) The commenters also noted that solar water heating systems have several advantages over heat pump water heaters, including better performance in cold climate, no air circulation considerations, and no special skills required to install and maintain. (SEIA joint comment, No. 5 at p. 9)

3. Design and Heating Rate Differences

In the October 2014 RFI, DOE specifically sought comment on the design differences between water heaters that are designed to be part of a solar water heating system compared to those meant for typical residences without a solar water heating system. DOE also requested comment on the heating rates and the amount of hot water that can be supplied by water heaters meant to serve as a secondary heat source for a solar collector compared to the heating rates and hot water supply capacity of other water heaters, and whether there are any other attributes of solar water heating systems that utilize secondary heating tanks that distinguish them from conventional storage or instantaneous water heaters. 79 FR 62891, 62893 (Oct. 21, 2014).

AHRI's comment, Rheem's comment, and the SEIA joint comment stated that generally solar water heaters that use secondary heating tanks are fairly similar to conventional water heaters. (AHRI, No. 3 at p. 2, Rheem, No. 4 at p. 5)

In noting the design differences between conventional water heaters and those used in solar-thermal water heating systems, AHRI, Rheem and the joint SEIA comment stated that there is a range of design differences in water heaters intended to be part of a solar thermal installation and those intended for a conventional installation. Water heaters intended for use in solar-thermal systems typically have two extra threaded ports as well as specifically designed controls. Other features may include special heat exchangers or additional backup heating elements. (AHRI, No. 3 at p. 1, Rheem, No. 4 at p. 3, SEIA joint comment, No. 5 at p. 4) On the other hand, the ACEEE joint commenters stated that they would be surprised to find many products specifically designed as auxiliary heat sources for solar thermal water heating systems, and that the only special features for a solar storage tank by itself would be a double-wall water-to-water heat exchanger for indirect systems employing non-potable antifreeze in the primary loop. (ACEEE joint comment, No. 2 at p. 2)

Several commenters stated that solar water heaters are sized differently than conventional water heaters. The SEIA joint comment stated that the solar component of a typical 80 gallon solar/electric system can heat between 40 and 80 gallons depending on the level of solar radiation and the rate of use, where up to 40 gallons is heated by the electric element. (SEIA joint comment, No. 5 at p. 6)

Rheem also stated that their 80 and 120 gallon storage water heaters can provide up to 40 gallons of backup element water heating capacity regardless of the tank volume. (Rheem, No. 4 at p. 3) AHRI's comment and the SEIA joint comment stated that the performance characteristics of solar water heaters can be less than a standard water heater. (AHRI, No. 3 at p. 2, SEIA joint comment, No. 5 at p. 6)

Another design difference that was noted by commenters centered around the location and number of the plumbing connections on the storage tank that are used in solar thermal systems. Rheem commented that the cold water inlet connections on solar water heating storage tanks are located at the bottom to prevent mixing with heated water as compared to the cold water inlet being typically located at the top of a traditional storage tank. (Rheem, No. 4 at p. 4) Rheem also commented that the features of its solar storage water heater increase the manufacturing complexity and cost of the heaters, and therefore it is not anticipated that the heaters would be substituted for a standard water heater in an installation without a solar collector. (Rheem, No. 4 at p. 5)

DOE considered all of the above comments when developing its tentative conclusions regarding solar-assisted electric storage water heaters and solar-assisted fossil fuel storage water heaters (see section III.D).

C. Solar Water Heating Markets

DOE has conducted preliminary research to investigate the solar water heating equipment market. Based on a report by the National Renewable Energy Laboratory (NREL), DOE distinguished between two distinct periods of solar water heater installations. From 1985 to 2005, when there were no tax incentives for solar water heaters, the number of installations ranged from approximately 5,000 to 10,000 annually. Federal and State tax incentives were instituted in 2006. Between 2006 and 2010, there were between approximately 18,000 and 33,500 solar thermal water heater systems installed annually in the U.S.

In the October 2014 RFI, DOE requested comments on various topics related to the market for solar water heating systems. Specifically, DOE requested information on the fractions of single tank and dual tank solar water heating systems. DOE also sought comments on the manufacturers of water heaters used in solar thermal installations, as well as the market share of each manufacturer, and whether any of them are small businesses. Lastly, DOE sought input regarding the total annual shipments of solar water heating systems that utilize secondary heat sources, the fractions of water heaters that are used to provide secondary water heating by rated volume, input capacity, and fuel type. 79 FR 62891, 62893 (Oct. 21, 2014).

The SEIA joint comment stated that dual tank systems are normally only used when the end use is heating water with natural gas, propane, or fuel oil, and that most dual tank systems are located in areas with strong financial incentives. (SEIA joint comment, No. 5 at p. 6) The following market distribution of systems is currently certified by the SRCC: 43 percent of systems are dual tank, 45 percent are single tank, and 12 percent are tankless. (SEIA joint comment, No. 5 at p. 6 n.13) For dual tank systems, the distribution by fuel type certified by the SRCC is as follows: 54 percent use natural gas as backup, 45 percent use electricity, and 1 percent use oil. (SEIA joint comment, No. 5 at p. 7) Regarding the number of units actually installed, the SEIA joint comment estimated that the ratio of single tank to dual tank systems installed is 4 to 1. (SEIA joint comment, No. 5 at p. 7)

Rheem commented that it sells solar thermal systems with a single storage tank. Rheem noted that some installers have the opportunity to install multiple small tanks or combinations of tanks to store heat collected when sunlight is available, and that specific designs are based on the hot water requirement of the dwelling and the solar capacity available from the collectors. (Rheem, No. 4 at p. 3)

The SEIA joint comment provided the market share of water heater manufacturers for the entire market as follows: A.O. Smith represents about half of the total U.S. market for water heaters (50 percent), Rheem approximately one third (33 percent), and Bradford White holds about 13 percent market share; the remaining 4 percent is comprised of other brands. (SEIA joint comment, No. 5 at p. 7) Rheem stated that solar thermal water heating systems are a low sales volume product for Rheem, and that it is a major manufacturer of storage water heaters. (Rheem, No. 4 at p. 3)

Regarding annual shipments of solar water heating systems, the SEIA joint comment stated that in 2013, 2,200 solar water heating systems using 80 or 120 gallon tanks received a rebate for installation in Hawaii (excluding Kauai County). In addition, solar water heating systems installed on new single-family home construction with tanks in the 65 to 120 gallon range can be estimated at 1,500 per year. (SEIA joint comment, No. 5 at p. 7) Based on a report from International Energy Agency Solar Heating and Cooling Programme, the SEIA joint comment estimates that 22,500 new solar domestic water heating systems are being installed in the U.S. annually. (SEIA joint comment, No. 5 at p. 8) Rheem commented that its annual sales of thermal storage water heaters is less than one day of production of conventional storage water heaters. (Rheem, No. 4 at p. 3)

D. Conclusions

DOE has considered the comments discussed in sections III.B and III.C and has tentatively determined that solar-assisted electric storage water heaters and solar-assisted fossil fuel storage water heaters are distinguishable from other categories of storage water heaters. Even though solar-assisted water heaters use electricity or fossil fuel to heat water without the use of solar thermal panels, DOE notes that the heating capacity of the tank with a comparable rated storage volume is reduced based on the design difference of the heating element or the fossil fuel burner. The plumbing configuration of the tank is also different in order for the storage tank to utilize the solar heated water in an optimized manner. DOE further notes that purchasers of these solar-assisted water heating systems may not be considering the economic criteria of the storage water heater tank alone, given that a significant portion of the installed cost of these systems is attributable to the solar thermal portion of the system and that a substantial portion of the water heating load may be provided by solar energy, as opposed to marketed fuels such as electricity, gas, or oil. These purchasers, therefore, may place an added value on owning a ''green'' system, which could provide different economic and performance benefits to these consumers when compared to an electric or fossil fuel storage water heater. For these reasons, DOE has determined that the minimum efficiency standard levels promulgated in the April 16, 2010 final rule do not apply to these categories of water heaters.

In order to clarify the applicability of DOE's regulations to solar-assisted water heaters, DOE proposes to define the terms ''solar-assisted electric storage water heater'' and ''solar-assisted fossil fuel storage water heater'' at 10 CFR 430.2 and clarify that products meeting these definitions are not subject to DOE's current or amended standards for residential water heaters at 10 CFR 430.32(d). In addition to the data and comments received in response to the request for information, DOE also used the certified ratings from DOE's Compliance Certification Data base, as of February 2015, to gather information such as average first hour ratings for basic models being distributed in commerce for various storage volumes.[5] More specifically, DOE used the average first hour rating of the electric storage water heaters with a rated storage volume of 50 gallons, the average first hour rating of the gas-fired storage water heaters with a rated storage volume of 40 gallons, and the average first hour rating of the oil storage water heaters with a rated storage volume of 32 gallons to develop parts of the definitions below.

Based on the comments discussed in section II.B, DOE proposes to define a solar-assisted electric storage water heater as a product that utilizes electricity to heat potable water for use outside the heater upon demand and—

(A) stores water at a thermostatically controlled temperature with an input of 12 kilowatts or less;

(B) has at least two threaded ports in addition to those used for introduction and delivery of potable water for the supply and return of water or a heat transfer fluid heated externally by solar panels;

(C) does not have electric resistance heating elements located in the lower half of the storage tank;

(D) has the temperature sensing device that controls the auxiliary electric heat source located in the upper half of the storage tank; and

(E) has a certified first hour rating less than 63 gallons.

Similarly, DOE proposes to define a solar-assisted fossil fuel storage water heater at 10 CFR 430.2 as a product that utilizes oil or gas to heat potable water for use outside the heater upon demand and—

(A) stores water at a thermostatically controlled temperature, including gas storage water heaters with an input of 75,000 Btu per hour or less and oil storage water heaters with an input of 105,000 Btu per hour or less;

(B) has at least two threaded ports in addition to those used for introduction and delivery of potable water for the supply and return of water or a heat transfer fluid heated externally by solar panels;

(C) has the burner located in the upper half of the storage tank;

(D) has the temperature sensing device that controls the auxiliary gas or oil heat source located in the upper half of the storage tank; and

(E) has a certified first hour rating less than 69 gallons for gas storage water heaters and has a certified first hour rating less than 128 gallons for oil storage water heaters.

[5] See *http://www.regulations.doe.gov/certification-data/CCMS-79222842113.html* for additional information and access to the data that DOE analyzed.

DOE is specifically seeking comment on one element of its proposed definition of solar-assisted fossil fuel storage water heaters that would limit solar-assisted water heaters to only those with the burner located in the upper half of the storage tank. DOE is aware of solar backup water heaters that have burners located in the upper portion of the tank but acknowledges that there are others that have burners located at the bottom of the water heater. The Department is concerned that water heaters with burners located at the bottom of the tank can be used as a household's main water heater without solar backup and should, therefore, be treated in the same manner as conventional water heaters with regards to standards. Thus, DOE seeks comment on the merits of this proposal.

DOE also requests comment on other ways to define solar-assisted water heaters, including both definitional criteria not listed in the proposed definitions above and any performance-based criteria that might involve tests to determine whether the definition is met.

Although water heaters meeting the definition of ''solar-assisted electric storage water heater'' or ''solar-assisted fossil fuel storage water heater'' remain covered products as water heaters, DOE proposes to clarify at 10 CFR 430.32(d) that these water heaters are not subject to the energy conservation standards currently specified in 10 CFR 430.32(d). DOE also proposes to clarify that the test methods described in 10 CFR 430.23(e) are applicable to solar-assisted water heaters for purposes of representing their performance when described as a stand-alone item (*i.e.,* the backup tank portion only). When these water heaters are presented as part of a complete solar system that includes solar panels and any auxiliary equipment to move heat from the panels to the storage water heater, DOE believes that metrics commonly used by industry such as the Solar Energy Factor and Solar Fraction are most appropriate for representing the performance of the entire system. DOE seeks comment on the applicability of the uniform test method for measuring the energy consumption of water heaters to solar-assisted electric and fossil fuel storage water heaters.

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

Section 1(b)(1) of Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993), requires each agency to identify the problem that it intends to address, including, where applicable, the failures of private markets or public institutions that warrant new agency action, as well as to assess the significance of that problem. The problems that the proposed standards address are as follows:

(1) Insufficient information and the high costs of gathering and analyzing relevant information leads some consumers to miss opportunities to make cost-effective investments in energy efficiency.

(2) In some cases the benefits of more efficient equipment are not realized due to misaligned incentives between purchasers and users. An example of such a case is when the equipment purchase decision is made by a building contractor or building owner who does not pay the energy costs.

(3) There are external benefits resulting from improved energy efficiency of appliances that are not captured by the users of such equipment. These benefits include externalities related to public health, environmental protection, and national security that are not reflected in energy prices, such as reduced emissions of air pollutants and greenhouse gases that impact human health and global warming.

In addition, this regulatory action is not an ''economically significant regulatory action'' under section 3(f)(1) of Executive Order 12866. Accordingly, DOE is not required under section 6(a)(3) of the Executive Order to prepare a regulatory impact analysis (RIA) on this rule and the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) is not required to review this rule.

DOE has also reviewed this regulation pursuant to Executive Order 13563. 76 FR 3281 (Jan. 21, 2011). Executive Order 13563 is supplemental to and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, agencies are required by Executive Order 13563 to: (1) Propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

DOE emphasizes as well that Executive Order 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, DOE believes that this NOPR is consistent with these principles, including the requirement that, to the extent permitted by law, benefits justify costs and that net benefits are maximized.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's Web site (*http://energy.gov/gc/office-general-counsel*).

For manufacturers of residential water heaters, the Small Business Administration (SBA) has set a size threshold, which defines those entities classified as ''small businesses'' for the purposes of the statute. DOE used the SBA's small business size standards to determine whether any small entities would be subject to the requirements of the rule. 65 FR 30836, 30848 (May 15, 2000), as amended at 65 FR 53533, 53544 (Sept. 5, 2000) and codified at 13

CFR part 121.The size standards are listed by North American Industry Classification System (NAICS) code and industry description and are available at *http://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf*. Residential water heater manufacturing is classified under NAICS 335228, ''Other Major Household Appliance Manufacturing.'' The SBA sets a threshold of 500 employees or less for an entity to be considered as a small business for this category.

To estimate the number of companies that could be small business manufacturers of solar-assisted water heaters covered by this rulemaking, DOE constructed a list of residential water heater manufacturers by conducting a market survey using publicly available information. DOE's research involved industry trade association membership directories (including AHRI), information from previous rulemakings, individual company Web sites, SBA's database, and market research tools (*e.g.*, Hoover's reports). DOE used the Solar Rating and Certification Corporation's certification database as well as individual company Web sites to determine which residential water heater manufacturers identified offer solar-assisted products and would potentially be impacted by this proposed rule. DOE screened out companies that do not offer products covered by this rulemaking, do not meet the definition of a ''small business,'' or are completely foreign owned and operated.

DOE initially identified eight manufacturers of solar-assisted water heaters sold in the United States. After reviewing publicly available information on these potential residential water heater manufacturers, DOE determined that five were either large manufacturers or manufacturers that were completely foreign owned and operated. Based on these efforts, DOE estimated that there are three small business manufacturers of water heaters that meet the definition of solar-assisted electric storage water heater or solar-assisted fossil fuel water heater, as proposed in this NOPR.

DOE is not proposing any amended standards for residential water heater manufacturers in this NOPR. Rather, the Department proposes to define solar-assisted electric storage water heaters and solar-assisted fossil fuel-fired storage water heaters, and to clarify that current residential water heater standards do not apply to such products. As a result, DOE certifies that this NOPR will not have a significant economic impact on a substantial number of small entities and therefore, has not prepared an IRFA. DOE will transmit this certification to the Chief Counsel for Advocacy of the Small Business Administration (SBA) for review under 5 U.S.C 605(b).

A statement of the objectives of, and reasons and legal basis for, the proposed rule are set forth elsewhere in the preamble and not repeated here.

C. Review Under the Paperwork Reduction Act

Manufacturers of residential water heaters must certify to DOE that their products comply with any applicable energy conservation standards. In certifying compliance, manufacturers must test their products according to the DOE test procedures for residential water heaters, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including residential water heaters. 76 FR 12422 (March 7, 2011). The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 30 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the 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 PRA, unless that collection of information displays a currently valid OMB Control Number.

This proposal clarifies the applicability of the amended energy conservation standards to solar-assisted water heaters and thus, also clarifies the certification requirements. If the proposal is finalized as proposed, those water heaters meeting the definition of solar-assisted in DOE's regulations would not have to be certified with the Department because they would not be subject to standards.

D. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act (NEPA) of 1969, DOE has determined that the proposed rule fits within the category of actions included in Categorical Exclusion (CX) B5.1 and otherwise meets the requirements for application of a CX. See 10 CFR part 1021, App. B, B5.1(b); 1021.410(b) and Appendix B, B(1)–(5). The proposed rule fits within the category of actions because it is a rulemaking that clarifies the applicability of energy conservation standards for consumer products, and for which none of the exceptions identified in CX B5.1(b) apply. Therefore, DOE has made a CX determination for this rulemaking, and DOE does not need to prepare an Environmental Assessment or Environmental Impact Statement for this proposed rule. DOE's CX determination for this proposed rule is available at *http://cxnepa.energy.gov/*.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism.'' 64 FR 43255 (Aug. 10, 1999) imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification

and burden reduction. 61 FR 4729 (Feb. 7, 1996). Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this proposed rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at *http://energy.gov/gc/office-general-counsel.*

This proposed rule does not contain a Federal intergovernmental mandate, and will not require expenditures of $100 million or more on the private sector. Accordingly, no further action is required under the UMRA.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (Mar. 18, 1988), that this regulation would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed this NOPR under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has tentatively concluded that this regulatory action, which clarifies applicability of the energy conservation standards for residential water heaters, is not a significant energy action because the proposed clarifications are not likely to have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects on the proposed rule.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (OSTP), issued its Final Information Quality Bulletin for Peer Review (the Bulletin). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the bulletin is to enhance the quality and credibility of the Government's scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are ''influential scientific information,'' which the Bulletin defines as scientific information the agency reasonably can determine will have, or does have, a clear and substantial impact on important public policies or private sector decisions. 70 FR 2667.

In response to OMB's Bulletin, DOE conducted formal in-progress peer reviews of the energy conservation standards development process and analyses and has prepared a Peer Review Report pertaining to the energy conservation standards rulemaking analyses. Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. The ''Energy Conservation

Standards Rulemaking Peer Review Report'' dated February 2007 has been disseminated and is available at the following Web site: *www1.eere.energy.gov/buildings/appliance_standards/peer_review.html.*

V. Public Participation

DOE welcomes all interested parties to submit in writing by May 8, 2015 comments, data, and other information on matters addressed in this proposal and on other matters relevant to consideration of definitions for residential water heaters.

After the closing of the comment period, DOE will consider all timely-submitted comments and additional information obtained from interested parties, as well as information obtained through further analyses. Afterward, DOE will publish either supplemental notice of proposed rulemaking or a final rule amending these definitions and clarifying the applicability of standards. The final rule would include definitions for the products covered by the rulemaking.

A. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this proposed rule. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this notice.

Submitting comments via regulations.gov. The regulations.gov Web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to regulations.gov information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through regulations.gov cannot be claimed as CBI. Comments received through the Web site will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section below.

DOE processes submissions made through regulations.gov before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that regulations.gov provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or mail. Comments and documents submitted via email, hand delivery, or mail also will be posted to regulations.gov. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery/courier, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: one copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked non-confidential with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

B. Issues on Which DOE Seeks Comment

Although DOE welcomes comments on any aspect of this proposal, DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

1. Are the criteria proposed to define solar-assisted water heaters sufficient to describe these types of water heaters?

2. Are there alternative ways to define solar-assisted water heaters including additional prescriptive design criteria or performance-based criteria that might involve tests to determine whether the definition is met?

3. Should a criterion be added to the definition of solar-assisted fossil fuel-fired water heaters that requires the burner to be located in the upper half of the tank?

4. Is the uniform test method for measuring the energy consumption of water heaters appropriate for representing the performance of solar-assisted electric and fossil fuel-fired storage water heaters?

VI. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this proposed rule.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Intergovernmental relations, and Small businesses.

Issued in Washington, DC, on March 25, 2015.

Roland Risser,

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

For the reasons set forth in the preamble, DOE proposes to amend part 430 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, as set forth below:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for Part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 2. Section 430.2 is amended by adding the definitions of ''solar-assisted electric storage water heater'' and ''solar-assisted fossil fuel storage water heater'' in alphabetical order to read as follows:

§ 430.2 Definitions.

* * * * *

Solar-assisted electric storage water heater means a product that utilizes electricity to heat potable water for use outside the heater upon demand and—

(1) stores water at a thermostatically controlled temperature with an input of 12 kilowatts or less;

(2) has at least two threaded ports in addition to those used for introduction and delivery of potable water for the supply and return of water or a heat transfer fluid heated externally by solar panels;

(3) does not have electric resistance heating elements located in the lower half of the storage tank;

(4) has the temperature sensing device that controls the auxiliary electric heat source located in the upper half of the storage tank;

(5) has a certified first hour rating less than 63 gallons.

Solar-assisted fossil fuel storage water heater means a product that utilizes oil or gas to heat potable water for use outside the heater upon demand and—

(1) stores water at a thermostatically controlled temperature, including gas storage water heaters with an input of 75,000 Btu per hour or less and oil storage water heaters with an input of 105,000 Btu per hour or less;

(2) has at least two threaded ports in addition to those used for introduction and delivery of potable water for the supply and return of water or a heat transfer fluid heated externally by solar panels;

(3) has the burner located in the upper half of the storage tank;

(4) has the temperature sensing device that controls the auxiliary heat source located in the upper half of the storage tank; and

(5) has a certified first hour rating less than 69 gallons for gas storage water heaters and has a certified first hour rating less than 128 gallons for oil storage water heaters.

* * * * *

■ 3. Section 430.32 is amended by revising paragraph (d) to read as follows:

§ 430.32 Energy and water conservation standards and their compliance dates.

* * * * *

(d) *Water heaters.* (1) The energy factor of water heaters shall not be less than the following for products manufactured on or after the indicated dates.

Product class	Storage volume	Energy factor as of January 20, 2004	Energy factor as of April 16, 2015
Gas-fired Storage Water Heater.	≥20 gallons and ≤100 gallons.	0.67 − (0.0019 × Rated Storage Volume in gallons).	For tanks with a Rated Storage Volume at or below 55 gallons: EF = 0.675 − (0.0015 × Rated Storage Volume in gallons). For tanks with a Rated Storage Volume above 55 gallons: EF = 0.8012 − (0.00078 × Rated Storage Volume in gallons).
Oil-fired Storage Water Heater.	≤50 gallons	0.59 − (0.0019 × Rated Storage Volume in gallons).	EF = 0.68 − (0.0019 × Rated Storage Volume in gallons).
Electric Storage Water Heater.	≥20 gallons and ≤120 gallons.	0.97 − (0.00132 × Rated Storage Volume in gallons).	For tanks with a Rated Storage Volume at or below 55 gallons: EF = 0.960 − (0.0003 × Rated Storage Volume in gallons). For tanks with a Rated Storage Volume above 55 gallons: EF = 2.057 − (0.00113 × Rated Storage Volume in gallons).
Tabletop Water Heater.	≥20 gallons and ≤120 gallons.	0.93 − (0.00132 × Rated Storage Volume in gallons).	EF = 0.93 − (0.00132 × Rated Storage Volume in gallons).
Instantaneous Gas-fired Water Heater.	<2 gallons	0.62 − (0.0019 × Rated Storage Volume in gallons).	EF = 0.82 − (0.0019 × Rated Storage Volume in gallons).
Instantaneous Electric Water Heater.	<2 gallons	0.93 − (0.00132 × Rated Storage Volume in gallons).	EF = 0.93 − (0.00132 × Rated Storage Volume in gallons).

NOTE: The Rated Storage Volume equals the water storage capacity of a water heater, in gallons, as certified by the manufacturer.

(2) Exclusions: The energy conservation standards shown in paragraph (1) of this section do not apply to the following types of water heaters:

(i) gas-fired, oil-fired, and electric water heaters at or above 2 gallons storage volume and below 20 gallons storage volume;

(ii) gas-fired water heaters above 100 gallons storage volume;

(iii) oil-fired water heaters above 50 gallons storage volume;

(iv) electric water heaters above 120 gallons storage volume;

(v) gas-fired instantaneous water heaters at or below 50,000 Btu/h;

(vi) solar-assisted electric storage water heaters; and

(vii) solar-assisted fossil fuel storage water heaters.

* * * * *

[FR Doc. 2015–07956 Filed 4–7–15; 8:45 am]

BILLING CODE 6450–01–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1610

[Docket No. CPSC–2015–0007]

Petition Requesting Rulemaking To Amend the Standard for the Flammability of Clothing Textiles

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of Petition for Rulemaking.

SUMMARY: The Consumer Product Safety Commission (CPSC or Commission) has received a petition requesting amendments to the test procedure in the *Standard for the Flammability of Clothing Textiles,* 16 CFR part 1610. Petitioner requests changes in the requirements for preparation of clothing textiles for flammability testing. The Commission invites comments concerning the petition.

DATES: The Office of the Secretary must receive comments on the petition by June 8, 2015.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2015–0007, 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,* insert the docket number, [ ], into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Rocky Hammond, Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD, 20814; telephone (301) 504–6833, email: *rhammond@cpsc.gov.*

SUPPLEMENTARY INFORMATION: On February 4, 2015, CPSC's Office of the Secretary received a petition to the Commission to initiate rulemaking to amend the test procedure in 16 CFR part 1610, *Standard for the Flammability of Clothing Textiles* (the Standard). Petitioner, the International Association of Users of Artificial and Synthetic Filament Yarns and of Natural Silk, asserts that the pre-test conditioning requirements for textile samples set forth in 16 CFR 1610.6(a)(2)(iv) (for plain surface textile fabrics) and 1610.6(a)(3)(v) (for raised surface textile fabrics) are inappropriate and unrealistic for silk fabrics. The Standard requires that textile specimens be prepared for testing by treating them in an oven at 105° C (221 °F) for 30 minutes, then placing them in a desiccator to cool. *See* 16 CFR 1610.6(a)(2)(iv); 1610.6(a)(3)(v). Petitioner contends this process removes all moisture from silk fabric samples, resulting in unrealistic measures of textile flammability. Petitioner asks that the Standard be changed to require that all clothing textile samples, including silk, be conditioned at a lower temperature and at a higher level of humidity.

Proposed Changes in Testing. Petitioner asks the Commission to adopt changes that would require all clothing textiles to be conditioned before flammability testing under the temperature and humidity conditions set forth in ASTM D1776–04, *Standard Practice for Conditioning and Testing Textiles.* This standard specifies that general textiles should be conditioned at a temperature of 21° ± 1° C (70° ± 2 ° F) and at a relative humidity of 65 ± 2% for at least 24 hours prior to testing. Petitioner contends flammability testing of silk fabrics would be more realistic and more meaningful if testing were conducted using these conditioning requirements. The proposed changes in pre-test conditioning would apply to all clothing textiles.

Reasons for Proposed Testing Changes. Petitioner asserts that the Standard's conditioning requirements subject silk fabric samples to ''extreme conditions not found in reality'' and are not based on any scientific reason. Petitioner claims its test results show that flammability testing outcomes for silk fabrics vary dramatically, depending on the conditioning standard used. Petitioner also asserts that the Standard's conditioning requirements are inconsistent with all national and international textile testing standards of which Petitioner is aware, including textile testing standards promulgated by the International Organization for Standardization (ISO) and ASTM International (ASTM). The two alternative standards specifically cited by Petitioner, ASTM D1776–04 and ISO 139, *Textiles—Standard atmospheres for conditioning and testing,* require conditioning of fabrics at lower temperatures and at higher levels of humidity than the Standard.

Proposed Commission Action. Petitioner requests the Commission implement the pre-test conditioning standards of ASTM D1776 by amending 16 CFR 1610.6(a)(2)(iv) (conditioning of plain surface textile fabrics) and 1610.6(a)(3)(v) (conditioning of raised surface textile fabrics) to include the conditioning standards of ASTM D1776–04 for all clothing textiles, including silk. These revisions also would include a requirement that conditioned samples be sealed in a tight container and that testing be initiated within one minute of opening of the container. Petitioner also requests that the Commission amend 16 CFR 1610.6(b) (refurbishing and testing after refurbishing) by adding a new subsection 1610.6(b)(4) to apply ASTM D1776–04 conditioning standards to flammability testing of refurbished (*i.e.,* laundered or dry cleaned) textiles.

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, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–6833. The petition is also available at *http://www.regulations.gov* under Docket No. CPSC–2015–0007, Supporting and Related Materials.

Alberta E. Mills,

Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 2015–07907 Filed 4–7–15; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 611

[Docket No. FTA–2015–0007]

RIN 2132–ZA03

Notice of Availability of Proposed Interim Policy Guidance for the Capital Investment Grant Program

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of availability of proposed interim policy guidance; request for comments.

SUMMARY: The Federal Transit Administration (FTA) invites public comment on interim policy guidance the agency is proposing for the Capital Investment Grant (CIG) program. The proposed interim guidance has been placed in the docket and posted on the FTA Web site. If adopted, this proposed interim policy guidance will complement FTA's regulations that govern the CIG program by providing a deeper level of detail about the methods for applying the project justification and local financial commitment criteria for rating and evaluating New Starts, Small Starts, and Core Capacity Improvement projects, and the procedures for getting through the steps in the process required by law.

DATES: Comments must be received on or before May 8, 2015. Any comments received beyond this deadline will be considered to the extent practicable.

ADDRESSES: You may submit comments to DOT docket number FTA–2015–0007 by any of the following methods:

Federal eRulemaking Portal: Go to *http://www.regulations.gov* and follow the online instructions for submitting comments.

U.S. Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590–0001.

Hand Delivery or *Courier:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Fax: 202–493–2251.

Instructions: You must include the agency name (Federal Transit Administration) and docket number (FTA–2015–0007) for this notice at the beginning of your comments. You must submit two copies of your comments if you submit them by mail. If you wish to receive confirmation FTA received your comments, you must include a self-addressed, stamped postcard. Due to security procedures in effect since October 2001, mail received through the U.S. Postal Service may be subject to delays. Parties submitting comments may wish to consider using an express mail firm to ensure prompt filing of any submissions not filed electronically or by hand.

All comments received will be posted, without charge and including any personal information provided, to *http://www.regulations.gov,* where they will be available to internet users. You may review DOT's complete Privacy Act Statement published in the **Federal Register** on April 11, 2000, at 65 FR 19477. For access to the docket and to read background documents and comments received, go to *http://regulations.gov* at any time or to the U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Management Facility, West Building Ground Floor, Room W12–140, Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Elizabeth Day, FTA Office of Planning and Environment, telephone (202) 366–5159 or *Elizabeth.Day@dot.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to 49 U.S.C. 5309(g)(5), FTA is obliged to publish policy guidance on the review and evaluation process and criteria for projects eligible for Federal funding under the CIG program each time the agency makes significant changes to the process and criteria, and in any event, at least once every two years. Also, FTA is obliged to invite public comment on the guidance, and to publish its response to comments. In brief, the policy guidance that FTA periodically issues for the discretionary Capital Investment Grant (''CIG'') program complements the FTA regulations that govern the CIG program, codified at 49 CFR part 611. The regulations set forth the process that grant applicants must follow to be considered eligible for discretionary funding under the CIG program, and the procedures and criteria FTA uses to rate and evaluate the projects eligible for that discretionary funding. The policy guidance provides a greater level of detail about the methods FTA uses to apply the criteria for both project justification and local financial commitment, and the sequential steps a sponsor must follow in developing a project.

The interim policy guidance FTA is proposing today is available in its entirety on the agency's public Web site at *http://www.fta.dot.gov,* and in the docket at *http://www.regulations.gov.* It is approximately 100 typewritten pages in length, arranged in three stand-alone chapters for each of the three types of projects eligible for CIG funds: New Starts, Small Starts, and Core Capacity Improvements. Each chapter provides a short introduction, a discussion of eligibility for that type of project, a summary of the requirements for entry into and getting through each step of the CIG process, information on each of the project evaluation criteria, and an explanation of how FTA will determine the overall rating for a project. Each type of project in the CIG program—a New Start, Small Start, or Core Capacity Improvement—is governed by a unique set of requirements, although there are many similarities amongst the three sets of requirements.

Most importantly, the guidance proposed today addresses four subjects not addressed in either the regulations or previous policy guidance for the CIG program. These are, specifically: (1) The measures and breakpoints for the congestion relief criterion applicable to New Starts and Small Starts projects; (2) the evaluation and rating process for Core Capacity Improvement projects, including the measures and breakpoints for all the project justification and local financial commitment criteria applicable to those projects; (3) the prerequisites for entry into each phase of the CIG process for each type of project in the CIG program, and the requirements for completing each phase of that process; and (4) ways in which certain New Starts, Small Starts, and Core Capacity Improvement projects can qualify for ''warrants'' entitling them to automatic ratings on some of the evaluation criteria. Readers should please direct their comments to these four subjects. All the other material in this guidance document has been developed through public notice-and-comment for the regulations at 49 CFR part 611 or the previous policy guidance for the CIG program. The newly proposed requirements are clearly identified in the text of each chapter, and in an accompanying table, for easy reference.

This proposed policy guidance is characterized as ''interim'' in that, in the near future, FTA will initiate a rulemaking to amend the regulations at 49 CFR part 611 to fully carry out the authorization statute for the CIG program, 49 U.S.C. 5309, as amended by the Moving Ahead for Progress in the 21st Century Act (Pub. L. 112–141; July 6, 2012) (''MAP–21''). The information gained through the public comment

process on this proposed interim policy guidance will inform the future rulemaking. After reviewing and responding to the comments received on this proposed guidance, FTA will issue a final iteration of the interim guidance, and then initiate the rulemaking.

Therese W. McMillan,

Acting Federal Transit Administrator.

[FR Doc. 2015–08063 Filed 4–7–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 140611492–5308–01]

RIN 0648–BE30

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the Southern Atlantic States; Regulatory Amendment 20

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Regulatory Amendment 20 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) (Regulatory Amendment 20), as prepared and submitted by the South Atlantic Fishery Management Council (Council). If implemented, this proposed rule would revise the snowy grouper annual catch limits (ACLs), commercial trip limit, and recreational fishing season. The purpose of this rule is to help achieve optimum yield (OY) and prevent overfishing of snowy grouper while enhancing socio-economic opportunities within the snapper-grouper fishery in accordance with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Written comments must be received on or before May 8, 2015.

ADDRESSES: You may submit comments on the proposed rule, identified by ''NOAA–NMFS–2015–0003'' by either of the following methods:

• *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0003,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* Submit written comments to Nikhil Mehta, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

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

Electronic copies of the regulatory amendment, which includes an environmental assessment and an initial regulatory flexibility analysis (IRFA), may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov/sustainable_fisheries/s_atl/sg/2015/reg_am20/index.html.*

FOR FURTHER INFORMATION CONTACT: Nikhil Mehta, telephone: 727–824–5305, or email: *nikhil.mehta@noaa.gov.*

SUPPLEMENTARY INFORMATION: Snowy grouper is in the snapper-grouper fishery of the South Atlantic and is managed under the FMP. The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

Background

The Magnuson-Stevens Act requires NMFS and regional fishery management councils to achieve on a continuing basis the OY from federally-managed fish stocks. This mandate is intended to ensure that fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems.

Management Measures Contained in This Proposed Rule

This proposed rule would revise the snowy grouper ACLs for both the commercial and recreational sectors, revise the commercial trip limits, and revise the recreational fishing season. All weights described in the preamble of this proposed rule are in gutted weight.

Snowy Grouper Commercial and Recreational ACLs

In 2013, a standard stock assessment for snowy grouper was conducted using the Southeast Data, Assessment, and Review (SEDAR) process (SEDAR 36). SEDAR 36 indicates the snowy grouper stock is no longer undergoing overfishing, remains overfished, and is rebuilding.

Snowy grouper is in a rebuilding plan and catch levels are currently being held constant as the stock rebuilds. While the amendment states that it is changing the rebuilding strategy, the effect of the action is to adopt the acceptable biological catch (ABC) chosen by the Council as recommended by the Council's Scientific and Statistical Committee (SSC) based upon the stock assessment. The Council's SSC recommended an ABC equal to the yield at 75 percent of the fishing mortality at maximum sustainable yield (F_{MSY}), which would allow ABC to increase as the stock rebuilds.

The current ABC is 87,254 lb (39,578 kg), which equals the total allowable catch specified by the rebuilding strategy in Amendment 15A to the FMP. As described in Regulatory Amendment 20, the ABC would increase to 139,098 lb (63,094 kg) in 2015; 151,518 lb (68,727 kg) in 2016; 163,109 lb (73,985 kg) in 2017; 173,873 lb (78,867 kg) in 2018; and 185,464 lb (84,125 kg) in 2019 and subsequent fishing years.

SEDAR 36 updated the historical landings data for snowy grouper from the Marine Recreational Fisheries Statistical Survey (MRFSS) to the Marine Recreational Information Program (MRIP). Additionally, recreational landings from Monroe County, Florida, which encompasses the islands of the Florida Keys, were included in the SEDAR 36 stock assessment. The recreational landings data from Monroe County were not included in the first stock assessment conducted for snowy grouper in 2004 (SEDAR 4) because it was not possible at that time to separate out the data from Monroe County from the landings data for the rest of the west coast of Florida. However, in 2013, a method was developed for extracting and separating the recreational landings from Monroe County from the rest of the west coast of Florida and therefore, the Monroe County recreational data were included in SEDAR 36. When applying the existing allocation formula for snowy grouper to the change in landings from the SEDAR 36 assessment, a shift results in the sector ACLs from 95 percent commercial and 5 percent recreational

to 83 percent commercial and 17 percent recreational.

The proposed rule would increase the ACLs for snowy grouper based on the ABC chosen by the Council, as recommended by their SSC based on the results of SEDAR 36. The current snowy grouper commercial ACL is 82,900 lb (37,603 kg). This proposed rule would revise the commercial ACL to 115,451 lb (52,368 kg) in 2015; 125,760 lb (57,044 kg) in 2016; 135,380 lb (61,407 kg) in 2017; 144,315 lb (65,460 kg) in 2018; and 153,935 lb (69,824 kg) in 2019, and subsequent fishing years. The current snowy grouper recreational ACL is 523 fish. This proposed rule would revise the snowy grouper recreational ACL to 4,152 fish in 2015; 4,483 fish in 2016; 4,819 fish in 2017, 4,983 fish in 2018; and 5,315 fish in 2019, and subsequent fishing years.

Snowy Grouper Commercial Trip Limit

This proposed rule would revise the snowy grouper commercial trip limit from the current 100 lb (45 kg) to 200 lb (91 kg). With an increased trip limit, the expected length of the fishing season may decrease. However, the Council determined that since the commercial ACL would be increasing yearly from 2015 to 2019, a relatively small increase in the commercial trip limit to 200 lb (91 kg) would help to maintain a longer fishing season when combined with the commercial ACL increase. Furthermore, because the fishing year for snowy grouper begins on January 1, the Council felt that a higher trip limit for snowy grouper at the beginning of the year could enhance profits for commercial snapper-grouper fishermen because shallow-water grouper species are closed during January–April, leaving snowy grouper as one of few options for purchase by dealers and fish houses. Additionally, with a May harvest opening for many snapper-grouper species, other fish would be available to target if snowy grouper closes in the summer.

Snowy Grouper Recreational Fishing Season

The current snowy grouper fishing season is year-round with a recreational bag limit of one snowy grouper per vessel per day. This proposed rule would revise the recreational fishing season to one snowy grouper per vessel per day from May through August, with no retention of snowy grouper during the rest of the year. Snowy grouper recreational landings exceeded the recreational ACL by approximately 400 percent in both 2012 and 2013, and as a result of the accountability measures, the recreational sector closed on May 31 in 2013, and on June 7 in 2014. The Council determined that reducing the current year-round recreational fishing season to a 4-month season would help minimize the risk of exceeding the recreational ACL. The months of May through August are when recreational fishermen throughout the South Atlantic generally have equal access to the resource due to good weather conditions. The fishing season dates and bag limit for the snowy grouper recreational sector would match those proposed for a co-occurring species, blueline tilefish, through Amendment 32 to the FMP. Thus, this approach could help reduce discard mortality for snowy grouper, which can be targeted along with blueline tilefish, another co-occurring deep-water species. The Council determined that similar recreational management measures and fishing seasons for snowy grouper and blueline tilefish would be beneficial to both fish stocks as they are caught at the same depths and have similar high release mortality rates.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator for Fisheries has determined that this proposed rule is consistent with Regulatory Amendment 20, the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act, for this proposed rule. The IRFA describes the economic impact this rule, if adopted, would have on small entities. A description of the action, why it is being considered, the objectives of, and legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A copy of the full analysis is available from NMFS (see **ADDRESSES**). A summary of the IRFA follows.

The Magnuson-Stevens Act provides the statutory basis for this rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this rule. Accordingly, this rule does not implicate the Paperwork Reduction Act.

This rule, if implemented, would be expected to directly affect federally permitted commercial fishers harvesting for snowy grouper in the South Atlantic. The Small Business Administration established size criteria for all major industry sectors in the U.S., including fish harvesters and for-hire operations. A business involved in fish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and its combined annual receipts are not in excess of $20.5 million (NAICS code 114111, finfish fishing) for all of its affiliated operations worldwide.

Charter vessels and headboats (for-hire vessels) sell fishing services, which include the harvest of any species considered in this proposed rule, to recreational anglers. These vessels provide a platform for the opportunity to fish and not a guarantee to catch or harvest any species, though expectations of successful fishing, however defined, likely factor into the decision to purchase these services. Changing the allowable harvest of a species, including a fishery closure, only defines what species may be kept and does not explicitly prevent the continued offer of for-hire fishing services. In response to a change in the allowable harvest of a species, including a zero-fish possession limit or fishery closure, catch and release fishing for a target species could continue, as could fishing for other species. Because the proposed changes to management measures for species considered in this proposed rule would not directly alter the services sold by these vessels, this proposed rule would not directly apply to or regulate their operations. For-hire vessels would continue to be able to offer their primary product, which is an attempt to ''put anglers on fish,'' provide the opportunity for anglers to catch whatever their skills enable them to catch, and keep those fish that they desire to keep and are legal to keep. Any changes in demand for these fishing services, and associated economic affects as a result of changing an ACL or establishing fishery closures, would be a consequence of behavioral change by anglers, secondary to any direct effect on anglers, and, therefore, an indirect effect of the proposed regulatory action. Because the effects on for-hire vessels would be indirect, they fall outside the scope of the Regulatory Flexibility Analysis (RFA). Recreational anglers, who may be directly affected by the changes in this proposed rule, are not small entities under the RFA.

NMFS has not identified any other small entities that would be expected to be directly affected by this proposed rule.

The snapper-grouper fishery is a multi-species fishery and vessels

generally land many species on the same trips. From 2009 through 2013, an annual average of 138 vessels with valid Federal permits to operate in the commercial sector of the snapper-grouper fishery landed at least 1 lb (0.45 kg) of snowy grouper. Each vessel generated annual average dockside revenues of approximately $78,000 (2013 dollars), of which $2,000 were from snowy grouper, $21,000 from other species jointly landed with snowy grouper, and $55,000 from other species on trips without snowy grouper. Vessels that caught and landed snowy grouper may also operate in other fisheries outside the snapper-grouper fishery, the revenues of which are not known and are not reflected in these totals. Based on revenue information, all commercial vessels directly affected by the rule may be considered small entities.

Because all entities expected to be affected by this rule are small entities, NMFS has determined that this rule would affect a substantial number of small entities. Moreover, the issue of disproportionate effects on small versus large entities does not arise in the present case.

The effect of the action to modify the rebuilding strategy for snowy grouper is to adopt the ABC chosen by the Council, as recommended by their SSC based upon the recent stock assessment. Modifying the rebuilding strategy for snowy grouper would have no direct economic effects on small entities, because it would not alter the current use or access to the snowy grouper resource. NMFS notes that the ABC resulting from the modification of the rebuilding strategy would be higher than the status quo ABC for snowy grouper.

Setting the snowy grouper ACL equal to ABC implies that the ACL would increase as a result of the proposed ABC increase. The method for allocating the ACL between the commercial and recreational sectors would remain the same. The change in the commercial and recreational percentage allocation results from the use of the updated landings of snowy grouper from SEDAR 36. Relative to the 2014 ACL, the proposed commercial ACLs will increase by 39 percent in 2015 and continue to increase annually through 2019 to a point where the proposed ACL in 2019 will be 86 percent greater than it was in 2014. Compared to the 2014 ACL, the proposed recreational ACL will increase by 442 percent in 2015 and continue to increase annually through 2019 to a point where the proposed ACL in 2019 will be 623 percent greater than it was in 2014. In principle, the increases in the snowy grouper sector ACLs would be expected to result in revenue and profit increases to commercial vessels. The actual results would partly depend on the relationship to the management measures proposed for the commercial sector, as discussed below. As noted, for-hire vessels would only be indirectly affected by this action.

Increasing the snowy grouper commercial trip limit from 100 lb (45 kg), to 200 lb (90 kg), would tend to increase the profit per trip of commercial vessels. This higher trip limit would complement the proposed commercial ACL increase in potentially increasing the annual profits of commercial vessels. Given the proposed ACL increase, the commercial fishing season is expected to extend from January 1 through July 19 under the higher trip limit, or January 1 through December 26 under the status quo (No Action) trip limit. Therefore, the proposed commercial trip limit increase would result in a higher profit per trip but shorter commercial fishing season; whereas the status quo trip limit would be associated with lower profit per trip but a longer fishing season. Which of these two scenarios would result in higher annual profit for commercial vessels cannot be ascertained. What is less uncertain, however, is that the proposed commercial ACL increase would result in higher annual revenues and profits. As noted, the commercial fishing season is projected to last until July 19 under the proposed trip limit and ACL increases. Without the ACL increase, the commercial fishing season is projected to last until June 6 under the proposed trip limit increase. Thus, the commercial ACL increase would allow for about 6 extra weeks of commercial fishing for snowy grouper under the proposed trip limit increase. Given a longer fishing season and higher profit per trip, revenues and profits of commercial vessels that target snowy grouper are likely to increase.

The following discussion analyzes the alternatives that were not selected as preferred by the Council. Only actions that would have direct economic effects on small entities merit inclusion in the following discussion.

Three alternatives, including the preferred alternative (as fully described in the preamble), were considered for adjusting the ACLs. The first alternative, the no action alternative, would maintain the current (lower) commercial and recreational ACLs. This alternative would maintain the same economic benefits for commercial vessels but at levels lower than those afforded by the preferred alternative. The second alternative, which has three sub-alternatives, would set ACLs as some percentage of the ABC. The three sub-alternatives are setting the ACL at 95 percent, 90 percent, and 85 percent of the ABC. All three sub-alternatives would have lower positive effects on the profits of commercial vessels than the preferred alternative.

Five alternatives, including the preferred alternative (as fully described in the preamble), were considered for modifying the management measures for the snowy grouper commercial sector. The first alternative, the no action alternative, would maintain the commercial trip limit of 100 lb (45 kg). Compared to the preferred alternative, the no action alternative would have a lower profit per trip but would also leave the commercial fishing season open almost year-round. Which of these two alternatives would result in higher annual vessel profits for commercial vessels cannot be ascertained. NMFS notes that, if the trip limit is maintained at 100 lb (45 kg), commercial vessels may not take full advantage of the proposed ACL that would annually increase until at least 2019.

The second alternative would split the snowy grouper commercial ACL into two quotas: 50 percent to the first period (January 1–April 30) and 50 percent to the second period (May 1–December 31). Any remaining commercial quota from the first period would carry over into the second period; any remaining commercial quota from the second period would not carry over into the next fishing year. The following three sub-alternatives on trip limits would apply to each period: 100 lb (45 kg), 150 lb (47.5 kg), or 200 lb (90 kg). Given the proposed commercial ACL increase, the first period would likely remain open under any of the alternative trip limits, but the second period would close early with the highest trip limit resulting in the shortest fishing season. This alternative, with the trip limit of 200 lb (90 kg), would have the same effects on commercial vessel profits as the preferred alternative, because both alternatives would have the same trip limits and the same fishing season length. At lower trip limits, this alternative would allow a longer fishing season but also lower profit per trip than the preferred alternative. It cannot be determined if this alternative, with lower trip limits and a longer fishing season, would result in higher annual profits than the preferred alternative. In an effort to address the accessibility to the snowy grouper resource, the Council considered implementing a commercial split season that would essentially spread out effort over time and allow for more equitable access to snowy grouper

throughout the Council's area of jurisdiction. The Council decided to retain the current commercial fishing year as the calendar year because snowy grouper are an important commercial species in the early part of the calendar year, when shallow-water groupers are closed to commercial harvest. In addition, snowy grouper earn higher prices during the early months of the year.

The third alternative would split the snowy grouper commercial ACL into two quotas: 40 percent to the first period (January 1–April 30) and 60 percent to the second period (May 1–December 31). Any remaining commercial quota from the first period would carry over into the second period; any remaining commercial quota from the second period would not carry over into the next fishing year. This alternative would maintain the current commercial trip limit of 100 lb (45 kg), for the first period and establish one of the following trip limits for the second period: 100 lb (45 kg), 150 lb (47.5 kg), 200 lb (90 kg), 250 lb (112.5 kg), or 300 lb (135 kg). Under this alternative and given the proposed ACL increases, commercial fishing would likely remain open throughout the first period but would close early in the second period, with the highest trip limit resulting in the shortest fishing season. As with the second alternative, this alternative, when combined with lower trip limits would provide longer fishing seasons but lower profit per trip than the preferred alternative. Similarly, this alternative, when combined with higher trip limits, would allow for a higher profit per trip but result in shorter fishing seasons. It cannot be determined if this alternative, with either lower or higher trip limits, would result in greater annual profits than the preferred alternative. Similar to the second alternative, the Council considered a split season to address the accessibility to the resource. For similar reasons mentioned above, this third alternative was not selected as the preferred alternative by the Council.

The fourth alternative is similar to the preferred alternative but would establish a trip limit of either 300 lb (135 kg), or 150 lb (47.5 kg). This alternative would result in a longer fishing season but a lower profit per trip under a trip limit of 150 lb (47.5 kg), or a shorter fishing season and a higher profit per trip under a trip limit of 300 lb (135 kg), than the preferred alternative. The differential impacts on the annual profits of commercial vessels between this alternative and the preferred alternative cannot be determined. However, the preferred alternative appears to provide a better balance between season length and profit per trip than this alternative with trip limits of either 150 lb (47.5 kg), or 300 lb (135 kg).

The fifth alternative would modify the snowy grouper commercial trip limit to 150 lb (47.5 kg), all year or until the commercial ACL is met or projected to be met, except for the period of May through August from Florida's Brevard/Indian River County line northward when the trip limit will be one of the following: 200 lb (90 kg), 250 lb (112.5 kg), or 300 lb (135 kg). This alternative would provide for a lower trip limit than the preferred alternative, except in May through August when an equal or higher trip limit would be allowed in certain areas. This alternative would likely benefit commercial vessels in areas north of Indian River County, Florida, more than vessels in other areas, at least during the period when vessels in the northern areas are allowed higher trip limits. Whether total profits from all vessels would be higher under this alternative than under the preferred alternative cannot be determined. Although this alternative was not chosen as the preferred alternative, the Council acknowledged that fishermen in North Carolina have historically had limited access to snowy grouper at the beginning of the fishing year due to poor winter weather conditions. However, some milder winters in recent years have benefitted fishermen through some increased access to snowy grouper.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, South Atlantic, Snapper-Grouper, Snowy grouper.

Dated: April 2, 2015.

Eileen Sobeck,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.183, paragraph (b)(8) is added to read as follows:

§ 622.183 Area and seasonal closures.

* * * * *

(b) * * *

(8) *Snowy grouper recreational sector closure.* The recreational sector for snowy grouper in or from the South Atlantic EEZ is closed from January 1 through April 30, and September 1 through December 31, each year. During a closure, the bag and possession limit for snowy grouper in or from the South Atlantic EEZ is zero.

■ 3. In § 622.190, the last sentence in paragraph (a) introductory text, and paragraph (a)(1) are revised to read as follows:

§ 622.190 Quotas.

* * * * *

(a) * * * The quotas are in gutted weight, that is eviscerated but otherwise whole, except for the quotas in paragraphs (a)(1), (4), (5), and (6) of this section which are in both gutted weight and round weight.

(1) *Snowy grouper*—(i) For the 2015 fishing year—115,451 lb (52,368 kg), gutted weight; 136,233 lb (61,794 kg), round weight.

(ii) For the 2016 fishing year—125,760 lb (57,044 kg), gutted weight; 148,397 lb (67,312 kg), round weight.

(iii) For the 2017 fishing year—135,380 lb (61,407 kg), gutted weight; 159,749 lb (72,461 kg), round weight.

(iv) For the 2018 fishing year—144,315 lb (65,460 kg), gutted weight; 170,291 lb (77,243 kg), round weight.

(v) For the 2019 and subsequent fishing years—153,935 lb (69,824 kg), gutted weight; 181,644 lb (82,392 kg), round weight.

* * * * *

■ 4. In § 622.191, the first sentence in paragraph (a)(3) is revised to read as follows:

§ 622.191 Commercial trip limits.

* * * * *

(a) * * *

(3) *Snowy grouper.* Until the quota specified in § 622.190(a)(1) is reached—200 lb (91 kg), gutted weight; 236 lb (107 kg), round weight. * * *

* * * * *

■ 5. In § 622.193, paragraph (b)(2) is revised to read as follows:

§ 622.193 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

* * * * *

(b) * * *

(2) *Recreational sector.* (i) If recreational landings, as estimated by the SRD, exceed the recreational ACL specified in paragraph (b)(2)(ii) of this section, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year, to reduce the length of the following recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational ACL in the following fishing year. When NMFS reduces the

length of the following recreational fishing season, the following closure provisions apply: The bag and possession limits for snowy grouper in or from the South Atlantic EEZ are zero. These bag and possession limits also apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, without regard to where such species were harvested, *i.e.,* in state or Federal waters. Recreational landings will be evaluated relative to the ACL based on a moving multi-year average of landings, as described in the FMP.

(ii) The recreational ACL for snowy grouper is 4,152 fish for 2015; 4,483 fish for 2016; 4,819 fish for 2017, 4,983 fish for 2018; 5,315 fish for 2019 and subsequent fishing years.

* * * * *

[FR Doc. 2015–08067 Filed 4–7–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 150205118–5290–01]

RIN 0648–BE87

Fisheries of the Northeastern United States; Small-Mesh Multispecies Specifications

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

ACTION: Proposed rule; request for comments.

SUMMARY: The purpose of this action is to set the small-mesh multispecies specifications for the 2015–2017 fishing years, clarify what measures can be modified in a specifications package, and to correct the northern red hake accountability measure trigger rate. This action is necessary to implement the Council's recommended measures intended to reduce the risk of continuing overfishing of northern red hake and set catch and possession limits for the 2015–2017 fishing years. The proposed specifications are designed to help achieve sustainable yield and to inform the public of these measures.

DATES: Public comments must be received by April 23, 2015.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2012–0170, by any of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2012-0170,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- Mail: Submit written comments to John K. Bullard, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930–2276. Mark the outside of the envelope: ''Comments on Whiting Specifications.''

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

New England Fishery Management Council staff prepared an environmental assessment (EA) for the small-mesh multispecies specifications that describes the proposed action and other considered alternatives. The EA provides a thorough analysis of the biological, economic, and social impacts of the proposed measures and other considered alternatives. An Initial Regulatory Flexibility Analysis (IRFA) was also prepared for this action. The IRFA is contained in the EA prepared for this action, but also is summarized in the Classification section of this proposed rule. Copies of the specifications EA are available on request from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. This document is also available from the following internet addresses: *www.greateratlantic.fisheries.noaa.gov/* or *www.nefmc.org.*

FOR FURTHER INFORMATION CONTACT: Jason Berthiaume, Fishery Management Specialist, (978) 281–9177.

SUPPLEMENTARY INFORMATION:

Background

The New England Fishery Management Council manages the small-mesh multispecies fishery primarily through a series of exemptions from the Northeast Multispecies Fishery Management Plan (FMP). The small-mesh multispecies fishery is composed of five stocks of three species of hakes (northern and southern silver hake, northern and southern red hake, and offshore hake). It is managed separately from the other stocks of groundfish such as cod, haddock, and flounders, primarily because the fishing is prosecuted with much smaller mesh and does not generally result in the catch of these other stocks. Amendment 19 to the Northeast Multispecies FMP (April 4, 2013; 78 FR 20260) established a process and framework for setting the small-mesh multispecies catch specifications, as well as set the specifications for the 2012–2014 fishing years.

The purpose of this action is to set the specifications for the 2015–2017 fishing years, based on the New England Fishery Management Council's recommendation. In 2012 and 2013, northern red hake catch rates exceeded the annual catch limits (ACL) and the acceptable biological catch (ABC). As a result, northern red hake was determined to be experiencing overfishing. To reduce the risk of continued overfishing of northern red hake and constrain catch within the proposed ACL, this action proposes to adopt the Council's recommended measures to adjust the northern red hake possession limits per trip and trigger points at which possession limits are reduced in-season.

This proposed rule also includes a correction to the small-mesh accountability measures and clarifies what measures can be modified in a small-mesh multispecies specifications action.

Proposed Measures

1. 2015–2017 Small-Mesh Multispecies Specifications

The Council's Scientific and Statistical Committee (SSC) met on August 26, 2014, to discuss the specifications and to recommend ABCs for the 2015–2017 small-mesh fishery. The FMP's implementing regulations require the involvement of an SSC in the specification process. Following the SSC, the Whiting Oversight Committee met on September 9 and October 30, 2014, to discuss and recommend small-mesh specifications. The Council approved the final specifications on November 17, 2014.

This action proposes new specifications for the 2015–2017 fishing years, derived from a stock assessment update for northern and southern red

and silver hakes. The recent stock assessment was updated with survey data through spring 2014 for red hake, and through fall 2013 for silver hake. Reported landings and estimated discards were updated through calendar year 2013. Limits on fishing year catches for northern and southern stocks of red and silver hakes are based on the recommendations from the SSC and Committee to the Council which, in turn, recommended measures to NMFS for review and implementation. Changes to the total allowable landings (TAL) are needed to respond to changes in the discard rate of red and silver hakes. These specifications would remain effective for fishing years 2015–2017 unless otherwise changed during that time.

TABLE 1—SUMMARY OF THE SMALL-MESH MULTISPECIES SPECIFICATIONS FOR 2015–2017

Stock	Overfishing limit (OFL) (mt)	ABC (mt)	ACL (mt)	Percent change from 2012–2014	Discard rate (percent)	TAL	Percent change from 2012–2014
N. Silver Hake	43,608	24,383	23,161	85	11.2	19,948.7	122.3
N. Red Hake	331	287	273	2.6	60.6	104.2	15.4
S. Whiting *	60,148	31,180	29,621	−8.2	17.1	23,833.4	−12.6
S. Red Hake	3,400	3,179	3,021	−2.4	55.3	1,309.4	−2.0

* Southern whiting includes southern silver hake and offshore hake

2. Northern Red Hake Possession Limit Reduction

This action proposes to reduce the northern red hake possession limit from 5,000 lb (2,268 kg) to 3,000 lb (1,361 kg). This reduction in possession limit is intended to delay the in-season accountability measure (AM) until later in the year and to reduce the potential for northern red hake catches to exceed the ACL (as occurred in fishing years 2012 and 2013). Lowering the possession limit is expected to discourage the targeting of red hake and to encourage fishing in areas, seasons, or ways that avoid catching excess red hake. Compared to starting the fishing year with a 5,000 lb (2,268 kg) possession limit, it is expected that the in-season AM would be delayed, possibly increasing revenue for trips taken later in the year to target silver hake, and reducing discarding. This measure is intended to be combined with the proposed northern red hake possession limit reduction trigger to effectively constrain catch of northern red hake to the ACL and to slow catch rates to extend the fishing season.

3. Additional Northern Red Hake Possession Limit Reduction Trigger

This measure would implement an additional possession limit reduction trigger for northern red hake of 1,500 lb (680 kg) when 45 percent of the TAL is reached. When the in-season possession limit reduction triggers were initially implemented, the trigger was set at 90 percent of the TAL. When landings reach the 90-percent trigger, the red hake possession limit would be reduced to the incidental level of 400 lb (181 kg). In both 2012 and 2013, the 90-percent trigger was reached and the ACL was still exceeded. As a result, in 2014, the 90-percent trigger was reduced to 45 percent in accordance with the AM regulations. However, this rule's proposed regulatory correction would increase the 45-percent trigger to 62.5 percent. Because this trigger did not function as well as intended to ensure that the ACL is not exceeded, this rule proposes a second, earlier possession limit reduction trigger of 1,500 lb (680 kg) when 45 percent of the TAL is reached. For clarity, as a result of these proposed specifications, there would be two in-season possession limit triggers for northern red hake: At 45 percent of the TAL, the per-trip possession limit would be decreased from 3,000 lb (1,361 kg) to 1,500 lb (680 kg); and then when 62.5 percent of the TAL is reached, the per-trip possession limit would be decreased from 1,500 lb (680 kg) to 400 lb (181 kg).

As previously discussed, this additional possession limit trigger is intended to slow catch of northern red hake and to reduce the potential for northern red hake catch from exceeding the ACL.

4. Clarification on Modifications in a Specifications Action

When developing the rulemaking for this action, we determined that the current regulations governing the specifications process as recommended in Amendment 19 do not fully reflect the Council's intent regarding the scope of measures that can be implemented pursuant to the specifications process. Amendment 19 specified that the Council shall specify on at least a 3-year basis the OFL, ABC, ACLs, and TALs for each small-mesh multispecies stock as well as the corresponding possession limits, including in-season possession limit triggers to be consistent with the revised specification recommendations and estimates of scientific and management uncertainty from the SSC. However, the implementing regulations for Amendment 19 inadvertently failed to specify that adjustments to possession limits and the in-season possession limit triggers were among the items that could be modified in a specifications action. This rule proposes to correct this problem by including possession limits and in-season possession limit triggers in small-mesh multispecies specifications regulations. The Magnuson-Stevens Act at section 305(d) grants the agency the authority to promulgate regulations necessary to carry out any FMP or amendment to an FMP.

5. Regulatory Correction

When the specifications were being developed, the Whiting Plan Development Team identified an error in the previous set of specifications (*i.e.,* fishing years 2012–2014). This error resulted in a 39-mt underestimate of the ABC for northern red hake and a 552-mt underestimate for southern red hake ABC. Due to the 39-mt underestimate, fishing year 2012 catches were actually only 27.5 percent over the ACL rather than 45 percent as previously announced. As a result, the northern red hake post-season accountability measure that was triggered for fishing year 2014 used the incorrect catch and landings limits. Using Magnuson-Stevens Act section 305(d) authority, this action would correct the AM based on the corrected information. No correction is required for the southern red hake error, because only a small fraction of the southern red hake ABC was caught and an increase in the ABC would have no effect.

Currently, the northern red hake accountability measure trigger is 45 percent, which would reduce the possession limit to 400 lb (181 kg) when 45 percent of the TAL is landed. This correction would increase the 400-lb

(181-kg) possession limit trigger point from 45 percent of the TAL to 62.5 percent. This correction would result in a 1,500-lb (680-kg) possession limit when 45 percent of the TAL is landed and a subsequent possession limit reduction to 400 lb (181 kg) when 62.5 percent of the TAL is landed.

Future AMs for fishing years in which the catch exceeds the ACL would be deducted from the corrected 62.5-percent trigger, pursuant to the small-mesh AM regulations at § 648.90.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Assistant Administrator has determined that this proposed rule is consistent with the Northeast Multispecies FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

The Office of Management and Budget has determined that this action is not significant for the purpose of E.O. 12866.

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA), which describes the economic impact this proposed rule, if adopted, would have on small entities.

Description of the Reasons Why Action by the Agency Is Being Considered

A description of the action and why it is being considered are contained at the beginning of this preamble and in the **SUMMARY**.

Statement of the Objectives of, and Legal Basis for, This Proposed Rule

The statement of the objective and the legal basis for this action are contained at the beginning of this preamble and in the **SUMMARY**.

Description and Estimate of the Number of Small Entities to Which This Proposed Rule Would Apply

On June 12, 2014, the Small Business Administration (SBA) issued an interim final rule revising the small business size standards for several industries effective July 14, 2014 (79 FR 33467). The rule increased the size standard from $19.0 million to $20.5 million for finfish fishing, from $5.0 to $5.5 million for shellfish fishing, and from $7.0 million to $7.5 million for other marine fishing, for-hire businesses, and marinas. The small-mesh multispecies fishery falls under the finfish category and, thus, has a threshold of $20.5 million for determining small versus large entities. However, having different size standards for different types of commercial fishing activities creates difficulties in categorizing business that participate in multiple fishing related activities, which is typically the case in the fishing industry.

In order to fish for small-mesh multispecies, a vessel owner must be issued either a limited access Northeast multispecies permit or an open access Northeast Multispecies Category K Permit; however, there are many vessels issued both of these types of permits that may not actually fish for small-mesh multispecies. Based on ownership data for 2011–2013, there were 1,087 distinct ownership entities based on calendar year 2013 permits that could potentially target small mesh multispecies. Of these, 1,069 are categorized as small and 18 are categorized as large entities per the SBA guidelines. While 1,087 commercial entities are directly regulated by the proposed action, not all of these entities land small-mesh multispecies and would, therefore, not be directly impacted by this action. To estimate the number of commercial entities that may experience impacts from the proposed action, active small-mesh multispecies entities are defined as those entities containing permits that are directly regulated and that landed any silver hake or red hake in 2013 for commercial sale. There are 298 potentially impacted, directly regulated commercial entities, 295 (99 percent) of which are classified as small entities.

According to SBA's new size standards, a business involved in harvesting finfish is classified as small business if it is independently owned and operated, not dominant in its field of operation, with receipts not exceeding $20.5 million for all its affiliated operations worldwide. To identify an independent business, ownership information was used. The ownership data identifies individuals who own multiple vessels or a single vessel with multiple owners. This methodology assigns all the vessels owned by an individual into the same entity and including the co-owners in the same pool of affiliation following SBA's criteria for affiliation based on the principle of control that ''may arise through ownership, management, or other relationships or interactions between the parties'' even when the control is not exercised. Section 8.9 in the specifications EA describes the vessels, key ports, and revenue information for the small-mesh multispecies fishery, and is not repeated here.

Description of the Projected Reporting, Record-Keeping, and Other Compliance Requirements of This Proposed Rule

This action does not introduce any new reporting, recordkeeping, or other compliance requirements. This proposed rule does not duplicate, overlap, or conflict with other Federal rules.

Federal Rules Which May Duplicate, Overlap, or Conflict With This Proposed Rule

NMFS is not aware of any relevant Federal rules that may duplicate, overlap, or conflict with this proposed rule.

Description of Significant Alternatives to the Proposed Action Which Accomplish the Stated Objectives of Applicable Statutes and Which Minimize Any Significant Economic Impact on Small Entities

The Council conducted a comprehensive evaluation of the potential socioeconomic impacts of the specifications in the EA (see **ADDRESSES**), and a discussion of this evaluation follows.

Overall, the expected impact from the proposed changes to the ACL specifications is neutral to low positive, relative to the no-action alternative. The proposed specifications in this action would revise the ACL specifications for northern and southern stocks of silver and red hakes for fishing years 2015–2017 based on updated stock assessments. The proposed specifications would increase the northern red and silver hake TALs, but reduce the TALs of the southern red and silver stocks. Landings of southern red hake and both stocks of silver hake were well below the 2013 TALs and the proposed 2015–2017 TALs. Therefore, the proposed limits would not be restrictive for the fishery and as a result, compared to taking no action, impact on revenues would be neutral. In 2013, landings of northern red hake exceeded the TAL and also exceed the proposed 2015–2017 TAL. Thus, if the fishery stays under the TAL to prevent overfishing as is expected, the impacts on revenue from northern red hake landings would be negative, but insignificant when compared with status quo. Compared to the no action alternative, the status quo northern red hake TAL is 15 percent lower than the proposed TAL. Because the proposed specifications generally increase quotas, compared to taking no action the proposed specifications would be positive, but insignificant. However, over the long term, the proposed limits

are intended to reduce the risk of overfishing to maintain a healthy, sustainable stock which would in turn maximize revenues. Thus, compared to taking no action, the proposed specifications would have positive long term impacts on revenues.

This action also proposes to reduce the possession limit for northern red hake from 5,000 lb (2,268 kg) to 3,000 lb (1,361 kg). The preferred alternative may reduce catch and landings (on trips targeting red hake) early in the season. However, the alternative may also potentially delay the time when the AM is triggered, allowing more red hake catch to be landed later in the season. It is expected, based on input from industry advisors, that the in-season AM trigger would be delayed with a lower initial possession limit, increasing revenue for trips taken later in the fishing year and reducing discards. Compared to taking no action, reducing the northern red hake possession limit is intended to prevent early closures, thus extending the season and fishing opportunity. This alternative is intended to support better market conditions by allowing small-mesh vessels to operate at a more consistent level for a longer period of time. As such, although this measure reduces a possession limit, the reduction is intended to prolong the fishing season and provide for better and more consistent market conditions, thus increasing overall revenues. As such, the preferred alternative's impact on profitability is expected to be neutral to low positive relative to the no-action alternative. Actual impact will depend on how fishermen who target this species in the northern area adapt their targeted fishing activity (and discarding activity) to the proposed lower initial possession limit and in-season accountability measures.

This action also proposes to implement an additional in-season possession limit reduction trigger for red hake. This proposed measure would reduce the possession limit to 1,500 lb (680 kg) when landings reach 45 percent of the TAL. This measure, in conjunction with the measure to reduce the initial northern red hake possession limit to 3,000 lb (1,361 kg) are designed to slow catches of northern red hake. Although this would implement an additional possession limit reduction trigger, further reducing possession limits, the reduction is intended to extend the overall season and delay the reduction to incidental levels. Compared to taking no action, implementing an additional northern red hake possession limit trigger at 45 percent is intended to prevent early closures, thus extending the season. Without this additional trigger, possession limits could likely be reduced to the incidental limit trigger earlier in the year. Similar to the reduction in northern red hake possession limit, this alternative is expected to have neutral to slightly positive impacts compared to taking no action.

In regard to correcting the accountability measure trigger for northern red hake, when the specifications were being developed the Whiting Plan Development Team identified an error in the previous set of specifications (*i.e.,* fishing years 2012–2014). As a result, the northern red hake post-season accountability measure was triggered for fishing year 2014 using the incorrect catch and landings limits. This action would correct the AM trigger rate from 45 to 62.5 percent based on the corrected information. This should be beneficial for the industry and is not expected to have any negative economic impacts. Not doing this correction would result in the trigger rate remaining at 45 percent. This would result in the possession limit being reduced to the incidental level of 400 lb (181 kg) earlier in the season at 45 percent of the TAL compared to 62.5 percent. Reducing the possession limit to the incidental level earlier in the season would not only reduce landings, but would also be damaging to market conditions as it would likely result in a shorter season, and less consistent catch rates. Therefore, this measure is expected to delay reducing possession limits, increase landings, and provide for better market conditions. Compared to taking no action, the proposed correction would have positive impacts.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 2, 2015.

Eileen Sobeck,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.86, revise paragraphs (d)(1)(i) introductory text, (d)(1)(ii) introductory text, (d)(1)(iii) introductory text, and (d)(4) introductory text, and add paragraph (d)(5) to read as follows:

§ 648.86 NE Multispecies possession restrictions.

* * * * *

(d) * * *

(1) * * *

(i) *Vessels possessing on board or using nets of mesh size smaller than 2.5 in (6.35 cm).* Owners or operators of a vessel may possess and land not more than 3,000 lb (1,361 kg) of red hake, and not more than 3,500 lb (1,588 kg) of combined silver hake and offshore hake, if either of the following conditions apply:

* * * * *

(ii) *Vessels possessing on board or using nets of mesh size equal to or greater than 2.5 in (6.35 cm) but less than 3 in (7.62 cm).* An owner or operator of a vessel that is not subject to the possession limit specified in paragraph (d)(1)(i) of this section may possess and land not more than 3,000 lb (1,361 kg) of red hake, and not more than 7,500 lb (3,402 kg) of combined silver hake and offshore hake if either of the following conditions apply:

* * * * *

(iii) *Vessels possessing on board or using nets of mesh size equal to or greater than 3 in (7.62 cm).* An owner or operator of a vessel that is not subject to the possession limits specified in paragraphs (d)(1)(i) and (ii) of this section may possess and land not more than 3,000 lb (1,361 kg) of red hake, and not more than 30,000 lb (13,608 kg) of combined silver hake and offshore hake when fishing in the Gulf of Maine or Georges Bank Exemption Areas, as described in § 648.80(a), and not more than 40,000 lb (18,144 kg) of combined silver hake and offshore hake when fishing in the Southern New England or Mid-Atlantic Exemption Areas, as described in § 648.80(b)(10) and (c)(5), respectively, if both of the following conditions apply:

* * * * *

(4) *Accountability measure in-season adjustment of small-mesh multispecies possession limits.* If the Regional Administrator projects that an in-season adjustment TAL trigger level for any small-mesh multispecies stock, as specified in § 648.90(b)(5)(iii), has been reached or exceeded, the Regional Administrator shall reduce the possession limit of that stock to the incidental level for that stock, as specified in this paragraph (d)(4), for the remainder of the fishing year through notice consistent with the Administrative Procedure Act, unless such a reduction in the possession limit would be expected to prevent the TAL from being reached.

* * * * *

(5) *In-season adjustment of northern red hake possession limits.* In addition to the accountability measure in-season adjustment of small-mesh multispecies possession limits specified in § 648.86(d)(4), if the Regional Administrator projects that 45 percent of the northern red hake TAL has been reached or is exceeded, the Regional Administrator shall reduce the possession limit for northern red hake to 1,500 lb (680 kg) for the remainder of the fishing year unless further reduced to the incidental possession limit according to the accountability measure in-season adjustment of small-mesh multispecies possession limits specified in § 648.86(d)(4).

* * * * *

■ 3. In § 648.90, revise paragraphs (b)(4)(i) and (b)(5)(iii) to read as follows:

§ 648.90 NE multispecies assessment, framework procedures and specifications, and flexible area action system.

* * * * *

(b) * * *

(4) * * *

(i) The Whiting PDT shall prepare a specification package, including a SAFE Report, at least every 3 years. Based on the specification package, the Whiting PDT shall develop and present to the Council recommended specifications as defined in paragraph (a) of this section for up to 3 fishing years. The specifications package shall be the primary vehicle for the presentation of all updated biological and socio-economic information regarding the small-mesh multispecies fishery. The specifications package shall provide source data for any adjustments to the management measures that may be needed to continue to meet the goals and objectives of the FMP. The specifications package may include modifications to the OFL, ABC, ACL, TAL, possession limits, and in-season possession limit triggers.

* * * * *

(5) * * *

(iii) *Small-mesh multispecies in-season adjustment triggers.* The small-mesh multispecies in-season accountability measure adjustment triggers are as follow:

Species	In-season adjustment trigger (percent)
Northern Red Hake	62.5
Northern Silver Hake	90
Southern Red Hake	90
Southern Whiting	90

* * * * *

[FR Doc. 2015–08078 Filed 4–7–15; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 80, No. 67
Wednesday, April 8, 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.

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the New York Advisory Committee

Dates and Times: Friday, May 8, 2015 at 12:00 p.m. [EDT]

Place: Via Teleconference. Public Dial-in 1–877–446–3914; Listen Line Code 2507069.

TDD: Dial Federal Relay Service 1–800–977–8339 give operator the Public Dial-In and Listen Line Code identified above.

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act (FACA), that a planning meeting of the New York Advisory Committee to the Commission will convene via conference call. The purpose of the planning meeting is for the Advisory Committee to discuss plans to conduct a public meeting on the over policing of communities of color in New York.

The meeting will be conducted via conference call. Members of the public may listen to the discussion by calling the toll-free number Public Dial-in number and providing the Listen Line Code identified above. Persons with hearing impairments may also following the proceedings by first calling the Federal Relay Service number listed above and providing the toll-free number Public Dial-in number and the Listen Line Code identified above. Callers will incur no charges for calls they initiate over land line connections to the toll-free Public Dial-in number. Callers may incur charges for calls they initiate over wireless lines; the Commission will not refund any incurred charges.

Members of the public are entitled to submit written comments. The comments must be received in the regional office by Monday, June 8, 2015. Comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, faxed to (202) 376–7548, or emailed to Evelyn Bohor at *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at 202–376–7533.

Records generated from this meeting may be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone number, email or street address.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated: April 3, 2015.

David Mussatt,

Chief, Regional Programs Unit.

[FR Doc. 2015–08086 Filed 4–7–15; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

State Advisory Committees

AGENCY: United States Commission on Civil Rights.

ACTION: Solicitation of applications.

SUMMARY: Because the terms of the members of the Kentucky Advisory Committee are expiring on July 11, 2015, the United States Commission on Civil Rights hereby invites any individual who is eligible to be appointed to apply. The memberships are exclusively for the Kentucky Advisory Committee, and applicants must be residents of Kentucky to be considered. Letters of interest must be received by the Southern Regional Office of the U.S. Commission on Civil Rights no later than May 11, 2015. Letters of interest must be sent to the address listed below.

Because the terms of the members of the Minnesota Advisory Committee are expiring on July 11, 2015, the United States Commission on Civil Rights hereby invites any individual who is eligible to be appointed to apply. The memberships are exclusively for the Minnesota Advisory Committee, and applicants must be residents of Minnesota to be considered. Letters of interest must be received by the Midwestern Regional Office of the U.S. Commission on Civil Rights no later than May 11, 2015. Letters of interest must be sent to the address listed below.

Because the terms of the members of the New Hampshire Advisory Committee are expiring on July 11, 2015, the United States Commission on Civil Rights hereby invites any individual who is eligible to be appointed to apply. The memberships are exclusively for the New Hampshire Advisory Committee, and applicants must be residents of New Hampshire to be considered. Letters of interest must be received by the Eastern Regional Office of the U.S. Commission on Civil Rights no later than May 11, 2015. Letters of interest must be sent to the address listed below.

Because the terms of the members of the New York Advisory Committee are expiring on July 11, 2015, the United States Commission on Civil Rights hereby invites any individual who is eligible to be appointed to apply. The memberships are exclusively for the New York Advisory Committee, and applicants must be residents of New York to be considered. Letters of interest must be received by the Eastern Regional Office of the U.S. Commission on Civil Rights no later than May 11, 2015. Letters of interest must be sent to the address listed below.

DATES: Letters of interest for membership on the Kentucky Advisory Committee should be received no later than May 11, 2015.

Letters of interest for membership on the Minnesota Advisory Committee should be received no later than May 11, 2015.

Letters of interest for membership on the New Hampshire Advisory Committee should be received no later than May 11, 2015.

Letters of interest for membership on the New York Advisory Committee should be received no later than May 11, 2015.

ADDRESSES: Send letters of interest for the Kentucky Advisory Committee to: U.S. Commission on Civil Rights, Southern Regional Office, 61 Forsyth Street, Suite 16T126, Atlanta, GA 30303. Letter can also be sent via email to *jhinton@usccr.gov.*

Send letters of interest for the Minnesota Advisory Committee to: U.S. Commission on Civil Rights,

Midwestern Regional Office, 55 West Monrore St., Suite 410, Chicago, IL 60603. Letters can also be sent via email to *callen@usccr.gov.*

Send letters of interest for the New Hampshire Advisory Committee to: U.S. Commission on Civil Rights, Eastern Regional Office, 1331 Pennsylvania Ave. NW., Suite 1150, Washington, DC 20425. Letter can also be sent via email to *eroaa@usccr.gov.*

Send letters of interest for the New York Advisory Committee to: U.S. Commission on Civil Rights, Eastern Regional Office, 1331 Pennsylvania Ave. NW., Suite 1150, Washington, DC 20425. Letter can also be sent via email to *eroaa@usccr.gov.*

FOR FURTHER INFORMATION CONTACT: David Mussatt, Chief, Regional Programs Unit, 55 W. Monroe St., Suite 410, Chicago, IL 60603, (312) 353–8311. Questions can also be directed via email to *dmussatt@usccr.gov.*

SUPPLEMENTARY INFORMATION: The Kentucky, Minnesota, New Hampshire, and New York Advisory Committees are statutorily mandated federal advisory committees of the U.S. Commission on Civil Rights pursuant to 42 U.S.C. 1975a. Under the charter for the advisory committees, the purpose is to provide advice and recommendations to the U.S. Commission on Civil Rights (Commission) on a broad range of civil rights matters in its respective state that pertain to alleged deprivations of voting rights or discrimination or denials of equal protection of the laws because of race, color, religion, sex, age, disability, or national origin, or the administration of justice. Advisory committees also provide assistance to the Commission in its statutory obligation to serve as a national clearinghouse for civil rights information.

Each advisory committee consists of not more than 19 members, each of whom will serve a four-year term. Members serve as unpaid Special Government Employees who are reimbursed for travel and expenses. To be eligible to be on an advisory committee, applicants must be residents of the respective state or district, and have demonstrated expertise or interest in civil rights issues.

The Commission is an independent, bipartisan agency established by Congress in 1957 to focus on matters of race, color, religion, sex, age, disability, or national origin. Its mandate is to:

- Investigate complaints from citizens that their voting rights are being deprived,
- study and collect information about discrimination or denials of equal protection under the law,
- appraise federal civil rights laws and policies,
- serve as a national clearinghouse on discrimination laws,
- submit reports and findings and recommendations to the President and the Congress, and
- issue public service announcements to discourage discrimination.

The Commission invites any individual who is eligible to be appointed a member of the Kentucky, Minnesota, New Hampshire, or New York Advisory Committee covered by this notice to send a letter of interest and a resume to the respective address above.

Dated: April 3, 2015.

David Mussatt,

Chief, Regional Programs Unit.

[FR Doc. 2015–08085 Filed 4–7–15; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–18–2015]

Foreign-Trade Zone (FTZ) 202—Los Angeles, California; Notification of Proposed Production Activity; syncreon Logistics (USA), LLC (Camera and Accessories Kitting); Torrance, California

syncreon Logistics (USA), LLC (syncreon) submitted a notification of proposed production activity to the FTZ Board for its facility in Torrance, California. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on March 27, 2015.

A separate application for a usage-driven site designation at the syncreon facility was submitted and will be processed under Section 400.38 of the FTZ Board's regulations. The facility is used for the kitting of cameras and accessories into retail packages on behalf of GoPro, Inc. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt syncreon from customs duty payments on the foreign-status components used in export production. On its domestic sales, syncreon would be able to choose the duty rates during customs entry procedures that apply for protective lens covers, camera bundles, and lens replacement kits (duty rates range from 2.0 to 5.3%) for the foreign-status inputs noted below. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The components and materials sourced from abroad include: Silicon dioxide for anti-fog inserts; 1 inch diameter, clear plastic adhesive; foam, cushions, double adhesive, 10mm; display boxes; plastic bags; plastic water housing assemblies; flat and curved adhesive mounts; rubber seals for water housing doors; quick release rubber plugs; rubber containers; textile bag packs; replacement camera cases; waterproof camera covers; accessory boxes; top trays for packaging; accessory boxes with shelves; warranty cards; printed carnets; stickers; textile chest mount harnesses; security tethers; washers; Wi-Fi remote attachments for key rings; thumbscrew wrench/bottle openers; metal mountings; adapters, micro SD to USB 2.0; battery transmitters; rechargeable batteries; Wi-Fi transmitters; Wi-Fi remotes; video players; micro SD cards 32GB; cameras; radar transmitters; LCD transmitters; cables, composite, 120 pin mini USB to CVBS audio/video; cables, micro HDMI to HDMI; microphone stand mounts; lens filters; 3D glasses; and, 24-inch metal camera bars (duty rates range from duty-free to 20%). The request indicates that foreign inputs included in certain textile categories (classified within HTSUS Subheadings 4202.92 and 6307.90) will be admitted to the zone in privileged foreign status (19 CFR 146.41), thereby precluding inverted tariff benefits on such items.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is May 18, 2015.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact *Diane.Finver@trade.gov* or (202) 482–1367.

Dated: April 2, 2015.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2015–08104 Filed 4–7–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–601]

Brass Sheet and Strip From Italy; Preliminary Results of Antidumping Duty Administrative Review; 2013–2014

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on brass sheet and strip (BSS) from Italy.[1] This review covers one company. The period of review (POR) is March 1, 2013, through February 28, 2014.

DATES: *Effective Date:* April 8, 2015.

FOR FURTHER INFORMATION CONTACT: Joseph Shuler, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1293.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise subject to the antidumping duty order is brass sheet and strip, other than leaded brass and tin brass sheet and strip, from Italy, which is currently classified under subheading 7409.21.00.50, 7409.21.00.75, 7409.21.00.90, 7409.29.00.50, 7409.29.00.75, and 7409.29.00.90 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS numbers are provided for convenience and customs purposes. A full description of the scope of the order is contained in the Preliminary Decision Memorandum.[2] The written description is dispositive.

The Preliminary Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).[3] ACCESS is available to registered users at *http://access.trade.gov* and to all parties in the Central Records Unit, Room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/index.html.* A list of the topics discussed in the Preliminary Decision Memorandum is attached as an Appendix to this notice.

Methodology

In accordance with sections 776(a) and (b) of the Tariff Act of 1930, as amended (the Act), we relied on facts available with an adverse inference with respect to KME Italy SpA (KME Italy), the only company for which a review was requested. Thus, we preliminarily assign a rate of 22.00 percent as the dumping margin for KME Italy. In making these findings, we relied on facts available because KME Italy failed to respond to the Department's antidumping duty questionnaire, and thus withheld requested information, failed to provide requested information by the established deadlines, and significantly impeded this proceeding. *See* sections 776(a)(2)(A)–(C) of the Act. Furthermore, because we preliminarily determine that KME Italy failed to cooperate by not acting to the best of its ability to comply with the Department's requests for information, we drew an adverse inference in selecting from among the facts otherwise available. *See* section 776(b) of the Act.

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

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following dumping margin on BSS from Italy exists for the period March 1, 2013, through February 28, 2014:

Exporter/manufacturer	Dumping margin (percent)
KME Italy SpA	22.00

Disclosure and Public Comment

Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[4] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[5] Case and rebuttal briefs should be filed using ACCESS.[6]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically *via* ACCESS. An electronically filed document must be received successfully in its entirety in ACCESS by 5 p.m. Eastern Time within 30 days after the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs.

The Department intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review. If the preliminary results are unchanged for the final results we will instruct CBP to apply an *ad valorem* assessment rate of 22.00 percent to all entries of subject merchandise during the POR which were produced and/or exported by KME Italy.

We intend to issue liquidation instructions to CBP 15 days after publication of the final results of review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of BSS from Italy entered, or withdrawn from warehouse, for consumption on or after

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 79 FR 24398 (April 30, 2014).

[2] *See* memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Decision Memorandum for Preliminary Results of the 2013–2014 Antidumping Duty Administrative Review: Brass Sheet and Strip from Italy'' (Preliminary Decision Memorandum), dated concurrently with this notice.

[3] On November 24, 2014, Enforcement and Compliance changed the name of Enforcement and Compliance's AD and CVD Centralized Electronic Service System (IA ACCESS) to AD and CVD Centralized Electronic Service System (ACCESS). The Web site location was changed from *http://iaaccess.trade.gov* to *http://access.trade.gov.* The Final Rule changing the references to the Regulations can be found at 79 FR 69046 (November 20, 2014).

[4] *See* 19 CFR 351.309(d).

[5] *See* 19 CFR 351.303 (for general filing requirements).

[6] *See* 19 CFR 351.303.

the date of publication, as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for the reviewed company will be the rate established in the final results of this review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (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 recently completed segment of this proceeding for the manufacturer of the merchandise; (4) if neither the exporter nor the manufacturer has its own rate, the cash deposit rate will be 5.44 percent. These deposit requirements, when imposed, shall remain in effect until further notice.

Notifications to Importers

This notice serves as a preliminary 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 doubled antidumping duties.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 30, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2015–07953 Filed 4–7–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–489–502]

Circular Welded Carbon Steel Pipes and Tubes From Turkey: Preliminary Results of Countervailing Duty Administrative Review and Preliminary Intent To Rescind in Part; Calendar Year 2013

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty (CVD) order on circular welded carbon steel pipes and tubesfrom Turkey for the period of review (POR) of January 1, 2013, through December 31, 2013. The review covers one producer/exporter of subject merchandise that the Department selected for individual examination: the Borusan Group, Borusan Holding, A.S. (Borusan Holding), Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (Borusan), Borusan Istikbal Ticaret T.A.S. (Istikbal), and Borusan Lojistik Dagitim Pepolama Tasimacilik ve Tic A.S. (Borusan Lojistik) (collectively, the Borusan Companies). Additionally, this review covers three firms that were not individually examined: Toscelik Profil ve Sac Endustrisi A.S. (Toscelik Profil), Toscelik Metal Ticaret AS., and Tosyali Dis Ticaret AS. (Tosyali) (collectively, the Toscelik Companies),[1] Umran Celik Born Sanayii A.S. (also known as Umran Steel Pipe Inc.) (Umran), and Guven Steel Pipe (also known as Guven Celik Born San. Ve Tic. Ltd.) (Guven). We preliminarily determine that the Borusan Companies received countervailable subsidies during the POR. For purposes of these preliminary results, we assigned the Toscelik Companies, Umran and Guven, the non-selected respondents, the same net subsidy rate calculated for the Borusan Companies. Additionally, we preliminarily determine to rescind the administrative reviews on Erbosan Erciyas Boru Sanayi ve Ticaret A.S. (Erbosan AS) and Erbosan Erciyas Pipe Industry and Trade Co. Kayseri Free Zone Branch (Erbosan FZB), (collectively Erbosan) and the Yucel Group and all affiliates including Yucel Boru ye Profil Endustrisi A.S, Yucelboru Ihracat Ithalat ye Pazarlama A.S, and Cayirova Born Sanayi ye Ticaret A.S.) (collectively, the Yucel Companies).[2]

DATES: *Effective Date:* April 8, 2015.

FOR FURTHER INFORMATION CONTACT: John Conniff or Jolanta Lawska, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: 202–482–1009 and 202–482–8362, respectively.

Intent To Rescind the 2013 Administrative Review, in Part

Erbosan and the Yucel Companies submitted letters to the Department on May 5, 2014, June 27, 2014, respectively, timely certifying that they had no sales, shipments, or entries, directly or indirectly, of subject merchandise to the United States during the POR.[3] Petitioners did not comment on Erbosan's and Yucel's claims of no sales, shipments, or entries. On May 19 and July 14, 2014, we transmitted ''No-Shipment Inquiries'' to U.S. Customs and Border Protection (CBP) regarding these companies. We did not receive any information from CBP contrary to Erbosan's and Yucel's claims of no sales, shipments, or entries of subject merchandise to the United States during the POR. Accordingly, based on the record evidence, we preliminarily determine that Erbosan and Yucel, did not ship subject merchandise to the United States during the POR. Therefore, in accordance with 19 CFR 351.213(d)(3), and consistent with our practice,[4] we preliminarily determine to rescind the review for Erbosan and Yucel.

Scope of the Order

The products covered by this order are certain welded carbon steel pipe and tube with an outside diameter of 0.375 inch or more, but not over 16 inches, of any wall thickness (pipe and tube) from Turkey. These products are currently provided for under the Harmonized Tariff Schedule of the United States (HTSUS) as item numbers 7306.30.10,

[1] *See Turkey Pipe 2012 Preliminary Results and accompanied Preliminary Issues and Decision Memorandum at 5 unchanged in Turkey Pipe 2012 Final Results* and accompanying Issues and Decision Memorandum at 2, in which we found the Toscelik Companies to be cross-owned entities.

[2] *See Circular Welded Carbon Steel Pipes and Tubes From Turkey: Final Results of Countervailing Duty Administrative Review; Calendar Year 2011,* 78 FR 64916 (October 30, 2013), in which we found the Erbosan Companies to be cross-owned; *see also Certain Welded Carbon Steel Pipes and Tubes and Welded Carbon Steel Line Pipe from Turkey; Final Results of Countervailing Duty Administrative Reviews,* 64 FR 44496 (August 16, 1999), in which we found the Yucel Companies to be cross-owned.

[3] *See* the Erbosan Companies' May 5, 2014, submission; *see also* the Yucel Companies June 27, 2014, submission.

[4] *See, e.g., Aluminum Extrusions from the People's Republic of China: Notice of Partial Rescission of Countervailing Duty Administrative Review,* 79 FR 2635 (January 15, 2014).

7306.30.50, and 7306.90.10. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Methodology

The Department conducted this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we preliminarily determine that there is a subsidy, *i.e.,* a government financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.[5] For a full description of the methodology underlying our conclusions, *see* the accompanying Decision Memorandum for Preliminary Results of Countervailing Duty (CVD) Administrative Review: Circular Welded Carbon Steel Pipes and Tubes Products from Turkey (Preliminary Decision Memorandum) from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, dated concurrently with these results and hereby adopted by this notice. The Preliminary Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).[6] ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of Review

The Department determined that the following preliminary net subsidy rates exist for the period January 1, 2013, through December 31, 2013:

Company	Net subsidy rate (percent)
Borusan Group, Borusan Holding, A.S. (Borusan Holding), Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (Borusan), Borusan Istikbal Ticaret T.A.S. (Istikbal), and Borusan Lojistik Dagitim Pepolama Tasimacilik ve Tic A.S. (Borusan Lojistik) (collectively, the Borusan Companies).	4.18 *ad valorem.*
Umran Celik Born Sanayii A.S. (also known as Umran Steel Pipe Inc.) (Umran)	4.18 *ad valorem.*
Guven Steel Pipe (also known as Guven Celik Born San. Ve Tic. Ltd.) (Guven)	4.18 *ad valorem.*
Toscelik Profil ve Sac Endustrisi A.S. (Toscelik Profil), Toscelik Metal Ticaret AS., and Tosyali Dis Ticaret AS. (Tosyali) (collectively, the Toscelik Companies).	4.18 *ad valorem.*

Assessment Rates

Upon issuance of the final results, the Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, CVDs on all appropriate entries covered by this review. We intend to issue instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Rates

The Department also intends to instruct CBP to collect cash deposits of estimated CVDs in the amounts indicated for each of the four companies listed above with regard to shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For all other non-reviewed firms, we will instruct CBP to collect cash deposits of estimated CVDs at the most recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

The Department will disclose to parties to this proceeding the calculations performed in reaching the preliminary results within five days of the date of publication of these preliminary results.[7] Interested parties may submit written comments (case briefs) within 30 days of publication of the preliminary results and rebuttal comments (rebuttal briefs) within five days after the time limit for filing case briefs.[8] Pursuant to 19 CFR 351.309(d)(2), rebuttal briefs must be limited to issues raised in the case briefs. Parties who submit arguments are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[9] All briefs must be filed electronically using ACCESS.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5 p.m. Eastern Time within 30 days after the date of publication of this notice.[10] Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, we will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time and location to be determined.[11]

Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, the Department intends to issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days after issuance of these preliminary results.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213.

[5] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and, section 771(5A) of the Act regarding specificity.

[6] On November 24, 2014, Enforcement and Compliance changed the name of the Enforcement and Compliance's AD and CVD Centralized Electronic Service System (IA ACCESS) to AD and CVD Centralized Electronic Service System (ACCESS). The Web site location was changed from *http://iaaccess.trade.gov* to *http://access.trade.gov.* The final rule changing the references in the Department's regulations can be found at 79 FR 69046 (November 20, 2014).

[7] *See* 19 CFR 351.224(b).

[8] *See* 19 CFR 351.309(c)(1)(ii) and 351.309(d)(1).

[9] *See* 19 CFR 351.309(c)(2) and 351.309(d)(2).

[10] *See* 19 CFR 351.310(c).

[11] *See* 19 CFR 351.310.

Dated: March 31, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix

[FR Doc. 2015–08123 Filed 4–7–15; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–933]

Frontseating Service Valves From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2013–2014

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

SUMMARY: The Department of Commerce (''the Department'') is conducting an administrative review of the antidumping duty order on frontseating service valves from the People's Republic of China (''PRC''). The period of review (''POR'') is April 1, 2013, through April 28, 2014. The review covers one exporter of the subject merchandise, Zhejiang Sanhua Co., Ltd. (''Sanhua''). The Department preliminarily finds that Sanhua made no sales of subject merchandise at less than normal value during the POR. Interested parties are invited to comment on these preliminary results.

DATES: *Effective Date:* April 8, 2015.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita, Enforcement and Compliance, Office III, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4243.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise covered by this order is frontseating service valves, assembled or unassembled, complete or incomplete, and certain parts thereof of any size, configuration, material composition or connection type.[1] Frontseating service valves are classified under subheading 8481.80.1095, and also have been classified under subheading 8415.90.80.85, of the Harmonized Tariff Schedule of the United States (''HTSUS''). It is possible for frontseating service valves to be manufactured out of primary materials other than copper and brass, in which case they would be classified under HTSUS subheadings 8481.80.3040, 8481.80.3090, or 8481.80.5090. In addition, if unassembled or incomplete frontseating service valves are imported, the various parts or components would be classified under HTSUS subheadings 8481.90.1000, 8481.90.3000, or 8481.90.5000. The HTSUS subheadings are provided for convenience and customs purposes, but the written description of the scope of this proceeding is dispositive.

Methodology

The Department conducted this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (''the Act''). Constructed export prices are calculated in accordance with section 772(b) of the Act. Because the PRC is a non-market economy (''NME'') within the meaning of section 771(18) of the Act, normal value is calculated in accordance with section 773(c) of the Act.

For a full description of the methodology underlying our preliminary results, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS'').[2] ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at *http://www.trade.gov/enforcement/.* The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content. A list of the topics discussed in the Preliminary Decision Memorandum, is attached as the Appendix to this notice.

Preliminary Results of Review

The Department preliminarily determines that the following weighted-average dumping margin exists for the POR April 1, 2013, through April 28, 2014:

Exporter	Weighted-average dumping margin (percent)
Zhejiang Sanhua Co., Ltd	0.00

Disclosure and Public Comment

The Department intends to disclose to the parties the calculations performed for these preliminary results within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Interested parties may submit written comments no later than 30 days after the date of publication of these preliminary results of review.[3] Rebuttals to written comments may be filed no later than

[1] *See* ''Decision Memorandum for Preliminary Results of 2013–2014 Antidumping Duty Administrative Review: Frontseating Service Valves from the People's Republic of China,'' dated concurrently with this notice and herein incorporated by reference (''Preliminary Decision Memorandum'') for a complete description of the scope of the Order.

[2] On November 24, 2014, Enforcement and Compliance changed the name of Enforcement and Compliance's AD and CVD Centralized Electronic Service System (''IA ACCESS'') to AD and CVD Centralized Electronic Service System (''ACCESS''). The Web site location was changed from *http://iaaccess.trade.gov* to *http://access.trade.gov.* The Final Rule changing the reference to the Regulations can be found at 79 FR 69046 (November 20, 2014).

[3] *See* 19 CFR 351.309(c).

five days after the written comments are filed.[4]

Any interested party may request a hearing within 30 days of publication of this notice.[5] Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.[6]

Unless otherwise extended, the Department intends to issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results of this review, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.[7] The Department intends to issue appropriate assessment instructions to CBP 15 days after publication of the final results of this review.

For any individually examined respondent whose weighted-average dumping margin is above *de minimis,* we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1).[8] For duty assessment rates calculated on this basis, we will direct CBP to assess the resulting *ad valorem* rate against the entered customs values for the subject merchandise.

The Department announced a refinement to its assessment practice in NME cases. Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the PRC-wide rate. In addition, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the PRC-wide rate.[9]

The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review.

Cash Deposit Requirements

Because the antidumping duty order on frontseating service valves from the PRC was revoked,[10] the Department will not issue cash deposit instructions at the conclusion of this administrative review.

Notification to Importers

This notice also serves as a preliminary 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 Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing notice of these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: March 31, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2015–08120 Filed 4–7–15; 8:45 am]

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[4] *See* 19 CFR 351.309(d).

[5] *See* 19 CFR 351.310(c).

[6] *See* 19 CFR 351.310(d)(1).

[7] *See* 19 CFR 351.212(b)(1).

[8] In these preliminary results, the Department applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012).

[9] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694, 65694–95 (October 24, 2011).

[10] *See Frontseating Service Valves from the People's Republic of China: Final Results of Sunset Review and Revocation of Antidumping Duty Order,* 79 FR 27573 (May 14, 2014).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–891]

Hand Trucks and Certain Parts Thereof From the People's Republic of China: Final Results of Antidumping Duty Changed Circumstances Review and Revocation, in Part

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

SUMMARY: On March 3, 2015, the Department of Commerce (the Department) published its notice of initiation and preliminary results of changed circumstances review, and intent to revoke, in part, the antidumping (AD) duty order on hand trucks and certain parts thereof (hand trucks) from the People's Republic of China (PRC).[1] We invited parties to comment and received no comments. Therefore, we are now revoking the order, in part, with respect to certain multifunction carts meeting the specifications described below.

DATES: *Effective Dates:* December 1, 2012 (AD order).

FOR FURTHER INFORMATION CONTACT: Scott Hoefke at (202) 482–4947 or Robert James at (202) 482–0649; AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On December 2, 2004, the Department published in the *Federal Register* the AD order on hand trucks from the PRC.[2] On December 9, 2014, in accordance with sections 751(b) and 751(d)(1) of the Tariff Act of 1930, as amended (the Act), 19 CFR 351.216(b), and 19 CFR 351.222(g)(1), Positec USA, Inc. and RW

[1] *See Hand Trucks and Certain Parts Thereof From the People's Republic of China: Initiation and Preliminary Results of Changed Circumstances Review, and Intent To Revoke Order In Part,* 80 FR 11396 (March 3, 2015) (*Initiation and Preliminary Results*).

[2] *See Notice of Antidumping Duty Order: Hand Trucks and Certain Parts Thereof From the People's Republic of China,* 69 FR 70122 (December 2, 2004) (Order).

Direct, Inc. (collectively, Positec), importers, requested revocation, in part, of the Order with respect to its WORX Aerocart (Aerocart) as part of a changed circumstances review. Positec requested that the Department conduct the changed circumstances review on an expedited basis pursuant to 19 CFR 351.221(c)(3)(ii). On March 3, 2015, the Department published in the **Federal Register** the *Initiation and Preliminary Results.* As noted above, we gave interested parties an opportunity to comment on the *Initiation and Preliminary Results.* We received no comments from interested parties. Therefore, we are now revoking the Order, in part, with respect to certain multifunction carts meeting the specifications described below.

Scope of Changed Circumstances Review

The merchandise covered by this changed circumstances review is a multifunction cart that combines, among others, the capabilities of a wheelbarrow and dolly. The product comprises a steel frame that can be converted from vertical to horizontal functionality, two wheels toward the lower end of the frame and two removable handles near the top. In addition to a foldable projection edge in its extended position, it includes a permanently attached steel tub or barrow. This product is currently available under proprietary trade names such as the ''Aerocart.''

The scope of the Order will be modified to read as stated below.

Scope of the Order

The merchandise subject to this Order consists of hand trucks manufactured from any material, whether assembled or unassembled, complete or incomplete, suitable for any use, and certain parts thereof, namely the vertical frame, the handling area and the projecting edges or toe plate, and any combination thereof.

A complete or fully assembled hand truck is a hand-propelled barrow consisting of a vertically disposed frame having a handle or more than one handle at or near the upper section of the vertical frame; at least two wheels at or near the lower section of the vertical frame; and a horizontal projecting edge or edges, or toe plate, perpendicular or angled to the vertical frame, at or near the lower section of the vertical frame. The projecting edge or edges, or toe plate, slides under a load for purposes of lifting and/or moving the load.

That the vertical frame can be converted from a vertical setting to a horizontal setting, then operated in that horizontal setting as a platform, is not a basis for exclusion of the hand truck from the scope of this petition. That the vertical frame, handling area, wheels, projecting edges or other parts of the hand truck can be collapsed or folded is not a basis for exclusion of the hand truck from the scope of the petition. That other wheels may be connected to the vertical frame, handling area, projecting edges, or other parts of the hand truck, in addition to the two or more wheels located at or near the lower section of the vertical frame, is not a basis for exclusion of the hand truck from the scope of the petition. Finally, that the hand truck may exhibit physical characteristics in addition to the vertical frame, the handling area, the projecting edges or toe plate, and the two wheels at or near the lower section of the vertical frame, is not a basis for exclusion of the hand truck from the scope of the petition.

Examples of names commonly used to reference hand trucks are hand truck, convertible hand truck, appliance hand truck, cylinder hand truck, bag truck, dolly, or hand trolley. They are typically imported under heading 8716.80.5010 of the Harmonized Tariff Schedule of the United States (HTSUS), although they may also be imported under heading 8716.80.5090. Specific parts of a hand truck, namely the vertical frame, the handling area and the projecting edges or toe plate, or any combination thereof, are typically imported under heading 8716.90.5060 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the scope is dispositive.

Excluded from the scope are small two-wheel or four-wheel utility carts specifically designed for carrying loads like personal bags or luggage in which the frame is made from telescoping tubular material measuring less than 5/8 inch in diameter; hand trucks that use motorized operations either to move the hand truck from one location to the next or to assist in the lifting of items placed on the hand truck; vertical carriers designed specifically to transport golf bags; and wheels and tires used in the manufacture of hand trucks.

Excluded from the scope is a multifunction cart that combines, among others, the capabilities of a wheelbarrow and dolly. The product comprises a steel frame that can be converted from vertical to horizontal functionality, two wheels toward the lower end of the frame and two removable handles near the top. In addition to a foldable projection edge in its extended position, it includes a permanently attached steel tub or barrow. This product is currently available under proprietary trade names such as the ''Aerocart.''

Final Results of Changed Circumstances Review, and Revocation of the AD Order in Part

At the request of Positec, and in accordance with sections 751(b)(1) and (d)(1) of the Act, 19 CFR 351.216, and 19 CFR 351.222(g)(1), the Department initiated a changed circumstances review of the Order on hand trucks from the PRC to determine whether partial revocation of the Order is warranted with respect to certain multifunction carts.[3] In addition, we determined that expedited action is warranted and, consistent with 19 CFR 351.221(c)(3)(ii), we combined the notices of initiation and preliminary results.[4] Based on the expression of no interest by Petitioners, which stated that they are producers accounting for substantially all of the production of the domestic like product in support of the Order,[5] and absent any objections by other domestic interested parties, we preliminarily determined that substantially all of the domestic producers of the like product have no interest in the continued application of the AD Order on hand trucks from the PRC to the merchandise that is subject to Positec's request. Therefore, we preliminarily determined that partial revocation of the Order is appropriate. Accordingly, we notified the public of our intent to revoke, in part, the AD Order with respect to certain multifunction carts. We did not receive any comments from parties objecting to the partial revocation. Because all parties to the proceeding agree to the outcome of the review, we are issuing these final results of changed circumstances review within 45 days of initiation in accordance with 19 CFR 351.216(e).

Therefore, in accordance with sections 751(d)(1) and 782(h) of the Act, and 19 CFR 351.222(g)(1)(i), the Department is partially revoking the AD Order on hand trucks from the PRC with respect to certain multifunction carts meeting the specifications described above. This partial revocation will be applied to entries of the certain multifunction cart entered or withdrawn from warehouse, for consumption, on or after December 1, 2012, which corresponds to the day following the

[3] *See Initiation and Preliminary Results.*

[4] *Id.*

[5] *See* Letter from Petitioners, ''Hand Trucks and Certain Parts Thereof From the People's Republic of China: Petitioner's Statement That It Has No Interest In the WORX Aerocart Being Subject to the Order,'' dated December 10, 2014 at 3.

last day of the most recently completed administrative review under the order.[6]

Instructions to U.S. Customs and Border Protection

As we stated in our *Initiation and Preliminary Results,* we will instruct U.S. Customs and Border Protection to end the suspension of liquidation for the merchandise covered by the revocation on the effective date of this notice of revocation, in part, and to release any cash deposit or bond, pursuant to 19 CFR 351.222(g)(4).

Notification

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.306. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice is published in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.216(e), 351.221(b)(5), and 351.222(g).

Dated: April 2, 2015.

Paul Piquado

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2015–08112 Filed 4–7–15; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–836]

Glycine From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Intent To Rescind, in Part; 2013–2014

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on glycine from the People's Republic of China (the PRC) covering the period of review (POR) from March 1, 2013, through February 28, 2014. The administrative review covers two mandatory respondents, Baoding Mantong Fine Chemistry Co. Ltd. (Baoding Mantong) and Evonik Rexim (Nanning) Pharmaceutical Co., Ltd. (Evonik). The Department preliminarily finds that Baoding Mantong sold subject merchandise in the United States at prices below the normal value (NV) during the POR. The Department preliminarily determines that Evonik's sales to the United States were not *bona fide* and is preliminarily rescinding the review with respect to Evonik. Interested parties are invited to comment on these preliminary results.

DATES: *Effective Date:* April 8, 2015.

FOR FURTHER INFORMATION CONTACT: Dena Crossland or Ericka Ukrow, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3362 or (202) 482–0405, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 30, 2014, the Department initiated an administrative review of the antidumping duty *Order*[1] on glycine from the PRC.[2]

Scope of the Order

The product covered by the antidumping duty order is glycine, which is a free-flowing crystalline material, like salt or sugar.[3] The subject merchandise is currently classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) subheading 2922.49.4020. The HTSUS subheading is provided for convenience and customs purposes only; the written product description of the scope of the order is dispositive.[4]

Methodology

The Department is conducting this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act). For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The list of topics discussed in the Preliminary Decision Memorandum is provided as an Appendix to the notice. This memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://www.trade.gov/enforcement/.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Bona Fides Analysis

As discussed in Evonik's *Bona Fide* Memorandum, the Department preliminarily finds that the sales by Evonik are not *bona fide,* and that these sales, and absence of factors-of-production (FOP) data, do not provide a reasonable or reliable basis for calculating a dumping margin.[5] The Department reached this conclusion based on the totality of circumstances, namely: (a) The atypical nature of Evonik's price; and (b) the atypical circumstances surrounding its supplier's inability to provide FOP data. Because these non-*bona fide* sales were the only sales of subject merchandise that Evonik made during the POR, the Department is preliminarily rescinding its review of Evonik.

Preliminary Results of Review

The Department has preliminarily determined that the following dumping margin exists for the period March 1, 2013, through February 28, 2014:

Exporter	Dumping margin (percent)
Baoding Mantong Fine Chemistry Co. Ltd	784.48

[1] *See Antidumping Duty Order: Glycine from the People's Republic of China,* 60 FR 16116 (March 29, 1995) (*Order*).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 79 FR 24398 (April 30, 2014).

[3] *See* ''Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review: Glycine from the People's Republic of China; 2013–2014'' from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, dated concurrently with this notice (Preliminary Decision Memorandum), for a complete description of the scope of the order.

[4] *See Order.*

[5] *See* Memorandum to Abdelali Elouaradia, Acting Director, Office VI, Antidumping and Countervailing Duty Operations, through Angelica Townshend, Program Manager, Office VI, Antidumping and Countervailing Duty Operations, from Ericka Ukrow, International Trade Compliance Analyst, Office VI, titled ''Antidumping Duty Administrative Review of Glycine from the People's Republic of China; 2013–2014: *Bona Fide* Nature of Evonik Rexim (Nanning) Pharmaceutical Co., Ltd.'s Sales,'' dated concurrently and hereby adopted by this notice (Evonik's *Bona Fide* Memorandum).

[6] *See Hand Trucks and Certain Parts Thereof From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011–2012,* 79 FR 44008 (July 29, 2014).

Disclosure and Public Comment

The Department intends to disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review.[6] Rebuttal briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the time limit for filing case briefs.[7] A table of contents, list of authorities used, and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes.

Any interested party may request a hearing within 30 days of the publication of this notice.[8] Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral argument presentations will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the date and time for the hearing to be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230.[9]

The Department intends to issue the final results of this administrative review, which will include the results of our analysis of all issues raised in the briefs, within 120 days after the publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results of this review, the Department will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.[10] The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. If we proceed to a final rescission of this administrative review, with respect to Evonik, then its entries will be assessed at the rate entered.[11] For each individually examined respondent in this review whose weighted-average dumping margin in the final results of review is above *de minimis* (*i.e.,* greater than or equal to 0.5 percent), the Department intends to calculate importer- (or customer)-specific assessment rates, in accordance with 19 CFR 351.212(b)(1).[12] Where the respondent reported reliable entered values, the Department intends to calculate importer- (or customer-) specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to the importer (or customer) and dividing this amount by the total entered value of the sales to the importer (or customer).[13] Where the Department calculates an importer- (or customer-) specific weighted-average dumping margin by dividing the total amount of dumping for reviewed sales to the importer (or customer) by the total sales quantity associated with those transactions, the Department will direct CBP to assess importer- (or customer-)specific assessment rates based on the resulting per-unit rates.[14] Where an importer- (or customer-) specific *ad valorem* or per-unit rate is greater than *de minimis,* the Department will instruct CBP to collect the appropriate duties at the time of liquidation. Where either the respondent's weighted average dumping margin is zero or *de minimis,* or an importer- (or customer-) specific *ad valorem* or per-unit rate is zero or *de minimis,* the Department will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[15]

On October 24, 2011, the Department announced a refinement to its assessment practice in non-market economy antidumping duty cases.[16] Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales database submitted by an exporter individually examined during this review, the Department will instruct CBP to liquidate such entries at the PRC-wide rate. Additionally, pursuant to this refinement, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the PRC-wide rate.

In accordance with section 751(a)(2)(C) of the Act, the final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

Cash Deposit Requirements

The following cash deposit requirements, when imposed, will apply to all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) For the companies listed above that have a separate rate, the cash deposit rate will be that rate established in the final results of this administrative review (except, if the rate is zero or *de minimis,* then a zero cash deposit will be required); (2) for any previously reviewed or investigated PRC and non-PRC exporter not listed above that received a separate rate in a previous segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate published for the most recently completed period; (3) for all PRC exporters that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the PRC-wide entity (*i.e.,* 453.79 percent);[17] [18] and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied the non-PRC exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary 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

[6] *See* 19 CFR 351.309(c)(1)(ii).

[7] *See* 19 CFR 351.309(d)(1)–(2).

[8] *See* 19 CFR 351.310(c).

[9] *See* 19 CFR 351.310(d).

[10] *See* 19 CFR 351.212(b)(1).

[11] *See* 19 CFR 351.212(c)(2).

[12] *See Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012) (*Final Modification*).

[13] *See* 19 CFR 351.212(b)(1).

[14] *Id.*

[15] *See Final Modification* at 8103.

[16] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011), for a full discussion of this practice.

[17] *See Glycine From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011–2012,* 78 FR 20891 (April 8, 2013).

[18] The Department's change in policy regarding conditional review of the PRC-wide entity applies to this administrative review. *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013). Under this policy, the PRC-wide entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the PRC-wide entity in this review, the entity is not under review and the entity's rate is not subject to change.

review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213.

Dated: March 31, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2015–07952 Filed 4–7–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–909]

Certain Steel Nails from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013

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

SUMMARY: The Department of Commerce (''Department'') published the *Preliminary Results* of the fifth administrative review of certain steel nails (''nails'') from the People's Republic of China (''PRC'') on September 30, 2014.[1] We gave interested parties an opportunity to comment on the *Preliminary Results.* Based upon our analysis of the comments and information received, we made changes to the margin calculations for these final results. The final dumping margins are listed below in the ''Final Results of the Administrative Review'' section of this notice. The period of review (''POR'') is August 1, 2012, through July 31, 2013.

DATES: *Effective Date:* April 8, 2015.

FOR FURTHER INFORMATION CONTACT: Matthew Renkey or Susan Pulongbarit, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone 202–482–2312 or 202–482–4031, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the *Preliminary Results* on September 30, 2014.[2] On February 9, 2015, we released the sales and factors of production (''FOP'') verification reports for Stanley.[3] Between February 12 and February 24, 2015, interested parties submitted case and rebuttal briefs. On January 20, 2015, the Department extended the deadline for the final results to March 30, 2015.[4]

Scope of the Order

The merchandise covered by the order includes certain steel nails having a shaft length up to 12 inches. Certain steel nails subject to the order are currently classified under the Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings 7317.00.55, 7317.00.65, 7317.00.75, and 7907.00.6000.[5] While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.[6]

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. A list of the issues which parties raised is attached to this notice as an appendix. The Issues and Decision Memorandum is a public document and is on file in the Central Records Unit (''CRU''), Room 7046 of the main Department of Commerce building, as well as electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS'').[7] ACCESS is available to registered users at *http://access.trade.gov* and in the CRU. 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 version of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* and for the reasons explained in the Issues and Decision Memorandum, we revised the margin calculation for Stanley. Accordingly, for the final results, the Department has updated the margin to be assigned to companies

[1] *See Certain Steel from the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review; 2012–2013,* 79 FR 58744 (September 30, 2014) (''*Preliminary Results*''), and accompanying Preliminary Decision Memorandum.

[2] *See Preliminary Results.*

[3] The Stanley Works (Langfang) Fastening Systems Co., Ltd. and Stanley Black & Decker, Inc. (collectively ''Stanley''); *see* the memoranda to the file ''Verification of the Questionnaire Responses of Stanley Black & Decker, Inc. (''SBD'') in the 2012–2013 Antidumping Duty Review of Certain Steel Nails from the People's Republic of China (''PRC''),'' and Verification of the Questionnaire Responses of The Stanley Works (Langfang) Fastening Systems Co., Ltd. (''Stanley Langfang'') in the 2012–2013 Antidumping Duty Review of Certain Steel Nails from the People's Republic of China (''PRC''), both dated February 9, 2015.

[4] *See* Memorandum to Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office V, Antidumping and Countervailing Duty Operations from Matthew Renkey, Senior International Trade Compliance Analyst, Office V, Antidumping and Countervailing Duty Operations regarding Certain Steel Nails from the People's Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Review, dated January 20, 2015.

[5] The Department recently added the Harmonized Tariff Schedule category 7907.00.6000, ''Other articles of zinc: Other,'' to the language of the *Order. See* Memorandum to Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations, through James C. Doyle, Director, Office 9, Antidumping and Countervailing Duty Operations, regarding ''Certain Steel Nails from the People's Republic of China: Cobra Anchors Co. Ltd. Final Scope Ruling,'' dated September 19, 2013.

[6] *See* ''Certain Steel Nails from the People's Republic of China: Issues and Decision Memorandum for the Final Results of the Fifth Antidumping Duty Administrative Review,'' dated concurrently with and hereby adopted by this notice (''Issues and Decision Memorandum''), for a complete description of the Scope of the Order.

[7] On November 24, 2014, Enforcement and Compliance changed the name of its centralized electronic service system to ACCESS. The Web site location was changed from *http://iaaccess.trade.gov* to *http://access.trade.gov.* The Final Rule changing the references to the centralized electronic service system to ACCESS in the Department's regulations can be found at 79 FR 69046 (November 20, 2014).

eligible for a separate rate as the weighted average of the revised calculated margins of the mandatory respondents.[8] The Surrogate Values Memo contains further explanation of our changes to the surrogate values selected for Stanley's and Xi'an Metals & Minerals Import & Export Co. Ltd.'s (''Xi'an Metals'') factors of production.[9]

Final Determination of No Shipments

In the *Preliminary Results,* the Department preliminarily determined that Besco Machinery Industry (Zhejiang) Co., Ltd., Certified Products International Inc. (''CPI''), Hebei Cangzhou New Century Foreign Trade Co., Ltd. (''New Century''), Huanghua Xionghua Hardware Products Co., Ltd., Jining Huarong Hardware Products Co., Ltd., Shandong Oriental Cherry Hardware Import & Export Co., Ltd., Shanghai Jade Shuttle Hardware Tools Co., Ltd., Shanghai Tengyu Hardware Tools Co., Ltd., Tianjin Jinchi Metal Products Co., Ltd., and Zhejiang Gem-Chun Hardware Accessory Co., Ltd. did not have any reviewable transactions during the POR.[10] Consistent with the Department's refinement to its assessment practice in non-market economy (''NME'') cases, we completed the review with respect to the above-named companies.[11] With respect to New Century, we obtained information from CBP indicating that it had reviewable transactions during the POR, which contradicts its no-shipment certification. Consequently, the Department is now treating New Century as part of the PRC-wide entity for the final results. For a full discussion of our findings and determination with respect to New Century, *see* the Issues and Decision Memorandum at Comment 10. Based on the certifications submitted by the remaining aforementioned companies, and our analysis of CBP information, we continue to determine that these companies did not have any reviewable transactions during the POR. As noted in the ''Assessment Rates'' section below, the Department intends to issue appropriate instructions to CBP for the above-named companies based on the final results of the review.

Final Results of the Review

The weighted-average dumping margins for the final results of this administrative review are as follows: [12] [13]

Exporter	Weighted-average margin (percent)
Stanley	13.19
Xi'an Metals	72.52
Chiieh Yung Metal Ind. Corp	16.62
Dezhou Hualude Hardware Products Co., Ltd	16.62
Huanghua Jinhai Hardware Products Co. Ltd	16.62
Nanjing Yuechang Hardware Co., Ltd	16.62
Qingdao D&L Group Ltd	16.62
Qingdao JISCO Co., Ltd	16.62
SDC International Aust. PTY. LTD	16.62
Shandong Dinglong Import & Export Co., Ltd	16.62
Shandong Oriental Cherry Hardware Group Co., Ltd [12]	16.62
Shanghai Curvet Hardware Products Co., Ltd	16.62
Shanghai Yueda Nails Industry Co., Ltd	16.62
Shanxi Hairui Trade Co., Ltd	16.62
Shanxi Pioneer Hardware Industrial Co., Ltd	16.62
Shanxi Tianli Industries Co., Ltd	16.62
S-Mart (Tianjin) Technology Development Co., Ltd	16.62
Suntec Industries Co., LTD	16.62
Tianjin Jinghai County Hongli Industry and Business Co., Ltd	16.62
Tianjin Lianda Group Co., Ltd	16.62
Tianjin Universal Machinery Imp. & Exp. Corporation	16.62
Tianjin Zhonglian Metals Ware Co., Ltd	16.62
PRC-Wide Entity [13]	118.04

Disclosure

The Department will disclose calculations performed for these final results to the parties within five days of the date of publication of this notice, in accordance with section 351.224(b) of the Department's regulations.

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Tariff Act of 1930, as amended (''the Act'') and 19 CFR 351.212(b), the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this administrative review.

[8] *See Preliminary Results.*

[9] *See* Memorandum to the File, through Scot T. Fullerton, Program Manager, Office V, Enforcement and Compliance, from Susan Pulongbarit, Senior International Trade Analyst, Office V, Enforcement and Compliance, regarding Fifth Antidumping Administrative Review of Certain Steel Nails from the People's Republic of China: Surrogate Values for the Final Results, dated concurrently with and hereby adopted by this notice (Surrogate Values Memo).

[10] *See Preliminary Results.* In those *Preliminary Results,* Jining Huarong Hardware Products Co., Ltd. and Shandong Oriental Cherry Hardware Import & Export Co., Ltd. were inadvertently identified as part of the PRC-wide entity instead of companies reporting no shipments during the POR in the appendix to the Preliminary Decision Memorandum. We are correcting this error for the final results. *See* the Issues and Decision Memorandum at ''Additional Correction of Clerical Errors.''

[11] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694, 65694–65695 (October 24, 2011).

[12] In the *Preliminary Results*, the Department inadvertently excluded Shandong Oriental Cherry Hardware Group Co., Ltd., in identifying companies establishing eligibility for a separate rate. We are correcting this error for the final results. *See* the Issues and Decision Memorandum at ''Additional Correction of Clerical Errors.''

[13] The PRC-wide entity now includes New Century. *See* Appendix to the Issues and Decision Memorandum accompanying this notice for a list of the companies receiving the PRC-wide rate.

For assessment purposes, where the respondent reported reliable entered values, we calculated importer (or customer)-specific assessment rates for merchandise subject to this review. We will continue to direct CBP to assess importer-specific assessment rates based on the resulting per-unit (*i.e.,* per kilogram (kg)) rates by the weight in kgs of each entry of the subject merchandise during the POR. Specifically, we calculated importer-specific duty assessment rates on a per-unit rate basis by dividing the total dumping margins (calculated as the difference between normal value and export price, or constructed export price) for each importer by the total sales quantity of subject merchandise sold to that importer during the POR.[14] If an importer (or customer)-specific assessment rate is *de minimis* (*i.e.,* less than 0.50 percent), the Department will instruct CBP to assess that importer (or customer's) entries of subject merchandise without regard to antidumping duties, in accordance with 19 CFR 351.106(c)(2).

The Department announced a refinement to its assessment practice in NME cases. Pursuant to this refinement in practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the PRC-wide rate. In addition, if the Department determines that an exporter had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number will be liquidated at the PRC-wide rate.[15]

The Department determines that Besco Machinery Industry (Zhejiang) Co., Ltd., Certified Products International Inc. (''CPI''), Huanghua Xionghua Hardware Products Co., Ltd., Jining Huarong Hardware Products Co., Ltd., Shandong Oriental Cherry Hardware Import & Export Co., Ltd. (''Oriental Cherry''), Shanghai Jade Shuttle Hardware Tools Co., Ltd., Shanghai Tengyu Hardware Tools Co., Ltd., Tianjin Jinchi Metal Products Co., Ltd., and Zhejiang Gem-Chun Hardware Accessory Co., Ltd. did not have any reviewable transactions during the POR. As a result, any suspended entries that entered under these exporters' case numbers (*i.e.,* at that exporter's rate) will be liquidated at the PRC-wide rate.

[14] *See* 19 CFR 351.212(b)(1).

[15] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011); *see also* Preliminary Decision Memorandum, at 4–5.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For the exporters listed above, the cash deposit rate will be the rate established in the final results of review (except, if the rate is zero or *de minimis, i.e.,* less than 0.5 percent, a zero cash deposit rate will be required for that company); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 118.04 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. The deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

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

Notification Regarding Administrative Protective Order

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

We are issuing and publishing these administrative reviews and notice in accordance with sections 751(a)(l) and 777(i) of the Act.

Dated: March 30, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2015–08101 Filed 4–7–15; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket Number: 150218152–5152–01]

Request for Information on Quantum Information Science and the Needs of U.S. Industry

AGENCY: National Institute of Standards and Technology, U.S. Department of Commerce.

ACTION: Notice; Request for Information (RFI).

SUMMARY: The National Institute of Standards and Technology (NIST) requests information about the broader needs of the industrial community in the area of quantum information science (QIS). NIST requests this information through its role in the Interagency Working Group on Quantum Information Science of the National Science and Technology Council (NSTC) Committee on Science (CoS) Subcommittee on Physical Sciences (PSSC). NIST seeks input from stakeholders regarding opportunities for research and development, emerging market areas, barriers to near-term and future applications, and workforce needs. The information received in response to this RFI will inform and be considered by the Interagency Working Group making recommendations for the development and coordination of U.S. Government policies, programs, and budgets to advance U.S. competitiveness in QIS.

DATES: Comments must be received by 5:00 p.m. Eastern time on May 8, 2015. Written comments in response to the RFI should be submitted according to the instructions in the **SUPPLEMENTARY INFORMATION** section below.

ADDRESSES: Written comments may be submitted only by email to Dr. Claire Cramer at *claire.cramer@nist.gov* in any of the following formats: ASCII; Word; RTF; or PDF. Please include your name, organization's name (if any), and cite ''Quantum Information Science Industry RFI'' in the subject line of all correspondence. All comments will be made publicly available at *http://www.nist.gov/pml/div684/posted-comments-for-rfi.cfm* as submitted. Accordingly, proprietary or confidential information should not be included in any comments, as they will be posted without change.

FOR FURTHER INFORMATION CONTACT: For further information contact Gail Newrock, Carl Williams, or Claire Cramer by email at *qisiwg@nist.gov,* or Gail Newrock by phone at (301) 975–3200. Please direct media inquiries to NIST's Office of Public Affairs at (301) 975–2762.

SUPPLEMENTARY INFORMATION: Twenty years of research and development work in QIS is producing the first niche applications, and there is an increasing level of international activity in the field. The Interagency Working Group in QIS was chartered in October 2014 to develop and coordinate policies, programs, and budgets for QIS research and development to create the scientific basis, infrastructure, future technical workforce, and intellectual property that will be required to address agency missions and secure future U.S. competitiveness in quantum information science. The Interagency Working Group includes participants from the Departments of Commerce, Defense, and Energy; the Office of the Director of National Intelligence; and the National Science Foundation.

NIST seeks input from stakeholders regarding opportunities for research and development, emerging market areas, barriers to near-term and future applications, and workforce needs. The information received in response to this RFI will inform and be considered by the Interagency Working Group making recommendations for the development and coordination of U.S. Government policies, programs, and budgets to advance U.S. competitiveness in QIS.

Written comments may be submitted only by email to Dr. Claire Cramer at *claire.cramer@nist.gov* in any of the following formats: ASCII; Word; RTF; or PDF. Please include your name, organization's name (if any), and cite ''Quantum Information Science Industry RFI'' in the subject line of all correspondence.

Request for Information: The objective of this request for information is to inform the Interagency Working Group making recommendations for the development and coordination of U. S. Government policies, programs, and budgets to advance U.S. competitiveness in QIS. The questions below are intended to assist in the formulation of comments and should not be construed as a limitation on the number of comments that interested persons may submit or as a limitation on the issues that may be addressed in such comments. Comments containing references, studies, research, and other empirical data that are not widely published should include copies of the referenced materials. Again, note that all comments will be made publicly available as submitted; therefore proprietary or confidential information should not be included. NIST is specifically interested in receiving input pertaining to one or more of the following questions:

(1) Opportunities

Quantum information science includes, for example, quantum computing and processing, quantum algorithms and programming languages, quantum communications, quantum sensors, quantum devices, single photon sources, and detectors. What areas of pre-competitive QIS research and development appear most promising? What areas should be the highest priorities for Federal investment? What are the emerging frontiers? What methods of monitoring new developments are most effective?

(2) Market Areas and Applications

The 2009 ''Federal Vision for Quantum Information Science'' [1] identified exciting new possibilities for QIS impact, including mineral exploration, medical imaging, and quantum computing. Now, six years later, what market areas do you think would most benefit from quantum information science?

(3) Barriers

Funding levels and mechanisms, technology, dissemination of information, and technology transfer are some of the potential barriers to adoption of QIS technology. What do you see as the greatest barriers to advancing important near-term and future applications of QIS? What should be done to address these barriers?

(4) Workforce Needs

Addressing opportunities in QIS and barriers to applications requires a workforce spanning many disciplines, ranging from computer science and information theory to atomic scale manipulation of materials, and possessing a range of knowledge and skills. What knowledge and skills are most important for a workforce capable of addressing the opportunities and barriers? In what areas is the current workforce strong, and in what areas is it weak? What are the best mechanisms for equipping workers with the needed knowledge and skills?

Richard R. Cavanagh,

Acting Associate Director for Laboratory Programs.

[FR Doc. 2015–08011 Filed 4–7–15; 8:45 am]

BILLING CODE 3510–13–P

[1] *http://www.nist.gov/pml/div684/upload/FederalVisionQIS.pdf.*

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD873

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Application for one new scientific research permit.

SUMMARY: Notice is hereby given that NMFS has received a permit application request for a new scientific research permit. The proposed research is intended to increase knowledge of species listed under the Endangered Species Act (ESA) and to help guide management, conservation, and recovery efforts. The application may be viewed online at: *https://apps.nmfs.noaa.gov/preview/preview_open_for_comment.cfm.*

DATES: Comments or requests for a public hearing on the application must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific standard time on May 8, 2015.

ADDRESSES: Written comments on the application should be submitted to the Protected Resources Division, NMFS, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95404. Comments may also be submitted via fax to 707–578–3435 or by email to *nmfs.swr.apps@noaa.gov* (include the permit number in the subject line of the fax or email).

FOR FURTHER INFORMATION CONTACT: Jeffrey Jahn, Santa Rosa, CA (ph.: 707–575–6097), Fax: 707–578–3435, email: *Jeffrey.Jahn@noaa.gov*). Permit application instructions are available from the address above, or online at *https://apps.nmfs.noaa.gov.*

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

The following listed species are covered in this notice:

Chinook salmon (*Oncorhynchus tshawytscha*): threatened Snake River spring/summer-run (SR spr/sum); threatened Lower Columbia River (LCR); threatened California Coastal (CC); threatened Central Valley spring-run (CVSR), endangered Sacramento River winter-run (SRWR).

Coho salmon (*O. kisutch*): threatened Southern Oregon/Northern California Coast (SONCC); endangered Central California Coast (CCC).

Steelhead (*O. mykiss*): threatened Northern California (NC); threatened Central California Coast (CCC), threatened California Central Valley (CCV).

Authority

Scientific research permits are issued in accordance with section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et seq.*) and regulations governing listed fish and wildlife permits (50 CFR parts 222–227). NMFS issues permits based on findings that such permits: (1) Are applied for in good faith; (2) if granted and exercised, would not operate to the disadvantage of the listed species that are the subject of the permit; and (3) are consistent with the purposes and policy of section 2 of the ESA. The authority to take listed species is subject to conditions set forth in the permits.

Anyone requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). Such hearings are held at the discretion of the Assistant Administrator for Fisheries, NMFS.

Application Received

Permit 19320

The NMFS Southwest Fisheries Science Center (SWFSC), Fisheries Ecology Division (FED) is requesting a permit to annually take sub-adult and juvenile listed salmon and steelhead for a period of five years. The permit would authorize research designed to (1) determine the inter-annual and seasonal variability in growth, feeding, and energy status among juvenile salmonids in the coastal ocean off northern and central California; (2) determine migration paths and spatial distribution among genetically distinct salmonid stocks during their early ocean residence; (3) characterize the biological and physical oceanographic features associated with juvenile salmon ocean habitat from the shore to the continental shelf break; (4) identify potential links between coastal geography, oceanographic features, and salmon distribution patterns; and (5) identify and test ecological indices for salmon survival. This research would benefit listed fish by informing comprehensive lifecycle models that incorporate both freshwater and marine conditions and recognize the relationship between the two habitats; it would also identify and predict sources of salmon mortality at sea and thereby help managers develop indices of salmonid survival in the marine environment.

Listed fish would be captured primarily via surface trawling, however midwater trawling and beach seining would be used occasionally. Sub-adult salmonids (*i.e.,* fish larger than 250 mm) that survive capture would have fin tissue and scale samples taken, and then be released. Any subadult salmonids that do not survive capture, and all juvenile salmonids (*i.e.,* fish larger than 80 mm but less than 250 mm) would be lethally sampled (*i.e.,* intentional directed mortality) in order to collect (1) otoliths for age and growth studies; (2) coded wire tags for origin and age of hatchery fish; (3) muscle tissue for stable isotopes and/or lipid assays; (4) stomachs and contents for diet studies; and (5) other tissues including the heart, liver, intestines, pyloric caeca, and kidney for special studies upon request.

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the applications, associated documents, and comments submitted to determine whether the applications meet the requirements of section 10(a) of the ESA and Federal regulations. The final permit decisions will not be made until after the end of the 30-day comment period. NMFS will publish notice of its final action in the **Federal Register**.

Dated: April 2, 2015.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2015–07945 Filed 4–7–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD413

Pacific Island Fisheries; Marine Conservation Plan for American Samoa

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

ACTION: Notice of agency decision.

SUMMARY: NMFS announces approval of a marine conservation plan (MCP) for American Samoa.

DATES: This agency decision is effective from April 1, 2015, through March 31, 2018.

ADDRESSES: You may obtain a copy of the MCP, identified by NOAA–NMFS–2014–0095, from the Federal e-Rulemaking Portal, *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0095,* or from the Western Pacific

Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808–522–8220, *www.wpcouncil.org.*

FOR FURTHER INFORMATION CONTACT: Bob Harman, Sustainable Fisheries, NMFS Pacific Islands Regional Office, 808–725–5170.

SUPPLEMENTARY INFORMATION: Section 204(e) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) authorizes the Secretary of State, with the concurrence of the Secretary of Commerce (Secretary) and in consultation with the Council, to negotiate and enter into a Pacific Insular Area fishery agreement (PIAFA). A PIAFA would allow foreign fishing within the U.S. Exclusive Economic Zone (EEZ) adjacent to American Samoa, Guam, or the Northern Mariana Islands with the concurrence of, and in consultation with, the Governor of the Pacific Insular Area to which the PIAFA applies. Before entering into a PIAFA, the appropriate Governor, with the concurrence of the Council, must develop a 3-year MCP providing details on uses for any funds collected by the Secretary under the PIAFA.

The Magnuson-Stevens Act requires payments received under a PIAFA to be deposited into the United States Treasury and then conveyed to the Treasury of the Pacific Insular Area for which funds were collected. In the case of violations by foreign fishing vessels in the EEZ around any Pacific Insular Area, amounts received by the Secretary attributable to fines and penalties imposed under the Magnuson-Stevens Act, including sums collected from the forfeiture and disposition or sale of property seized subject to its authority, shall be deposited into the Treasury of the Pacific Insular Area adjacent to the EEZ in which the violation occurred, after direct costs of the enforcement action are subtracted. The government may use funds deposited into the Treasury of the Pacific Insular Area for fisheries enforcement and for implementation of an MCP.

An MCP must be consistent with the Council's fishery ecosystem plans, must identify conservation and management objectives (including criteria for determining when such objectives are met), and must prioritize planned marine conservation projects. Although no foreign fishing is being considered at this time, at its 160th meeting held June 24–27, 2014, in Honolulu, the Council reviewed and approved the MCP for American Samoa and recommended its submission to the Secretary for approval. On March 16, 2015, the Governor of American Samoa submitted the MCP to NMFS, the designee of the Secretary, for review and approval.

The American Samoa MCP contains six conservation and management objectives, listed below. Please refer to the MCP for planned projects and activities designed to meet each objective, the evaluative criteria, and priority rankings.

MCP Objectives

1. Maximize social and economic benefits through sustainable fisheries development.
2. Support quality scientific research to assess and manage fisheries.
3. Promote an ecosystem approach in fisheries management, reduce waste in fisheries and minimize interactions between fisheries and protected species.
4. Recognize the importance of island culture and traditional fishing in managing fishery resources and foster opportunities for participation.
5. Promote education and outreach activities and regional collaboration regarding fisheries conservation.
6. Encourage development of technologies and methods to achieve the most effective level of enforcement and to ensure safety at sea.

This notice announces that NMFS has determined that the American Samoa MCP satisfies the requirements of the Magnuson-Stevens Act and approves the MCP for the 3-year period from April 1, 2015, through March 31, 2018. This MCP supersedes the one approved for the period August 11, 2012, through August 10, 2015 (77 FR 58813, September 24, 2012).

Dated: April 3, 2015.

Alan D. Risenhoover,

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

[FR Doc. 2015–08070 Filed 4–7–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD885

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS (Assistant Regional Administrator), has made a preliminary determination that an exempted fishing permit application contains all of the required information and warrants further consideration. This exempted fishing permit would allow up to three commercial fishing vessels to conduct exploratory fishing in year-round groundfish closed areas (Closed Areas I and II) for the purposes of obtaining fisheries dependent catch information. This research is being conducted by Atlantic Trawlers Fishing, Inc.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed exempted fishing permits.

DATES: Comments must be received on or before April 23, 2015.

ADDRESSES: You may submit written comments by any of the following methods:

- Email *nmfs.gar.efp@noaa.gov.* Include in the subject line ''Comments on Exploratory Closed Area Fishing EFP.''
- Mail: John K. Bullard, Regional Administrator, NMFS, NE Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on Closed Area Exploratory Fishing EFP.''

FOR FURTHER INFORMATION CONTACT: Brett Alger, Fisheries Management Specialist, 978–675–2153, *brett.alger@noaa.gov.*

SUPPLEMENTARY INFORMATION: In a 2014 proposed rule for Northeast Multispecies Sectors that would have allowed vessels using selective trawl gear into portions of year-round Georges Bank (GB) groundfish closed areas (CAs) I and II, we announced interest in gathering catch data from these areas through exempted fishing permits (EFPs) (79 FR 14639, March 17, 2014). Because many of these areas have been closed to groundfish bottom trawling for nearly 20 years, fisheries dependent data collected through an EFP would help inform whether to allow conditional access to CAs I and II to sector vessels through the sector exemption process. Data from vessels operating under an EFP may be used to characterize catch rates of target and non-target species in the CAs, as well as help inform industry on the economic feasibility of industry-funded monitoring for trips into CAs I and II.

In April 2014, we announced our intention to issue an EFP to Atlantic Trawlers Fishing, Inc. (79 FR 23940,

April 29, 2014). In May 2014, an EFP was issued that authorized vessels to fish inside portions of groundfish CA I and CA II during specified times of the fishing year. For more details on the original application and objectives of this EFP, reference last year's notice or visit *http://www.greateratlantic.fisheries.noaa.gov/mediacenter/2014/EFPsgroundfish_closed_areas.html.* Additionally, for preliminary catch information from Atlantic Trawlers Fishing, Inc., visit *http://www.greateratlantic.fisheries.noaa.gov/aps/monitoring/nemultispecies.html.*

Due to several factors, including catch rates, time and area access to CAs I and II, and weather, only 12 trips were taken under the EFP in fishing year 2014. Because there were a limited amount of trips and, therefore, not enough information to make a determination on whether or not to approve access to CAs I and II through the sector exemption process, we did not approve access for sectors in fishing year 2014. Additionally, we did not propose to allow sector vessels access to CAs I and II for fishing year 2015 (80 FR 12380, March 19, 2015), however, Atlantic Trawlers Fishing, Inc., has requested an EFP renewal for fishing year 2015 to continue collecting data under the same exemptions as their previous EFP.

Atlantic Trawlers Fishing, Inc., seeks to address five objectives as follows: (1) Generate data on the composition of catch, including presence and absence of target (*e.g.,* GB haddock) and non-target species; (2) test the effectiveness of utilizing gear comparable to the Canadian haddock fishery on GB (*e.g.,* haddock separator trawl with 5.1-inch (13-cm) square mesh codend) to improve haddock selectivity, catch ratios, and improved annual catch limit (ACL) utilization rates; (3) collect data to examine the economic feasibility of an industry funded monitoring program for CA trips; (4) test the effectiveness of providing access to portions of the existing CAs for improving utilization rates of GB haddock; and (5) collect information from CAs I and II so that we may conduct analyses to determine whether fishing can be allowed at a level of observer coverage of less than 100 percent, should an exemption be considered and approved.

To fulfill these objectives, three vessels would be allowed to use nets with either a haddock separator trawl or a Ruhle trawl, fitted with either a 6-inch (15.2-cm) diamond mesh codend (currently allowed in the fishery) or a 5.1-inch (13-cm) square mesh codend (not currently allowed in the fishery). The applicant claims that the 5.1-inch (13-cm) square mesh codend will improve their ability to target legal-size haddock while maintaining the ability to filter out small non-target catch, including sub-legal haddock. Preliminary results indicate that the two codends have similar selectivity characteristics, but additional replicates are needed. In addition, for sampling purposes, vessels would be authorized to temporarily retain sub-legal fish, and fish in excess of possession limits. All undersized fish and fish in excess of possession limits would be discarded as soon as practicable following data collection. All three vessels would be accompanied by a technician with an at-sea monitor certification and equipped with echo sounders that operate on multiple frequencies, which provide the capability of revealing fish size distribution and bottom hardness.

For CA I, vessels would have access from May 1, 2015, through February 15, 2016, but would not be given access to areas within CA I that are existing Habitat Management Areas. Additionally, vessels would not be given access to areas that are Habitat Management Area alternatives contained in the Council's draft Omnibus Habitat Amendment as of April 30, 2015. We have raised concerns about spawning of groundfish in CA I from January 1 to February 15, but Atlantic Trawlers Fishing, Inc., has requested access for this period to collect information to address questions about spawning fish.

For CA II, vessels would have access from May 1, 2015, through June 15, 2015, and then from November 1, 2015, through February 15, 2016, but would not be given access to areas within CA II that are existing Habitat Management Areas. Additionally, vessels would not be given access to areas that are Habitat Management Area alternatives contained in the Council's draft Omnibus Habitat Amendment as of April 30, 2015. Similar to CA I, we have raised concerns about spawning of groundfish in CA II from January 1 to February 15, but Atlantic Trawlers Fishing, Inc., has requested access for this period to collect information to address questions about spawning fish. The dates for CA II access reflect an agreement between sector trawl fishermen and the lobster industry to avoid gear conflicts. Atlantic Trawlers Fishing, Inc., would not access portions of CA II from June 15 through November 1, the time period that the lobster industry is allowed access.

Atlantic Trawlers Fishing, Inc., requests issuance of the EFP for the entire fishing year in order to use a smaller mesh codend throughout the year, but access to the closed areas would be for only portions of the year. Fishing effort under the EFP would be heavily dependent upon operational decisions dictating whether to fish within CAs I and II, as compared to outside the areas. As previously described, Atlantic Trawlers Fishing, Inc., has stated that the directed haddock fishery is highly dynamic and requires a high degree of mobility. If approved, the three participating vessels would focus on the directed haddock fishery throughout the study period, and make tows both inside and outside the CAs on the same trip. Vessel tow duration would vary from 30 minutes to 3 hours, and tow time and speed would be at the discretion of the vessel operator. However, in order to conduct statistical comparisons between meshes or areas, the vessels would be required to conduct some tows in a specific sequence and for a specified amount of time. While this may be disruptive to the commercial enterprise, it would ensure that codend comparison data are representative of the fishery and can be used to inform any potential future management decisions. Trawling would occur up to 18 hours per fishing day, an average trip would last seven days (five days fishing and two days steaming), and there would be an average of three trips total, per month. Under the EFP in fishing year 2014, this would have resulted in approximately 72 trips, however, Atlantic Trawlers Fishing, Inc., only took the 12 trips. Under the renewed EFP, vessels would be limited to the remaining amount of trips (*i.e.,* 60), but anticipate taking far fewer than that amount.

All legal sized fish will be landed and sold with all proceeds retained by the vessel owner. All three vessels are members of the Sustainable Harvest Sector (SHS) and all catch of allocated stocks (*e.g.,* haddock, cod) would be accounted for under the annual catch entitlements (ACEs) of the SHS. If the SHS exceeds its ACE for an allocated stock, it would need to lease in additional ACE in order to continue fishing.

If approved, Atlantic Trawlers Fishing, Inc., may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: April 3, 2015.

Emily H. Menashes,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD882

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery off the South Atlantic States; Amendment 36

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

ACTION: Notice of Intent (NOI) to prepare a draft environmental impact statement (DEIS); request for comments; notice of scoping meetings.

SUMMARY: NMFS, Southeast Region, in collaboration with the South Atlantic Fishery Management Council (Council), intends to prepare a DEIS to describe and analyze a range of alternatives for management actions to be included in Amendment 36 to the Fishery Management Plan (FMP) for the Snapper-Grouper Fishery of the South Atlantic Region (Amendment 36). Amendment 36 will consider alternatives to implement special management zones (SMZs). The purpose of this NOI is to solicit public comments on the scope of issues to be addressed in the DEIS and to announce scoping meetings.

DATES: Written comments on the scope of issues to be addressed in the DEIS will be accepted until May 8, 2015.

ADDRESSES: You may submit comments on the NOI identified by ''NOAA–NMFS–2015–0050'' by either of the following methods:

- *Electronic submissions:* Submit electronic comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0050,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Rick DeVictor, NMFS Southeast Regional Office (SERO), 263 13th Avenue South, St. Petersburg, FL 33701.

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

FOR FURTHER INFORMATION CONTACT: Rick DeVictor, NMFS SERO, telephone: 727–824–5305, or email: *rick.devictor@noaa.gov.* Kim Iverson, Public Information Officer, South Atlantic Fisheries Management Council, 4055 Faber Place Drive,Suite 201, North Charleston, SC 29405; telephone: 843–571–4366, or email: *kim.iverson@safmc.net.*

SUPPLEMENTARY INFORMATION: In 1983, the Council and NMFS established a procedure under the FMP for the Snapper-Grouper Fishery of the South Atlantic Region for designation of SMZs to protect artificial reef habitats. The procedure includes the development of recommendations to establish an SMZ by a monitoring team, a review of the recommendations by the Council, and submittal of the recommendations to the NMFS Southeast Regional Administrator (RA). The RA reviews the Council's recommendations and may propose regulations in accordance with the recommendations or take no action. The Council and NMFS have used the procedure to establish artificial reef SMZs in the South Atlantic region. The SMZs protect artificial reef habitat by prohibiting the use of gear types such as fish traps and bottom longlines.

Through Amendment 36, the Council is considering modifications to the SMZ process and framework procedures to include the consideration of SMZs that would protect locations where snapper-grouper fish species are likely to spawn and natural habitats that support spawning fish. Protecting locations where fish spawn and protecting natural habitats that support spawning fish will likely enhance stock productivity and may act as an effective strategy when managing a sustainable fish population.

In the amendment, the Council is also considering the implementation of SMZs to protect spawning snapper-grouper species in the South Atlantic region. The measures in Amendment 36 would prohibit fishing for, harvest, and/or possession of species in the snapper-grouper fishery management unit year-round in the proposed SMZs; fishing for other species would be allowed in accordance with the current regulations. Some of the sites being considered in Amendment 36 were recommended for protection by a Marine Protected Area (MPA) Expert Workgroup that was formed by the Council in 2012. The MPA Expert Workgroup is comprised of scientists and fishermen with experience studying snapper-grouper fish species and observing fish in spawning condition.

NMFS previously published NOIs to notify the public that the Council and NMFS are considering the establishment of spatial management areas. NMFS published an NOI to prepare a DEIS for the Comprehensive Ecosystem-Based Amendment 3 (CE–BA 3) on May 23, 2012 (77 FR 30506). One proposed action in CE–BA 3 was to modify existing MPAs or to establish new ones; however, that action was moved to Regulatory Amendment 17. An NOI for Regulatory Amendment 17 was published on December 4, 2013 (78 FR 72867). Through Regulatory Amendment 17, the Council intended to further reduce bycatch mortality of speckled hind and warsaw grouper and increase protection to their habitat. However, at their June 2014 meeting, the Council decided not to proceed further with the development of Regulatory Amendment 17.

NMFS, in collaboration with the Council, will develop a DEIS to describe and analyze alternatives to address the management needs described above including the ''no-action'' alternative. In accordance with NOAA's Administrative Order 216–6, Section 5.02(c), Scoping Process, NMFS, in collaboration with the Council, has identified preliminary environmental issues as a means to initiate discussion for scoping purposes only. The public is invited to attend scoping meetings (dates and addresses below) and provide written comments on the preliminary issues, which are identified as actions and alternatives in the Amendment 36 scoping document. These preliminary issues may not represent the full range of issues that will eventually be evaluated in the DEIS. A copy of the Amendment 36 scoping document is available at *http://sero.nmfs.noaa.gov/sustainable_fisheries/s_atl/sg/index.html.*

After the DEIS associated with Amendment 36 is completed, it will be filed with the Environmental Protection Agency (EPA). After filing, the EPA will publish a notice of availability of the DEIS for public comment in the **Federal Register**. The DEIS will have a 45-day comment period. This procedure is pursuant to regulations issued by the

Council on Environmental Quality (CEQ) for implementing the procedural provisions of the National Environmental Policy Act (NEPA; 40 CFR parts 1500–1508) and to NOAA's Administrative Order 216–6 regarding NOAA's compliance with NEPA and the CEQ regulations.

The Council and NMFS will consider public comments received on the DEIS in developing the final environmental impact statement (FEIS), and before voting to submit the final amendment to NMFS for Secretarial review, approval, and implementation under the Magnuson-Stevens Conservation and Management Act (Magnuson-Stevens Act). NMFS will announce in the **Federal Register** the availability of the final amendment and FEIS for public review during the Magnuson-Stevens Act Secretarial review period, and will consider all public comments prior to final agency action to approve, disapprove, or partially approve the final amendment.

NMFS will announce, through a document published in the **Federal Register**, all public comment periods on the final amendment, its proposed implementing regulations, and the availability of its associated FEIS. NMFS will consider all public comments received during the Secretarial review period, whether they are on the final amendment, the proposed regulations, or the FEIS, prior to final agency action.

Scoping Meetings

The scoping meetings will be held via webinar April 20, 2015, through April 23, 2015. A scoping meeting for Snapper-Grouper Amendment 36 will also be held in Key West, Florida, in conjunction with the Council meeting on June 10, 2015, beginning at 5:30 p.m. With the exception of the scoping meeting in Key West, Florida, all scoping meetings will be conducted via webinar accessible via the internet from the Council's Web site at *www.safmc.net.* Scoping meetings held via webinar will begin at 6 p.m. Registration for each webinar is required. Registration information will be posted on the SAFMC Web site at *www.safmc.net* as it becomes available. Any graphics, including maps, drawings, or images to be shown during public comment should be emailed to Mike Collins at *mike.collins@safmc.net* prior to the public hearing. Webinar registrants may test or confirm their computer setup for the webinar one hour prior to each hearing and contact Mike Collins at 843–763–1050 to address any questions regarding webinar setup. Local comment stations will also be provided at the following locations:

Scoping Meeting Dates and Local Comment Station Addresses

1. April 20, 2015—Local Comment Stations: SC Department of Natural Resources, Marine Resources Research Institute Auditorium, 217 Fort Johnson Road, Charleston, SC 29422–2559; phone 843–953–9300 and Holiday Inn Express, 722 Highway 17, Little River, SC 29566; phone: 843–281–9400.

2. April 21, 2015—Local Comment Station: NC Division of Marine Fisheries, Central District Office, 5285 Highway 70 West, Morehead City, NC 28557; phone 252–726–7021.

3. April 22, 2015: Local Comment Station: Coastal Resources Division, GA Department of Natural Resources, One Conservation Way, Brunswick, GA 31528–8687; phone 912–264–7218 and Richmond Hill Fish Hatchery, 110 Hatercry Drive, Richmond Hill, GA 31324; phone 912–756–3691.

4. April 23, 2015: Local Comment Station: Hampton Inn Daytona Speedway, 1715 W. International Speedway Boulevard, Daytona Beach, FL 32114; phone 386–257–4030.

5. June 10, 2015: A scoping meeting will be held in conjunction with the SAFMC meeting beginning at 5:30 p.m.; Doubletree Grand Key Resort, 3990 S. Roosevelt Blvd., Key West, FL 33040; phone 305–293–1818.

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

Dated: April 2, 2015.

Emily H. Menashes,

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

[FR Doc. 2015–08057 Filed 4–7–15; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD872

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Applications for seven new scientific research permits, two permit modifications, and two permit renewals.

SUMMARY: Notice is hereby given that NMFS has received 11 scientific research permit application requests relating to Pacific salmon and eulachon. The proposed research is intended to increase knowledge of species listed under the Endangered Species Act (ESA) and to help guide management and conservation efforts. The applications may be viewed online at: *https://apps.nmfs.noaa.gov/preview/preview_open_for_comment.cfm.*

DATES: Comments or requests for a public hearing on the applications must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific standard time on May 8, 2015.

ADDRESSES: Written comments on the applications should be sent to the Protected Resources Division, NMFS, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232–1274. Comments may also be sent via fax to 503–230–5441 or by email to *nmfs.nwr.apps@noaa.gov* (include the permit number in the subject line of the fax or email).

FOR FURTHER INFORMATION CONTACT: Rob Clapp, Portland, OR (ph.: 503–231–2314), Fax: 503–230–5441, email: *Robert.Clapp@noaa.gov*). Permit application instructions are available from the address above, or online at *https://apps.nmfs.noaa.gov.*

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

The following listed species are covered in this notice:

Chinook salmon (*Oncorhynchus tshawytscha*): Threatened Lower Columbia River (LCR); threatened Puget Sound (PS); threatened Snake River (SR) fall-run; threatened SR spring/summer-run (spr/sum); endangered Upper Columbia River (UCR) spring-run; threatened Upper Willamette River (UWR).

Steelhead (*O. mykiss*): Threatened UCR; threatened SR; threatened middle Columbia River (MCR); threatened LCR; threatened PS; threatened UWR.

Sockeye salmon (*O. nerka*): endangered SR.

Chum salmon (*O. keta*): Threatened Columbia River (CR); threatened Hood Canal summer (HCS).

Coho salmon (*O. kisutch*): Threatened LCR; threatened Oregon Coast (OC).

Eulachon (*Thaleichthys pacificus*): Threatened southern distinct population segment (DPS) (S. eulachon).

Authority

Scientific research permits are issued in accordance with section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et. seq*) and regulations governing listed fish and wildlife permits (50 CFR parts 222–226). NMFS issues permits based on findings that such permits: (1) Are applied for in good faith; (2) if granted and exercised, would not operate to the disadvantage

of the listed species that are the subject of the permit; and (3) are consistent with the purposes and policy of section 2 of the ESA. The authority to take listed species is subject to conditions set forth in the permits.

Anyone requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). Such hearings are held at the discretion of the Assistant Administrator for Fisheries, NMFS.

Applications Received

Permit 14046–3M

The King County Department of Natural Resources and Parks (KCDNRP) is seeking to modify a five-year permit to annually take juvenile PS Chinook salmon and PS steelhead. Sampling sites would be in four Puget Sound sub-basins (Snoqualmie, Lake Washington, Duwamish, and Puyallup) located in King County, Washington. The purpose of the study is to: (1) Evaluate the effectiveness of restoration actions through biological monitoring, (2) understand the importance of off-channel habitats in providing habitat for listed species, (3) assess salmonid habitat status and trends in small streams with varying degrees of land use, and (4) assess containment levels in various freshwater fish eaten by humans. The research would benefit the affected species by determining if restoration and recovery actions are contributing to listed species recovery, providing information on use of off-channel areas by juvenile salmonids, guiding future projects based upon monitoring results, and providing habitat use information for yearling fall Chinook. The KCDNRP proposes to capture fish using beach seines, fyke nets, gill nets, hook and line, minnow traps, and both backpack and boat-operated electrofishing. Fish would be anaesthetized, identified by species, allowed to recover, and released. The researchers do not propose to kill any of the listed salmonids being captured, but a small number may die as an unintended result of the activities.

Permit 16142—3R

The Confederated Tribes of the Warm Springs Reservation of Oregon (CTWSRO) are seeking to renew a five-year permit that currently allows them to capture, handle, and release juvenile MCR steelhead in the John Day River, Oregon. The primary purpose of the research is to monitor anadromous fish response to habitat restoration projects throughout the John Day Basin, however the permit was modified in 2012 to allow the CTWSRO are to expand upon that research by adding juvenile mark/recapture studies and adult spawning surveys in various drainages in the John Day River Basin for the purpose of determining adult return success and making juvenile abundance estimates. This project would establish baseline estimates at 10 sampling locations and then resample those sites to evaluate the impact restoration projects have on juvenile Chinook and steelhead abundance. The research would continue to benefit the fish by helping managers determine the most effective ways to restore habitat.

Under the permit, the researchers would set up survey reaches at each site and use block nets at the upstream and downstream boundaries to temporarily curtail fish movement. In those reaches, fish would be collected using backpack electrofishing equipment or seine nets. Once the fish are collected, they would be placed in an aerated bucket and anesthetized. They would then be counted, measured, weighed, marked with a caudal fin clip, allowed to recover, and released back into the sampling reach. A second fish sampling event (using the same collection methods) would be conducted within 24 hours of each initial survey. The researchers would use these two samples to estimate fish abundance and density. The surveys would be conducted at the same locations on an annual basis in order to assess population trends. The researchers do not intend to kill any listed salmonids, but a small number may die as an unintended result of the activities.

Permit 16298—3R

The Shoshone-Bannock Tribes (SBT) are seeking to renew for five years a permit that has been in place since 2011. Under the renewed permit, they would annually take juvenile and adult SR spr/sum Chinook and SR steelhead in Bear Valley Creek, Idaho. The purpose of the research is to estimate fish abundance, smolt-to-adult return rates, and adult productivity in Bear Valley Creek with a high degree of accuracy. The researchers are seeking to generate information that may be used widely throughout the Salmon River subbasin. This monitoring project was recommended as part of a larger monitoring effort that developed through the Columbia Basin Coordinated Anadromous Monitoring Workshop. The work would benefit fish by giving managers key information about population status in the Salmon River subbasin which, in turn, would be used to inform recovery plans and land-management activities. The SBT would count and monitor adult spr/sum Chinook at a video station, and they would handle, measure, tag, and tissue sample juvenile SR spr/sum Chinook and steelhead at a screw trap. They would also do some harvest monitoring (creel surveys) and spawning ground surveys. The researchers do not intend to kill any listed salmonids, but a small number may die as an unintended result of the activities. In addition to this permit, the U.S. Forest Service (FS) would issue a special use permit for the SBT to conduct the work.

Permit 18819–2M

The Wild Fish Conservancy (WFC) is seeking to modify a five-year permit to annually take juvenile and adult PS Chinook salmon, HCS chum salmon, and PS steelhead. The WFC research may also cause them to take adult S eulachon, for which there are currently no ESA take prohibitions. The sampling would take place in locations throughout Hood Canal, Admiralty Inlet, and the Strait of Juan de Fuca. The purpose of the study is to determine the relative abundance, distribution, and emigration timing of juvenile HCS chum salmon throughout their range. The research would benefit the affected species by determining juvenile salmonid out-migrant timing, use of nearshore rearing habitats, and key habitat associations (*i.e.* eelgrass and kelp beds, gravel beaches, mudflats, and modified vs. unmodified shorelines). The WFC proposes to capture fish using fyke nets and beach seines with twice-monthly sampling from December through May. Captured salmonids would be identified by species, measured, and have a tissue sample taken (chum and Chinook salmon only). Juvenile coded-wire tagged (CWT) coho and Chinook salmon would be sacrificed to determine their natal hatchery and provide stock-specific information about their use of nearshore habitats. All other fish would be released after handling. The researchers do not propose to kill any other listed species being captured, but a small number may die as an unintended result of the activities.

Permit 18921

The Samish Indian Nation Department of Natural Resources (SINDNR) is seeking a five-year research permit to annually take juvenile PS Chinook salmon and PS steelhead. The SINDNR research may also cause them to take adult S eulachon, for which there are currently no ESA take prohibitions. The sampling would take place adjacent to Cypress Island (of the

San Juan Island archipelago) in Secret Harbor. The restoration of Secret Harbor began in 2008 with the restoration of an agricultural field to its historical state by breaching an existing tidal dike and restoring tidal exchange and freshwater stream connectivity to the area. The restored estuary and salt marsh habitats are expected to enhance and improve structural habitat complexity and potentially support a greater diversity of species. The purpose of the study is to determine fish presence both within and around the Secret Harbor estuary restoration site to determine the effectiveness of restoration efforts. This research would benefit the affected species by informing future restoration designs as well as providing data to support future enhancement projects. The SINDAR proposes to capture fish using beach seines with year-round monthly sampling. Fish would be captured, identified by species, measured, and released. The researchers do not propose to kill any of the listed fish being captured, but a small number may die as an unintended result of the activities.

Permit 18952

The United States Geological Survey (USGS) has requested a one-year permit to take LCR Chinook, LCR coho, LCR steelhead, CR chum, UWR Chinook, UWR steelhead, PS Chinook, and PS steelhead while conducting the National Water Quality Monitoring Program. The purpose of the USGS study is to characterize contaminants, nutrients, suspended and fine sediment, and ecological communities at perennial-stream sites in the Willamette Valley and Puget Sound Lowlands. The ecological community surveys would consist of double pass backpack electrofishing of approximately 100 sites in June and July. The majority of the listed salmonids that may be captured would be measured, examined for external abnormalities, and released. A secondary survey would be conducted to collect and sacrifice up to 15 salmonids per site from a total of 15 sites. Depending on availability, fish collections would focus on unlisted juvenile coho salmon or cutthroat trout in the Puget Sound and Upper Willamette basins and cutthroat trout or listed juvenile coho in the Lower Willamette and Lower Columbia basins. The research may benefit the listed species by helping managers to better understand the stressors—such as contaminant loads—affecting ecological stream communities in urban areas.

Permit 19263

The Idaho Department of Fish and Game (IDFG) is seeking a five-year permit to take juvenile SR steelhead, sockeye, and spr/sum Chinook during the course of three research tasks in the upper Salmon River of Idaho State. They would (a) conduct a general fish population inventory, (b) monitor fish population responses to habitat improvement and restoration activities, and (c) document juvenile Chinook salmon rearing and winter habitat use in the Salmon River. The researchers would use drift boat and raft-mounted electrofishing gear to capture fish and estimate trout abundances in up to five monitoring reaches of the Salmon River during the fall. Captured fish would be identified by species, measured (total length & fork length), and weighed to the nearest gram. During marking runs, captured target species (rainbow trout, westslope cutthroat trout, bull trout, and mountain whitefish) would be marked with a hole punch in the caudal fin. Any juvenile Chinook salmon they encounter would be identified, measured (fork length), weighed, and examined for tags/marks. Unmarked juvenile Chinook salmon would be implanted with passive integrated transponder (PIT) tags. Some captured fish may be anesthetized to minimize stress. In all cases, adult salmonids would be avoided and none would be captured. To help with this, the researchers would operate at times and in locations where no adults are likely to be present. The research activities would benefit the fish by providing information on a suite of factors—population abundance and response to restoration actions, predator and competitor abundance and interactions, and life history and behavior characteristics—all of which would be used to inform management, restoration, and recovery decisions in the Salmon River. The researchers do not intend to kill any fish, but a small number may die as a consequence of the planned activities.

Permit 19350

The United States Fish and Wildlife Service (FWS) has requested a five-year permit to take LCR Chinook salmon, LCR Coho salmon, LCR steelhead, UWR Chinook salmon, and UWR steelhead while conducting research and monitoring in the Tryon Creek watershed of Portland, Oregon. The purpose of the project is to assess fish use of Tryon Creek above and below the Oregon Highway 43 culvert. Culvert modification and habitat enhancement projects have been implemented to improve fish passage and the research and monitoring would be used to gauge effectiveness of the restoration activities. The FWS would capture fish using backpack electrofishing equipment and beach seines. Captured fish would be measured, weighed, PIT-tagged, and tissue sampled for genetic analysis. The FWS does not intend to kill any of the salmonids being captured but a small number of juvenile fish may die as an unintended result of the activities. The research may benefit the listed species by helping managers better understand the effectiveness of habitat restoration activities.

Permit 19386

The AMEC Foster Wheel (AMECFW) is seeking a five-year research permit to annually take juvenile PS Chinook salmon and PS steelhead in the Lower Duwamish River waterway. Under a Consent Decree settled through U.S. District Court (Western District of Washington), The Boeing Company agreed to construct two habitat restoration projects near Boeing Plant 2 in the Lower Duwamish Waterway to restore and create off-channel and riparian habitats in an area where they have been largely eliminated due to channelization and industrialization. The purpose of this study is to determine if fish, including ESA listed juvenile salmonids, are using the newly created/restored habitat. This research would benefit the affected species by informing future restoration designs as well as providing data to support future enhancement projects. The researchers propose to capture fish using fyke nets during the spring salmonid outmigration (March through June). Fish would be anaesthetized, identified by species, allowed to recover, and released. The researchers do not propose to kill any of the listed fish being captured, but a small number may die as an unintended result of the activities.

Permit 19391

The SBT are seeking a five-year permit to annually take adult and juvenile SR steelhead and spr/sum Chinook while operating a screw trap and adult weir in Panther Creek, Idaho. They would also conduct some electrofishing and spawning ground surveys in the area. Most of the juvenile Chinook salmon would be captured, handled, and released. Some of them would be implanted with PIT-tags, and some would be sampled for genetic analysis. All would be allowed to recover and released to continue their downstream migration. Although the researchers are targeting Chinook, some

juvenile and adult steelhead may be taken as well. In both instances, the information to be gathered would help with monitoring and recovery efforts in the area. In addition, the information may eventually be used to help guide a proposed supplementation program in the area. The research would in no way pre-dispose the approval of such a program, but if it were to be instituted, a good deal of the proposed work would be analyzed again in the context of that larger program. In the interim, the research would benefit the fish by helping managers guide current and future restoration efforts and generating information on species status that would augment a number of regional efforts. The researchers do not propose to kill any of the animals being captured, but a small number may die as an unintended consequence of the activities.

Permit 19470

The Washington State Department of Ecology (WDOE) is seeking a three-year permit to collect environmental samples in rivers and streams in the state of Washington while conducting Washington's Status and Trends Monitoring for Watershed Health and Salmon Recovery—a statewide habitat and biological monitoring program. The permit would authorize the WDOE to take juvenile and adult UCR Chinook salmon and steelhead, SR spr/sum and fall-run Chinook salmon, SR steelhead, SR sockeye salmon, and MCR steelhead. The goal of status and trends monitoring is to provide quantitative, statistically valid estimates of habitat and water quality that are important for policy and management decisions. The WDOE would monitor seven status and trends regions statewide on a four-year cycle. The information gathered by this research would benefit listed salmonids by helping resource managers evaluate the effectiveness of habitat restoration efforts and monitor aquatic species status and trends. The researchers would capture fish using boat electrofishing equipment; the listed fish would be enumerated, measured, and released immediately. At no time would adults be electrofished. If any adults are seen during the electrofishing operation, the equipment would immediately be turned off and the fish would be allowed to escape. If another adult is seen, the researchers would move the operation. And in no case would the electrofishing take place where fish are actively spawning. The researchers are not proposing to kill any of the fish they capture, but a small number may die as an unintended result of the activities.

Permit 19476

The Island County Department of Natural Resources (ICDNR) is seeking a five-year research permit to annually take juvenile PS Chinook salmon and PS steelhead. The sampling would take place in the Fidalgo Island and northern Whidbey Island shoreline area near Deception Pass at Cornet Bay and Ala Spit. The purpose of the study is to assess salmonid and forage fish use of habitat restored by removal of armoring and fill. This research would benefit the affected species by informing future restoration designs as well as providing data to support future enhancement projects. The ICDNR proposes to capture fish using a beach seine. Fish would be removed from the net and placed in buckets. All fish would be enumerated by species and the first 20 of each species would be measured for length. All fish would be released in the same location they were caught. The researchers do not propose to kill any of the listed salmonids being captured, but a small number may die as an unintended result of the activities.

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the applications, associated documents, and comments submitted to determine whether the applications meet the requirements of section 10(a) of the ESA and Federal regulations. The final permit decisions will not be made until after the end of the 30-day comment period. NMFS will publish notice of its final action in the **Federal Register**.

Dated: April 2, 2015.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2015–07944 Filed 4–7–15; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Determination Under the Textile and Apparel Commercial Availability Provision of the Dominican Republic-Central America-United States Free Trade Agreement (''CAFTA–DR Agreement'')

AGENCY: The Committee for the Implementation of Textile Agreements.

ACTION: Determination to remove a product currently included in Annex 3.25 of the CAFTA–DR Agreement.

DATES: October 5, 2015.

SUMMARY: The Committee for the Implementation of Textile Agreements (''CITA'') has determined that certain three-thread circular knit fleece fabrics, as specified below, are available in the CAFTA–DR countries in commercial quantities in a timely manner. The product, which is currently included in Annex 3.25 of the CAFTA–DR Agreement in unrestricted quantities, will be removed, effective 180 days after publication of this notice.

FOR FURTHER INFORMATION CONTACT: Laurie Mease, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–2043. For information online see *http://web.ita.doc.gov/tacgi/CaftaReqTrack.nsf* under ''Approved Requests,'' Reference number: 195.2015.02.27.Fabric.SS&AforGildanUSA.

SUPPLEMENTARY INFORMATION:

Authority: The CAFTA–DR Agreement; Section 203(o)(4) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (''CAFTA–DR Implementation Act''), Public Law 109–53; the Statement of Administrative Action accompanying the CAFTA–DR Implementation Act; and Presidential Proclamation 7987 (February 28, 2006).

Background: The CAFTA–DR Agreement provides a list in Annex 3.25 for fabrics, yarns, and fibers that the Parties to the CAFTA–DR Agreement have determined are not available in commercial quantities in a timely manner in the territory of any Party. The CAFTA–DR Agreement provides that this list may be modified pursuant to Article 3.25(4)–(5) by adding or removing items when the United States determines that a fabric, yarn, or fiber is not available in commercial quantities in a timely manner in the territory of any Party; or when the United States determines that a fabric, yarn, or fiber currently on the list is available in commercial quantities in a timely manner. The CAFTA–DR Implementation Act authorizes the President to make such modifications to the list in Annex 3.25. *See* Annex 3.25 of the CAFTA–DR Agreement; *see also* section 203(o)(4)(C) and (E) of the CAFTA–DR Implementation Act.

The CAFTA–DR Implementation Act requires the President to establish procedures governing the submission of a request and providing opportunity for interested entities to submit comments and supporting evidence before a commercial availability determination is made. In Presidential Proclamation 7987, the President delegated to CITA the authority under section 203(o)(4) of the CAFTA–DR Implementation Act for modifying the list in Annex 3.25. Pursuant to this authority, CITA

published modified procedures it would follow in considering requests to modify the Annex 3.25 list of products determined to be not commercially available in the territory of any Party to CAFTA–DR (*Modifications to Procedures for Considering Requests Under the Commercial Availability Provision of the Dominican Republic-Central America-United States Free Trade Agreement,* 73 FR 53200 (September 15, 2008)) (''CITA's procedures'').

On February 27, 2015, the Chairman of CITA received a request from Sorini Samet & Associates, on behalf of Gildan USA, Inc. (''Gildan'') for a Commercial Availability determination to remove or restrict (''Request to Remove'') certain three-thread circular knit fleece fabrics, currently listed in Annex 3.25. Gildan offered to supply the specified fabrics and provided information demonstrating its ability to supply commercial quantities in a timely manner. On March 3, 2015, in accordance with CITA's procedures, CITA notified interested parties of the Request to Remove, which was posted on the dedicated Web site for CAFTA–DR commercial availability proceedings. In its notification, CITA advised that any Response to the Request to Remove must be submitted by March 13, 2015, and any Rebuttal Comments to a Response must be submitted by March 19, 2015, in accordance with Sections 6, 7 and 9 of CITA's procedures. No interested entity submitted a Response advising CITA of its objection to the Request to Remove. In accordance with section 203(o)(4)(C) of the CAFTA–DR Implementation Act, Section 8(a) and (b), and Section 9(c)(3) of CITA's procedures, as no interested entity submitted a Response objecting to the Request to Remove, CITA has determined to approve the Request to Remove the subject product from the list in Annex 3.25. Pursuant to Section 9(c)(3)(iii)(A), textile and apparel articles containing the subject product are not to be treated as originating in a CAFTA–DR country if the subject product is obtained from non-CAFTA–DR sources, effective for goods entered into the United States on or after 180 calendar days after the date of publication of this notice. A revised list in Annex 3.25, noting the effective date of the removal of the subject product, has been posted on the dedicated Web site for CAFTA–DR commercial availability proceedings.

Specifications: Certain Three-Thread Circular Knit Fleece Fabrics

HTS Subheading: 6001.21.0000

Fabric #1:

Fiber Content: 72 to 78 percent cotton, 22 to 28 percent polyester

Yarn:

Face Yarn—Single ply, ring spun cotton. Metric yarn number: 41 to 48; English yarn number: 24 to 28

Tie Yarn—Polyester filament of 49 to 51 denier

Fleece yarn—Single ply staple of 57 to 63 percent cotton and 37 to 43 percent polyester. Metric yarn number: 24 to 30; English yarn number 14 to 18.

Gauge: 20 to 24

Knit Type: Three-thread circular knit

Weight: Metric—285 to 300 grams per square meter; English—8.42 to 9.75 ounces per square yard.

Width: Metric—172 to 183 centimeters; English—68 to 72 inches.

Finish: Napped on the technical back; bleached, yarn dyed, or piece dyed.

Performance Criteria: Not more than 5 percent vertical and horizontal shrinkage and not more than 4 percent vertical torque.

Fabric #2:

Fiber Content: 77 to 83 percent cotton, 17 to 23 percent polyester

Yarn:

Face Yarn—Single ply, ring spun cotton. Metric yarn number: 47 to 54; English yarn number: 28 to 32

Tie Yarn—Polyester filament of 49 to 51 denier

Fleece yarn—Single ply staple of 67 to 73 percent cotton and 27 to 33 percent polyester. Metric yarn number: 24 to 30; English yarn number 14 to 18.

Gauge: 20 to 24

Knit Type: Three-thread circular knit

Weight: Metric—266 to 308 grams per square meter; English—7.85 to 9.08 ounces per square yard.

Width: Metric—146 to 183 centimeters; English—58 to 72 inches.

Finish: Napped on the technical back; bleached, yarn dyed, or piece dyed.

Performance Criteria: Not more than 5 percent vertical and horizontal shrinkage and not more than 4 percent vertical torque.

Joshua Teitelbaum,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 2015–08029 Filed 4–7–15; 8:45 am]

BILLING CODE 3510–DR–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No CFPB–2015–0008]

Agency Information Collection Activities: Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Consumer Financial Protection Bureau (Bureau) is requesting to renew the approval for an existing information collection titled, ''Registration of Mortgage Loan Originators (Regulation G) 12 CFR 1007.''

DATES: Written comments are encouraged and must be received on or before June 8, 2015 to be assured of consideration.

ADDRESSES: You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

- *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.
- Mail: Consumer Financial Protection Bureau (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552.
- *Hand Delivery/Courier:* Consumer Financial Protection Bureau (Attention: PRA Office), 1275 First Street NE., Washington, DC 20002.

Please note that comments submitted after the comment period will not be accepted. In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or social security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Documentation prepared in support of this information collection request is available at *www.regulations.gov.* Requests for additional information should be directed to the Consumer Financial Protection Bureau, (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552, (202) 435–9575, or email: *PRA@cfpb.gov. Please do not submit comments to this mailbox.*

SUPPLEMENTARY INFORMATION:

Title of Collection: Registration of Mortgage Loan Originators (Regulation G) 12 CFR 1007.

OMB Control Number: 3170–0005.

Type of Review: Extension without change of a currently approved collection.

Affected Public: Businesses and other for-profit institutions.

Estimated Number of Respondents: 243,227.

Estimated Total Annual Burden Hours: 267,494.

Abstract: Regulation G implements the Secure and Fair Enforcement for Mortgage Licensing Act's (S.A.F.E. Act) federal registration requirement with respect to any covered financial institutions, and their employees who act as residential mortgage loan originators (MLOs), to register with the Nationwide Mortgage Licensing System and Registry, obtain a unique identifier, maintain this registration, and disclose to consumers the unique identifier. The rule also requires the covered financial institutions employing these MLOs to adopt and follow written policies and procedures to ensure their employees comply with these requirements and to disclose the unique identifiers of their MLOs.

Request for Comments: Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record.

Dated: March 26, 2015.

Ashwin Vasan,

Chief Information Officer, Bureau of Consumer Financial Protection.

[FR Doc. 2015–08125 Filed 4–7–15; 8:45 am]

BILLING CODE 4810–AM–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No: CFPB–2015–0014]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Consumer Financial Protection Bureau (CFPB) is proposing to renew the approval for an existing information collection titled, ''CFPB's Consumer Response Intake Form.''

DATES: Written comments are encouraged and must be received on or before May 8, 2015 to be assured of consideration.

ADDRESSES: You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

- Electronic: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *OMB:* Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503 or fax to (202) 395–5806. Mailed or faxed comments to OMB should be to the attention of the OMB Desk Officer for the Bureau of Consumer Financial Protection.

Please note that comments submitted after the comment period will not be accepted. In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or social security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Documentation prepared in support of this information collection request is available at *www.reginfo.gov* (this link active on the day following publication of this notice). Select ''information Collection Review,'' under ''Currently under review, use the dropdown menu ''Select Agency'' and select ''Consumer Financial Protection Bureau'' (recent submissions to OMB will be at the top of the list). The same documentation is also available at *http://www.regulations.gov.* Requests for additional information should be directed to the Consumer Financial Protection Bureau, (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552, (202) 435–9575, or email: *PRA@cfpb.gov.*

Please do not submit comments to this email box.

SUPPLEMENTARY INFORMATION:

Title of Collection: CFPB's Consumer Response Intake Form.

OMB Control Number: 3170–0011.

Type of Review: Extension with change of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 3,000,000.

Estimated Total Annual Burden Hours: 387,500.

Abstract: The Intake Form is designed to aid consumers in the submission of complaints, questions, and comments and to help the CFPB fulfill the CFPB's statutory requirements. Consumers (hereinafter ''respondents'') will be able to complete and submit information through the Intake Form electronically on the CFPB's Web site. Alternatively, respondents may request that the CFPB email a fillable PDF version or, by telephone, request a ''paper'' copy of the Intake Form, and then email, mail, or fax it to the CFPB. The questions within the Intake Form prompt respondents for a description of, and key facts about, the complaint at issue, the desired resolution, contact and account information, information about the institution they are filing a complaint against, and any previous action taken to attempt to resolve the complaint.

Request For Comments: The CFPB issued a 60-day **Federal Register** notice on December 29, 2014 (79 FR 78068). Comments were solicited and continue to be invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the CFPB, including whether the information will have practical utility; (b) The accuracy of CFPB's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record.

Dated: April 2, 2015.

Ashwin Vasan,

Chief Information Officer, Bureau of Consumer Financial Protection.

[FR Doc. 2015–08100 Filed 4–7–15; 8:45 am]

BILLING CODE 4810–AM–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No: CFPB–2015–0015]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Consumer Financial Protection Bureau (CFPB) is proposing to renew the approval for an existing information collection titled, ''Generic Information Collection Plan for Consumer Complaint and Information Collection System (Testing and Feedback).''

DATES: Written comments are encouraged and must be received on or before May 8, 2015 to be assured of consideration.

ADDRESSES: You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

- *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *OMB:* Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503 or fax to (202) 395–5806. Mailed or faxed comments to OMB should be to the attention of the OMB Desk Officer for the Bureau of Consumer Financial Protection.

Please note that comments submitted after the comment period will not be accepted. In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or social security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Documentation prepared in support of this information collection request is available at *www.reginfo.gov (this link active on the day following publication of this notice).* Select ''information Collection Review,'' under ''Currently under review, use the dropdown menu ''Select Agency'' and select ''Consumer Financial Protection Bureau'' (recent submissions to OMB will be at the top of the list). The same documentation is also available at *http://www.regulations.gov.* Requests for additional information should be directed to the Consumer Financial Protection Bureau, (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552, (202) 435–9575, or email: *PRA@cfpb.gov.*

Please do not submit comments to this email box.

SUPPLEMENTARY INFORMATION:

Title of Collection: Generic Information Collection Plan for Consumer Complaint and Information Collection System (Testing and Feedback).

OMB Control Number: 3170–0042.

Type of Review: Extension without change of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 710,000.

Estimated Total Annual Burden Hours: 118,334.

Abstract: Over the past several years, the CFPB has undertaken a variety of service delivery-focused activities contemplated by the Dodd-Frank and Wall Street Reform and Consumer Protection Act, Pub. L. 111–2013. These activities, which include consumer complaint and inquiry processing, referral, and monitoring, involve several interrelated systems. The streamlined process of the generic clearance will continue to allow the CFPB to implement these systems efficiently, in line with the CFPB's commitment to continuous improvement of its delivery of services through iterative testing and feedback collection.

Request for Comments: The CFPB issued a 60-day **Federal Register** notice on December 29, 2014 (79 FR 78069). Comments were solicited and continue to be invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the CFPB, including whether the information will have practical utility; (b) The accuracy of CFPB's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record.

Dated: April 2, 2015.

Ashwin Vasan,

Chief Information Officer, Bureau of Consumer Financial Protection.

[FR Doc. 2015–08099 Filed 4–7–15; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Secretary of the Navy Advisory Panel

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Secretary of the Navy (SECNAV) Advisory Panel will meet 8:15 a.m. to 4:00 p.m. to review ways to establish a culture of innovation in the Department of the Navy. This meeting is opened to the public.

DATES: The meeting will be held on Monday, April 20, 2015, from 8:15 a.m. to 4:00 p.m.

ADDRESSES: The meeting will be held at the Pentagon, in Room 4B746, 1000 Navy Pentagon, Washington, DC 20350–1000.

Building Access: Public access is limited due to the Pentagon Security requirements. Any individual wishing to attend this meeting should contact Ms. Cassandra Dean at 703–697–2386 or Commander Randall Biggs at 703–695–3042 no later than April 13, 2015. Members of the public who do not have Pentagon access will be required to provide Name, Date of Birth and Social Security Number by April 13, 2015, in order to obtain visitor's clearance. Public transportation is recommended as public parking is not available. Members of the public wishing to attend this meeting must enter through the Pentagon's Metro Entrance between 7:45 a.m. and 8:00 a.m. where they will need two forms of identification in order to receive a visitor badge and meet their escort. Members will then be escorted to Room 4B746 to attend the open of the meeting of the Advisory Panel. Members of the public must remain with the designated escort at all times while in the Pentagon. After the meeting is adjourned, members of the public will be escorted back to the Pentagon Metro Entrance.

FOR FURTHER INFORMATION CONTACT: Commander Randall Biggs, SECNAV Advisory Panel, 1000 Navy Pentagon, Washington, DC 20350–1000, 703–695–3042.

SUPPLELMENTARY INFORMATION: The agenda is as follows: April 20, 2015, speakers and discussions on the

Department of the Navy Culture of Innovation Initiatives.

Individuals or interested groups may submit written statements for consideration by the SECNAV Advisory Panel at any time or in response to the agenda of a schedule meeting. All requests must be submitted to the Designated Federal Officer (DFO) at the address detailed below. If the written statement is in response to the agenda mentioned in this meeting notice, it must be received at least five days prior to the meeting in question. The DFO will review all timely submissions with the SECNAV Advisory Panel before the meeting that is the subject of this notice. For further information write to: Deputy Under Secretary of the Navy, (Policy), Secretary of the Navy Advisory Panel, Designated Federal Officer, 1000 Navy Pentagon, Washington, DC 20350–1000.

Dated: April 2, 2015.

N.A. Hagerty-Ford,

Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2015–08040 Filed 4–7–15; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Educational Technology, Media, and Materials for Individuals With Disabilities—Research and Development Center To Advance the Use of New and Emerging Technologies to Ensure Accessibility

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

Overview Information

Notice inviting applications for a new award for fiscal year (FY) 2015.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.327B.

DATES:

Applications Available: April 8, 2015.

Deadline for Transmittal of Applications: May 26, 2015.

Deadline for Intergovernmental Review: July 22, 2015.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purposes of the Educational Technology, Media, and Materials for Individuals with Disabilities Program [1] are to improve results for students with disabilities by: (1) Promoting the development, demonstration, and use of technology; (2) supporting educational activities designed to be of educational value in the classroom for students with disabilities; (3) providing support for captioning and video description that is appropriate for use in the classroom; and (4) providing accessible educational materials to students with disabilities in a timely manner.

Priority: In accordance with 34 CFR 75.105(b)(2)(v), this priority is from allowable activities specified in the statute (see sections 674(b) and 681(d) of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1474(b) and 1481(d))).

Absolute Priority: For FY 2015 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Research and Development Center To Advance the Use of New and Emerging Technologies To Ensure Accessibility

Background

Section 612(a)(23) of IDEA requires States to provide educational materials in accessible formats in a timely manner to students who are blind or have print disabilities. Section 613(a)(6) of IDEA includes a similar requirement for local educational agencies (LEAs). In the process of implementing these provisions in IDEA, States, LEAs, and accessible media producers (AMPs), whom States and LEAs employ to convert educational materials into accessible formats, have encountered barriers to the production of high-quality accessible educational materials (AEM).[2] Specifically, they have been challenged by limitations of the technology available to produce AEM that includes accessible graphic content (*i.e.,* complex formulae, images, charts, tables, graphs, and mathematical notation, hereafter referred to as graphic content). These barriers are more evident in the conversion of science, technology, engineering, and mathematics (STEM) educational materials into accessible formats due to their extensive use of graphic content.

In 2010, the Office of Special Education Programs (OSEP) awarded a cooperative agreement, the Research and Development Center on Digital Images and Graphic Content in Accessible Instructional Materials, to implement a rigorous program of research and development to improve the cost, quality, usability, and availability of graphic content in accessible instructional materials and the devices and software used to access that content for blind, visually impaired, and print disabled students. While the center has improved the way graphic content is produced and accessed by children with print disabilities, ensuring accessibility to complex educational materials, such as STEM educational materials with graphic content, continues to challenge publishers, AMPs, and others who develop and produce STEM educational materials. The need for research and development continues to exist.

Although the technology, publishing, and disability communities are working together to develop standards and guidelines for producing and accessing digital materials and assessments in accessible formats, the adoption of these standards remains voluntary, thus implementation and use of the standards are inconsistent. Additionally, some standards and guidelines may not include markup language,[3] or may include it as optional, resulting in standards and guidelines that are insufficient to ensure the accessibility of educational materials for some children with disabilities.[4] A free appropriate public education cannot be provided to many children with disabilities unless the educational technologies and materials are accessible, consistent with standards and guidelines that are uniformly applied across technologies, devices, tools, products, and software.

New unexplored technologies, and the promise of more powerful technologies in the future, provide potential opportunities to improve access to digital content and educational

[1] This program was formerly called ''Technology and Media Services for Individuals with Disabilities.'' The Department has changed the name to Educational Technology, Media, and Materials for Individuals with Disabilities Program and updated the purposes of the program to more clearly convey that the program includes accessible educational materials. The program's activities and statutory authorization (20 U.S.C. 1474) remain unchanged.

[2] AEM (also known as accessible instructional materials) and technologies enable children with disabilities to have access to, be involved in, and make progress in the general education curriculum (or for infants, toddlers, and preschool children and their families to participate in developmental and educational activities, such as those related to early literacy and numeracy) and assessments.

[3] ''Markup language,'' in the context of digital technology, means a set of standards, as HTML or SGML, used to create an appropriate markup scheme for an electronic document, as to indicate its structure or format. See *http://dictionary.reference.com/browse/markup* language.

[4] For more information, see *http://idpf.org/news/aap-epub-3-implementation-white-paper-now-available* and *www.imsglobal.org/edupub/EPUB3QTILTICaliper_BestPracticesvd7.pdf.*

materials. Since 2004, administrators, teachers, preschool special education teachers, early interventionists, and parents are more aware of the use of AEM by students with print disabilities, and of anecdotal reports and preliminary data from research projects that suggest use of AEM is associated with improvements in academic performance and progress for some children with print disabilities (Abedi & Ewers, 2013; Stahl, 2004). Moreover, the Division for Early Childhood Recommended Practices (April, 2014) stresses the importance of ensuring that educational materials (*e.g.,* books, toys, multimedia content, etc.) are accessible to infants, toddlers, and preschoolers with disabilities and that the use of these materials is supported across learning environments. These reports and case studies have triggered interest in the use of AEM by children with non-print disabilities and by infants, toddlers, and preschoolers with visual impairments and other print disabilities (*e.g.,* public comment retrieved from *www.tea.state.tx.us/index4.aspx?id=25769810909*). If children with disabilities other than print disabilities, and infants, toddlers, and preschoolers with disabilities are to use AEM, researchers must explore and identify the developmental and educational needs of these children as they relate to the use of AEM. The information gained from this work can be applied to the development of new products, production standards, and sources where AEM can be acquired for this expanded population of children with disabilities.

To address the issues and challenges related to the development, production, and dissemination of AEM and to ensure that infants, toddlers, and children [5] who are blind or have print disabilities and those with disabilities not traditionally associated with print disabilities have full access to educational content, including graphic content, in accessible formats, OSEP proposes to fund a Research and Development Center to Advance the Use of New and Emerging Technologies to Ensure Accessibility.

Priority

The purpose of this priority is to fund a cooperative agreement to support the establishment and operation of a Research and Development Center to Advance the Use of New and Emerging Technologies to Ensure Accessibility (Center). Under this priority, the Center must conduct a comprehensive review of industry accessibility standards and their applications. Based on this review, the Center must implement a program of research and development designed to achieve, at a minimum, the following outcomes:

(a) Development, demonstration, and use of technologies, devices, tools, products, and software that ensure full access to educational materials and content, including graphic content, regardless of the original formats of the materials (*e.g.,* print, digital, multimedia) for children who are blind or have print disabilities and those with disabilities not traditionally associated with print disabilities;

(b) Increase the number of new digital and multimedia educational materials that are ''born accessible'' (*i.e.,* accessibility features are included in the original design and production of the materials) and are readily available and accessible to children who are blind or have print disabilities and those with disabilities not traditionally associated with print disabilities.

(c) Identification of potential uses of new technologies, devices, tools, products, and software to enhance the accessibility of educational materials, especially STEM educational materials, for children who are blind or have print disabilities and those with disabilities not traditionally associated with print disabilities;

(d) Identification of accessibility features specific to the needs of children with disabilities not traditionally associated with print disabilities (*e.g.,* autism, hearing impairments, intellectual disabilities, English learners with disabilities); and

(e) Increased knowledge sharing among technology developers, publishers, and end users including educators, persons with disabilities, and parents of children with disabilities.

Application Requirements

In addition to these programmatic requirements, to be considered for funding under this priority, applicants must meet the application and administrative requirements in this priority. OSEP encourages innovative approaches to meeting the following requirements:

(a) Demonstrate, in the narrative section of the application under ''Significance of the Project,'' how the proposed project will achieve and maintain expert awareness of the current and developing standards and uses of technologies that support or increase accessibility of educational materials for children with disabilities by:

(1) Establishing and maintaining a technical format review advisory committee. The technical format review advisory committee must—

(i) Consist of no fewer than five members representing the full range of diverse stakeholders, including at least one member from each of the following five specific groups: Technology developers, publishers, and end users including educators, persons with disabilities, and parents of children with disabilities. Advisory committee members should be identified no later than six weeks from the award date;

(ii) Meet no less frequently than twice per year during the project period with the project director and relevant project staff;

(iii) Evaluate current technologies, standards, and guidelines that are used and applied in the production and use of educational materials to ensure that the content is accessible to children with disabilities; and

(iv) Evaluate current devices and software that support and ensure access to educational materials.

(2) Leveraging its network of professional relationships to increase the awareness and application of accessibility standards among educators, publishers, and technology developers. To meet this requirement, the applicant must:

(i) Demonstrate the extent of its network of educators, publishers, and technology developers;

(ii) Describe its proposed methods to increase the awareness and application of accessibility standards by educators, publishers, and technology developers; and

(iii) Describe its plan for expanding its network to include additional stakeholders in order to maintain relevant expertise in emerging technologies, standards, and guidelines.

(3) Disseminate information on the uses, and potential uses, of emergent technologies, devices, tools, products, and software and accessibility standards and features of AEM for children who are blind or have print disabilities and those with disabilities not traditionally associated with print disabilities. To meet this requirement, the applicant must describe its plan to:

(i) Prepare and disseminate reports, documents, and other materials available in appropriate formats on:

(A) Current industry standards and best practices in the production and dissemination of AEM;

(B) Current technologies used to produce AEM;

(C) Currently available devices and software used to access AEM;

[5] The term ''children'' in this priority includes individuals with disabilities ages birth–21.

(D) Any devices or software developed or modified by the Center;

(E) Processes related to the development or modification of technologies, standards, and guidelines used in the production of AEM, and devices and software used to access AEM; and

(F) Related topics, as requested by OSEP; and

(ii) Communicate using a variety of media and methods (for example, presentations, publications, conference attendance, demonstrations) to reach the broad range of technology developers, publishers, and end users, including educators, children with disabilities, and parents of children with disabilities.

(b) Demonstrate, in the narrative section of the application under ''Quality of Project Services,'' how the proposed project will—

(1) Explore the legal issues around the provision of AEM for children with disabilities not traditionally associated with print disabilities.

(2) Collaborate with publishers and distributors of educational materials to develop and field test models for making AEM available for use by children with disabilities traditionally not associated with print disabilities.

(3) Determine potential uses of new technologies to enhance the accessibility of educational materials.

(4) Collaborate with publishers, AMPs, State educational agencies, LEAs, consumers, and technology developers, vendors, and others with expertise in AEM production, devices, and software, to—

(i) Develop technologies that improve access to and readability of educational materials containing graphic content, including STEM educational materials;

(ii) Develop tools and products to improve the quality and usability of AEM and increase the efficiency of producing AEM, including the production of digital braille files written in Unified English Braille;

(iii) Identify accessibility features specific to the needs of children with disabilities not traditionally associated with print disabilities; and

(iv) Develop new tools or products and modify existing tools and products that address the specialized needs of children with disabilities not traditionally associated with print disabilities.

(c) Demonstrate, in the narrative section of the application under ''Adequacy of Project Resources,'' how the proposed project will—

(1) Include key personnel, consultants, and contractors with sufficient qualifications, experience, and commitment to carry out the proposed activities and achieve the project's intended outcomes.

(2) Encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, linguistic diversity, sex, gender identity, sexual orientation, age, or disability, as appropriate.

(3) Allocate project resources to carry out proposed activities.

(4) Ensure the proposed costs are reasonable in relation to the anticipated results and benefits.

(d) Demonstrate, in the narrative section of the application under ''Quality of Management Plan,'' how the proposed project will—

(1) Ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks.

(2) Pursue a diversity of perspectives, including families, early intervention service providers, educators, publishers, designers, developers, vendors, researchers, parent training and information centers, policy makers, the business community, SEAs and lead agencies, and other OSEP-funded projects.

(3) Communicate effectively between the project and stakeholders and between the project and OSEP including OSEP-funded projects. To address this requirement, the applicant must commit to—

(i) Maintain a Web site that meets government or industry-recognized standards for accessibility;

(ii) Communicate and collaborate on an ongoing basis with OSEP-funded projects, specifically the Center for Parent Information and Resources, National Instructional Materials Access Center, National Center on Accessible Educational Materials for Learning, and Bookshare and Innovation for Education. The collaborations could include the joint development of products, participation in field-testing, and regular communications and updates on Center activities;

(iii) Prior to developing any new product, whether paper, digital, or oral, discuss the content and purpose of the product or event with the OSEP project officer;

(iv) Maintain ongoing communication with the OSEP project officer through biweekly phone conversations and email communication; and

(v) Submit a quarterly progress report to the OSEP project officer.

(e) In the narrative section of the application under ''Quality of the Evaluation Plan,'' include an evaluation plan. The evaluation plan must describe measures of progress in implementation, including the extent to which the project's products and services have reached the target population, and measures of intended outcomes or results of the project's activities in order to assess the effectiveness of those activities.

In the evaluation plan, the applicant must commit to—

(1) Ensure ongoing feedback on the quality of project performance from technology developers, AEM publishers, and end users including educators, persons with disabilities, and parents of children with disabilities.

(2) Assess the cost, quality, usability, and availability of the technologies, including devices and software products, that are developed or modified by the Center.

(3) Designate, with the approval of the OSEP project officer, a project liaison staff person with sufficient dedicated time, experience in evaluation, and knowledge of the project to work in collaboration with the Center to Improve Project Performance (CIPP),[6] the project director, and the OSEP project officer on the following tasks:

(i) Revise, as needed, the logic model submitted in the grant application to reflect any changes or clarifications to the model discussed at the kick-off meeting and to provide for a more comprehensive measurement of implementation and outcomes;

(ii) Refine, as needed, the evaluation design and instrumentation proposed in the grant application consistent with the logic model (*e.g.,* preparing evaluation questions about significant program processes and outcomes, developing quantitative or qualitative data collections that permit both the collection of progress data, including fidelity of implementation, as appropriate, and the assessment of

[6] The major tasks of CIPP are to guide, coordinate, and oversee the design of formative evaluations for every large discretionary investment (*i.e.,* those awarded $500,000 or more per year and required to participate in the 3+2 process) in OSEP's Technical Assistance and Dissemination; Personnel Development; Parent Training and Information Centers; and Educational Technology, Media, and Materials programs. The efforts of CIPP are expected to enhance individual project evaluation plans by providing expert and unbiased technical assistance in designing the evaluations with due consideration of the project's budget. CIPP does not function as a third-party evaluator.

effectiveness, selecting respondent samples if appropriate, designing instruments or identifying data sources, and identifying analytic strategies); and

(iii) Revise, as needed, the evaluation plan submitted in the grant application such that it clearly—

(A) Specifies the measures and associated instruments or sources for data appropriate to the evaluation questions, suggests analytic strategies for those data, provides a timeline for conducting the evaluation, and includes staff assignments for completion of the plan;

(B) Delineates the data expected to be available by the end of the second project year for use during the project's intensive review for continued funding described under the heading Fourth and Fifth Years of the Project; and

(C) Can be used to assist the project director and the OSEP project officer, with the assistance of CIPP as needed, to specify the performance measures to be addressed in the project's Annual Performance Report.

(4) Cooperate with CIPP staff in order to accomplish the tasks described in paragraph (e)(3) of these application requirements.

(5) Dedicate sufficient funds in each budget year to cover the costs of carrying out the tasks described in paragraphs (e)(3) and (e)(4) of these application requirements and implementing the evaluation plan.

(f) In the narrative under ''Required Project Assurances'' or the appendices as directed, the applicant must—

(1) Include, in Appendix A, a logic model that depicts, at a minimum, the project's proposed goals, activities, outputs, and outcomes. A logic model communicates how a project will achieve its outcomes and provides a framework for both the formative and summative evaluations of the project.

Note: The following Web sites provide more information on logic models: *www.researchutilization.org/matrix/logicmodel_resource3c.html* and *www.tadnet.org/pages/589.*

(2) Include, in Appendix A, a conceptual framework for the project.

(3) Include, in Appendix A, person-loading charts (charts listing information such as key project staff, their full-time equivalent, and the number of days allocated to each major activity) and timelines to illustrate the management plan described in the narrative.

(4) Include in the budget:

(i) Attendance at the following:

(A) A one and one-half day kick-off meeting to be held in Washington, DC, after receipt of the award, and an annual planning meeting held in Washington, DC, with the OSEP project officer during each subsequent year of the project period.

Note: Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director or other authorized representative.

(B) A three-day project directors' meeting in Washington, DC, during each year of the project period.

(C) One two-day trip annually to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP.

(D) A one-day meeting in Washington, DC, as described under the heading Fourth and Fifth Years of the Project.

(ii) A line item for a summative evaluation to be conducted by an independent third party.

(iii) A line item for an annual set-aside of five percent of the grant amount to support emerging needs that are consistent with the proposed project's activities, as those needs are identified in consultation with OSEP.

Note: With approval from the OSEP project officer, the Center must reallocate any remaining funds from this annual set-aside no later than the end of the third quarter of each budget period.

Fourth and Fifth Years of the Project

In deciding whether to continue funding the Center for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a), as well as—

(a) The recommendation of a review team consisting of experts selected by the Secretary. This intensive review will be conducted during a one-day meeting in Washington, DC, that will be held during the last half of the second year of the project period;

(b) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the Center; and

(c) The quality, relevance, and usefulness of the Center's activities and products and the degree to which the Center's activities and products have contributed to changed practice and improved student access to the general education curriculum through improved access to high-quality AEM and devices.

References

Abedi, J., & Ewers, N. (2013, February). Smarter balanced assessment consortium: Accommodations for English language learners and students with disabilities. Retrieved from *www.smarterbalanced.org/wordpress/wp-content/uploads/2012/08/Accomodations-for-under-represented-students.pdf.*

Division for Early Childhood of the Council for Exceptional Children. (2014, April). Recommended Practices in Early Intervention/Early Childhood Special Education 2014. Retrieved from *http://dec.membershipsoftware.org/files/DEC%20RPs%206%2025%202014%20final1.pdf.*

Stahl, S. (2004). The promise of accessible textbooks: Increased achievement for all students. Wakefield, MA: National Center on Accessing the General Curriculum. Retrieved from *http://aim.cast.org/learn/historyarchive/backgroundpapers/promise_of_accessible_textbooks#.VE6MEfldXYg.*

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities and requirements. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priority in this notice.

Program Authority: 20 U.S.C. 1474 and 1481.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended in 2 CFR part 3474.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

II. Award Information

Type of Award: Cooperative agreement.

Estimated Available Funds: $700,000 for the first year; and $1,200,000 for each subsequent year.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2016 from the list of unfunded applicants from this competition.

Maximum Award: We will reject any application that proposes a budget exceeding $700,000 for the first year or $1,200,000 for a subsequent year. The Assistant Secretary for Special Education and Rehabilitative Services

may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months with an optional additional 24 months based on performance. Applications must include plans for both the 36-month award and the 24-month extension.

III. Eligibility Information

1. *Eligible Applicants:* SEAs; LEAs, including public charter schools that are considered LEAs under State law; IHEs; other public agencies; private nonprofit organizations; freely associated States and outlying areas; Indian tribes or tribal organizations; and for-profit organizations.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Other General Requirements:* (a) Recipients of funding under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

(b) Each applicant for, and recipient of, funding under this program must involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html.* To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.327B.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the person or team listed under *Accessible Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition. Page Limit: The application narrative (part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit part III to no more than 70 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is 12 point or larger.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit and double-spacing requirement does not apply to part I, the cover sheet; part II, the budget section, including the narrative budget justification; part IV, the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the page limit and double-spacing requirement does apply to all of part III, the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

We will reject your application if you exceed the page limit in the application narrative section or if you apply standards other than those specified in this notice and the application package.

3. *Submission Dates and Times:*

Applications Available: April 8, 2015.

Deadline for Transmittal of Applications: May 26, 2015.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: July 22, 2015.

4. *Intergovernmental Review:* This competition is subject to E. O. 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under E. O. 12372 is in the application package for this program.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry (CCR)), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but

may take upwards of several weeks, depending on the completeness and accuracy of the data entered into the SAM database by an entity. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, you will need to allow 24 to 48 hours for the information to be available in Grants.gov and before you can submit an application through Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. Electronic Submission of Applications

Applications for grants under the Research and Development Center to Advance the Use of New and Emerging Technologies to Ensure Accessibility competition, CFDA number 84.327B, must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the Research and Development Center to Advance the Use of New and Emerging Technologies to Ensure Accessibility competition at *www.Grants.gov.* You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.327, not 84.327B).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material. Additional, detailed information on how to attach files is in the application instructions.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).
- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m.,

Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the Grants.gov system;

and

- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Glinda Hill, U.S. Department of Education, 400 Maryland Avenue SW., room 4063, Potomac Center Plaza (PCP), Washington, DC 20202–2600. FAX: (202) 245–7617.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. Submission of Paper Applications by Mail

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address:

U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.327B), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. Submission of Paper Applications by Hand Delivery

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.327B), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are listed in the application package.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by

ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications. However, if the Department decides to select an equal number of applications in each group for funding, this may result in different cut-off points for fundable applications in each group.

4. *Special Conditions:* Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Department has established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Educational Technology, Media, and Materials for Individuals with Disabilities Program. These measures are included in the application package and focus on the extent to which projects are of high quality, are relevant to improving outcomes of children with disabilities, contribute to improving outcomes for children with disabilities, and generate evidence of validity and availability to appropriate populations. Projects funded under this competition are required to submit data on these measures as directed by OSEP.

Grantees will be required to report information on their project's performance in annual performance reports and additional performance data to the Department (34 CFR 75.590 and 75.591).

5. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Glinda Hill, U.S. Department of Education, 400 Maryland Avenue SW., Room 4063, PCP, Washington, DC 20202–2600. Telephone: (202) 245–7376.

If you use a TDD or a TTY, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., Room 5037, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: April 2, 2015.

Sue Swenson,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2015–08010 Filed 4–7–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

National Nuclear Security Administration

Defense Programs Advisory Committee

AGENCY: Office of Defense Programs, National Nuclear Security Administration, Department of Energy.

ACTION: Notice of closed meeting.

SUMMARY: This notice announces a closed meeting of the Defense Programs Advisory Committee (DPAC). The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of meetings be announced

in the **Federal Register**. Due to national security considerations, under section 10(d) of the Act and 5 U.S.C. 552b(c), the meeting will be closed to the public and matters to be discussed are exempt from public disclosure under Executive Order 1 and the Atomic Energy Act of 1954, 42 U.S.C. 2161 and 2162, as amended.

DATES: April 29, 2015, 8:00 a.m. to 5:00 p.m.—Sandia National Laboratories. April 30, 2015, 7:30 a.m. to 5:00 p.m.—Los Alamos National Laboratory. May 1, 2015, 9:00 a.m. to 5:00 p.m.—Sandia National Laboratory.

ADDRESSES: Sandia National Laboratories, 1515 Eubank SE., Albuquerque, NM 87123; Los Alamos National Laboratory, Los Alamos, NM 87545.

FOR FURTHER INFORMATION CONTACT: Loretta Martin, Office of RDT&E (NA–113), National Nuclear Security Administration, U.S. Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585, (202) 586–7996.

SUPPLEMENTARY INFORMATION:

Background: The DPAC provides advice and recommendations to the Deputy Administrator for Defense Programs on the stewardship and maintenance of the Nation's nuclear deterrent.

Purpose of the Meeting: The purpose of this meeting of the Defense Programs Advisory Committee is to discuss topics and provide advice and guidance with respect to the National Nuclear Security Administration stockpile stewardship and stockpile maintenance programs.

Type of Meeting: In the interest of national security, the meeting will be closed to the public. The Federal Advisory Committee Act, 5 U.S.C., App. 2, section 10(d), and the Federal Advisory Committee Management Regulation, 41 CFR 102–3.155, incorporate by reference the Government in the Sunshine Act, 5 U.S.C. 552b, which, at 552b(c)(1) and (c)(3) permits closure of meetings where restricted data or other classified matters will be discussed. Such data and matters will be discussed at this meeting.

Tentative Agenda: Day 1—Welcome, Topic 1–Session 1, Facility tour, Topic 1–Session 2. Day 2—Topic 1–Session 3, Facility tour, Topic 1–Session 4; Day 3—Welcome, Topic 1–Closeout Session, Executive Session, Conclusion.

Public Participation: There will be no public participation in this closed meeting. Those wishing to provide written comments or statements to the Committee are invited to send them to Loretta Martin at the address listed above.

Minutes: The minutes of the meeting will not be available.

Issued in Washington, DC, on April 2, 2015.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2015–08060 Filed 4–7–15; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[A–1–FRL–9925–92–Region 1]

Notice of Decision To Issue A Clean Air Act Permit Modification For Northeast Gateway Energy Bridge, LLC

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final action.

SUMMARY: This notice announces that EPA Region 1 issued a final permit decision for a Clean Air Act (CAA) permit modification (Permit number RG1–DPA–CAA–01M) to Northeast Gateway Energy Bridge, LLC for the operation of the Northeast Gateway Deepwater Port.

DATES: EPA Region 1 issued a final CAA permit modification decision for the Northeast Gateway Deepwater Port on December 30, 2014. The CAA permit modification for the Northeast Gateway Deepwater Port became final and effective on December 30, 2014. Pursuant to Section 307(b)(1) of the Clean Air Act, 42 U.S.C. 7607(b)(1), judicial review of this final permit decision, to the extent it is available, may be sought by filing a petition for review in the United States Court of Appeals for the First Circuit within 60 days of April 8, 2015.

ADDRESSES: Documents relevant to the above-referenced permit are available for public inspection between 9:00 a.m. and 4:00 p.m. at EPA Region 1's Boston office, John W. McCormack Post Office and Courthouse Building, 5 Post Office Square, Boston, MA. These materials may also be obtained on-line at EPA Region 1's Web site at *http://www.epa.gov/region1/communities/nsemissions.html.*

FOR FURTHER INFORMATION CONTACT: Patrick Bird, Air Permits, Toxics and Indoor Programs Unit, Environmental Protection Agency, EPA Region 1, (617) 918–1287, *bird.patrick@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA Region 1, acting in accordance with provisions of the Deepwater Port Act and the CAA, issued a final CAA permit modification decision on December 30, 2014 to Northeast Gateway Energy Bridge, LLC for the operation of the Northeast Gateway Deepwater Port, located in federal waters off the coast of Massachusetts. Prior to the permit being finalized, a draft permit was issued, and the permit underwent a public comment period, which included a public hearing. EPA Region 1 received no comments during the public comment period. All conditions of the Northeast Gateway Deepwater Port modified permit (Permit number RG1–DPA–CAA–01M) became final and effective on December 30, 2014.

Dated: March 11, 2015.

Deborah A. Szaro,

Acting Regional Administrator, EPA Region 1.

[FR Doc. 2015–08087 Filed 4–7–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OARM–2014–0857; 9925–40–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Background Checks for Contractor Employees (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), Background Checks for Contractor Employees (Renewal)—EPA ICR No. 2159.06, OMB Control No. 2030–0043, to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through April 30, 2015. Public comments were previously requested via the **Federal Register** (80 FR 6956) on February 9, 2015, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before May 8, 2015.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OARM–2014–0857, to: (1) EPA, online using *www.regulations.gov* (our preferred method), by email to

oei.docket@epa.gov, or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460; and (2) OMB, via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Dianne Lyles, Policy Training and Oversight Division, Office of Acquisition Management (3802R), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–564–6111; fax number: 202–565–2553; email address: *lyles.dianne@epa.gov*.

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets*.

Abstract: EPA uses contractors to perform services throughout the nation with regard to environmental emergencies involving the release or threatened release of oil, radioactive materials or hazardous chemicals that may potentially affect communities and the surrounding environment. The Agency may request contractors responding to any of these types of incidents to conduct background checks and apply government-established suitability criteria in Title 5 of the CFR (Administrative Personnel), Sections 731.104 (Appointments Subject to Investigation), 732.201 (Sensitivity Level Designations and Investigative Requirements), and 736.102 (Notice to Investigative Sources), when determining whether employees are acceptable to perform on given sites or on specific projects. In addition to emergency response contractors, EPA may require background checks for contractor personnel working in sensitive sites or sensitive projects. The background checks and application of the government's suitability criteria must be completed prior to contract employee performance. The contractor shall maintain records associated with all background checks. Background checks cover citizenship or valid visa status, criminal convictions, weapons offenses, felony convictions, and parties prohibited from receiving federal contracts.

Form Numbers: None.

Respondents/affected entities: Private Contractors.

Respondent's obligation to respond: Required to obtain or retain a benefit under 5 CFR 731.104, 732.201 and 736.102.

Estimated number of respondents: 1,000.

Frequency of response: Annual.

Total estimated burden: 1,000 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $190,900 (per year), which includes no annualized capital or operation and maintenance costs.

Changes in the Estimates: There is an increase of 450 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This is an adjustment to correct an error made when the current ICR was approved. While the currently approved supporting statement included 1,000 burden hours, this number was incorrectly entered into OMB's system as 450 hours. The correct hour burden, 1,000 hours, has not changed.

Rebecca Moser,

Deputy Director, Office of Information Collection.

[FR Doc. 2015–08058 Filed 4–7–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2014–0888; FRL–9924–75]

Notice of Receipt of Requests for Amendments To Terminate Uses in Certain Pesticide Registrations; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; correction.

SUMMARY: EPA issued a notice in the **Federal Register** of February 25, 2015, concerning Amendments to Terminate Uses in Certain Pesticide Registrations. This document corrects the uses being terminated for registration number 39967–118.

FOR FURTHER INFORMATION CONTACT: Christopher Green, Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 347–0367; email address: *green.christopher@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

The Agency included in the February 25, 2015 notice, a list of those who may be potentially affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2014–0888, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets*.

II. What does this correction do?

FR Doc. 2015–03926, published in the **Federal Register** of February 25, 2015, (80 FR 10091) (FRL–9921–65) is corrected as follows:

On page 10091, fourth column, under the heading, Use to be terminated, paragraph 1, line 4, correct Arts, Crafts Latex, Finger Paints, Paints, Coating, Inks & Dyes to read Arts/Crafts Latex/Finger Paints.

Authority: 7 U.S.C. 136 *et seq.*

Dated: March 19, 2015.

Mark A. Hartman,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2015–07951 Filed 4–7–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2015–0206; FRL–9924–90]

Pesticide Experimental Use Permit; Receipt of Application; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's receipt of an application 100–EUP–RRA from Syngenta Crop Protection, LLC requesting an experimental use permit (EUP) for the termiticide Altriset containing the active ingredient chlorantraniliprole. The Agency has determined that the permit may be of regional and national significance. Therefore, because of the potential significance, EPA is seeking comments on this application.

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

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2015–0206 by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html*.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets*.

FOR FURTHER INFORMATION CONTACT: Susan Lewis; Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. Although this action may be of particular interest to those persons who conduct or sponsor research on pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action.

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

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html*.

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide discussed in this document, compared to the general population.

II. What action is the Agency taking?

Under section 5 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. 136c, EPA can allow manufacturers to field test pesticides under development. Manufacturers are required to obtain an EUP before testing new pesticides or new uses of pesticides if they conduct experimental field tests on 10 acres or more of land or one acre or more of water.

Pursuant to 40 CFR 172.11(a), the Agency has determined that the following EUP application may be of regional and national significance, and therefore is seeking public comment on the EUP application:

Submitter: Syngenta Crop Protection, LLC (100–EUP–RRA).

Pesticide Chemical: Chlorantraniliprole.

Summary of Request: Syngenta Crop Protection, LLC, has submitted an EUP application for 100–EUP–RRA for the termiticide Altriset containing the active ingredient chlorantraniliprole, to test a defined treatment on or around 100–125 residential and commercial structures infested with subterranean termites. Proposed shipment/use dates are February 1, 2015 through December 1, 2017. The total quantity of product proposed for shipment/use is 510 pounds of formulated product (94 pounds active ingredient). The states involved include Alabama, Arizona, Arkansas, California, Florida, Georgia, Iowa, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Nebraska, Nevada, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia.

Following the review of the application and any comments and data received in response to this solicitation, EPA will decide whether to issue or deny the EUP request, and if issued, the conditions under which it is to be conducted. Any issuance of an EUP will be announced in the **Federal Register**.

Authority: 7 U.S.C. 136 *et seq.*

Dated: March 26, 2015.

Susan Lewis,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2015–07824 Filed 4–7–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012067–011.

Title: U.S. Supplemental Agreement to HLC Agreement.

Parties: BBC Chartering & Logistics GmbH & Co. KG; Beluga Chartering GmbH; Chipolbrok; Clipper Projects Ltd; Hyundai Merchant Marine Co., Ltd.; Industrial Maritime Carriers, L.L.C.; Nordana Line A/S; and Rickmers-Linie GmbH & Cie. KG.

Filing Party: Wade S. Hooker, Esq.; 211 Central Park W; New York, NY 10024.

Synopsis: The amendment would delete Beluga Chartering GmbH and Clipper Projects Ltd. as parties to the U.S. agreement, change the addresses of

other parties to the U.S. agreement, change the criteria for membership in the U.S. and HLC agreements, and update the list of other parties to the HLC agreement.

Agreement No.: 012325.

Title: EUKOR Car Carriers, Inc./Hoegh Autoliners Middle East Space Charter Agreement.

Parties: EUKOR Car Carriers, Inc. and Hoegh Autoliners AS.

Filing Party: Neal M. Mayer Esq.; Hoppel, Mayer & Coleman; 1050 Connecticut Ave. NW.; Washington, DC 20036.

Synopsis: The agreement establishes a space charter agreement in the trade between the U.S. East and Gulf Coasts on the one hand, and ports along the Arabian Sea, Red Sea, Persian Gulf and Middle East, India and Pakistan on the other hand.

By Order of the Federal Maritime Commission.

Dated: April 3, 2015.

Karen V. Gregory,

Secretary.

[FR Doc. 2015–08083 Filed 4–7–15; 8:45 am]

BILLING CODE 6730–AA–P

FEDERAL MARITIME COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Federal Maritime Commission.

TIME AND DATE: April 13, 2015; 10:00 a.m.

PLACE: 800 N. Capitol Street NW., First Floor Hearing Room, Washington, DC.

STATUS: The first portion of the meeting will be held in Open Session; the second in Closed Session.

MATTERS TO BE CONSIDERED:

Closed Session

1. Staff Report on Rules, Rates, and Practices Relating to Detention, Demurrage, and Free Time for Containerized Imports and Exports Moving Through Selected U.S. Ports
2. Discussion on Congestion at U.S. Ports and Major Carrier Alliances Presented by Commissioner Khouri

CONTACT PERSON FOR MORE INFORMATION: Karen V. Gregory, Secretary, (202) 523–5725.

Karen V. Gregory,

Secretary.

[FR Doc. 2015–08184 Filed 4–6–15; 4:15 pm]

BILLING CODE 6731–AA–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and section 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 23, 2015.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Trinity Capital Corporation Employee Stock Ownership Plan, Los Alamos, New Mexico, and co-trustee John Brunett*, Santa Fe, New Mexico; to retain voting shares of Trinity Capital Corporation, and thereby indirectly retain voting shares of Los Alamos National Bank, both in Los Alamos, New Mexico.

Board of Governors of the Federal Reserve System, April 3, 2015.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2015–08047 Filed 4–7–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

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

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

The applications listed below, as well as other related filings required by the Board, 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 May 4, 2015.

A. Federal Reserve Bank of St. Louis (Yvonne Sparks, Community Development Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *LINCO Bancshares, Inc.,* Columbia, Missouri; to acquire 100 percent of the voting shares of Community First Bank, Fairview Heights, Illinois.

B. Federal Reserve Bank of Dallas (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Newcastle Bancshares, Inc.,* Newcastle, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers State Bank of Newcastle, Newcastle, Texas.

Board of Governors of the Federal Reserve System, April 3, 2015.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2015–08046 Filed 4–7–15; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in section 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted,

these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 23, 2015.

A. Federal Reserve Bank of San Francisco (Gerald C. Tsai, Director, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *Cathay Financial Holding Co., Ltd., Cathay Life Insurance Co., Ltd., Liang Ting Industrial Co., Ltd., Lin Yuan Investment Co., Ltd., Pai Hsing Investment Co., Ltd., Tung Chi Capital Co., Ltd., and Wan Ta Investment Co., Ltd.*, all in Taipei, Taiwan; to acquire Conning Holdings Corp., Hartford, Connecticut, and thereby engage in financial and investment advisory activities, and agency transactional services for customer investments, pursuant to sections 225.28(b)(6)(i) and 225.28(b)(7)(i).

Board of Governors of the Federal Reserve System, April 3, 2015.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2015–08045 Filed 4–7–15; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

[Notice–CECANF–2015–03; Docket No. 2015–0004; Sequence No. 3]

Commission To Eliminate Child Abuse and Neglect Fatalities; Announcement of Meeting

AGENCY: Commission to Eliminate Child Abuse and Neglect Fatalities, GSA.

ACTION: Meeting Notice.

SUMMARY: The Commission to Eliminate Child Abuse and Neglect Fatalities (CECANF), a Federal Advisory Committee established by the Protect Our Kids Act of 2012, will hold a meeting open to the public on Tuesday, April 28, 2015 and Wednesday, April 29, 2015 in Memphis, Tennessee.

DATES: The meeting will be held on Tuesday, April 28, 2015, from 8:00 a.m. to 5:15 p.m. Central Daylight Time (CDT), and Wednesday, April 29, 2015, from 8:00 a.m. to 1:00 p.m. Central Daylight Time (CDT). Comments regarding this meeting must be received by Friday, April 24, 2015, for consideration prior to the meeting.

ADDRESSES: CECANF will convene its meeting at the Spring Hill Suites Memphis Downtown, 85 West Court Ave., Memphis, TN 38103. This site is accessible to individuals with disabilities. The meeting also will be made available via teleconference and/or webinar.

Submit comments identified by ''Notice–CECANF–2015–03,'' by either of the following methods:

- Regulations.gov: *http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for ''Notice–CECANF–2015–03.'' Select the link ''Comment Now'' that corresponds with ''Notice–CECANF–2015–03.'' Follow the instructions provided on the screen. Please include your name, organization name (if any), and ''Notice–CECANF–2015–03'' on your attached document.
- Mail: U.S. General Services Administration, 1800 F Street NW., Room 7003D, Washington, DC 20405, Attention: Tom Hodnett (CD) for CECANF.

Instructions: Please submit comments only and cite ''Notice–CECANF–2015–03'' in all correspondence related to this notice. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Visit the CECANF Web site at *https://eliminatechildabusefatalities.sites.usa.gov/* or contact Patricia Brincefield, Communications Director, at 202–818–9596, U.S. General Services Administration, 1800 F Street NW., Room 7003D, Washington, DC 20405, Attention: Tom Hodnett (CD) for CECANF.

SUPPLEMENTARY INFORMATION:

Background: CECANF was established to develop a national strategy and recommendations for reducing fatalities resulting from child abuse and neglect.

Agenda: This meeting will explore key research, policy, and practice in the state of Tennessee related to addressing and preventing child abuse and neglect fatalities. Speakers will address the role of child advocacy centers and methods of developing and implementing a safety-based culture in challenging environments. Commission members will then continue discussing the work plans of the Commission subcommittees, the information that they have obtained to date, and emerging high-level recommendations.

Attendance at the Meeting: Individuals interested in attending the meeting in person or participating by webinar and teleconference must register in advance. To register to attend in person or by webinar/phone, please go to *http://meetingtomorrow.com/webcast/CECANF* and follow the prompts. Once you register, you will receive a confirmation email with the webinar login and teleconference number. Detailed meeting minutes will be posted within 90 days of the meeting. Members of the public will not have the opportunity to ask questions or otherwise participate in the meeting.

However, members of the public wishing to comment should follow the steps detailed under the heading **ADDRESSES** in this publication or contact us via the CECANF Web site at *https://eliminatechildabusefatalities.sites.usa.gov/contact-us/.*

Dated: April 1, 2015.

Karen White,

Executive Assistant.

[FR Doc. 2015–08006 Filed 4–7–15; 8:45 am]

BILLING CODE 6820–34–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0112; Docket 2015–0001; Sequence 9]

Information Collection; Federal Management Regulation; State Agency Monthly Donation Report of Surplus Property, GSA Form 3040

AGENCY: Federal Acquisition Service, General Services Administration (GSA).

ACTION: Notice of request for public comments regarding a renewal to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding State Agency Monthly Donation Report of Surplus Property, GSA Form 3040.

DATES: Submit comments on or before June 8, 2015.

ADDRESSES: Submit comments identified by Information Collection 3090–0112, State Agency Monthly Donation Report of Surplus Personal Property by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.*

Submit comments via the Federal eRulemaking portal by searching for Information Collection 3090–0112. Select the link ''Comment Now'' that corresponds with ''Information Collection 3090–0112; State Agency Monthly Donation Report of Surplus Personal Property'' under the heading ''Enter Keyword or ID'' and select ''Search''. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 3090–0112, State Agency Monthly Donation Report of Surplus Personal Property''. Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Information Collection 3090–0112, State Agency Monthly Donation Report of Surplus Personal Property'' on your attached document.

- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 3090–0112, State Agency Monthly Donation Report of Surplus Personal Property.

Instructions: Please submit comments only and cite Information Collection 3090–0112, State Agency Monthly Donation Report of Surplus Personal Property, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Joyce Spalding, Federal Acquisition Service, GSA at telephone 703–605–2888 or via email to *joyce.spalding@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

This report complies with Public Law 94–519, which requires annual reports of donations of personal property to public agencies for use in carrying out such purposes as conservation, economic development, education, parks and recreation, public health, and public safety.

B. Annual Reporting Burden

Respondents: 55.
Responses per Respondent: 4.
Total Responses: 220.
Hours per Response: 1.5.
Total Burden Hours: 330.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate and based on valid assumptions and methodology; and ways to enhance the quality, utility, and clarity of the information to be collected.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20006, telephone 202–501–4755. Please cite OMB Control No. 3090–0112, GSA Form 3040, State Agency Monthly Donation Report of Surplus Personal Property, in all correspondence.

Dated: March 31, 2015.

David Shive,

Acting Chief Information Officer.

[FR Doc. 2015–08002 Filed 4–7–15; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–15–15XT;Docket No. CDC–2015–0017]

Proposed Data Collection Submitted for Public Comment and Recommendations

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

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, 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. This notice invites comment on Enhancing Mine Workers' Abilities to Identify Hazards at Sand, Stone, and Gravel (SSG) Mines. The objective of this project is to characterize SSG mine workers ability to recognize worksite hazards, to understand how this ability relates to perceived and measured risk as well as to other factors internal and external to the SSG mine worker.

DATES: Written comments must be received on or before June 8, 2015.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2015–0017 by any of the following methods:

Federal eRulemaking Portal: *Regulation.gov.* Follow the instructions for submitting comments.

Mail: Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov*, including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov*.

Please note: All public comment should be submitted through the Federal eRulemaking portal (Regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

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

or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

Enhancing Mine Workers' Abilities to Identify Hazards at Sand, Stone, and Gravel Mines—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

NIOSH, under Pub. L. 91–173 as amended by Pub. L. 95–164 (Federal Mine Safety and Health Act of 1977), and Pub. L. 109–236 (Mine Improvement and New Emergency Response Act of 2006) has the responsibility to conduct research to improve working conditions and to prevent accidents and occupational diseases in underground coal and metal/nonmetal mines in the U.S.

Hazard recognition is only the first step to a safe work environment. A miner must be able to identify a hazard, recognize the risk associated with the hazard, and then make a decision of how to mitigate the risk and perform the task safely. Risk is defined as the combination of the likelihood an event will occur and the adverse consequences of that event (Brown & Groeger, 1988). Risk perception, the recognition of the risk inherent in a situation, influences decision making with regards to job safety (Hunter, 2002). Being able to recognize worksite hazards and then accurately perceive the associated risk are critical skills that lead to the work behavior decision-making process that is used to eliminate or reduce mining hazards related to operations and maintenance of machinery, operation of powered haulage, material handling, etc. that can result in injury or death.

Hazard recognition is integral to risk perception, situational awareness, and decision making—that is, if the mine worker is unable to recognize worksite hazards, then steps cannot be taken to eliminate or mitigate them. Thus, the mine worker must first be able to recognize that a hazard is present in the environment and then understand the risk the hazard poses to their safety and health in order to make the best decision possible about how to deal with the hazard. Hazard recognition is a necessary skill for all mine workers; therefore, a better understanding of the hazard recognition process within the mining environment is a critical need that this research will fulfill for the industry.

Given the aforementioned, the objective of the project is to characterize SSG mine workers' ability to recognize worksite hazards, to understand how this ability relates to perceived and measured risk as well as to other factors internal and external to the SSG mine worker.

In order to determine how SSG mine workers' recognize and understand the risk associated with mine site hazards, NIOSH will conduct a laboratory-based experimental research study. Throughout the laboratory study, participants will wear a light weight eye-tracking system. Eye-movements will be collected throughout the task so that search patterns can be mapped during analysis to determine differences based on level of experience. NIOSH will also collect identification accuracy data to determine whether level of experience affects the number of hazards identified.

NIOSH will collect additional measures related to perceived risk and risk tolerance. Researchers will assess perceived risk using a Risk Assessment measure which has three parts: (1) An overall evaluation of risk level; (2) an evaluation of accident severity; and (3) an evaluation of risk probability. This will be done for each hazard included in the study.

Researchers will assess Risk Tolerance in two ways: (1) Through the use of the Risk Propensity Scale (Meertens & Lion, 2008) and (2) through the use of Risk Tolerance Workplace Scenarios (Lehmann, Haight, & Michael, 2009). NIOSH will also collect qualitative data through the use of open-ended interview questions.

NIOSH will collect data from SSG mine workers, SSG safety professionals, and students knowledgeable of safety and health issues at SSG mine sites but who have limited work experience on a mine site. The purposes of collecting data from these three groups of participants are to identify differences in hazard recognition abilities and determine how these abilities change—and whether they change—with level of experience and amount of experience with hazards at SSG mine sites.

The total estimated burden hours are 160. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number responses per respondent	Avg. burden per response (in hrs.)	Total burden (in hrs.)
Mine Employee	Prescreening Questionnaire	45	1	15/60	11
Safety Professional	Prescreening Questionnaire	20	1	15/60	5
Student	Prescreening Questionnaire	20	1	15/60	5
Mine Employee	Informed Consent	30	1	6/60	3
Safety Professional	Informed Consent	15	1	6/60	2
Student	Informed Consent	15	1	6/60	2
Mine Employee	Demographic Questionnaire	30	1	6/60	3
Safety Professional	Demographic Questionnaire	15	1	6/60	2
Student	Demographic Questionnaire	15	1	6/60	2
Mine Employee	Experimental Task	30	1	60/60	30
Safety Professional	Experimental Task	15	1	1	15
Student	Experimental Task	15	1	1	15
Mine Employee	Risk Assessment Measure	30	1	20/60	10
Safety Professional	Risk Assessment Measure	15	1	20/60	5
Student	Risk Assessment Measure	15	1	20/60	5

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number responses per respondent	Avg. burden per response (in hrs.)	Total burden (in hrs.)
Mine Employee	Risk Propensity Scale	30	1	6/60	3
Safety Professional	Risk Propensity Scale	15	1	6/60	2
Student	Risk Propensity Scale	15	1	6/60	2
Mine Employee	Mine Specific Risk Tolerance Measure	30	1	6/60	3
Safety Professional	Mine Specific Risk Tolerance Measure	15	1	6/60	2
Student	Mine Specific Risk Tolerance Measure	15	1	6/60	2
Mine Employee	Open Ended Questions	30	1	30/60	15
Safety Professional	Open Ended Questions	15	1	30/60	8
Student	Open Ended Questions	15	1	30/60	8
Total					160

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2015–08026 Filed 4–7–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces a meeting for the initial review of applications in response to (FOA) DP15–002, Population-based Diabetes in Youth Registry.

Time and Date: 11 a.m.–6 p.m., April 29, 2015 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c) (4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters for Discussion: The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Population-based Diabetes in Youth Registry, DP15–002, initial review.''

Contact Person for More Information: Brenda Colley Gilbert, Ph.D., M.S.P.H., Director, Extramural Research Program Operations and Services, CDC, 4770 Buford Highway NE., Mailstop F–80, Atlanta, Georgia 30341, Telephone: (770) 488–6295, *BJC4@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Catherine Ramadei,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2015–07998 Filed 4–7–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–15–15UJ; Docket No. CDC–2015–0019]

Proposed Data Collection Submitted for Public Comment and Recommendations

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

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, 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. This notice invites comment on procedures to conduct interviews with Age Friendly Initiative, Senior Village, and local health department staff, as well as surveys of older adults.

DATES: Written comments must be received on or before June 8, 2015.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2015–0019 by any of the following methods:

- Federal eRulemaking Portal: *Regulation.gov.* Follow the instructions for submitting comments.
- Mail: Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov*, including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov.*

Please note: All public comment should be submitted through the Federal eRulemaking portal (Regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road, NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of

previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

Examining how Local Health Departments can Leverage Age-Friendly Cities Initiatives to Build Resilience in Elderly Populations—New—Office of Public Health Preparedness and Response (OPHPR), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Despite considerable progress in efforts to define and build community resilience (CR), critical gaps remain in addressing the needs of older adults (age 60+), which is expected to rise to 25% by 2050. Age Friendly Initiatives (AFIs), including Senior Villages (SV) represent a promising strategy for U.S. communities and cities to support older adults aging in place, and could potentially build CR. However, few AFIs have wholly incorporated the critical element of emergency preparedness and resilience. Even when these domains have been included, there is no evaluation of whether these efforts have resulted in improved resilience outcomes among seniors (*e.g.,* greater self-sufficiency).

CDC is requesting a 24-month OMB clearance period to conduct and analyze telephone interview data to identify how current AFIs and CR efforts align; understand AFI and SV relationships with LHDs; clarify the process through which policymakers can incorporate CR into AFIs; survey test sites in a quasi-experimental design of AFIs currently underway; and develop a toolkit to help LHDs identify the need for AFIs, evaluate and monitor AFIs ability to improve resilience, develop effective and efficient partnerships with AFIs to expand AFI–LHD efforts across the U.S to build community resilience.

RAND Corporation research staff will conduct the telephone interviews (average of 30 minutes) over a 3–9 month period beginning approximately one month after OMB approval. The target universe for the interviews with key informants comprises three types of respondents (a) SV executive directors; (b) AFI staff; and (c) local public health department officials. SVs are neighborhood-based and are grassroots organizations usually led by older adult residents. AFIs in the U.S. can be either city-based or county-based and are led by city/county-level administration, health departments, academic centers, and/or volunteer organizations. CDC will recruit no more than 30 SV executive directors, 31 staff from AFIs, and 15 local health department officials.

To assess the variability in AFIs and SVs and identify opportunities for integrating community resilience goals and activities into their development and ongoing activities, CDC will conduct qualitative interviews using semi-structured interview guides (each interview guide for the three groups is different). These interview guides ask about the AFIs' or SVs' structure, stage of implementation, linkage with public health departments, and whether (and what types) of emergency preparedness (EP) activities are provided to older adults in their community.

For the telephone survey of older adults, data collection by a survey firm will take place over a 9–15 month period beginning approximately 9 months after OMB approval. The sample will comprise of 1,550 adults age 65 and older from three types of communities: Communities with SVs that engage in EP activities, communities with SVs that do not engage in EP activities, and control communities without SVs or other AFIs.

The survey firm will conduct a random digit dial (RDD) survey (approximately 20 minutes) of 1,550 older adults to evaluate the effects of being village member versus not living in a SV, and the effects of living in a SV with EP preparedness activities.

SV members will be identified and recruited in two ways: Member lists with contact information will be submitted to the research team by SV executive directors or SV executive directors will send a recruitment letter on our behalf. The survey will begin with a screening question to identify SV member status (1–2 minutes). We anticipate that we will need to screen out approximately 1,431 participants to identify our target sample: SV members who live in an SV that does engage in EP activities; SV members who live in a SV that do not engage in EP activities; and older adults that do not live in a SV. The outcomes and control variables we will measure in the survey of older adults are: Disaster resilience, social connectedness, self-sufficiency, emotional resilience, attention to health needs, exposure to age-friendly initiatives, age, gender, race/ethnicity, length of time living in community, current living situation, income, and presence of chronic health conditions.

There are no costs to respondents other than their time. The total estimated annual burden hours are 580. A summary of annualized burden hours is below.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs)	Total burden (in hrs)
Age Friendly Initiative Staff	Interview Guide for Age Friendly Initiative Staff.	31	1	30/60	16
Senior Village Director	Interview Guide for Senior Village Director.	30	1	30/60	15

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs)	Total burden (in hrs)
Local Health Department Representative.	Interview Guide for Local Health Department Representative.	15	1	30/60	8
Older Adult—Screened Out	Senior Village Survey	1,431	1	1/60	24
Older Adult—Participant	Senior Village Survey	1,550	1	20/60	517
Total					580

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2015–08027 Filed 4–7–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces a meeting for the initial review of applications in response to (FOA) DP15–001, Natural Experiments of the Impact of Population-targeted Health Policies to Prevent Diabetes and its Complications.

Time And Date: 11 a.m.–6 p.m., May 5–6, 2015 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters For Discussion: The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Natural Experiments of the Impact of Population-targeted Health Policies to Prevent Diabetes and its Complications, DP15–001, initial review.''

Contact Person For More Information: Brenda Colley Gilbert, Ph.D., M.S.P.H., Director, Extramural Research Program Operations and Services, CDC, 4770 Buford Highway NE., Mailstop F–80, Atlanta, Georgia 30341, Telephone: (770) 488–6295, *BJC4@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Catherine Ramadei,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2015–07997 Filed 4–7–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–15–1005; Docket No. CDC–2015–0018]

Proposed Data Collection Submitted for Public Comment and Recommendations

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

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, 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. This notice invites comment on the information collection request for reinstatement with change of the collection previously approved under OMB control number 0920–1005—''*Conduct an Older Adult Mobility Assessment Tool Impact Evaluation and Develop a Dissemination Plan*''. This collection will help evaluate whether the Mobility Planning Tool is effective for promoting readiness to adopt mobility-protective behaviors in older adults.

DATES: Written comments must be received on or before June 8, 2015.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2015–0018 by any of the following methods:

Federal eRulemaking Portal: *Regulation.gov.* Follow the instructions for submitting comments.

Mail: Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov*, including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov*.

Please note: All public comment should be submitted through the Federal eRulemaking portal (*Regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the

collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

Conduct an Older Adult Mobility Assessment Tool Impact Evaluation and Develop a Dissemination Plan (OMB Control No. 0920–1005)—Reinstatement with Change—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC's National Center for Injury Prevention and Control (NCIPC) requests approval for 3 years, from the Office of Management and Budget (OMB) for a reinstatement with change for the previously approved OMB No. 0920–1005 (Exp. Date: 12–31–2014) designed to evaluate whether the Mobility Planning Tool is effective for promoting readiness to adopt mobility-protective behaviors in older adults and assess potential strategies for dissemination of the Mobility Planning Tool. With this reinstatement, NCIPC requests a change of title from ''*Older Adult Safe Mobility Assessment Tool*'' *to* ''*Conduct an Older Adult Mobility Assessment Tool Impact Evaluation and Develop a Dissemination Plan.*''

The population of older adults in the U.S. is growing rapidly. By 2030, this segment of the population will increase to an estimated 72 million (20% of the U.S. population). A critical public health issue for the older adult population is mobility—how well people are able to get to places they need to go. The goals of this study are to evaluate (1) whether the Mobility Planning Tool (MPT) is effective for promoting readiness to adopt mobility-protective behaviors in older adults and (2) assess potential strategies for dissemination of the MPT.

NCIPC will collect study data using telephone interviews. The study population is community-living older adults ages 60–74 with no known mobility limitations. A total of 1,000 individuals will participate in the study. Prospective respondents will answer a series of screening questions. Individuals who meet the screening criteria and are willing to participate will complete a baseline and follow-up interview each lasting approximately 10 minutes.

NCIPC will analyzed the collected data using descriptive statistics and a series of t-tests, chi-square analyses, and Mann-Whitney U-tests. Multivariate analyses will include a series of repeated measures Analysis of Variance (ANOVA), and logistic regressions.

The data collected from this study will help CDC identify what further revisions to the MPT might be necessary before it is disseminated publicly. Selected study findings may eventually be presented in oral and poster presentations and published in a peer-reviewed journal. Without this information collection, CDC will not know whether the MPT is an effective tool for promoting readiness to adopt mobility-protective behaviors in older adults and will not know whether additional revisions to the tool are necessary before the MPT is disseminated publicly. Without this study, CDC will have limited information about what strategies are most likely to be effective for disseminating the MPT publicly to the target audience.

The total estimated annual burden hours are 734.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Individuals Responding to Initial Phone Call Who Refuse to be Screened.	Screening Interview Guide	2,500	1	1/60	42
Individuals Responding to Initial Phone Call Responding to Screening Questions.	Screening Interview Guide	1,500	1	5/60	125
Study Participants	Baseline Interview Guide	1,000	1	10/60	167
Study Participants	MPT	500	1	30/60	250
Study Participants	Follow-up Interview Guide	900	1	10/60	150
Total					734

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2015–08028 Filed 4–7–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–0986]

Center for Devices and Radiological Health: Experiential Learning Program

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA), Center for Devices and Radiological Health (CDRH or Center) is announcing the 2015 Experiential Learning Program (ELP). This training component is intended to provide CDRH staff with an opportunity to understand the policies, laboratory practices, and challenges faced in broader disciplines that impact the device development life cycle. The purpose of this document is to invite medical device industry, academia, and health care facilities to apply to participate in this formal training program for FDA's medical device review staff, or to contact CDRH for more information regarding the ELP.

DATES: Submit either an electronic or written request for participation in the ELP by May 8, 2015. The proposal should include a description of your facility relative to focus areas described in tables 1or 2). Please include the Area of Interest (see tables 1or 2) that the site visit will demonstrate to CDRH staff, a contact person, site visit location(s), length of site visit, proposed dates, and maximum number of CDRH staff that can be accommodated during a site visit. Proposals submitted without this minimum information will not be considered. In addition, please include an agenda outlining the proposed training for the site visit. A sample request and agenda are available on the ELP Web site at *http://www.fda.gov/downloads/ScienceResearch/ScienceCareerOpportunities/UCM392988.pdf* and *http://www.fda.gov/scienceresearch/sciencecareeropportunities/ucm380676.htm.*

ADDRESSES: Submit either electronic requests to *http://www.regulations.gov* or written requests to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Identify proposals with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Latonya Powell, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5232, Silver Spring, MD 20993–0002, 301–796–6965, FAX: 301–827–3079, *Latonya.powell@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

CDRH is responsible for ensuring the safety and effectiveness of medical devices marketed in the United States. Furthermore, CDRH assures that patients and providers have timely and continued access to high-quality, safe, and effective medical devices. In support of this mission, the Center launched various training and development initiatives to enhance performance of its staff involved in regulatory review and in the premarket review process. One of these initiatives, the ELP Pilot, was launched in 2012 and fully implemented on April 2, 2013 (78 FR 19711). CDRH is committed to advancing regulatory science; providing industry with predictable, consistent, transparent, and efficient regulatory pathways; and helping to ensure consumer confidence in medical devices marketed in the United States and throughout the world. The ELP is intended to provide CDRH staff with an opportunity to understand the policies, laboratory practices, and challenges faced in broader disciplines that impact the device development life cycle. This is a collaborative effort to enhance communication and facilitate the premarket review process. Furthermore, CDRH is committed to understanding current industry practices, innovative technologies, regulatory impacts, and regulatory needs.

These formal training visits are not intended for FDA to inspect, assess, judge, or perform a regulatory function (*e.g.,* compliance inspection), but rather, they are an opportunity to provide CDRH review staff a better understanding of the products they review. Through this notice, CDRH is formally requesting participation from companies, academia, and clinical facilities, including those that have previously participated in the ELP or other FDA site visit programs.

II. ELP

A. ELP Training Component

In this training program, groups of CDRH staff will observe operations at research, manufacturing, academia, and health care facilities. The focus areas and specific areas of interest for visits may include the following:

TABLE 1—AREAS OF INTEREST—MEDICAL DEVICES/TECHNOLOGY

Focus area	Specific areas of interest
Failure analysis of orthopedic devices.	Methods for retrieval and preservation of failed implants for analysis; understanding how retrieved implants may be analyzed; methods for identifying failure modes; understanding how analysis of failed implants influences device design modifications.
Radiologic analysis of orthopedic devices.	Methods of radiologic analysis and associated data analyses; radiologic imaging core laboratories.
Automated external defibrillators (AEDs).	Manufacturing process; incoming component inspection; design verification testing; human factors testing; returned product testing (as available).
Diagnostic imaging catheters for cardiovascular diseases.	Manufacturing process; design verification testing; returned product testing (as available); ultrasound, optical coherence tomography (OCT), and near infrared spectroscopy (NIS) catheters.
Endovascular grafts for treatment of aortic aneurysms.	Physician-sponsored clinical studies; observation of endovascular grafting surgical procedure; surgical planning process; factors that influence device modifications (e.g., patient anatomy, patient pathology).
Animal models for evaluation of hemostatic devices.	Models of traumatic injury and severe hemorrhage; limitations of the model; understanding the relevance of the data generated from these models in evaluating hemostatic devices.
Hyaluronic acid in dermal tissue fillers.	Manufacturing process; source materials; performance testing (e.g., material characterization, biocompatibility, residence time).
Minimally invasive glaucoma surgery (MIGS) devices.	Observation of a MIGS procedure; surgical planning; surgical challenges.

TABLE 1—AREAS OF INTEREST—MEDICAL DEVICES/TECHNOLOGY—Continued

Focus area	Specific areas of interest
Neurointerventional devices	Stents, flow-diverters, mesh balls, coils, and other related devices; observation of surgical procedures; understanding of clinical decision making for relevant patient populations; manufacturing; performance testing.
Implantable functional electrical stimulation devices.	Observation of implantation procedure; surgical challenges.
Male condoms	Manufacturing process; lot release testing (e.g., airburst, water leak, dimensional analysis).
Solid organ preservation devices	Observation of organ preservation procedures; pulsatile perfusion (for either cold storage or normothermia).
Infusion pumps	Manufacturing process; device design considerations; patch pumps; insulin pumps; implantable infusion pumps; implantable ports.
Bone grafting materials for dental applications.	Manufacturing process; sourcing process; viral inactivation testing; animal testing.

TABLE 2—AREAS OF INTEREST—IN VITRO DIAGNOSTIC AND RADIOLOGICAL DEVICES/TECHNOLOGY

Focus area	Specific areas of interest
Manufacturing of glucose test strips and meters.	Observation of the manufacturing and in-process and finished device testing of glucose monitoring devices.
Manufacturing of continuous glucose monitoring systems and insulin pumps.	Observation of the manufacturing and in-process and finished device testing of glucose monitors and insulin pumps.
Manufacturing of chemistry devices	Observation of the manufacturing and in-process and finished device testing of point of care chemistry cassettes/cartridges/strips for smaller chemistry analyzers used in clinical and point of care settings.
Manufacturing of chemistry reagent, controls and calibrators.	Observation of the manufacturing and in-process and finished device testing of chemistry reagents, calibrators, and controls for common chemistry analytes used in a clinical laboratory setting.
Manufacturing of urine test strips and readers.	Manufacturing and observation of in process or finished device testing for urine test strips and meters in clinical laboratory and point of care testing settings.
Manufacturing and development of IHC (immunohistochemistry) devices.	Observation of manufacturing, in-process testing, and/or finished device testing of IHC devices (used in the diagnostic evaluation of cancer, classification of tumors, or companion diagnostic testing).
Manufacturing and development of ISH (in situ hybridization) devices.	Observation of the manufacturing, in-process testing, or finished device testing of colorimetric in situ hybridization (CISH) and/or fluorescent in situ hybridization (FISH) assays used in identifying specific nucleic acid sequences within tissue sections (for diagnostic and/or treatment decisions).
Manufacturing and development of NGS (next gen sequencing) platforms and devices.	Observation of NGS sequencing platforms, bioinformatic analysis of the resulting sequence information, and types of interpretative software for potential clinical purposes.
Manufacturing, development and observation of CTC (circulating tumor cells) devices.	Observation of the manufacturing, in-process testing, or finished device testing of CTC devices that assess the prognosis of patients with metastatic breast, colorectal, or prostate cancer (manufacturing site or research site or clinical setting).
Manufacturing, development and/or observation of clinical mass spectrometers and high performance liquid chromatography (HPLC) devices.	Observe the manufacturing, development and/or demonstration of clinical mass spectrometers and HPLC as part of laboratory workflow including sample preparation, equipment usage, and data analysis.
Manufacturing, development and research of flow cytometry devices and components.	Manufacturing, research, and development of in-process testing, or finished device testing of cytometry analyzers and accompanying components.
Manufacturing of immunoassays for autoimmune diseases.	Manufacturing and development of in-process testing, or finished device testing, for diagnostic evaluation and research.
Manufacturing and development of coagulation—point of care devices.	Manufacturing and development of in-process or finished device testing for point of care devices such as Prothrombin Time and International Normalized Ratio (PT/INR) meters.
Manufacturing and product development of global hemostasis testing devices.	Manufacturing of global hemostasis testing for anti-coagulants and anti-platelet drugs for new molecular targets to assess the level of drug-induced inhibition for qualitative and quantitative evaluation.
Manufacturing and product development of direct anticoagulants assays/controls/calibrators.	Manufacturing and development of assays, controls, and calibrators for the detection of direct anticoagulants.
Observation of testing of sequencing technologies in large sequencing centers.	Visit a sequencing center where various sequencing methods are used for different applications other than in vitro diagnostic devices (IVD) manufacturing.
Manufacturing, and product evaluation of IVDs using next generation sequencing (NGS) technology.	Visit a manufacturer of IVD designed for sequencing of microorganisms for identification purposes.
Clinical applications-NGS in practice.	Visit a clinical laboratory that uses NGS as a diagnostic/screening tool.
Antimicrobial susceptibility testing (AST).	Visit to a manufacturer of antimicrobial susceptibility test platforms intended for use in clinical laboratory settings.

TABLE 2—AREAS OF INTEREST—IN VITRO DIAGNOSTIC AND RADIOLOGICAL DEVICES/TECHNOLOGY—Continued

Focus area	Specific areas of interest
Antimicrobial susceptibility testing (AST).	Visit to a clinical laboratory that employs various AST methodologies for identification of antibiotic resistance.

B. Site Selection

CDRH will be responsible for CDRH staff travel expenses associated with the site visits. CDRH will not provide funds to support the training provided by the site to this ELP. Selection of potential facilities will be based on CDRH's priorities for staff training and resources available to fund this program. In addition to logistical and other resource factors, all sites must have a successful compliance record with FDA or another Agency with which FDA has a memorandum of understanding. If a site visit involves a visit to a separate physical location of another firm under contract with the site, that firm must agree to participate in the ELP and must also have a satisfactory compliance history.

III. Request for Participation

Submit proposals for participation with the docket number found in the brackets in the heading of this document. Received requests may be seen in the Division of Dockets Management (see **ADDRESSES**) between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 2, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–08017 Filed 4–7–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DEPARTMENT OF AGRICULTURE

Solicitation of Written Comments on the Scientific Report of the 2015 Dietary Guidelines Advisory Committee; Extension of Comment Period

AGENCY: Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services; and Food, Nutrition and Consumer Services and Research, Education, and Economics. U.S. Department of Agriculture.

ACTION: Notice.

SUMMARY: A notice was published in the **Federal Register** on Monday, February 23, 2015, Vol. 80, No. 35, pages 9465–9466 to announce the availability of the Scientific Report of the 2015 Dietary Guidelines Advisory Committee (Advisory Report) and to solicit written comments on the Advisory Report (among other things). In the notice dated February 23, 2015, it was announced that the due date for providing comments was April 8, 2015. This notice is to announce the extension of the solicitation period to allow for additional time for written comments to be submitted for consideration.

DATES: The comment period is extended and thus will end at 11:59 p.m., E.D.T. on May 8, 2015.

ADDRESSES: The Advisory Report is available on the Internet at *www.DietaryGuidelines.gov*. Written public comments on the Advisory Report can be submitted and/or viewed at *www.DietaryGuidelines.gov* using the ''Submit Comments'' and ''Read Comments'' links, respectively.

FOR FURTHER INFORMATION CONTACT: Designated Federal Officer (DFO), 2015 DGAC, Richard D. Olson, M.D., M.P.H.; Office of Disease Prevention and Health Promotion, OASH/HHS; 1101 Wootton Parkway, Suite LL100 Tower Building; Rockville, MD 20852: Telephone: (240) 453–8280; Fax: (240) 453–8281; Alternate DFO, 2015 DGAC, Kellie (O'Connell) Casavale, Ph.D., R.D., Nutrition Advisor; Office of Disease Prevention and Health Promotion, OASH/HHS; 1101 Wootton Parkway, Suite LL100 Tower Building; Rockville, MD 20852: Telephone: (240) 453–8280; Fax: (240) 453–8281; Lead USDA Co-Executive Secretary, Colette I. Rihane, M.S., R.D., Director, Office of Nutrition Guidance and Analysis, Center for Nutrition Policy and Promotion, USDA; 3101 Park Center Drive, Room 1034; Alexandria, VA 22302; Telephone: (703) 305–7600; Fax: (703) 305–3300; and/or USDA Co-Executive Secretary, Shanthy A. Bowman, Ph.D., Nutritionist, Food Surveys Research Group, Beltsville Human Nutrition Research Center, Agricultural Research Service, USDA; 10300 Baltimore Avenue, BARC-West Bldg. 005, Room 125; Beltsville, MD 20705–2350; Telephone: (301) 504–0619.

Dated: March 24, 2015.

Don Wright,

Deputy Assistant Secretary for Health, Office of Disease Prevention and Health Promotion, Office of the Assistant Secretary for Health, U.S. Department of Health and Human Services.

Dated: March 24, 2015.

Angela Tagtow,

Executive Director, Center for Nutrition Policy and Promotion, U.S. Department of Agriculture.

Dated: March 23, 2015.

Steven R. Shafer,

Associate Administrator, Agricultural Research Service, U.S. Department of Agriculture.

[FR Doc. 2015–08049 Filed 4–7–15; 8:45 am]

BILLING CODE 4150–32–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, Office of Science Policy, Office of Biotechnology Activities; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the meeting of the National Science Advisory Board for Biosecurity (NSABB).

Name of Committee: National Science Advisory Board for Biosecurity.

Date: May 5, 2015.

Time: 8:30 a.m.—3:30 p.m. Eastern.

Agenda: Presentations and discussions regarding: (1) NSABB's proposed framework for guiding risk and benefit assessments of gain-of-function (GOF) studies involving pathogens with pandemic potential; (2) overview of conducting the risk and benefit assessments; (3) planning for future NSABB deliberations on the GOF issue; and (4) other business of the Board.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, 6th Floor Conference 10, Bethesda, Maryland 20892.

Contact Person: Carolyn Mosby, NSABB Program Assistant, NIH Office of Biotechnology Activities, 6705 Rockledge Drive, Suite 750, Bethesda, Maryland 20892, (301) 435–5504, *carolyn.mosby@nih.gov.*

Under authority 42 U.S.C. 217a, Section 222 of the Public Health Service Act, as amended, the Department of Health and Human Services established the National Science Advisory Board for Biosecurity (NSABB) to provide advice regarding federal oversight of dual use research, defined as

legitimate biological research that generates information and technologies that could be misused to pose a biological threat to public health and/or national security.

The meeting will be open to the public and will also be webcast as space will be limited. Persons planning to attend or view via the webcast may pre-register online using the link provided below or by calling Palladian Partners, Inc. (Contact: Monica Barnette at 301–650–8660). Online and telephone registration will close at 12:00 p.m. Eastern on May 4, 2015. After that time, attendees may register onsite on the day of the meeting. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should indicate these requirements upon registration.

Please Note: The meeting agenda, proposed draft framework, and links to the online registration and webcast will be available at: *http://osp.od.nih.gov/office-biotechnology-activities/biosecurity/nsabb/nsabb-meetings-and-conferences.* Please check this Web site for updates.

Public Comments: Time will be allotted on the agenda for oral public comment, with individual presentations time-limited to facilitate broad input from multiple speakers. Any member of the public interested in presenting comments relevant to the mission of the NSABB should indicate so upon registration. Sign-ups for oral comments will be restricted to one per person or organization representative per comment period. In the event that time does not allow for all attendees interested in presenting oral comments to do so at the meeting, any interested person may file written comments with the Board via an email sent to *nsabb@od.nih.gov* or by regular mail sent to the Contact Person listed on this notice. In addition, any interested person may submit written comments to the NSABB at any time via either of these methods. Comments received by 5:00 p.m. Eastern on April 28, 2015 will be relayed to the Board prior to the NSABB meeting. Written statements should include the name, address, telephone number and when applicable, the professional affiliation of the interested person. Any written comments received after the deadline will be provided to the Board either before or after the meeting, depending on the volume of comments received and the time required to process them in accordance with privacy regulations and other applicable Federal policies.

Please Note: In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxis, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Dated: April 2, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–07981 Filed 4–7–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request

The effectiveness of donor notification, HIV counseling, and linkage of HIV positive donors to health care in Brazil (NHLBI).

SUMMARY: In compliance with the requirement of Section 3506(c) (2) (A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Heart, Lung, and Blood Institute (NHLBI), the National Institutes of Health (NIH), will publish periodic summaries of proposed projects to the Office of Management and Budget (OMB) for review and approval.

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. *To Submit Comments and For Further Information:* To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Simone Glynn, MD, Project Officer/ICD Contact, Two Rockledge Center, Suite 9142, 6701 Rockledge Drive, Bethesda, MD 20892, or call 301–435–0065, or Email your request, including your address to: *glynnsa@nhlbi.nih.gov*. Formal requests for additional plans and instruments must be requested in writing.

DATES: *Comment Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Proposed Collection: The effectiveness of donor notification, HIV counseling, and linkage of HIV positive donors to health care in Brazil (The Brazil Notification Study), 0925–New, National Heart, Lung and Blood Institute (NHLBI).

Need and Use of Information Collection: The prevention of transfusion-associated transmission of HIV is one of the greatest success stories in the fight against the HIV epidemic; however, the job is unfinished. In some middle-and low-income countries, blood transfusion may account for up to 6% of HIV infections (1). Currently, all blood donors who test positive or inconclusive for HIV or other sexually transmitted diseases are notified (donor notification) and requested to follow-up with the blood bank for potential confirmatory testing and referral to specific health services, such as monitoring and treatment. Little is known about the consequences of blood donor notification and subsequent monitoring and counseling on efforts to control the HIV epidemic in the United States and internationally. The Brazil Notification Study team proposed to addresses this significant information gap by enrolling all former blood donors who participated in the REDS–II HIV case-control study (OMB 0925–0597, expired on February 29, 2012) and those enrolled during the REDS–III HIV case surveillance risk factor study (OMB 0925–0597, expiration date, July 31, 2015), between 2012 and 2014. Donor enrollees at any of the four blood centers participating in these studies completed an audio computer-assisted structured interview (ACASI) that elicited responses on demographics, risk factors/behaviors, and HIV knowledge. At the same time, a blood sample was drawn and tested for HIV genotype and drug resistance. In addition, recent infection status was determined using detuned antibody testing of samples from the original blood donation. All enrolled participants received counseling by a blood bank physician and were referred to HIV counseling and testing centers (HCT).

New information gathered from these enrollees will serve the three aims proposed for this proposed study. The first aim of this study will be to analyze the actual percentage of blood donors who are successfully notified of their infection testing results. In this aim, we will expand the notification focus to include all infections that blood centers in Brazil test for because differences in rates of notification by type of infection are unknown. The second aim will assess the effectiveness of HIV notification and counseling. HIV-positive donors will be interviewed to evaluate their follow-up activities with regard to HIV infection treatment and infection transmission prevention

behavior after notification by the blood center. This will be accomplished using a new audio computer-assisted structured interview (ACASI) (See Attachment 1, Brazil HIV Follow up ACASI Survey). The third aim will consist of asking HIV-positive blood donors about ways to improve the disclosure of HIV risks during donor eligibility assessment to better understand the motivating factors that drive higher risk persons to donate blood.

Because our study will build off the routine blood donor procedures in four large blood banks in Brazil, it may lead to more informed conversations around and possible changes in donor screening, notification and counseling policies in Latin America. Results of these three aims may also help to better integrate blood centers within the context of broader HIV testing, counseling and treatment sites in Brazil. Similarly, in the US little is known about donor behavior after notification of testing results by blood centers. The results from this study can be used to develop insights and hypotheses focused on developing improved strategies for notification and counseling of HIV-positive (or hepatitis C or B-positive) donors in the U.S.

This proposed study's findings will also yield insights into improved methods for donor self-selection and qualification post donation, which will serve to decrease the frequency of higher-risk persons acting as donors. Our findings on improved methods for Brazilian donor notification and linkage to health care services may also be applicable to developed countries, including the U.S. Results of the Brazil Notification Study will identify how to improve notification and counseling strategies that increase the number of HIV-positive donors seeking prompt medical care. This might ultimately boost strategies to prevent secondary HIV transmission and reduce the risk of transfusion-transmission.

In addition to the traditional route of scientific dissemination through peer reviewed scientific publication, previous REDS and REDS–II study data were the subject of numerous requested presentations by Federal and non-Federal agencies, including the FDA Blood Products Advisory Committee, the HHS Advisory committee on Blood Safety and Availability, the AABB Transfusion-Transmitted Diseases Committee, and the Americas Blood Centers (ABC). We anticipate similar requests for results generated from this study. Data collected in this proposed HIV Notification study of donors will be of practical use to the blood banking and infectious disease communities in the U.S. and internationally.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 229.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response	Estimated total annual burden hours requested
ACASI Questionnaire—Informed Consent	Adults	275	1	10/60	46
ACASI Questionnaire	Adults	275	1	40/60	183

Dated: April 2, 2015.

Lynn Susulske,

NHLBI Project Clearance Liaison, National Institutes of Health.

[FR Doc. 2015–07980 Filed 4–7–15; 8:45 am]

<FNP>

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of meetings of the National Diabetes and Digestive and Kidney Diseases Advisory Council.

The meetings will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council.

Date: May 13, 2015.

Open: 8:30 a.m. to 12:00 p.m.

Agenda: To present the Director's Report and other scientific presentations.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Closed: 4:15 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Contact Person: Brent B. Stanfield, Ph.D., Director, Division of Extramural Activities, National Institutes of Diabetes and Digestive and Kidney Diseases, 6707 Democracy Blvd., Room 715, MSC 5452, Bethesda, MD 20892, (301) 594–8843, *stanfibr@niddk.nih.gov*.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council; Kidney, Urologic and Hematologic Diseases Subcommittee.

Date: May 13, 2015.

Open: 1:00 p.m. to 2:00 p.m.

Agenda: To review the Division's scientific and planning activities.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 7, Bethesda, MD 20892.

Closed: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 7, Bethesda, MD 20892.

Contact Person: Brent B. Stanfield, Ph.D., Director, Division of Extramural Activities, National Institutes of Diabetes and Digestive and Kidney Diseases, 6707 Democracy Blvd., Room 715, MSC 5452, Bethesda, MD 20892, (301) 594–8843, *stanfibr@niddk.nih.gov*.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council; Digestive Diseases and Nutrition Subcommittee.

Date: May 13, 2015

Open: 1:00 p.m. to 2:30 p.m.

Agenda: To review the Division's scientific and planning activities.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

Closed: 2:30 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

Contact Person: Brent B. Stanfield, Ph.D., Director, Division of Extramural Activities, National Institutes of Diabetes and Digestive and Kidney Diseases, 6707 Democracy Blvd., Room 715, MSC 5452, Bethesda, MD 20892, (301) 594–8843, *stanfibr@niddk.nih.gov*.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council; Diabetes, Endocrinology and Metabolic Diseases Subcommittee.

Date: May 13, 2015.

Open: 2:00 p.m. to 4:00 p.m.

Agenda: To review the Division's scientific and planning activities.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Closed: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Contact Person: Brent B. Stanfield, Ph.D., Director, Division of Extramural Activities, National Institutes of Diabetes and Digestive and Kidney Diseases, 6707 Democracy Blvd., Room 715, MSC 5452, Bethesda, MD 20892, (301) 594–8843, *stanfibr@niddk.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *www.niddk.nih.gov/fund/divisions/DEA/Council/coundesc.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: April 2, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–07983 Filed 4–7–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases;. Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; LRP Fiscal Year 2015 Applications.

Date: April 24, 2015.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: John F. Connaughton, Ph.D., Chief, Training and Mentored Research Section, REVIEW BRANCH, DEA, NIDDK, NATIONAL INSTITUTES OF HEALTH, ROOM 753, 6707 DEMOCRACY BOULEVARD, BETHESDA, MD 20892–5452, (301) 594–7797, *connaughtonj@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; PAR–14–301: NIDDK Central Repositories Non-Renewable Samples Access (X01).

Date: May 26, 2015.

Time: 2:00 p.m. to 4:00 p.m.

AGENDA: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: NAJMA BEGUM, PH.D., SCIENTIFIC REVIEW OFFICER, REVIEW BRANCH, DEA, NIDDK, NATIONAL INSTITUTES OF HEALTH, ROOM 749, 6707 DEMOCRACY BOULEVARD, BETHESDA, MD 20892–5452, (301) 594–8894, *begumn@niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Biomarkers for Diabetes and Kidney Diseases using Biosamples from NIDDK Repository (R01–PAR–13–228).

Date: May 28, 2015.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: NAJMA BEGUM, PH.D., SCIENTIFIC REVIEW OFFICER, REVIEW BRANCH, DEA, NIDDK, NATIONAL INSTITUTES OF HEALTH, ROOM 749, 6707 DEMOCRACY BOULEVARD, BETHESDA, MD 20892–5452, (301) 594–8894, *begumn@niddk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: April 2, 2015.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–08167 Filed 4–7–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No.—USCG–2015–0201]

Chemical Transportation Advisory Committee; Vacancies

AGENCY: Coast Guard, DHS

ACTION: Request for applications.

SUMMARY: The Coast Guard seeks applications for membership on the Chemical Transportation Advisory Committee. The Chemical Transportation Advisory Committee provides advice and makes recommendations on matters relating to the safe and secure marine transportation of hazardous materials activities insofar as they relate to matters within the United States Coast Guard's jurisdiction.

DATES: Completed applications should reach the Coast Guard on or before June 8, 2015.

ADDRESSES: Applicants should send a cover letter expressing interest in an appointment to the Chemical Transportation Advisory Committee that also identifies which membership category the applicant is applying under, along with a resume detailing the applicant's experience via one of the following methods:

- By Email: *cristina.e.nelson@uscg.mil.*
- By Fax: (202) 372–8380.
- By Mail: Lieutenant Cristina Nelson, Alternate Designated Federal

Official of Chemical Transportation Advisory Committee, Commandant, Hazardous Materials Division (CG–ENG–5), U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE., Stop 7509 Washington, DC 20593–7509.

FOR FURTHER INFORMATION CONTACT: Lieutenant Cristina Nelson, 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, *cristina.e.nelson@uscg.mil,* phone: 202–372–1419, fax: 202–372–8380.

SUPPLEMENTARY INFORMATION: The Chemical Transportation Advisory Committee is established under the authority of section 871 of the Homeland Security Act of 2002, 6 U.S.C. 451. Chemical Transportation Advisory Committee is an advisory committee established in accordance with and operating under the provisions of the Federal Advisory Committee Act, (5 U.S.C. Appendix).

The Committee provides advice and recommendations to the Department of Homeland Security on matters relating to the safe and secure marine transportation of hazardous materials activities insofar as they relate to matters within the Coast Guard's jurisdiction.

The Chemical Transportation Advisory Committee meets at least twice per year, typically every six months. It may also meet for extraordinary purposes. Its subcommittees may meet to consider specific problems as required.

The Coast Guard will consider applications for eight positions that become vacant on September 17, 2015. The membership categories are: Marine Handling and Transportation, Marine Environmental Protection, Safety and Security, Vessel Design and Construction, and Chemical Manufacturing.

To be eligible, applicants should have experience in chemical manufacturing, marine handling or transportation of chemicals, vessel design and construction, marine safety or security, or marine environmental protection. Each member serves for a term of three years. Committee members are limited to serving no more than two consecutive three-year terms. A member appointed to fill an unexpired term may serve the remainder of that term. All members serve at their own expense and receive no salary, reimbursement of travel expenses, or other compensation from the Federal Government.

Registered lobbyists are not eligible to serve on Federal Advisory Committees in an individual capacity. See ''Revised Guidance on Appointment of Lobbyist to Federal Advisory Committees, Boards and Commissions'' (79 FR 47482, August 13, 2014). Registered lobbyists are lobbyists required to comply with provisions contained in the Lobbying Disclosure Act of 1995 (Pub. L. 104–65, as amended by title II of Pub. L. 110–81).

The Department of Homeland Security does not discriminate in selection of Committee members on the basis of race, color, religion, sex, national origin, political affiliation, sexual orientation, gender identity, marital status, disabilities and genetic information, age, membership in an employee organization, or any other non-merit factor. The Department of Homeland Security strives to achieve a widely diverse candidate pool for all of its recruitment actions.

If you are interested in applying to become a member of the Committee, send your cover letter and resume to Lieutenant Cristina Nelson, Alternate Federal Officer of Chemical Transportation Advisory Committee, by email or mail according to instructions in the **ADDRESSES** section by the deadline in the **DATES** section of this notice.

Note, that during the vetting process, applicants may be asked to provide their date of birth and social security number. All email submittals will receive email receipt confirmation.

To visit our online docket, go to *http://www.regulations.gov* enter the docket number (for this notice (USCG–2015–0201) in the Search box, and click ''Search''. Please do not post your resume on this site.

Dated: April 2, 2015.

J.G. Lantz,

Director of Commercial Regulations and Standards, United States Coast Guard.

[FR Doc. 2015–08034 Filed 4–7–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0052]

Agency Information Collection Activities: Application for Naturalization, Form N–400; Revision of a Currently Approved Collection

AGENCY: U.S. Citizenship and Immigration Services (USCIS), Department of Homeland Security (DHS).

ACTION: 60-Day notice.

SUMMARY: DHS, USCIS invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until June 8, 2015.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0052 in the subject box, the agency name and Docket ID USCIS–2008–0025. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal Web site at *www.regulations.gov* under e-Docket ID number USCIS–2008–0025;

(2) *Email.* Submit comments to *USCISFRComment@uscis.dhs.gov*;

(3) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Laura Dawkins, Chief, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, telephone number 202–272–8377 (comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS Web site at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2008–0025 in the search box. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,*

and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Naturalization.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* N–400; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. USCIS uses the information gathered on Form N–400 to make a determination as to a respondent's eligibility to naturalize and become a United States citizen.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection N–400 is 805,812 and the estimated hour burden per response is 6.917 hours. The estimated total number of respondents for the biometric information collection is 805,812 and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 6,516,602 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $98,711,970.

Dated: April 2, 2015.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2015–08013 Filed 4–7–15; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0087]

Agency Information Collection Activities: Application for Citizenship and Issuance of Certificate Under Section 322, Form N–600K; Extension, Without Change, of a Currently Approved Collection

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice was previously published in the **Federal Register** on December 9, 2014, at 79 FR 73095, allowing for a 60-day public comment period. USCIS did not receive any comments in connection with the 60-day notice.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until May 8, 2015. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *oira_submission@omb.eop.gov.* Comments may also be submitted via fax at (202) 395–5806. All submissions received must include the agency name and the OMB Control Number 1615–0087.

You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Laura Dawkins, Chief, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, Telephone number 202–272–8377 (comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS Web site at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2007–0019 in the search box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or

other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Citizenship and Issuance of Certificate under Section 322.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* N–600K; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. This form provides an organized framework for establishing the authenticity of an applicant's eligibility and is essential for providing prompt, consistent and correct processing of such applications for citizenship under section 322 of the Immigration and Nationality Act.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection N–600K is 3,242 and the estimated hour burden per response is 2.083 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 6,753 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated annual cost burden is $397,145.

Dated: April 2, 2015.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2015–08012 Filed 4–7–15; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5849–N–02]

Notice of a Federal Advisory Committee Meeting: Manufactured Housing Consensus Committee General Subcommittee Teleconference

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Notice of a Federal Advisory Committee Meeting: Manufactured Housing Consensus Committee (MHCC).

SUMMARY: This notice sets forth the schedule and proposed agenda for a teleconference meeting of the MHCC, General Subcommittee. The teleconference meeting is open to the public. The agenda provides an opportunity for citizens to comment on the business before the MHCC.

DATES: The teleconference meeting will be held on May 5, 2015, 1:00 p.m. to 4:00 p.m. Eastern Standard Time (EST). The teleconference numbers are: US toll-free: 1–877–336–1829, and Access Code: 8764141.

FOR FURTHER INFORMATION CONTACT: Pamela Beck Danner, Administrator and Designated Federal Official (DFO), Office of Manufactured Housing Programs, Department of Housing and Urban Development, 451 Seventh Street SW., Room 9166, Washington, DC 20410, telephone 202–708–6423 (this is not a toll-free number). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: Notice of this meeting is provided in accordance with the Federal Advisory Committee Act, 5. U.S.C. App. 10(a)(2) through implementing regulations at 41 CFR 102–3.150. The MHCC was established by the National Manufactured Housing Construction and Safety Standards Act of 1974, (42 U.S.C. 5401 *et seq.*) as amended by the Manufactured Housing Improvement Act of 2000 (Pub. L. 106–569). According to 42 U.S.C. 5403, as amended, the purposes of the MHCC are to:

- Provide periodic recommendations to the Secretary to adopt, revise, and interpret the Federal manufactured housing construction and safety standards;
- Provide periodic recommendations to the Secretary to adopt, revise, and interpret the procedural and enforcement regulations, including regulations specifying the permissible scope and conduct of monitoring; and
- Be organized and carry out its business in a manner that guarantees a fair opportunity for the expression and consideration of various positions and for public participation.

The MHCC is deemed an advisory committee not composed of Federal employees.

Public Comment: Citizens wishing to make oral comments on the business of the MHCC are encouraged to register by or before April 24, 2015 using the following email address: *mhcc@homeinnovation.com;* or mail to Home Innovation, 400 Prince Georges Blvd., Upper Marlboro, MD 20774; Attention: Kevin Kauffman. Written comments are encouraged. The MHCC strives to accommodate citizen comments to the extent possible within the time constraints of the meeting agenda. Advance registration is strongly encouraged. The MHCC will also provide an opportunity for public comment on specific matters before the General Subcommittee.

Tentative Agenda

May 5, 2015, from 1:00 p.m. to 4:00 p.m. Eastern Standard Time (EST)

I. Call to Order and Roll Call
II. Opening Remarks: Subcommittee Chair and DFO
III. Approve draft minutes from February 11, 2015 Teleconference
IV. New Business—Multifamily Aspect of Manufactured Housing Task Force Report by Dave Tompos
V. Open Discussion
VI. Adjourn: 4:00 p.m.

Dated: April 3, 2015.

Pamela Beck Danner,

Administrator, Office of Manufactured Housing Programs.

[FR Doc. 2015–08055 Filed 4–7–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5651–N–02]

Tribal Government To Government Consultation Policy: Solicitation of Public Comment

AGENCY: Office of the Secretary, HUD.

ACTION: Notice.

SUMMARY: Consistent with Executive Order 13175, ''Consultation with Indian Tribal Governments,'' this notice requests public comment on HUD's tribal government-to-government consultation policy. The purpose of this tribal consultation policy is to enhance communication and coordination between HUD and federally recognized Indian tribes, and to outline guiding principles and procedures under which all HUD employees are to operate with regard to federally recognized Indian or Alaska Native tribes.

DATES: *Comment Due Date:* June 8, 2015.

ADDRESSES: Interested persons are invited to submit comments regarding this document to the Regulations Division, Office of General Counsel,

Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500. Communications must refer to the docket number and title above. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. *Submission of Comments by Mail.* Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500.

2. *Electronic Submission of Comments.* Interested persons may submit comments electronically through the Federal eRulemaking Portal at *www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the *www.regulations.gov* Web site can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the document.

No Facsimile Comments. Facsimile comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m., weekdays, at the above address. Due to security measures at the HUD Headquarters building, an appointment to review the public comments must be scheduled in advance by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the toll-free Federal Relay Service at 800–877–8339. Copies of all comments submitted are available for inspection and downloading at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Rodger Boyd, Deputy Assistant Secretary for Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4126, Washington, DC 20410, telephone number 202–401–7914 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: Executive Order 13175 (65 FR 67249, published November 9, 2000) recognizes the right of Indian tribes to self-government and supports tribal sovereignty and self-determination. Among other things, it requires that agencies have an accountable process to ensure meaningful and timely input by tribal officials in developing policies that have tribal implications. On November 5, 2009, President Obama reaffirmed the government-to-government relationship between the Federal Government and Indian tribal governments in a White House memorandum that acknowledges that Indian tribes exercise inherent sovereign powers over their members and territory. The November 5, 2009, memorandum also acknowledges that the United States continues to work with Indian tribes on a government-to-government basis to address issues concerning Indian tribal self-government, tribal trust resources, Indian tribal treaty and other rights. Today's notice, which requests public comment, supports these Presidential directives and builds upon and expands the principles expressed in the Department's previous ''Tribal Government-to-Government Consultation Policy,'' (66 FR 49784, September 28, 2001).

I. Introduction

A. The United States Government has a unique relationship with American Indian governments as set forth in the Constitution of the United States, treaties, statutes, judicial decisions, and Executive orders and memoranda.

B. On April 29, 1994, a Presidential memorandum was issued reaffirming the Federal Government's commitment to operate within a government-to-government relationship with federally recognized American Indian and Alaska Native tribes, and to advance self-governance for such tribes.[1] The Presidential memorandum directs each executive department and agency, to the greatest extent practicable and to the extent permitted by law, to consult with tribal governments prior to taking actions that have substantial direct effects on federally recognized tribal governments. In order to ensure that the rights of sovereign tribal governments are fully respected, all such consultations are to be open and candid so that tribal governments may evaluate for themselves the potential impact of relevant proposals.

On May 14, 1998, Executive Order 13084, ''*Consultation and Coordination with Indian Tribal Governments''* was issued.[2] This executive order was revoked and superseded on November 6, 2000, by Executive Order 13175,[3] which is identically titled to Executive Order 13084 and which sets forth guidelines for all federal agencies to: (1) Establish regular and meaningful consultation and collaboration with Indian tribal officials in the development of Federal policies that have tribal implications, (2) strengthen the United States government-to-government relationships with Indian tribes, and (3) reduce the imposition of unfunded mandates upon Indian tribes.

On November 5, 2009,[4] President Obama issued a memorandum to the heads of all executive departments and agencies that reaffirmed that the United States has a unique legal and political relationship with Indian tribal governments, established through and confirmed by the Constitution of the United States, treaties, statutes, Executive orders, and judicial decisions. The memorandum stated that in recognition of that special relationship, pursuant to Executive Order 13175 of November 6, 2000, executive departments and agencies are charged with engaging in regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications, and are responsible for strengthening the government-to-government relationship between the United States and Indian tribes. The memorandum stated that the Administration is committed to regular and meaningful consultation and collaboration with tribal officials in policy decisions that have tribal implications, and directed, among other things, as an initial step, complete and consistent implementation of Executive Order 13175.

C. In recognition of the importance of consultation and consistent with Executive Order 13175, and the Presidential memorandum of November 5, 2009, HUD requests public comment on this consultation policy statement. In January 2010, HUD held a series of HUD-tribal regional consultations to

[1] See *http://www.gpo.gov/fdsys/pkg/FR-1994-05-04/html/94-10877.htm.*

[2] See *http://www.gpo.gov/fdsys/pkg/FR-1998-05-19/pdf/98-13553.pdf.*

[3] See *http://www.gpo.gov/fdsys/pkg/FR-2000-11-09/pdf/00-29003.pdf.*

[4] See *http://www.whitehouse.gov/the-press-office/memorandum-tribal-consultation-signed-president.*

discuss HUD's existing tribal consultation policy. Each consultation session was hosted by one of the six Office of Native American Programs (ONAP) Area Office Administrators. Prior to all meetings, ONAP Area Office sent out invitation letters to all tribes and tribally designated housing entities to inform them of the meetings. The invitation package included the President's memorandum, Executive Order 13175, HUD's current tribal consultation policy, and a list of questions designed to prompt discussion and focus on the issues. HUD's Deputy Assistant Secretary for ONAP attended a Northwest ONAP and Eastern/Woodlands ONAP session, and HUD's Assistant Secretary for Public and Indian Housing participated in the initial session held in Suquamish, Washington. Participants at each of the consultation sessions were informed that an electronic mailbox had been established to receive their comments and that HUD's CODETALK Web site would be used to display all comments received.

The comments from participants who attended these consultations, as well as all comments received by other means, were consolidated by ONAP. HUD carefully reviewed all comments received from all sources, responded, and made changes to the existing HUD consultation policy based on these comments, as appropriate.

HUD conducted a second round of tribal consultation by sending the revised draft policy to all tribal leaders for their comment. On November 12, 2014, the Department provided all tribal leaders a draft version of HUD's revised tribal government-to-government consultation policy and requested their feedback and opinion on the draft. In response to the Department's November 12, 2014, request for comments, the Department received three comments from Indian tribes and a national organization that represents the housing interests of Native Americans. The Department appreciates and carefully considered the comments submitted. This notice incorporates several of the comments and recommendations provided.

This consultation policy applies to all HUD programs and policies that have substantial direct effects on federally recognized Indian tribal governments. In formulating or implementing such policies, HUD will be guided by the fundamental principles set forth in section 2 of Executive Order 13175, to the extent applicable to HUD programs. Section 2 of the Executive Order provides as follows:

Sec. 2. *Fundamental Principles.* In formulating or implementing policies that have tribal implications, agencies shall be guided by the following fundamental principles:

(a) The United States has a unique legal relationship with Indian tribal governments as set forth in the Constitution of the United States, treaties, statutes, Executive Orders, and court decisions. Since the formation of the Union, the United States has recognized Indian tribes as domestic dependent nations under its protection. The Federal Government has enacted numerous statutes and promulgated numerous regulations that establish and define a trust relationship with Indian tribes.

(b) Our Nation, under the law of the United States, in accordance with treaties, statutes, Executive Orders, and judicial decisions, has recognized the right of Indian tribes to self-government. As domestic dependent nations, Indian tribes exercise inherent sovereign powers over their members and territory. The United States continues to work with Indian tribes on a government-to-government basis to address issues concerning Indian tribal self-government, tribal trust resources, and Indian tribal treaty and other rights.

(c) The United States recognizes the right of Indian tribes to self-government and supports tribal sovereignty and self-determination.

II. Definitions

A. ''*Consultation''* means the *direct* and *interactive* (*i.e.,* collaborative) involvement of tribes in the development of regulatory policies on matters that have tribal implications.

Consultation is the proactive, affirmative process of (1) identifying and seeking input from appropriate Native American governing bodies, community groups and individuals; and (2) considering their interest as a necessary and integral part of HUD's decision-making process.

This definition adds to statutorily mandated notification procedures. The goal of notification is to provide an opportunity for comment; however, with consultation procedures, the burden is on the federal agency to show that it has made a good faith effort to elicit feedback.

B. ''*Exigent situation''* means an unforeseen combination of circumstances or the resulting state that calls for immediate action in order to preserve tribal resources, rights, interests, or Federal funding.

C. ''*Indian tribe''* means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

D. ''*Policies that have tribal implications''* refers to regulations, legislative proposals, and other policy statements or actions that have substantial direct effects on one or more Indian tribe, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. ''*To the Extent Practicable and Permitted by Law''* refers to situations where the opportunity for consultation is limited because of constraints of time, budget, legal authority, etc.

F. ''*Tribal officials''* means elected or duly appointed officials of Indian tribal governments or authorized intertribal organizations.

III. Principles

A. HUD respects tribal sovereignty and acknowledges the unique relationship between the Federal Government and Indian tribes.

B. HUD recognizes and commits to a government-to-government relationship with federally recognized tribes.

C. HUD recognizes tribes as the appropriate non-Federal parties for making policy decisions and managing programs for their constituents.

D. HUD shall take appropriate steps to remove existing legal and programmatic impediments to working directly and effectively with tribes on programs administered by HUD.

E. HUD shall encourage states and local governments to work with and cooperate with tribes to resolve problems of mutual concern.

F. HUD shall work with other Federal departments and agencies to enlist their interest and support in cooperative efforts to assist tribes to accomplish their goals within the context of all HUD programs.

G. HUD shall be guided by these policy principles in its planning and management activities, including its budget, operating guidance, legislative initiatives, management accountability system, and ongoing policy and regulation development processes for all programs effecting tribes.

IV. Tribal Consultation Process

A. *Applicability.* HUD will apply this tribal consultation policy to all proposed policies that have tribal implications, to the greatest extent practicable and permitted by law. Based on a government-to-government relationship and in recognition of the uniqueness of each tribe, the primary focus for consultation activities is with individual tribes. ONAP, within the Office of Public and Indian Housing, may serve, under the direction of the Secretary, as the lead HUD office for the implementation of this policy. Internal HUD policies and procedures are excluded from this policy.

B. *Methods of Communication.* The methods of communication used will be determined by the significance of the consultation matter, the need to act quickly, and other relevant factors. Consultation can be accomplished through various methods of communication. While modern technology and group events should be utilized whenever possible to conserve funds and respect time constraints of all those involved, generally these methods of communication should not serve in the place of formal, face-to-face discussion.

C. *Consultation with Tribes When Drafting Policies That Have Tribal Implications.* To the extent practicable and permitted by law, HUD shall make reasonable efforts to consult with tribal officials concerning proposed policies that have tribal implications before such policies are drafted, in order to facilitate greater tribal participation in development of the proposed policies. Such consultation shall include on the HUD Web site a notice of HUD's plans to develop such policies and an invitation for tribal officials to comment on items that should be included in such policies. HUD shall provide a specific deadline for comments, which shall not be less than 30 days from the date of the notice. This timeline may be compressed in exigent situations.

D. *Notice of Proposed Policies That Have Tribal Implications.* To the extent practicable and permitted by law, after proposed policies that have tribal implications have been drafted, HUD will notify the tribes of such proposed policies, and will include a copy of the proposed policies with the notice. The notice shall designate the lead office in HUD Headquarters. The lead office in HUD Headquarters shall be responsible for such notification, unless it has delegated such responsibility to another office. HUD shall provide a specific deadline for tribal comments, which shall not be less than 60 days from the date of the notice. This timeline may be compressed in exigent situations. Nothing herein shall affect the deadlines established by Federal law or regulation with regard to comments in the course of the formal agency rulemaking process for the promulgation of federal regulations.

E. *Tribal Response.* Tribal officials may provide recommendations concerning proposed policies that have or that may have tribal implications to the lead office in HUD Headquarters no later than the deadline established in Part IV.D of this consultation policy. Such recommendations may be provided orally during meetings with HUD representatives or by written documents submitted to HUD representatives.

F. *Meetings.* Tribes may facilitate regional meetings with HUD representatives to identify and address issues relevant to HUD policies that have tribal implications. HUD will convene at least one national tribal consultation meeting each year. To reduce costs and conserve resources to the greatest extent feasible, tribes and HUD will coordinate consultation meetings with other regularly scheduled meetings, such as multiagency and association meetings.

G. *Reporting Mechanisms.* In all cases when a tribe or tribes have been involved in the consultation process, HUD will maintain an Internet Web site or Web page to address the informational needs of tribes and tribal leaders. Such Web site or Web page will include relevant HUD documents and other relevant documents, including comments submitted by other tribes. HUD shall notify the tribes of the finalization of proposed policies that have tribal implications, and provide such policies to the tribes.

H. *Tribal Advisory Organizations, Committees, and Workgroups.* HUD will work with tribal organizations, committees, or workgroups, when appropriate, to assist in facilitating involvement of tribes in decisionmaking and policy development. The work with tribal organizations, committees, and workgroups will be in coordination with, and not to the exclusion of, consultation with individual tribes on a government-to-government basis.

I. *Joint Federal/Tribal Workgroups.*

1. A workgroup may be established by HUD and tribes to address specific issues or to draft specific policies that have tribal implications. Tribal representation should be consistent with the established standard of geographically diverse small, medium, and large tribes, whenever possible.

2. Alternate workgroup members may be appointed by written notification signed by the member. Such alternates shall possess the authority of the workgroup member to make decisions on their behalf if such authority is so delegated to them in writing.

3. The workgroup shall be chaired by at least one tribal workgroup member, selected by the tribal workgroup members, and one HUD representative.

4. The workgroup may conduct its activities through various methods of communication, including in-person meetings, conference calls, and internet-based meeting platforms. Workgroup members may be accompanied by other individuals for advice as the members deem necessary.

5. Whenever possible, workgroup products should be circulated to tribal leaders for review and comment.

6. All final recommendations will be given serious consideration by HUD.

V. Tribal Standing Committee

On issues relating to tribal self-governance, tribal trust resources, or treaty and other rights, HUD will explore and, where appropriate, use consensual mechanisms for developing regulations, including negotiated rulemaking. HUD may establish a standing committee, consisting of representatives of tribal governments, to consult on the appropriateness of using negotiated rulemaking procedures on particular matters. The procedures governing such a standing committee would be established through the mutual agreement of HUD and tribal governments.

VI. Unfunded Mandates

To the extent practicable and permitted by law, HUD shall not promulgate any regulation that is not required by statute, that has tribal implications, and that imposes substantial direct compliance costs on such communities, unless:

A. Funds necessary to pay the direct costs incurred by the Indian tribal government in complying with the regulation are provided by the Federal Government; or

B. HUD, prior to the formal promulgation of the regulation:

1. Consulted with tribal officials early in the process of developing the proposed regulation;

2. In a separately identified portion of the preamble to the regulation as it is to be issued in the **Federal Register**, provides to the Director of the Office of Management and Budget (OMB)a description of the extent of HUD's prior consultation with representatives of affected Indian tribal governments, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation; and

3. Makes available to the Director of OMB any written communications submitted to HUD by such Indian tribal governments.

VII. Increasing Flexibility for Indian Tribal Waivers

HUD shall review the processes under which Indian tribal governments apply for waivers of statutory and regulatory requirements and take appropriate steps to streamline those processes.

A. HUD shall, to the extent practicable and permitted by law, consider any application by an Indian tribal government for a waiver of

statutory or regulatory requirements in connection with any program administered by HUD with a general view toward increasing opportunities for utilizing flexible policy approaches at the Indian tribal level in cases in which the proposed waiver is consistent with the applicable Federal policy objectives and is otherwise appropriate.

B. HUD shall, to the extent practicable and permitted by law, render a decision upon a complete application for a waiver within 90 days of receipt of such application by HUD. HUD shall provide the applicant with timely written notice of the decision and, if the application for a waiver is not granted, the reasons for such denial.

C. This section applies only to statutory or regulatory requirements that are discretionary and subject to waiver by HUD. Applicable civil rights statutes and regulations are not subject to waiver.

VIII. Applicability of the Federal Advisory Committee Act

The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) (FACA) do not apply to consultations undertaken pursuant to this policy. In accordance with section 204(b) of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, approved March 22, 1995), FACA is not applicable to consultations between the Federal Government and elected officers of Indian tribal governments (or their designated employees with authority to act on their behalf). As OMB stated in its guidelines implementing section 204(b):

> This exemption applies to meetings between Federal officials and employees and . . . tribal governments, acting through their elected officers, officials, employees, and Washington representatives, at which ''views, information or advice'' are exchanged concerning the implementation of intergovernmental responsibilities or administration, including those that arise explicitly or implicitly under statute, regulation, or Executive order.
>
> The scope of meetings covered by the exemption should be construed broadly to include any meetings called for any purpose relating to intergovernmental responsibilities or administration. Such meetings include, but are not limited to, meetings called for the purpose of seeking consensus; exchanging views, information, advice, and/or recommendations; or facilitating any other interaction relating to intergovernmental responsibilities or administration. (OMB Memorandum 95–20 (September 21, 1995), pp. 6–7, published at 60 FR 50651, 50653 (September 29, 1995)).

IX. General Provisions

This document has been adopted for the purpose of enhancing government-to-government relationships, communications, and mutual cooperation between the U.S. Department of Housing and Urban Development and tribes and is not intended to, and does not, create any right to administrative or judicial review, or any other right or benefit or trust responsibility, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other persons. The provisions of the FACA are not applicable to this policy. This document is effective on the date it is signed.

Dated: March 30, 2015.

Julián Castro,

Secretary.

[FR Doc. 2015–08068 Filed 4–7–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2015–N054; FXES11130200000–156–FF02ENEH00]

Receipt of Incidental Take Permit Applications for Participation in the Oil and Gas Industry Conservation Plan for the American Burying Beetle in Oklahoma

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for public comments.

SUMMARY: Under the Endangered Species Act, as amended (Act), we, the U.S. Fish and Wildlife Service, invite the public to comment on incidental take permit applications for take of the federally listed American burying beetle resulting from activities associated with the geophysical exploration (seismic) and construction, maintenance, operation, repair, and decommissioning of oil and gas well field infrastructure within Oklahoma. If approved, the permits would be issued under the approved *Oil and Gas Industry Conservation Plan Associated with Issuance of Endangered Species Act Section 10(a)(1)(B) Permits for the American Burying Beetle in Oklahoma* (ICP).

DATES: To ensure consideration, written comments must be received on or before May 8, 2015.

ADDRESSES: You may obtain copies of all documents and submit comments on the applicant's ITP applications by one of the following methods. Please refer to the specific permit number when requesting documents or submitting comments.

- *U.S. Mail:* U.S. Fish and Wildlife Service, Division of Endangered Species—HCP Permits, P.O. Box 1306, Room 6034, Albuquerque, NM 87103.
- *Electronically: fw2_hcp_permits@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Marty Tuegel, Branch Chief, by U.S. mail at Environmental Review, P.O. Box 1306, Room 6034, Albuquerque, NM 87103; or by telephone at 505–248–6651.

SUPPLEMENTARY INFORMATION:

Introduction

Under the Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.*; Act), we, the U.S. Fish and Wildlife Service, invite the public to comment on incidental take permit (ITP) applications for take of the federally listed American burying beetle (*Nicrophorus americanus*) resulting from activities associated with geophysical exploration (seismic) and construction, maintenance, operation, repair, and decommissioning of oil and gas well field infrastructure within Oklahoma. If approved, the permits would be issued to the applicants under the *Oil and Gas Industry Conservation Plan Associated with Issuance of Endangered Species Act Section 10(a)(1)(B) Permits for the American Burying Beetle in Oklahoma* (ICP). The ICP was made available for comment on April 16, 2014 (79 FR 21480), and approved on May 21, 2014 (publication of the FONSI notice was on July 25, 2014; 79 FR 43504). The ICP and the associated environmental assessment/finding of no significant impact are available on the Web site at *http://www.fws.gov/southwest/es/oklahoma/ABBICP.* However, we are no longer taking comments on these documents.

Applications Available for Review and Comment

We invite local, State, Tribal, and Federal agencies, and the public to comment on the following applications under the ICP, for incidental take of the federally listed ABB. Please refer to the appropriate permit number (*e.g.,* TE–123456), listed below, when requesting application documents and when submitting comments. Documents and other information the applicants have submitted with these applications are available for review, subject to the requirements of the Privacy Act (5 U.S.C. 552a) and Freedom of Information Act (5 U.S.C. 552).

Permit TE–60265B

Applicant: American Energy-Woodford, LLC, Oklahoma City, OK.

Applicant requests a new permit for oil and gas upstream and midstream production, including geophysical exploration (seismic) and construction, maintenance, operation, repair, and decommissioning of oil and gas well field infrastructure, as well as construction, maintenance, operation, repair, decommissioning, reclamation of oil and gas gathering, transmission, and distribution pipeline infrastructure within Oklahoma.

Permit TE–60264B

Applicant: Phillips 66 Pipeline Company, Houston, TX.

Applicant requests a new permit for oil and gas upstream and midstream production, including geophysical exploration (seismic) and construction, maintenance, operation, repair, and decommissioning of oil and gas well field infrastructure, as well as construction, maintenance, operation, repair, decommissioning, reclamation of oil and gas gathering, transmission, and distribution pipeline infrastructure within Oklahoma.

Public Availability of Comments

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will not consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under section 10(c) of the Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Dated: *March 17, 2015.*

Benjamin N. Tuggle,

Regional Director, Southwest Region, U.S. Fish and Wildlife Service.

[FR Doc. 2015–08033 Filed 4–7–15; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[DR.5B711.IA000815]

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approved Tribal-State Class III Gaming Compact.

SUMMARY: This notice publishes the approval of the Tribal-State Compact for Regulation of Class III Gaming between the Cow Creek Band of Umpqua Tribe of Indians of Oregon (Tribe) and the State of Oregon (State), Amendment II.

DATES: Effective: April 8, 2015.

FOR FURTHER INFORMATION CONTACT: Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, (202) 219–4066.

SUPPLEMENTARY INFORMATION: Under section 11 of the Indian Gaming Regulatory Act (IGRA) Public Law 100–497, 25 U.S.C. 2701 *et seq.,* the Secretary of the Interior shall publish in the **Federal Register** notice of approved Tribal-State compacts for the purpose of engaging in Class III gaming activities on Indian lands. As required by 25 CFR 293.4, all compacts and amendments, including technical amendments, are subject to review and approval by the Secretary. The Tribal-State Compact for Regulation of Class III Gaming between the Cow Creek Band of Umpqua Tribe of Indians of Oregon and the State of Oregon, Amendment II, establishes criteria to deny or terminate contracts related to Class III gaming. The perpetual term of the compact remains unchanged.

Dated: April 2, 2015.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2015–08059 Filed 4–7–15; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[156D0102DM DLSN0000.000000 DS62400000 DX62401]

Proposed Renewal of Information Collection: OMB Control Number 1084–0010, Claim for Relocation Payments—Residential, DI–381 and Claim for Relocation Payments—Nonresidential, DI–382

AGENCY: Office of the Secretary, Office of Acquisition and Property Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of Acquisition and Property Management announces the proposed extension of a public information collection and seeks public comments on the provisions thereof.

DATES: Consideration will be given to all comments received by *June 8, 2015.*

ADDRESSES: Send your written comments to Mary Heying, Department of the Interior, Office of Acquisition and Property Management, 1849 C St. NW., MS 4262 MIB, Washington, DC 20240, fax (202) 513–7645 or by email to *mary_heying@ios.doi.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information on this proposed information collection or its Relocation Forms should be directed to the contact information provided in the **ADDRESSES** section above.

SUPPLEMENTARY INFORMATION:

I. Abstract

This notice is for renewal of an existing information collection.

The Office of Management and Budget (OMB) regulations at 5 CFR part 1320, which implement the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.,* require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8 (d)).

This notice identifies an information collection activity that the Office of Acquisition and Property Management will submit to OMB for extension or re-approval. Public law 91–646, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, requires each Federal agency acquiring real estate interests to provide relocation benefits to individuals and businesses displaced as a result of the

acquisition. Form DI–381, Claim For Relocation Payments—Residential, and DI–382, Claim For Relocation Payments—Nonresidential, permit the applicant to present allowable moving expenses and certify occupancy status, after having been displaced because of Federal acquisition of their real property.

II. Data

(1) Title: Claim for Relocation Payments—Residential, DI–381 and Claim for Relocation Payments—Nonresidential, DI–382.

OMB Control Number: 1084–0010.

Current Expiration Date: September 30, 2015.

Type of Review: Information Collection: Renewal.

Affected Entities: Individuals and businesses who are displaced because of Federal acquisitions of their real property.

Bureau Form Numbers: DI–381, DI–382.

(2) Annual reporting and recordkeeping burden:

Total annual reporting per response: 50 minutes.

Estimated Number of Annual Responses: 24.

Frequency of Response: Once per relocation.

Total Annual Burden Hours: 20 hours.

(3) Description of the need and use of the information: The information required is obtained through application made by the displaced person or business to the funding agency for determination as to the specific amount of monies due under the law. The forms, through which application is made, require specific information since the Uniform Relocation Assistance and Real Property Acquisition Act allows for various amounts based upon each actual circumstance. Failure to make application to the agency would eliminate any basis for payment of claims.

III. Request for Comments

The Departments invite comments on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agencies, including whether the information will have practical utility;

(b) The accuracy of the agencies' estimate of the burden of the collection of information and the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on respondents, including through the use of appropriate automated, electronic, mechanical, or other collection techniques or other forms of information technology.

''Burden'' means the total time, effort, and financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install, and use technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, and to complete and review the collection of information; and to transmit or otherwise disclose the information.

All written comments, with names and addresses, will be available for public inspection. If you wish us to withhold your personal information, you must prominently state at the beginning of your comment what personal information you want us to withhold. We will honor your request to the extent allowable by law. If you wish to view any comments received, you may do so by using the contact information provided in the **ADDRESSES** section above.

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.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget control number.

Dated: March 25, 2015.

Debra E. Sonderman,

Director, Office of Acquisition and Property Management.

[FR Doc. 2015–08000 Filed 4–7–15; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCOF00000 L19900000.PO0000]

Notice of Meetings, Rio Grande Natural Area Commission

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Rio Grande Natural Area Commission will host public meetings regarding the Draft Management Plan as indicated below.

DATES: The Rio Grande Natural Area Commission scheduled public meetings for May 12, 13 and 14. Each meeting will begin at 6 p.m. and adjourn at approximately 8 p.m. A phone call to plan the public meetings will be held on May 6 from 12 to 2 p.m.

ADDRESS: The May 12 meeting will be held at the San Luis Valley Water Conservancy District Office, 623 Fourth St., Alamosa, CO 81101. The May 13 meeting will be held at the Costilla County Public Health Agency, 233 Main St., Suite C, San Luis, CO 81152. The May 14 meeting will be held in Antonito, Colorado at the Antonito Senior Center, 701 Main St., Antonito, CO 81120. To participate in the planning call, please contact Kyle Sullivan at the number listed below.

FOR FURTHER INFORMATION CONTACT: Kyle Sullivan, Public Affairs Specialist, Royal Gorge Field Office, 3028 E. Main St., Cañon City, CO 81212; (719) 269–8553. 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, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Rio Grande Natural Area Commission was established in the Rio Grande Natural Area Act (16 U.S.C. 460rrr–2). The nine-member Commission advises the Secretary of the Interior, through the BLM, concerning the preparation and implementation of a management plan for non-Federal land in the Rio Grande Natural Area, as directed by law. The public is invited to review, comment on and ask questions about the Commission's draft management plan. The draft management plan and minutes from previous meetings are available for public inspection at: *www.blm.gov/co/st/en/fo/slvfo.html.*

Ruth Welch,

BLM Colorado State Director.

[FR Doc. 2015–08036 Filed 4–7–15; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR–936000–L14300000–ET0000–14XL1116AF; HAG–14–0109; WAOR–50706]

Public Land Order No. 7832 Extension of Public Land Order No. 7133; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order extends the duration of the withdrawal created by Public Land Order 7133 for an additional 20-year period. This extension is necessary to continue protection of the Brown Mountain, Pal Moore Meadows, Teepee, Cedar Creek, and Flowery Trail Seed Orchards, located in the Colville and Kaniksu National Forests, which will expire on April 12, 2015, unless extended.

DATE: *Effective Date:* April 13, 2015.

FOR FURTHER INFORMATION CONTACT: Michael L. Barnes, Bureau of Land Management Oregon/Washington State Office, 503–808–6155, or Candice Polisky, U.S. Forest Service Pacific Northwest Region, 503–808–2479. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The purpose for which the withdrawal was first made requires this extension to continue protection of the investments made in the Brown Mountain, Pal Moore Meadows, Teepee, Cedar Creek, and Flowery Trail Seed Orchards in Colville and Kaniksu National Forests. The withdrawal extended by this order will expire on April 12, 2035, unless, as a result of a review conducted prior to the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976 43 U.S.C. 1714, the Secretary of the Interior determines that the withdrawal shall be further extended.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976 43 U.S.C. 1714, it is ordered as follows:

Public Land Order No. 7133 (60 FR 18777(1995)), which withdrew 496.22 acres of National Forest System lands from location and entry under the United States mining laws (30 U.S.C. Ch. 2), but not from leasing under the mineral leasing laws, to protect the investment at the Brown Mountain, Pal Moore Meadows, Teepee, Cedar Creek, and Flowery Trail Seed Orchards, is hereby extended for an additional 20-year period until April 12, 2035.

Dated: March 23, 2015.

Janice M. Schneider,

Assistant Secretary—Land and Minerals Management.

[FR Doc. 2015–08009 Filed 4–7–15; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–PWR–PWRO–17645; PX.P0206452B.00.1]

Final Environmental Impact Statement for Wilderness Stewardship Plan, Sequoia and Kings Canyon National Parks, Fresno and Tulare Counties, California

AGENCY: National Park Service, Interior.

ACTION: Notice of Availability.

SUMMARY: The National Park Service (NPS) has prepared a Wilderness Stewardship Plan and Environmental Impact Statement (Final WSP/EIS). The Final WSP/EIS identifies and analyzes five alternatives that will provide direction for the NPS to make decisions regarding the future use and protection of the Sequoia-Kings Canyon and John Krebs Wilderness within Sequoia and Kings Canyon National Parks.

DATES: The NPS will execute a Record of Decision not sooner than 30 days from the date of publication of the U.S. Environmental Protection Agency's notice of availability for the Final EIS in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Nancy Hendricks, Environmental Compliance and Planning Coordinator, Sequoia and Kings Canyon National Parks, 47050 Generals Highway, Three Rivers, CA 93271, (559) 565–3102. Electronic versions of the complete document are available online at *http://parkplanning.nps.gov/sekiwild.* Request printed documents or CDs through email (*seki_planning@nps.gov*) (type ''Final WSP/EIS'' in the subject line) or telephone (559) 565–3102.

SUPPLEMENTARY INFORMATION: The purposes of the WSP/EIS include implementing the long-term vision for protecting wilderness character that is contained in the parks' Final General Management Plan (GMP)/Final Environmental Impact Statement (EIS), as well as enhancing established programs and actions for managing these areas as wilderness. A variety of controversial or long-standing issues are addressed in the WSP/EIS, including visitor capacity, wilderness permitting, party (group) size limits for people and stock, campfire regulations, camping locations and regulations, food-storage requirements, human-waste management, stock access, stock grazing, maintenance of facilities and trails, and management of frontcountry facilities that support wilderness use. The WSP/EIS also analyzes and determines the types and levels of commercial services that may be performed for activities that are proper for realizing the recreational or other wilderness purposes of the areas, as required by § 4(d)(5) of the Wilderness Act (Extent Necessary Determination).

The WSP/EIS considers five alternatives that would manage the overall character of the parks' wilderness, including key aspects such as wilderness use levels, access and trails, stock use and grazing, recreational and administrative infrastructure, and the extent to which those activities proper for realizing wilderness purposes may be supported by commercial services. The main differences between these alternatives lie in the key elements of wilderness management—use levels, access and trails, stock use and grazing, and infrastructure, both recreational and administrative. These differences are driven by the different approach to management that each alternative offers. Each alternative serves visitor and/or operational needs in different ways, and would preserve natural resources in a condition that is consistent with the purposes of the Wilderness Act.

Alternative 1 (No-action/Status Quo) would continue to implement the existing Backcountry Management Plan (BMP) and the Stock Use and Meadow Management Plan (SUMMP) to guide wilderness management. The BMP establishes trailhead quotas, a wilderness permit system, and management objectives for campfires, campsites, sanitation, food storage, special-use limits, area closures, stock use and grazing, education and interpretation, trails and travel, signs, commercial operations, ranger stations, administrative policies, and monitoring (*e.g.,* meadows monitoring). The SUMMP establishes the management system and tools for stock use and includes site-specific opening dates for grazing, grazing management, use levels, protection of Sierra Nevada bighorn sheep ewe-lamb ranges, installation of

drift fences, stock and camp etiquette, implementation of temporary variances, and other closures. The SUMMP also establishes a monitoring program to inform and modify management as necessary to reduce resource impacts.

Alternative 2 (NPS preferred alternative) would protect wilderness character by implementing site-specific actions, incorporating much of the current management strategies and tools used by the parks to protect wilderness. Wilderness would be managed by evaluating conditions in specific areas and mitigating impacts through targeted actions. The goal is to encourage wilderness use and minimize restrictions while preserving wilderness character. Alternative 2 acknowledges that there are some challenges in the most popular areas and in areas with sensitive resources that can be mitigated through targeted improvements in management. Most wilderness trails in the parks would remain open to stock under this alternative. Stock would continue to be allowed to travel up to one-half mile off maintained trails to reach campsites. Off-trail stock travel would continue to be allowed in four areas of the parks: On the Monarch Divide, in the Roaring River area, on the Hockett Plateau, and along the western side of the Kern River watershed south from the Chagoopa Plateau. Grazing would generally be allowed in areas open to camping with stock (within 0.5 mile of maintained trails open to camping with stock or in off-trail travel areas), with some exceptions. Under alternative 2, the levels and types of commercial services to be performed would be similar to current conditions. However, the levels and types of commercial services allowed would be limited in the Mount Whitney Management Area, an approximately 37,200 acre area around Mount Whitney within Sequoia National Park.

Alternative 3 would provide more opportunities for primitive recreation by allowing additional use, which would be expected to occur mostly in popular areas. To preserve the natural quality of wilderness, the popular use areas in wilderness would require additional development and restrictions on visitor behavior. Most wilderness trails in the parks would remain open to stock under this alternative. Stock would continue to be allowed to travel up to one-half mile off maintained trails to reach campsites. Off-trail stock travel would continue to be allowed in four areas of the parks: On the Monarch Divide, in the Roaring River area, on the Hockett Plateau, and along the western side of the Kern River watershed south from the Chagoopa Plateau. Grazing would generally be allowed within 0.5 mile of maintained trails open to camping with stock, with some exceptions. As part of allowing increased use, the levels of commercial services would increase to accommodate less experienced visitors, to help educate visitors, and to control the impacts of inexperienced or inadequately equipped visitors.

Alternative 4 emphasizes the undeveloped quality and non-commercial recreation. This alternative would eliminate some of the development currently in wilderness to emphasize the undeveloped quality of wilderness. There would be fewer signs, bridges, stock-related facilities, and ranger stations. Restrooms/privies and food-storage boxes would be removed and there would be no designated campsites. Because fewer resource-protecting developments would remain in place, the amount of use would need to be reduced to protect the natural quality of wilderness. Private parties traveling with stock would continue to have access to most trails in the parks, and stock would continue to be allowed to travel off-trail in four designated areas. However, commercial stock use would be limited to certain destinations and trails. No private, commercial, or administrative stock grazing would be allowed under this alternative. Commercial services would be reduced to levels significantly lower than those in the no-action alternative and commercial services would be limited in high-use areas

Alternative 5 (environmentally preferable alternative) emphasizes opportunities for solitude by reducing the total number of wilderness visitors allowed in wilderness. Presence of fewer visitors in wilderness would in turn allow for reduced levels of development, along with reduced restrictions on visitor behavior (fewer people need fewer facilities). Reducing the numbers of visitors would also result in reduced impacts on resources. Stock travel more than 0.5 mile from trails open to camping with stock would be prohibited. Stock use and grazing would generally be allowed in most areas where overnight use is permitted with some exceptions. Commercial services would be at levels lower than those in the no-action alternative in most locations, but the percentage of total visitor use supported by commercial services would be similar to the no-action alternative to ensure that reduced access would not disproportionally affect any particular user group.

Dated: February 6, 2015.

Patricia L. Neubacher,

Acting Regional Director, Pacific West Region.

[FR Doc. 2015–08041 Filed 4–7–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–17899; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before March 14, 2015. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th Floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by April 23, 2015. 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: March 18, 2015.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

ARIZONA

Cochise County

Bowie School District No. 14, 315 W. 5th St., Bowie, 15000168

CALIFORNIA

Los Angeles County

Federal Building, 15000 Aviation Blvd., Hawthorne, 15000169

COLORADO

Park County

Tarryall Rural Historic Landscape, Cty. Rd. 77, Mileposts 2.4 to 41.8, Jefferson, 15000170

San Juan County

Sound Democrat Mill and Mine and Silver Queen Mine, (Mining Resources of San Juan County, Colorado MPS) Address Restricted, Silverton, 15000171

MARYLAND

Baltimore Independent city

McDonogh Place Historic District, N. Broadway, E. Eager, McDonogh & E. Chase Sts., Baltimore, 15000172

Charles County

Mallows Bay—Widewater Historic and Archeological District, Off Charles County shoreline at Sandy Pt., Nanjemoy, 15000173

MISSOURI

St. Louis Independent city

Woodward and Tierman Printing Company Building, 1519 Tower Grove Ave., St. Louis, 15000174

NEW HAMPSHIRE

Coos County

Burgess, George E., School—Notre Dame High Schol, 411 School St., Berlin, 15000175

NEW JERSEY

Sussex County

Waterloo Village (Boundary Increase), Musconetcong R. & Cty. Rd. 604, Byram Township, 15000176

NEW YORK

Bronx County

Crotona Play Center, 1700 Fulton Ave., Bronx, 15000177

Suffolk County

Sylvester Manor, 80 N. Ferry Rd., Shelter Island, 15000178

NORTH CAROLINA

Ashe County

Ashe County Memorial Hospital, (Ashe County, North Carolina, c. 1799–1955 MPS) 410 McConnell St., Jefferson, 15000179

Beaufort County

Belhaven Commercial Historic District, 260–292 E. Main & 246–288, 251–279 Pamlico Sts., Belhaven, 15000180

Guilford County

Willis, James H. and Anne B., House, 707 Blair St., Greensboro, 15000181

Harnett County

Erwin Commercial Historic District, 100 Denim Drive, 101–127 E. H & 103–111 S. 13th Sts., Erwin, 15000182

Mecklenburg County

Outen, R.F., Pottery, 430 Jefferson St., Matthews, 15000183

OHIO

Hamilton County

United States Post Office and Court House, 100 E. 5th St., Cincinnati, 15000184

Ottawa County

Perry's Victory and International Peace Memorial (Boundary Increase), 93 Delaware Ave., Put-in-Bay, 15000185

TENNESSEE

Grundy County

Christ Episcopal Church, 530 10th St., Tracy City, 15000186

Shelby County

One Hundred North Main Building, 100 N. Main St. Mall, Memphis, 15000187

WEST VIRGINIA

Marion County

Dunbar School, 103 High St., Fairmont, 15000188

WISCONSIN

Sheboygan County

Prange, Eliza, House, 605 Erie Ave., Sheboygan, 15000189

WYOMING

Teton County

Hardeman Barns, 5450 W. WY 22, Wilson, 15000190

[FR Doc. 2015–08007 Filed 4–7–15; 8:45 am]

BILLING CODE 4312–51–P

INTERNATIONAL TRADE COMMISSION

Public Availability of FY 2013 Service Contract Inventory Analysis, FY 2014 Service Contract Inventory, and FY 2014 Service Contract Inventory Planned Analysis

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010 (Pub. L. 111–117), the U.S. International Trade Commission is publishing this notice to advise the public of the availability of the FY 2013 Service Contract Inventory Analysis, the FY 2014 Service Contract Inventory, and the FY 2014 Service Contract Inventory Planned Analysis. The FY 2013 inventory analysis provides information on specific service contract actions that were analyzed as part of the FY 2013 inventory. The 2014 inventory provides information on service contract actions over $25,000 which were made in FY 2014. The inventory information is organized by function to show how contracted resources are distributed throughout the agency. The inventory has been developed in accordance with guidance issued on November 5, 2010 by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP). OFPP's guidance is available at *http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/service-contract-inventories-guidance-11052010.pdf.* The FY 2014 inventory planned analysis provides information on which functional areas will be reviewed by the agency. The United States International Trade Commission has posted its FY 2014 inventory, FY 2014 planned analysis, and FY 2013 inventory analysis at the following link: *http://www.usitc.gov/procurement/.*

FOR FURTHER INFORMATION CONTACT: Questions regarding the service contract inventory should be directed to Debra Bridge, U.S. International Trade Commission, Office of Procurement, 500 E Street SW., Washington, DC 20436, or at 202–205–2004 or *debra.bridge@usitc.gov.*

By order of the Commission.

Dated: April 3, 2015.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015–08050 Filed 4–7–15; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–411N]

Controlled Substances: Proposed Adjustments to the Aggregate Production Quotas for Difenoxin, Diphenoxylate (for conversion), and Marijuana

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice with request for comments.

SUMMARY: The Drug Enforcement Administration is proposing to adjust the established 2015 aggregate production quota for difenoxin, diphenoxylate (for conversion), and marijuana which are schedule I and II controlled substances under the Controlled Substances Act.

DATES: Interested persons may file written comments on this notice in accordance with 21 CFR 1303.13. Electronic comments must be submitted, and written comments must be postmarked, on or before May 8,

2015. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after 11:59 p.m. Eastern Time on the last day of the comment period.

ADDRESSES: To ensure proper handling of comments, please reference ''Docket No. DEA–411N'' on all correspondence, including any attachments. The Drug Enforcement Administration encourages that all comments be submitted electronically through the Federal eRulemaking Portal which provides the ability to type short comments directly into the comment field on the Web page or attach a file for lengthier comments. Please go to *http://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon completion of your submission you will receive a Comment Tracking Number for your comment. Please be aware that submitted comments are not instantaneously available for public view on Regulations.gov. If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. Paper comments that duplicate electronic submissions are not necessary and are discouraged. Should you wish to mail a paper comment *in lieu* of an electronic comment, it should be sent via regular or express mail to: Drug Enforcement Administration, Attention: DEA **Federal Register** Representative/ODXL, 8701 Morrissette Drive, Springfield, Virginia 22152.

FOR FURTHER INFORMATION CONTACT: Imelda L. Paredes, Office of Diversion Control, Drug Enforcement Administration; Mailing Address: 8701 Morrissette Drive, Springfield, Virginia 22152, Telephone (202) 598–6812.

SUPPLEMENTARY INFORMATION:

Posting of Public Comments

Please note that all comments received in response to this docket are considered part of the public record. They will, unless reasonable cause is given, be made available by the Drug Enforcement Administration for public inspection online at *http://www.regulations.gov.* Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter. The Freedom of Information Act applies to all comments received. If you want to submit personal identifying information (such as your name, address, etc.) as part of your comment, but do not want it to be posted online or made available in the public docket, you must include the phrase ''PERSONAL IDENTIFYING INFORMATION'' in the first paragraph of your comment. You must also place all the personal identifying information you do not want made publicly available in the first paragraph of your comment and identify what information you want redacted.

If you want to submit confidential business information as part of your comment, but do not want it to be made publicly available, you must include the phrase ''CONFIDENTIAL BUSINESS INFORMATION'' in the first paragraph of your comment. You must also prominently identify confidential business information to be redacted within the comment.

Comments containing personal identifying information and confidential business information identified and located as directed above will generally be made available in redacted form. If a comment has so much confidential business information or personal identifying information that it cannot be effectively redacted, all or part of that comment may not be made publicly available. Comments posted to *http://www.regulations.gov* may include any personal identifying information (such as name, address, and phone number) included in the text of your electronic submission that is not identified as directed above as confidential.

An electronic copy of this document is available at *http://www.regulations.gov* for easy reference.

Legal Authority

The Drug Enforcement Administration (DEA) implements and enforces titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended. 21 U.S.C. 801–971. Titles II and III are referred to as the ''Controlled Substances Act'' and the ''Controlled Substances Import and Export Act,'' respectively, and are collectively referred to as the ''Controlled Substances Act'' or the ''CSA'' for the purpose of this action. The DEA publishes the implementing regulations for these statutes in title 21 of the Code of Federal Regulations (CFR), chapter II. The CSA and its implementing regulations are designed to prevent, detect, and eliminate the diversion of controlled substances and listed chemicals into the illicit market while providing for the legitimate medical, scientific, research, and industrial needs of the United States. Controlled substances have the potential for abuse and dependence and are controlled to protect the public health and safety.

Section 306 of the CSA (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for each basic class of controlled substance listed in schedules I and II each year. The Attorney General has delegated this function to the Administrator of the DEA, 28 CFR 0.100.

Background

The DEA established the initial 2015 aggregate production quotas and assessments of annual need on September 8, 2014 (79 FR 53216). That notice stipulated that, as provided for in 21 CFR 1303.13, all aggregate production quotas and assessments of annual need are subject to adjustment.

Based on unanticipated medical, scientific, research, and industrial needs of the United States the DEA proposes to adjust the established 2015 aggregate production quotas for the schedule I and II controlled substances difenoxin, diphenoxylate (for conversion), and marijuana to be manufactured in the United States in 2015. The adjustment is necessary to provide for the estimated medical, scientific, research, and industrial needs of the United States, lawful export requirements, and the establishment and maintenance of reserve stocks.

In proposing the adjustment, the Administrator has taken into account the following criteria in accordance with 21 CFR 1303.13: (1) Changes in demand for the basic class, changes in the national rate of net disposal for the class, and changes in the rate of net disposal by the registrants holding individual manufacturing quotas for the class; (2) whether any increased demand or changes in the national and/or individual rates of net disposal are temporary, short term, or long term; (3) whether any increased demand for that class can be met through existing inventories, increased individual manufacturing quotas, or increased importation, without increasing the aggregate production quota; (4) whether any decreased demand will result in excessive inventory accumulation by all persons registered to handle the class; and (5) other factors affecting the medical, scientific, research, and industrial needs of the United States and lawful export requirements, as the Administrator finds relevant.

Analysis for Adjusting the Established 2015 Aggregate Production Quota for Difenoxin and Diphenoxylate (for Conversion)

Since the establishment of the initial 2015 aggregate production quotas, the DEA has received requests from DEA registered manufacturers to manufacture difenoxin and diphenoxylate (for conversion) to support the manufacture

of prescription drug products approved by the Food and Drug Administration (FDA) for the treatment of chronic diarrhea and for the treatment of diarrhea associated with irritable bowel syndrome (IBS).[1] These FDA approved products have not been manufactured since 2009 due to FDA-regulated manufacturing issues and there is no existing generic or therapeutic equivalent.

Analysis for Adjusting the Established 2015 Aggregate Production Quota for Marijuana

Since the establishment of the initial 2015 aggregate production quotas, the DEA has received notification from DEA registered manufacturers that research and product development involving cannabidiol, is increasing beyond that previously anticipated for 2015. The associated product development activities are related to process validation and commercialization activities, including qualification activities related to potential U.S. Food and Drug Administration submission support.

Additionally, the DEA has also received notification from the National Institute on Drug Abuse (NIDA) that it required additional supplies of marijuana to be manufactured in 2015 to provide for ongoing and anticipated research efforts involving marijuana. NIDA is a component of the National Institutes of Health and the U.S. Department of Health and Human Services which oversees the cultivation, production and distribution of research-grade marijuana on behalf of the United States Government, pursuant to the Single Convention on Narcotic Drugs (March 30, 1961, 18 UST 1407).

The Administrator, therefore, proposes to adjust the 2015 aggregate production quotas for difenoxin, diphenoxylate (for conversion), and marijuana, expressed in grams of anhydrous acid or base, as follows:

Basic class-schedule I	Previously established 2015 quota	Adjusted 2015 quota
Difenoxin ...	50 g	9,000 g
Marijuana ..	125,000 g	400,000 g

Basic class-schedule II	Previously established 2015 quota	Adjusted 2015 quota
Diphenoxylate (for conversion).	Zero	75,000 g

[1] Difenoxin (schedule I) is the active pharmaceutical ingredient in the diarrhea preparation (schedule V).

Dated: April 1, 2015.

Michele M. Leonhart,

Administrator.

[FR Doc. 2015–08042 Filed 4–7–15; 8:45 am]

BILLING CODE 4410–09–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (15–026)]

Notice of Intent To Grant a Partially Exclusive License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent to Grant Partially Exclusive License.

SUMMARY: This notice is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant a partially exclusive license in the United States to practice the invention described and claimed in U.S. Patent No. 7,086,593 B2 titled ''Magnetic Field Response Measurement Acquisition System,'' NASA Case No. LAR–16908–1; U.S. Patent No. 7,159,774 B2 titled ''Magnetic Field Response Measurement Acquisition System,'' NASA Case No. LAR–17280–1; U.S. Patent No. 7,075,295 B2 titled ''Magnetic Field Response Sensor for Conductive Media,'' NASA Case No. LAR–16571–1; U.S. Patent No. 7,589,525 B2 titled ''Magnetic Field Response Sensor for Conductive Media,'' NASA Case No. LAR–16571–2; U.S. Patent No. 7,759,932 B2 titled ''Magnetic Field Response Sensor for Conductive Media,'' NASA Case No. LAR–16571–3; U.S. Patent No. 8,430,327 B2 titled ''Wireless Sensing System Using Open-Circuit, Electrically-Conductive Spiral-Trace Sensor,'' NASA Case No. LAR–17294–1; U.S. Patent No. 7,683,797 B2 titled ''Damage Detection/Locating System Providing Thermal Protection,'' NASA Case No. LAR–17295–1; U.S. Patent No. 7,902,815 B2 titled ''Wireless System and Method for Collecting Motion and Non-Motion Related Data of a Rotating System,'' NASA Case No. LAR–17433–1; U.S. Patent No. 8,042,739 B2 titled ''Wireless Tamper Detection Sensor and Sensing System,'' NASA Case No. LAR–17444–1; U.S. Patent No. 7,711,509 B2 titled ''Method of Calibrating a Fluid-Level Measurement System,'' NASA Case No. LAR–17480–1; U.S. Patent No. 7,814,786 B2 titled ''Wireless Sensing System for Non-Invasive Monitoring of Attributes of Contents in a Container,'' NASA Case No. LAR–17488–1; U.S. Patent No. 8,673,649 B2 titled ''Wireless Chemical Sensor and Sensing Method for Use Therewith,'' NASA Case No. LAR–17579–1; U.S. Patent Application No. 14/215,793 titled ''Wireless Chemical Sensor and Sensing Method for Use Therewith,'' NASA Case No. LAR–17579–2; U.S. Patent No. 8,167,204 B2 titled ''Wireless Damage Location Sensing System,'' NASA Case No. LAR–17593–1; U.S. Patent No. 8,179,203 B2 titled ''Wireless Electrical Device Using Open-Circuit Elements Having No Electrical Connections,'' NASA Case No. LAR–17711–1; U.S. Patent Application No. 14/193,861 titled ''Wireless Temperature Sensing Having No Electrical Connections and Sensing Method for Use Therewith,'' NASA Case No. LAR–17747–1–CON; U.S. Patent Application No. 13/796,626 titled ''Method of Mapping Anomalies in Homogenous Material,'' NASA Case No. LAR–17848–1 to GLSEQ, LLC having its principal place of business in Owens Cross Roads, Alabama. The fields of use may be limited to, but not necessarily be limited to, safety related and non-safety related instrumentation and control systems for nuclear facilities, including advanced safety related and non-safety related instrumentation systems for severe accident monitoring within nuclear power plants and nuclear storage facilities. The patent rights in these inventions have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective partially exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

DATES: The prospective partially exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated partially exclusive license.

Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Objections relating to the prospective license may be submitted to Patent Counsel, Office of Chief Counsel, NASA Langley Research Center, MS 30,

Hampton, VA 23681; (757) 864–3230 (phone), (757) 864–9190 (fax).

FOR FURTHER INFORMATION CONTACT: Robin W. Edwards, Patent Counsel, Office of Chief Counsel, NASA Langley Research Center, MS 30, Hampton, VA 23681; (757) 864–3230; Fax: (757) 864–9190. Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov.*

Sumara M. Thompson-King,

General Counsel.

[FR Doc. 2015–08076 Filed 4–7–15; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (15–025)]

Notice of Intent To Grant an Exclusive License.

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent to Grant an Exclusive License.

SUMMARY: This notice is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant an exclusive patent license in the United States to ICAP Patent Brokerage, having its principal place of business in New York, NY, to promote the utilization by the public of the inventions described and claimed in the following U.S. Patents by, inter alia, engaging in marketing activities:

''USPN 7,412,175, Millimeter Wave Polarization Transformer, NASA Case No. GSC–15027–1; USPN 7,465,926, Miniaturized Radiation Spectrometer Development, GSC–15115–1; USPN 7,504,921, Stepping Flextures, GSC–14562–1; USPN 7,513,546, Conformal Gripper, GSC–14952–1; USPN 7,544,146, Anti-Backlash Gear-Bearings, GSC–14603–1; USPN 7,601,091, Modular Gear Bearing, GSC–14979–1; USPN 7,609,978, INTERFEROMETRIC POLARIZATION CONTROL, GSC–15027–2; USPN 7,616,903, INTERFEROMETRIC POLARIZATION CONTROL, GSC–15027–3; USPN 7,622,907, Driven Ground, GSC–15042–1; USPN 7,635,832, Iterative-Transform Phase-Retrieval Utilizing Adaptive Diversity, GSC–14879–1; USPN 7,735,385, Actuated Ball and Socket Joint, GSC–15417–1; USPN 7,746,190, Broadband High Spurious-suppression Microwave Waveguide Filter For Polarization-preserving And Transformer, GSC–15055–1; USPN 7,762,155, Gear Bearings, GSC–14480–2; USPN 7,811,406, Advanced Adhesive Bond Shape Tailoring for Large Composite Primary Structures Subjected to Cryogenic and Ambient Loading Environments, GSC–15377–1; USPN 7,817,087, Relative Spacecraft Navigation using Reflected GPS Signals, GSC–15483–1; USPN 7,830,527, Method And Apparatus For Second Harmonic Generation And Other Frequency Convertion With Multiple Frequency Channels, GSC–15349–1; USPN 7,970,025, Tunable Frequency-stabilized Laser via Offset Sideband Locking, GSC–15583–1; USPN 7,982,861, Pseudo-Noise Code Modulation using Return to Zero pulses for Ranging, Altimetry and Communications, GSC–15445–1; USPN 8,155,939, Hughes Particle – Surface Interaction Model; Surface Interaction Model, GSC–15364–1; USPN 8,160,728, Sensor Complete Requirements Algorithm For Autonomous Mobility, GSC–15527–1; USPN 8,275,724, A biologically-inspired method of improving system performance and survivability through self-sacrifice, GSC–15550–1; USPN 8,275,015, Passively Q-switched side pumped Monolithic Ring Laser, GSC–15724–1; USPN 8,274,726, Sampling and Reconstruction of the Sinc(x) Function, GSC–15947–1; USPN 8,285,401, Discrete Fourier Transform (DFT) Analysis in a Complex Vector Space, GSC–15684–1; USPN 8,331,733, Sampling Theorem in Terms of the Bandwidth and Sampling Interval, GSC–15685–1; USPN 8,330,644, Expandable Reconfigurable Instrument Node—Web Sensor Strand Demonstration, GSC–15692–1; USPN 8,354,952, Phase Retrieval for Radio Telescope and Antenna Control, GSC–15977–1; USPN 8,406,469, Progressive Band Selection for Hyperspectral Images, GSC–15792–1; USPN 8,484,274, Optimal Padding for the Two-Dimensional Fast Fourier Transform, GSC–15678–1; USPN 8,499,779, Non-Pyrotechnic Zero-Leak Normally-Closed Valve, GSC–15328–1; USPN 8,687,742, Ensemble Detector, GSC–15774–1; USPN 8,816,884, Vectorized Rebinning Algorithm for Fast Data Down-Sampling, GSC–15949–1; USPN 8,816,273, A High Event Rate, Zero Dead Time, Multi-Stop Time-to-digital Converter Application Specific Integrated Circuit, GSC–16182–1; USPN 8,898,479, INTEGRATED GENOMIC AND PROTEOMIC INFORMATION SECURITY PROTOCOL, GSC–16545–1.''

The patent rights in these inventions as applicable have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. NASA has not yet made a determination to grant exclusive licenses and may deny the requested licenses even if no objections are submitted within the comment period.

DATES: The prospective exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license.

Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Objections relating to the prospective license may be submitted to Mr. Bryan A. Geurts, Chief Patent Counsel, Goddard Space Flight Center, Code 140.1, Greenbelt, MD 20771, (301) 286–7351.

FOR FURTHER INFORMATION CONTACT: Alfred T. Mecum, Innovative Partnerships Program Office, Goddard Space Flight Center, Code 504, Greenbelt, MD 20771 (301) 286–5810. Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov/.*

Sumara M. Thompson-King,

General Counsel.

[FR Doc. 2015–08075 Filed 4–7–15; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (15–027)]

Notice of Intent To Grant an Exclusive License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent to Grant an Exclusive License.

SUMMARY: This notice is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant an exclusive license in the United States to practice the invention described and claimed in the following U.S. Patent Applications:

''USPN 7,412,175, Millimeter Wave Polarization Transformer, NASA Case No. GSC–15027–1; USPN 7,465,926, Miniaturized Radiation Spectrometer Development, GSC–15115–1; USPN 7,504,921, Stepping Flextures, GSC–14562–1; USPN 7,513,546, Conformal Gripper, GSC–14952–1; USPN 7,544,146, Anti-Backlash Gear-Bearings, GSC–14603–1; USPN 7,601,091, Modular Gear Bearing, GSC–14979–1; USPN 7,609,978, INTERFEROMETRIC POLARIZATION CONTROL, GSC–15027–2; USPN 7,616,903, INTERFEROMETRIC POLARIZATION CONTROL, GSC–15027–3; USPN 7,622,907, Driven Ground, GSC–15042–1; USPN 7,635,832, Iterative-Transform Phase-

Retrieval Utilizing Adaptive Diversity, GSC–14879–1; USPN 7,735,385, Actuated Ball and Socket Joint, GSC–15417–1; USPN 7,746,190, Broadband High Spurious-suppression Microwave Waveguide Filter For Polarization-preserving And Transformer, GSC–15055–1; USPN 7,762,155, Gear Bearings, GSC–14480–2; USPN 7,811,406, Advanced Adhesive Bond Shape Tailoring for Large Composite Primary Structures Subjected to Cryogenic and Ambient Loading Environments, GSC–15377–1; USPN 7,817,087, Relative Spacecraft Navigation using Reflected GPS Signals, GSC–15483–1; USPN 7,830,527, Method And Apparatus For Second Harmonic Generation And Other Frequency Convertion With Multiple Frequency Channels, GSC–15349–1; USPN 7,970,025, Tunable Frequency-stabilized Laser via Offset Sideband Locking, GSC–15583–1; USPN 7,982,861, Pseudo-Noise Code Modulation using Return to Zero pulses for Ranging, Altimetry and Communications, GSC–15445–1; USPN 8,155,939, Hughes Particle – Surface Interaction Model; Surface Interaction Model, GSC–15364–1; USPN 8,160,728, Sensor Complete Requirements Algorithm For Autonomous Mobility, GSC–15527–1; USPN 8,275,724, A biologically-inspired method of improving system performance and survivability through self-sacrifice, GSC–15550–1; USPN 8,275,015, Passively Q-switched side pumped Monolithic Ring Laser, GSC–15724–1; USPN 8,274,726, Sampling and Reconstruction of the Sinc(x) Function, GSC–15947–1; USPN 8,285,401, Discrete Fourier Transform (DFT) Analysis in a Complex Vector Space, GSC–15684–1; USPN 8,331,733, Sampling Theorem in Terms of the Bandwidth and Sampling Interval, GSC–15685–1; USPN 8,330,644, Expandable Reconfigurable Instrument Node—Web Sensor Strand Demonstration, GSC–15692–1; USPN 8,354,952, Phase Retrieval for Radio Telescope and Antenna Control, GSC–15977–1; USPN 8,406,469, Progressive Band Selection for Hyperspectral Images, GSC–15792–1; USPN 8,484,274, Optimal Padding for the Two-Dimensional Fast Fourier Transform, GSC–15678–1; USPN 8,499,779, Non-Pyrotechnic Zero-Leak Normally-Closed Valve, GSC–15328–1; USPN 8,687,742, Ensemble Detector, GSC–15774–1; USPN 8,816,884, Vectorized Rebinning Algorithm for Fast Data Down-Sampling, GSC–15949–1; USPN 8,816,273, A High Event Rate, Zero Dead Time, Multi-Stop Time-to-digital Converter Application Specific Integrated Circuit, GSC–16182–1; USPN 8,898,479, INTEGRATED GENOMIC AND PROTEOMIC INFORMATION SECURITY PROTOCOL, GSC–16545–1.''

To Ocean Tomo Federal Services having its principal place of business in Bethesda, MD. The patent rights in this invention have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

DATES: The prospective exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license.

Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Objections relating to the prospective license may be submitted to Mr. Bryan A. Geurts, Chief Patent Counsel/140.1, Goddard Space Flight Center, Greenbelt, MD 20771, (301) 286–7351.

FOR FURTHER INFORMATION CONTACT: Alfred T. Mecum, Innovative Partnerships Program Office/504, Goddard Space Flight Center, Greenbelt, MD 20771 (301) 286–5810. Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov/*.

Sumara M. Thompson-King,

General Counsel.

[FR Doc. 2015–08077 Filed 4–7–15; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Arts Advisory Panel Meetings

AGENCY: National Endowment for the Arts, National Foundation on the Arts and Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that nine meetings of the Arts Advisory Panel to the National Council on the Arts will be held by teleconference from the National Endowment for the Arts, Constitution Center, 400 7th St. SW., Washington, DC 20506 as follows (all meetings are Eastern time and ending times are approximate):

Design (review of applications): This meeting will be closed.

Dates: April 28, 2015 11:00 a.m. to 1:30 p.m.

Design (review of applications): This meeting will be closed.

Dates: April 28, 2015 2:30 p.m. to 5:00 p.m.

Design (review of applications): This meeting will be closed.

Dates: April 29, 2015 11:00 a.m. to 1:30 p.m.

Design (review of applications): This meeting will be closed.

Dates: April 29, 2015 2:30 p.m. to 5:00 p.m.

Design (review of applications): This meeting will be closed.

Dates: May 7, 2015 11:00 a.m. to 2:00 p.m.

Design (review of applications): This meeting will be closed.

Dates: May 7, 2015 2:30 p.m. to 5:00 p.m.

Design (review of applications): This meeting will be closed.

Dates: May 8, 2015 11:00 a.m. to 1:30 p.m.

Literature (review of applications): This meeting will be closed.

Dates: May 20, 2015 2:00 p.m. to 5:00 p.m.

Literature (review of applications): This meeting will be closed.

Dates: May 20, 2015 2:30 p.m. to 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Further information with reference to these meetings can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506; *plowitzk@arts.gov,* or call 202/682–5691.

SUPPLEMENTARY INFORMATION: The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of February 15, 2012, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of title 5, United States Code.

Dated: April 2, 2015.

Kathy Plowitz-Worden,

Panel Coordinator, National Endowment for the Arts.

[FR Doc. 2015–07955 Filed 4–7–15; 8:45 am]

BILLING CODE 7537–01–P

THE NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Notice of Proposed Information Collection Requests: Museum Locator Tool

AGENCY: Institute of Museum and Library Services, National Foundation for the Arts and the Humanities.

ACTION: Notice, request for comments, collection of information.

SUMMARY: The Institute of Museum and Library Services (IMLS), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). This pre-clearance consultation program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. By this notice, IMLS is soliciting comments concerning a proposed information collection to enable the museum community and members of the public to provide input into IMLS's ongoing effort to provide accurate information about currently operating museums throughout the United States.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before June 7, 2015.

IMLS is particularly interested in comments that help the agency:

- 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 submissions of responses.

ADDRESSES: Send comments to: Carlos A. Manjarrez, Director, Office of Planning, Research and Evaluation, Institute of Museum and Library Services, 1800 M St. NW., 9th Floor, Washington, DC 20036. Mr. Manjarrez can be reached by Telephone: 202–653–4671, Fax: 202–653–4600, or by email at *cmanjarrez@imls.gov,* or by teletype (TTY/TDD) for persons with hearing difficulty at 202–653–4614.

SUPPLEMENTARY INFORMATION:

I. Background

The Institute of Museum and Library Services is the primary source of federal support for the Nation's 123,000 libraries and 35,000 museums. The Institute's mission is to inspire libraries and museums to advance innovation, learning and civic engagement. The Institute works at the national level and in coordination with state and local organizations to sustain heritage, culture, and knowledge; enhance learning and innovation; and support professional development. IMLS is responsible for identifying national needs for and trends in museum, library, and information services; measuring and reporting on the impact and effectiveness of museum, library and information services throughout the United States, including programs conducted with funds made available by IMLS; identifying, and disseminating information on, the best practices of such programs; and developing plans to improve museum, library and information services of the United States and strengthen national, State, local, regional, and international communications and cooperative networks (20 U.S.C. Chapter 72, 20 U.S.C. 9108).

II. Current Actions

The intention of the Museum Locator Tool is to support IMLS's ongoing effort to provide accurate information about currently operating museums throughout the United States. While IMLS has collected a wide range of data about museums across the country and has cleaned and enhanced this data over time, the museum locator provides an easy-to-use tool for members of the public interested in accessing museum information and providing input to the list of museums on a voluntary basis. The Museum Locator Tool will provide an opportunity for the public to identify museums via a keyword search or by navigating an easy-to-use map. Members of the public will also be able to provide input by identifying museums in their area that may not be listed or by providing additional information for museums they have identified within the tool. The Museum Locator Tool will include an ''Add a Museum'' function that allows viewers to enter an institution that is not in the data base and provide: Institution name, street address, city and state, zip code, phone number, URL, and hours of operation. There will also be an ''Update a Museum'' function that will allow viewers to update the same institution fields: Institution name, street address, city and state, zip code, phone number, URL, and hours of operation.

The Museum Locator Tool is not a statistical collection and the data gathered from this tool will not be used for statistical reporting. Rather, it is provided as a service to members of the public who are interested in accessing current data on US museums and who would like to contribute to an open and ongoing public resource. The tool will provide APIs for developers to access the data in real time and data downloads for people who care to access data from the tool in batch form.

Agency: Institute of Museum and Library Services.

Title: Museum Finder Tool.

OMB Number: To Be Determined.

Frequency: N/A.

Affected Public: The target populations for the tool are museum professionals and members of the public interested in museum services.

Estimated Number of Respondents: 500.

Estimated Average Burden per Response: The burden per respondent is estimated to be an average of 5 minutes based on the size of the input form.

Estimated Total Annual Burden: 42 hours.

Total Annualized capital/startup costs: n/a.

Total Annual costs: To be determined.

Public Comments Invited: Comments submitted in response to this notice will be summarized and/or included in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Carlos A. Manjarrez, Director, Office of Planning, Research and Evaluation, 1800 M St. NW., 9th Floor, Washington, DC 20036.

Mr. Manjarrez can be reached by Telephone: 202–653–4671, Fax: 202–653–4600, or by email at *cmanjarrez@imls.gov,* or by teletype (TTY/TDD) for persons with hearing difficulty at 202–653–4614.

Dated: April 3, 2015.

Kim Miller,

Management Analyst.

[FR Doc. 2015–08061 Filed 4–7–15; 8:45 am]

BILLING CODE 7036–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2013–81; Order No. 2424]

Amendment to Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an amendment to Priority Mail Contract 63 negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* April 9, 2015.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

On April 1, 2015, the Postal Service filed notice that it has agreed to an Amendment to the existing Priority Mail Contract 63 negotiated service agreement approved in this docket.[1] In support of its Notice, the Postal Service includes a redacted copy of the Amendment in Attachment A. *Id.,* Attachment A. The Postal Service previously filed a certification of compliance with 39 U.S.C. 3633(a), as required by 39 CFR 3015.5.[2]

The Postal Service also filed the unredacted Amendment under seal. Notice at 1. The Postal Service states this Amendment will not materially affect the cost coverage of Priority Mail Contract 63 and asserts that the supporting financial documentation and financial certification initially provided in this docket remain applicable. *Id.* The Postal Service seeks to incorporate by reference the Application for Non-Public Treatment originally filed in this docket for the protection of information that it has filed under seal. *Id.*

The Amendment revises the customer's Priority Mail contract rates, which appear in Terms I.F, I.G, and I.H, and the annual adjustment, which is described in Term I.I. Notice, Attachment A at 1–3.

The Postal Service intends for the Amendment to become effective one business day after the date that the Commission completes its review of the Notice. Notice at 1. The Postal Service asserts that the Amendment will not impair the ability of the contract to comply with 39 U.S.C. 3633. *Id.*

II. Notice of Filings

The Commission invites comments on whether the changes presented in the Postal Service's Notice are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than April 9, 2015. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Kenneth R. Moeller to represent the interests of the general public (Public Representative) in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission reopens Docket No. CP2013–81 for consideration of matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, the Commission appoints Kenneth R. Moeller to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

3. Comments are due no later than April 9, 2015.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2015–07975 Filed 4–7–15; 8:45 am]

BILLING CODE 7710–FW–P

[1] Notice of United States Postal Service of Amendment to Priority Mail Contract 63, with Portions Filed Under Seal, April 1, 2015 (Notice).

[2] Request of the United States Postal Service to Add Priority Mail Contract 63 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, September 19, 2013 (Request). Although the Request appears to state that the certification only pertains to paragraphs (1) and (3) of 39 U.S.C. 3633(a), the certification itself contains an assertion that the prices are in compliance with 39 U.S.C. 3633 (a)(1), (2), and (3). Request at 2; Attachment E.

Railroad Retirement Board

Sunshine Act; Notice of Public Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on April 22, 2015, 10:00 a.m. at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611. The agenda for this meeting follows:

Portion open to the public:

(1) Executive Committee Reports

The person to contact for more information is Martha P. Rico, Secretary to the Board, Phone No. 312–751–4920.

Dated: April 6, 2015.

Martha P. Rico,

Secretary to the Board.

[FR Doc. 2015–08143 Filed 4–6–15; 11:15 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74640; File No. SR–NYSE–2015–13]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending its Price List To Specify That a Member Organization May Request That the Exchange Aggregate its Eligible Activity With Activity of the Member Organization's Affiliates for Purposes of Charges or Credits Based on Volume

April 2, 2015.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on March 25, 2015, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. 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 proposes to amend its Price List to specify that a member organization may request that the Exchange aggregate its eligible activity

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

with activity of the member organization's affiliates for purposes of charges or credits based on volume. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization 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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List to specify that member organizations may request that the Exchange aggregate their eligible activity with activity of member organization's affiliates for purposes of charges or credits based on volume. The proposed rule change is based on NASDAQ Stock Market LLC (''NASDAQ'') Rule 7027, NASDAQ Options Market LLC (''NOM'') Rules at Chapter XV, and the NASDAQ OMX PHLX LLC (''PHLX'') Pricing Schedule.[4]

As proposed, for purposes of applying any provision of the Exchange's Price List where the charge assessed, or credit provided, by the Exchange depends on the volume of a member organization's activity, a member organization may request that the Exchange aggregate its eligible activity with activity of such member organization's affiliates. The Exchange further proposes that a member organization requesting aggregation of eligible affiliate activity would be required to (1) certify to the Exchange the affiliate status of member organizations whose activity it seeks to aggregate prior to receiving approval for aggregation, and (2) inform the Exchange immediately of any event that causes an entity to cease being an affiliate. The Exchange would review available information regarding the entities and reserves the right to request additional information to verify the affiliate status of an entity. As further proposed, the Exchange would approve a request, unless it determines that the certificate is not accurate.[5]

The Exchange also proposes that if two or more member organizations become affiliated on or prior to the sixteenth day of a month, and submit the required request for aggregation on or prior to the twenty-second day of the month, an approval of the request would be deemed to be effective as of the first day of that month. If two or more member organizations become affiliated after the sixteenth day of a month, or submit a request for aggregation after the twenty second day of the month, an approval of the request would be deemed to be effective as of the first day of the next calendar month.[6] The Exchange believes that this requirement, which is also similar to requirements of other exchanges,[7] would be a fair and objective way to apply the aggregation rule to fees and streamline the billing process.

The Exchange further proposes to provide that for purposes of applying any provision of the Price List where the charge assessed, or credit provided, by the Exchange depends upon the volume of a member organization's activity, references to an entity would be deemed to include the entity and its affiliates that have been approved for aggregation.[8] The Exchange notes that its designated market makers (''DMM'') are subject to specified pricing on the Price List. For purposes of the Price List, a DMM may not aggregate its volume either with other units within the same member organization or affiliates of the member organization operating the DMM unit. In addition, the Exchange proposes to provide that member organizations may not aggregate volume where the Price List specifies that aggregation is not permitted.[9]

Finally, the Exchange proposes that for purposes of the Price List, the term ''affiliate'' would mean any member organization under 75% common ownership or control of that member organization.[10]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[12] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among member organizations and issuers and other persons using any facility or system with [sic] the Exchange operates or controls and because it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest.

The Exchange further believes that the proposed rule change is reasonable because it establishes a manner for the Exchange to treat affiliated member organizations for purposes of assessing charges or credits that are based on volume. The provision is equitable because all member organizations seeking to aggregate their activity are subject to the same parameters, in accordance with a standard that recognizes an affiliation as of the month's beginning or close in time to when the affiliation occurs, provided the member organization submits a timely request. Moreover, the proposed billing aggregation language, which would lower the Exchange's administrative burden, is substantially similar to aggregation language adopted by other exchanges.[13]

The Exchange further notes that the proposal would serve to reduce disparity of treatment between member organizations with regard to the pricing of different services and reduce any potential for confusion on how activity can be aggregated. The Exchange believes that the proposed rule change avoids disparate treatment of member organizations that have divided their various business activities between separate corporate entities as compared to member organizations that operate those business activities within a single corporate entity. The Exchange further notes that the proposed rule change is

[4] Effective December 1, 2014, NASDAQ amended Rule 7027 to harmonize the treatment of aggregation of affiliate activity of affiliated members to be consistent with the rules governing NOM and PHLX. *See* Securities Exchange Act Release No. 72966 (Sept. 3, 2014), 79 FR 53473 (Sept. 9, 2014) (SR–NASDAQ–2014–083). NOM and PHLX also amended their respective rules to harmonize the process by which it collects information from its members for purposes of aggregating member activity between its equity and options markets. *See* Securities Exchange Act Release Nos. 72967 (Sept. 2, 2014), 79 FR 53471 (Sept. 9, 2014) (SR–NASDAQ–2014–082) and 72969 (Sept. 3, 2014), 79 FR 53485 (Sept. 9, 2014) (SR–PHLX–2014–56).

[5] *See* NASDAQ Rule 7027(a)(1).

[6] *See* NASDAQ Rule 7027(a)(2).

[7] *See supra* note 4.

[8] *See* supra note 5.

[9] For example, the Price List specifies whether quoting and trading activity relating to Supplemental Liquidity Provider activity may be aggregated.

[10] *See* NASDAQ Rule 7027(c).

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4) and (5).

[13] *See supra* note 4.

reasonable and is designed to remove impediments to and perfect the mechanism of a free and open market by harmonizing the manner by which the Exchanges permits member organizations to aggregate volume with other exchanges. In particular, the Exchange notes that NASDAQ, PHLX and BX all have the same standard that the Exchange is proposing to adopt.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[14] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As stated above, the proposed rule change, which applies equally to all member organizations, is intended to reduce the Exchange's administrative burden in applying volume price discounts for firms which have requested aggregation with that of an affiliate member organization, and is substantially similar to rules adopted by other exchanges. Because the market for order execution and routing is extremely competitive, member organizations may readily opt to disfavor the Exchange if they believe that alternatives offer them better value. The Exchange does not believe the proposed changes will impair the ability of member organizations or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission,[15] the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[16] and Rule 19b–4(f)(6) thereunder.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2015–13 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–NYSE–2015–13. 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 will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com.* 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–NYSE–2015–13 and should be submitted on or before April 29, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Brent J. Fields,

Secretary.

[FR Doc. 2015–07968 Filed 4–7–15; 8:45 am]

BILLING CODE 8011–01–P

[14] 15 U.S.C. 78f(b)(8).

[15] The Exchange has fulfilled this requirement.

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74631; File No. SR–PHLX–2015–31]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Move the Rule Text of Current Rule 1070, Customer Complaints, Into Rule 1028, Confirmations, To Accommodate an Upcoming Rulebook Reorganization

April 2, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1], and Rule 19b–4 thereunder,[2] notice is hereby given that on March 24, 2015, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to move the rule text of current Rule 1070, Customer Complaints, into Rule 1028, Confirmations, to accommodate an upcoming rulebook reorganization. No

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

substantive changes are proposed for Rule 1070 or Rule 1028.

The text of the proposed rule change is below; proposed new language is italicized; proposed deletions are in brackets.

* * * * *

Rule 1028. Confirmations *and Complaints*

(a) Every member and member organization shall promptly furnish to each customer a written confirmation of each transaction in option contracts for such customer's account. Each such confirmation shall show the type of option, the underlying stock, Exchange-Traded Fund Share or foreign currency, as the case may be, the expiration month, the exercise price, the number of option contracts, the premium, commissions, the transaction and settlement dates, whether the transaction was a purchase or a sale (writing) transaction, whether the transaction was an opening or a closing transaction, and whether the transaction was effected on a principal or agency basis. The confirmation shall by appropriate symbols distinguish between Exchange options transactions and other transactions in option contracts though such confirmation does not need to specify the exchange or exchanges on which such option contracts were executed.

(b) Every member organization conducting a customer business shall maintain and keep current a separate central log, index or other file for all options-related complaints, through which these complaints can easily be identified and retrieved. The central file shall be located at the principal place of business of the member organization or such other principal office as shall be designated by the member organization. At a minimum, the central file shall include: (i) Identification of complaint; (ii) date complaint was received; (iii) identification of Registered Representative servicing the account; (iv) a general description of the matter complained of, and (v) a record of what action, if any, has been taken by the member organization with respect to the complaint. The term ''options-related complaint'' shall mean any written statement by a customer or person acting on behalf of a customer alleging a grievance arising out of or in connection with listed options. Each options-related complaint received by a branch office of a member organization shall be forwarded to the office in which the separate, central file is located no later than 30 days after receipt by the branch office. A copy of every options-related complaint shall be maintained at the branch office that is the subject of the complaint.

(1) The provisions of this Rule shall be applicable to index warrants.

* * * * *

Rule 1070. [Customer Complaints] *Reserved.*

[Every member organization conducting a customer business shall maintain and keep current a separate central log, index or other file for all options-related complaints, through which these complaints can easily be identified and retrieved. The central file shall be located at the principal place of business of the member organization or such other principal office as shall be designated by the member organization. At a minimum, the central file shall include: (i) Identification of complaint; (ii) date complaint was received; (iii) identification of Registered Representative servicing the account; (iv) a general description of the matter complained of, and (v) a record of what action, if any, has been taken by the member organization with respect to the complaint. The term ''options-related complaint'' shall mean any written statement by a customer or person acting on behalf of a customer alleging a grievance arising out of or in connection with listed options. Each options-related complaint received by a branch office of a member organization shall be forwarded to the office in which the separate, central file is located no later than 30 days after receipt by the branch office. A copy of every options-related complaint shall be maintained at the branch office that is the subject of the complaint.

(a) the provisions of this Rule shall be applicable to index warrants.]

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to reorganize the rulebook, moving text from Rule 1070 to Rule 1028, so that the Rule 1070 rule number will be available for subsequent rulebook organizational changes. This proposed rule change is purely administrative. No substantive changes are proposed.

The text of current Rule 1070 will be moved to a new section (b) of Rule 1028. Existing Rule 1028 text will be preserved as new Rule 1028, section (a). The text imported from current Rule 1070 will be set forth in Rule 1028(b). The title of current Rule 1028 will be changed to read ''Confirmations and Complaints'' and Rule 1070 will be shown as ''[Reserved]''.[3]

2. Statutory Basis

Phlx believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[4] in general, and with Section 6(b)(5) of the Act[5] in particular, in that the proposal is 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.

The proposal is designed simply to rearrange rulebook language in order to lay the groundwork for subsequent, more comprehensive organizational changes. No substantive changes are proposed to be made at this time.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposal to renumber the rule will simply help to streamline the rulebook by accommodating a larger reorganization and will therefore result in administrative efficiencies for the Exchange. No substantive changes are being proposed.

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[3] The Exchange is redesignating the sentence currently found in Rule 1070(a) as Rule 1028(b)(1).

[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(ii) [sic] of the Act[6] and subparagraph (f)(6) of Rule 19b–4 thereunder.[7]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–PHLX–2015–31 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–PHLX–2015–31. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PHLX–2015–31, and should be submitted on or before April 29, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Brent J. Fields,

Secretary.

[FR Doc. 2015–07959 Filed 4–7–15; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78s(b)(3)(a)(ii). [sic]

[7] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31545; 812–14423]

Amplify Investments LLC and Amplify ETF Trust; Notice of Application

April 1, 2015.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act.

Applicants: Amplify Investments LLC (''Amplify Investments'') and Amplify ETF Trust (the ''Trust'').

SUMMARY: *Summary of Application:* Applicants request an order that permits: (a) Series of certain open-end management investment companies to issue shares (''Shares'') redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Shares to occur at negotiated market prices; (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days from the tender of Shares for redemption; and (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units.

DATES: *Filing Dates:* The application was filed on February 20, 2015.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 27, 2015, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Brent J. Fields, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants, 3250 Lacey Road, Suite 130, Downers Grove, IL 60515.

FOR FURTHER INFORMATION CONTACT: Kaitlin C. Bottock, Attorney Adviser, at (202) 551–8658, or Daniele Marchesani, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust, a business trust organized under the laws of Massachusetts, intends to register with the Commission as an open-end management investment company. The applicants are requesting relief not only for the Trust and its initial series, Amplify Tactical Equity Fund (''Initial Fund''), but also with respect to future series of the Trust, and to any registered open-end management investment companies or series thereof that may be created in the future and that utilizes active management investment strategies (''Future Funds'' and collectively with the Initial Fund, the ''Funds'').[1] Funds may invest in equity securities or fixed income securities traded in the U.S. or non-U.S. markets or a combination of equity and fixed income securities, including ''to-be-announced transactions'' (''TBA Transactions'') [2] and depositary receipts (''Depositary Receipts'').[3] The securities, other assets, and other positions in which a Fund invests are its ''Portfolio Positions.'' [4] The Trust currently expects that the Initial Fund's investment objective will be to seek total return by investing, under normal market conditions, at least 80% of its net assets in a portfolio of affiliated and unaffiliated exchange-traded funds.

2. Each Fund will (a) be advised by Amplify Investments or an entity controlling, controlled by or under common control with Amplify Investments (each such entity and any successor thereto, an ''Adviser'') [5] and (b) comply with the terms and conditions stated in the application. Amplify Investments is a Delaware limited liability company and is registered as an investment adviser under section 203 of the Investment Advisers Act of 1940 (the ''Advisers Act''). Any other Adviser to a Fund will be registered under the Advisers Act. The Adviser may retain sub-advisers (each, a ''Fund Sub-Adviser'') in connection with the Funds; each Fund Sub-Adviser will be registered under the Advisers Act or not subject to such registration.

3. The Trust will enter into a distribution agreement with one or more distributors (''Distributor''). Each Distributor will be registered under the Securities Exchange Act of 1934, as amended (the ''Exchange Act''), and will act as Distributor and principal underwriter of the Funds. No Distributor will be affiliated with the Listing Exchange. The Distributor of any Fund may be an ''affiliated person'' or an affiliated person of an affiliated person of the Fund's Adviser or Fund Sub-Adviser.

4. Shares of each Fund will be purchased from the Trust only in large aggregations of a specified number referred to as ''Creation Units.'' Creation Units may be purchased through orders placed with the Distributor by or through an ''Authorized Participant'' which is either (a) a broker-dealer or other participant in the Continuous Net Settlement (''CNS'') System of the National Securities Clearing Corporation (''NSCC''), a clearing agency that is registered with the Commission, or (b) a participant (''DTC Participant'') in the Depository Trust Company (''DTC''), and which in either case has executed a participant agreement with the Distributor with respect to the creation and redemption of Creation Units. Purchases and redemptions of the Funds' Creation Units will be processed either through an enhanced clearing process available to DTC Participants that are also participants in the CNS system of the NSCC (the ''NSCC Process'') or through a manual clearing process that is available to all DTC Participants (the ''DTC Process'').

5. In order to keep costs low and permit each Fund to be as fully invested as possible, Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Accordingly, except where the purchase or redemption will include cash under the limited circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments (''Deposit Instruments''), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments (''Redemption Instruments'').[6] On any given Business Day,[7] the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, and these instruments may be referred to, in the case of either a purchase or redemption, as the ''Creation Basket.'' In addition, the Creation Basket will correspond pro rata to the positions in a Fund's portfolio (including cash positions),[8] except: (a) In the case of bonds, for minor differences when it is impossible to break up bonds beyond certain minimum sizes needed for transfer and settlement; (b) for minor differences when rounding is necessary to eliminate fractional shares or lots that are not tradeable round lots; [9] or (c) TBA Transactions, short positions, and other positions that cannot be transferred in kind [10] will be excluded from the Creation Basket.[11] If there is a difference

[1] All entities that currently intend to rely on the requested order are named as applicants and any Fund that currently intends to rely on the requested order is identified in the application. Any other entity that relies on the requested order in the future will comply with the terms and conditions of the application.

[2] A TBA Transaction is a method of trading mortgage-backed securities. In a TBA Transaction, the buyer and seller agree on general trade parameters such as agency, settlement date, par amount and price. The actual pools delivered generally are determined two days prior to the settlement date.

[3] Depositary Receipts include American Depositary Receipts (''ADRs'') and Global Depositary Receipts (''GDRs''). With respect to ADRs, the depositary is typically a U.S. financial institution and the underlying securities are issued by a foreign issuer. The ADR is registered under the Securities Act of 1933 (''Securities Act'') on Form F–6. ADR trades occur either on a national securities exchange as defined in Section 2(a)(26) of the Act (''Listing Exchange'') or off-exchange. Financial Industry Regulatory Authority Rule 6620 requires all off-exchange transactions in ADRs to be reported within 90 seconds and ADR trade reports to be disseminated on a real-time basis. With respect to GDRs, the depositary may be a foreign or a U.S. entity, and the underlying securities may have a foreign or a U.S. issuer. All GDRs are sponsored and trade on a foreign exchange. No affiliated persons of applicants, any Adviser (as defined below), Fund Sub-Adviser (as defined below), or Fund will serve as the depositary for any Depositary Receipts held by a Fund. A Fund will not invest in any Depositary Receipts that the Adviser (or, if applicable, the Fund Sub-Adviser) deems to be illiquid or for which pricing information is not readily available.

[4] If a Fund invests in derivatives: (a) The Fund's board of trustees periodically will review and approve (i) the Fund's use of derivatives and (ii) how the Fund's investment adviser assesses and manages risk with respect to the Fund's use of derivatives; and (b) the Fund's disclosure of its use of derivatives in its offering documents and periodic reports will be consistent with relevant Commission and staff guidance.

[5] For the purposes of the requested order, a ''successor'' is limited to an entity or entities that result from a reorganization into another jurisdiction or a change in the type of business organization.

[6] The Funds must comply with the federal securities laws in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, including that the Deposit Instruments and Redemption Instruments are sold in transactions that would be exempt from registration under the Securities Act. In accepting Deposit Instruments and satisfying redemptions with Redemption Instruments that are restricted securities eligible for resale pursuant to Rule 144A under the Securities Act, the Funds will comply with the conditions of Rule 144A.

[7] Each Fund will sell and redeem Creation Units on any day the Fund is open, including as required by section 22(e) of the Act (each, a ''Business Day'').

[8] The portfolio used for this purpose will be the same portfolio used to calculate the Fund's NAV for that Business Day.

[9] A tradeable round lot for a security will be the standard unit of trading in that particular type of security in its primary market.

[10] This includes instruments that can be transferred in kind only with the consent of the original counterparty to the extent the Fund does not intend to seek such consents.

[11] Because these instruments will be excluded from the Creation Basket, their value will be

between the net asset value (''NAV'') attributable to a Creation Unit and the aggregate market value of the Creation Basket exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the ''Balancing Amount'').

6. Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in kind, solely under the following circumstances: (a) To the extent there is a Balancing Amount, as described above; (b) if, on a given Business Day, a Fund announces before the open of trading that all purchases, all redemptions or all purchases and redemptions on that day will be made entirely in cash; (c) if, upon receiving a purchase or redemption order from an Authorized Participant, a Fund determines to require the purchase or redemption, as applicable, to be made entirely in cash; [12] (d) if, on a given Business Day, a Fund requires all Authorized Participants purchasing or redeeming Shares on that day to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are not eligible for transfer through either the NSCC Process or DTC Process; or (ii) in the case of Funds holding non-U.S. investments (''Global Funds''), such instruments are not eligible for trading due to local trading restrictions, local restrictions on securities transfers or other similar circumstances; or (e) if a Fund permits an Authorized Participant to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are, in the case of the purchase of a Creation Unit, not available in sufficient quantity; (ii) such instruments are not eligible for trading by an Authorized Participant or the investor on whose behalf the Authorized Participant is acting; or (iii) a holder of Shares of a Fund holding non-U.S. investments would be subject to unfavorable income tax treatment if the holder receives redemption proceeds in kind.[13]

7. Each Business Day, before the open of trading on the Listing Exchange, each Fund will cause to be published through the NSCC the names and quantities of the instruments comprising the Creation Basket, as well as the estimated Balancing Amount (if any), for that day. The published Creation Basket will apply until a new Creation Basket is announced on the following Business Day, and there will be no intra-day changes to the Creation Basket except to correct errors in the published Creation Basket. The Listing Exchange or a major market data vendor will disseminate every 15 seconds throughout the trading day an amount representing the Fund's estimated NAV, which will be the value of the Fund's Portfolio Positions, on a per Share basis.

8. An investor purchasing or redeeming a Creation Unit will be charged a fee (''Transaction Fee'') to protect continuing shareholders of the Funds from the dilutive costs associated with the purchase and redemption of Creation Units.[14] The Distributor will deliver a confirmation and Fund prospectus (''Prospectus'') to the purchaser. In addition, the Distributor will maintain records of both the orders placed with it and the confirmations of acceptance furnished by it.

9. Beneficial owners of Shares may sell their Shares in the secondary market. Shares will be listed on a Listing Exchange and traded in the secondary market in the same manner as other equity securities. Applicants state that one or more specialists or market makers will be assigned to the Shares. The price of Shares trading on the Listing Exchange will be based on a current bid/offer market. Transactions involving the sale of Shares on the Listing Exchange will be subject to customary brokerage commissions and charges.

10. Applicants expect that purchasers of Creation Units will include arbitrageurs and that Listing Exchange specialists or market makers, acting in their unique role to provide a fair and orderly secondary market for Shares, also may purchase Creation Units for use in their own market making activities.[15] Applicants expect that secondary market purchasers of Shares will include both institutional investors and retail investors.[16] Applicants state that because the market price of Creation Units will be disciplined by arbitrage opportunities, investors should be able to sell Shares in the secondary market at prices that do not vary materially from their NAV.

11. Neither the Trust nor any Fund will be advertised or marketed as a conventional open-end investment company or mutual fund. Instead, each Fund will be marketed as an ''actively-managed exchange-traded fund.'' Any advertising material that describes the features of obtaining, buying or selling Creation Units, or buying or selling Shares on the Listing Exchange, or where there is reference to redeemability, will prominently disclose that Shares are not individually redeemable and that owners of Shares may acquire Shares from a Fund and tender those Shares for redemption to a Fund in Creation Units only.

12. The Funds' Web site, which will be publicly available prior to the public offering of Shares, will include, or will include links to, each Fund's current Prospectus and Summary Prospectus (if any), which may be downloaded. That Web site, which will be publicly available at no charge, will also contain, on a per Share basis for each Fund, the prior Business Day's NAV and the market closing price or the mid-point of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price''), and a calculation of the premium or discount of the market

reflected in the determination of the Balancing Amount (defined below).

[12] In determining whether a particular Fund will sell or redeem Creation Units entirely on a cash or in-kind basis (whether for a given day or a given order), the key consideration will be the benefit that would accrue to the Fund and its investors. For instance, in bond transactions, the Adviser may be able to obtain better execution than Share purchasers because of the Adviser's size, experience and potentially stronger relationships in the fixed income markets. Purchases of Creation Units either on an all cash basis or in kind are expected to be neutral to the Funds from a tax perspective. In contrast, cash redemptions typically require selling portfolio holdings, which may result in adverse tax consequences for the remaining Fund shareholders that would not occur with an in-kind redemption. As a result, tax considerations may warrant in-kind redemptions.

[13] A ''custom order'' is any purchase or redemption of Shares made in whole or in part on a cash basis in reliance on clause (e)(i) or (e)(ii).

[14] Where a Fund permits an in-kind purchaser to deposit cash in lieu of depositing one or more Deposit Instruments, the purchaser may be assessed a higher Transaction Fee to offset the cost to the Fund of buying those particular Deposit Instruments. In all cases, such Transaction Fees will be limited in accordance with requirements of the Commission applicable to open-end management investment companies offering redeemable securities.

[15] If Shares are listed on The NASDAQ Stock Market LLC (''Nasdaq'') or a similar electronic Stock Exchange (including NYSE Arca), one or more member firms of that Stock Exchange will act as Market Maker and maintain a market for Shares trading on that Stock Exchange. On Nasdaq, no particular Market Maker would be contractually obligated to make a market in Shares. However, the listing requirements on Nasdaq, for example, stipulate that at least two Market Makers must be registered in Shares to maintain a listing. In addition, on Nasdaq and NYSE Arca, registered Market Makers are required to make a continuous two-sided market or subject themselves to regulatory sanctions. No Market Maker will be an affiliated person, or an affiliated person of an affiliated person, of the Funds, except within the meaning of section 2(a)(3)(A) or (C) of the Act due solely to ownership of Shares as discussed below.

[16] Shares will be registered in book-entry form only. DTC or its nominee will be the record or registered owner of all outstanding Shares. DTC or DTC Participants will maintain records of beneficial ownership of Shares.

closing price or Bid/Ask Price against such NAV. On each Business Day, before commencement of trading in Shares on the Listing Exchange, each Fund will also disclose on its Web site the identities and quantities of its Portfolio Positions held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the Business Day.[17]

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an ''open-end company'' as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately a proportionate share of the issuer's current net assets, or the cash equivalent. Applicants request an order to permit the Trust to register as an open-end management investment company and redeem Shares in Creation Units only. Applicants state that each investor is entitled to purchase or redeem Creation Units rather than trade the individual Shares in the secondary market. Applicants further state that because of the arbitrage possibilities created by the redeemability of Creation Units, it is expected that the market price of an individual Share will not vary materially from its NAV.

Section 22(d) of the Act and Rule 22c–1 Under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security, which is currently being offered to the public by or through a principal underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming, or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, rather than at the current offering price described in the Fund's Prospectus. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c–1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been intended (a) to prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) to prevent unjust discrimination or preferential treatment among buyers, and (c) to ensure an orderly distribution of shares by eliminating price competition from brokers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants state that (a) secondary market transactions in Shares would not cause dilution for owners of such Shares because such transactions do not involve the Trust or Funds as parties, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the proposed distribution system will be orderly because arbitrage activity will ensure that the difference between the market price of Shares and their NAV remains immaterial.

Section 22(e)

7. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants observe that the settlement of redemptions of Creation Units of Global Funds will be contingent not only on the settlement cycle of the U.S. securities markets but also on the delivery cycles in foreign markets in which those Funds invest. Applicants assert that, under certain circumstances, the delivery cycles for transferring Portfolio Positions to redeeming investors, coupled with local market holiday schedules, may require a delivery process of up to 15 calendar days. Applicants therefore request relief from section 22(e) in order for each Global Fund to provide payment or satisfaction of redemptions within the maximum number of calendar days required for such payment or satisfaction in the principal local market(s) where transactions in its Portfolio Positions customarily clear and settle, but in any event, within a period not to exceed fifteen calendar days.[18]

8. Applicants submit that Congress adopted section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds. Applicants state that allowing redemption payments for Creation Units of a Global Fund to be made within 15 calendar days would not be inconsistent with the spirit and intent of section 22(e).[19] Applicants state that each Global Fund's statement of additional information (''SAI'') will disclose those local holidays (over the period of at least one year following the date of the SAI), if any, that are expected to prevent the delivery of redemption proceeds in seven calendar days and the maximum number of days, up to 15 calendar days, needed to deliver the proceeds for that Global Fund. Applicants are not seeking

[17] Under accounting procedures followed by the Funds, trades made on the prior Business Day (''T'') will be booked and reflected in NAV on the current Business Day (''T+1''). Accordingly, the Funds will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for the NAV calculation at the end of the Business Day.

[18] Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations that they may otherwise have under rule 15c6–1 under the Exchange Act, which requires that most securities transactions be settled within three business days of the trade date.

[19] Certain countries in which a Global Fund may invest have historically had settlement periods of up to 15 calendar days.

relief from section 22(e) with respect to Global Funds that do not effect redemptions of Creation Units in kind.

Sections 17(a)(1) and (2) of the Act

9. Section 17(a)(1) and (2) of the Act generally prohibit an affiliated person of a registered investment company, or an affiliated person of such a person (''second tier affiliate''), from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines ''affiliated person'' to include any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person and any person directly or indirectly controlling, controlled by, or under common control with, the other person. Section 2(a)(9) of the Act defines ''control'' of a fund as ''the power to exercise a controlling influence over the management or policies'' of the fund and provides that a control relationship will be presumed where one person owns more than 25% of another person's voting securities. The Funds may be deemed to be controlled by an Adviser and hence affiliated persons of each other. In addition, the Funds may be deemed to be under common control with any other registered investment company (or series thereof) advised by an Adviser (an ''Affiliated Fund'').

10. Applicants request an exemption from section 17(a) under sections 6(c) and 17(b) to permit in-kind purchases and redemptions of Creation Units from the Funds by persons that are affiliated persons or second tier affiliates of the Funds solely by virtue of one or more of the following: (a) Holding 5% or more, or more than 25%, of the outstanding Shares of one or more Funds; (b) an affiliation with a person with an ownership interest described in (a); or (c) holding 5% or more, or more than 25%, of the shares of one or more Affiliated Funds.

11. Applicants assert that no useful purpose would be served by prohibiting the affiliated persons described above from making in-kind purchases or in-kind redemptions of Shares of a Fund in Creation Units. Both the deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions will be effected in exactly the same manner for all purchases and redemptions. The valuation of the Deposit Instruments and Redemption Instruments will be made in the same manner, and in the same manner as the Fund's Portfolio Positions, regardless of the identity of the purchaser or redeemer. Except with respect to cash determined in accordance with the procedures described in section I.G.1. of the application, Deposit Instruments and Redemption Instruments will be the same for all purchasers and redeemers. Therefore, applicants state that the in-kind purchases and redemptions will afford no opportunity for the specified affiliated persons of a Fund to effect a transaction detrimental to other holders of Shares of that Fund. Applicants do not believe that in-kind purchases and redemptions will result in abusive self-dealing or overreaching of the Fund.

Applicant's Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

1. As long as the Funds operate in reliance on the requested order, the Shares of the Funds will be listed on a Listing Exchange.

2. Neither the Trust nor any Fund will be advertised or marketed as an open-end investment company or a mutual fund. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that the Shares are not individually redeemable and that owners of the Shares may acquire those Shares from the Fund and tender those Shares for redemption to the Fund in Creation Units only.

3. The Web site for the Funds, which is and will be publicly accessible at no charge, will contain on a per Share basis, for each Fund, the prior Business Day's NAV and the market closing price or Bid/Ask Price, and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV.

4. On each Business Day, before commencement of trading in Shares on the Listing Exchange, the Fund will disclose on its Web site the identities and quantities of the Portfolio Positions held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the Business Day.

5. The Adviser or any Fund Sub-Adviser, directly or indirectly, will not cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may transact with the Fund) to acquire any Deposit Instrument for the Fund through a transaction in which the Fund could not engage directly.

6. The requested relief to permit ETF operations will expire on the effective date of any Commission rule under the 1940 Act that provides relief permitting the operation of actively managed exchange-traded funds.

For the Commission, by the Division of Investment Management, under delegated authority.

Brent J. Fields,

Secretary.

[FR Doc. 2015–08022 Filed 4–7–15; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74634; File No. SR–CME–2015–004]

Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rulebook Provisions Establishing Decision-Making and Emergency Authority Over Clearing House Matters

April 2, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 30, 2015, Chicago Mercantile Exchange Inc. (''CME'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III, below, which Items have been prepared primarily by CME. CME filed the proposal pursuant to Section 19(b)(3)(A)(ii)[3] of the Act, and Rule 19b–4(f)(4)(ii)[4] thereunder, so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CME is filing a proposed rule change that is limited to its business as a derivatives clearing organization. More specifically, the proposed rule change would make amendments to rulebook provisions establishing decision-making and emergency authority over clearing house matters.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CME included statements concerning the purpose and basis for the proposed rule change and discussed any

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(4)(ii).

comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. CME 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

CME is registered as a derivatives clearing organization with the Commodity Futures Trading Commission (''CFTC'') and currently offers clearing services for many different futures and swaps products. With this filing, CME proposes to make rulebook changes that are limited to its business clearing futures and swaps under the exclusive jurisdiction of the CFTC. More specifically, the proposed rule change would make amendments to rulebook provisions establishing decision-making and emergency authority over clearing house matters.

The proposed rule change relates to recent management structure and reporting line changes at CME. Current CME rules do not include any reference to or establishment of authority in the newly created role of President of Global Operations, Technology & Risk (''President GOTR''). The proposed rule change referenced in this submission is designed to ensure the President GOTR is authorized to undertake certain actions related to clearing house operations and emergency financial conditions. In light of the Chief Operating Officer's (''COO'') newly established reporting line to the President GOTR, authority regarding certain clearing house matters and emergency financial conditions will be conferred from the COO to the President GOTR with these changes. The proposed rule revisions are designed to clearly specify the roles and responsibilities of management during extraordinary circumstances that impact the clearing house.

The proposed rule change adds references to or establishes authority for the President GOTR in the following CME rules: Rule 257 (Exchange Physical Emergencies); Rule 403 (Clearing House Risk Committee); Rule 701 (Declarations of Force Majeure); Rule 744 (Failsafe Currency Availability Procedures for Physical Delivery); Rule 812 (Final Settlement Price); Rule 824 (Additional Performance Bond); Rule 8G25 (IRS Default Management Committee); Rule 8G824 (Additional IRS Performance Bond); Rule 8G975 (IRS Emergency Financial Conditions); Rule 8H26 (CDS Default Management Committee); Rule 8H27 (CDS Risk Committee); Rule 8H824 (Additional CDS Performance Bond); Rule 8H975 (CDS Emergency Financial Conditions); Rule 974 (Suspension of Member Firm Privileges); Rule 975 (Emergency Financial Conditions); Rule 976 (Suspension of Clearing Members); Rule 978 (Open Trades of Suspended Clearing Members); and Rule 979 (Suspended or Expelled Clearing Members).

The proposed rule change that is described in this filing is limited to its business as a derivatives clearing organization clearing products under the exclusive jurisdiction of the CFTC. CME has not cleared security based swaps and does not plan to and therefore the proposed rule change does not impact CME's security-based swap clearing business in any way. The proposed rule change would become effective immediately. CME notes that it has also submitted the proposed rule change that is the subject of this filing to its primary regulator, the CFTC, in CME Submission 15–047.

CME believes the proposed rule change is consistent with the requirements of the Exchange Act including Section 17A of the Exchange Act.[5] The proposed rule revisions are designed to clearly specify the roles and responsibilities of management during extraordinary circumstances that impact the clearing house. The changes would help ensure that all appropriate officers of CME have the ability to exercise decision-making and emergency authority in relation to matters impacting the clearing house, thereby enhancing the overall safety of the clearing house and the efficiency with which such actions may be taken. As such, the proposed rule change should be seen to be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivatives agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and, in general, to protect investors and the public interest consistent with Section 17A(b)(3)(F) of the Exchange Act.[6]

Furthermore, the proposed rule change is limited to CME's futures and swaps clearing businesses, which mean they are limited in their effect to products that are under the exclusive jurisdiction of the CFTC. As such, the changes are limited to CME's activities as a DCO clearing futures that are not security futures and swaps that are not security-based swaps. CME notes that the policies of the CFTC with respect to administering the Commodity Exchange Act are comparable to a number of the policies underlying the Exchange Act, such as promoting market transparency for over-the-counter derivatives markets, promoting the prompt and accurate clearance of transactions and protecting investors and the public interest.

Because the proposed rule change is limited in its effect to CME's futures and swaps clearing businesses, the changes are properly classified as effecting a change in an existing service of CME that:

(a) Primarily affects the clearing operations of CME with respect to products that are not securities, including futures that are not security futures, swaps that are not security-based swaps or mixed swaps; and forwards that are not security forwards; and

(b) does not significantly affect any securities clearing operations of CME or any rights or obligations of CME with respect to securities clearing or persons using such securities-clearing service.

As such, the changes are therefore consistent with the requirements of Section 17A of the Exchange Act[7] and are properly filed under Section 19(b)(3)(A)[8] and Rule 19b–4(f)(4)(ii)[9] thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

CME does not believe that the proposed rule change will have any impact, or impose any burden, on competition. The proposed rule revisions simply specify the roles and responsibilities of management during extraordinary circumstances that impact the clearing house. Further, the changes are limited to CME's futures and swaps clearing businesses and, as such, do not affect the security-based swap clearing activities of CME in any way and therefore do not impose any burden on competition that is inappropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

CME has not solicited, and does not intend to solicit, comments regarding this proposed rule change. CME has not received any unsolicited written comments from interested parties.

[5] 15 U.S.C. 78q–1.

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 15 U.S.C. 78q–1.

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(4)(ii).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A) [10] of the Act and Rule 19b–4(f)(4)(ii) [11] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*), or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–CME–2015–004 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC, 20549–1090.

All submissions should refer to File Number SR–CME–2015–004. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of CME and on CME's Web site at *http://www.cmegroup.com/market-regulation/rule-filings.html.*

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–CME–2015–004 and should be submitted on or before April 29, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Brent J. Fields,

Secretary.

[FR Doc. 2015–07962 Filed 4–7–15; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(4)(ii).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31543; 812–14354]

Trust for Professional Managers and William Blair & Company, L.L.C.; Notice of Application

April 1, 2015.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from rule 12d1–2(a) under the Act.

SUMMARY: *Summary of Application:* Applicants request an order to permit open-end management investment companies relying on rule 12d1–2 under the Act to invest in certain financial instruments.

Applicants: Trust for Professional Managers (the ''Trust'') and William Blair & Company, L.L.C. (''William Blair'').

DATES: *Filing Date:* The application was filed on August 29, 2014, and amended on March 24, 2015.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 27, 2015, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: Trust for Professional Managers, 615 East Michigan Street, Milwaukee, WI 53202; and William Blair & Company, L.L.C., 222 West Adams Street, Chicago, Illinois 60606.

FOR FURTHER INFORMATION CONTACT: Steven I. Amchan, Senior Counsel, at (202) 551–6826, or Dalia Osman Blass, Assistant Chief Counsel, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust was organized as a Delaware statutory trust on May 29, 2001 and is registered under the Act as an open-end management investment company. William Blair, a Delaware limited liability company, is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''). Of the funds in the Trust, William Blair currently serves as investment adviser only to the William Blair Directional Multialternative Fund. William Blair also serves as the Funds' (as defined below) principal underwriter and distributor.

2. Applicants request the exemption to the extent necessary to permit any existing or future series of the Trust and any other registered open-end management investment company or series thereof that (a) is advised by William Blair or any person controlling, controlled by or under common control with William Blair (any such adviser or William Blair, an ''Adviser''); (b) is in the same group of investment companies as defined in section 12(d)(1)(G) of the Act; (c) operates as a ''fund of funds'' and invests in other registered open-end management investment companies (''Underlying Funds'') in reliance on section 12(d)(1)(G) of the Act; and (d) is also

eligible to invest in securities (as defined in section 2(a)(36) of the Act) in reliance on rule 12d1–2 under the Act (the ''Funds''), to also invest, to the extent consistent with its investment objectives, policies, strategies and limitations, in financial instruments that may not be securities within the meaning of section 2(a)(36) of the Act (''Other Investments'').[1] Applicants also request that the order exempt any entity, including any entity controlled by or under common control with an Adviser, that now or in the future acts as principal underwriter, or broker or dealer (if registered under the Securities Exchange Act of 1934, as amended (the ''Exchange Act'')), with respect to the transactions described herein.

3. Consistent with its fiduciary obligations under the Act, each Fund's board of trustees will review the advisory fees charged by the Fund's Adviser to ensure that the fees are based on services provided that are in addition to, rather than duplicative of, services provided pursuant to the advisory agreement of any investment company in which the Fund may invest.

Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act provides that no registered investment company (''acquiring company'') may acquire securities of another investment company (''acquired company'') if such securities represent more than 3% of the acquired company's outstanding voting stock or more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) of the Act provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or cause more than 10% of the acquired company's voting stock to be owned by investment companies and companies controlled by them.

2. Section 12(d)(1)(G) of the Act provides, in part, that section 12(d)(1) will not apply to securities of an acquired company purchased by an acquiring company if: (i) The acquired company and acquiring company are part of the same group of investment companies; (ii) the acquiring company holds only securities of acquired companies that are part of the same group of investment companies, government securities, and short-term paper; (iii) the aggregate sales loads and distribution-related fees of the acquiring company and the acquired company are not excessive under rules adopted pursuant to section 22(b) or section 22(c) of the Act by a securities association registered under section 15A of the Exchange Act or by the Commission; and (iv) the acquired company has a policy that prohibits it from acquiring securities of registered open-end investment companies or registered unit investment trusts in reliance on section 12(d)(1)(F) or (G) of the Act.

3. Rule 12d1–2 under the Act permits a registered open-end investment company or a registered unit investment trust that relies on section 12(d)(1)(G) of the Act to acquire, in addition to securities issued by another registered investment company in the same group of investment companies, government securities, and short-term paper: (i) Securities issued by an investment company that is not in the same group of investment companies, when the acquisition is in reliance on section 12(d)(1)(A) or 12(d)(1)(F) of the Act; (ii) securities (other than securities issued by an investment company); and (iii) securities issued by a money market fund, when the investment is in reliance on rule 12d1–1 under the Act. For the purposes of rule 12d1–2, ''securities'' means any security as defined in section 2(a)(36) of the Act.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction from any provision of the Act, or from any rule under the Act, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. Applicants submit that their request for relief meets this standard.

5. Applicants request an order under section 6(c) of the Act for an exemption from rule 12d1–2(a) to allow the Funds to invest in Other Investments while investing in Underlying Funds. Applicants state that the Funds will comply with rule 12d1–2 under the Act, but for the fact that the Funds may invest a portion of their assets in Other Investments. Applicants assert that permitting the Funds to invest in Other Investments as described in the application would not raise any of the concerns that the requirements of section 12(d)(1) were designed to address.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Applicants will comply with all provisions of rule 12d1–2 under the Act, except for paragraph (a)(2) to the extent that it restricts any Fund from investing in Other Investments as described in the application.

For the Commission, by the Division of Investment Management, under delegated authority.

Brent J. Fields,

Secretary.

[FR Doc. 2015–07970 Filed 4–7–15; 8:45 am]

BILLING CODE 8011–01–P

[1] All entities that currently intend to rely on the requested order are named as applicants. Any other entity that relies on the order in the future will comply with the terms and condition of the application.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74636; File No. SR–NYSEMKT–2015–17]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing of Proposed Rule Change Amending Rule 923NY To Refine the Appointment Process Utilized by the Exchange

April 2, 2015.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 20, 2015, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') 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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 923NY (Appointment of Market Makers) to refine the appointment process utilized by the Exchange. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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 self-regulatory organization 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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 923NY to refine the appointment process utilized by the Exchange. The Exchange believes this proposal, which is consistent with the rules of other option exchanges,[4] would simplify and enhance the efficiency of the appointment process for both Market Makers and the Exchange and add clarity to Exchange rules.

Current Appointment Process

To register as a Market Maker, an applicant must file an application with the Exchange on a form or forms prescribed by the Exchange.[5] Once registered, a Market Maker may seek an appointment in one or more option classes pursuant to Rule 923NY. Specifically, this Rule provides that ''[o]n a form or forms prescribed by the Exchange, a Market Maker must apply for an appointment in one or more classes of option contracts.'' [6]

In addition to having the authority to appoint one Specialist per option class and to designate e-Specialists to fulfill certain obligations required of Specialists,[7] ''[t]he Exchange may appoint an unlimited number of Market Makers in each class unless the number of Market Makers appointed to a particular option class should be limited'' based on the Exchange's judgment.[8] Further, the Rule provides that ''Market Makers may select from among any option issues traded on the Exchange for inclusion in their appointment, subject to the approval of the Exchange. In considering the approval of the appointment of a Market Maker in each security,'' the Exchange will consider the Market Maker's preference; the financial resources available to the Market Maker; the Market Maker's experience, expertise and past performance in making markets, including the Market Maker's performance in other securities; the Market Maker's operational capability; and the maintenance and enhancement of competition among Market Makers in each security in which they are appointed.[9] The Rule also states that, in order to have a trading appointment on the Exchange, Market Makers must have the number of Amex Trading Permits (''ATPs'') required under the Amex Options Fee Schedule.[10] In addition, Floor Market Makers [11] must also apply for appointment to a Trading Zone [12] on the floor, subject to approval by the Exchange.[13]

Under the current Rule, ''Market Makers may change the option issues in their appointment, subject to the approval of the Exchange'' provided requests for changes are ''made in a form and manner prescribed by the Exchange.'' [14] In addition, ''Market Makers may withdraw from trading an option issue that is within their appointment by providing the Exchange with three business days' written notice of such withdrawal.'' [15] If Market Makers fail to provide this notice, they ''may be subject to formal disciplinary action pursuant to Section 9A of the Office Rules.'' [16] Moreover, the Exchange ''may suspend or terminate any appointment of a Market Maker in one or more option issues under this Rule whenever, in the Exchanges' judgment, the interests of a fair and orderly market are best served by such action'' [17] A Market Maker may seek review of any action taken by the Exchange.[18]

Finally, under the current Rule, the Exchange periodically conducts evaluations of Market Makers to determine whether they have fulfilled

[4] *See, e.g.,* BATS Exchange, Inc. (''BATS'') Rules 22.3(a),(b) (Market Maker Registration); NASDAQ OMX PHLX (''PHLX) Rule 3212(b) (Registration as a Market Maker); NASDAQ Options Market (''NOM''), Chapter VII (Market Participants), Section 3(a),(b) (Continuing Market Maker Registration).

[5] *See* Rule 921NY(Registration of Market Makers). *See also* Rule 920NY(a) (Market Maker Defined) (''A Market Maker is an ATP Holder that is registered with the Exchange for the purpose of submitting quotes electronically and making transactions as a dealer-specialist verbally on the Trading Floor or through the System from on the Trading Floor or remotely from off the Trading Floor, in accordance with the Rules of the Exchange. A Market Maker submitting quotes remotely is not eligible to participate in trades affected in open outcry except to the extent that such Market Maker's quotation represents the BBO. Market Makers are designated as specialists on the Exchange for all purposes under the Securities Exchange Act of 1934 and the Rules and Regulations thereunder. A Market Maker on the Exchange will be either a Remote Market Maker, a Floor Market Maker, a Specialist or an e-Specialist. Unless specified, or unless the context requires otherwise, the term Market Maker refers to Remote Market Makers, Floor Market Makers, Specialists and e-Specialists.'').

[6] *See* Rule 923NY(a).

[7] A Specialist is ''an individual or entity that has been deemed qualified by the Exchange for the purpose of making transactions on the Exchange in accordance with the provisions of Rule 920NY [Market Makers], and who meets the qualification requirements of Rule 927NY(b) [Specialists]. Each Specialist must be registered with the Exchange as a Market Maker. Any ATP Holder registered as a Market Maker with the Exchange is eligible to be qualified as a Specialist. *See* Rule 900.2(76). Rule 923NY(b) also provides that ''[t]he Exchange may designate e-Specialists in an option class in accordance with Rule 927.4NY[e-Specialists].'' *Id.* The Exchange is not proposing to change Rule 923NY(b) regarding Specialists and e-Specialists.

[8] *See* Rule 923NY(b).

[9] *See* Rule 923NY(c).

[10] *See* Rule 923NY(d)(1). *See also* NYSE Amex Options Fee Schedule (Section III.A., Monthly ATP Fees) (describing ''Number Of Issues Permitted In A Market Makers Quoting Assignment'' based on the number of permits held and the associated costs), *available here, https://www.nyse.com/publicdocs/nyse/markets/amex-options/NYSE_Amex_Options_Fee_Schedule.pdf.*

[11] A Floor Market Maker is ''a registered Market Maker who makes transactions as a dealer-specialist while on the Floor of the Exchange and provides quotations: (A) Manually, by public outcry, and (B) electronically through an auto-quoting device.'' *See* Rule 900.2NY(29).

[12] A Trading Zone refers to the areas on the Floor designated by the Exchange in which issues are assigned for the purposes of open outcry trading. *See* Rule 900.2NY(29).

[13] *See* Rule 923NY(d)(1) (also providing that Specialists shall be appointed to the Trading Zone designated for their issues).

[14] *See* Rule 923NY(e). In considering the change request, the Exchange will consider the factors set forth in Rule 923NY(c).

[15] *See* Rule 923NY(f).

[16] *Id.* Section 9A of the Office Rules sets forth the procedures for Exchange disciplinary proceedings, including the due process for the formal hearing process and the requirement that any decision by the Exchange must include a statement of findings and conclusions, with the reasons therefore upon all material issues presented in the record. Further, where a penalty is imposed, the Exchange's decision must include a statement specifying the acts or practices in which the Respondent has been found to have engaged, or which the Respondent has been found to have omitted.

[17] *See* Rule 923NY(g). The Exchange, however, proposes to correct the possessive form of ''Exchange'' (from ''Exchanges' judgment'' to ''Exchange's judgment'') in this paragraph to correct a typo in the existing rule text, which adds clarity to Exchange rules. *See* proposed Rule 923NY(g) (''The Exchange may suspend or terminate any appointment of a Market Maker in one or more option issues under this Rule whenever, in the Exchange's judgment, the interests of a fair and orderly market are best served by such action.'').

[18] *See* Rule 923NY(h). Per Rule 923NY(i), Market Makers are also subject to a trading requirement, such that ''[a]t least 75% of the trading activity of a Market Maker (measured in terms of contract volume per quarter) must be in classes within the Market Maker's appointment and, in the case of Floor Market Makers, within their designated Trading Zone'' and a failure to comply with the 75% contract volume requirement may result in the imposition of a fine per Rule 476A or initiation of formal disciplinary action, pursuant to Section 9A (Disciplinary Rules). The Exchange is not proposing any changes to Rule 923NY(i).

performance standards.[19] If the Exchange finds that a Market Maker has not met the performance standards, the Exchange may take action, including suspending, terminating or restricting a Market Maker's appointment or registration, after providing the Market Maker an opportunity to be heard.[20]

Proposed Appointment Process

The Exchange proposes to modify Rule 923NY to refine the current appointment process. Presently, Market Makers must apply for an appointment in an options class, which, as discussed further below, is done by submitting an email to the Exchange. The Exchange proposes to modify Rule 923NY(a) to provide that, rather than apply for an appointment, ''a Market Maker may register for an appointment in one or more classes of option contracts,'' in a form and manner prescribed the Exchange.[21] The Exchange would continue to have authority to appoint one Specialist per option class and to designate e-Specialists in options classes to fulfill certain obligations required of Specialists. Similarly, there would continue to be an unlimited number of Market Makers appointed to an options class, unless the Exchange restricted such appointments following Commission review and approval. The Exchange is proposing a change to the text in Rule 923NY(b) to reflect the proposed changes in Rule 923NY(a) to provide that ''[a]n unlimited number of Market Makers may register in each class,'' subject to any limits imposed by the Exchange.[22]

In addition, to simplify a Market Maker's ability to select and make changes to its appointment, the Exchange proposes to modify Rule 923NY(c) to replace the existing rule text with text that provides that ''[a] Market Maker may select or withdraw option issues included in their appointment by submitting a request via an Exchange-approved electronic interface with the Exchange on a day when the Exchange is open for business.'' [23] The modified rule would also provide that an appointment would become effective by no later than the following business day, whereas a Market Maker's request to withdraw option issues from its appointment would not become effective until the following business day. [24] Thus, as proposed, a Market Maker could be appointed to an options issue on the same day it submits a request to the Exchange, depending on availability of Exchange resources to process the request that day, but such addition to its appointment would be effective no later than the following business day. A Market Maker, however, would not be able to withdraw an options issue from its appointment on the same day that it submits the request; instead, the Exchange will only process such requests on an overnight basis for effectiveness on the following business day. Before any additions to a Market Maker's appointment would become effective, the Exchange would be required to confirm ''that the Market Maker's appointment will not exceed that permitted under paragraph (d) of this Rule'' [25] and confirm receipt of the Market Maker's request.[26] Confirmation of receipt is designed to ensure that the request was successfully transmitted to the Exchange (*i.e.*, there was no system failure or human error on either side of the electronic transaction that prevented transmission and receipt of the Market Maker's request). Presently, Market Makers can select issues in their appointment or make changes thereto, pursuant to proposed Rule 923NY(c), by submitting an email [sic] the Exchange which is ''the Exchange-approved electronic interface'' at this time.[27]

Consistent with this proposed change, the Exchange proposes to delete paragraphs (e) and (f) of Rule 923NY, which describe how Market Makers can change their appointment or withdraw from issues in their appointment because these provisions are rendered superfluous by the proposed changes to Rule 923NY(c).[28]

The Exchange believes that the proposed changes to how Market Makers select and modify their appoints would enable Market Makers to manage their appointments with more flexibility and in a timelier manner which, in turn, would reduce the time and resources expended by Market Makers and the Exchange on the appointment process. The Exchange believes this proposal would provide Market Makers with more efficient access to the securities in which they want to make markets and disseminate competitive quotations, which would provide additional liquidity and enhance competition in those securities. The Exchange would retain the ability to suspend or terminate any appointment of a Market Maker if necessary to maintain a fair and orderly market.[29] The Exchange also notes that the proposed changes to Rule 923NY(a), (b) [30] and (c) [31] are consistent with the rules of other exchanges and therefore raise no new or novel issues.

The Exchange also proposes to amend Rule 923NY(d)(1) to state that ''Market Makers must have the number of ATPs required under the Fee Schedule for its

[19] *See* Rule 923NY(j).

[20] *See* Rule 923NY(j)(1). *See also* Rule 923NY(j)(2) (''If a Market Maker's appointment in an option issue or issues has been terminated pursuant to this subsection (j), the Market Maker may not be re-appointed as a Market Maker in that option issue or issues for a period not to exceed 6 months.'').

[21] *See* proposed Rule 923NY(a) (''On a form or forms prescribed by the Exchange, a Market Maker may register for an appointment in one or more classes of option contracts, subject to paragraph (d) of this Rule.''). As discussed, paragraph (d) of the Rule provides that Market Makers must have the designated number of ATPs set forth in the Amex Options Fee Schedule in order to have a trading appointment on the Exchange.

[22] *See* proposed Rule 923NY(b) (''The Exchange may appoint one Specialist per option class. The Exchange may designate e-Specialists in an option class in accordance with Rule 927.4NY. An unlimited number of Market Makers may register in each class unless the number of Market Makers appointed to a particular option class should be limited whenever, in the Exchange's judgment, quotation system capacity in an option class or classes is not sufficient to support additional Market Makers in such class or classes.'').

[23] *See* proposed Rule 923NY(c).

[24] *Id.*

[25] *Id.* Proposed changes to Rule 923NY(d) are discussed below.

[26] The Exchange is also required to confirm receipt of requests to withdraw option issues from a Market Maker's appointment. *See* proposed Rule 923NY(c).

[27] The Exchange will announce by Trader Update the email address that Market Makers should utilize to make selections in, or changes to, their appointment pursuant to this Rule.

[28] The Exchange proposes to designate subparagraphs (e) and (f) as Reserved.

[29] *See* Rule 923NY(g). The Exchange, however, proposes to correct the possessive form of ''Exchange'' (from ''Exchanges' judgment'' to ''Exchange's judgment'') in this paragraph to correct a typo in the existing rule text, which adds clarity to Exchange rules. *See* proposed Rule 923NY(g) (''The Exchange may suspend or terminate any appointment of a Market Maker in one or more option issues under this Rule whenever, in the Exchange's judgment, the interests of a fair and orderly market are best served by such action.'').

[30] *See e.g.,* BATS Rules 22.3(a) (''An Options Member that has qualified as an Options Market Maker may register to make markets in individual series of options''); NOM, Chapter VII, Section 3(a) (''An Options Participant that has qualified as an Options Market Maker may register to make markets in individual options.'').

[31] *See e.g.,* PHLX Rule 3212(b) (''A PSX Market Maker may become registered in an issue by entering a registration request via an Exchange approved electronic interface with PSX's systems or by contacting PSX Market Operations. Registration shall become effective on the day the registration request is entered''); PHLX Rule 3220(a) (''A market maker may voluntarily terminate its registration in a security by withdrawing its two-sided quotation from PSX. A PSX Market Maker that voluntarily terminates its registration in a security may not re-register as a market maker for one (1) business day.''). *See also* BATS Rules 22.3(b) (''An Options Market Maker may become registered in a series by entering a registration request via an Exchange approved electronic interface with the Exchange's systems by 9:00 a.m. Eastern time. Registration shall become effective on the day the registration request is entered''); NOM, Chapter VII, Section 3(b) (''An Options Market Maker may become registered in an option by entering a registration request via a Nasdaq approved electronic interface with Nasdaq's systems. Registration shall become effective on the day the registration request is entered.'').

appointment as a Market Maker in option issues,'' which the Exchange believes adds clarity to the Rule.[32] In addition, the Exchange proposes to modify Rule 923NY(d)(2) to provide that ''Floor Market Makers shall be appointed to a Trading Zone on the Floor,'' [33] to conform this provision to other changes proposed herein, which are designed to streamline the Exchange's appointment process.[34]

The Exchange also proposes to modify the text in paragraph (h) of the Rule. As proposed, a Market Maker would continue to be permitted to ''seek review of any action taken by the Exchange, in accordance with Section 9A of the Office Rules, as applicable.'' However, to clarify the rule text, the Exchange proposes to delete the unnecessary clause ''including the denial of the appointment for, or the termination or suspension of, a Market Maker's appointment in an option issue or issues.'' [35] The Exchange's denial, termination, or suspension of a Market Maker's appointment would continue to be reviewable under Section 9A of the Office Rules, as would other applicable actions taken by the Exchange under Rule 923NY.[36]

Rule 923NY(j) states that the Exchange will conduct periodic evaluations of Market Makers to determine whether they have fulfilled the requisite performance standards. The Exchange proposes to add ''the financial resources available to the Market Maker'' and ''the Market Maker's operational capability'' as factors the Exchange will consider in its evaluations conducted pursuant to Rule 923NY(j).[37] The additional considerations the Exchange proposes to include in its periodic evaluations under Rule 923NY (j) are currently among the considerations of the Exchange in approving a Market Maker's appointment.[38] In connection with the Exchange's proposed changes to the process for Market Makers' appointments to options classes, the Exchange proposes to eliminate these approval provisions. Because financial resources and operational capability are important considerations in a Market Maker's performance, the Exchange proposes to retain these factors for consideration in the Exchange's periodic evaluation of Market Maker performance.[39]

Finally, the Exchange proposes to modify Rule 923NY(j)(2) to reflect the proposed changes to the Market Maker appointment process. Specifically, the Exchange proposes to change the reference to a Market Maker being ''re-appointed'' by the Exchange if an option issue or issues has been terminated pursuant to this subsection (j), and to instead provide that ''the Exchange may restrict a Market Maker's registration as a Market Maker in that option issue or issues for a period not to exceed 6 months.'' [40] This proposal continues to give the Exchange discretion to suspend that Market Maker's appointment in the affected option issue(s) for a full six months, or to allow that Market Maker to resume that appointment earlier than the prescribed six-month period, based on the Exchange's evaluation of the facts and circumstances. The Exchange believes the proposed change is necessary so that Rule 923NY(j)(2) is consistent with the proposed changes in paragraphs (a), (b), and (c) of Rule 923NY to the process for Market Makers to register and change their appointments to options classes.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) [41] of the Securities Exchange Act of 1934 (the ''Act''), in general, and furthers the objectives of Section 6(b)(5),[42] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange believes that the proposed rule change removes impediments to a free and open market because it would enable Market Makers to manage their appointments with more flexibility and in a timelier manner. The Exchange believes the proposed change would reduce the burden on both Market Makers and Exchange staff, which would result in a fair and reasonable use of resources to the benefit of all market participants. In particular, the proposal to allow Market Makers to select their appointments, and make changes thereto, via an Exchange-approved electronic interface is consistent with [sic] Act because it would provide Market Makers with more efficient access to the securities in which they want to make markets and thus more quickly begin disseminating competitive quotations in those securities, which would provide additional liquidity and enhance competition in those securities. The Exchange also believes that preventing Market Makers from being able to withdraw an option issue from its appointment on the same day that it submits the request (as such requests are processed on an overnight basis for effectiveness on the following business day) would serve to promote just and equitable principles of trade and benefit investors and the public interest.

In addition, the Exchange believes that the proposal to allow Market Makers to make selections or changes to their appointment without first obtaining explicit Exchange approval is likewise consistent with the Act. First, because financial resources and operational capability are important considerations in a Market Maker's performance, the Exchange proposes to retain these factors for consideration in the Exchange's periodic evaluation of Market Maker performance. The Exchange believes that adding these factors to the Exchange's consideration would remove impediments to and perfect the mechanism of a free and open market and would benefit investors and the public interest. In addition, as noted above, the Exchange would continue to have authority to

[32] *See* proposed Rule 923NY(d)(1).

[33] The Exchange also proposes to capitalize ''Floor'' in the first sentence of Rule 923NY(d)(1) to add clarity and consistency to Exchange rules.

[34] This proposed change also conforms to the latter portion of Rule 923NY(d)(2) which provides that ''Specialists shall be appointed to the Trading Zone designated for their issues.''

[35] *See* Rule 923NY(h) (''A Market Maker may seek review of any action taken by the Exchange pursuant to this Rule in accordance with Section 9A of the Office Rules, as applicable.'').

[36] *Id.*

[37] *See* proposed Rule 923NY(j) (''The Exchange will periodically conduct an evaluation of Market Makers to determine whether they have fulfilled performance standards relating to, among other things, quality of markets, competition among Market Makers, observance of ethical standards, and administrative factors. The Exchange may consider any relevant information including, but not limited to, the results of a Market Maker evaluation, trading data, a Market Maker's regulatory history, the financial resources available to the Market Maker, the Market Maker's operational capability, and such other factors and data as may be pertinent in the circumstances.'').

[38] *See* Rule 923NY(c)(2) and (4).

[39] The Exchange is not proposing any changes to Rule 923NY(j)(1), which sets forth the actions that the Exchange may take, after affording a Market Maker written notice and an opportunity for hearing pursuant to Section 9A should the Exchange find a Market Maker is failing to meet minimum performance standards. *See* Rule 923NY(j)(1). The Exchange however proposes to delete the word ''primary'' from Rule 923NY(j)(1)(A) so that the clause refers simply to the ''Market Maker's appointment,'' which change would add clarity and consistency to Exchange rules. *See* proposed Rule 923NY(j)(1)(A).

[40] *See* proposed Rule 923NY(j)(2) (''If a Market Maker's appointment in an option issue or issues has been terminated pursuant to this subsection (j), the Market Maker may not register as a Market Maker in that option issue or issues for a period not to exceed 6 months.'').

[41] 15 U.S.C. 78f(b).

[42] 15 U.S.C. 78f(b)(5).

suspend or terminate any Market Maker appointment in the interest of a fair and orderly market, including if necessary to prevent fraudulent and manipulative acts and practices and protect investors, or if a Market Maker does not satisfy its obligations with respect to an appointment.[43] The Exchange would also retain the ability to restrict a Market Maker's registration in option issues for up to six months if a Market Maker's appointment in that option issue or issues had been previously terminated under the rule, and continues to give the Exchange discretion to allow the Market Maker to resume that appointment earlier than the prescribed six-month period or to maintain the suspension for the entire period. Finally, the Exchange is not proposing changes to the disciplinary and appeals process for Market Makers that do not meet the minimum performance standards. Accordingly, the Exchange believes this proposal is consistent with Section 6(d) of the Exchange Act.[44]

The proposed rule change would not result in unfair discrimination, as it applies to all Market Makers. Further, the proposed rule change would reduce the burden on Market Makers to manage their appointments and thus provide liquidity to the Exchange. Nevertheless, Market Makers would still be required to comply with certain obligations to maintain their status as a Market Maker, including that they provide continuous, two-sided quotations in their appointed securities.[45]

Finally, as noted above, the proposed modifications to the appointment process would align the rules of the Exchange with the rules of other options exchanges, where Market Makers presently have the ability to select and make changes to their appointment via an Exchange-approved electronic interface.[46] The Exchange believes this consistency across exchanges would remove impediments to and perfect the mechanism of a free and open market by ensuring that members, regulators and the public can more easily navigate the Exchange's rulebook and better understand the appointment process.

[43] *See* Rule 923NY(g). *See also* Rule 921NY (regarding the Exchange's ability to suspend or terminate a Market Maker's registration based on ''a determination of any substantial or continued failure by such Market Maker to engage in dealings in accordance with Rules 925NY or 923NY'', which outline the obligations of Market Makers).

[44] 15 U.S.C. 78f(d).

[45] *See* Rule 925.1NY.

[46] *See supra* nn. 4, 30, 31.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because it provides the same relief to a group of similarly situated market participants—Market Makers. The proposed rule change would reduce the burden on Market Makers to manage their appointments and thus provide liquidity to the Exchange.

The Exchange does not believe the proposed rule change would help Market Makers to the detriment of market participants on other exchanges, particularly because the proposed functionality is similar to functionality already available on other exchanges.[47] Market Makers would still be subject to the same obligations with respect to its appointments; the proposed rule change would make the appointment process more efficient for Market Makers. The Exchange believes that the proposed rule change would relieve any burden on, or otherwise promote, competition, as it would enable Market Makers to manage their appointments with more flexibility and in a timelier manner. The Exchange believes this would provide Market Makers with more efficient access to the securities in which they want to make markets and thus more quickly begin disseminating competitive quotations in those securities, which would provide additional liquidity and enhance competition in those securities.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to 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 (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

[47] *Id.*

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–NYSEMKT–2015–17 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2015–17. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2015–17, and should be submitted on or before April 29, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[48]

Brent J. Fields,

Secretary.

[FR Doc. 2015–07964 Filed 4–7–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74639; File No. SR–NSCC–2015–001]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Addendum A (Fee Structure) With Respect to the Alternative Investment Product Services

April 2, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 23, 2015, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by NSCC. NSCC filed the proposed rule change pursuant to Section 19(b)(3)(A)[3] of the Act and Rule 19b–4(f)(2)[4] thereunder. The proposed rule change was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of an amendment to Addendum A (Fee Structure) of NSCC's Rules & Procedures (''Rules'') to establish certain fees applicable to the Alternative Investment Product services (''AIP'' or the ''Service''), as more fully described below. The text of the proposed rule change is available on NSCC's Web site at *http://www.dtcc.com/legal/sec-rule-filings.aspx,* at the principal office of NSCC, and at the Commission's Public Reference Room.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC 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. NSCC 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) Statement of Purpose

AIP was initially approved by the Commission on May 12, 2008[5] as a new processing platform for alternative investment products such as hedge funds, funds of hedge funds, commodities pools, managed futures, and real estate investment trusts (collectively, ''Eligible AIP Products''). AIP links global market participants, including broker/dealers, fund managers, fund administrators and custodians (collectively, ''AIP Members''), to provide one standard end-to-end process for Eligible AIP Products.

As set forth in NSCC's Rules, ''AIP Data transmitted through the AIP Service may include data relating to subscriptions and purchases; redemptions, withdrawals and tender offers; exchange transactions; *transfers;* . . . and such other data as may be established by [NSCC] from time to time.''[6]

NSCC recently enhanced the AIP platform to better process transfer instructions submitted by AIP Members. In connection with these enhancements, NSCC proposes to amend Addendum A to establish the fees applicable to the processing of transfers, such as for example, internal transfers. Internal transfers occur within an AIP Member that is a broker/dealer when such AIP Member re-registers a customer account in the name of a different customer due to, for example, the death of the previously registered customer. NSCC proposes to establish the following fees for AIP transfers:

- $1.50 per transfer for higher volume Eligible AIP Products.
- $5.00 per transfer for lower volume Eligible AIP Products.

NSCC will implement the new transfer fees beginning March 26, 2015, or such later date as NSCC may announce through Important Notice.

(2) Statutory Basis

NSCC believes that the proposed rule change is consistent with the requirements of the Act, and the rules and regulations thereunder applicable to NSCC. In particular, the proposed rule change is consistent with Section 17A(b)(3)(D)[7] of the Act because it establishes NSCC's fees for the processing of transfer instructions submitted by AIP Members, which helps to provide for the equitable allocation of reasonable dues, fees and other charges among members in connection with use of the Service.

B. Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have any impact or impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and paragraph (f) of Rule 19b–4[9] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

[48] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2).

[5] Securities Exchange Act Release No. 57813 (May 12, 2008), 73 FR 28539 (May 16, 2008) (SR–NSCC–2007–12).

[6] *See,* [sic] NSCC Rule 53 (Alternative Investment Product Services and Members), Section 6 (Transmission of AIP Data) [emphasis added].

[7] 15 U.S.C. 78q–1(b)(3)(D).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f).

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NSCC–2015–001 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–NSCC–2015–001. 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 NSCC and on DTCC's Web site at (*http://www.dtcc.com/legal/sec-rule-filings.aspx*). 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–NSCC–2015–001 and should be submitted on or before April 29, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Brent J. Fields,

Secretary.

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[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74638; File No. SR–BX–2015–016]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 4751(h)

April 2, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 24, 2015, NASDAQ OMX BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 4751(h) to introduce the Market Hours Immediate or Cancel Time in Force for use on BX and to modify the processing of Good-til-market close-designated orders.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxbx.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to expand the number of Time in Force designations currently available for use in the BX System by adopting a Market Hours Immediate or Cancel (''Market Hours IOC'' or ''MIOC'') Time in Force. Time in Force is a characteristic of an order that limits the period of time that the System will hold an order for potential execution. Currently the Exchange offers the following six Times in Force: (1) System Hours Immediate or Cancel; (2) System Hours Day; (3) System Hours Good-till-Cancelled; (4) System Hours Expire Time; (5) Market Hours GTC; and (6) Good-til-market close.[3] The Exchange is proposing to add the Market Hours IOC Time in Force, which will cause an order designated as such (or unexecuted portion thereof) to be canceled if, after entry into the System, the order (or unexecuted portion thereof) becomes non-marketable during the period from 9:30 a.m. Eastern Time until 4:00 p.m. Eastern Time (''Regular Market Hours''). The new Time in Force is similar to the System Hours Immediate or Cancel (''SIOC'') Time in Force, which, as noted above, is currently available on the Exchange. Like the proposed MIOC Time in Force, an order with a Time in Force of SIOC will cause such an order (or a portion thereof) to be canceled and returned to the entering market participant if, after entry into the System, the order (or unexecuted portion thereof) is not marketable. Unlike the System Hours Immediate or Cancel Time in Force, which is available for entry and potential execution from 7:00 a.m. until 7:00 p.m. Eastern Time (''System Hours''), the proposed MIOC Time in Force is only available for entry and potential execution during Regular Market Hours. As such, MIOC-designated orders will operate in the same manner as SIOC-designated orders, but are limited to entry and potential execution only during Regular Market Hours. The Exchange notes that, because it is an immediate or cancel time in force,[4] the Exchange believes that it is appropriate to limit MIOC order entry to Regular

[3] *See* Rules 4751(h)(1)–(8). The Exchange notes that Rules 4751(h)(5) and (6) are currently held in reserve.

[4] An order designated as ''immediate or cancel'' represents the entering member firm's desire for the order to either execute immediately after the System determines whether the order is marketable or be canceled.

Market Hours. An order designated with a Time in Force of MIOC that is entered outside of Regular Market Hours will be returned to the entering member firm without attempting to execute.

The Exchange notes that the NASDAQ Stock Market LLC (''NASDAQ'') currently has a MIOC Time in Force, which was adopted in 2006.[5] The Exchange's proposed MIOC Time in Force will operate identically, but will be available during a slightly different time period, which is attributable to NASDAQ's Opening Cross process.[6] Specifically, the Exchange's MIOC Time in Force will be available for entry and potential execution from 9:30 a.m. through 4:00 p.m. Eastern Time, whereas NASDAQ's MIOC Time in Force is available for entry and potential execution beginning after the completion of the NASDAQ Opening Cross [7] through 4:00 p.m. Eastern Time.[8] Unlike NASDAQ, BX does not have an opening cross process, but rather opens for trading at 9:30 a.m. Eastern Time.[9] Otherwise, the Exchange's proposed MIOC Time in Force will operate identically to NASDAQ's.

The Exchange is also proposing to modify the processing of orders designated as Good-til-market close (''GTMC'').[10] As noted above, the Exchange currently has a GTMC Time in Force, which allows an order designated as such to be executed from 7:00 a.m. to 7:00 p.m. Eastern Time. GTMC-designated orders entered after 4:00 p.m. Eastern Time, however, are converted to a Time in Force of SIOC. In lieu of converting such orders, the Exchange is proposing to no longer accept GTMC orders for execution after 4:00 p.m. Eastern Time. As a consequence, the Exchange is adding rule text to the rule noting the GTMC orders entered after 4:00 p.m. Eastern Time will not be accepted and is deleting text concerning conversion of the order. The Exchange notes that NASDAQ recently made similar changes to its GTMC Time in Force, whereby it will no longer accept GTMC-designated orders after initiation of its Lockdown Period, the time at which no further orders for participation in the NASDAQ Closing Cross or the continuous market will be accepted, which begins at 4:00 p.m. Eastern Time.[11]

2. Statutory Basis

BX believes that the proposed rule changes are consistent with the provisions of Section 6 of the Act,[12] in general, and with Section 6(b)(5) of the Act,[13] in particular, in that the proposal is 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; and also in that it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange believes that offering market participants with an additional Time in Force, which NASDAQ has had since 2006, is indicative of the Exchange's maturation as an equities market. Allowing Exchange participants the ability to more precisely select when their order may be executed removes impediments and perfects the mechanism of the market because it benefits all market participants and ensures that BX is able to compete with other market venues by providing similar tools and functionality. This functionality is nearly identical to the MIOC Time in Force that has been available on NASDAQ since 2006 and is well known to its market participants. Lastly, offering MIOC to BX market participants raises no issues concerning unfair discrimination as the new Time in Force is available to all BX market participants.

The proposed changes to the processing of GTMC-designated orders further these objectives because the changes simplify processing of such orders when entered after the close of Regular Market Hours. Rather than converting GTMC-designated orders to an order with a different time-in-force if entered after the market close, the Exchange will no longer accept them after 4:00 p.m. Eastern Time, which is consistent with a market participant's intent to execute during the period from 7:00 a.m. and 4:00 p.m. To the extent a member firm would like to participate in post-market hours trading, it may enter a new order eligible to participate in post-market trading. Moreover, simplifying the processing of GTMC-designated orders will remove complication in the handling of such orders, thereby further improving the operation of the market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that the proposal will enhance BX's competitiveness by providing its market participants with an additional option to limit when their orders may be executed. As discussed above, the MIOC Time in Force is available on NASDAQ, and providing it on BX will allow it to compete with NASDAQ and any other market venue that provides similar Time in Force functionality. This may, in turn, increase the extent of liquidity available on BX and increase its ability to compete with other execution venues to attract orders that are seeking immediate execution during Regular Market Hours. The Exchange further believes that the introduction of the MIOC Time in Force will not impair in any manner the ability of market participants or other execution venues to compete. The proposed changes to GTMC Time in Force are designed to promote consistency and stability in the closing process and in the handling of orders after Regular Market Hours has [sic] ended. Such changes do not place a burden on competition between market participants as the changes are applied consistently to all BX market participants. Moreover, the proposed changes may foster competition among exchanges and other markets, to the extent they make BX a more attractive venue to market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

[5] *See* Securities Exchange Act Release No. 54155 (July 16 [sic], 2006), 71 FR 41291 (July 20, 2006) (SR–NASDAQ–2006–001); *see also* NASDAQ Rule 4751(h)(5).

[6] *See* NASDAQ Rule 4752.

[7] NASDAQ's Opening Cross begins at 9:30 a.m. Eastern Time and market hours trading commences when the Opening Cross concludes. *See* NASDAQ Rule 4752(d).

[8] The Exchange notes that NASDAQ recently provided the Commission notice of a proposed immediately effective filing to simplify handling of NASDAQ MIOC-designated orders by no longer accepting such orders prior to the completion of the NASDAQ Opening Cross. *See* SR–NASDAQ–2015–11P.

[9] The official opening price for a security listed on the Exchange is the price of the first trade executed at or after 9:30 a.m. *See* Rule 4752(b).

[10] *See* Rule 4751(h)(8).

[11] *See* Securities Exchange Act Release No. 73943 (December 24, 2014), 80 FR 69 (January 2, 2015) (SR–NASDAQ–2014–123); *see also* Securities Exchange Act Release No. 74342 (February 20, 2015), 80 FR 10562 (February 26, 2015) (SR–NASDAQ–2015–014) (delaying implementation of the changes made by SR–NASDAQ–2014–123 until April 13, 2015).

[12] 15 U.S.C. 78f.

[13] 15 U.S.C. 78f(b)(4) [sic] and (5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [14] and Rule 19b–4(f)(6) thereunder.[15] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [16] and Rule 19b–4(f)(6)(iii) thereunder.[17] The Exchange represents that this proposed rule change will be implemented during the Second Quarter of 2015 subject to the issuance of an Equity Trader Alert that will provide at least 30 days of notice prior to the operative date for the respective amendments to Rule 4751(h).

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BX–2015–016 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2015–016. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2015–016, and should be submitted on or before April 29, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Brent J. Fields,

Secretary.

[FR Doc. 2015–07966 Filed 4–7–15; 8:45 am]

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[14] 15 U.S.C. 78s(b)(3)(A)(iii).

[15] 17 CFR 240.19b–4(f)(6).

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74632; File No. SR–MIAX–2015–24]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

April 2, 2015.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 31, 2015, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is filing a proposal to modify the Market Maker Trading Permit Fee.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify its Trading Permit fees to increase the monthly Trading Permit fees that apply

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

to Market Makers (''MMs''). Specifically, the Exchange proposes to: (i) Increase the monthly Trading Permit fee that applies to MMs for MM Assignments in up to 250 options classes from $5,500 to $15,000; (ii) increase the monthly Trading Permit fee that applies to MMs for MM Assignments in all classes from $7,000 to $22,000; (iii) eliminate the Trading Permit fee that applies to MMs for MM Assignments in up to 100 options classes; and (iv) add some clarifying language to the Fee Schedule regarding the fee applicable to MM Assignments above 250.

The Exchange issues Trading Permits that confer the ability to transact on the Exchange.[3] Currently, all MMs, whether they are a RMM, LMM or PLMM, are assessed $4,000 per month for a Trading Permit for an assignment in up to 100 option classes, $5,500 per month for a Trading Permit for an assignment in up to 250 option classes, or $7,000 per month for a Trading Permit for an assignment in all option classes listed on the Exchange.[4] The Exchange notes that the current monthly Trading Permit fees are in some instances substantially lower than monthly trading permit fees in place at other competing options exchanges.[5] The Exchange established these lower rates in order to encourage additional market participants to become Members of the Exchange and register as MIAX Market Makers. Now that the Exchange has grown its market share and membership base, the Exchange proposes to modify its Trading Permit fee for MMs so that it is more aligned with the rates charged by competing options exchanges.

The Exchange proposes to modify its MM Trading Permit fee to increase the monthly Trading Permit fee that applies to MMs. Specifically, the Exchange proposes to: (i) Increase the monthly Trading Permit fee that applies to MMs for MM Assignments in up to 250 options classes from $5,500 to $15,000; (ii) increase the monthly Trading Permit fee that applies to MMs for MM Assignments in all classes from $7,000 to $22,000; and (iii) eliminate the Trading Permit fee that applies to MMs for MM Assignments in up to 100 options classes.

Members receiving Trading Permits during the month will be assessed Trading Permit Fees according to the above schedule, except that the calculation of the Trading Permit fee for the first month in which the Trading Permit is issued will be pro-rated based on the number of trading days occurring after the date on which the Trading Permit was in effect during that first month divided by the total number of trading days in such month multiplied by the monthly rate.

Finally, the Exchange proposes to add some clarifying language to the Fee Schedule in order to specify that the $22,000 Trading Permit Fee applies to MMs Assignments over 250 up to all options classes listed on MIAX. The Exchange believes that the proposed change will help avoid the potential for confusion on behalf of MMs as to which fee level applies to MMs Assignments over 250 options classes.

The Exchange proposes to implement the Trading Permit fees beginning April 1, 2015.

2. Statutory Basis

The Exchange believes that its proposal to amend its fee schedule is consistent with Section 6(b) of the Act[6] in general, and furthers the objectives of Section 6(b)(4) of the Act[7] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

The Exchange believes that the proposed Trading Permit fee is reasonable, equitable and not unfairly discriminatory. The proposed Trading Permit fees are reasonable in that they are within the range of comparable fees at other competing options exchanges.[8] As such, the proposal is reasonably designed to continue to compete with other options exchange by incentivizing market participants to register as Market Makers on the Exchange in a manner that enables the Exchange to improve its overall competitiveness and strengthen its market quality for all market participants. The proposed fee is fair and equitable and not unreasonably discriminatory because it applies equally to all Market Makers regardless of type. All similarly situated Market Makers, with the same number of assignments, will be subject to the same Trading Permit fee, and access to the Exchange is offered on terms that are not unfairly discriminatory.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposal increases both intermarket and intramarket competition by increasing Trading Permit fees for Market Makers on the Exchange in a manner that allows all Market Makers to be subject to the same fee based on the number of assignments regardless of type and yet still be in the range of comparable fees on other exchanges. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow to the Exchange. The Exchange believes that the proposal reflects this competitive environment because it increases the Exchange's fees in a manner that continues to encourage market participants to register as Market Makers on the Exchange, to provide liquidity, and to attract order flow. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market liquidity.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section

[3] There is no limit on the number of Trading Permits that may be issued by the Exchange; however the Exchange has the authority to limit or decrease the number of Trading Permits it has determined to issue provided it complies with the provisions set forth in Rule 200(a) and Section 6(c)(4) of the Exchange Act. *See* 15 U.S.C. 78(f)(c)(4). For a complete description of MIAX Trading Permits, *see* MIAX Rule 200.

[4] The monthly Trading Permit Fee is in addition to the one-time application fee for MIAX Membership. The Exchange charges a one-time application fee based upon the applicant's status as either an Electronic Exchange Member (''EEM'') or as a Market Maker. Applicants for MIAX Membership as an EEM are assessed a one-time Application Fee of $2,500.00. Applicants for MIAX Membership as a Market Maker are assessed a one-time Application Fee of $3,000.00. The difference in the fee charged to EEMs and Market Makers reflects the additional review and processing effort needed for Market Maker applications.

[5] *See e.g.,* NYSE Arca Options Fees and Charges, p.1 (assessing market makers $6,000 for up to 100 option issues, an additional $5,000 for up to 250 option issues, an additional $4,000 for up to 750 option issues, and an additional $3,000 for all option issues on the exchange); NYSE Amex Options Fee Schedule, p. 19 (assessing market makers $8,000 for up to 60 plus the bottom 45%, an additional $6,000 for up to 150 plus the bottom 45%, an additional $5,000 for up to 500 plus the bottom 45%, and additional $4,000 for up to 1,000 [sic] plus the bottom 45%, and an additional $3,000 for all issues traded on the exchange).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] *See supra* note 5. NYSE Arca Options charges $11,000 for up to 250 option issues and $18,000 for all options issues on the exchange. NYSE Amex Options charges $26,000 for all option issues on the exchange.

19(b)(3)(A)(ii) of the Act.[9] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–MIAX–2015–24 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–MIAX–2015–24. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2015–24, and should be submitted on or before April 29, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Brent J. Fields,

Secretary.

[FR Doc. 2015–07960 Filed 4–7–15; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74633; File No. SR–MIAX–2015–25]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

April 2, 2015.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 31, 2015, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX Options Fee Schedule (the ''Fee Schedule'').

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the MIAX Options Fee Schedule (the ''Fee Schedule'') to increase the fees for MEI Ports to Market Makers. Specifically, the Exchange proposes to: (i) Increase the MEI Port Fee for the first matching engine used, from $1,000 to $2,500 per month; (ii) increase the MEI Port Fee for each of matching engines 2 through 5, from $500 to $1,200 per month; (iii) increase the MEI Port Fee for each of matching engines 6 and above, from $250 to $700 per month; and (iv) increase the fee for additional Limited Service MEI Ports from $10 to $50 per month.

Currently, MIAX assesses monthly MEI Port Fees on Market Makers based upon the number of MIAX matching engines [3] used by the Market Maker. MEI Port users are allocated two Full Service MEI Ports [4] and two Limited Service MEI Ports [5] per matching engine to which they connect. The Exchange currently assesses a fee of $1,000 per month on Market Makers for the first matching engine they use; $500 per month for each of matching engines 2 through 5; and $250 per month for each of matching engines 6 and above. For

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A ''matching engine'' is a part of the MIAX electronic system that processes options quotes and trades on a symbol-by-symbol basis. Some matching engines will process option classes with multiple root symbols, and other matching engines will be dedicated to one single option root symbol (for example, options on SPY will be processed by one single matching engine that is dedicated only to SPY). A particular root symbol may only be assigned to a single designated matching engine. A particular root symbol may not be assigned to multiple matching engines.

[4] Full Service MEI Ports provide Market Makers with the ability to send Market Maker quotes, eQuotes, and quote purge messages to the MIAX System. Full Service MEI Ports are also capable of receiving administrative information. Market Makers are limited to two Full Service MEI Ports per matching engine.

[5] Limited Service MEI Ports provide Market Makers with the ability to send eQuotes and quote purge messages only, but not Market Maker Quotes, to the MIAX System. Limited Service MEI Ports are also capable of receiving administrative information. Market Makers initially receive two Limited Service MEI Ports per matching engine.

example, a Market Maker that wishes to make markets in just one symbol would require the two MEI Ports in a single matching engine; a Market Maker wishing to make markets in all symbols traded on MIAX would require the two MEI Ports in each of the Exchange's matching engines. The Exchange also currently charges $10 per month for each additional Limited Service MEI Port per matching engine for Market Makers in addition to the two Limited Service MEI Ports per matching engine that are allocated with the Full Service MEI Ports. The Full Service MEI Ports, Limited Service MEI Ports and the additional Limited Service MEI Ports all include access to MIAX's primary and secondary data centers and its disaster recovery center.

The Exchange notes that another competing exchange charges substantially more for the use of similar ports.[6] The Exchange established the current lower rates in order to encourage additional market participants to become Members of the Exchange and register as Market Makers and use the service. Now that the Exchange has grown its market share and membership base, the Exchange proposes to modify its fees charged to Market Makers for use of MEI Ports in an effort to increase the Exchange's revenues from non-transaction fee sources and also more closely align the fees with the rates charged by another competing options exchange. Accordingly, the Exchange proposes to increase the fees charged to Market Makers for use of MEI Ports. Specifically, the Exchange proposes to: (i) Increase the MEI Port Fee for the first matching engine used, from $1,000 to $2,500 per month; (ii) increase the MEI Port Fee for each of matching engines 2 through 5, from $500 to $1,200 per month; (iii) increase the MEI Port Fee for each of matching engines 6 and above, from $250 to $700 per month; and (iv) increase the fee for additional Limited Service MEI Ports from $10 to $50 per month.

The Exchange proposes to implement the fee changes beginning April 1, 2015.

2. Statutory Basis

The Exchange believes that its proposal to amend its fee schedule is consistent with Section 6(b) of the Act[7] in general, and furthers the objectives of Section 6(b)(4) of the Act[8] in particular, in that it is an equitable allocation of reasonable fees and other charges.

The Exchange believes that the proposal is reasonable and not unfairly discriminatory because Market Makers are free to add and remove MEI Ports and will only be charged for the amount of MEI Ports that they desire to use. The proposed fee is fair and equitable and not unreasonably discriminatory because it applies equally to all Market Makers regardless of type. All similarly situated Market Makers, with the same number of MEI Ports, will be subject to the same fee, and access to the Exchange is offered on terms that are not unfairly discriminatory. The Exchange believes that the proposed fees are reasonable in that the rates are within the range of that charged by another competing options exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The Exchange believes that the proposal increases both intermarket and intramarket competition by increasing MEI Port fees for Market Makers on the Exchange in the range of comparable fees on another exchange. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and in order to attract market participants to use its services. The Exchange believes that the proposal reflects this competitive environment because it increases the Exchange's fees in a manner that continues to encourage market participants to register as Market Makers on the Exchange, to provide liquidity, and to attract order flow. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market liquidity.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[9] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–MIAX–2015–25 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–MIAX–2015–25. 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.,

[6] *See* NASDAQ OMX PHLX LLC (''PHLX'') Pricing Schedule, Section VII. PHLX assesses specialists and market makers Active SQF Port Fee of $2,500 per month for the first port, $4,000 per month for ports 2–6, and $15,000 per month for ports 7 and over. Active SQF Port Fees are capped at $42,000 per month.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2015–25, and should be submitted on or before April 29, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Brent J. Fields,

Secretary.

[FR Doc. 2015–07961 Filed 4–7–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74641; File No. SR–NYSEMKT–2015–20]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Price List To Specify That a Member Organization May Request That the Exchange Aggregate Its Eligible Activity With Activity of the Member Organization's Affiliates for Purposes of Charges or Credits Based on Volume

April 2, 2015.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on March 25, 2015, NYSE MKT LLC (''NYSE MKT'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. 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 proposes to amend its Price List to specify that a member organization may request that the Exchange aggregate its eligible activity with activity of the member organization's affiliates for purposes of charges or credits based on volume. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization 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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List to specify that member organizations may request that the Exchange aggregate their eligible activity with activity of member organization's affiliates for purposes of charges or credits based on volume. The proposed rule change is based on NASDAQ Stock Market LLC (''NASDAQ'') Rule 7027, NASDAQ Options Market LLC (''NOM'') Rules at Chapter XV, and the NASDAQ OMX PHLX LLC (''PHLX'') Pricing Schedule.[4]

As proposed, for purposes of applying any provision of the Exchange's Price List where the charge assessed, or credit provided, by the Exchange depends on the volume of a member organization's activity, a member organization may request that the Exchange aggregate its eligible activity with activity of such member organization's affiliates. The Exchange further proposes that a member organization requesting aggregation of eligible affiliate activity would be required to (1) certify to the Exchange the affiliate status of member organizations whose activity it seeks to aggregate prior to receiving approval for aggregation, and (2) inform the Exchange immediately of any event that causes an entity to cease being an affiliate. The Exchange would review available information regarding the entities and reserves the right to request additional information to verify the affiliate status of an entity. As further proposed, the Exchange would approve a request, unless it determines that the certificate is not accurate.[5]

The Exchange also proposes that if two or more member organizations become affiliated on or prior to the sixteenth day of a month, and submit the required request for aggregation on or prior to the twenty-second day of the month, an approval of the request would be deemed to be effective as of the first day of that month. If two or more member organizations become affiliated after the sixteenth day of a month, or submit a request for aggregation after the twenty second day of the month, an approval of the request would be deemed to be effective as of the first day of the next calendar month.[6] The Exchange believes that this requirement, which is also similar to requirements of other exchanges,[7] would be a fair and objective way to apply the aggregation rule to fees and streamline the billing process.

The Exchange further proposes to provide that for purposes of applying any provision of the Price List where the charge assessed, or credit provided, by the Exchange depends upon the volume of a member organization's activity, references to an entity would be deemed to include the entity and its affiliates that have been approved for aggregation.[8] The Exchange notes that its designated market makers (''DMM'') are subject to specified pricing on the Price List. For purposes of the Price List, a DMM may not aggregate its volume either with other units within the same member organization or affiliates of the member organization operating the DMM unit. In addition, the Exchange proposes to provide that member organizations may not aggregate volume where the Price List specifies that aggregation is not permitted.[9]

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] Effective December 1, 2014, NASDAQ amended Rule 7027 to harmonize the treatment of aggregation of affiliate activity of affiliated members to be consistent with the rules governing NOM and PHLX. *See* Securities Exchange Act Release No. 72966 (Sept. 3, 2014), 79 FR 53473 (Sept. 9, 2014) (SR–NASDAQ–2014–083). NOM and PHLX also amended their respective rules to harmonize the process by which it collects information from its members for purposes of aggregating member activity between its equity and options markets. *See* Securities Exchange Act Release Nos. 72967 (Sept. 2, 2014), 79 FR 53471 (Sept. 9, 2014) (SR–NASDAQ–2014–082) and 72969 (Sept. 3, 2014), 79 FR 53485 (Sept. 9, 2014) (SR–PHLX–2014–56).

[5] *See* NASDAQ Rule 7027(a)(1).

[6] *See* NASDAQ Rule 7027(a)(2).

[7] *See supra* note 4.

[8] *See* supra note 5.

[9] For example, the Price List specifies whether quoting and trading activity relating to Supplemental Liquidity Provider activity may be aggregated.

Finally, the Exchange proposes that for purposes of the Price List, the term ''affiliate'' would mean any member organization under 75% common ownership or control of that member organization.[10]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[12] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among member organizations and issuers and other persons using any facility or system with [sic] the Exchange operates or controls and because it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest.

The Exchange further believes that the proposed rule change is reasonable because it establishes a manner for the Exchange to treat affiliated member organizations for purposes of assessing charges or credits that are based on volume. The provision is equitable because all member organizations seeking to aggregate their activity are subject to the same parameters, in accordance with a standard that recognizes an affiliation as of the month's beginning or close in time to when the affiliation occurs, provided the member organization submits a timely request. Moreover, the proposed billing aggregation language, which would lower the Exchange's administrative burden, is substantially similar to aggregation language adopted by other exchanges.[13]

The Exchange further notes that the proposal would serve to reduce disparity of treatment between member organizations with regard to the pricing of different services and reduce any potential for confusion on how activity can be aggregated. The Exchange believes that the proposed rule change avoids disparate treatment of member organizations that have divided their various business activities between separate corporate entities as compared to member organizations that operate those business activities within a single corporate entity. The Exchange further notes that the proposed rule change is reasonable and is designed to remove impediments to and perfect the mechanism of a free and open market by harmonizing the manner by which the Exchanges permits member organizations to aggregate volume with other exchanges. In particular, the Exchange notes that NASDAQ, PHLX and BX all have the same standard that the Exchange is proposing to adopt.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[14] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As stated above, the proposed rule change, which applies equally to all member organizations, is intended to reduce the Exchange's administrative burden in applying volume price discounts for firms which have requested aggregation with that of an affiliate member organization, and is substantially similar to rules adopted by other exchanges. Because the market for order execution and routing is extremely competitive, member organizations may readily opt to disfavor the Exchange if they believe that alternatives offer them better value. The Exchange does not believe the proposed changes will impair the ability of member organizations or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission,[15] the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[16] and Rule 19b–4(f)(6) thereunder.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2015–20 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–NYSEMKT–2015–20. 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

[10] *See* NASDAQ Rule 7027(c).

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(4) and (5).

[13] *See supra* note 4.

[14] 15 U.S.C. 78f(b)(8).

[15] The Exchange has fulfilled this requirement.

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6).

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 will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com.* 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–NYSEMKT–2015–20 and should be submitted on or before April 29, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Brent J. Fields,

Secretary.

[FR Doc. 2015–07969 Filed 4–7–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31546; File No. 812–13683]

John Hancock Exchange-Traded Fund Trust, et al.; Notice of Application

April 2, 2015.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act.

Summary of Application: Applicants request an order that would permit (a) series of certain open-end management investment companies to issue shares (''Shares'') redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days after the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares; and (f) certain series to perform creations and redemptions of Creation Units in-kind in a master-feeder structure.

Applicants: John Hancock Exchange-Traded Fund Trust (''Trust''), John Hancock Advisers, LLC and John Hancock Investment Management Services, LLC (together, ''John Hancock''), and John Hancock Funds, LLC.

Filing Dates: The application was filed on August 21, 2009, and amended on August 27, 2010, August 29, 2011, November 6, 2014, and March 17, 2015.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 27, 2015, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: The Commission: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: 601 Congress Street, Boston, MA 02210–2805.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel at (202) 551–6879, or David P. Bartels, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust is a business trust organized under the laws of the Commonwealth of Massachusetts. The Trust is registered under the Act as an open-end management investment company and will offer multiple series.

2. John Hancock Advisers, LLC will be the investment adviser to the Initial Fund (defined below). Each of John Hancock Advisers, LLC and John Hancock Investment Management Services, LLC is registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act''). Any other Adviser (defined below) will also be registered as an investment adviser under the Advisers Act. The Adviser may enter into sub-advisory agreements with one or more investment advisers to act as sub-advisers to particular Funds (each, a ''Sub-Adviser''). Any Sub-Adviser will either be registered under the Advisers Act or will not be required to register thereunder.

3. The Trust will enter into a distribution agreement with one or more distributors, including John Hancock Funds, LLC. Each distributor will act as distributor and principal underwriter (''Distributor'') of one or more of the Funds. Each Distributor will be a broker-dealer registered under the Securities Exchange Act of 1934 (the ''Exchange Act''). The Distributor of any Fund may be an affiliated person or an affiliated person of an affiliated person of that Fund's Adviser and/or Sub-Adviser(s). The Distributor will not be affiliated with any Exchange (defined below).

4. Applicants request that the order apply to the initial series of the Trust described in the application (''Initial Fund''), and any additional series of the Trust, and any other open-end management investment company or series thereof, that may be created in the future (''Future Funds''), each of which will operate as an exchanged-traded fund (''ETF'') and will track a specified index comprised of domestic or foreign equity and/or fixed income securities (each, an ''Underlying Index''). Any Future Fund will (a) be advised by John Hancock Advisers, LLC, John Hancock Investment Management Services, LLC, or an entity controlling, controlled by, or under common control with John Hancock Advisers, LLC or John Hancock Investment Management Services, LLC (each, an ''Adviser'') and (b) comply with the terms and conditions of the application. The Initial Fund and Future Funds, together, are the ''Funds.'' [1]

[18] 17 CFR 200.30–3(a)(12).

[1] All existing entities that intend to rely on the requested order have been named as applicants. Any other existing or future entity that subsequently relies on the order will comply with the terms and conditions of the order. A Fund of Funds (as defined below) may rely on the order

5. Applicants state that a Fund may operate as a feeder fund in a master-feeder structure (''Feeder Fund''). Applicants request that the order permit a Feeder Fund to acquire shares of another registered investment company in the same group of investment companies having substantially the same investment objectives as the Feeder Fund (''Master Fund'') beyond the limitations in section 12(d)(1)(A) of the Act and permit the Master Fund, and any principal underwriter for the Master Fund, to sell shares of the Master Fund to the Feeder Fund beyond the limitations in section 12(d)(1)(B) of the Act (''Master-Feeder Relief''). Applicants may structure certain Feeder Funds to generate economies of scale and incur lower overhead costs.[2] There would be no ability by Fund shareholders to exchange Shares of Feeder Funds for shares of another feeder series of the Master Fund.

6. Each Fund, or its respective Master Fund, will hold certain securities, currencies, other assets and other investment positions (''Portfolio Holdings'') selected to correspond generally to the performance of its Underlying Index. Certain of the Funds will be based on Underlying Indexes that will be comprised solely of equity and/or fixed income securities issued by one or more of the following categories of issuers: (i) Domestic issuers and (ii) non-domestic issuers meeting the requirements for trading in U.S. markets. Other Funds will be based on Underlying Indexes that will be comprised solely of foreign and domestic, or solely foreign, equity and/or fixed income securities (''Foreign Funds'').

7. Applicants represent that each Fund, or its respective Master Fund, will invest at least 80% of its assets (excluding securities lending collateral) in the component securities of its respective Underlying Index (''Component Securities''), or in the case of Fixed Income Funds,[3] in the Component Securities of its respective Underlying Index and TBA Transactions[4] representing Component Securities, and in the case of Foreign Funds, Component Securities and Depositary Receipts[5] representing Component Securities. Each Fund, or its respective Master Fund, may also invest up to 20% of its assets in certain index futures, options, options on index futures, swap contracts or other derivatives, as related to its respective Underlying Index and its Component Securities, cash and cash equivalents, other investment companies, as well as in securities and other instruments not included in its Underlying Index but which the Adviser believes will help the Fund track its Underlying Index. A Fund may also engage in short sales in accordance with its investment objective.

8. The Trust may issue Funds that seek to track Underlying Indexes constructed using 130/30 investment strategies (''130/30 Funds'') or other long/short investment strategies (''Long/Short Funds''). Each Long/Short Fund will establish (i) exposures equal to approximately 100% of the long positions specified by the Long/Short Index[6] and (ii) exposures equal to approximately 100% of the short positions specified by the Long/Short Index. Each 130/30 Fund will include strategies that: (i) Establish long positions in securities so that total long exposure represents approximately 130% of a Fund's net assets; and (ii) simultaneously establish short positions in other securities so that total short exposure represents approximately 30% of such Fund's net assets. Each Business Day, for each Long/Short Fund and 130/30 Fund, the Adviser will provide full portfolio transparency on the Fund's publicly available Web site (''Web site'') by making available the Fund's, or its respective Master Fund's, Portfolio Holdings before the commencement of trading of Shares on the Listing Exchange (defined below).[7] The information provided on the Web site will be formatted to be reader-friendly.

9. A Fund will utilize either a replication or representative sampling strategy to track its Underlying Index. A Fund using a replication strategy will invest in the Component Securities of its Underlying Index in the same approximate proportions as in such Underlying Index. A Fund using a representative sampling strategy will hold some, but not necessarily all of the Component Securities of its Underlying Index. Applicants state that a Fund using a representative sampling strategy will not be expected to track the performance of its Underlying Index with the same degree of accuracy as would an investment vehicle that invested in every Component Security of the Underlying Index with the same weighting as the Underlying Index. Applicants expect that each Fund, or its respective Master Fund, will have an annual tracking error relative to the performance of its Underlying Index of less than 5%.

10. The Funds will be entitled to use their Underlying Indexes pursuant to either a licensing agreement with the entity that compiles, creates, sponsors or maintains an Underlying Index (each, an ''Index Provider'') or a sub-licensing arrangement with the Adviser, which will have a licensing agreement with such Index Provider.[8] A ''Self-Indexing Fund'' is a Fund for which an affiliated person, as defined in section 2(a)(3) of the Act (an ''Affiliated Person''), or a Second-Tier Affiliate,[9] of the Trust or a Fund, of the Adviser, of any Sub-Adviser to or promoter of a Fund, or of the Distributor (each, an ''Affiliated Index Provider'')[10] will serve as the Index Provider. In the case of Self-Indexing Funds, an Affiliated Index Provider will create a proprietary, rules-

only to invest in Funds and not in any other registered investment company.

[2] Operating in a master-feeder structure could also impose costs on a Feeder Fund and reduce its tax efficiency. The Feeder Fund's Board will consider any such potential disadvantages against the benefits of economies of scale and other benefits of operating within a master-feeder structure. In a master-feeder structure, the Master Fund—rather than the Feeder Fund—would generally invest its portfolio in compliance with the requested order.

[3] A Fixed Income Fund is a Fund that tracks a specified index comprised of domestic or foreign fixed income securities.

[4] A ''to-be-announced transaction'' or ''TBA Transaction'' is a method of trading mortgage-backed securities. In a TBA Transaction, the buyer and seller agree upon general trade parameters such as agency, settlement date, par amount and price. The actual pools delivered generally are determined two days prior to settlement date.

[5] Depositary receipts representing foreign securities (''Depositary Receipts'') include American Depositary Receipts and Global Depositary Receipts. The Funds, or their respective Master Funds, may invest in Depositary Receipts representing foreign securities in which they seek to invest. Depositary Receipts are typically issued by a financial institution (a ''depositary bank'') and evidence ownership interests in a security or a pool of securities that have been deposited with the depositary bank. A Fund, or its respective Master Fund, will not invest in any Depositary Receipts that the Adviser or any Sub-Adviser deems to be illiquid or for which pricing information is not readily available. No affiliated person of a Fund, the Adviser or any Sub-Adviser will serve as the depositary bank for any Depositary Receipts held by a Fund, or its respective Master Fund.

[6] Underlying Indexes that include both long and short positions in securities are referred to as ''Long/Short Indexes.''

[7] Under accounting procedures followed by each Fund, trades made on the prior Business Day (''T'') will be booked and reflected in NAV on the current Business Day (T+1). Accordingly, the Funds will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for the NAV calculation at the end of the Business Day.

[8] The licenses for the Self-Indexing Funds will specifically state that the Affiliated Index Provider (or in case of a sub-licensing agreement, the Adviser) must provide the use of the Underlying Indexes and related intellectual property at no cost to the Trust and the Self-Indexing Funds.

[9] A Second-Tier Affiliate is an affiliated person of an Affiliated Person.

[10] In the event that an Adviser or Sub-Adviser serves as the Affiliated Index Provider for a Self-Indexing Fund, the terms ''Affiliated Index Provider'' or ''Index Provider,'' with respect to that Self-Indexing Fund, will be limited to the employees of the applicable Adviser or Sub-Adviser that are responsible for creating, compiling and maintaining the relevant Underlying Index.

based methodology to create Underlying Indexes (each an ''Affiliated Index'').[11] Except with respect to the Self-Indexing Funds, no Index Provider is or will be an Affiliated Person, or a Second-Tier Affiliate, of the Trust or a Fund, of the Adviser, of any Sub-Adviser to or promoter of a Fund, or of the Distributor.

11. Applicants recognize that Self-Indexing Funds could raise concerns regarding the ability of the Affiliated Index Provider to manipulate the Underlying Index to the benefit or detriment of the Self-Indexing Fund. Applicants further recognize the potential for conflicts that may arise with respect to the personal trading activity of personnel of the Affiliated Index Provider who have knowledge of changes to an Underlying Index prior to the time that information is publicly disseminated.

12. Applicants propose that each day that a Fund, the NYSE and the national securities exchange (as defined in section 2(a)(26) of the Act) (an ''Exchange'') on which the Fund's Shares are primarily listed (''Listing Exchange'') are open for business, including any day that a Fund is required to be open under section 22(e) of the Act (a ''Business Day''), each Self-Indexing Fund will post on its Web site, before commencement of trading of Shares on the Listing Exchange, the identities and quantities of the Portfolio Holdings that will form the basis for the Fund's calculation of its NAV at the end of the Business Day. Applicants believe that requiring Self-Indexing Funds to maintain full portfolio transparency will provide an additional mechanism for addressing any such potential conflicts of interest.

13. Applicants represent that each Self-Indexing Fund's Portfolio Holdings will be as transparent as the portfolio holdings of existing actively managed ETFs. Unlike passively-managed ETFs, actively-managed ETFs do not seek to replicate the performance of a specified index but rather seek to achieve their investment objectives by using an ''active'' management strategy. Applicants contend that the structure of actively managed ETFs presents potential conflicts of interest that are the same as those presented by Self-Indexing Funds because the portfolio managers of an actively managed ETF by definition have advance knowledge of pending portfolio changes. Applicants believe that actively managed ETFs address these potential conflicts of interest appropriately through full portfolio transparency, as the conditions to their relevant exemptive relief require.

14. In addition, applicants do not believe the potential for conflicts of interest raised by the Adviser's use of the Underlying Indexes in connection with the management of the Self Indexing Funds and the Affiliated Accounts will be substantially different from the potential conflicts presented by an adviser managing two or more registered funds. Both the Act and the Advisers Act contain various protections to address conflicts of interest where an adviser is managing two or more registered funds and these protections will also help address these conflicts with respect to the Self-Indexing Funds.

15. Each Adviser and any Sub-Adviser has adopted or will adopt, pursuant to Rule 206(4)–7 under the Advisers Act, written policies and procedures designed to prevent violations of the Advisers Act and the rules thereunder. These include policies and procedures designed to minimize potential conflicts of interest among the Self-Indexing Funds and the Affiliated Accounts, such as cross trading policies, as well as those designed to ensure the equitable allocation of portfolio transactions and brokerage commissions. In addition, John Hancock has adopted policies and procedures as required under section 204A of the Advisers Act, which are reasonably designed in light of the nature of its business to prevent the misuse, in violation of the Advisers Act or the Exchange Act or the rules thereunder, of material non-public information by John Hancock or associated persons (''Inside Information Policy''). Any other Adviser and/or Sub-Adviser will be required to adopt and maintain a similar Inside Information Policy. In accordance with the Code of Ethics[12] and Inside Information Policy of each Adviser and Sub-Advisers, personnel of those entities with knowledge about the composition of the Portfolio Deposit[13] will be prohibited from disclosing such information to any other person, except as authorized in the course of their employment, until such information is made public. In addition, an Index Provider will not provide any information relating to changes to an Underlying Index's methodology for the inclusion of component securities, the inclusion or exclusion of specific component securities, or methodology for the calculation or the return of component securities, in advance of a public announcement of such changes by the Index Provider. The Adviser will also include under Item 10.C. of Part 2 of its Form ADV a discussion of its relationship to any Affiliated Index Provider and any material conflicts of interest resulting therefrom, regardless of whether the Affiliated Index Provider is a type of affiliate specified in Item 10.

16. To the extent the Self-Indexing Funds transact with an Affiliated Person of the Adviser or Sub-Adviser, such transactions will comply with the Act, the rules thereunder and the terms and conditions of the requested order. In this regard, each Self-Indexing Fund's board of directors or trustees (''Board'') will periodically review the Self-Indexing Fund's use of an Affiliated Index Provider. Subject to the approval of the Self-Indexing Fund's Board, the Adviser, Affiliated Persons of the Adviser (''Adviser Affiliates'') and Affiliated Persons of any Sub-Adviser (''Sub-Adviser Affiliates'') may be authorized to provide custody, fund accounting and administration and transfer agency services to the Self-Indexing Funds. Any services provided by the Adviser, Adviser Affiliates, Sub-Adviser and Sub-Adviser Affiliates will be performed in accordance with the provisions of the Act, the rules under the Act and any relevant guidelines from the staff of the Commission.

17. The Shares of each Fund will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments

[11] The Affiliated Indexes may be made available to registered investment companies, as well as separately managed accounts of institutional investors and privately offered funds that are not deemed to be ''investment companies'' in reliance on section 3(c)(1) or 3(c)(7) of the Act for which the Adviser acts as adviser or subadviser (''Affiliated Accounts'') as well as other such registered investment companies, separately managed accounts and privately offered funds for which it does not act either as adviser or subadviser (''Unaffiliated Accounts''). The Affiliated Accounts and the Unaffiliated Accounts, like the Funds, would seek to track the performance of one or more Underlying Index(es) by investing in the constituents of such Underlying Indexes or a representative sample of such constituents of the Underlying Index. Consistent with the relief requested from section 17(a), the Affiliated Accounts will not engage in Creation Unit transactions with a Fund.

[12] The Adviser has also adopted (and any other Adviser has adopted or will adopt) a code of ethics pursuant to Rule 17j–1 under the Act and Rule 204A–1 under the Advisers Act, which contains provisions reasonably necessary to prevent Access Persons (as defined in Rule 17j–1) from engaging in any conduct prohibited in Rule 17j–1 (''Code of Ethics'').

[13] The instruments and cash that the purchaser is required to deliver in exchange for the Creation Units it is purchasing is referred to as the ''Portfolio Deposit.''

(''Deposit Instruments''), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments (''Redemption Instruments'').[14] On any given Business Day, the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, unless the Fund is Rebalancing (as defined below). In addition, the Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions)[15] except: (a) In the case of bonds, for minor differences when it is impossible to break up bonds beyond certain minimum sizes needed for transfer and settlement; (b) for minor differences when rounding is necessary to eliminate fractional shares or lots that are not tradeable round lots; [16] (c) TBA Transactions, short positions, derivatives and other positions that cannot be transferred in kind [17] will be excluded from the Deposit Instruments and the Redemption Instruments; [18] (d) to the extent the Fund determines, on a given Business Day, to use a representative sampling of the Fund's portfolio; [19] or (e) for temporary periods, to effect changes in the Fund's portfolio as a result of the rebalancing of its Underlying Index (any such change, a ''Rebalancing''). If there is a difference between the NAV attributable to a Creation Unit and the aggregate market value of the Deposit Instruments or Redemption Instruments exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the ''Cash Amount'').

18. Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in kind, solely under the following circumstances: (a) To the extent there is a Cash Amount; (b) if, on a given Business Day, the Fund announces before the open of trading that all purchases, all redemptions or all purchases and redemptions on that day will be made entirely in cash; (c) if, upon receiving a purchase or redemption order from an Authorized Participant, the Fund determines to require the purchase or redemption, as applicable, to be made entirely in cash; [20] (d) if, on a given Business Day, the Fund requires all Authorized Participants purchasing or redeeming Shares on that day to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are not eligible for transfer through either the NSCC or DTC (defined below); or (ii) in the case of Foreign Funds holding non-U.S. investments, such instruments are not eligible for trading due to local trading restrictions, local restrictions on securities transfers or other similar circumstances; or (e) if the Fund permits an Authorized Participant to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are, in the case of the purchase of a Creation Unit, not available in sufficient quantity; (ii) such instruments are not eligible for trading by an Authorized Participant or the investor on whose behalf the Authorized Participant is acting; or (iii) a holder of Shares of a Foreign Fund holding non-U.S. investments would be subject to unfavorable income tax treatment if the holder receives redemption proceeds in kind.[21]

19. Creation Units will consist of specified large aggregations of Shares, *e.g.,* at least 25,000 Shares, and it is expected that the initial price of a Creation Unit will range from $1 million to $10 million. All orders to purchase Creation Units must be placed with the Distributor by or through an ''Authorized Participant'' which is either (1) a ''Participating Party,'' *i.e.,* a broker-dealer or other participant in the Continuous Net Settlement System of the NSCC, a clearing agency registered with the Commission, or (2) a participant in The Depository Trust Company (''DTC'') (''DTC Participant''), which, in either case, has signed a participant agreement with the Distributor. The Distributor will be responsible for transmitting the orders to the Funds and will furnish to those placing such orders confirmation that the orders have been accepted, but applicants state that the Distributor may reject any order which is not submitted in proper form.

20. Each Business Day, before the open of trading on the Listing Exchange, each Fund will cause to be published through the NSCC the names and quantities of the instruments comprising the Deposit Instruments and the Redemption Instruments, as well as the estimated Cash Amount (if any), for that day. The list of Deposit Instruments and Redemption Instruments will apply until a new list is announced on the following Business Day, and there will be no intra-day changes to the list except to correct errors in the published list. Each Listing Exchange will disseminate, every 15 seconds during regular Exchange trading hours, through the facilities of the Consolidated Tape Association, an amount for each Fund stated on a per individual Share basis representing the sum of (i) the estimated Cash Amount and (ii) the current value of the Deposit Instruments.

21. Transaction expenses, including operational processing and brokerage costs, will be incurred by a Fund when investors purchase or redeem Creation Units in-kind and such costs have the potential to dilute the interests of the Fund's existing shareholders. Each Fund will impose purchase or redemption transaction fees (''Transaction Fees'') in connection with effecting such purchases or redemptions of Creation Units. With respect to Feeder Funds, the Transaction Fee would be paid indirectly to the Master

[14] The Funds must comply with the federal securities laws in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, including that the Deposit Instruments and Redemption Instruments are sold in transactions that would be exempt from registration under the Securities Act of 1933 (''Securities Act''). In accepting Deposit Instruments and satisfying redemptions with Redemption Instruments that are restricted securities eligible for resale pursuant to rule 144A under the Securities Act, the Funds will comply with the conditions of rule 144A.

[15] The portfolio used for this purpose will be the same portfolio used to calculate the Fund's NAV for the Business Day.

[16] A tradeable round lot for a security will be the standard unit of trading in that particular type of security in its primary market.

[17] This includes instruments that can be transferred in kind only with the consent of the original counterparty to the extent the Fund does not intend to seek such consents.

[18] Because these instruments will be excluded from the Deposit Instruments and the Redemption Instruments, their value will be reflected in the determination of the Cash Amount (as defined below).

[19] A Fund may only use sampling for this purpose if the sample: (i) Is designed to generate performance that is highly correlated to the performance of the Fund's portfolio; (ii) consists entirely of instruments that are already included in the Fund's portfolio; and (iii) is the same for all Authorized Participants on a given Business Day.

[20] In determining whether a particular Fund will sell or redeem Creation Units entirely on a cash or in-kind basis (whether for a given day or a given order), the key consideration will be the benefit that would accrue to the Fund and its investors. For instance, in bond transactions, the Adviser may be able to obtain better execution than Share purchasers because of the Adviser's size, experience and potentially stronger relationships in the fixed income markets. Purchases of Creation Units either on an all cash basis or in-kind are expected to be neutral to the Funds from a tax perspective. In contrast, cash redemptions typically require selling portfolio holdings, which may result in adverse tax consequences for the remaining Fund shareholders that would not occur with an in-kind redemption. As a result, tax consideration may warrant in-kind redemptions.

[21] A ''custom order'' is any purchase or redemption of Shares made in whole or in part on a cash basis in reliance on clause (e)(i) or (e)(ii).

Fund.[22] In all cases, such Transaction Fees will be limited in accordance with requirements of the Commission applicable to management investment companies offering redeemable securities. Since the Transaction Fees are intended to defray the transaction expenses as well as to prevent possible shareholder dilution resulting from the purchase or redemption of Creation Units, the Transaction Fees will be borne only by such purchasers or redeemers.[23] The Distributor will be responsible for delivering the Fund's prospectus to those persons acquiring Shares in Creation Units and for maintaining records of both the orders placed with it and the confirmations of acceptance furnished by it. In addition, the Distributor will maintain a record of the instructions given to the applicable Fund to implement the delivery of its Shares.

22. Shares of each Fund will be listed and traded individually on an Exchange. It is expected that one or more member firms of an Exchange will be designated to act as a market maker (each, a ''Market Maker'') and maintain a market for Shares trading on the Exchange. Prices of Shares trading on an Exchange will be based on the current bid/offer market. Transactions involving the sale of Shares on an Exchange will be subject to customary brokerage commissions and charges.

23. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs. Market Makers, acting in their roles to provide a fair and orderly secondary market for the Shares, may from time to time find it appropriate to purchase or redeem Creation Units. Applicants expect that secondary market purchasers of Shares will include both institutional and retail investors.[24] The price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help prevent Shares from trading at a material discount or premium in relation to their NAV.

24. Shares will not be individually redeemable, and owners of Shares may acquire those Shares from the Fund, or tender such Shares for redemption to the Fund, in Creation Units only. To redeem, an investor must accumulate enough Shares to constitute a Creation Unit. Redemption requests must be placed through an Authorized Participant. A redeeming investor may pay a Transaction Fee, calculated in the same manner as a Transaction Fee payable in connection with purchases of Creation Units.

25. Neither the Trust nor any Fund will be advertised or marketed or otherwise held out as a traditional open-end investment company or a ''mutual fund.'' Instead, each such Fund will be marketed as an ''ETF.'' All marketing materials that describe the features or method of obtaining, buying or selling Creation Units, or Shares traded on an Exchange, or refer to redeemability, will prominently disclose that Shares are not individually redeemable and will disclose that the owners of Shares may acquire those Shares from the Fund or tender such Shares for redemption to the Fund in Creation Units only. The Funds will provide copies of their annual and semi-annual shareholder reports to DTC Participants for distribution to beneficial owners of Shares.

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provisions of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an ''open-end company'' as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the owner, upon its presentation to the issuer, is entitled to receive approximately a proportionate share of the issuer's current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order that would permit the Funds to register as open-end management investment companies and issue Shares that are redeemable in Creation Units only.[25] Applicants state that investors may purchase Shares in Creation Units and redeem Creation Units from each Fund. Applicants further state that because Creation Units may always be purchased and redeemed at NAV, the price of Shares on the secondary market should not vary materially from NAV.

Section 22(d) of the Act and Rule 22c–1 Under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is currently being offered to the public by or through an underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Thus, purchases and sales of Shares in the secondary market

[22] Applicants are not requesting relief from section 18 of the Act. Accordingly, a Master Fund may require a Transaction Fee payment to cover expenses related to purchases or redemptions of the Master Fund's shares by a Feeder Fund only if it requires the same payment for equivalent purchases or redemptions by any other feeder fund. Thus, for example, a Master Fund may require payment of a Transaction Fee by a Feeder Fund for transactions for 20,000 or more shares so long as it requires payment of the same Transaction Fee by all feeder funds for transactions involving 20,000 or more shares.

[23] Where a Fund permits an in-kind purchaser to substitute cash-in-lieu of depositing one or more of the requisite Deposit Instruments, the purchaser may be assessed a higher Transaction Fee to cover the cost of purchasing such Deposit Instruments.

[24] Shares will be registered in book-entry form only. DTC or its nominee will be the record or registered owner of all outstanding Shares. Beneficial ownership of Shares will be shown on the records of DTC or the DTC Participants.

[25] The Master Funds will not require relief from sections 2(a)(32) and 5(a)(1) because the Master Funds will issue individually redeemable securities.

will not comply with section 22(d) of the Act and rule 22c–1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (a) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers, and (c) ensure an orderly distribution of investment company shares by eliminating price competition from dealers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Shares does not involve a Fund as a party and will not result in dilution of an investment in Shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help prevent Shares from trading at a material discount or premium in relation to their NAV.

Section 22(e)

7. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants state that settlement of redemptions for Foreign Funds will be contingent not only on the settlement cycle of the United States market, but also on current delivery cycles in local markets for the underlying foreign securities held by a Foreign Fund. Applicants state that the delivery cycles currently practicable for transferring Redemption Instruments to redeeming investors, coupled with local market holiday schedules, may require a delivery process of up to fifteen (15) calendar days.[26] Accordingly, with respect to Foreign Funds only, applicants hereby request relief under section 6(c) from the requirement imposed by section 22(e) to allow Foreign Funds to pay redemption proceeds within fifteen (15) calendar days following the tender of Creation Units for redemption.[27]

8. Applicants believe that Congress adopted section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds. Applicants propose that allowing redemption payments for Creation Units of a Foreign Fund to be made within fifteen calendar days would not be inconsistent with the spirit and intent of section 22(e). Applicants suggest that a redemption payment occurring within fifteen calendar days following a redemption request would adequately afford investor protection.

9. Applicants are not seeking relief from section 22(e) with respect to Foreign Funds that do not effect creations and redemptions of Creation Units in-kind.[28]

Section 12(d)(1)

10. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring securities of an investment company if such securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter and any other broker-dealer from knowingly selling the investment company's shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

11. Applicants request an exemption to permit registered management investment companies and unit investment trusts (''UITs'') that are not advised or sponsored by the Adviser and are not part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act as the Funds (such management investment companies are referred to as ''Investing Management Companies,'' such UITs are referred to as ''Investing Trusts,'' and Investing Management Companies and Investing Trusts are collectively referred to as ''Funds of Funds''), to acquire Shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any Broker registered under the Exchange Act, to sell Shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act.

12. Each Investing Management Company will be advised by an investment adviser within the meaning of section 2(a)(20)(A) of the Act (the ''Fund of Funds Adviser'') and may be sub-advised by investment advisers within the meaning of section 2(a)(20)(B) of the Act (each a ''Fund of Funds Sub-Adviser''). Any investment adviser to an Investing Management Company will be registered under the Advisers Act. Each Investing Trust will be sponsored by a sponsor (''Sponsor'').

13. Applicants submit that the proposed conditions to the requested relief adequately address the concerns underlying the limits in sections 12(d)(1)(A) and (B), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees and overly complex fund structures. Applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

14. Applicants believe that neither a Fund of Funds nor a Fund of Funds Affiliate would be able to exert undue influence over a Fund.[29] To limit the control that a Fund of Funds may have over a Fund, applicants propose a condition prohibiting a Fund of Funds Adviser or Sponsor, any person controlling, controlled by, or under common control with a Fund of Funds

[26] Applicants state that certain countries in which a Fund may invest have historically had settlement periods of up to fifteen (15) calendar days.

[27] Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations applicants may otherwise have under rule 15c6–1 under the Exchange Act requiring that most securities transactions be settled within three business days of the trade date.

[28] In addition, the requested exemption from section 22(e) would only apply to in-kind redemptions by the Feeder Funds and would not apply to in-kind redemptions by other feeder funds.

[29] A ''Fund of Funds Affiliate'' is a Fund of Funds Adviser, Fund of Funds Sub-Adviser, Sponsor, promoter, and principal underwriter of a Fund of Funds, and any person controlling, controlled by, or under common control with any of those entities. A ''Fund Affiliate'' is an investment adviser, promoter, or principal underwriter of a Fund and any person controlling, controlled by or under common control with any of these entities.

Adviser or Sponsor, and any investment company and any issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by a Fund of Funds Adviser or Sponsor, or any person controlling, controlled by, or under common control with a Fund of Funds Adviser or Sponsor (''Fund of Funds Advisory Group'') from controlling (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any Fund of Funds Sub-Adviser, any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser, and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Fund of Funds Sub-Adviser or any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser (''Fund of Funds Sub-Advisory Group'').

15. Applicants propose other conditions to limit the potential for undue influence over the Funds, including that no Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an offering of securities during the existence of an underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate (''Affiliated Underwriting''). An ''Underwriting Affiliate'' is a principal underwriter in any underwriting or selling syndicate that is an officer, director, member of an advisory board, Fund of Funds Adviser, Fund of Funds Sub-Adviser, employee or Sponsor of the Fund of Funds, or a person of which any such officer, director, member of an advisory board, Fund of Funds Adviser or Fund of Funds Sub-Adviser, employee or Sponsor is an affiliated person (except that any person whose relationship to the Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate).

16. Applicants do not believe that the proposed arrangement will involve excessive layering of fees. The board of directors or trustees of any Investing Management Company, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (''disinterested directors or trustees''), will find that the advisory fees charged under the contract are based on services provided that will be in addition to, rather than duplicative of, services provided under the advisory contract of any Fund, or its respective Master Fund, in which the Investing Management Company may invest. In addition, under condition B.5., a Fund of Funds Adviser, or a Fund of Funds' trustee or Sponsor, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund, or its respective Master Fund, under rule 12b–1 under the Act) received from a Fund by the Fund of Funds Adviser, trustee or Sponsor or an affiliated person of the Fund of Funds Adviser, trustee or Sponsor, other than any advisory fees paid to the Fund of Funds Adviser, trustee or Sponsor or its affiliated person by a Fund, in connection with the investment by the Fund of Funds in the Fund. Applicants state that any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.[30]

17. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that no Fund, nor its respective Master Fund, will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund, or its respective Master Fund, to purchase shares of other investment companies for short-term cash management purposes or pursuant to the Master-Feeder Relief. To ensure a Fund of Funds is aware of the terms and conditions of the requested order, the Fund of Funds will enter into an agreement with the Fund (''FOF Participation Agreement''). The FOF Participation Agreement will include an acknowledgement from the Fund of Funds that it may rely on the order only to invest in the Funds and not in any other investment company.

18. Applicants also note that a Fund may choose to reject a direct purchase of Shares in Creation Units by a Fund of Funds. To the extent that a Fund of Funds purchases Shares in the secondary market, a Fund would still retain its ability to reject any initial investment by a Fund of Funds in excess of the limits of section 12(d)(1)(A) by declining to enter into a FOF Participation Agreement with the Fund of Funds.

19. Applicants also are seeking the Master-Feeder Relief to permit the Feeder Funds to perform creations and redemptions of Shares in-kind in a master-feeder structure. Applicants assert that this structure is substantially identical to traditional master-feeder structures permitted pursuant to the exception provided in section 12(d)(1)(E) of the Act. Section 12(d)(1)(E) provides that the percentage limitations of section 12(d)(1)(A) and (B) shall not apply to a security issued by an investment company (in this case, the shares of the applicable Master Fund) if, among other things, that security is the only investment security held by the investing investment company (in this case, the Feeder Fund). Applicants believe the proposed master-feeder structure complies with section 12(d)(1)(E) because each Feeder Fund will hold only investment securities issued by its corresponding Master Fund; however, the Feeder Funds may receive securities other than securities of its corresponding Master Fund if a Feeder Fund accepts an in-kind creation. To the extent that a Feeder Fund may be deemed to be holding both shares of the Master Fund and other securities, applicants request relief from section 12(d)(1)(A) and (B). The Feeder Funds would operate in compliance with all other provisions of section 12(d)(1)(E).

Sections 17(a)(1) and (2) of the Act

20. Sections 17(a)(1) and (2) of the Act generally prohibit an affiliated person of a registered investment company, or an affiliated person of such a person, from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines ''affiliated person'' of another person to include (a) any person directly or indirectly owning, controlling or holding with power to vote 5% or more of the outstanding voting securities of the other person, (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with the power to vote by the other person, and (c) any person directly or indirectly controlling, controlled by or under common control with the other person. Section 2(a)(9) of the Act defines ''control'' as the power to exercise a controlling influence over the management or policies of a company, and provides that a control relationship will be presumed where one person owns more than 25% of a company's voting securities. The Funds may be deemed to be controlled by the Adviser or an entity controlling,

[30] Any references to NASD Conduct Rule 2830 include any successor or replacement FINRA rule to NASD Conduct Rule 2830.

controlled by or under common control with the Adviser and hence affiliated persons of each other. In addition, the Funds may be deemed to be under common control with any other registered investment company (or series thereof) advised by an Adviser or an entity controlling, controlled by or under common control with an Adviser (an ''Affiliated Fund''). Any investor, including Market Makers, owning 5% or holding in excess of 25% of the Trust or such Funds, may be deemed affiliated persons of the Trust or such Funds. In addition, an investor could own 5% or more, or in excess of 25% of the outstanding shares of one or more Affiliated Funds making that investor a Second-Tier Affiliate of the Funds.

21. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act pursuant to sections 6(c) and 17(b) of the Act to permit persons that are Affiliated Persons of the Funds, or Second-Tier Affiliates of the Funds, solely by virtue of one or more of the following: (a) Holding 5% or more, or in excess of 25%, of the outstanding Shares of one or more Funds; (b) an affiliation with a person with an ownership interest described in (a); or (c) holding 5% or more, or more than 25%, of the shares of one or more Affiliated Funds, to effectuate purchases and redemptions ''in-kind.''

22. Applicants assert that no useful purpose would be served by prohibiting such affiliated persons from making ''in-kind'' purchases or ''in-kind'' redemptions of Shares of a Fund in Creation Units. Both the deposit procedures for ''in-kind'' purchases of Creation Units and the redemption procedures for ''in-kind'' redemptions of Creation Units will be effected in exactly the same manner for all purchases and redemptions, regardless of size or number. There will be no discrimination between purchasers or redeemers. Deposit Instruments and Redemption Instruments for each Fund will be valued in the identical manner as those Portfolio Holdings currently held by such Fund and the valuation of the Deposit Instruments and Redemption Instruments will be made in an identical manner regardless of the identity of the purchaser or redeemer. Applicants do not believe that ''in-kind'' purchases and redemptions will result in abusive self-dealing or overreaching, but rather assert that such procedures will be implemented consistently with each Fund's objectives and with the general purposes of the Act. Applicants believe that ''in-kind'' purchases and redemptions will be made on terms reasonable to applicants and any affiliated persons because they will be valued pursuant to verifiable objective standards. The method of valuing Portfolio Holdings held by a Fund is identical to that used for calculating ''in-kind'' purchase or redemption values and therefore creates no opportunity for affiliated persons or Second-Tier Affiliates of applicants to effect a transaction detrimental to the other holders of Shares of that Fund. Similarly, applicants submit that, by using the same standards for valuing Portfolio Holdings held by a Fund as are used for calculating ''in-kind'' redemptions or purchases, the Fund will ensure that its NAV will not be adversely affected by such securities transactions. Applicants also note that the ability to take deposits and make redemptions ''in-kind'' will help each Fund to track closely its Underlying Index and therefore aid in achieving the Fund's objectives.

23. Applicants also seek relief under sections 6(c) and 17(b) from section 17(a) to permit a Fund that is an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds to sell its Shares to and redeem its Shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[31] Applicants state that the terms of the transactions are fair and reasonable and do not involve overreaching. Applicants note that any consideration paid by a Fund of Funds for the purchase or redemption of Shares directly from a Fund will be based on the NAV of the Fund.[32] Applicants believe that any proposed transactions directly between the Funds and Funds of Funds will be consistent with the policies of each Fund of Funds. The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the investment restrictions of any such Fund of Funds and will be consistent with the investment policies set forth in the Fund of Funds' registration statement. Applicants also state that the proposed transactions are consistent with the general purposes of the Act and are appropriate in the public interest.

24. To the extent that a Fund operates in a master-feeder structure, applicants also request relief permitting the Feeder Funds to engage in in-kind creations and redemptions with the applicable Master Fund. Applicants state that the customary section 17(a)(1) and 17(a)(2) relief would not be sufficient to permit such transactions because the Feeder Funds and the applicable Master Fund could also be affiliated by virtue of having the same investment adviser. However, applicants believe that in-kind creations and redemptions between a Feeder Fund and a Master Fund advised by the same investment adviser do not involve ''overreaching'' by an affiliated person. Such transactions will occur only at the Feeder Fund's proportionate share of the Master Fund's net assets, and the distributed securities will be valued in the same manner as they are valued for the purposes of calculating the applicable Master Fund's NAV. Further, all such transactions will be effected with respect to pre-determined securities and on the same terms with respect to all investors. Finally, such transaction would only occur as a result of, and to effectuate, a creation or redemption transaction between the Feeder Fund and a third-party investor. Applicants believe that the terms of the proposed transactions are reasonable and fair and do not involve overreaching on the part of any person concerned, the proposed transactions are consistent with the policy of each Fund and will be consistent with the investment objectives and policies of each Fund of Funds, and the proposed transactions are consistent with the general purposes of the Act.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

A. ETF Relief

1. The requested relief will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of index-based ETFs.

[31] Although applicants believe that most Funds of Funds will purchase Shares in the secondary market and will not purchase Creation Units directly from a Fund, a Fund of Funds might seek to transact in Creation Units directly with a Fund that is an affiliated person of a Fund of Funds. To the extent that purchases and sales of Shares occur in the secondary market and not through principal transactions directly between a Fund of Funds and a Fund, relief from section 17(a) would not be necessary. However, the requested relief would apply to direct sales of Shares in Creation Units by a Fund to a Fund of Funds and redemptions of those Shares. Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an affiliated person, or an affiliated person of an affiliated person of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

[32] Applicants acknowledge that the receipt of compensation by (a) an affiliated person of a Fund of Funds, or an affiliated person of such person, for the purchase by the Fund of Funds of Shares of a Fund or (b) an affiliated person of a Fund, or an affiliated person of such person, for the sale by the Fund of its Shares to a Fund of Funds, may be prohibited by section 17(e)(1) of the Act. The FOF Participation Agreement also will include this acknowledgment.

2. As long as a Fund operates in reliance on the requested order, Shares of such Fund will be listed on an Exchange.

3. Neither the Trust nor any Fund will be advertised or marketed as an open-end investment company or a mutual fund. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that Shares are not individually redeemable and that owners of Shares may acquire those Shares from the Fund and tender those Shares for redemption to a Fund in Creation Units only.

4. The Web site, which is and will be publicly accessible at no charge, will contain, on a per Share basis for each Fund, the prior Business Day's NAV and the market closing price or the midpoint of the bid/ask spread at the time of the calculation of such NAV (''Bid/Ask Price''), and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV.

5. Each Self-Indexing Fund, Long/Short Fund and 130/30 Fund will post on the Web site on each Business Day, before commencement of trading of Shares on the Exchange, the Fund's, or its respective Master Fund's, Portfolio Holdings.

6. No Adviser or any Sub-Adviser, directly or indirectly, will cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may transact with the Fund) to acquire any Deposit Instrument for a Fund, or its respective Master Fund, through a transaction in which the Fund, or its respective Master Fund, could not engage directly.

B. Section 12(d)(1) Relief

1. The members of a Fund of Funds' Advisory Group will not control (individually or in the aggregate) a Fund, or its respective Master Fund, within the meaning of section 2(a)(9) of the Act. The members of a Fund of Funds' Sub-Advisory Group will not control (individually or in the aggregate) a Fund, or its respective Master Fund, within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a Fund, the Fund of Funds' Advisory Group or the Fund of Funds' Sub-Advisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of a Fund, it will vote its Shares of the Fund in the same proportion as the vote of all other holders of the Fund's Shares. This condition does not apply to the Fund of Funds' Sub-Advisory Group with respect to a Fund, or its respective Master Fund, for which the Fund of Funds' Sub-Adviser or a person controlling, controlled by or under common control with the Fund of Funds' Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

2. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in a Fund to influence the terms of any services or transactions between the Fund of Funds or Fund of Funds Affiliate and the Fund, or its respective Master Fund, or a Fund Affiliate.

3. The board of directors or trustees of an Investing Management Company, including a majority of the disinterested directors or trustees, will adopt procedures reasonably designed to ensure that the Fund of Funds Adviser and Fund of Funds Sub-Adviser are conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing Management Company or a Fund of Funds Affiliate from a Fund, or its respective Master Fund, or Fund Affiliate in connection with any services or transactions.

4. Once an investment by a Fund of Funds in the securities of a Fund exceeds the limits in section 12(d)(1)(A)(i) of the Act, the Board of the Fund, or its respective Master Fund, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (''non-interested Board members''), will determine that any consideration paid by the Fund, or its respective Master Fund, to the Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (i) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Fund, or its respective Master Fund; (ii) is within the range of consideration that the Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between a Fund, or its respective Master Fund, and its investment adviser(s), or any person controlling, controlled by or under common control with such investment adviser(s).

5. The Fund of Funds Adviser, or trustee or Sponsor of an Investing Trust, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund, or its respective Master Fund, under rule 12b–l under the Act) received from a Fund, or its respective Master Fund, by the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, or an affiliated person of the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, other than any advisory fees paid to the Fund of Funds Adviser, trustee or Sponsor of an Investing Trust, or its affiliated person by the Fund, or its respective Master Fund, in connection with the investment by the Fund of Funds in the Fund. Any Fund of Funds Sub-Adviser will waive fees otherwise payable to the Fund of Funds Sub-Adviser, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Fund, or its respective Master Fund, by the Fund of Funds Sub-Adviser, or an affiliated person of the Fund of Funds Sub-Adviser, other than any advisory fees paid to the Fund of Funds Sub-Adviser or its affiliated person by the Fund, or its respective Master Fund, in connection with the investment by the Investing Management Company in the Fund made at the direction of the Fund of Funds Sub-Adviser. In the event that the Fund of Funds Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

6. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund, or its respective Master Fund, to purchase a security in any Affiliated Underwriting.

7. The Board of a Fund, or its respective Master Fund, including a majority of the non-interested Board members, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund, or its respective Master Fund, in an Affiliated Underwriting, once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in the Fund. The Board will consider, among other things: (i) Whether the purchases were consistent with the investment objectives and policies of the Fund, or its respective Master Fund; (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable

securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities purchased by the Fund, or its respective Master Fund, in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to ensure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders of the Fund.

8. Each Fund, or its respective Master Fund, will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

9. Before investing in a Fund in excess of the limit in section 12(d)(1)(A), a Fund of Funds and the Trust will execute a FOF Participation Agreement stating without limitation that their respective boards of directors or trustees and their investment advisers, or trustee and Sponsor, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in Shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), a Fund of Funds will notify the Fund of the investment. At such time, the Fund of Funds will also transmit to the Fund a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Fund of any changes to the list of the names as soon as reasonably practicable after a change occurs. The Fund and the Fund of Funds will maintain and preserve a copy of the order, the FOF Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

10. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company, including a majority of the disinterested directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund, or its respective Master Fund, in which the Investing Management Company may invest. These findings and their basis will be fully recorded in the minute books of the appropriate Investing Management Company.

11. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

12. No Fund, or its respective Master Fund, will acquire securities of an investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent (i) the Fund, or its respective Master Fund, acquires securities of another investment company pursuant to exemptive relief from the Commission permitting the Fund, or its respective Master Fund, to acquire securities of one or more investment companies for short-term cash management purposes or (ii) the Fund acquires securities of the Master Fund pursuant to the Master-Feeder Relief.

For the Commission, by the Division of Investment Management, under delegated authority.

Brent J. Fields,

Secretary.

[FR Doc. 2015–08023 Filed 4–7–15; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74637; File No. SR–NASDAQ–2015–028]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Postpone Implementation of Changes to Rule 4751(h)(5)

April 2, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 25, 2015, The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to postpone implementation of changes to Rule 4751(h)(5).

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ is proposing to delay implementation of changes to Rule 4751(h)(5) relating to processing of Market Hours IOC (''MIOC'') orders and to make clarifying changes to the rule, which are effective but not yet implemented. On March 6, 2015, the Exchange filed an immediately effective filing [3] to amend the processing of MIOC orders under Rule 4751(h)(5). MIOC is a Time in Force [4] characteristic of an

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 74518 (March 17, 2015), 80 FR 15260 (March 23, 2015) (SR–NASDAQ–2015–022).

[4] Time in Force is the period of time that the System will hold an order for potential execution. *See* Rule 4751(h).

order that will cause it (or unexecuted portion thereof) to be canceled if, after entry into the System the order (or unexecuted portion thereof) becomes non-marketable during the Regular Market Session, 9:30 a.m. until 4:00 p.m. Eastern Time.[5] Currently, MIOC orders entered from 4 a.m. Eastern Time to immediately prior to 9:30 a.m. Eastern Time are held by the System until 9:30 a.m. Eastern Time, at which time the System determines whether such orders are marketable. The Exchange proposed to no longer accept MIOC orders entered prior to the beginning of the Regular Market Session. The Exchange also proposed clarifying the rule text to make it clear that MIOC orders will be available for order entry and execution beginning at completion of the Opening Cross.

The Exchange had originally anticipated implementing the changes on April 13, 2015. The Exchange, however, has experienced unanticipated delay in the development of the changes to its systems, which has made the original implementation date unachievable. The Exchange believes it will be able to implement the changes sometime in the second quarter of 2015, and will provide notice of the implementation date of the changes in an Equity Trader Alert not less than 30 days prior to implementation.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[6] in general, and with Section 6(b)(5) of the Act,[7] in particular, because it is 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; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange believes that the changes NASDAQ is making to Rule 4751(h)(5) promote consistency and transparency in the process for handling MIOC orders. Delaying implementation of the changes for brief period so that NASDAQ may implement and test the changes to its systems necessary to ensure that the processing of MIOC orders operate as planned promotes fair and orderly markets, and the protection of investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.[8] The Exchange believes that the proposal is irrelevant to competition because it is not driven by, and will have no impact on, competition. Specifically, the proposal is representative of the Exchange's efforts to harmonize and simplify the processing of orders. Delaying implementation of the proposal will ensure the proposed changes are adequately implemented and tested.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[9] and subparagraph (f)(6) of Rule 19b–4 thereunder.[10]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange notes that waiving the operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to postpone implementation of the previously proposed changes immediately, prior to the operative date of those changes. For this reason, the Commission waives the operative delay and designates the proposed rule change to be operative upon filing.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2015–028 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2015–028. 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

[5] As defined by Rule 4120(b)(4)(D).

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78f(b)(8).

[9] 15 U.S.C. 78s(b)(3)(a)(ii) [sic].

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–NASDAQ–2015–028 and should be submitted on or before April 29, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Brent J. Fields,

Secretary.

[FR Doc. 2015–07965 Filed 4–7–15; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74635; File No. SR–NYSEArca–2015–17]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Amending Rule 6.35 To Refine the Appointment Process Utilized by the Exchange

April 2, 2015.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on March 20, 2015, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') 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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 6.35 (Appointment of Market Makers) to refine the appointment process utilized by the Exchange. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization 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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 6.35 to refine the appointment process utilized by the Exchange. The Exchange believes this proposal, which is consistent with the rules of other option exchanges,[4] would simplify and enhance the efficiency of the appointment process for both Market Makers and the Exchange and add clarity to Exchange rules.

Current Appointment Process

To register as a Market Maker, an applicant must file an application with the Exchange on a form or forms prescribed by the Exchange.[5] Once registered, a Market Maker may seek an appointment in one or more option classes pursuant to Rule 6.35. Specifically, this Rule provides that ''[o]n a form or forms prescribed by the Exchange, a Market Maker must apply for an appointment in one or more classes of option contracts.''[6]

In addition to having the authority to appoint one Lead Market Maker (''LMM'')[7] per option class, ''[t]he Exchange may appoint an unlimited number of Market Makers in each class unless the number of Market Makers appointed to a particular option class should be limited'' based on the Exchange's judgment.[8] Further, the Rule provides that ''Market Makers may select from among any option issues traded on the Exchange for inclusion in their appointment, subject to the approval of the Exchange. In considering the approval of the appointment of a Market Maker in each security,'' the Exchange will consider the Market Maker's preference; the financial resources available to the Market Maker; the Market Maker's experience, expertise and past performance in making markets, including the Market Maker's performance in other securities; the Market Maker's operational capability; and the maintenance and enhancement of competition among Market Makers in each security in which they are appointed.[9] The Rule also sets forth the number of Options Trading Permits (''OTPs'') required of a Market Maker in order to have a specified number of options issues included in the Market Maker's appointment (*e.g.,* 1 OTP affords a Market Maker up to 100 option issues in their appointment, whereas 4 OTPs enables a Market Maker to include in their appointment all option issues traded on the Exchange).[10]

Under the current Rule, ''Market Makers may change the option issues in their appointment, subject to the approval of the Exchange'' provided requests for changes are ''made in a form and manner prescribed by the Exchange.''[11] In addition, ''Market Makers may withdraw from trading an option issue that is within their appointment by providing the Exchange with three business days' written notice of such withdrawal.''[12] If Market Makers fail to provide this notice, they ''may be subject to formal disciplinary

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See, e.g.,* BATS Exchange, Inc. (''BATS'') Rules 22.3(a),(b) (Market Maker Registration); NASDAQ OMX PHLX (''PHLX) Rule 3212(b) (Registration as a Market Maker); NASDAQ Options Market (''NOM''), Chapter VII (Market Participants), Section 3(a),(b) (Continuing Market Maker Registration).

[5] *See* Rule 6.33 (Registration of Market Makers). *See also* Rule 6.32(a) (Market Maker Defined) (A ''Market Maker is an individual who is registered with the Exchange for the purpose of making transactions as a dealer-specialist on the Floor of the Exchange or for the purpose of submitting quotes electronically and making transactions as a dealer-specialist through the NYSE Arca OX electronic trading system. Registered Market Makers are designated as specialists on the Exchange for all purposes under the Securities Exchange Act of 1934 and the Rules and Regulations thereunder. A Market Maker on the Exchange will be either a Market Maker or a Lead Market Maker. Unless specified, or unless the context requires otherwise, the term Market Maker refers to both Market Makers and Lead Market Maker.'').

[6] *See* Rule 6.35(a).

[7] An LMM is ''is an individual or entity that has been deemed qualified by the Exchange for the purpose of making transactions on the Exchange in accordance with the provisions of Rule 6.82. Each LMM or nominee thereof must be registered with the Exchange as a Market Maker. Any OTP Holder or OTP Firm registered as a Market Maker with the Exchange is eligible to be qualified as an LMM.'' *See* Rule 6.82(a)(1).

[8] *See* Rule 6.35(b).

[9] *See* Rule 6.35(c).

[10] *See* Rule 6.35(d).

[11] *See* Rule 6.35(e). In considering the change request, the Exchange will consider the factors set forth in Rule 6.35(c).

[12] *See* Rule 6.35(f).

action pursuant to Rule 10.'' [13] Moreover, the Exchange ''may suspend or terminate any appointment of a Market Maker in one or more option issues under this Rule whenever, in the Exchanges' judgment, the interests of a fair and orderly market are best served by such action'' [14] A Market Maker may seek review of any action taken by the Exchange.[15]

Finally, under the current Rule, the Exchange periodically conducts evaluations of Market Makers to determine whether they have fulfilled performance standards.[16] If the Exchange finds that a Market Maker has not met the performance standards, the Exchange may take action, including suspending, terminating or restricting a Market Maker's appointment or registration, after providing the Market Maker an opportunity to be heard.[17]

Proposed Appointment Process

The Exchange proposes to modify Rule 6.35 to refine the current appointment process. Presently, Market Makers must apply for an appointment in an options class, which, as discussed further below, is done by submitting an email to the Exchange. The Exchange proposes to modify Rule 6.35(a) to provide that, rather than apply for an appointment, ''a Market Maker may register for an appointment in one or more classes of option contracts,'' in a form and manner prescribed the Exchange.[18] The Exchange would continue to have authority to appoint one LMM per option class. Similarly, there would continue to be an unlimited number of Market Makers appointed to an options class, unless the Exchange restricted such appointments following Commission review and approval. The Exchange is proposing a change to the text in Rule 6.36(b) [sic] to reflect the proposed changes in Rule 6.35(a) to provide that ''[a]n unlimited number of Market Makers may register in each class,'' subject to any limits imposed by the Exchange.[19]

In addition, to simplify a Market Maker's ability to select and make changes to its appointment, the Exchange proposes to modify Rule 6.35(c) to replace the existing rule text with text that provides that ''[a] Market Maker may select or withdraw option issues included in their appointment by submitting a request via an Exchange-approved electronic interface with the Exchange on a day when the Exchange is open for business.'' [20] The modified rule would also provide that an appointment would become effective by no later than the following business day, whereas a Market Maker's request to withdraw option issues from its appointment would not become effective until the following business day.[21] Thus, as proposed, a Market Maker could be appointed to an options issue on the same day it submits a request to the Exchange, depending on availability of Exchange resources to process the request that day, but such addition to its appointment would be effective no later than the following business day. A Market Maker, however, would not be able to withdraw an options issue from its appointment on the same day that it submits the request; instead, the Exchange will only process such requests on an overnight basis for effectiveness on the following business day. Before any additions to a Market Maker's appointment would become effective, the Exchange would be required to confirm ''that the Market Maker's appointment will not exceed that permitted under paragraph (d) of this Rule'' [22] and confirm receipt of the Market Maker's request.[23] Confirmation of receipt is designed to ensure that the request was successfully transmitted to the Exchange (*i.e.,* there was no system failure or human error on either side of the electronic transaction that prevented transmission and receipt of the Market Maker's request). Presently, Market Makers can select issues in their appointment or make changes thereto, pursuant to proposed Rule 6.35(c), by submitting an email [sic] the Exchange which is ''the Exchange-approved electronic interface'' at this time.[24]

Consistent with this proposed change, the Exchange proposes to delete paragraphs (e) and (f) of Rule 6.35, which describe how Market Makers can change their appointment or withdraw from issues in their appointment because these provisions are rendered superfluous by the proposed changes to Rule 6.35(c).[25]

The Exchange believes that the proposed changes to how Market Makers select and modify their appoints would enable Market Makers to manage their appointments with more flexibility and in a timelier manner which, in turn, would reduce the time and resources expended by Market Makers and the Exchange on the appointment process. The Exchange believes this proposal would provide Market Makers with more efficient access to the securities in which they want to make markets and disseminate competitive quotations, which would provide additional liquidity and enhance competition in those securities. The Exchange would retain the ability to suspend or terminate any appointment of a Market Maker if necessary to maintain a fair and orderly market.[26] The Exchange also notes that the proposed changes to

[13] *Id.* Rule 10 sets forth the procedures for Exchange disciplinary proceedings and appeals, with Rule 10.5 specifically providing the due process for the formal hearing process and Rule 10.7 requiring that any decision by the Exchange must include a statement of findings and conclusions, with the reasons therefore upon all material issues presented in the record. Further, where a penalty is imposed, the Exchange's decision must include a statement specifying the acts or practices in which the Respondent has been found to have engaged, or which the Respondent has been found to have omitted.

[14] *See* Rule 6.35(g).

[15] *See* Rule 6.35(h). Per Rule 6.35(i), Market Makers are also subject to a trading requirement, such that ''[a]t least 75% of the trading activity of a Market Maker (measured in terms of contract volume per quarter) must be in classes within the Market Maker's appointment'' and a failure to comply with the 75% contract volume requirement may result in the imposition of a fine or initiation of formal disciplinary action, pursuant to Rule 10 (Disciplinary Proceedings and Appeals). The Exchange is not proposing any changes to Rule 6.35(i).

[16] *See* Rule 6.25(j) [sic].

[17] *See* Rule 6.35(j)(1). *See also* Rule 6.35(j)(2) (''If a Market Maker's appointment in an option issue or issues has been terminated pursuant to this subsection (j), the Market Maker may not be re-appointed as a Market Maker in that option issue or issues for a period not to exceed 6 months.'').

[18] *See* proposed Rule 6.35(a) (''On a form or forms prescribed by the Exchange, a Market Maker may register for an appointment in one or more classes of option contracts, subject to paragraph (d) of this Rule.''). As discussed, paragraph (d) of the Rule provides that the number of options permitted in a Market Maker's appointment is determined by the number of OTPs that the Market Maker has.

[19] *See* proposed Rule 6.35(b) (''The Exchange may appoint one LMM per option class. An unlimited number of Market Makers may register in each class unless the number of Market Makers appointed to a particular option class should be limited whenever, in the Exchange's judgment, quotation system capacity in an option class or classes is not sufficient to support additional Market Makers in such class or classes.'').

[20] *See* proposed Rule 6.35(c).

[21] *Id.*

[22] *Id.* Proposed changes to Rule 6.35(d) are discussed below.

[23] The Exchange is also required to confirm receipt of requests to withdraw option issues from a Market Maker's appointment. *See* proposed Rule 6.35(c).

[24] The Exchange will announce by Trader Update the email address that Market Makers should utilize to make selections in, or changes to, their appointment pursuant to this Rule.

[25] The Exchange proposes to designate subparagraphs (e) and (f) as Reserved.

[26] *See* Rule 6.35(g). The Exchange, however, proposes to correct the possessive form of ''Exchange'' (from ''Exchanges' judgment'' to ''Exchange's judgment'') in this paragraph to correct a typo in the existing rule text, which adds clarity to Exchange rules. *See* proposed Rule 6.35(g) (''The Exchange may suspend or terminate any appointment of a Market Maker in one or more option issues under this Rule whenever, in the Exchange's judgment, the interests of a fair and orderly market are best served by such action.'').

Rule 6.35(a), (b)[27] and (c)[28] are consistent with the rules of other exchanges and therefore raise no new or novel issues.

As noted above, paragraph (d) of Rule 6.35 sets forth the number of OTPs a Market Maker must have in order to have a specified number of options issues included in the Market Maker's appointment. The Exchange recently amended the Arca Options Fee Schedule to include this information together with its OTP fees for Market Makers.[29] Accordingly, the Exchange proposes to delete the detailed information on the number of option issues a Market Maker may include in its assignment in relation to the number of OTPs the Market Maker has and modify paragraph (d) of the Rule to read that ''[a] Market Maker must have the number of OTPs required under the Fee Schedule for its appointment as a Market Maker in option issues.'' [30] The Exchange believes that removing this redundancy would improve the clarity of its rules.[31]

The Exchange also proposes to modify the text in paragraph (h) of the Rule. As proposed, a Market Maker would continue to be permitted to ''seek review of any action taken by the Exchange, in accordance with Rule 10, as applicable.'' However, to clarify the rule text, the Exchange proposes to delete the unnecessary clause ''including the denial of the appointment for, or the termination or suspension of, a Market Maker's appointment in an option issue or issues.'' [32] The Exchange's denial, termination, or suspension of a Market Maker's appointment would continue to be reviewable under Rule 10, as would other applicable actions taken by the Exchange under Rule 6.35.[33]

Rule 6.35(j) states that the Exchange will conduct periodic evaluations of Market Makers to determine whether they have fulfilled the requisite performance standards. The Exchange proposes to add ''the financial resources available to the Market Maker'' and ''the Market Maker's operational capability'' as factors the Exchange will consider in its evaluations conducted pursuant to Rule 6.35(j).[34] The additional considerations the Exchange proposes to include in its periodic evaluations under Rule 6.35(j) are currently among the considerations of the Exchange in approving a Market Maker's appointment.[35] In connection with the Exchange's proposed changes to the process for Market Makers' appointments to options classes, the Exchange proposes to eliminate these approval provisions. Because financial resources and operational capability are important considerations in a Market Maker's performance, the Exchange proposes to retain these factors for consideration in the Exchange's periodic evaluation of Market Maker performance.[36]

Finally, the Exchange proposes to modify Rule 6.35(j)(2) to reflect the proposed changes to the Market Maker appointment process. Specifically, the Exchange proposes to change the reference to a Market Maker being ''re-appointed'' by the Exchange if an option issue or issues has been terminated pursuant to this subsection (j), and to instead provide that ''the Exchange may restrict a Market Maker's registration as a Market Maker in that option issue or issues for a period not to exceed 6 months.'' [37] This proposal continues to give the Exchange discretion to suspend that Market Maker's appointment in the affected option issue(s) for a full six months, or to allow that Market Maker to resume that appointment earlier than the prescribed six-month period, based on the Exchange's evaluation of the facts and circumstances. The Exchange believes the proposed change is necessary so that Rule 6.35(j)(2) is consistent with the proposed changes in paragraphs (a), (b), and (c) of Rule 6.35 to the process for Market Makers to register and change their appointments to options classes.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)[38] of the Securities Exchange Act of 1934 (the ''Act''), in general, and furthers the objectives of Section 6(b)(5),[39] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange believes that the proposed rule change removes impediments to a free and open market because it would enable Market Makers to manage their appointments with more flexibility and in a timelier manner. The Exchange believes the

[27] *See e.g.,* BATS Rules 22.3(a) (''An Options Member that has qualified as an Options Market Maker may register to make markets in individual series of options''); NOM, Chapter VII, Section 3(a) (''An Options Participant that has qualified as an Options Market Maker may register to make markets in individual options.'').

[28] *See e.g.,* PHLX Rule 3212(b) (''A PSX Market Maker may become registered in an issue by entering a registration request via an Exchange approved electronic interface with PSX's systems or by contacting PSX Market Operations. Registration shall become effective on the day the registration request is entered''); PHLX Rule 3220(a) (''A market maker may voluntarily terminate its registration in a security by withdrawing its two-sided quotation from PSX. A PSX Market Maker that voluntarily terminates its registration in a security may not re-register as a market maker for one (1) business day.''). *See also* BATS Rules 22.3(b) (''An Options Market Maker may become registered in a series by entering a registration request via an Exchange approved electronic interface with the Exchange's systems by 9:00 a.m. Eastern time. Registration shall become effective on the day the registration request is entered''); NOM, Chapter VII, Section 3(b) (''An Options Market Maker may become registered in an option by entering a registration request via a Nasdaq approved electronic interface with Nasdaq's systems. Registration shall become effective on the day the registration request is entered.'').

[29] *See* Securities Exchange Act Release No. 34–74382 (February 26, 2015), 80 FR 11713 (March 4, 2015) (SR–NYSEARCA–2015–10). *See also* NYSE Arca Options Fee Schedule (describing ''Number of Option Issues Permitted in Market Maker's Assignment'' based on the number of OTPs held and the associated costs), *available here, https://www.nyse.com/publicdocs/nyse/markets/arca-options/NYSE_Arca_Options_Fee_Schedule.pdf.*

[30] *See* proposed Rule 6.35(d).

[31] *See, e.g.,* NYSE Amex Options Fee Schedule (Section III.A., Monthly ATP Fees) (describing ''Number Of Issues Permitted In A Market Makers Quoting Assignment'' based on the number of permits held and the associated costs), *available here, https://www.nyse.com/publicdocs/nyse/markets/amex-options/NYSE_Amex_Options_Fee_Schedule.pdf. See also* Securities Exchange Act Release No. 67505 (July 26, 2012), 77 FR 45292 [sic] (July 31, 2012) (SR–NYSEMKT–2012–24) (filing for immediate effectiveness to add information regarding ATP Fees previously found in NYSE Amex Rule 923NY(d)(1)–(4) to Fee Schedule).

[32] *See* Rule 6.35(h) (''A Market Maker may seek review of any action taken by the Exchange pursuant to this Rule in accordance with Rule 10, as applicable.'').

[33] *Id.*

[34] *See* proposed Rule 6.35(j) (''The Exchange will periodically conduct an evaluation of Market Makers to determine whether they have fulfilled performance standards relating to, among other things, quality of markets, competition among Market Makers, observance of ethical standards, and administrative factors. The Exchange may consider any relevant information including, but not limited to, the results of a Market Maker evaluation, trading data, a Market Maker's regulatory history, the financial resources available to the Market Maker, the Market Maker's operational capability, and such other factors and data as may be pertinent in the circumstances.'').

[35] *See* Rule 6.35(c)(2) and (4).

[36] The Exchange is not proposing any changes to Rule 6.35(j)(1), which sets forth the actions that the Exchange may take, after affording a Market Maker written notice and an opportunity for hearing pursuant to Rule 10.5, should the Exchange find a Market Maker is failing to meet minimum performance standards. *See* Rule 6.35(j)(1).

[37] *See* proposed Rule 6.35(j)(2) (''If a Market Maker's appointment in an option issue or issues has been terminated pursuant to this subsection (j), the Market Maker may not register as a Market Maker in that option issue or issues for a period not to exceed 6 months.'').

[38] 15 U.S.C. 78f(b).

[39] 15 U.S.C. 78f(b)(5).

proposed change would reduce the burden on both Market Makers and Exchange staff, which would result in a fair and reasonable use of resources to the benefit of all market participants. In particular, the proposal to allow Market Makers to select their appointments, and make changes thereto, via an Exchange-approved electronic interface is consistent with [sic] Act because it would provide Market Makers with more efficient access to the securities in which they want to make markets and thus more quickly begin disseminating competitive quotations in those securities, which would provide additional liquidity and enhance competition in those securities. The Exchange also believes that preventing Market Makers from being able to withdraw an option issue from its appointment on the same day that it submits the request (as such requests are processed on an overnight basis for effectiveness on the following business day) would serve to promote just and equitable principles of trade and benefit investors and the public interest.

In addition, the Exchange believes that the proposal to allow Market Makers to make selections or changes to their appointment without first obtaining explicit Exchange approval is likewise consistent with the Act. First, because financial resources and operational capability are important considerations in a Market Maker's performance, the Exchange proposes to retain these factors for consideration in the Exchange's periodic evaluation of Market Maker performance. The Exchange believes that adding these factors to the Exchange's consideration would remove impediments to and perfect the mechanism of a free and open market and would benefit investors and the public interest. In addition, as noted above, the Exchange would continue to have authority to suspend or terminate any Market Maker appointment in the interest of a fair and orderly market, including if necessary to prevent fraudulent and manipulative acts and practices and protect investors, or if a Market Maker does not satisfy its obligations with respect to an appointment.[40] The Exchange would also retain the ability to restrict a Market Maker's registration in option issues for up to six months if a Market Maker's appointment in that option issue or issues had been previously terminated under the rule, and continues to give the Exchange discretion to allow the Market Maker to resume that appointment earlier than the prescribed six-month period or to maintain the suspension for the entire period. Finally, the Exchange is not proposing changes to the disciplinary and appeals process for Market Makers that do not meet the minimum performance standards. Accordingly, the Exchange believes this proposal is consistent with Section 6(d) of the Exchange Act.[41]

The proposed rule change would not result in unfair discrimination, as it applies to all Market Makers. Further, the proposed rule change would reduce the burden on Market Makers to manage their appointments and thus provide liquidity to the Exchange. Nevertheless, Market Makers would still be required to comply with certain obligations to maintain their status as a Market Maker, including that they provide continuous, two-sided quotations in their appointed securities.[42]

Finally, as noted above, the proposed modifications to the appointment process would align the rules of the Exchange with the rules of other options exchanges, where Market Makers presently have the ability to select and make changes to their appointment via an Exchange-approved electronic interface.[43] The Exchange believes this consistency across exchanges would remove impediments to and perfect the mechanism of a free and open market by ensuring that members, regulators and the public can more easily navigate the Exchange's rulebook and better understand the appointment process.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act because it provides the same relief to a group of similarly situated market participants—Market Makers. The proposed rule change would reduce the burden on Market Makers to manage their appointments and thus provide liquidity to the Exchange.

The Exchange does not believe the proposed rule change would help Market Makers to the detriment of market participants on other exchanges, particularly because the proposed functionality is similar to functionality already available on other exchanges.[44] Market Makers would still be subject to the same obligations with respect to its appointments; the proposed rule change would make the appointment process more efficient for Market Makers. The Exchange believes that the proposed rule change would relieve any burden on, or otherwise promote, competition, as it would enable Market Makers to manage their appointments with more flexibility and in a timelier manner. The Exchange believes this would provide Market Makers with more efficient access to the securities in which they want to make markets and thus more quickly begin disseminating competitive quotations in those securities, which would provide additional liquidity and enhance competition in those securities.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to 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 (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2015–17 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

[40] *See* Rule 6.35(g). *See also* Rule 6.33 (regarding the Exchange's ability to suspend or terminate a Market Maker's registration based on ''a determination of any substantial or continued failure by such Market Maker to engage in dealings in accordance with Rules 6.37, 6.37A or 6.37B'', which outline the obligations of Market Makers).

[41] 15 U.S.C. 78f(d).

[42] *See* Rule 6.37B.

[43] *See supra* nn. 4, 27, 28.

[44] *Id.*

All submissions should refer to File Number SR–NYSEArca–2015–17. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2015–17, and should be submitted on or before April 29, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[45]

Brent J. Fields,

Secretary.

[FR Doc. 2015–07963 Filed 4–7–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31544; File No. 812–14401]

Janus ETF Trust, et al.; Notice of Application

April 1, 2015.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c-1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act.

SUMMARY: Applicants request an order that would permit (a) series of certain open-end management investment companies to issue shares (''Shares'') redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days after the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares; and (f) certain series to perform creations and redemptions of Creation Units in-kind in a master-feeder structure.

Applicants: Janus ETF Trust (the ''Trust''), Janus Capital Management LLC (the ''Initial Adviser''), and Janus Distributors LLC (the ''Distributor'').

DATES: *Filing Dates:* The application was filed on December 18, 2014, and amended on March 20, 2015.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on April 27, 2015, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: The Commission: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: 151 Detroit Street, Denver, Colorado 80206.

FOR FURTHER INFORMATION CONTACT: David J. Marcinkus, Senior Counsel at (202) 551–6882, or David P. Bartels, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. Janus ETF Trust is organized as a Delaware statutory trust. The Trust will be registered under the Act as an open-end management investment company.

2. The Initial Adviser is registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act'') and will be the investment adviser to the initial series of the Trust (the ''Initial Fund''). Any other Adviser (defined below) will also be registered as an investment adviser under the Advisers Act. Each Adviser may enter into sub-advisory agreements with one or more investment advisers to act as sub-advisers to particular Funds (each, a ''Sub-Adviser''). Any Sub-Adviser will either be registered under the Advisers Act or will not be required to register thereunder.

3. The Trust will enter into a distribution agreement with the Distributor. The distributor for the Initial Fund will be the Distributor. The Distributor is a broker-dealer (''Broker'') registered under the Securities Exchange Act of 1934 (the ''Exchange Act'') and will act as distributor and principal underwriter of one or more of the Funds. The distributor of any Fund may be an affiliated person, as defined in section 2(a)(3) of the Act (''Affiliated Person''), or an affiliated person of an Affiliated Person (''Second-Tier Affiliate''), of that Fund's Adviser and/or Sub-Advisers. No distributor will be affiliated with any Exchange (defined below).

4. Applicants request that the order apply to the Initial Fund and any additional series of the Trust, and any other open-end management investment company or series thereof, that may be created in the future that operate as an exchanged-traded fund (''ETF'') and that track a specified index comprised of domestic or foreign equity and/or fixed income securities (each, an ''Underlying Index'') (together, the ''Future Funds''). Any Future Fund will (a) be advised by the Initial Adviser or an entity controlling, controlled by, or under common control with the Initial Adviser (each, an ''Adviser'') and (b) comply

[45] 17 CFR 200.30–3(a)(12).

with the terms and conditions of the application. The Initial Fund and Future Funds, together, are the ''Funds.'' [1]

5. Applicants state that a Fund may operate as a feeder fund in a master-feeder structure (''Feeder Fund''). Applicants request that the order permit a Feeder Fund to acquire shares of another registered investment company in the same group of investment companies having substantially the same investment objectives as the Feeder Fund (''Master Fund'') beyond the limitations in section 12(d)(1)(A) of the Act and permit the Master Fund, and any principal underwriter for the Master Fund, to sell shares of the Master Fund to the Feeder Fund beyond the limitations in section 12(d)(1)(B) of the Act (''Master-Feeder Relief''). Applicants may structure certain Feeder Funds to generate economies of scale and incur lower overhead costs.[2] There would be no ability by Fund shareholders to exchange Shares of Feeder Funds for shares of another feeder series of the Master Fund.

6. Each Fund, or its respective Master Fund, will hold certain securities, currencies, other assets and other investment positions (''Portfolio Holdings'') selected to correspond generally to the performance of its Underlying Index. Certain of the Funds will be based on Underlying Indexes that will be comprised solely of equity and/or fixed income securities issued by one or more of the following categories of issuers: (i) Domestic issuers and (ii) non-domestic issuers meeting the requirements for trading in U.S. markets. Other Funds will be based on Underlying Indexes that will be comprised solely of foreign and domestic, or solely foreign, equity and/or fixed income securities (''Foreign Funds'').

7. Applicants represent that each Fund, or its respective Master Fund, will invest at least 80% of its assets (excluding securities lending collateral) in the component securities of its respective Underlying Index (''Component Securities'') and TBA Transactions [3], and in the case of Foreign Funds, Component Securities and Depositary Receipts [4] representing Component Securities. Each Fund, or its respective Master Fund, may also invest up to 20% of its assets in certain index futures, options, options on index futures, swap contracts or other derivatives, as related to its respective Underlying Index and its Component Securities, cash and cash equivalents, other investment companies, as well as in securities and other instruments not included in its Underlying Index but which the applicable Adviser believes will help the Fund track its Underlying Index. A Fund may also engage in short sales in accordance with its investment objective.

8. Future Funds may seek to track Underlying Indexes constructed using 130/30 investment strategies (''130/30 Funds'') or other long/short investment strategies (''Long/Short Funds''). Each Long/Short Fund will establish (i) exposures equal to approximately 100% of the long positions specified by the Long/Short Index [5] and (ii) exposures equal to approximately 100% of the short positions specified by the Long/Short Index. Each 130/30 Fund will include strategies that: (i) Establish long positions in securities so that total long exposure represents approximately 130% of a Fund's net assets; and (ii) simultaneously establish short positions in other securities so that total short exposure represents approximately 30% of such Fund's net assets. Each Business Day, the Adviser for each Long/Short Fund and 130/30 Fund will provide full portfolio transparency on the Fund's publicly available Web site (''Web site'') by making available the Long/Short Fund or 130/30 Fund's, or its respective Master Fund's, Portfolio Holdings before the commencement of trading of Shares on the Listing Exchange (defined below).[6] The information provided on the Web site will be formatted to be reader-friendly.

9. A Fund, or its respective Master Fund, will utilize either a replication or representative sampling strategy to track its Underlying Index. A Fund, or its respective Master Fund, using a replication strategy will invest in the Component Securities of its Underlying Index in the same approximate proportions as in such Underlying Index. A Fund, or its respective Master Fund, using a representative sampling strategy will hold some, but not necessarily all of the Component Securities of its Underlying Index. Applicants state that a Fund, or its respective Master Fund, using a representative sampling strategy will not be expected to track the performance of its Underlying Index with the same degree of accuracy as would an investment vehicle that invested in every Component Security of the Underlying Index with the same weighting as the Underlying Index. Applicants expect that each Fund will have an annual tracking error relative to the performance of its Underlying Index of less than 5%.

10. Each Fund will be entitled to use its Underlying Index pursuant to either a licensing agreement with the entity that compiles, creates, sponsors or maintains the Underlying Index (each, an ''Index Provider'') or a sub-licensing arrangement with the applicable Adviser, which will have a licensing agreement with such Index Provider.[7] A ''Self-Indexing Fund'' is a Fund for which an Affiliated Person, or a Second-Tier Affiliate, of the Trusts or a Fund, of the Advisers, of any Sub-Adviser to or promoter of a Fund, or of the Distributor (each, an ''Affiliated Index Provider'') will serve as the Index Provider. In the case of Self-Indexing Funds, an Affiliated Index Provider will create a proprietary, rules-based methodology to create Underlying Indexes (each an ''Affiliated Index'').[8]

[1] All existing entities that intend to rely on the requested order have been named as applicants. Any other existing or future entity that subsequently relies on the order will comply with the terms and conditions of the order. A Fund of Funds (as defined below) may rely on the order only to invest in Funds and not in any other registered investment company.

[2] Operating in a master-feeder structure could also impose costs on a Feeder Fund and reduce its tax efficiency. The Feeder Fund's Board will consider any such potential disadvantages against the benefits of economies of scale and other benefits of operating within a master-feeder structure. In a master-feeder structure, the Master Fund—rather than the Feeder Fund—would generally invest its portfolio in compliance with the requested order.

[3] A ''to-be-announced transaction'' or ''TBA Transaction'' is a method of trading mortgage-backed securities. In a TBA Transaction, the buyer and seller agree upon general trade parameters such as agency, settlement date, par amount and price. The actual pools delivered generally are determined two days prior to settlement date.

[4] Depositary receipts representing foreign securities (''Depositary Receipts'') include American Depositary Receipts and Global Depositary Receipts. The Funds, or their respective Master Funds, may invest in Depositary Receipts representing foreign securities in which they seek to invest. Depositary Receipts are typically issued by a financial institution (a ''depositary bank'') and evidence ownership interests in a security or a pool of securities that have been deposited with the depositary bank. A Fund, or its respective Master Fund, will not invest in any Depositary Receipts that the Adviser or any Sub-Adviser deems to be illiquid or for which pricing information is not readily available. No affiliated person of a Fund, the Adviser or any Sub-Adviser will serve as the depositary bank for any Depositary Receipts held by a Fund, or its respective Master Fund.

[5] Underlying Indexes that include both long and short positions in securities are referred to as ''Long/Short Indexes.''

[6] Under accounting procedures followed by each Fund, trades made on the prior Business Day (''T'') will be booked and reflected in NAV on the current Business Day (T+1). Accordingly, the Funds will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for the NAV calculation at the end of the Business Day.

[7] The licenses for the Self-Indexing Funds will specifically state that the Affiliated Index Provider (or in case of a sub-licensing agreement, the Adviser) must provide the use of the Underlying Indexes and related intellectual property at no cost to the Trust and the Self-Indexing Funds.

[8] The Affiliated Indexes may be made available to registered investment companies, as well as

Except with respect to the Self-Indexing Funds, no Index Provider is or will be an Affiliated Person, or a Second-Tier Affiliate, of a Trust or a Fund, of an Adviser, of any Sub-Adviser to or promoter of a Fund, or of the Distributor.

11. Applicants recognize that Self-Indexing Funds could raise concerns regarding the ability of the Affiliated Index Provider to manipulate the Underlying Index to the benefit or detriment of the Self-Indexing Fund. Applicants further recognize the potential for conflicts that may arise with respect to the personal trading activity of personnel of the Affiliated Index Provider who have knowledge of changes to an Underlying Index prior to the time that information is publicly disseminated. Prior orders granted to self-indexing ETFs (''Prior Self-Indexing Orders'') addressed these concerns by creating a framework that required: (i) Transparency of the Underlying Indexes; (ii) the adoption of policies and procedures not otherwise required by the Act designed to mitigate such conflicts of interest; (iii) limitations on the ability to change the rules for index compilation and the component securities of the index; (iv) that the index provider enter into an agreement with an unaffiliated third party to act as ''Calculation Agent''; and (v) certain limitations designed to separate employees of the index provider, adviser and Calculation Agent (clauses (ii) through (v) are hereinafter referred to as ''Policies and Procedures'').[9]

12. Instead of adopting the same or similar Policies and Procedures, Applicants propose that each day that a Fund, the NYSE and the national securities exchange (as defined in section 2(a)(26) of the Act) (an ''Exchange'') on which the Fund's Shares are primarily listed (''Listing Exchange'') are open for business, including any day that a Fund is required to be open under section 22(e) of the Act (a ''Business Day''), each Self-Indexing Fund will post on its Web site, before commencement of trading of Shares on the Listing Exchange, the identities and quantities of the Portfolio Holdings that will form the basis for the Fund's calculation of its NAV at the end of the Business Day. Applicants believe that requiring Self-Indexing Funds, and their respective Master Funds, to maintain full portfolio transparency will provide an effective alternative mechanism for addressing any such potential conflicts of interest.

13. Applicants represent that each Self-Indexing Fund's Portfolio Holdings will be as transparent as the portfolio holdings of existing actively managed ETFs. Applicants observe that the framework set forth in the Prior Self-Indexing Orders was established before the Commission began issuing exemptive relief to allow the offering of actively managed ETFs.[10] Unlike passively managed ETFs, actively managed ETFs do not seek to replicate the performance of a specified index but rather seek to achieve their investment objectives by using an ''active'' management strategy. Applicants contend that the structure of actively managed ETFs presents potential conflicts of interest that are the same as those presented by Self-Indexing Funds because the portfolio managers of an actively managed ETF by definition have advance knowledge of pending portfolio changes. However, rather than requiring Policies and Procedures similar to those required under the Prior Self-Indexing Orders, Applicants believe that actively managed ETFs address these potential conflicts of interest appropriately through full portfolio transparency, as the conditions to their relevant exemptive relief require.

14. In addition, Applicants do not believe the potential for conflicts of interest raised by an Adviser's use of the Underlying Indexes in connection with the management of the Self Indexing Funds, their respective Master Funds, and the Affiliated Accounts will be substantially different from the potential conflicts presented by an adviser managing two or more registered funds. Both the Act and the Advisers Act contain various protections to address conflicts of interest where an adviser is managing two or more registered funds and these protections will also help address these conflicts with respect to the Self-Indexing Funds.[11]

15. Each Adviser and any Sub-Adviser has adopted or will adopt, pursuant to Rule 206(4)–7 under the Advisers Act, written policies and procedures designed to prevent violations of the Advisers Act and the rules thereunder. These include policies and procedures designed to minimize potential conflicts of interest among the Self-Indexing Funds, their respective Master Funds, and the Affiliated Accounts, such as cross trading policies, as well as those designed to ensure the equitable allocation of portfolio transactions and brokerage commissions. In addition, each Adviser has adopted policies and procedures as required under section 204A of the Advisers Act, which are reasonably designed in light of the nature of its business to prevent the misuse, in violation of the Advisers Act or the Exchange Act or the rules thereunder, of material non-public information by the Adviser or an associated person (''Inside Information Policy''). Any Sub-Adviser will be required to adopt and maintain a similar Inside Information Policy. In accordance with the Code of Ethics [12] and Inside Information Policy of each Adviser and Sub-Adviser, personnel of those entities with knowledge about the composition of the Portfolio Deposit [13] will be prohibited from disclosing such information to any other person, except as authorized in the course of their employment, until such information is made public. In addition, an Index Provider will not provide any information relating to changes to an Underlying Index's methodology for the

separately managed accounts of institutional investors and privately offered funds that are not deemed to be ''investment companies'' in reliance on section 3(c)(1) or 3(c)(7) of the Act for which the Advisor acts as advisor or subadviser (''Affiliated Accounts'') as well as other such registered investment companies, separately managed accounts and privately offered funds for which it does not act either as advisor or subadviser (''Unaffiliated Accounts''). The Affiliated Accounts and the Unaffiliated Accounts, like the Funds, would seek to track the performance of one or more Underlying Index(es) by investing in the constituents of such Underlying Indexes or a representative sample of such constituents of the Underlying Index. Consitent with the relief requested from section 17(a), the Affiliated Accounts will not engage in Creation Unit transactions with a Fund.

[9] *See, e.g.,* In the Matter of WisdomTree Investments Inc., et al., Investment Company Act Release Nos. 27324 (May 18, 2006) (notice) and 27391 (June 12, 2006) (order); In the Matter of IndexIQ ETF Trust, et al., Investment Company Act Release Nos. 28638 (Feb. 27, 2009) (notice) and 28653 (March 20, 2009) (order); and Van Eck Associates Corporation, et al., et al., Investment Company Act Release Nos. 29455 (Oct. 1, 2010) (notice) and 29490 (Oct. 26, 2010) (order).

[10] *See, e.g.,* In the Matter of Huntington Asset Advisors, Inc., *et al.,* Investment Company Act Release Nos. 30032 (April 10, 2012) (notice) and 30061 (May 8, 2012) (order); In the Matter of Russell Investment Management Co., et al., Investment Company Act Release Nos. 29655 (April 20, 2011) (notice) and 29671 (May 16, 2011) (order); In the Matter of Eaton Vance Management, et al., Investment Company Act Release Nos. 29591 (March 11, 2011) (notice) and 29620 (March 30, 2011) (order) and; In the Matter of iShares Trust, et al., Investment Company Act Release Nos. 29543 (Dec. 27, 2010) (notice) and 29571 (Jan. 24, 2011) (order).

[11] *See, e.g.,* Rule 17j–1 under the Act and Section 204A under the Advisers Act and Rules 204A–1 and 206(4)–7 under the Advisers Act.

[12] Each Adviser has also adopted or will adopt a code of ethics pursuant to Rule 17j–1 under the Act and Rule 204A–1 under the Advisers Act, which contains provisions reasonably necessary to prevent Access Persons (as defined in Rule 17j–1) from engaging in any conduct prohibited in Rule 17j–1 (''Code of Ethics'').

[13] The instruments and cash that the purchaser is required to deliver in exchange for the Creation Units it is purchasing is referred to as the ''Portfolio Deposit.''

inclusion of component securities, the inclusion or exclusion of specific component securities, or methodology for the calculation or the return of component securities, in advance of a public announcement of such changes by the Index Provider. Each Adviser will also include under Item 10.C. of Part 2 of its Form ADV a discussion of its relationship to any Affiliated Index Provider and any material conflicts of interest resulting therefrom, regardless of whether the Affiliated Index Provider is a type of affiliate specified in Item 10.

16. To the extent the Self-Indexing Funds or their respective Master Funds transact with an Affiliated Person of an Adviser or Sub-Adviser, such transactions will comply with the Act, the rules thereunder and the terms and conditions of the requested order. In this regard, each Self-Indexing Fund's board of directors or trustees (''Board'') will periodically review the Self-Indexing Fund's use of an Affiliated Index Provider. Subject to the approval of the Self-Indexing Fund's Board, an Adviser, Affiliated Persons of the Adviser (''Adviser Affiliates'') and Affiliated Persons of any Sub-Adviser (''Sub-Adviser Affiliates'') may be authorized to provide custody, fund accounting and administration and transfer agency services to the Self-Indexing Funds. Any services provided by an Adviser, Adviser Affiliates, Sub-Adviser and Sub-Adviser Affiliates will be performed in accordance with the provisions of the Act, the rules under the Act and any relevant guidelines from the staff of the Commission.

17. In light of the foregoing, Applicants believe it is appropriate to allow the Self-Indexing Funds and their respective Master Funds to be fully transparent in lieu of Policies and Procedures from the Prior Self-Indexing Orders discussed above.

18. The Shares of each Fund will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments (''Deposit Instruments''), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments (''Redemption Instruments'').[14] On any given Business Day, the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, unless the Fund is Rebalancing (as defined below). In addition, the Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions)[15] except: (a) In the case of bonds, for minor differences when it is impossible to break up bonds beyond certain minimum sizes needed for transfer and settlement; (b) for minor differences when rounding is necessary to eliminate fractional shares or lots that are not tradeable round lots;[16] (c) TBA Transactions, short positions, derivatives and other positions that cannot be transferred in kind[17] will be excluded from the Deposit Instruments and the Redemption Instruments;[18] (d) to the extent the Fund determines, on a given Business Day, to use a representative sampling of the Fund's portfolio;[19] or (e) for temporary periods, to effect changes in the Fund's portfolio as a result of the rebalancing of its Underlying Index (any such change, a ''Rebalancing''). If there is a difference between the NAV attributable to a Creation Unit and the aggregate market value of the Deposit Instruments or Redemption Instruments exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the ''Cash Amount'').

19. Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in kind, solely under the following circumstances: (a) To the extent there is a Cash Amount; (b) if, on a given Business Day, the Fund announces before the open of trading that all purchases, all redemptions or all purchases and redemptions on that day will be made entirely in cash; (c) if, upon receiving a purchase or redemption order from an Authorized Participant, the Fund determines to require the purchase or redemption, as applicable, to be made entirely in cash;[20] (d) if, on a given Business Day, the Fund requires all Authorized Participants purchasing or redeeming Shares on that day to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are not eligible for transfer through either the NSCC or DTC (defined below); or (ii) in the case of Foreign Funds holding non-U.S. investments, such instruments are not eligible for trading due to local trading restrictions, local restrictions on securities transfers or other similar circumstances; or (e) if the Fund permits an Authorized Participant to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are, in the case of the purchase of a Creation Unit, not available in sufficient quantity; (ii) such instruments are not eligible for trading by an Authorized Participant or the investor on whose behalf the Authorized Participant is acting; or (iii) a holder of Shares of a Foreign Fund holding non-U.S. investments would be subject to unfavorable income tax treatment if the holder receives redemption proceeds in kind.[21]

20. Creation Units will consist of specified large aggregations of Shares, *e.g.,* at least 25,000 Shares, and it is expected that the initial price of a Creation Unit will range from $1 million to $10 million. All orders to purchase

[14] The Funds must comply with the federal securities laws in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, including that the Deposit Instruments and Redemption Instruments are sold in transactions that would be exempt from registration under the Securities Act of 1933 (''Securities Act''). In accepting Deposit Instruments and satisfying redemptions with Redemption Instruments that are restricted securities eligible for resale pursuant to rule 144A under the Securities Act, the Funds will comply with the conditions of rule 144A.

[15] The portfolio used for this purpose will be the same portfolio used to calculate the Fund's NAV for the Business Day.

[16] A tradeable round lot for a security will be the standard unit of trading in that particular type of security in its primary market.

[17] This includes instruments that can be transferred in kind only with the consent of the original counterparty to the extent the Fund does not intend to seek such consents.

[18] Because these instruments will be excluded from the Deposit Instruments and the Redemption Instruments, their value will be reflected in the determination of the Cash Amount (as defined below).

[19] A Fund may only use sampling for this purpose if the sample: (i) Is designed to generate performance that is highly correlated to the performance of the Fund's portfolio; (ii) consists entirely of instruments that are already included in the Fund's portfolio; and (iii) is the same for all Authorized Participants (as defined below) on a given Business Day.

[20] In determining whether a particular Fund will sell or redeem Creation Units entirely on a cash or in-kind basis (whether for a given day or a given order), the key consideration will be the benefit that would accrue to the Fund and its investors. For instance, in bond transactions, the Adviser may be able to obtain better execution than Share purchasers because of the Adviser's size, experience and potentially stronger relationships in the fixed income markets. Purchases of Creation Units either on an all cash basis or in-kind are expected to be neutral to the Funds from a tax perspective. In contrast, cash redemptions typically require selling portfolio holdings, which may result in adverse tax consequences for the remaining Fund shareholders that would not occur with an in-kind redemption. As a result, tax consideration may warrant in-kind redemptions.

[21] A ''custom order'' is any purchase or redemption of Shares made in whole or in part on a cash basis in reliance on clause (e)(i) or (e)(ii).

Creation Units must be placed with the Distributor by or through an ''Authorized Participant'' which is either (1) a ''Participating Party,'' *i.e.,* a broker-dealer or other participant in the Continuous Net Settlement System of the NSCC, a clearing agency registered with the Commission, or (2) a participant in The Depository Trust Company (''DTC'') (''DTC Participant''), which, in either case, has signed a participant agreement with the Distributor. The Distributor will be responsible for transmitting the orders to the Funds and will furnish to those placing such orders confirmation that the orders have been accepted, but applicants state that the Distributor may reject any order which is not submitted in proper form.

21. Each Business Day, before the open of trading on the Listing Exchange, each Fund will cause to be published through the NSCC the names and quantities of the instruments comprising the Deposit Instruments and the Redemption Instruments, as well as the estimated Cash Amount (if any), for that day. The list of Deposit Instruments and Redemption Instruments will apply until a new list is announced on the following Business Day, and there will be no intra-day changes to the list except to correct errors in the published list. Each Listing Exchange will disseminate, every 15 seconds during regular Exchange trading hours, through the facilities of the Consolidated Tape Association, an amount for each Fund stated on a per individual Share basis representing the sum of (i) the estimated Cash Amount and (ii) the current value of the Deposit Instruments.

22. Transaction expenses, including operational processing and brokerage costs, will be incurred by a Fund when investors purchase or redeem Creation Units in-kind and such costs have the potential to dilute the interests of the Fund's existing shareholders. Each Fund will impose purchase or redemption transaction fees (''Transaction Fees'') in connection with effecting such purchases or redemptions of Creation Units. With respect to Feeder Funds, the Transaction Fee would be paid indirectly to the Master Fund.[22] In all cases, such Transaction Fees will be limited in accordance with requirements of the Commission applicable to management investment companies offering redeemable securities. Since the Transaction Fees are intended to defray the transaction expenses as well as to prevent possible shareholder dilution resulting from the purchase or redemption of Creation Units, the Transaction Fees will be borne only by such purchasers or redeemers.[23] The Distributor will be responsible for delivering the Fund's prospectus to those persons acquiring Shares in Creation Units and for maintaining records of both the orders placed with it and the confirmations of acceptance furnished by it. In addition, the Distributor will maintain a record of the instructions given to the applicable Fund to implement the delivery of its Shares.

23. Shares of each Fund will be listed and traded individually on an Exchange. It is expected that one or more member firms of an Exchange will be designated to act as a market maker (each, a ''Market Maker'') and maintain a market for Shares trading on the Exchange. Prices of Shares trading on an Exchange will be based on the current bid/offer market. Transactions involving the sale of Shares on an Exchange will be subject to customary brokerage commissions and charges.

24. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs. Market Makers, acting in their roles to provide a fair and orderly secondary market for the Shares, may from time to time find it appropriate to purchase or redeem Creation Units. Applicants expect that secondary market purchasers of Shares will include both institutional and retail investors.[24] The price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help prevent Shares from trading at a material discount or premium in relation to their NAV.

25. Shares will not be individually redeemable, and owners of Shares may acquire those Shares from the Fund, or tender such Shares for redemption to the Fund, in Creation Units only. To redeem, an investor must accumulate enough Shares to constitute a Creation Unit. Redemption requests must be placed through an Authorized Participant. A redeeming investor may pay a Transaction Fee, calculated in the same manner as a Transaction Fee payable in connection with purchases of Creation Units.

26. Neither the Trusts nor any Fund will be advertised or marketed or otherwise held out as a traditional open-end investment company or a ''mutual fund.'' Instead, each such Fund will be marketed as an ''ETF.'' All marketing materials that describe the features or method of obtaining, buying or selling Creation Units, or Shares traded on an Exchange, or refer to redeemability, will prominently disclose that Shares are not individually redeemable and will disclose that the owners of Shares may acquire those Shares from the Fund or tender such Shares for redemption to the Fund in Creation Units only. The Funds will provide copies of their annual and semi-annual shareholder reports to DTC Participants for distribution to beneficial owners of Shares.

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or

[22] Applicants are not requesting relief from section 18 of the Act. Accordingly, a Master Fund may require a Transaction Fee payment to cover expenses related to purchases or redemptions of the Master Fund's shares by a Feeder Fund only if it requires the same payment for equivalent purchases or redemptions by any other feeder fund. Thus, for example, a Master Fund may require payment of a Transaction Fee by a Feeder Fund for transactions for 20,000 or more shares so long as it requires payment of the same Transaction Fee by all feeder funds for transactions involving 20,000 or more shares.

[23] Where a Fund permits an in-kind purchaser to substitute cash-in-lieu of depositing one or more of the requisite Deposit Instruments, the purchaser may be assessed a higher Transaction Fee to cover the cost of purchasing such Deposit Instruments.

[24] Shares will be registered in book-entry form only. DTC or its nominee will be the record or registered owner of all outstanding Shares. Beneficial ownership of Shares will be shown on the records of DTC or the DTC Participants.

transaction, or any class or classes of persons, securities or transactions, from any provisions of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an ''open-end company'' as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the owner, upon its presentation to the issuer, is entitled to receive approximately a proportionate share of the issuer's current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order that would permit the Funds to register as open-end management investment companies and issue Shares that are redeemable in Creation Units only.[25] Applicants state that investors may purchase Shares in Creation Units and redeem Creation Units from each Fund. Applicants further state that because Creation Units may always be purchased and redeemed at NAV, the price of Shares on the secondary market should not vary materially from NAV.

Section 22(d) of the Act and Rule 22c–1 under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is currently being offered to the public by or through an underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c–1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (a) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers, and (c) ensure an orderly distribution of investment company shares by eliminating price competition from dealers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Shares does not involve a Fund as a party and will not result in dilution of an investment in Shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help prevent Shares from trading at a material discount or premium in relation to their NAV.

Section 22(e)

7. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants state that settlement of redemptions for Foreign Funds will be contingent not only on the settlement cycle of the United States market, but also on current delivery cycles in local markets for the underlying foreign securities held by a Foreign Fund. Applicants state that the delivery cycles currently practicable for transferring Redemption Instruments to redeeming investors, coupled with local market holiday schedules, may require a delivery process of up to fifteen (15) calendar days.[26] Accordingly, with respect to Foreign Funds only, applicants hereby request relief under section 6(c) from the requirement imposed by section 22(e) to allow Foreign Funds to pay redemption proceeds within fifteen (15) calendar days following the tender of Creation Units for redemption.[27]

8. Applicants believe that Congress adopted section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds. Applicants propose that allowing redemption payments for Creation Units of a Foreign Fund to be made within fifteen calendar days would not be inconsistent with the spirit and intent of section 22(e). Applicants suggest that a redemption payment occurring within fifteen calendar days following a redemption request would adequately afford investor protection.

9. Applicants are not seeking relief from section 22(e) with respect to Foreign Funds that do not effect creations and redemptions of Creation Units in-kind.[28]

Section 12(d)(1)

10. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring securities of an investment company if such securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter and any other broker-dealer from knowingly selling the investment company's shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

11. Applicants request an exemption to permit registered management investment companies and unit investment trusts (''UITs'') that are not advised or sponsored by the Advisers and are not part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act as the Funds (such management investment

[25] The Master Funds will not require relief from sections 2(a)(32) and 5(a)(1) because the Master Funds will issue individually redeemable securities.

[26] Certain countries in which a Fund may invest have historically had settlement periods of up to fifteen (15) calendar days.

[27] Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations applicants may otherwise have under rule 15c6–1 under the Exchange Act requiring that most securities transactions be settled within three business days of the trade date.

[28] In addition, the requested exemption from section 22(e) would only apply to in-kind redemptions by the Feeder Funds and would not apply to in-kind redemptions by other feeder funds.

companies are referred to as ''Investing Management Companies,'' such UITs are referred to as ''Investing Trusts,'' and Investing Management Companies and Investing Trusts are collectively referred to as ''Funds of Funds''), to acquire Shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any Broker registered under the Exchange Act, to sell Shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act.

12. Each Investing Management Company will be advised by an investment adviser within the meaning of section 2(a)(20)(A) of the Act (the ''Fund of Funds Adviser'') and may be sub-advised by investment advisers within the meaning of section 2(a)(20)(B) of the Act (each a ''Fund of Funds Sub-Adviser''). Any investment adviser to an Investing Management Company will be registered under the Advisers Act. Each Investing Trust will be sponsored by a sponsor (''Sponsor'').

13. Applicants submit that the proposed conditions to the requested relief adequately address the concerns underlying the limits in sections 12(d)(1)(A) and (B), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees and overly complex fund structures. Applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

14. Applicants believe that neither a Fund of Funds nor a Fund of Funds Affiliate would be able to exert undue influence over a Fund.[29] To limit the control that a Fund of Funds may have over a Fund, applicants propose a condition prohibiting a Fund of Funds Adviser or Sponsor, any person controlling, controlled by, or under common control with a Fund of Funds Adviser or Sponsor, and any investment company and any issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by a Fund of Funds Adviser or Sponsor, or any person controlling, controlled by, or under common control with a Fund of Funds Adviser or Sponsor (''Fund of Funds Advisory Group'') from controlling (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any Fund of Funds Sub-Adviser, any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser, and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Fund of Funds Sub-Adviser or any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser (''Fund of Funds Sub-Advisory Group'').

15. Applicants propose other conditions to limit the potential for undue influence over the Funds, including that no Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an offering of securities during the existence of an underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate (''Affiliated Underwriting''). An ''Underwriting Affiliate'' is a principal underwriter in any underwriting or selling syndicate that is an officer, director, member of an advisory board, Fund of Funds Adviser, Fund of Funds Sub-Adviser, employee or Sponsor of the Fund of Funds, or a person of which any such officer, director, member of an advisory board, Fund of Funds Adviser or Fund of Funds Sub-Adviser, employee or Sponsor is an affiliated person (except that any person whose relationship to the Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate).

16. Applicants do not believe that the proposed arrangement will involve excessive layering of fees. The board of directors or trustees of any Investing Management Company, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (''disinterested directors or trustees''), will find that the advisory fees charged under the contract are based on services provided that will be in addition to, rather than duplicative of, services provided under the advisory contract of any Fund, or its respective Master Fund, in which the Investing Management Company may invest. In addition, under condition B.5., a Fund of Funds Adviser, or a Fund of Funds' trustee or Sponsor, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund, or its respective Master Fund, under rule 12b–1 under the Act) received from a Fund by the Fund of Funds Adviser, trustee or Sponsor or an affiliated person of the Fund of Funds Adviser, trustee or Sponsor, other than any advisory fees paid to the Fund of Funds Adviser, trustee or Sponsor or its affiliated person by a Fund, in connection with the investment by the Fund of Funds in the Fund. Applicants state that any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.[30]

17. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that no Fund, nor its respective Master Fund, will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund, or its respective Master Fund, to purchase shares of other investment companies for short-term cash management purposes or pursuant to the Master-Feeder Relief. To ensure a Fund of Funds is aware of the terms and conditions of the requested order, the Fund of Funds will enter into an agreement with the Fund (''FOF Participation Agreement''). The FOF Participation Agreement will include an acknowledgement from the Fund of Funds that it may rely on the order only to invest in the Funds and not in any other investment company.

18. Applicants also note that a Fund may choose to reject a direct purchase of Shares in Creation Units by a Fund of Funds. To the extent that a Fund of Funds purchases Shares in the secondary market, a Fund would still retain its ability to reject any initial investment by a Fund of Funds in excess of the limits of section 12(d)(1)(A) by declining to enter into a FOF Participation Agreement with the Fund of Funds.

19. Applicants also are seeking the Master-Feeder Relief to permit the Feeder Funds to perform creations and redemptions of Shares in-kind in a master-feeder structure. Applicants assert that this structure is substantially identical to traditional master-feeder structures permitted pursuant to the exception provided in section 12(d)(1)(E) of the Act. Section

[29] A ''Fund of Funds Affiliate'' is a Fund of Funds Adviser, Fund of Funds Sub-Adviser, Sponsor, promoter, and principal underwriter of a Fund of Funds, and any person controlling, controlled by, or under common control with any of those entities. A ''Fund Affiliate'' is an investment adviser, promoter, or principal underwriter of a Fund and any person controlling, controlled by or under common control with any of these entities.

[30] Any references to NASD Conduct Rule 2830 include any successor or replacement FINRA rule to NASD Conduct Rule 2830.

12(d)(1)(E) provides that the percentage limitations of section 12(d)(1)(A) and (B) shall not apply to a security issued by an investment company (in this case, the shares of the applicable Master Fund) if, among other things, that security is the only investment security held by the investing investment company (in this case, the Feeder Fund). Applicants believe the proposed master-feeder structure complies with section 12(d)(1)(E) because each Feeder Fund will hold only investment securities issued by its corresponding Master Fund; however, the Feeder Funds may receive securities other than securities of its corresponding Master Fund if a Feeder Fund accepts an in-kind creation. To the extent that a Feeder Fund may be deemed to be holding both shares of the Master Fund and other securities, applicants request relief from section 12(d)(1)(A) and (B). The Feeder Funds would operate in compliance with all other provisions of section 12(d)(1)(E).

Sections 17(a)(1) and (2) of the Act

20. Sections 17(a)(1) and (2) of the Act generally prohibit an affiliated person of a registered investment company, or an affiliated person of such a person, from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines ''affiliated person'' of another person to include (a) any person directly or indirectly owning, controlling or holding with power to vote 5% or more of the outstanding voting securities of the other person, (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with the power to vote by the other person, and (c) any person directly or indirectly controlling, controlled by or under common control with the other person. Section 2(a)(9) of the Act defines ''control'' as the power to exercise a controlling influence over the management or policies of a company, and provides that a control relationship will be presumed where one person owns more than 25% of a company's voting securities. The Funds may be deemed to be controlled by an Adviser or an entity controlling, controlled by or under common control with an Adviser and hence affiliated persons of each other. In addition, the Funds may be deemed to be under common control with any other registered investment company (or series thereof) advised by an Adviser or an entity controlling, controlled by or under common control with an Adviser (an ''Affiliated Fund''). Any investor, including Market Makers, owning 5% or holding in excess of 25% of the Trust or such Funds, may be deemed affiliated persons of the Trust or such Funds. In addition, an investor could own 5% or more, or in excess of 25% of the outstanding shares of one or more Affiliated Funds making that investor a Second-Tier Affiliate of the Funds.

21. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act pursuant to sections 6(c) and 17(b) of the Act to permit persons that are Affiliated Persons of the Funds, or Second-Tier Affiliates of the Funds, solely by virtue of one or more of the following: (a) Holding 5% or more, or in excess of 25%, of the outstanding Shares of one or more Funds; (b) an affiliation with a person with an ownership interest described in (a); or (c) holding 5% or more, or more than 25%, of the shares of one or more Affiliated Funds, to effectuate purchases and redemptions ''in-kind.''

22. Applicants assert that no useful purpose would be served by prohibiting such affiliated persons from making ''in-kind'' purchases or ''in-kind'' redemptions of Shares of a Fund in Creation Units. Both the deposit procedures for ''in-kind'' purchases of Creation Units and the redemption procedures for ''in-kind'' redemptions of Creation Units will be effected in exactly the same manner for all purchases and redemptions, regardless of size or number. There will be no discrimination between purchasers or redeemers. Deposit Instruments and Redemption Instruments for each Fund will be valued in the identical manner as those Portfolio Holdings currently held by such Fund and the valuation of the Deposit Instruments and Redemption Instruments will be made in an identical manner regardless of the identity of the purchaser or redeemer. Applicants do not believe that ''in-kind'' purchases and redemptions will result in abusive self-dealing or overreaching, but rather assert that such procedures will be implemented consistently with each Fund's objectives and with the general purposes of the Act. Applicants believe that ''in-kind'' purchases and redemptions will be made on terms reasonable to applicants and any affiliated persons because they will be valued pursuant to verifiable objective standards. The method of valuing Portfolio Holdings held by a Fund is identical to that used for calculating ''in-kind'' purchase or redemption values and therefore creates no opportunity for affiliated persons or Second-Tier Affiliates of applicants to effect a transaction detrimental to the other holders of Shares of that Fund. Similarly, applicants submit that, by using the same standards for valuing Portfolio Holdings held by a Fund as are used for calculating ''in-kind'' redemptions or purchases, the Fund will ensure that its NAV will not be adversely affected by such securities transactions. Applicants also note that the ability to take deposits and make redemptions ''in-kind'' will help each Fund to track closely its Underlying Index and therefore aid in achieving the Fund's objectives.

23. Applicants also seek relief under sections 6(c) and 17(b) from section 17(a) to permit a Fund that is an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds to sell its Shares to and redeem its Shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[31] Applicants state that the terms of the transactions are fair and reasonable and do not involve overreaching. Applicants note that any consideration paid by a Fund of Funds for the purchase or redemption of Shares directly from a Fund will be based on the NAV of the Fund.[32] Applicants believe that any proposed transactions directly between the Funds and Funds of Funds will be consistent with the policies of each Fund of Funds. The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the investment restrictions of any such Fund of Funds and will be consistent with the investment policies set forth in the Fund of Funds' registration statement. Applicants also state that the proposed transactions are consistent

[31] Although applicants believe that most Funds of Funds will purchase Shares in the secondary market and will not purchase Creation Units directly from a Fund, a Fund of Funds might seek to transact in Creation Units directly with a Fund that is an affiliated person of a Fund of Funds. To the extent that purchases and sales of Shares occur in the secondary market and not through principal transactions directly between a Fund of Funds and a Fund, relief from section 17(a) would not be necessary. However, the requested relief would apply to direct sales of Shares in Creation Units by a Fund to a Fund of Funds and redemptions of those Shares. Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an affiliated person, or an affiliated person of an affiliated person of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

[32] Applicants acknowledge that the receipt of compensation by (a) an affiliated person of a Fund of Funds, or an affiliated person of such person, for the purchase by the Fund of Funds of Shares of a Fund or (b) an affiliated person of a Fund, or an affiliated person of such person, for the sale by the Fund of its Shares to a Fund of Funds, may be prohibited by section 17(e)(1) of the Act. The FOF Participation Agreement also will include this acknowledgment.

with the general purposes of the Act and are appropriate in the public interest.

24. To the extent that a Fund operates in a master-feeder structure, applicants also request relief permitting the Feeder Funds to engage in in-kind creations and redemptions with the applicable Master Fund. Applicants state that the customary section 17(a)(1) and 17(a)(2) relief would not be sufficient to permit such transactions because the Feeder Funds and the applicable Master Fund could also be affiliated by virtue of having the same investment adviser. However, applicants believe that in-kind creations and redemptions between a Feeder Fund and a Master Fund advised by the same investment adviser do not involve ''overreaching'' by an affiliated person. Such transactions will occur only at the Feeder Fund's proportionate share of the Master Fund's net assets, and the distributed securities will be valued in the same manner as they are valued for the purposes of calculating the applicable Master Fund's NAV. Further, all such transactions will be effected with respect to pre-determined securities and on the same terms with respect to all investors. Finally, such transaction would only occur as a result of, and to effectuate, a creation or redemption transaction between the Feeder Fund and a third-party investor. Applicants believe that the terms of the proposed transactions are reasonable and fair and do not involve overreaching on the part of any person concerned, the proposed transactions are consistent with the policy of each Fund and will be consistent with the investment objectives and policies of each Fund of Funds, and the proposed transactions are consistent with the general purposes of the Act.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

A. ETF Relief

1. The requested relief, other than the section 12(d)(1) Relief and the section 17 relief related to a master-feeder structure, will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of index-based ETFs.

2. As long as a Fund operates in reliance on the requested order, Shares of such Fund will be listed on an Exchange.

3. Neither the Trusts nor any Fund will be advertised or marketed as an open-end investment company or a mutual fund. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that Shares are not individually redeemable and that owners of Shares may acquire those Shares from the Fund and tender those Shares for redemption to a Fund in Creation Units only.

4. Each Fund's Web site, which is and will be publicly accessible at no charge, will contain, on a per Share basis for the Fund, the prior Business Day's NAV and the market closing price or the midpoint of the bid/ask spread at the time of the calculation of such NAV (''Bid/Ask Price''), and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV.

5. Each Self-Indexing Fund, Long/Short Fund and 130/30 Fund will post on its Web site on each Business Day, before commencement of trading of Shares on the Exchange, the Fund's, or its respective Master Fund's, Portfolio Holdings.

6. Neither Adviser nor any Sub-Adviser to a Self-Indexing Fund, directly or indirectly, will cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may transact with the Self-Indexing Fund) to acquire any Deposit Instrument for a Self-Indexing Fund, or its respective Master Fund, through a transaction in which the Self-Indexing Fund, or its respective Master Fund, could not engage directly.

B. Section 12(d)(1) Relief

1. The members of a Fund of Funds' Advisory Group will not control (individually or in the aggregate) a Fund, or its respective Master Fund, within the meaning of section 2(a)(9) of the Act. The members of a Fund of Funds' Sub-Advisory Group will not control (individually or in the aggregate) a Fund, or its respective Master Fund, within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a Fund, the Fund of Funds' Advisory Group or the Fund of Funds' Sub-Advisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of a Fund, it will vote its Shares of the Fund in the same proportion as the vote of all other holders of the Fund's Shares. This condition does not apply to the Fund of Funds' Sub-Advisory Group with respect to a Fund, or its respective Master Fund, for which the Fund of Funds' Sub-Adviser or a person controlling, controlled by or under common control with the Fund of Funds' Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

2. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in a Fund to influence the terms of any services or transactions between the Fund of Funds or Fund of Funds Affiliate and the Fund, or its respective Master Fund, or a Fund Affiliate.

3. The board of directors or trustees of an Investing Management Company, including a majority of the disinterested directors or trustees, will adopt procedures reasonably designed to ensure that the Fund of Funds Adviser and Fund of Funds Sub-Adviser are conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing Management Company or a Fund of Funds Affiliate from a Fund, or its respective Master Fund, or Fund Affiliate in connection with any services or transactions.

4. Once an investment by a Fund of Funds in the securities of a Fund exceeds the limits in section 12(d)(1)(A)(i) of the Act, the Board of the Fund, or its respective Master Fund, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (''non-interested Board members''), will determine that any consideration paid by the Fund, or its respective Master Fund, to the Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (i) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Fund, or its respective Master Fund; (ii) is within the range of consideration that the Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between a Fund, or its respective Master Fund, and its investment adviser(s), or any person controlling, controlled by or under common control with such investment adviser(s).

5. The Fund of Funds Adviser, or trustee or Sponsor of an Investing Trust, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund, or its respective Master Fund, under rule 12b–l under the Act) received from a Fund, or its respective Master Fund, by the Fund of Funds Adviser, or trustee or Sponsor of the

Investing Trust, or an affiliated person of the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, other than any advisory fees paid to the Fund of Funds Adviser, trustee or Sponsor of an Investing Trust, or its affiliated person by the Fund, or its respective Master Fund, in connection with the investment by the Fund of Funds in the Fund. Any Fund of Funds Sub-Adviser will waive fees otherwise payable to the Fund of Funds Sub-Adviser, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Fund, or its respective Master Fund, by the Fund of Funds Sub-Adviser, or an affiliated person of the Fund of Funds Sub-Adviser, other than any advisory fees paid to the Fund of Funds Sub-Adviser or its affiliated person by the Fund, or its respective Master Fund, in connection with the investment by the Investing Management Company in the Fund made at the direction of the Fund of Funds Sub-Adviser. In the event that the Fund of Funds Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

6. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund, or its respective Master Fund, to purchase a security in any Affiliated Underwriting.

7. The Board of a Fund, or its respective Master Fund, including a majority of the non-interested Board members, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund, or its respective Master Fund, in an Affiliated Underwriting, once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in the Fund. The Board will consider, among other things: (i) Whether the purchases were consistent with the investment objectives and policies of the Fund, or its respective Master Fund; (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities purchased by the Fund, or its respective Master Fund, in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to ensure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders of the Fund.

8. Each Fund, or its respective Master Fund, will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by a Fund of Funds in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

9. Before investing in a Fund in excess of the limit in section 12(d)(1)(A), a Fund of Funds and the Trust will execute a FOF Participation Agreement stating without limitation that their respective boards of directors or trustees and their investment advisers, or trustee and Sponsor, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in Shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), a Fund of Funds will notify the Fund of the investment. At such time, the Fund of Funds will also transmit to the Fund a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Fund of any changes to the list of the names as soon as reasonably practicable after a change occurs. The Fund and the Fund of Funds will maintain and preserve a copy of the order, the FOF Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

10. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company including a majority of the disinterested directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund, or its respective Master Fund, in which the Investing Management Company may invest. These findings and their basis will be fully recorded in the minute books of the appropriate Investing Management Company.

11. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

12. No Fund, or its respective Master Fund, will acquire securities of an investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent (i) the Fund, or its respective Master Fund, acquires securities of another investment company pursuant to exemptive relief from the Commission permitting the Fund, or its respective Master Fund, to acquire securities of one or more investment companies for short-term cash management purposes or (ii) the Fund acquires securities of the Master Fund pursuant to the Master–Feeder Relief.

For the Commission, by the Division of Investment Management, under delegated authority.

Brent J. Fields,

Secretary.

[FR Doc. 2015–07971 Filed 4–7–15; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Interest Rates

The Small Business Administration publishes an interest rate called the optional ''peg'' rate (13 CFR 120.214) on a quarterly basis. This rate is a weighted average cost of money to the government for maturities similar to the average SBA direct loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. This rate will be 2.125 (2¼) percent for the April–June quarter of FY 2015.

Pursuant to 13 CFR 120.921(b), the maximum legal interest rate for any third party lender's commercial loan which funds any portion of the cost of a 504 project (see 13 CFR 120.801) shall be 6% over the New York Prime rate or, if that exceeds the maximum interest rate permitted by the constitution or

laws of a given State, the maximum interest rate will be the rate permitted by the constitution or laws of the given State.

Linda S. Rusche,

Director, Office of Financial Assistance.

[FR Doc. 2015–08039 Filed 4–7–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF STATE

[Public Notice: 9087]

60-Day Notice of Proposed Information Collection: Affidavit of Relationship

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to June 8, 2015.

ADDRESSES: Direct any comments on this request to Sumitra Siram, Program Officer, Department of State, Bureau of Population, Refugees and Migration, Office of Admissions, 2025 E Street NW., Washington DC, 20522.

You may submit comments by any of the following methods:

- *Web:* Persons with access to the Internet may comment on this notice by going to *www.Regulations.gov.* You can search for the document by entering ''Docket Number: DOS–2015–0015'' in the Search field. Then click the ''Comment Now'' button and complete the comment form.
- *Email: SiramS@state.gov.*
- *Regular Mail:* Send written comments to: PRM/Office of Admissions, 2025 E Street NW., 8th Floor, Washington, DC 20255–0908.
- *Fax:* (202) 453–9393, Attention: Sumitra Siram.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Sumitra Siram, Program Officer, PRM/Office of Admissions, 2025 E Street NW., Washington DC, 20522–0908, who may be reached on 202–453–9250 or at *SiramS@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Affidavit of Relationship.
- *OMB Control Number:* 1405–0206.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Office of Admissions, Bureau of Population, Refugees and Migration (PRM/A).
- *Form Number:* DS–7656.
- *Respondents:* Persons admitted to the United States as refugees or granted asylum in the United States who are claiming a relationship with family members overseas (spouse, unmarried children under age 21, and/or parents) in order to assist the U.S. Government in determining whether those family members are qualified to apply for admission to the United States via the U.S. Refugee Admissions Program under the family reunification access priority.
- *Estimated Number of Respondents:* 2,500.
- *Estimated Number of Responses:* 2,500.
- *Average Time per Response:* 60 Minutes.
- *Total Estimated Burden Time:* 2,500.00 Hours.
- *Frequency:* On occasion.
- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection: The Affidavit of Relationship (AOR) will be required by the Department of State to establish qualifications for access to the Priority-3 (P–3) Family Reunification category of the United States Refugee Admissions Program (USRAP) by persons of certain nationalities who are family members of qualifying ''anchors'' (persons already admitted to the U.S. as refugees or who were granted asylum in the United States., including persons who may now be lawful permanent residents or U.S. citizens). Qualifying family members of U.S.-based anchors include spouse, unmarried children under age 21, and parents. Eligible nationalities are determined on an annual basis following careful review of several factors, including the United Nations High Commissioner for Refugees' annual assessment of refugees in need of resettlement, prospective or ongoing repatriation efforts, and U.S. foreign policy interests. The P–3 category, along with the other categories of cases that have access to USRAP, is outlined in the annual Proposed Refugee Admissions—Report to Congress, which is submitted on behalf of the President in fulfillment of the requirements of section 207(d) of the Immigration and Nationality Act (8 U.S.C. 1157), and authorized by the annual Presidential Determination for Refugee Admissions. Having an AOR filed on a potential applicant's behalf by an eligible anchor relative will be one of the criteria for access to this program. The AOR also informs the anchor relative that DNA evidence of all claimed parent-child relationships between the anchor relative and parents and/or unmarried children under 21 will be required as a condition of access to P–3 processing and that the costs will be borne by the anchor relative or his/her family members who may apply for access to refugee processing, or their derivative beneficiaries, as the case may be. Successful applicants may be eligible for reimbursement of DNA test costs.

Methodology: This information collection currently involves the limited use of electronic techniques. Anchors in the United States may visit any resettlement agency throughout the United States to complete the AOR. Resettlement agencies are organizations that work under a cooperative agreement with the Department of State. In order to file an AOR, an individual must be at least 18 years of age and have been admitted to the United States as a refugee or granted asylum in the United States no more than five years prior to the filing of the AOR. The DS–7656 form will be available electronically and responses will be completed electronically with the aid of resettlement agency staff. Completed AORs will be printed out for ink

signature by the respondents and will be scanned and submitted electronically to the Refugee Processing Center (RPC) by the resettlement agencies for downloading into the Worldwide Refugee Admissions Processing System (WRAPS) for data entry and case processing. A signed paper copy of the AOR will remain with resettlement agencies.

Dated: April 2, 2015.

Simon Henshaw,

Principal Deputy Assistant Secretary, Bureau of Population, Refugees and Migration, Department of State.

[FR Doc. 2015–08127 Filed 4–7–15; 8:45 am]

BILLING CODE 4710–33–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0124]

Qualification of Drivers; Application for Exemptions; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to grant requests from 51 individuals for exemptions from the Agency's physical qualifications standard concerning hearing for interstate drivers. The current regulation prohibits hearing impaired individuals from operating CMVs in interstate commerce. After notice and opportunity for public comment, the Agency concluded that granting exemptions for these drivers to operate property-carrying CMVs will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions. The exemptions are valid for a 2-year period and may be renewed, and the exemptions preempt State laws and regulations.

DATES: The exemptions are effective April 8, 2015. The exemptions expire on April 10, 2017.

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Office of Carrier, Driver and Vehicle Safety, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

A. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov*.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Privacy Act: 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 *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

B. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the safety regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The current provisions of the FMCSRs concerning hearing state that a person is physically qualified to drive a CMV if that person:

> First perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5–1951.

49 CFR 391.41(b)(11). This standard was adopted in 1970, with a revision in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

FMCSA grants 51 individuals an exemption from section 391.41(b)(11) concerning hearing to enable them to operate property-carrying CMVs in interstate commerce for a 2-year period. The Agency's decision on these exemption applications is based on the current medical literature and information and the ''Executive Summary on Hearing, Vestibular Function and Commercial Motor Driving Safety'' (the 2008 Evidence Report) presented to FMCSA on August 26, 2008. The evidence report reached two conclusions regarding the matter of hearing loss and CMV driver safety: (1) No studies that examined the relationship between hearing loss and crash risk exclusively among CMV drivers were identified; and (2) evidence from studies of the private driver license holder population does not support the contention that individuals with hearing impairment are at an increased risk for a crash. In addition, the Agency reviewed each applicant's driving record found in the CDLIS,[1] for CDL holders, and inspections recorded in MCMIS.[2] For non-CDL holders, the Agency reviewed the driving records from the State licensing agency. Each applicant's record demonstrated a safe driving history. The Agency believes the drivers covered by the exemptions do not pose a risk to public safety.

C. Comments

On February 14, 2014, FMCSA published a notice of receipt of exemption applications and requested public comment on 51 individuals. The comment period ended on March 17, 2014. In response to the notice, FMCSA received one comment from Ann Sherman, who supports the idea of deaf drivers having the opportunity to get training and seek employment ''like everyone else''. FMCSA has determined that the following 51 applicants should be granted an exemption:

D. Exemptions Granted

Following individualized assessments of the exemption applications, FMCSA grants exemptions from 49 CFR 391.41(b)(11) to 51 individuals. Under current FMCSA regulations, all of the 51 drivers receiving exemptions from 49 CFR 391.41(b)(11) would have been considered physically qualified to drive a CMV in interstate commerce except that they do not meet the hearing requirement. FMCSA has determined that the following 51 applicants should be granted an exemption:

Brooks Andresen

Mr. Andresen, 34, holds a driver's license in Utah.

[1] *Commercial Driver License Information System* (CDLIS) is an information system that allows the exchange of commercial driver licensing information among all the States. CDLIS includes the databases of 51 licensing jurisdictions and the CDLIS Central Site, all connected by a telecommunications network.

[2] *Motor Carrier Management Information System* (MCMIS) is an information system that captures data from field offices through SAFETYNET, CAPRI, and other sources. It is a source for FMCSA inspection, crash, compliance review, safety audit, and registration data.

Alexey Belousov

Mr. Belousov, 37, holds a driver's license in Maryland.

Richard Boggs

Mr. Boggs, 37, holds a driver's license in Ohio.

Conley Bowling

Mr. Bowling, 35, holds a driver's license in Kentucky.

Marquarius Boyd

Mr. Boyd, 23, holds a driver's license in Mississippi.

Charles Breidenthal

Mr. Breidenthal, 62, holds a driver's license in California.

Adam Brown

Mr. Brown, 32, holds a driver's license in Texas.

Kwinton C. Carpenter

Mr. Carpenter, 29, holds a driver's license in Ohio.

Ronald Dillon, Jr.

Mr. Dillon, 49, holds a driver's license in California.

Clark Dobson

Mr. Dobson, 50, holds a driver's license in California.

Louis Dominik

Mr. Dominik, 54, holds a driver's license in Texas.

Kareem M. Douglas

Mr. Douglas, 39, holds a driver's license in Ohio.

Craig Eberhart

Mr. Eberhart, 43, holds a driver's license in Pennsylvania.

Anthony Farinacci

Mr. Farinacci, 50, holds a driver's license in Ohio.

Timothy D. Finley

Mr. Finley, 48, holds a driver's license in California.

Danny E. Fisk

Mr. Fisk, 57, holds a driver's license in Colorado.

Christopher Fitzwater

Mr. Fitzwater, 27, holds a driver's license in Virginia.

Kenneth Frilando

Mr. Frilando, 46, holds a driver's license in New York.

Timothy Gallagher

Mr. Gallagher, 51, holds a driver's license in Pennsylvania.

John R. Harper, Jr.

Mr. Harper, 33, holds a driver's license in Illinois.

Kenneth E. Harris

Mr. Harris, 39, holds a driver's license in Missouri.

Susan D. Helgerson

Ms. Helgerson, 49, holds a driver's license in Wisconsin.

Kimberly Hicks

Ms. Hicks, 47, holds a driver's license in Illinois.

Devon T. Hinds

Mr. Hinds, 56, holds a driver's license in Colorado.

Ryan S. Howard

Mr. Howard, 41, holds a driver's license in New York.

Gregory Ingram

Mr. Ingram, 28, holds a driver's license in North Carolina.

Bernard LaFayette

Mr. LaFayette, 59, holds a driver's license in California.

Christopher Lucki

Mr. Lucki, 32, holds a driver's license in Illinois.

Joshua Matlow

Mr. Matlow, 34, holds a driver's license in Texas.

Kathy Mazique

Ms. Mazique, 31, holds a driver's license in Illinois.

David W. McCoy

Mr. McCoy, 63, holds a driver's license in California.

Clair Mitcham

Ms. Mitcham, 56, holds a driver's license Texas.

Jeffrey S. Moore

Mr. Moore, 35, holds a driver's license in Pennsylvania.

Christopher Morgan

Mr. Morgan, 25, holds a driver's license in Massachusetts.

Quinton Murphy

Mr. Murphy, 32, holds a driver's license in Wisconsin.

William Noble

Mr. Noble, 63, holds a driver's license in New York.

Veniamin Panteleimonov

Mr. Panteleimonov, 34, holds a driver's license in California.

Kelly Pulvermacher

Mr. Pulvermacher, 27, holds a driver's license in Wisconsin.

Jeremy Reams

Mr. Reams, 37, holds a driver's license in Kentucky.

Victor M. Robinson

Mr. Robinson, 31, holds a driver's license in Louisiana.

Darrin A. Rutley

Mr. Rutley, 32, holds a driver's license in New York.

Samuel Sherman

Mr. Sherman, 36, holds a driver's license in Minnesota.

Andrey Shevchenko

Mr. Shevchenko, 22, holds a driver's license in Minnesota.

Ronald K. Smith, Jr.

Mr. Smith, 33, holds a driver's license in Texas.

Willine D. Smith

Ms. Smith, 52, holds a Class B commercial driver's license (CDL) in Florida.

William Templeton

Mr. Templeton, 44, holds a driver's license in Georgia.

Timothy A. Terpak

Mr. Terpak, 28, holds a driver's license in Pennsylvania.

Jeremy L. Thrush

Mr. Thrush, 27, holds a driver's license in Pennsylvania.

Carlos A. Torres

Mr. Torres, 30, holds a driver's license in Florida.

John K. Turner, III

Mr. Turner, 49, holds a driver's license in Colorado.

Chad Weaver

Mr. Weaver, 32, holds a driver's license in Georgia.

E. Basis For Exemption

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the hearing standard in 49 CFR 391.41(b)(11) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. With the exemption, applicants can drive in interstate commerce. Thus, the Agency's analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these

drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce. The driver must comply with the terms and conditions of the exemption. This includes reporting any crashes or accidents as defined in 49 CFR 390.5 and reporting all citations and convictions for disqualifying offenses under 49 CFR part 383 and 49 CFR 391.

Conclusion

The Agency is granting exemptions from the hearing standard, 49 CFR 391.41(b)(11), to 51 individuals based on a thorough evaluation of each driver's safety experience. Safety analysis of information relating to these 51 applicants meets the burden of showing that granting the exemptions would achieve a level of safety that is equivalent to or greater than the level that would be achieved without the exemption. By granting the exemptions, the CMV industry will gain 51 additional CMV drivers. In accordance with 49 U.S.C. 31315, each exemption will be valid for 2 years from the effective date with annual recertification required unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

FMCSA exempts the following 51 drivers for a period of 2 years from the physical qualification standard concerning hearing: Brooks Andresen (UT); Alexey Belousov (MD); Richard Boggs (OH); Conley Bowling (KY); Marquarius Boyd (MS); Charles Breidenthal (CA); Adam Brown (TX); Kwinton Carpenter (OH); Ronald Dillon, Jr. (CA); Clark Dobson (CA); Louis Dominik (TX); Kareem M. Douglas (OH); Craig Eberhart (PA); Anthony Farinacci (OH); Timothy D. Finley (CA); Danny E. Fisk (CO); Christopher Fitzwater (VA); Kenneth Frilando (NY); Timothy Gallagher (PA); John R. Harper, Jr. (IL); Kenneth E. Harris (MO); Susan D. Helgerson (WI); Kimberly Hicks (IL); Devon T. Hinds (CO); Ryan S. Howard (NY); Gregory Ingram (NC); Bernard LaFayette (CA); Christopher Lucki (IL); Joshua Matlow (TX); Kathy Mazique (IL); David W. McCoy (CA); Clair Mitcham (TX); Jeffrey S. Moore (PA); Christopher Morgan (MA); Quinton Murphy (WI); William Noble (NY); Veniamin Panteleimonov (CA); Kelly Pulvermacher (WI); Jeremy Reams (KY); Victor M. Robinson (LA); Darrin A. Rutley (NY); Samuel Sherman (MN); Andrey Shevchenko (MN); Ronald K. Smith, Jr. (TX); Willine D. Smith (FL); William Templeton (GA); Timothy A. Terpak (PA); Jeremy L. Thrush (PA); Carlos A. Torres (FL); John K. Turner, III (CO); and Chad Weaver (GA).

Issued on: April 2, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–08052 Filed 4–7–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0121; FMCSA–2013–0122; FMCSA–2013–0123]

Qualification of Drivers; Application for Exemptions; Hearing

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to grant requests from 39 individuals for exemptions from the Agency's physical qualifications standard concerning hearing for interstate drivers. The current regulation prohibits hearing impaired individuals from operating CMVs in interstate commerce. After notice and opportunity for public comment, the Agency concluded that granting exemptions for these drivers to operate property-carrying CMVs will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions. The exemptions are valid for a 2-year period and may be renewed, and the exemptions preempt State laws and regulations.

DATES: The exemptions are effective April 8, 2015. The exemptions expire on April 10, 2017.

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Office of Carrier, Driver and Vehicle Safety, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

A. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Privacy Act: 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 *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

B. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the safety regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The current provisions of the FMCSRs concerning hearing state that a person is physically qualified to drive a CMV if that person:

> First perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

49 CFR 391.41(b)(11). This standard was adopted in 1970, with a revision in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

FMCSA grants 39 individuals an exemption from § 391.41(b)(11) concerning hearing to enable them to operate property-carrying CMVs in interstate commerce for a 2-year period. The Agency's decision on these exemption applications is based on the current medical literature and information and the ''Executive Summary on Hearing, Vestibular Function and Commercial Motor Driving Safety'' (the 2008 Evidence Report) presented to FMCSA on August 26, 2008. The evidence report reached two conclusions regarding the matter of hearing loss and CMV driver safety: (1) No studies that examined the relationship between hearing loss and crash risk exclusively among CMV

drivers were identified; and (2) evidence from studies of the private driver license holder population does not support the contention that individuals with hearing impairment are at an increased risk for a crash. In addition, the Agency reviewed each applicant's driving record found in the CDLIS,[1] for CDL holders, and inspections recorded in MCMIS.[2] For non-CDL holders, the Agency reviewed the driving records from the State licensing agency. Each applicant's record demonstrated a safe driving history. The Agency believes the drivers covered by the exemptions do not pose a risk to public safety.

C. Comments

FMCSA announced the exemption applications and requested public comment for each of the applicants in one of the notices below. For those applicants discussed in a previous notice but who are not mentioned in this notice, the Agency announced its decision in a previous notice.

Docket # FMCSA–2013–0121

On May 3, 2013, FMCSA published a notice of receipt of exemption applications and requested public comment on 9 individuals. The comment period ended on June 3, 2013. In response to the notice, FMCSA received three comments. All three commenters support the idea of granting exemptions.

Docket # FMCSA–2013–0122

On May 6, 2013, FMCSA published a notice of receipt of exemption applications and requested public comment on 16 individuals. The comment period ended on June 5, 2013. In response to the notice, FMCSA received four comments. All four commenters support the idea of granting exemptions.

Docket # FMCSA–2013–0123

On July 16, 2013, FMCSA published a notice of receipt of exemption applications and requested public comment on 27 individuals. The comment period ended on August 15, 2013. In response to the notice, FMCSA received seven comments. All seven commenters support the idea of granting exemptions.

D. Exemptions Granted

Following individualized assessments of the exemption applications, FMCSA grants exemptions from 49 CFR 391.41(b)(11) to 39 individuals. Under current FMCSA regulations, all of the 39 drivers receiving exemptions from 49 CFR 391.41(b)(11) would have been considered physically qualified to drive a CMV in interstate commerce except that they do not meet the hearing requirement. FMCSA has determined that the following 39 applicants should be granted an exemption:

Andrew Alcozer

Mr. Alcozer, 30, holds an operator's license from Illinois.

James Allen

Mr. Allen, 47, holds an operator's license from Vermont.

Michael Beebe

Mr. Beebe, 51, holds an operator's license from New Jersey.

Shayne Bumbalough

Mr. Bumbalough, 41, holds an operator's license from Washington.

Barry Carpenter

Mr. Carpenter, 57, holds an operator's license from South Dakota.

Gregorio Cerino-Perez

Mr. Cerino-Perez, 36, holds an operator's license from Virginia.

Charles Cofield

Mr. Cofield, 37, holds an operator's license from Mississippi.

Chase Cook

Mr. Cook, 31, holds an operator's license from Virginia.

Barry Crisman

Mr. Crisman, 53, holds an operator's license from California.

Michael Desarmeaux

Mr. Desarmeaux, 53, holds an operator's license from Ohio.

Robert Douglas

Mr. Douglas, 47, holds an operator's license from California.

William Faulk

Mr. Faulk, 33, holds an operator's license from Alabama.

Michael Fuller

Mr. Fuller, 30, holds an operator's license from North Carolina.

Daniel Grossinger

Mr. Grossinger, 27, holds an operator's license from Maryland.

Gregory Hill

Mr. Hill, 38, holds an operator's license from Mississippi.

Kyle Hornung

Mr. Hornung, 25, holds an operator's license from Wisconsin.

Ronald Jardine

Mr. Jardine, 60, holds an operator's license from New Jersey.

Michael Jenkins

Mr. Jenkins, 33, holds an operator's license from Virginia.

Roman Landa

Mr. Landa, 37, holds an operator's license from California.

Bryan Macfarlane

Mr. Macfarlane, 33, holds an operator's license from Vermont.

Aminder Malhi

Mr. Malhi, 25, holds an operator's license from California.

Mark Martin

Mr. Martin, 60, holds an operator's license from Michigan.

Joshua Moothart

Mr. Moothart, 36, holds an operator's license from Oregon.

Robert Munson

Mr. Munson, 63, holds an operator's license from New Jersey.

Jayson Lawson

Mr. Lawson, 39, holds an operator's license from Arkansas.

Albert Nicholson

Mr. Nicholson, 43, holds an operator's license from New Mexico.

Darren Nordquist

Mr. Nordquist, 46, holds an operator's license from Wisconsin.

Edwin Oakes II

Mr. Oakes, 44, holds an operator's license from New York.

Jeffrey Pagenkopf

Mr. Pagenkopf, 30, holds an operator's license from Minnesota.

Jacob Paullin

Mr. Paullin, 38, holds an operator's license from Wisconsin.

Ryan Pope

Mr. Pope, 37, holds an operator's license from California.

[1] *Commercial Driver License Information System* (CDLIS) is an information system that allows the exchange of commercial driver licensing information among all the States. CDLIS includes the databases of 51 licensing jurisdictions and the CDLIS Central Site, all connected by a telecommunications network.

[2] *Motor Carrier Management Information System* (MCMIS) is an information system that captures data from field offices through SAFETYNET, CAPRI, and other sources. It is a source for FMCSA inspection, crash, compliance review, safety audit, and registration data.

Thomas Potterfield

Mr. Potterfield, 31, holds an operator's license from South Carolina.

Thomas Prickett

Mr. Prickett, 45, holds an operator's license from Minnesota.

Fernando Ramirez-Savon

Mr. Ramirez-Savon, 45, holds a class A commercial driver's license from New Mexico.

Ralph Reno

Mr. Reno, 43, holds an operator's license from Pennsylvania.

Ronald Rutter

Mr. Rutter, 50, holds an operator's license from Arizona.

Russell Smith

Mr. Smith, 44, holds an operator's license from Ohio.

James Weir

Mr. Weir, 41, holds an operator's license from Washington.

Billy White

Mr. White, 42, holds an operator's license from Texas.

E. Basis For Exemption

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the hearing standard in 49 CFR 391.41(b)(11) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. With the exemption, applicants can drive in interstate commerce. Thus, the Agency's analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce. The driver must comply with the terms and conditions of the exemption. This includes reporting any crashes or accidents as defined in 49 CFR 390.5 and reporting all citations and convictions for disqualifying offenses under 49 CFR part 383 and 49 CFR 391.

Conclusion

The Agency is granting exemptions from the hearing standard, 49 CFR 391.41(b)(11), to 39 individuals based on an evaluation of each driver's safety experience. Safety analysis of information relating to these 39 applicants meets the burden of showing that granting the exemptions would achieve a level of safety that is equivalent to or greater than the level that would be achieved without the exemption. By granting the exemptions, the CMV industry will gain 39 additional CMV drivers. In accordance with 49 U.S.C. 31315, each exemption will be valid for 2 years from the effective date with annual recertification required unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

FMCSA exempts the following 39 drivers for a period of 2 years from the physical qualification standard concerning hearing: Andrew Alcozer (IL); James Allen (VT); Michael Beebe (NJ); Shayne Bumbalough (WA); Barry Carpenter (SD); Gregorio Cerino-Perez (VA); Charles Cofield (MS); Chase Cook (VA); Barry Crisman (CA); Michael Desarmeaux (OH); Robert Douglas (CA); William Faulk (AL); Michael Fuller (NC); Daniel Grossinger (MD); Gregory Hill (MS); Kyle Hornung (WI); Ronald Jardine (NJ); Michael Jenkins (VA); Roman Landa (CA); Bryan Macfarlane (VT); Aminder Malhi (CA); Mark Martin (MI); Joshua Moothart (OR); Robert Munson (NJ); Jayson Lawson (AR); Albert Nicholson (NM); Darren Nordquist (WI); Edwin Oakes II (NY); Jeffrey Pagenkopf (MN); Jacob Paullin (WI); Ryan Pope (CA); Thomas Potterfield (SC); Thomas Prickett (MN); Fernando Ramirez-Savon (NM); Ralph Reno (PA); Ronald Rutter (AZ); Russell Smith (OH); James Weir (WA); and Billy White (TX).

Dated: April 2, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–08062 Filed 4–7–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2015–0057]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation.

ACTION: Notice of applications for exemptions request for comments.

SUMMARY: FMCSA announces receipt of applications from 49 individuals for exemption from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

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

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2015–0057 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: 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 *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Carrier, Driver and Vehicle Safety Standards, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 49 individuals listed in this notice have recently requested such an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

II. Qualifications of Applicants

Christopher R. Alba

Mr. Alba, 35, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Alba understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Alba meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Colorado.

Lloyd T. Beverly

Mr. Beverly, 65, has had ITDM since 2014. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Beverly understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Beverly meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Virginia.

James R. Bledsoe

Mr. Bledsoe, 65, has had ITDM since 2001. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Bledsoe understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bledsoe meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Florida.

Sammy W. Bowlin

Mr. Bowlin, 58, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Bowlin understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bowlin meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Kansas.

Durwin A. Brannon

Mr. Brannon, 59, has had ITDM since 2009. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Brannon understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Brannon meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from North Carolina.

Larry J. Carril

Mr. Carril, 64, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Carril understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Carril meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Illinois.

Jimmy E. Cole

Mr. Cole, 66, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Cole understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Cole meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Tennessee.

Richard S. Collins

Mr. Collins, 45, has had ITDM since 2013. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the

past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Collins understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Collins meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Iowa.

Robert S. Colosimo

Mr. Colosimo, 64, has had ITDM since 2011. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Colosimo understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Colosimo meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from North Dakota.

Joel F. Cook

Mr. Cook, 40, has had ITDM since 1990. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Cook understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Cook meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class B CDL from New York.

James N. Coombs

Mr. Coombs, 52, has had ITDM since 2015. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Coombs understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Coombs meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New Jersey.

David A. Daniels

Mr. Daniels, 60, has had ITDM since 2015. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Daniels understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Daniels meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Maine.

Mark J. Dias

Mr. Dias, 47, has had ITDM since 2012. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Dias understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Dias meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Massachusetts.

William A. Emerick

Mr. Emerick, 74, has had ITDM since 2011. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Emerick understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Emerick meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Massachusetts.

Brian A. Foss

Mr. Foss, 38, has had ITDM since 1982. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Foss understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Foss meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Wyoming.

William A. H. Gardner

Mr. Gardner, 44, has had ITDM since 1981. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Gardner understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gardner meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from California.

Gary R. Gill

Mr. Gill, 61, has had ITDM since 2014. His endocrinologist examined him

in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Gill understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gill meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Steven M. Gilmour

Mr. Gilmour, 55, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Gilmour understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gilmour meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Massachusetts.

Ismael Gonzalez

Mr. Gonzalez, 60, has had ITDM since 2013. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Gonzalez understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gonzalez meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Indiana.

Arnold P. Griffith, Jr.

Mr. Griffith, 71, has had ITDM since 2012. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Griffith understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Griffith meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Iowa.

Charles A. Gudaitis

Mr. Gudaitis, 50, has had ITDM since 1994. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Gudaitis understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gudaitis meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Pennsylvania.

Scott D. Hanlon

Mr. Hanlon, 58, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hanlon understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hanlon meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from New York.

Cory A. Harker

Mr. Harker, 24, has had ITDM since 2000. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Harker understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Harker meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class C CDL from Florida.

Stanley A. Head

Mr. Head, 63, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Head understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Head meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Georgia.

David W. Henderson

Mr. Henderson, 58, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Henderson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Henderson meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist

examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from North Carolina.

Clark D. Holdeman

Mr. Holdeman, 32, has had ITDM since 2007. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Holdeman understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Holdeman meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Texas.

William E. Holt

Mr. Holt, 58, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Holt understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Holt meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Texas.

David A. Holwegner

Mr. Holwegner, 57, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Holwegner understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Holwegner meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Washington.

Alan D. Jacobs

Mr. Jacobs, 65, has had ITDM since 2000. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Jacobs understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Jacobs meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Oregon.

Conrad J. Janik

Mr. Janik, 61, has had ITDM since 1973. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Janik understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Janik meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New York.

David F. Kenny

Mr. Kenny, 52, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Kenny understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Kenny meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New York.

George W. Key, Jr.

Mr. Key, 58, has had ITDM since 2012. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Key understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Key meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Alabama.

Michael O. Lancial

Mr. Lancial, 56, has had ITDM since 2006. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Lancial understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Lancial meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a chauffeur's license from Michigan.

Frank A. Mowers

Mr. Mowers, 81, has had ITDM since 2011. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in

the last 5 years. His endocrinologist certifies that Mr. Mowers understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Mowers meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Illinois.

Charles H. Nichols

Mr. Nichols, 51, has had ITDM since 2008. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Nichols understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Nichols meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a chauffeur's license from Michigan.

Marvin R. Nunn

Mr. Nunn, 57, has had ITDM since 2010. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Nunn understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Nunn meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Oregon.

Terry C. Rose

Mr. Rose, 70, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Rose understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rose meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from North Carolina.

Robert L. Rush, Jr.

Mr. Rush, 42, has had ITDM since 2014. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Rush understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rush meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Derek J. Scougal

Mr. Scougal, 35, has had ITDM since 2009. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Scougal understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Scougal meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Virginia.

Roy Silva

Mr. Silva, 59, has had ITDM since 2000. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Silva understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Silva meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class B CDL from Illinois.

James L. Skinner

Mr. Skinner, 46, has had ITDM since 1975. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Skinner understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Skinner meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he has stable proliferative diabetic retinopathy. He holds a Class A CDL from Iowa.

Robert L. Terry

Mr. Terry, 53, has had ITDM since 2010. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Terry understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Terry meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Tennessee.

Rafael Torres, Jr.

Mr. Torres, 54, has had ITDM since 2014. His endocrinologist examined him

in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Torres understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Torres meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Florida.

Matthew C. Vaillancourt

Mr. Vaillancourt, 27, has had ITDM since 2012. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Vaillancourt understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Vaillancourt meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds an operator's license from Massachusetts.

Joseph E. Weitzel

Mr. Weitzel, 55, has had ITDM since 2005. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Weitzel understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Weitzel meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Pennsylvania.

Ashley M. Winkels

Ms. Winkels, 30, has had ITDM since 2014. Her endocrinologist examined her in 2014 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Winkels understands diabetes management and monitoring, has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Winkels meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her optometrist examined her in 2015 and certified that she does not have diabetic retinopathy. She holds an operator's license from Minnesota.

Steven L. Wolvers

Mr. Wolvers, 56, has had ITDM since 1995. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wolvers understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wolvers meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds an operator's license from Iowa.

David W. Wood

Mr. Wood, 75, has had ITDM since 2012. His endocrinologist examined him in 2015 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wood understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wood meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2014 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Idaho.

Donald E. Zimmerman

Mr. Zimmerman, 70, has had ITDM since 2013. His endocrinologist examined him in 2014 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Zimmerman understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Zimmerman meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2015 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from North Carolina.

III. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441) [1]. The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) Elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the

[1] Section 4129(a) refers to the 2003 notice as a ''final rule.'' However, the 2003 notice did not issue a ''final rule'' but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 U.S.C. 31136(e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary.

The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

IV. Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2015–0057 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

V. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2015–0057 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued on: April 2, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–08053 Filed 4–7–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Denial of Motor Vehicle Defect Petition, DP14–002

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition for a defect investigation.

SUMMARY: This document denies a July 7, 2014 petition from Mr. Brian Rosa of Union, NJ, requesting that the agency open an investigation into an alleged defect resulting in engine stall without warning after refueling in a model year (MY) 2007 Dodge Grand Caravan minivan. The petitioner's vehicle is a Chrysler RS platform minivan. The RS platform includes MY 2003 through 2007 Dodge Grand Caravan, Dodge Caravan, Chrysler Town and Country and Chrysler Voyager minivans. NHTSA evaluated the petition by analyzing consumer complaints submitted to the Agency, analyzing field data and reviewing technical information provided by Chrysler in response to an information request letter from the Agency, and testing an RS minivan that was the subject of a post-refuel engine stall complaint to NHTSA. After completing this evaluation, NHTSA has concluded that further investigation of the alleged defect in the subject vehicles is unlikely to result in a determination that a safety-related defect exists. The agency accordingly denies the petition.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Simmons, Vehicle Control Division, Office of Defects Investigation, NHTSA, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone: (202) 366–2315.

SUPPLEMENTARY INFORMATION:

Alleged Defect

The petitioner alleges that his MY 2007 Dodge Grand Caravan vehicle experienced multiple incidents of engine stall without warning after refueling. The petitioner discovered that the defective part is a valve that is integral to the fuel tank, requiring tank replacement to repair the problem. The petitioner alleged that stalling without warning is an unreasonable risk to motor vehicle safety and requests the agency take action by opening a Preliminary Evaluation fully evaluate the defect.

Engine Stall Defects

The United States Code for Motor Vehicle Safety (Title 49, Chapter 301) defines motor vehicle safety as ''the performance of a motor vehicle or motor vehicle equipment in a way that protects the public against unreasonable risk of accidents occurring because of the design, construction, or performance of a motor vehicle, and against unreasonable risk of death or injury in an accident, and includes nonoperational safety of a motor vehicle.'' NHTSA considers several factors when assessing the safety risk posed by conditions that may result in engine stall while driving. These include the speeds at which stalling may occur, the ability of the driver to restart the vehicle, the warning available to the driver prior to stalling, the effects of engine stall on vehicle controllability, when and where the stalling will occur and the effects of the condition on other safety systems of the vehicle. In general, conditions that result in engine stall during low-speed operation at idle, such as when slowing to a stop, and which do not affect the operator's ability to immediately restart the engine are considered the least hazardous types of stalling problems and, absent other safety factors, are not considered to be unreasonable risks to safety.

Background (PE13–016)

On February 10, 2014, ODI closed an investigation of an alleged defect in approximately 153,817 MY 2006 Chrysler 300, Dodge Charger and Dodge Magnum vehicles (LX cars) that may result in engine stall shortly after refueling (PE13–016). In response to ODI's information request for PE13–016, Chrysler identified a problem with the multifunction control valve (MFCV) fuel shutoff float integrated into 19-gallon fuel tanks in certain LX vehicles. According to Chrysler, the float may swell after exposure to fuels with high ethanol content, which may cause the valve to stick. A float valve that is stuck open during refueling, could result in fuel tank overfill and allow raw fuel to enter the purge line. This could result in problems with engine driveability (*e.g.,* stumble or hesitation) or stall while driving in the brief period immediately after filling the fuel tank.

ODI's analysis of complaints related to this condition determined that most of the incidents of engine stall were occurring when the vehicles were stopped or travelling at low speeds and there were no reports of any difficulty restarting the engines after such incidents. No crashes or injuries were identified in the subject vehicles, which had been in service for 7 to 8 years. The investigation was closed with no safety recall due to the low safety risk associated with the alleged defect condition.

RS Minivan analysis

In response to ODI's information request letter for DP14–002, Chrysler indicated that the RS Minivans may experience a condition with MFCV float sticking similar to the one investigated in the LX Cars in PE13–016:

''The failure mechanism is a result of a swollen refueling float within the multifunction control valve. Studies have proven that elevated ethanol additives cause the float and housing to swell, which, in turn, causes the float to intermittently stick. Once stuck, a limited amount of fuel will pass beyond the refuel float and enter the vapor recovery system before the fill pressure threshold is reached and shuts the fuel nozzle off.

''Once fuel has entered into in the vapor recovery system, it can then be purged into the engine's intake system in place of anticipated vapor within the first minute of starting the engine. The result of fuel rather than vapor entering in the engine intake system will cause the engine to stumble or, when the vehicle is not in motion and/or the engine at idle, a stall can occur. The condition is often contained to a momentary engine stumble as the purge event is immediately turned off when a rich fuel condition is detected by the Powertrain Control Module.

''Chrysler believes there is no unreasonable risk to motor safety because an engine stumble or rough idle will occur at a low driving speed, and while a stall is most likely to occur at an idle or stop. There have been no reported accidents or property damage in over 1.8 million vehicles. Additionally, when a refuel valve does stick, there is sufficient back pressure in the fuel system to shut off the fuel pump and limit the amount of the fuel into the purge line.''

ODI's analysis of complaints, field reports, legal claims and warranty data related to the alleged defect in Chrysler RS Minivans identified a total of 720 post-refueling engine stall incidents in approximately 1.8 million vehicles, resulting in an overall rate of 0.39 per incidents per thousand vehicles (IPTV). Similar to the LX Car analysis in PE13–016, the engine stalls were mostly occurring when the vehicle was stopped or coasting to a stop at low speed. There were no allegations of difficulty restarting the engines immediately after the stalls occurred. There were no allegations of crash or injury.

Differences in tank design, exhaust routing and purge strategy may influence the incident rate at which the MFCV float sticking condition occurs and/or the potential for engine stall or other performance concerns. As a result, ODI's analysis examined incident rates over the full range of RS Minivan production to assess the effects of changes in tank design and purge control logic. This analysis identified an elevated incident rate for approximately 208,000 MY 2004 and 2005 RS Minivans built during a seventh month period from September 2003 through March 2004, which exhibited a failure rate similar to the LX Cars investigated in PE13–016. Table 1 summarizes the field data for DP14–002 and PE13–016.

TABLE 1. SUMMARY OF NHTSA COMPLAINTS AND CHRYSLER COMPLAINTS, FIELD REPORTS AND LAWSUITS

NHTSA inv. No.	Vehicles	Build range	Population	Vehicle age (yrs)	Total reports	Report rate (IPTV)	Crashes/ Injuries
PE13–016	LX cars, 2006	4/05–7/06	153,817	7–8	299	1.94	0/0
DP14–002	RS vans, 2003–04	7/02–8/03	425,544	11–12	34	0.08	0/0
	RS vans, 2004–05	9/03–3/04	208,419	10–11	445	2.14	0/0
	RS vans, 2005–07	4/04–5/07	1,221,370	7–10	241	0.20	0/0
	Total RS, 2003–07	7/02–5/07	1,855,333	7–12	720	0.39	0/0

Subject Vehicle Test Results

As part of its evaluation of this defect petition, NHTSA's Vehicle Research and Test Center (VRTC) conducted testing on a 2005 Chrysler Town & Country LMT (3.6L SFI, 20 gal. fuel tank) vehicle that was the subject of an ODI complaint (VOQ 10641603) that provided the following description of the problem:

After fill up, vehicle stalls, the engine cuts off and the vehicle loses all power and power steering. This happened first on a cross country trip and caused some serious safety concerns when attempting to exit the gas station and merge onto the highway. This problem has been occurring regularly from the first instance in 2011. When fueling, the van is never over filled; we fill until the pump clicks off. This seems to be a fairly common problem in this generation of minivans as represented in online forums trying to diagnose the problem.

VRTC conducted tests on the complaint vehicle to assess engine performance after refueling, including the driving conditions and ease of engine restart associated with any observed engine stalls. When refueling the vehicle up to the initial shut-off of the filling station pump nozzle, the VRTC testing was able to reproduce stalling incidents when the vehicle was stopped or coasting to a stop at low speed. The vehicle did not stall 4 out of 5 times when travelling at 5 mph, but minor hesitation was noted. No stalls and only minor hesitation were occurred when travelling at 10 mph or above in tanks filled to the initial nozzle shut-off. Stalling was more likely to occur if the tank was overfilled (*i.e.,* adding fuel past the initial fill nozzle shutoff). Testing after overfilling resulted in stalls in 4 of 5 tests at speeds up to 10 mph. Regardless of fill condition, the vehicle could always be immediately restarted after each engine stall.

Conclusion

In the Agency's view, additional investigation is unlikely to result in a finding that a defect related to motor vehicle safety exists given the limited conditions under which the subject condition may result in engine stall, the low failure rate in vehicles with approximately 8 to 13 years in service and the absence of any reports of crashes or injuries. Therefore, in view of the need to allocate and prioritize NHTSA limited resources to best accomplish the Agency's safety mission, the petition is denied. This action does not constitute a finding by NHTSA that a safety-related defect does not exist. The Agency will take further action if warranted by future circumstances.

Authority: 49 U.S.C. 30162(d); delegations of authority at CFR 1.50 and 501.8.

Frank S. Borris II,

Acting Associate Administrator for Enforcement.

[FR Doc. 2015–08082 Filed 4–7–15; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 33 (Sub–No. 325X)]

Union Pacific Railroad Company—Discontinuance of Service Exemption—in Waukesha County, Wis.

Union Pacific Railroad Company (UP) has filed a verified notice of exemption under 49 CFR part 1152 subpart F–*Exempt Abandonments and Discontinuances of Service* to discontinue service over a 1.01-mile portion of rail line, known as the Waukesha Industrial Lead, from milepost 17.15 to the end of the line at milepost 18.16 in Waukesha County, Wis. (the Line). The Line traverses United States Postal Service Zip Codes 53186 and 53146.

UP has certified that: (1) No local traffic has moved over the Line for at least two years; (2) there is no overhead traffic on the Line; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) to subsidize continued rail service has been received, this exemption will become effective on May 8, 2015, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2),[1] must be filed by April 20, 2015.[2] Petitions to reopen must be filed by April 28, 2015, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to UP's representative: Mack H. Shumate, Jr., Senior General Attorney, 101 North Wacker Drive, Room 1920, Chicago, IL 60606.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

Board decisions and notices are available on our Web site at ''*WWW.STB.DOT.GOV.*''

Decided: April 3, 2015.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2015–08080 Filed 4–7–15; 8:45 am]

BILLING CODE 4915–01–P

[1] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. *See* 49 CFR 1002.2(f)(25).

[2] Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 156 (Sub-No. 27X)]

Delaware and Hudson Railway Company, Inc.—Discontinuance of Trackage Rights Exemption—in Broome County, N.Y., Essex, Union, Somerset, Hunterdon, and Warren Counties, N.J., Luzerne, Perry, York, Lancaster, Northampton, Lehigh, Carbon, Berks, Montgomery, Northumberland, Dauphin, Lebanon, and Philadelphia Counties, Pa., Harford, Baltimore, Anne Arundel, and Prince George's Counties, Md., the District of Columbia, and Arlington County, Va

Delaware and Hudson Railway Company, Inc. (D&H), a wholly-owned indirect subsidiary of Canadian Pacific Railway Company, has filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue its overhead and local trackage rights over approximately 670 miles of rail line (the Lines) owned and/or operated by Norfolk Southern Railway Company, Reading Blue Mountain and Northern Railroad Company, CSX Transportation, Inc., Consolidated Rail Corporation, Wilkes-Barre Connecting Railroad Company, Pocono Northeast Railway, Inc., and National Railroad Passenger Corporation. The Lines are located: (1) In Binghamton, N.Y., (2) in Wilkes-Barre, Pa., (3) between Hudson (Plains), Pa., and Buttonwood, Pa., (4) between Sunbury, Pa., and Harrisburg, Pa., (5) between Harrisburg and Potomac Yard, Va., via Perryville, Md., (6) between Harrisburg and Philadelphia, Pa., via Reading, Pa., (7) between Reading and Allentown, Pa., (8) between Dupont, Pa., and Allentown, and (9) between Allentown and Oak Island, N.J.

The Lines traverse United States Postal Service Zip Codes as follows: (1) Pennsylvania—17110, 17020, 17053, 17025, 17011, 17043, 17070, 17319, 17370, 17345, 17347, 17406, 17547, 17512, 17582, 17516, 17565, 17532, 17518, 17563, 17101, 17102, 17120, 17104, 17113, 17057, 17502, 17801, 17823, 17830, 17017, 17061, 17032, 17018, 17112, 18240, 18229, 18235, 18071, 18058, 18080, 18088, 18059, 18067, 18052, 18032, 18109, 18018, 18015, 18017, 18020, 18045, 18042, 18103, 18049, 18062, 18011, 19539, 19562, 19530, 19522, 19510, 19605, 19604, 19601, 19602, 19606, 19508, 19518, 19464, 19468, 19460, 19406, 19401, 19428, 19035, 19072, 19004, 19131, 19121, 19129, 19132, 19133, 19122, 19123, 19107, 19147, 19148, 19145, 19106, 19112, 17103, 17111, 17036, 17033, 17078, 17042, 17046, 17067, 17087, 17073, 19567, 19551, 19565, 19608, 19609, 19610, 19611, 18641, 18640, 18702, 18706, 18707, 18661, 18255, 18701, 18704, and 18705; (2) Maryland—21918, 21904, 21903, 21078, 21001, 21040, 21010, 21220, 21221, 21237, 21224, 21205, 21203, 21212, 21201, 21217, 21223, 21229, 21227, 21090, 21076, 21240, 21077, 21144, 21113, 20775, 20715, 20720, 20769, 20706, 20784, 20785, and 20743; (3) District of Columbia—20003, 20019, and 20024; (4) Virginia—22202; (5) New Jersey—07102, 07105, 07114, 07112, 07205, 07083, 07204, 07203, 07016, 07027, 07090, 07076, 07023, 07062, 07060, 07063, 08812, 08846, 08805, 08807, 08835, 08844, 08853, 08822, 08887, 08801, 08867, 08827, 08802, 08804, and 08865; and (6) New York—13748, 13790, 13901, 13903, and 13905.

D&H has certified that (1) no local traffic has moved over the Lines for at least two years; (2) any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Lines (or by a state or local government entity acting on behalf of such user) regarding cessation of service on the Lines either is pending with the Board or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance shall be protected under

Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) to subsidize continued rail service has been received, this exemption will be effective on May 8, 2015,[1] unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2)[2] must be filed by April 20, 2015. Petitions to reopen must be filed by April 28, 2015, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to D&H's representative: W. Karl Hansen, Stinson Leonard Street LLP, 150 South Fifth Street, Suite 2300, Minneapolis, MN 55402.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

Board decisions and notices are available on our Web site at ''*WWW.STB.DOT.GOV.*''

Decided: April 3, 2015.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2015–08081 Filed 4–7–15; 8:45 am]

BILLING CODE 4915–01–P

[1] The Board expects to establish a later effective date for this exemption and will do so in a separate decision.

[2] Each OFA must be accompanied by the filing fee, which currently is set at $1,600. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable On Federal Bonds: Termination Companion Property and Casualty Insurance Company

AGENCY: Bureau of the Fiscal Service, Fiscal Service Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No .8 to the Treasury Department Circular 570; 2014 Revision, published July 1, 2014, at 79 FR 37398.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6850.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Certificate of Authority issued by the Treasury to Companion Property and Casualty Insurance Company (NAIC #12157) under 31 U.S.C. 9305 to qualify as an acceptable surety on Federal bonds is terminated immediately. Federal bond-approving officials should annotate their reference copies of the Treasury Department Circular 570 (''Circular''), 2014 Revision, to reflect this change.

With respect to any bonds, including continuous bonds, currently in force with above listed Company, bond-approving officers should secure new bonds with acceptable sureties in those instances where a significant amount of liability remains outstanding. In addition, in no event, should bonds that are continuous in nature be renewed.

The Circular may be viewed and downloaded through the Internet at *http://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/surety_home.htm.*

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Bureau of Fiscal Service, Financial Accounting and Services Branch, Surety Bond Section, 3700 East-West Highway, Room 6D22, Hyattsville, MD 20782.

Dated: March 26, 2015.

Kevin McIntyre,

Manager, Financial Accounting and Services Branch.

[FR Doc. 2015–08038 Filed 4–7–15; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Bondex Insurance Company

AGENCY: Bureau of the Fiscal Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 6 to the Treasury Department Circular 570, 2014 Revision, published July 1, 2014, at 79 FR 37398.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6850.

SUPPLEMENTARY INFORMATION: A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued under 31 U.S.C. 9305 to the following company:

Bondex Insurance Company (NAIC# 12965), BUSINESS ADDRESS: 30A Vreeland Road, Suite 120, Florham Park, NJ 07932. PHONE: (973) 377–7000. UNDERWRITING LIMITATION b/: $274,000. SURETY LICENSES c/: NJ. INCORPORATED IN: NJ.

Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570 (''Circular''), 2014 Revision, to reflect this addition.

Certificates of Authority expire on June 30th each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (*see* 31 CFR part 223). A list of qualified companies is published annually as of July 1st in the Circular, which outlines details as to the underwriting limitations, areas in which companies are licensed to transact surety business, and other information.

The Circular may be viewed and downloaded through the Internet at *www.fiscal.treasury.gov/fsreports/ref/suretyBnd/surety_home.htm.*

Questions concerning this Notice may be directed to the U.S. Department of the Treasury, Bureau of the Fiscal Service, Financial Accounting and Services Branch, Surety Bond Branch, 3700 East-West Highway, Room 6D22, Hyattsville, MD 20782.

Dated: March 11, 2015.

Kevin McIntyre,

Manager, Financial Accounting and Services Branch.

[FR Doc. 2015–08044 Filed 4–7–15; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Termination; American Service Insurance Company, Inc.

AGENCY: Bureau of the Fiscal Service, Fiscal Service Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 9 to the Treasury Department Circular 570; 2014 Revision, published July 1, 2014, at 79 FR 37398.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6850.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Certificate of Authority issued by the Treasury to American Service Insurance Company, Inc. (NAIC #42897) under 31 U.S.C. 9305 to qualify as an acceptable surety on Federal bonds is terminated effective

immediately. Federal bond-approving officials should annotate their reference copies of the Treasury Department Circular 570 (''Circular''), 2014 Revision, to reflect this change.

With respect to any bonds currently in force with this company, bond approving officers may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from this company and bonds that are continuous in nature should not be renewed.

The Circular may be viewed and downloaded through the Internet at *http://www.fiscal.treasury.gov/fsreports/ref/surety/Bnd/surety_home.htm.*

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Bureau of the Fiscal Service, Financial Accounting and Services Branch, Surety Bond Section, 3700 East-West Highway, Room 6D22, Hyattsville, MD 20782.

Dated: March 26, 2015.

Kevin McIntyre,

Manager, Financial Accounting and Services Branch.

[FR Doc. 2015–08037 Filed 4–7–15; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: The Charter Oak Fire Insurance Company (NAIC #25615); Travelers Property Casualty Company of America (NAIC #25674); The Travelers Indemnity Company of Connecticut (NAIC #25682); The Travelers Indemnity Company of America (NAIC #25666)

AGENCY: Bureau of the Fiscal Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 7 to the Treasury Department Circular 570, 2014 Revision, published July 1, 2014, at 79 FR 37398.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6850.

SUPPLEMENTARY INFORMATION: A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued under 31 U.S.C. 9305 to the following companies:

The Charter Oak Fire Insurance Company (NAIC #25615)

BUSINESS ADDRESS: One Travelers Square, Hartford, CT 06183, PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/:$24,592,000. SURETY LICENSES c/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Travelers Property Casualty Company of America (NAIC #25674)

BUSINESS ADDRESS: One Travelers Square, Hartford, CT 06183, PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/:$48,701,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

The Travelers Indemnity Company of Connecticut (NAIC #25682)

BUSINESS ADDRESS: One Travelers Square, Hartford, CT 06183, PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/:$36,557,000. SURETY LICENSES c/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

The Travelers Indemnity Company of America (NAIC #25666)

BUSINESS ADDRESS: One Travelers Square, Hartford, CT 06183, PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/:$19,451,000. SURETY LICENSES c/: AL, AK, AZ, AR, CO, CT, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570 (''Circular''), 2014 Revision, to reflect this addition.

Certificates of Authority expire on June 30th each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (*see* 31 CFR part 223). A list of qualified companies is published annually as of July 1st in the Circular, which outlines details as to the underwriting limitations, areas in which companies are licensed to transact surety business, and other information.

The Circular may be viewed and downloaded through the Internet at *www.fiscal.treasury.gov/fsreports/ref/suretyBnd/surety_home.htm.*

Questions concerning this Notice may be directed to the U.S. Department of the Treasury, Bureau of the Fiscal Service, Financial Accounting and Services Branch, Surety Bond Branch, 3700 East-West Highway, Room 6D22, Hyattsville, MD 20782.

Dated: March 26, 2015.

Kevin McIntyre,

Manager, Financial Accounting and Services Branch.

[FR Doc. 2015–08043 Filed 4–7–15; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds—Change in State of Incorporation Arch Reinsurance Company

AGENCY: Bureau of the Fiscal Service, Fiscal Service Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 5 to the Treasury Department Circular 570, 2014 Revision, published July 1, 2014, at 79 FR 37398.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6850.

SUPPLEMENTARY INFORMATION: Notice is hereby given that Arch Reinsurance Company (NAIC#10348) has redomesticated from the state of Nebraska to the state of Delaware effective September 15, 2014. Federal bond-approving officials should annotate their reference copies of the Treasury Department Circular 570 (''Circular''), 2014 Revision, to reflect this change.

The Circular may be viewed and downloaded through the Internet at *http://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/surety_home.htm.*

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Bureau of the Fiscal Service, Surety Bond Branch, 3700 East-West Highway, Room 6D22, Hyattsville, MD 20782.

Dated: March 11, 2015.

Kevin McIntyre,

Manager, Financial Accounting and Services Branch, Bureau of the Fiscal Service.

[FR Doc. 2015–08048 Filed 4–7–15; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF THE INTERIOR

[RC0ZCUPCA0, 155R0680R1, RR.17549897.2015101.02]

THE UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION

Office of the Assistant Secretary for Water and Science; Notice of Availability of the Final Environmental Impact Statement for the Provo River Delta Restoration Project

AGENCY: Central Utah Project Completion Act, Interior; Utah Reclamation Mitigation and Conservation Commission.

ACTION: Notice.

SUMMARY: The Department of the Interior, Utah Reclamation Mitigation and Conservation Commission, and the Central Utah Water Conservancy District, as Joint Lead Agencies, have prepared and made available to the public a Final Environmental Impact Statement (FEIS) that discloses the effects of the Provo River Delta Restoration Project (Project) which is a recovery action within the approved June Sucker Recovery Plan of 1999.

DATES: The Joint Lead Agencies will not make a decision on the proposed action until at least 30 days after the release of the FEIS. After the 30-day waiting period, The Department of the Interior and the Utah Reclamation Mitigation and Conservation Commission will each complete a separate Record of Decision. These documents will state the action that will be implemented and will discuss all factors leading to the decision.

ADDRESSES: Send written correspondence or requests for copies to Mr. Richard Mingo, Utah Reclamation Mitigation and Conservation Commission, 230 South 500 East Suite 230, Salt Lake City, UT 84102; or by email to *rmingo@usbr.gov.* The FEIS is accessible at the following Web sites: *www.cupcao.gov, www.provoriverdelta.us, www.mitigationcommission.gov, and www.cuwcd.com.* See the **SUPPLEMENTARY INFORMATION** section for locations where copies of the FEIS are available for public review.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Mingo, 801–524–3146; or by email to *rmingo@usbr.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Department of the Interior's Record of Decision for the Diamond Fork System Final Supplement to the Diamond Fork Power System Final Environmental Impact Statement, signed September 29, 1999, commits the Joint Lead Agencies to ''. . . participate in the development of a Recovery Implementation Program for June sucker.'' Moreover, ''. . . [a]ny future development of the Bonneville Unit of CUP [Central Utah Project] will be contingent on the RIP [June Sucker Recovery Implementation Program (JSRIP)] making 'sufficient progress' towards recovery of June sucker.'' The Utah Reclamation Mitigation and Conservation Commission signed its own Record of Decision for the Diamond Fork System Project on November 19, 1999. The JSRIP was established in 2002, and the Joint Lead Agencies are participants. The goals of the JSRIP are to recover June sucker so that it no longer requires protection under the Endangered Species Act and allow continued operation of existing water facilities and future development of water resources for human uses within the Utah Lake Basin in Utah.

The June sucker exists naturally only in Utah Lake and spawns primarily in the lower Provo River, a Utah Lake tributary. Monitoring indicates young June sucker hatching in the lower Provo River do not survive to the adult stage due to habitat inadequacies in the lower Provo River and its interface with Utah Lake related to flow, food supply, and shelter. A compounding factor is likely predation by nonnative fishes. Dredging and channelization for flood control has eliminated the shallow, warm, complex wetland habitat at the mouth of the Provo River where it enters Utah Lake.

Proposed Federal Action

The Project would restore the lower Provo River to a more natural deltaic ecosystem. The delta and associated habitat would provide needed habitat for the recovery of the endangered June sucker. These improvements would be accomplished through the implementation of one or any combination of the action alternatives and/or options analyzed in the FEIS.

Purpose and Need for Action

The Project has been identified as an essential action needed to recover the endangered June sucker. It would restore functional habitat conditions in the lower Provo River and its interface with Utah Lake that are needed for spawning, hatching, larval transport, survival, rearing and recruitment of young into the population on a self-sustaining basis.

The purposes of the Project are to:

- Implement the specific criteria of the June Sucker Recovery Plan to restore a naturally functioning Provo River delta ecosystem essential for recruitment of June sucker;
- provide recreational improvements and opportunities associated with the Project;
- adopt flow regime targets for the lower Provo River and provide delivery of supplemental water to the lower Provo River, including additional conserved water.

The FEIS describes and analyzes the potential effects of three action alternatives, a no action alternative, and two options for the existing Provo River channel.

No Action Alternative

This alternative considers the consequences of taking ''no action'' with respect to the purpose and need of the Project. Under the No Action Alternative, the planned Project would not be implemented, but remaining actions in the June Sucker Recovery Plan and JSRIP would proceed as planned, subject to National Environmental Policy Act compliance as appropriate. Private lands would not be acquired for the Project.

Alternative A

Alternative A would maximize the available rearing and spawning habitat for June sucker. The acquisition boundary for this alternative encompasses 507.3 acres.

Alternative B—Agency Preferred Alternative

Alternative B was developed with substantial involvement from study area landowners and other stakeholders. It is the agency preferred alternative. It would reduce the amount of private land required for the Project and preserve the highest-value agricultural land, while still meeting June sucker spawning and rearing habitat improvement needs. The acquisition boundary for this alternative encompasses 310.3 acres.

Alternative C

Alternative C would exclude most of the existing peat wetlands located on the east and north sides of the Project area from restoration activities but, as a consequence, would be constructed on the higher-value agricultural lands. Alternative C would meet June sucker spawning and rearing habitat improvement needs for the Project by using lands to the south of these wetlands. The acquisition boundary for this alternative encompasses 298.3 acres.

Existing Provo River Channel Options

Two options were considered for use of the existing Provo River Channel. Either of the two options could be paired with any of the three action alternatives. Option 1 would leave the existing Provo River Channel open to Utah Lake, allowing for fluctuating water levels at various times of the year. Option 2 would maintain the existing channel at a relatively constant elevation by constructing a small dam at the downstream mouth of the channel near Utah Lake State Park. Under both options, an aeration system would be installed and operated to improve water quality and a minimum flow of 10 cubic feet per second would be provided to the existing Provo River channel which would be retained and managed for recreational and aesthetic purposes.

A Notice of Availability of the Draft Environmental Impact Statement (DEIS) was published in the **Federal Register** on February 28, 2014 (79 FR 11511). The comment period on the DEIS ended on April 29, 2014. The FEIS contains responses to all comments received and reflects comments and any additional information received during the review period.

Copies of the FEIS are available for public review at:

- Department of the Interior, Central Utah Project Completion Act Office, 302 East 1860 South, Provo, Utah 84606–7317
- Utah Reclamation Mitigation and Conservation Commission, 230 South 500 East Suite 230, Salt Lake City, Utah 84102
- Central Utah Water Conservancy District, 355 West University Parkway, Orem, Utah 84058–7303

Libraries

- Provo City Public Library, 550 North University Avenue, Provo, Utah 84601
- Salt Lake City Public Library, 210 East 400 South, Salt Lake City, Utah 84111

Dated: March 10, 2015.

Reed R. Murray,

Program Director, Central Utah Project Completion Act Office, Department of the Interior.

Dated: March 10, 2015.

Michael C. Weland,

Executive Director, Utah Reclamation Mitigation and Conservation Commission.

[FR Doc. 2015–08035 Filed 4–7–15; 8:45 am]

BILLING CODE 4332–90–P

FEDERAL REGISTER

Vol. 80 Wednesday,
No. 67 April 8, 2015

Part II

Environmental Protection Agency

40 CFR Part 52
Promulgation of Air Quality Implementation Plans; State of Arkansas; Regional Haze and Interstate Visibility Transport Federal Implementation Plan; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2015–0189; FRL–9924–85–Region 6]

Promulgation of Air Quality Implementation Plans; State of Arkansas; Regional Haze and Interstate Visibility Transport Federal Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to promulgate a Federal Implementation Plan (FIP) to address certain regional haze and visibility transport requirements for the State of Arkansas. This FIP would address the requirements of the Regional Haze Rule (RHR) and interstate visibility transport for those portions of Arkansas' State Implementation Plan (SIP) we disapproved in our final action published on March 12, 2012. Specifically, the proposed FIP addresses the requirements for Best Available Retrofit Technology (BART) for those sources for which we did not approve Arkansas' BART determinations, Reasonable Progress Goals (RPGs), reasonable progress controls and a long-term strategy, as well as the interstate visibility transport requirements for pollutants that affect visibility in Class I areas in nearby states. Specific to the reasonable progress controls requirement, we are proposing in the alternative two options for controlling the emissions from the Entergy Independence Plant that is not subject to BART. Under Option 1, we are proposing controls for emissions of SO_2, and NO_X. If we take final action on this finding, the source will be subject to controls for both pollutants. Alternatively, under Option 2, we are proposing controls for only emissions of SO_2 for this planning period. In particular, we are soliciting comments on the alternate proposed Options 1 and 2.

DATES: *Comments:* Comments must be received on or before May 16, 2015.

Public Hearing: We are holding information sessions—for the purpose of providing additional information and informal discussion for our proposal, and public hearings—to accept oral comments into the record, as follows:

Date: Thursday, April 16, 2015.

Time: Information Session: 9 a.m.–9:45 a.m. (break from 9:45 a.m.–10 a.m.)

Public hearing: 10 a.m.–11:30 a.m. (break from 11:30 a.m.–1 p.m.)

Information Session: 1 p.m.–1:45 p.m. (break from 1:45 p.m.–2 p.m.)

Public hearing: 2 p.m.–7:30 p.m. (including break from 4 p.m.–4:30 p.m.).

Please see the **ADDRESSES** *section for the location of the hearing in North Little Rock, AR.*

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2015–0189, by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Email: R6AIR_ARHaze@epa.gov*.
- *Mail:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.
- *Hand or Courier Delivery:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays, and not on legal holidays. Special arrangements should be made for deliveries of boxed information.
- *Fax:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD–L), at fax number 214–665–7263.

Instructions: Direct your comments to Docket No. EPA–R06–OAR–2015–0189. Our policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means we will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to us without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, we recommend that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If we cannot read your comment due to technical difficulties and cannot contact you for clarification, we may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. SIP materials which are incorporated by reference into 40 Code of Federal Regulations (CFR) part 52 are available for inspection at the following location: Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, TX 75202. Publicly available materials are available either electronically in *www.regulations.gov* or in hard copy at the Region 6 office. The Regional Office hours are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

Hearing location: Arkansas Department of Environmental Quality, Commission Room, 1st floor, 5301 Northshore Drive, North Little Rock, AR 72118.

The public hearing will provide interested parties the opportunity to present information and opinions to us concerning our proposal. Interested parties may also submit written comments, as discussed in the proposal. Written statements and supporting information submitted during the comment period will be considered with the same weight as any oral comments and supporting information presented at the public hearing. We will not respond to comments during the public hearings. When we publish our final action, we will provide written responses to all significant oral and written comments received on our proposal. To provide opportunities for questions and discussion, we will hold an information session prior to the public hearing. During the information session, EPA staff will be available to informally answer questions on our proposed action. Any comments made to EPA staff during an information session must still be provided orally during the public hearing, or formally in writing within 30 days after completion of the hearings, in order to be considered in the record. At the public hearings, the hearing officer may limit the time available for each commenter to address the proposal to three minutes or less if the hearing officer determines it to be appropriate. We will not be providing equipment for commenters to

show overhead slides or make computerized slide presentations. Any person may provide written or oral comments and data pertaining to our proposal at the public hearings. Verbatim English language transcripts of the hearing and written statements will be included in the rulemaking docket.

FOR FURTHER INFORMATION CONTACT: To schedule your inspection, contact Ms. Dayana Medina at (214) 665–7241 or via electronic mail at *medina.dayana@epa.gov*.

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

Table of Contents

I. Background

Regional haze is visibility impairment that is produced by a multitude of sources and activities that are located across a broad geographic area and emit fine particulates ($PM_{2.5}$) (*e.g.,* sulfates, nitrates, organic carbon (OC), elemental carbon (EC), and soil dust), and their precursors (*e.g.,* sulfur dioxide (SO_2), nitrogen oxides (NO_X), and in some cases, ammonia (NH_3) and volatile organic compounds (VOC)). Fine particle precursors react in the atmosphere to form $PM_{2.5}$, which impairs visibility by scattering and absorbing light. Visibility impairment reduces the clarity, color, and visible distance that one can see. $PM_{2.5}$ can also cause serious health effects and mortality in humans and contributes to environmental effects such as acid deposition and eutrophication.

Data from the existing visibility monitoring network, the ''Interagency Monitoring of Protected Visual Environments'' (IMPROVE) monitoring network, show that visibility impairment caused by air pollution occurs virtually all the time at most national parks and wilderness areas. The average visual range [1] in many Class I areas (*i.e.,* national parks and memorial parks, wilderness areas, and international parks meeting certain size criteria) in the western United States is 100–150 kilometers, or about one-half to two-thirds of the visual range that would exist without anthropogenic air pollution. In most of the eastern Class I areas of the United States, the average visual range is less than 30 kilometers, or about one-fifth of the visual range that would exist under estimated natural conditions. 64 FR 35715 (July 1, 1999).

In section 169A of the 1977 Amendments to the Clean Air Act (CAA), Congress created a program for protecting visibility in the nation's national parks and wilderness areas. This section of the CAA establishes as a national goal the prevention of any future, and the remedying of any existing man-made impairment of visibility in 156 national parks and wilderness areas designated as mandatory Class I Federal areas.[2] On December 2, 1980, EPA promulgated regulations to address visibility impairment in Class I areas that is ''reasonably attributable'' to a single source or small group of sources, *i.e.,* ''reasonably attributable visibility impairment.'' [3] These regulations represented the first phase in addressing visibility impairment. EPA deferred action on regional haze that emanates from a variety of sources until monitoring, modeling, and scientific knowledge about the relationships between pollutants and visibility impairment were improved.

Congress added section 169B to the CAA in 1990 to address regional haze issues, and we promulgated regulations addressing regional haze in 1999.[4] The Regional Haze Rule (RHR) revised the existing visibility regulations to integrate into the regulations provisions addressing regional haze impairment and established a comprehensive visibility protection program for Class I areas. The requirements for regional haze, found at 40 CFR 51.308 and 51.309, are included in our visibility protection regulations at 40 CFR 51.300–309. The requirement to submit a regional haze SIP applies to all 50 states, the District of Columbia, and the Virgin Islands. States were required to submit the first implementation plan addressing regional haze visibility impairment no later than December 17, 2007.[5]

II. Overview of Proposed Actions

A. Regional Haze

We are proposing to promulgate a FIP as described in this notice and summarized in this section to address those portions of Arkansas' regional haze SIP that we disapproved on March 12, 2012.[6] In our March 12, 2012 final action, we disapproved Arkansas' BART control analyses and determinations for nine units at six facilities and the Reasonable Progress Goals (RPGs) analysis and RPGs set by Arkansas, and partially disapproved the long-term strategy for making reasonable progress. We are proposing this FIP because Arkansas has not provided a revision to its SIP to address the deficiencies identified in our March 12, 2012 partial disapproval. We believe, however, it is preferable for states to take the lead in implementing the Regional Haze requirements as envisioned by the Clean Air Act. We will work with the State of Arkansas if it chooses to develop a SIP

[1] Visual range is the greatest distance, in kilometers or miles, at which a dark object can be viewed against the sky.

[2] Areas designated as mandatory Class I Federal areas consist of National Parks exceeding 6000 acres, wilderness areas and national memorial parks exceeding 5000 acres, and all international parks that were in existence on August 7, 1977. 42 U.S.C. 7472(a). In accordance with section 169A of the CAA, EPA, in consultation with the Department of Interior, promulgated a list of 156 areas where visibility is identified as an important value. 44 FR 69122 (November 30, 1979). The extent of a mandatory Class I area includes subsequent changes in boundaries, such as park expansions. 42 U.S.C. 7472(a). Although states and tribes may designate as Class I additional areas which they consider to have visibility as an important value, the requirements of the visibility program set forth in section 169A of the CAA apply only to ''mandatory Class I Federal areas.'' Each mandatory Class I Federal area is the responsibility of a ''Federal Land Manager.'' 42 U.S.C. 7602(i). When we use the term ''Class I area'' in this action, we mean a ''mandatory Class I Federal area.''

[3] 45 FR 80084 (December 2, 1980).

[4] 64 FR 35714 (July 1, 1999), codified at 40 CFR part 51, subpart P (Regional Haze Rule).

[5] See 40 CFR 51.308(b). EPA's regional haze regulations require subsequent updates to the regional haze SIPs. 40 CFR 51.308(g)–(i).

[6] 77 FR 14604, March 12, 2012.

to meet the Regional Haze requirements to replace this proposed FIP.

The FIP we are proposing includes BART control determinations for sources in Arkansas without previously approved BART determinations and associated compliance schedules and requirements for equipment maintenance, monitoring, testing, recordkeeping, and reporting for all affected sources and units. The BART sources addressed in this FIP cause or contribute to visibility impairment at one or more Class I areas in Arkansas and Missouri. The two Class I areas in Arkansas are the Caney Creek Wilderness Area and the Upper Buffalo Wilderness Area. The two Class I areas in Missouri are the Hercules-Glades Wilderness Area and the Mingo National Wildlife Refuge. In this FIP, we are proposing SO_2, NO_X, and PM BART control determinations for nine units at six facilities in Arkansas. We are proposing SO_2, NO_X, and PM BART determinations for Unit 1 of the Arkansas Electric Cooperative Corporation (AECC) Carl E. Bailey Generating Station; SO_2, NO_X, and PM BART determinations for Unit 1 of the AECC John L. McClellan Generating Station; SO_2 and NO_X BART determinations for Boiler No. 1 of the American Electric Power (AEP) Flint Creek Power Plant; SO_2 and NO_X BART determinations for Units 1 and 2 and SO_2, NO_X, and PM BART determinations for the Auxiliary Boiler of the Entergy White Bluff Plant; NO_X BART determination for Unit 4 of the Entergy Lake Catherine Plant; SO_2 and NO_X BART determinations for Power Boiler No. 1 and SO_2, NO_X and PM BART determinations for Power Boiler No. 2 of the Domtar Ashdown Mill. Additionally, for the reasonable progress requirements, we are proposing in the alternative two options for controlling the emissions from the Entergy Independence Plant that is not subject to BART. Under Option 1, under the reasonable progress requirements, we are proposing controls for emissions of SO_2 and NO_X for Units 1 and 2 of the Entergy Independence Plant. Alternatively, under Option 2, we are proposing controls for only emissions of SO_2 for the first planning period. We solicit comments on this proposed alternative approach. We are also soliciting public comment on any alternative control measures for Entergy White Bluff Units 1 and 2 and Independence Units 1 and 2 that would address the BART and reasonable progress requirements for these four units for this regional haze planning period. The measures in the FIP that we are proposing will reduce emissions that contribute to regional haze in Arkansas' Class I areas and other nearby Class I areas. RPGs are interim visibility goals towards meeting the CAA's national visibility goal of preventing any future, and remedying any existing, impairment of visibility resulting from manmade air pollution in Class I areas. This proposed FIP and the portion of the Arkansas regional haze SIP that we approved on March 12, 2012, together would ensure that progress is made toward natural visibility conditions at these Class I areas. This proposed action and the accompanying documents that are available in the Docket explain the basis for our proposed Arkansas Regional Haze FIP. Please refer to our previous rulemaking on the Arkansas regional haze SIP for additional background regarding the CAA, regional haze, and our RHR.[7]

B. Interstate Transport of Pollutants That Affect Visibility

We propose that a combination of those portions of the Arkansas regional haze SIP that we previously approved and the measures in the FIP will satisfy the visibility requirement of CAA section 110(a)(2)(D)(i)(II) for the 1997 8-hour ozone and 1997 $PM_{2.5}$ national ambient air quality standards (NAAQS). CAA section 110(a)(2)(D)(i)(II) requires that states have a SIP, or submit a SIP revision, containing provisions ''prohibiting any source or other type of emission activity within the state from emitting any air pollutant in amounts which will . . . interfere with measures required to be included in the applicable implementation plan for any other State under part C [of the CAA] to protect visibility.'' Because of the impacts on visibility from the interstate transport of pollutants, we interpret these ''good neighbor'' provisions of section 110 of the Act as requiring states to include in their SIPs measures to prohibit emissions that would interfere with the reasonable progress goals set to protect Class I areas in other states. For Arkansas, we interpret this to mean that the State must include in its SIP a demonstration that emissions from Arkansas sources and activities will not have the prohibited impacts on other states' existing SIPs. We refer herein to this requirement as the interstate transport visibility requirement. The Arkansas Department of Environmental Quality (ADEQ) submitted a SIP revision to address this requirement on April 2, 2008, and submitted supplemental information on September 27, 2011. The April 2, 2008 submittal stated that Arkansas is relying on the Air Pollution Control and Ecology Commission (APCEC) Regulation 19, Chapter 15, also known as the State BART rulemaking, to satisfy the requirements of section 110(a)(2)(D)(i)(II) with respect to visibility transport. The April 2, 2008 SIP submittal, which was submitted prior to Arkansas' submission of the Arkansas regional haze SIP, also stated that it is not possible to assess whether there is any interference with the measures in the applicable SIP for another state designed to protect visibility for the 1997 8-hour ozone and $PM_{2.5}$ NAAQS until Arkansas submits and we approve the Arkansas regional haze SIP. In our final rule published on March 12, 2012, we partially approved and partially disapproved the SIP submittal with respect to the interstate transport visibility requirement under CAA section 110(a)(2)(D)(i)(II), triggering the obligation for us to promulgate a FIP or to fully approve a revised SIP submission from Arkansas to ensure that the requirement is fully addressed.[8] Today's notice describes our proposed FIP, which we propose to find will fully address the deficiencies we identified in our prior partial disapproval action of Arkansas' SIP submittal with respect to the interstate visibility transport requirement under CAA section 110(a)(2)(D)(i)(II) for the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS.

C. History of State Submittals and Our Actions

As discussed above, Arkansas submitted a SIP revision on April 2, 2008, to address the interstate transport visibility requirement of CAA section 110(a)(2)(D)(i)(II) for the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS. To address the first regional haze implementation period, Arkansas submitted a regional haze SIP on September 23, 2008. On August 3, 2010, Arkansas submitted a SIP revision with non-substantive revisions to the APCEC Regulation 19, Chapter 15, which identified the BART-eligible and subject-to-BART sources in Arkansas and established the BART emission limits that subject-to-BART sources are required to comply with. On September 27, 2011, the State submitted supplemental information on the Arkansas regional haze SIP. We are hereafter referring to these regional haze submittals collectively as the ''2008 Arkansas RH SIP.'' On March 12, 2012, we partially approved and partially disapproved the 2008 Arkansas RH SIP

[7] 77 FR 14604, March 12, 2012.

[8] *Id.*

and the April 2, 2008 SIP submittal concerning the interstate transport visibility requirements for the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS.[9]

Our partial disapproval of the 2008 Arkansas RH SIP included a disapproval of the following BART determinations made by Arkansas:

- SO_2, NO_X, and PM BART for the AECC Carl E. Bailey Generating Station Unit 1;
- SO_2, NO_X, and PM BART for the AECC John L. McClellan Generating Station Unit 1;
- SO_2 and NO_X BART for the AEP Flint Creek Power Plant No. 1 Boiler;
- SO_2 and NO_X BART for the bituminous and sub-bituminous coal firing scenarios for the Entergy White Bluff Plant Units 1 and 2;
- SO_2, NO_X, and PM BART for the Entergy White Bluff Plant Auxiliary Boiler;
- NO_X BART for the natural gas firing scenario for the Entergy Lake Catherine Plant Unit 4;
- SO_2, NO_X, and PM BART for the fuel oil firing scenario for the Entergy Lake Catherine Plant Unit 4;
- SO_2 and NO_X BART for the Domtar Ashdown Mill No. 1 Power Boiler; and
- SO_2, NO_X, and PM BART for the Domtar Ashdown Mill No. 2 Power Boiler.

In our final action, we also disapproved Arkansas' determinations that the Georgia Pacific-Crossett Mill 6A Boiler is not BART-eligible, and that the 6A and 9A Boilers are not subject to BART. By partially disapproving Arkansas' BART determinations, we also partially disapproved the corresponding provisions of APCEC Regulation 19, Chapter 15. We also disapproved Arkansas' RPGs for its two Class I areas, the Caney Creek Wilderness Area and the Upper Buffalo Wilderness Area, because Arkansas did not meet the requirement under section 169A(g)(1) of the CAA and 40 CFR 51.308(d)(1)(i)(A) to consider the four statutory factors when establishing its RPGs. Additionally, we partially disapproved Arkansas' long-term strategy because it relied on other disapproved portions of the SIP.

D. Our Authority To Promulgate a FIP

Under section 110(c) of the Act, whenever we disapprove a mandatory SIP submission in whole or in part, we are required to promulgate a FIP within 2 years unless we approve a SIP revision correcting the deficiencies before promulgating a FIP. Specifically, CAA section 110(c) provides that the Administrator shall promulgate a FIP within 2 years after the Administrator disapproves a state implementation plan submission ''unless the State corrects the deficiency, and the Administrator approves the plan or plan revision, before the Administrator promulgates such Federal implementation plan.'' The term ''Federal implementation plan'' is defined in section 302(y) of the CAA in pertinent part as a plan promulgated by the Administrator to correct an inadequacy in a SIP.

Thus, because we partially disapproved the 2008 Arkansas RH SIP and the SIP submittal addressing the interstate transport visibility requirement, we are required to promulgate a FIP for Arkansas, unless we first approve a SIP revision that corrects the disapproved portions of these SIP submittals. As Arkansas has not as yet submitted a revised SIP following our partial disapproval, we are proposing a FIP to address those portions of the SIP that we disapproved.

III. Our Proposed BART Analyses and Determinations

Following our 2012 disapproval of the 2008 Arkansas RH SIP, Arkansas began the process of generating additional technical information and analysis for the BART determinations. Arkansas gathered technical documentation from the companies whose BART determinations we disapproved. These documents were provided to us and are the basis for our evaluation of BART determinations for the facilities with prior disapproved BART determinations.

A. Identification of BART-Eligible Sources and Subject to BART Sources

States are required to identify all the BART-eligible sources within their boundaries by utilizing the three eligibility criteria in the BART Guidelines (70 FR 39158) and the RHR (40 CFR 51.301): (1) One or more emission units at the facility fit within one of the 26 categories listed in the BART Guidelines; (2) the emission unit(s) began operation on or after August 6, 1962, and the unit was in existence on August 6, 1977; and (3) the potential emissions of any visibility-impairing pollutant from subject units are 250 tons or more per year. Sources that meet these three criteria are considered BART-eligible. Once a list of the BART-eligible sources within a state has been compiled, states must determine whether to make BART determinations for all of them or to consider exempting some of them from BART because they may not reasonably be anticipated to cause or contribute to any visibility impairment in a Class I area. The BART Guidelines present several options that rely on modeling and/or emissions analyses to determine if a source may reasonably be anticipated to cause or contribute to visibility impairment in a Class I area. A source that may not be reasonably anticipated to cause or contribute to any visibility impairment in a Class I area is not ''subject to BART,'' and for such sources, a state need not apply the five statutory factors to make a BART determination.

1. Georgia Pacific-Crossett Mill 6A and 9A Power Boilers

In our March 12, 2012 final action, we approved Arkansas' identification of BART-eligible sources except for the Georgia-Pacific Crossett Mill 6A Boiler. We also approved Arkansas' determination of which sources are subject to BART, with the exception of its determination that the Georgia-Pacific Crossett Mill 6A and 9A Boilers are not subject to BART. Our basis and analyses for our disapproval of Arkansas' determinations that the 6A Boiler is not BART-eligible and that the 6A and 9A Boilers are not subject to BART is found in our October 17, 2011 proposed rulemaking, March 12, 2012 final rulemaking, and the associated TSDs.[10]

A revised Title V permit for the Georgia-Pacific Crossett Mill was issued on August 4, 2011, and again on May 23, 2012. Although no pollution controls were installed, the permitted emission limits for SO_2 and PM_{10} for the 6A Boiler and SO_2, NO_X, and PM_{10} for the 9A Boiler were revised to be more stringent. In a letter dated May 18, 2012,[11] Georgia-Pacific explained to ADEQ that it had conducted additional dispersion modeling in 2011 based on the currently enforceable Title V permit limits for the 6A and 9A Boilers.[12] The results of the 2011 modeling analysis are summarized in the table below. Based on modeling of the current permit limits, the boilers' maximum visibility impact was modeled to be 0.359 dv at Caney Creek (assuming 2002 meteorology). In the letter to ADEQ, Georgia-Pacific stated its belief that the 2011 dispersion modeling analysis and the current Title V permit that enforces the modeled limits are sufficient to

[9] *Id.*

[10] 76 FR 64186 and 77 FR 14604.

[11] May 18, 2012 letter from James W. Cutbirth, Environmental Services Superintendent at Georgia-Pacific Crossett Paper Operations, to Mary Pettyjohn, ADEQ. A copy of this letter can be found in the docket for this proposed rulemaking.

[12] See ADEQ Operating Air Permit No. 0597–AOP–R14, issued on May 23, 2012. A copy of the air permit can be found in the docket for this proposed rulemaking.

demonstrate no cause or contribution to visibility impairment by the 6A and 9A Boilers, and that the boilers are therefore not subject to BART.

TABLE 1—MAXIMUM MODELED VISIBILITY IMPACTS FROM 6A AND 9A BOILERS

[Georgia-Pacific's 2011 Dispersion Modeling Analysis]

Class I area	Maximum Visibility Impact (dv)		
	2001 meteorology	2002 meteorology	2003 meteorology
Caney Creek	0.16	0.359	0.296
Upper Buffalo	0.099	0.074	0.099
Hercules-Glades	0.08	0.288	0.125
Mingo	0.123	0.093	0.168
Sipsey	0.171	0.184	0.119

Following discussions with us and ADEQ, Georgia-Pacific provided additional information and documentation to support its contention that the 6A and 9A Boilers are not subject to BART. Georgia-Pacific calculated maximum 24-hour emission rates from the 2001–2003 baseline period using fuel usage data, and then showed that these estimated maximum 24-hour emission rates are below the revised emission rates it used in the 2011 BART screening modeling. In a letter dated April 1, 2013, Georgia-Pacific provided spreadsheets with fuel usage data for the 6A and 9A Boilers for each day during the 2001–2003 baseline period.[13] The 6A Boiler burned only natural gas during the 2001–2003 baseline period, while the 9A Boiler burned both natural gas and bark. Georgia-Pacific used emission factors from AP–42, *Compilation of Air Pollutant Emission Factors,*[14] to calculate 24-hour emission rates for SO_2, NO_X, and PM_{10} (lb/hr) for the 6A and 9A Boilers for each day during the baseline years. The gas and bark usage value for each day was multiplied by the corresponding AP–42 emission factor to calculate the 24-hour emission rate for each day during the baseline period.[15] Georgia-Pacific then determined the maximum 24-hour emission rates for the 6A and 9A Boilers during the baseline period (see table below).[16]

TABLE 2—GEORGIA-PACIFIC CROSSETT MILL 6A AND 9A BOILER MAXIMUM 24-HOUR EMISSION RATES FROM THE 2001–2003 BASELINE PERIOD

Unit	Maximum 24-Hour Emission Rates (lb/hr)		
	SO_2	NO_X	PM_{10}
6A Boiler	0.2	90.7	2.5
9A Boiler	17.9	174.1	72.0

Georgia-Pacific then compared the calculated maximum 24-hour emission rates from the baseline period with the emission rates it modeled in the 2011 BART screening modeling and with the current Title V permit limits (see table below).[17] A comparison of these values shows that the calculated maximum 24-hour emission rates for each pollutant are below the emission rates Georgia-Pacific modeled in the 2011 BART screening modeling, and also below the currently enforceable Title V permit limits.

TABLE 3—GEORGIA-PACIFIC CROSSETT MILL—COMPARISON OF MAXIMUM 24-HOUR EMISSION RATES WITH MODELED EMISSION RATES AND TITLE V PERMIT LIMITS

	SO_2	NO_X	PM_{10}
6A Boiler			
Calculated Maximum 24-hr Emission Rate (lb/hr)	0.2	90.7	2.5

[13] April 1, 2013 letter from James W. Cutbirth, Environmental Services Superintendent at Georgia-Pacific Crossett Paper Operations, to Mary Pettyjohn, ADEQ. A copy of this letter and all attachments can be found in the docket for this proposed rulemaking.

[14] *AP–42, Compilation of Air Pollutant Emission Factors,* has been published since 1972 as the primary compilation of EPA's emission factor information. It contains emission factors and process information for more than 200 air pollution source categories. The emission factors have been developed and compiled from source test data, material balance studies, and engineering estimates. The Fifth Edition of AP–42 was published in January 1995. Since then, EPA has published supplements and updates to the fifteen chapters available in Volume I, Stationary Point and Area Sources. The latest emissions factors are available at *http://www.epa.gov/ttnchie1/ap42/.*

[15] Please see the TSD for example calculations of the 24-hour emissions rates for the 6A and 9A Boilers. See also the April 1, 2013 letter from James W. Cutbirth, Environmental Services Superintendent at Georgia-Pacific Crossett Paper Operations, to Mary Pettyjohn, ADEQ. The attachments to the April 1, 2013 letter include spreadsheets with the calculated 24-hour emission rates for each day during the 2001–2003 baseline period for the 6A and 9A Boilers. The letter and all attachments are found in the docket for this proposed rulemaking.

[16] The maximum 24-hour emission rate for PM_{10} for the 9A Boiler is based on the results of stack testing Georgia-Pacific conducted when the boiler was firing bark and gas, since the stack test results yielded a higher emission rate than what Georgia-Pacific calculated using AP–42 emission factors.

[17] See ADEQ Operating Air Permit No. 0597–AOP–R14, issued on May 23, 2012. A copy of the air permit can be found in the docket for this proposed rulemaking.

TABLE 3—GEORGIA-PACIFIC CROSSETT MILL—COMPARISON OF MAXIMUM 24-HOUR EMISSION RATES WITH MODELED EMISSION RATES AND TITLE V PERMIT LIMITS—Continued

	SO_2	NO_X	PM_{10}
Modeled Emission Rate (lb/hr)	0.3	120.0	3.3
Title V permit Limit (lb/hr)	0.3	120.0	3.3
9A Boiler			
Calculated Maximum 24-hr Emission Rate (lb/hr)	17.9	174.1	72.0
Modeled Emission Rate (lb/hr)	200.0	218.0	75.8
Title V permit Limit (lb/hr)	199.8	196.0	77.4

Because the 2011 BART screening modeling showed visibility impacts below 0.5 dv from the 6A and 9A Boilers and the recently estimated maximum 24-hour emission rates from the 2001–2003 baseline period are below the modeled emission rates, we propose that it is reasonable to conclude that the boilers had visibility impacts below 0.5 dv during the baseline period. Accordingly, we believe that Georgia-Pacific's newly provided analysis and documentation, as described above and in our TSD in more detail, is appropriate to demonstrate that the 6A and 9A Boilers are not subject to BART. In comparison to the information available to us when we issued our March 12, 2012 final action on the 2008 Arkansas RH SIP, we believe this newly provided analysis allows for a more accurate assessment of whether or not the 6A and 9A Boilers are subject to BART. Based on this newly provided information, we are proposing to find that while the 6A Boiler is a BART-eligible source, it is not subject to BART. The 9A Boiler is also BART-eligible (as the State determined in the 2008 Arkansas RH SIP), but we are also proposing to find that the 9A Boiler is not subject to BART. Therefore, it is not necessary to perform a BART five factor analysis or to make BART determinations for the Georgia-Pacific Crossett Mill 6A and 9A Boilers.

2. AECC Carl E. Bailey Generating Station Unit 1

In our March 12, 2012 final action on the 2008 Arkansas RH SIP, we noted that the original meteorological databases generated by the Central Regional Air Planning Association (CENRAP) and used by Arkansas to conduct its modeling analyses did not include surface and upper air meteorological observations as EPA guidance recommends. Thus, in its evaluation to determine if a source exceeds the 0.5 dv contribution threshold at potentially affected Class I areas, Arkansas used the maximum value (*i.e.,* 1st high value) of modeled visibility impacts instead of the 98th percentile value (*i.e.,* 8th high value). The use of the maximum modeled values in the 2008 Arkansas RH SIP was agreed to by us, representatives of the Federal Land Managers, and CENRAP stakeholders. In our March 12, 2012 final action, we also approved Arkansas' determination that the AECC Carl E. Bailey Generating Station (AECC Bailey) Unit 1 is BART-eligible and subject to BART, based on the maximum value of modeled visibility impacts.

Following our March 12, 2012 final action on the 2008 Arkansas RH SIP, AECC hired a consultant to conduct revised modeling of AECC Bailey Unit 1. Unlike the modeling submitted in the 2008 Arkansas RH SIP, the revised modeling shows visibility impacts from Bailey Unit 1 below 0.5 dv, which is the threshold used by Arkansas to determine if a source is subject to BART. However, we already approved Arkansas' determination that the AECC Bailey Unit 1 is subject to BART in our March 12, 2012 final action on the 2008 Arkansas RH SIP.

We do not have the discretion to reopen the issue of whether the source is subject to BART because we already approved the portion of the 2008 Arkansas RH SIP in which Arkansas determined AECC Bailey Unit 1 is subject to BART and Arkansas has not provided us a SIP revision to replace the previous determination.[18] We cannot re-consider our approval of that portion of the 2008 Arkansas RH SIP to have been in error because Arkansas did not submit the revised modeling to us with a request to remove the source from BART and the modeling approach used by Arkansas in that SIP is consistent with our regional haze regulations and was agreed to by us, representatives of the Federal Land Managers, and CENRAP stakeholders prior to submittal of the 2008 Arkansas RH SIP. Therefore, our proposed FIP is not reopening the issue of whether the source is subject to BART, and our final approval of Arkansas' determination that the source is subject to BART remains in place and in the subsection that follows we evaluate AECC Bailey Unit 1 under BART.

B. BART Factors

The purpose of the BART analysis is to identify and evaluate the best system of continuous emission reduction based on the BART Guidelines.[19] In determining BART, a state, or EPA if promulgating a FIP, must consider the five statutory factors in section 169A of the CAA: (1) The costs of compliance; (2) the energy and nonair quality environmental impacts of compliance; (3) any existing pollution control technology in use at the source; (4) the remaining useful life of the source; and (5) the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology. See also 40 CFR 51.308(e)(1)(ii)(A). Following the BART Guidelines, the BART analysis is broken down into five steps. Steps 1 through 3 address the availability, technical feasibility and effectiveness of retrofit control options. The consideration of the five statutory factors occurs during steps 4 and 5 of the process.

Step 1—Identify all available retrofit control technologies.

Step 2—Eliminate technically infeasible options.

Step 3—Evaluate control effectiveness of remaining control technologies.

Step 4—Evaluate impacts and document the results.

- Factor 1: Costs of compliance.
- Factor 2: Energy and nonair quality environmental impacts of compliance.
- Factor 3: Existing pollution control technology in use at the source.
- Factor 4: Remaining useful life of the facility.

Step 5—Evaluate Visibility Impacts

- Factor 5: Degree of improvement in visibility which may reasonably be

[18] 77 FR 14604, March 12, 2012.

[19] See July 6, 2005 BART Guidelines, 40 CFR 51, Regional Haze Regulations and Guidelines for Best Available Retrofit Technology Determinations.

anticipated to result from the use of retrofit control technology.

C. BART Determinations and Proposed Federally Enforceable Limits

1. AECC Carl E. Bailey Generating Station

The AECC Bailey Unit 1 is a wall-fired boiler with a gross output of 122 megawatts (MW) and a maximum heat input rate of 1,350 million British thermal units per hour (MMBtu/hr). The unit is currently permitted to burn natural gas and fuel oil. The fuel oil burned is currently subject to a sulfur content limit of 2.3% by weight. AECC hired a consultant to perform a BART five factor analysis for Bailey Unit 1.[20]

The table below summarizes the baseline emission rates modeled for the source. The SO_2 and NO_X baseline emission rates are the highest actual 24-hour emission rates based on 2001–2003 continuous emission monitoring system (CEMS) data, while the PM baseline emission rates are based on stack testing and AP–42 emission factors.

TABLE 4—BASELINE EMISSION RATES FOR AECC BAILEY UNIT 1

Unit/Fuel scenario	SO_2 (lb/hr)	NO_X (lb/hr)	Total PM_{10}[21] (lb/hr)	Inorganic condensable (SO_4) (lb/hr)	Coarse soil (PMc) (lb/hr)	Fine soil (PMf) (lb/hr)	Organic condensable PM (SOA) (lb/hr)	Elemental carbon (EC) (lb/hr)
Bailey, Unit 1—Natural Gas firing	0.5	443.8	10.2	0.3	0.0	0.0	7.4	2.6
Bailey, Unit 1—Fuel Oil firing	2,375.8	408.8	55.8	4.6	13.7	34.1	0.8	2.7

The NO_X and PM baseline emission rates used in AECC's revised modeling for the fuel oil firing scenario were revised from what the State modeled in the 2008 Arkansas RH SIP. The revised NO_X emission rates for the fuel oil firing scenario are higher than what was modeled in the 2008 Arkansas RH SIP, while the revised PM_{10} emission rates for fuel oil firing scenario are lower than what was modeled in the 2008 Arkansas RH SIP. We have some concern with AECC's use of the PM_{10} baseline emission rates, which are based on stack testing, because there is no discussion provided on how the stack test results are representative of the maximum 24-hour emissions. However, because the visibility impacts due to PM_{10} emissions from Bailey Unit 1 are so small, we believe a closer inspection of the revised PM_{10} emission rates and any further updates to these would likely not result in significant changes to the modeled visibility impacts and would not affect our proposed BART decision. As shown in the table below, the percentage of the visibility impairment attributable to PM_{10} from Bailey Unit 1 at the Class I area with the highest baseline visibility impacts (Mingo) is 8.10% for the natural gas firing scenario and 1.26% for the fuel oil firing scenario. Most of the visibility impairment is attributable to NO_3 (83.34%) for the natural gas firing scenario and to SO_4 (93.95%) for the fuel oil firing scenario. Therefore, we did not take further steps to adjust the PM_{10} emission rates or conduct additional modeling.

AECC's modeling for the baseline emission rates uses the CALPUFF dispersion model to determine the baseline visibility impairment attributable to Bailey Unit 1 at the four Class I areas impacted by emissions from BART sources in Arkansas. These Class I areas are the Caney Creek Wilderness Area, Upper Buffalo Wilderness Area, Hercules-Glades Wilderness Area, and Mingo National Wildlife Refuge. The baseline (*i.e.,* existing) visibility impairment attributable to each unit at each Class I area is summarized in the table below.

TABLE 5—98TH PERCENTILE BASELINE VISIBILITY IMPAIRMENT ATTRIBUTABLE TO AECC BAILEY UNIT 1 (2001–2003)

Unit/Fuel scenario		Maximum (Δdv)	98th percentile (Δdv)	98th percentile % SO_4	98th percentile % NO_3	98th percentile % PM_{10}
Bailey Unit 1—Natural Gas firing.	Caney Creek	0.219	0.083	0.28	96.36	3.35
	Upper Buffalo	0.170	0.072	0.29	95.02	3.43
	Hercules-Glades	0.238	0.073	0.22	92.76	3.67
	Mingo	0.443	0.102	0.45	83.34	8.10
Bailey Unit 1—Fuel Oil firing	Caney Creek	0.970	0.330	87.19	12.11	0.57
	Upper Buffalo	0.696	0.348	90.73	8.42	0.83
	Hercules-Glades	0.687	0.368	82.74	14.39	2.08
	Mingo	1.592	0.379	93.95	4.68	1.26

a. *Proposed BART Analysis and Determination for SO_2.* The source does not have existing SO_2 pollution control technology. AECC identified all available control technologies, eliminated options that are not technically feasible, and evaluated the control effectiveness of the remaining control options. Each technically feasible control option was then evaluated in terms of a five factor BART analysis.

AECC's BART evaluation considered both flue gas desulfurization (FGD) and fuel switching as possible controls. AECC found that FGD applications have not been used historically for SO_2 control on fuel oil-fired units in the U.S.

[20] See the following BART analyses: ''BART Five Factor Analysis, Arkansas Electric Cooperative Corporation Bailey and McClellan Generating Stations,'' dated March 2014, Version 4, prepared by Trinity Consultants Inc. in conjunction with Arkansas Electric Cooperative Corporation; and ''BART Five Factor Analysis- NO_X Analysis, Addendum to the July 24, 2012 BART Five Factor Analysis, Arkansas Electric Cooperative Corporation Bailey and McClellan Generating Stations,'' dated December 2013, Version 3. A copy of these two BART analyses can be found in the docket for our proposed rulemaking.

[21] The National Park Service PM speciation worksheets are typically used to speciate PM_{10} into SO_4, PMc, PMf, SOA, and EC.

electric industry and therefore considered it a technically infeasible option for control of Bailey Unit 1. Accordingly, AECC did not further consider FGD for SO_2 BART. We concur with AECC's decision to focus the SO_2 BART evaluation on fuel switching. Switching to a fuel with a lower sulfur content is expected to reduce SO_2 emissions in proportion to the reduction in the sulfur content of the fuel, assuming that the fuels have similar heat contents. Bailey Unit 1 burns primarily natural gas, but is also permitted to burn fuel oil. The baseline fuel AECC assumed in the BART analysis is No. 6 fuel oil with 1.81% sulfur content, based on the average sulfur content of the fuel oil from the most recent shipment received by the facility in December 2006. According to the facility, a portion of the fuel oil from this shipment still remains in storage at the facility for future use. AECC evaluated switching to the fuel types shown in the table below.

TABLE 6—CONTROL EFFECTIVENESS OF FUEL SWITCHING OPTIONS FOR AECC BAILEY UNIT 1

Fuel switching options	Estimated SO_2 control efficiency %
No. 6 fuel oil, 1% sulfur	45
No. 6 fuel oil, 0.5% sulfur	72
Diesel, 0.05% sulfur	97
Natural gas	99.9

AECC estimated the average cost-effectiveness of switching Bailey Unit 1 to No. 6 fuel oil with 1% sulfur content to be $1,198 per ton of SO_2 removed. Switching from the baseline fuel to No. 6 fuel oil with 0.5% sulfur content was estimated to cost $2,559 per ton of SO_2 removed. The results of AECC's cost analysis are summarized in the table below. For the natural gas switching scenario, AECC found that the current cost of natural gas is actually lower than the cost of the baseline fuel. Therefore, the average cost-effectiveness of switching from the baseline fuel to natural gas is denoted as a negative value (cost savings) in the table below.

TABLE 7—AECC BAILEY UNIT 1: SUMMARY OF COSTS ASSOCIATED WITH FUEL SWITCHING

Fuel switching scenario	Average sulfur content (%)	Baseline emission rate (SO_2 tpy)	Controlled emission rate (SO_2 tpy)	Annual emissions reductions (SO_2 tpy)	Annual fuel usage (Mgal/yr)	Fuel cost ($/MMBtu)	Total annual differential cost of fuel switching ($/yr)	Average cost effectiveness[22] ($/ton)	Incremental cost effectiveness[23] ($/ton)
Baseline	1.81	37.03	.....	.....	252.86	16.00	.....	.....	.....
No. 6 Fuel Oil—1%	1.00	.....	20.67	16.36	252.86	16.50	19,596	1,198	.....
No. 6 Fuel Oil—0.5%	0.50	.....	10.23	26.80	252.86	17.75	68,587	2,559	4,693
Diesel	0.05	.....	0.99	36.05	287.86	20.95	194,003	5,382	13,558
Natural Gas	0.04	.....	0.01	37.02	38.77	6.19	−384,550	−10,387	−596,446

AECC's evaluation did not identify any energy or non-air quality environmental impacts associated with switching to 1% sulfur No. 6 fuel oil, 0.5% sulfur No. 6 fuel oil, or diesel. The evaluation noted that switching to natural gas may have energy impacts during periods of natural gas curtailment. During periods of natural gas curtailment, natural gas infrastructure maintenance, and other emergencies, the AECC Bailey Generating Station relies on the fuel oil stored at the plant to maintain electrical reliability. AECC's evaluation notes that because of this, it is important to maintain the ability to burn fuel oil at AECC Bailey, even if fuel oil is currently more expensive than natural gas.

With regard to consideration of the remaining useful life of Unit 1, this factor does not impact the SO_2 BART analysis because the emissions control approaches being evaluated for BART do not require capital cost expenditures. Thus, there are no control costs that need to be amortized over the lifetime of the unit.

AECC assessed the visibility improvement associated with fuel switching by comparing the 98th percentile modeled visibility impact of the baseline scenario to the 98th percentile modeled visibility impact of each control scenario. The table below shows a comparison of the baseline visibility impacts and the visibility impacts of the different fuel switching control scenarios that were evaluated, including the cumulative visibility benefits.

TABLE 8—AECC BAILEY UNIT 1: SUMMARY OF 98TH PERCENTILE VISIBILITY IMPACTS AND IMPROVEMENT DUE TO FUEL SWITCHING

Class I area	Baseline visibility impact (Δdv)	No. 6 fuel oil—1% sulfur	No. 6 fuel oil—0.5% sulfur	Diesel	Natural gas				
					Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)	Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)	Visibility impact (Δdv)
Caney Creek	0.330	0.193	0.137	0.142	0.188	0.084	0.246	0.083	0.247
Upper Buffalo	0.348	0.194	0.154	0.127	0.221	0.069	0.279	0.072	0.276
Hercules-Glades	0.368	0.206	0.162	0.135	0.233	0.069	0.299	0.073	0.295
Mingo	0.379	0.206	0.173	0.170	0.209	0.095	0.284	0.102	0.277
Cumulative Visibility Improvement (Δdv)	.....	.....	0.626	.....	0.851	.....	1.108	.....	1.095

[22] The average cost-effectiveness was calculated by dividing the total annual differential cost of switching from the baseline fuel oil to the lower sulfur fuel.

[23] The incremental cost-effectiveness calculation compares the costs and performance level of a control option to those of the next most stringent option, as shown in the following formula (with respect to cost per emissions reduction): Incremental Cost Effectiveness (dollars per incremental ton removed) = (Total annualized costs of control option)—(Total annualized costs of next control option)/(Control option annual emissions)—Next control option annual emissions). See BART Guidelines, 40 CFR Part 51, Appendix Y, section IV.D.4.e.

The table above shows that switching to No. 6 fuel oil with 1% sulfur content at Bailey Unit 1 is projected to result in 0.173 dv visibility improvement at Mingo (based on the 98th percentile modeled visibility impacts). The visibility improvement at each of the other three affected Class I areas is projected to be slightly less than that amount, while the cumulative visibility improvement at the four Class I areas is projected to be 0.626 dv. Switching to No. 6 fuel oil with 0.5% sulfur content is projected to result in meaningful visibility improvement. It is projected to result in 0.233 dv visibility improvement at Hercules-Glades. The visibility improvement at each of the other three affected Class I areas is projected to be slightly less than that amount, while the cumulative visibility improvement at the four Class I areas is projected to be 0.851 dv. Switching to diesel or natural gas is also projected to result in meaningful visibility improvement. The visibility improvement at Hercules-Glades is projected to be 0.299 dv for switching to diesel and 0.295 dv for switching to natural gas, and slightly less than that amount at each of the other three affected Class I areas. The cumulative visibility improvement at the four Class I areas is projected to be 1.108 dv for switching to diesel and 1.095 dv for switching to natural gas.

Our Proposed SO_2 BART Determination: Taking into consideration the five factors, we are proposing to determine that BART for the AECC Bailey Unit 1 is switching to fuels with 0.5% or lower sulfur content by weight. The cost effectiveness of switching to No. 6 fuel oil with 0.5% sulfur content is within the range of what we consider to be cost-effective for BART and it is projected to result in considerable visibility improvement compared to the baseline at the affected Class I areas. Switching to No. 6 fuel oil with 0.5% sulfur content has an estimated average cost-effectiveness of $2,559 per ton of SO_2 removed and is projected to result in visibility improvement ranging from 0.188 to 0.233 dv at each modeled Class I area, and a cumulative visibility improvement of 0.851 dv at the four modeled Class I areas. Switching to natural gas would currently cost less than the baseline fuel and is projected to result in even greater visibility improvement than switching to No. 6 fuel oil with 0.5% sulfur content. However, the BART Guidelines provide that it is not our intent to direct subject-to-BART sources to switch fuel forms, such as from coal or fuel oil to gas (40 CFR part 51, Appendix Y, section IV.D.1). Because natural gas has a sulfur content by weight that is well below 0.5%, the facility may elect to use this type of fuel to comply with BART, but we are not proposing to require a switch to natural gas for Unit 1. Switching to diesel is projected to result in an almost identical level of visibility improvement at each Class I area as switching to natural gas. The incremental visibility improvement of switching to diesel compared to switching to No. 6 fuel oil with a sulfur content of 0.5% is projected to range from 0.058 dv to 0.075 dv at each affected Class I area but the average cost-effectiveness is estimated to be $5,382 per ton of SO_2 removed and the incremental cost-effectiveness compared to switching to No. 6 fuel oil with a sulfur content of 0.5% is estimated to be $13,558 per ton of SO_2 removed, which we do not consider to be very cost-effective in view of the incremental visibility improvement. Because diesel also has a sulfur content by weight that is well below 0.5%, the facility may elect to use this type of fuel to comply with BART, but we are not proposing to require a switch to diesel for Unit 1. We are proposing to determine that SO_2 BART for Bailey Unit 1 is switching to fuels with 0.5% or lower sulfur content by weight. We propose to require that the facility purchase no fuel after the effective date of the rule that does not meet the sulfur content requirement and that 5 years from the effective date of the rule no fuel be burned that does not meet the requirement. We propose that any higher sulfur fuel oil that remains from the facility's 2006 fuel oil shipment cannot be burned past this point. As discussed above, the unit's baseline fuel is No. 6 fuel oil with 1.81% sulfur content, based on the average sulfur content of the fuel oil from the most recent fuel oil shipment received by the facility in 2006. Based on our discussions with the facility, it is our understanding that the unit burns fuel oil primarily during periods of natural gas curtailment and during periodic testing and that the facility still has stockpiles of fuel oil from the most recent shipment. Because the unit burns primarily natural gas and does not ordinarily burn fuel oil on a frequent basis, we believe it is appropriate to allow the facility 5 years to burn its existing supply of No. 6 fuel oil, as the normal course of business dictates and in accordance with any operating restrictions enforced by ADEQ. We believe that a shorter compliance date may result in the facility burning its existing supply of higher sulfur No. 6 fuel oil relatively quickly, resulting in a high amount of SO_2 emissions being emitted by the unit over a short period of time. This is not the intent of our regional haze regulations. We are also proposing regulatory text that includes monitoring, reporting, and recordkeeping requirements associated with this proposed determination.

b. *Proposed BART Analysis and Determination for NO_X.* AECC's BART evaluation examined BART controls for NO_X for AECC Bailey Unit 1. Bailey Unit 1 does not currently have pollution control equipment for NO_X. AECC's evaluation identified all available control technologies, eliminated options that are not technically feasible, and evaluated the control effectiveness of the remaining control options. Each technically feasible control option was then evaluated in terms of a five factor BART analysis.

For NO_X BART, AECC's evaluation considered both combustion and post-combustion controls. The combustion controls evaluated by AECC consisted of flue gas recirculation (FGR), overfire air (OFA), and low NO_X burners (LNB). The post-combustion controls evaluated consisted of selective catalytic reduction (SCR) and selective non-catalytic reduction (SNCR). AECC found that some boilers may be restricted from installing OFA retrofits due to physical size and space restraints. For purposes of the NO_X BART evaluation, AECC assumed OFA to be a technically feasible option for Bailey Unit 1, but noted that if OFA was determined to be BART based on the evaluation of the five BART factors, then further analyses would have to be performed to determine if: (1) The dimensions of AECC Bailey's main boilers have sufficient upper furnace volume for OFA mixing and complete combustion and (2) the furnace meets the physical space requirements for OFA ports and air supply ducts. The remaining NO_X control options were found to be technically feasible.

AECC evaluated three control scenarios: A combination of combustion controls (FGR, OFA, and LNB); the combination of combustion controls and SNCR; and SCR. Based on literature estimates, AECC found that the estimated NO_X control range for oil and gas wall-fired boilers, such as Bailey Unit 1, is approximately 0.2–0.4 lb/MMBtu using FGR and 0.2–0.3 lb/MMBtu using OFA.[24] When LNB is combined with OFA and FGR, AECC

[24] ''Controlling Nitrogen Oxides Under the Clean Air Act: A Menu of Options,'' section II, dated July 1994, State and Territorial Air Pollution Program Administrators (STAPPA) and Association of Local Air Pollution Control Officials (ALAPCO).

estimated that a NO_X controlled emission rate of 0.15—0.20 lb/MMBtu can be achieved at Bailey Unit 1. The NO_X controlled emission rate of combustion controls combined with SNCR is estimated to be 0.12 lb/MMBtu. The NO_X control efficiency of SCR is estimated to be 80–90% for gas fired boilers and 70–80% for oil fired boilers, which corresponds to a controlled emission rate of 0.04–0.08 lb/MMBtu for Bailey Unit 1.

AECC's cost analysis for NO_X controls was based on ''budgetary'' cost estimates it obtained by AECC from the pollution control equipment vendor, Babcock Power Systems. AECC estimated the capital and operating costs of controls based on the vendor's estimates, engineering estimates, and published calculation methods using EPA's Air Pollution Control Cost Manual (EPA Control Cost Manual).[25] We are not aware of any enforceable shutdown date for the AECC Bailey Generating Station, nor did AECC's evaluation indicate any future planned shutdown. This means that the anticipated useful life of the boiler is expected to be at least as long as the capital cost recovery period of controls. Therefore, a 30-year amortization period was assumed in the NO_X BART analysis as the remaining useful life of Unit 1. The table below summarizes the estimated cost for installation and operation of NO_X controls for Bailey Unit 1.

TABLE 9—SUMMARY OF NO_X CONTROL COSTS FOR AECC BAILEY UNIT 1

Control scenario	Baseline emission rate (NO_X tpy)	Natural gas controlled emission level (lb/MMBtu)[26]	Fuel oil controlled emission level (lb/MMBtu)[27]	Controlled emission rate (NO_X tpy)	Annual emissions reductions (NO_X tpy)	Total annual cost ($/yr)	Average cost-effectiveness ($/ton)	Incremental cost-effectiveness($/ton)
Combustion Controls	49.81	0.15	0.15	30.83	18.98	700,477	36,905	
Combustion Controls + SNCR	49.81	0.12	0.12	24.79	25.02	1,223,157	48,884	86,536
SCR[28]	49.81	0.04	0.08	9.65	40.16	1,555,718	38,738	21,966

AECCestimated the average cost-effectiveness of installing and operating combustion controls to be $36,905 per ton of NO_X removed for Bailey Unit 1. The combination of combustion controls and SNCR was estimated to cost $48,884 per ton of NO_X removed, while SCR was estimated to cost $38,738 per ton of NO_X removed. In its evaluation, AECC also explained that it expects the cost-effectiveness of NO_X controls to be lower (*i.e.,* greater dollars per ton removed) in future years due to projected reduced operation of the unit.

AECC did not identify any energy or non-air quality environmental impacts associated with the use of LNB, OFA, or FGR. As for SCR and SNCR, we are not aware of any unusual circumstances at the facility that could create non-air quality environmental impacts associated with the operation of these controls greater than experienced elsewhere and that may therefore provide a basis for their elimination as BART (40 CFR part 51, Appendix Y, section IV.D.4.i.2.). Therefore, we do not believe there are any energy or non-air quality environmental impacts associated with NO_X controls at AECC Bailey Unit 1 that would affect our proposed BART determination.

AECC assessed the visibility improvement associated with NO_X controls by modeling the NO_X emission rates associated with each control option using CALPUFF, and then comparing the visibility impairment associated with the baseline emission rates to the visibility impairment associated with the controlled emission rates as measured by the 98th percentile modeled visibility impact. The tables below show a comparison of the baseline (*i.e.,* existing) visibility impacts and the visibility impacts associated with NO_X controls.

TABLE 10—AECC BAILEY UNIT 1: SUMMARY OF THE 98TH PERCENTILE VISIBILITY IMPACTS AND IMPROVEMENT DUE TO NO_X CONTROLS—NATURAL GAS FIRING

Class I area	Baseline visibility impact (Δdv)	Combustion controls		Combustion controls + SNCR		SCR	
		Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)	Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)	Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)
Caney Creek	0.083	0.039	0.044	0.032	0.051	0.014	0.069
Upper Buffalo	0.072	0.034	0.038	0.028	0.044	0.013	0.059
Hercules-Glades	0.073	0.035	0.038	0.029	0.044	0.013	0.06
Mingo	0.102	0.051	0.051	0.043	0.059	0.021	0.081
Cumulative Visibility Improvement (Δdv)			0.171		0.198		0.269

[25] EPA's ''Air Pollution Control Cost Manual,'' Sixth edition, January 2002, is located at *www.epa.gov/ttncatc1/products.html#cccinfo.*

[26] See the preceding paragraphs for a discussion of the expected controlled emission rates for natural gas vs. fuel oil firing.

[27] *Id.*

TABLE 11—AECC BAILEY UNIT 1: SUMMARY OF THE 98TH PERCENTILE VISIBILITY IMPACTS AND IMPROVEMENT DUE TO NO_X CONTROLS—FUEL OIL FIRING

Class I area	Baseline visibility impact (Δdv)	Combustion controls		Combustion controls + SNCR		SCR	
		Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)	Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)	Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)
Caney Creek	0.330	0.325	0.005	0.325	0.005	0.323	0.007
Upper Buffalo	0.347	0.332	0.015	0.329	0.018	0.325	0.022
Hercules-Glades	0.367	0.339	0.028	0.333	0.034	0.325	0.042
Mingo	0.378	0.369	0.009	0.367	0.011	0.364	0.014
Cumulative Visibility Improvement (Δdv)			0.057		0.068		0.085

The tables above show that the installation and operation of NO_X controls is projected to result in a very modest visibility improvement from the baseline. Combustion controls at Bailey Unit 1 are projected to result in visibility improvement of up to 0.051 dv at any single Class I area for the natural gas firing scenario and 0.028 dv for the fuel oil firing scenario (based on the 98th percentile modeled visibility impacts). A combination of combustion controls and SNCR is projected to result in only slight incremental visibility improvement over combustion controls alone. For example, a combination of combustion controls and SNCR at Bailey Unit 1 is projected to result in visibility improvement of up to 0.059 dv at any single Class I area for natural gas firing and 0.034 dv for fuel oil firing, which is an incremental visibility improvement of 0.008 dv for natural gas firing and 0.006 dv for fuel oil firing compared to combustion controls alone. Similarly, the installation and operation of SCR is projected to result in only slight incremental visibility improvement compared to a combination of combustion controls and SNCR.

Our Proposed NO_X BART Determination: Taking into consideration the five factors, we are proposing to determine that NO_X BART for the AECC Bailey Unit 1 is no additional controls, and are proposing that the facility's existing NO_X emission limit satisfies BART for NO_X. We are proposing the existing emission limit of 887 lb/hr for NO_X BART for Bailey Unit 1.[29] As discussed above, the operation of combustion controls at Bailey Unit 1 is projected to result in a maximum visibility improvement of 0.051 dv (Mingo), and a smaller amount of visibility improvement at each of the other affected Class I areas. The installation and operation of combustion controls at Bailey Unit 1 has an average cost-effectiveness of $36,905 per ton of NO_X removed, which is not within the range of what we consider cost-effective. We believe the relatively small visibility benefit projected from the operation of combustion controls both when combusting fuel oil and natural gas does not justify the estimated cost of those controls. The operation of a combination of combustion controls and SNCR is estimated to cost $48,884 per ton of NO_X removed, which is also not within the range of what we consider cost-effective. A combination of combustion controls and SNCR is projected to result in only slight incremental visibility benefit compared to combustion controls alone. The operation of SCR is estimated to cost $38,738 per ton of NO_X removed, which is not cost-effective, and is projected to result in only slight incremental visibility benefit compared to a combination of combustion controls and SNCR. We are proposing to find that NO_X BART for Bailey Unit 1 is no additional controls and are proposing that the existing NO_X emission limit of 887 lb/hr is BART for NO_X and that compliance be demonstrated using the unit's existing CEMS. We are proposing that this emission limitation be complied with for BART purposes from the date of effectiveness of the finalized action. We are also proposing regulatory text that includes monitoring, reporting, and recordkeeping requirements associated with these emission limits.

c. *Proposed BART Analysis and Determination for PM.* PM emissions are inherently low when burning natural gas. Bailey Unit 1 does not currently have pollution control equipment for PM. AECC's BART evaluation considered the following control technologies for PM BART: Dry electrostatic precipitator (ESP), wet ESP, fabric filter, wet scrubber, cyclone (*i.e.,* mechanical collector), and fuel switching. Residual fuel, such as the baseline No. 6 fuel oil burned at Bailey Unit 1, has inherent ash that contributes to emissions of filterable PM. Reductions in filterable PM emissions are directly related to the sulfur content of the fuel.[30] Therefore, switching to No. 6 fuel oil with a lower sulfur content is expected to result in lower filterable PM emissions. AECC's evaluation considered switching to No. 6 fuel oil with 1% sulfur content by weight, No. 6 fuel oil with 0.5% sulfur content by weight, diesel, and natural gas. These are the same lower sulfur fuel types evaluated in the SO_2 BART analysis for the unit.

AECC's evaluation noted that the particulate matter from oil-fired boilers tends to be sticky and small, affecting the collection efficiency of dry ESPs and fabric filters. Dry ESPs operate by placing a charge on the particles through a series of electrodes, and then capturing the charged particles on collection plates, while fabric filters work by filtering the PM in the flue gas through filter bags. The collected particles are periodically removed from the filter bag through a pulse jet or reverse flow mechanism. Because of the sticky nature of particles from oil-fired boilers, dry ESPs and fabric filters are deemed technically infeasible for use at Bailey Unit 1. Wet ESPs, cyclones, wet scrubbers, and fuel switching were identified as technically feasible options for Bailey Unit 1. AECC noted that although cyclones and wet scrubbers are considered technically feasible for use at these boiler types, they are not very efficient at controlling particles in the smaller size fraction, particularly particles smaller than a few microns. However, the majority of the PM emissions from Bailey Unit 1 are greater than a few microns in size.

[29] See ADEQ Operating Air Permit No. 0154–AOP–R4, Section IV, Specific Conditions No. 1 and 7.

[30] See ''AP–42, Compilation of Air Pollutant Emission Factors,'' section 1.3.3.1, and Table 1.3–1, available at *http://www.epa.gov/ttnchie1/ap42/.*

AECC estimated that switching to a lower sulfur fuel has a PM control efficiency ranging from approximately 44%–99%, depending on the fuel type. The other technically feasible control technologies are estimated to have the following PM control efficiency: Wet ESP—up to 90%, cyclone—85%, and wet scrubber—55%.

AECC evaluated the capital costs, operating costs, and average cost-effectiveness of wet ESPs, cyclones, and wet scrubbers. It also evaluated the average cost-effectiveness of switching to No. 6 fuel oil with 1% sulfur content, No. 6 fuel oil with 0.5% sulfur content, diesel, and natural gas. AECC developed the capital and operating costs of a wet ESP and wet scrubber using the Electric Power Research Institute's (EPRI) Integrated Emissions Control Cost Estimating Workbook (IECCOST) Software. The capital costs of controls (except for fuel switching) were annualized over a 15-year period and then added to the annual operating costs to obtain the total annualized costs. The table below summarizes the average cost-effectiveness of PM controls. The average cost-effectiveness was determined by dividing the annualized cost of controls by the annual PM emissions reductions. The annual emissions reductions were determined by subtracting the estimated controlled annual emission rates from the baseline annual emission rates. AECC estimated the baseline and controlled annual emission rates by conducting a mass balance on the sulfur content of the various fuels evaluated.

We disagree with two aspects of AECC's cost evaluation for PM controls. First, the total annual cost numbers associated with fuel switching should be the same as those used in the SO_2 BART cost analysis for Bailey Unit 1 (see Table 7). In earlier draft versions of AECC's BART analysis, which were provided to us for review, the cost numbers for fuel switching used in the PM and SO_2 BART analyses were identical. In response to comments provided by us, the total annual cost and average cost-effectiveness numbers for fuel switching were revised in the final version of AECC's SO_2 BART analysis. However, it appears that AECC overlooked updating these cost numbers in the final PM BART analysis.[31] In the table below, we have revised the total annual cost of fuel switching for the PM BART analysis to be consistent with the cost estimates from AECC's SO_2 BART analysis, and we have also updated the PM average cost-effectiveness values. The second aspect of AECC's cost evaluation for PM controls that we disagree with is the use of a 15-year capital cost recovery period for calculating the average cost-effectiveness of a wet ESP, wet scrubber, and cyclone. As previously discussed, we are not aware of any enforceable shutdown date for the AECC Bailey Generating Station, nor did AECC's evaluation indicate any future planned shutdown. Therefore, we believe that assuming a 30-year equipment life rather than a 15-year equipment life would be more appropriate for these control technologies. Extending the amortization period from 15 to 30 years has the effect of decreasing the total annual cost of each control option, thereby improving the average cost-effectiveness value of controls (*i.e.,* less dollars per ton removed). However, after considering all five BART factors, we do not believe AECC's assumption of a 15-year amortization period has an impact on our proposed BART decision and therefore we did not revise the amortization period or the average cost-effectiveness calculations for the PM control options. This is discussed in more detail below. The table below summarizes the estimated cost for fuel switching and the installation and operation of PM control equipment for Bailey Unit 1.

TABLE 12—SUMMARY OF COST OF PM CONTROLS FOR AECC BAILEY UNIT 1—BASELINE IS NO. 6 FUEL OIL WITH 1.81% SULFUR CONTENT BY WEIGHT

Control scenario	Baseline emission rate (PM tpy)	Control efficiency (%)	Controlled emission rate (PM tpy)	Annual emissions eductions (PM tpy)	Capital cost ($)	Total annual cost ($/yr)	Average cost-effectiveness ($/ton)	Incremental cost-effectiveness ($/ton)
Wet Scrubber	25.63	55.0	11.53	14.09	140,957,713	50,150,862	3,558,286	.....
No. 6 Fuel oil—1% S	25.63	65.7	8.80	16.83	.....	19,596	1,164	−18,296,082
Cyclone	25.63	85.0	3.84	21.78	989,479	1,188,630	54,570	236,168
No. 6 Fuel oil—0.5% S	25.63	89.3	2.75	22.88	.....	68,587	2,997	−1,020,948
Wet ESP	25.63	90.0	2.56	23.06	105,141,431	22,638,340	981,583	125,387,517
Natural Gas	25.63	99.0	0.26	25.37	.....	−384,550	−15,157	−9,966,619
Diesel	25.63	99.5	0.13	25.50	.....	194,003	7,608	4,450,408

The table above shows that the average cost-effectiveness values of all add-on PM control technology options evaluated for AECC Bailey Unit 1 ranged from approximately $55,000 per ton of PM removed to more than $3.5 million per ton of PM removed. The incremental cost-effectiveness of add-on PM control technology options ranged from $236,168 to $125,387,517 per ton of PM removed. Switching to No. 6 fuel oil with either a 1% or 0.5% sulfur content was found to be within the range of what we generally consider cost-effective for BART. Switching to No. 6 fuel oil with 1% sulfur content is estimated to cost $1,164 per ton of PM removed, while switching to No. 6 fuel oil with 0.5% sulfur content is estimated to cost $2,997 per ton of PM removed. As discussed in the SO_2 BART analysis, the current cost of natural gas is actually lower than the cost of the baseline fuel. Therefore, the average cost-effectiveness of switching from the baseline fuel to natural gas is denoted as a negative value in the table above. As discussed above, AECC also explained that it expects the average cost-effectiveness of PM control equipment to be lower (*i.e.,* greater dollars per ton removed) in future years due to projected reduced operation of the unit due to a change in the management of the load control area in which the facility is located.

AECC did not identify any energy or non-air quality environmental impacts associated with fuel switching, but did identify impacts associated with the use of wet ESPs and wet scrubbers due to their electricity usage. Energy use in and of itself does not disqualify a technology (40 CFR part 51, Appendix Y, section IV.D.4.h.1.). In addition, the cost of the electricity needed to operate this equipment has already been factored into the cost of controls. AECC also

[31] The final version of AECC's BART analysis for SO_2 and PM, upon which our analysis is largely based, is titled ''BART Five Factor Analysis Arkansas Electric Cooperative Corporation Bailey and McClellan Generating Stations, March 2014, Version 4.'' A copy of AECC's analysis can be found in the docket for our proposed rulemaking.

noted that both wet ESPs and wet scrubbers generate wastewater streams that must either be treated on-site or sent to a waste water treatment plant, and the wastewater treatment process will generate a filter cake that would likely require landfilling. The BART Guidelines provide that the fact that a control device creates liquid and solid waste that must be disposed of does not necessarily argue against selection of that technology as BART, particularly if the control device has been applied to similar facilities elsewhere and the solid or liquid waste is similar to those other applications. (40 CFR part 51, Appendix Y, section IV.D.4.i.2.). We are not aware of any unusual circumstances at the AECC Bailey Generating Station that could potentially create greater problems than experienced elsewhere related to the treatment of wastewater and any necessary landfilling, nor did AECC's evaluation discuss or mention any such unusual circumstances. Therefore, the need to treat wastewater or landfill any filter cake or other waste in and of itself does not provide a basis for disqualification or elimination of a wet ESP or wet scrubber.

As previously discussed, we are not aware of any enforceable shutdown date for the AECC Bailey Generating Station, nor did AECC's evaluation indicate any future planned shutdown. Therefore, we believe it is appropriate to assume a 30-year amortization period in the PM BART analysis as the remaining useful life of the unit. Assuming a 30-year amortization period, these controls would have a lower estimated total annual cost and would therefore have an improved cost-effectiveness (*i.e.,* less dollars per ton removed) than estimated in AECC's evaluation. However, we did not adjust the amortization period because we do not believe this has an impact on our proposed BART decision. As discussed in the subsection below, the visibility benefit expected from the installation and operation of PM control equipment is too small to justify the cost of these controls. Therefore, we did not revise the amortization period and the average cost-effectiveness calculations for the PM control equipment options.

As switching to lower sulfur fuels has impacts on both SO_2 and PM emissions, AECC's assessment of the visibility improvement associated with fuel switching is addressed in the SO_2 BART analysis for Bailey Unit 1. Table 8 summarizes the visibility improvement associated with controlled emission rates for SO_2 and PM as a result of fuel switching. AECC assessed the visibility improvement associated with wet ESPs, wet scrubbers, and cyclones by modeling the PM emission rates associated with each control option using CALPUFF, and then comparing the visibility impairment associated with the baseline emission rates to the visibility impairment associated with the controlled emission rates as measured by the 98th percentile modeled visibility impact. The controlled PM_{10} emission rates associated with wet ESPs, wet scrubbers, and cyclones were calculated by reducing the uncontrolled annual PM_{10} emission rates by the pollutant removal efficiency of each control technology. The SO_2 and NO_X emission rates modeled in the controlled scenarios are the same as those from the baseline scenario, as it is assumed that SO_2 and NO_X emissions would remain unchanged. The table below shows a comparison of the baseline (*i.e.,* existing) visibility impacts and the visibility impacts associated with PM controls.

TABLE 13—AECC BAILEY UNIT 1: SUMMARY OF THE 98TH PERCENTILE VISIBILITY IMPACTS AND IMPROVEMENT FROM PM CONTROLS

Class I area	Baseline visibility impact (Δdv)	Wet ESP		Wet scrubber		Cyclone	
		Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)	Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)	Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)
Caney Creek	0.330	0.327	0.003	0.328	0.002	0.328	0.002
Upper Buffalo	0.347	0.343	0.004	0.345	0.002	0.345	0.002
Hercules-Glades	0.367	0.356	0.011	0.360	0.007	0.361	0.006
Mingo	0.378	0.371	0.007	0.374	0.004	0.374	0.004
Cumulative Visibility Improvement (Δdv)	.....	.....	0.025	.....	0.015	.....	0.014

The table above shows that the operation of a wet ESP, wet scrubber, or cyclone at Bailey Unit 1 is projected to result in minimal visibility improvement at the four affected Class I areas. The modeled visibility improvement from switching to No. 6 fuel oil with 1% sulfur content, No. 6 fuel oil with 0.5% sulfur content, diesel, or natural gas is summarized in Table 8. The modeled visibility improvement shown in Table 8 reflects both SO_2 and PM emissions reductions as a result of switching to fuels with lower sulfur content. However, the majority of the baseline visibility impact at each Class I area when burning the baseline fuel oil is due to SO_2 emissions, while PM_{10} emissions contribute only a small portion of the baseline visibility impacts at each Class I area (see Table 5). Accordingly, the majority of the visibility improvement associated with switching to lower sulfur fuels can reasonably be expected to be the result of a reduction in SO_2 emissions.

Our Proposed PM BART Determination: Taking into consideration the five factors, we propose to determine that PM BART for the AECC Bailey Unit 1 does not require add-on controls. Consistent with our proposed determination for SO_2 BART, we are proposing that PM BART is satisfied by Unit 1 switching to fuels with 0.5% or lower sulfur content by weight. As discussed above, we disagree with AECC's use of a 15-year amortization period in the cost analysis for a wet ESP, wet scrubber, and cyclone. Assuming a 30-year amortization period, these controls would have lower estimated total annual costs and would therefore have an improved cost-effectiveness (*i.e.,* less dollars per ton removed) compared to what was estimated in AECC's evaluation. However, after considering all five BART factors, even if we revised AECC's cost estimates to reflect a 30-year amortization period, resulting in a lower total annual cost and improved cost-effectiveness, we would still not be able to justify the cost of add-on controls in light of the minimal visibility benefit of these controls (see the table above).

We are proposing to determine that PM BART for Bailey Unit 1 is switching to fuels with 0.5% or lower sulfur

content by weight. We propose to require that the facility purchase no fuel after the effective date of the rule that does not meet the sulfur content requirement and that 5 years from the effective date of the rule no fuel be burned that does not meet the requirement. We propose that any higher sulfur fuel oil that remains from the facility's 2006 fuel oil shipment cannot be burned past this point. As previously discussed, the unit's baseline fuel is No. 6 fuel oil with 1.81% sulfur content, based on the average sulfur content of the fuel oil from the most recent shipment received by the facility in 2006. Based on our discussions with the facility, it is our understanding that the unit burns fuel oil primarily during periods of natural gas curtailment and during periodic testing and that the facility still has stockpiles of fuel oil from the most recent fuel oil shipment. Because the unit burns primarily natural gas and does not ordinarily burn fuel oil on a frequent basis, we believe it is appropriate to allow the facility 5 years to burn its existing supply of No. 6 fuel oil, as the normal course of business dictates and in accordance with any operating restrictions enforced by ADEQ. We believe that a shorter compliance date may result in the facility burning its existing supply of higher sulfur No. 6 fuel oil relatively quickly, resulting in a high amount of SO_2 emissions being emitted by the unit over a short period of time. This is not the intent of our regional haze regulations. We are also proposing regulatory text that includes monitoring, reporting, and recordkeeping requirements associated with this proposed determination.

2. AECC John L. McClellan Generating Station

The AECC McClellan Unit 1 is subject to BART. As mentioned previously, we disapproved Arkansas' BART determinations for SO_2, NO_X, and PM for McClellan Unit 1 in our March 12, 2012 final action (77 FR 14604). The AECC McClellan Unit 1 is a wall-fired boiler with a gross output of 134 MW and a maximum heat input rate of 1,436 MMBtu/hr. The unit is currently permitted to burn natural gas and fuel oil. The fuel oil burned is currently subject to a sulfur content limit of 2.8% by weight. AECC, through its consultant, performed a five-factor analysis for McClellan Unit 1 (AECC's BART analysis).[32]

The table below summarizes the baseline emission rates for the source. The SO_2 and NO_X baseline emission rates are the highest actual 24-hour emission rates based on 2001–2003 CEMS data, while the PM baseline emission rates are based on stack testing and AP–42 emission factors.

TABLE 14—BASELINE EMISSION RATES FOR AECC MCCLELLAN UNIT 1

Unit/fuel scenario	SO_2 (lb/hr)	NO_X (lb/hr)	Total PM_{10} (lb/hr)	SO_4 (lb/hr)	PMc (lb/hr)	PMf (lb/hr)	SOA (lb/hr)	EC (lb/hr)
McClellan, Unit 1—Natural Gas	0.6	423.9	10.9	0.3	0.0	0.0	7.9	2.7
McClellan, Unit 1—Fuel Oil	2,747.5	579.8	59.4	5.9	14.2	35.4	1.00	2.8

The NO_X and PM baseline emission rates AECC modeled for the fuel oil firing scenario were updated from what the State modeled in the 2008 Arkansas RH SIP. The revised NO_X emission rates for the fuel oil firing scenario are higher than what was modeled in the 2008 Arkansas RH SIP, while the revised PM_{10} emission rates for fuel oil firing scenario are lower than what was modeled in the 2008 Arkansas RH SIP. We have some concern with AECC's use of the PM_{10} baseline emission rates, which were based on stack testing, because there is no discussion provided on how the stack test results are representative of the maximum 24-hour emissions. However, because the visibility impacts due to PM_{10} emissions from McClellan Unit 1 are so small, we believe a closer inspection of the revised PM_{10} emission rates and any further updates to these would likely not result in significant changes to the modeled visibility impacts and would not affect our proposed BART decision. As shown in the table below, the percentage of the visibility impairment attributable to PM_{10} at the Class I area with the highest visibility impacts (Caney Creek) is 6.63% for the natural gas firing scenario and 0.53% for the fuel oil firing scenario. Most of the visibility impairment is attributable to NO_3 (87.09%) for the natural gas firing scenario and to SO_4 (89.86%) for the fuel oil firing scenario. Therefore, we did not take further steps to adjust the PM_{10} emission rates or conduct additional modeling.

AECC modeled the baseline emission rates using the CALPUFF dispersion model to determine the baseline visibility impairment attributable to McClellan Unit 1 at the four Class I areas impacted by emissions from BART sources in Arkansas. These Class I areas are the Caney Creek Wilderness Area, Upper Buffalo Wilderness Area, Hercules-Glades Wilderness Area, and Mingo National Wildlife Refuge. The baseline (*i.e.,* existing) visibility impairment attributable to McClellan Unit 1 at each Class I area is summarized in the table below.

TABLE 15—98TH PERCENTILE BASELINE VISIBILITY IMPAIRMENT ATTRIBUTABLE TO AECC MCCLELLAN UNIT 1

[2001–2003]

Unit/fuel scenario	Maximum (Δdv)	98th Percentile (Δdv)	98th Percentile (% SO_4)	98th Percentile (% NO_3)	98th Percentile (% PM_{10})	98th Percentile (% NO_2)
McClellan Unit 1—Natural Gas: Caney Creek	0.670	0.125	0.39	87.09	6.63	5.89

[32] See the following BART analyses: ''BART Five Factor Analysis, Arkansas Electric Cooperative Corporation Bailey and McClellan Generating Stations,'' dated March 2014, Version 4, prepared by Trinity Consultants Inc. in conjunction with Arkansas Electric Cooperative Corporation; and ''BART Five Factor Analysis- NO_X Analysis, Addendum to the July 24, 2012 BART Five Factor Analysis, Arkansas Electric Cooperative Corporation Bailey and McClellan Generating Stations,'' dated December 2013, Version 3. A copy of these two BART analyses can be found in the docket for our proposed rulemaking.

TABLE 15—98TH PERCENTILE BASELINE VISIBILITY IMPAIRMENT ATTRIBUTABLE TO AECC MCCLELLAN UNIT 1—Continued

[2001–2003]

Unit/fuel scenario	Maximum (Δdv)	98th Percentile (Δdv)	98th Percentile (% SO_4)	98th Percentile (% NO_3)	98th Percentile (% PM_{10})	98th Percentile (% NO_2)
Upper Buffalo	0.258	0.052	0.34	91.78	4.82	3.05
Hercules-Glades	0.092	0.040	0.74	86.01	10.18	3.07
Mingo	0.132	0.058	0.33	91.96	5.13	2.58
McClellan Unit 1—Fuel Oil:						
Caney Creek	3.007	0.622	89.86	9.62	0.53	0.00
Upper Buffalo	1.323	0.266	98.47	0.95	0.58	0.00
Hercules-Glades	0.662	0.231	78.67	20.16	1.17	0.01
Mingo	0.547	0.228	80.90	17.89	1.20	0.01

a. *Proposed BART Analysis and Determination for SO_2.* AECC's BART evaluation examined BART controls for SO_2 for the AECC McClellan Unit 1. The source does not have existing SO_2 pollution control technology. AECC identified all available control technologies, eliminated options that are not technically feasible, and evaluated the control effectiveness of the remaining control options. Each technically feasible control option was then evaluated in terms of a five factor BART analysis.

The AECC evaluation considered both FGD and fuel switching as possible controls. AECC found that FGD applications have not been used historically for SO_2 control on fuel oil-fired units in the U.S. electric industry and therefore considered it a technically infeasible option for control of McClellan Unit 1. Accordingly, AECC did not further consider FGD for SO_2 BART. We concur with AECC's decision to focus the SO_2 BART evaluation on fuel switching. Switching to a fuel with a lower sulfur content is expected to reduce SO_2 emissions in proportion to the reduction in the sulfur content of the fuel, assuming the fuels have similar heat contents. McClellan Unit 1 burns primarily natural gas, but is also permitted to burn fuel oil. The baseline fuel AECC assumed in the BART analysis is No. 6 fuel oil with 1.38% sulfur content, based on the average sulfur content of the fuel oil from the most recent fuel oil shipment received by the facility in April 2009. A portion of the fuel oil from this shipment still remains in storage at the facility for future use. AECC evaluated switching to the fuel types shown in the table below.

TABLE 16—CONTROL EFFECTIVENESS OF FUEL SWITCHING OPTIONS FOR AECC MCCLELLAN UNIT 1

Fuel switching options	Estimated SO_2 control efficiency (%)
No. 6 fuel oil, 1% sulfur	28
No. 6 fuel oil, 0.5% sulfur	64
Diesel, 0.05% sulfur	96

TABLE 16—CONTROL EFFECTIVENESS OF FUEL SWITCHING OPTIONS FOR AECC MCCLELLAN UNIT 1—Continued

Fuel switching options	Estimated SO_2 control efficiency (%)
Natural gas	99.9

AECC estimated the average cost-effectiveness of switching to No. 6 fuel oil with 1% sulfur content to be $2,613 per ton of SO_2 removed for McClellan Unit 1. Switching from the baseline fuel to No. 6 fuel oil with 0.5% sulfur content was estimated to cost $3,823 per ton of SO_2 removed. The results of AECC's cost analysis are summarized in the table below. For the natural gas switching scenario, AECC found that the current cost of natural gas is actually lower than the cost of the baseline fuel. Therefore, the average cost-effectiveness of switching from the baseline fuel to natural gas is denoted as a negative value (cost savings) in the table below.

TABLE 17—AECC MCCLELLAN UNIT 1: SUMMARY OF COSTS ASSOCIATED WITH FUEL SWITCHING

Fuel switching scenario	Average sulfur content (%)	Baseline emission rate (SO_2 tpy)	Controlled emission rate (SO_2 tpy)	Annual emissions reductions (SO_2 tpy)	Annual fuel usage (Mgal/yr)	Fuel cost ($/MMBtu)	Total annual differential cost of fuel switching ($/yr)	Average cost effectiveness ($/ton)	Incremental cost effectiveness ($/ton)
Baseline	1.38	209.43	.....	.....	1,882.15	16.00	.....	.....	.....
No. 6 Fuel Oil—1%	1.00	.....	153.61	55.81	1,882.15	16.50	145,866	2,613	.....
No. 6 Fuel Oil—0.5%	0.50	.....	75.88	133.55	1,882.15	17.75	510,532	3,823	4,691
Diesel	0.05	.....	7.31	202.11	2,142.73	20.95	1,444,077	7,145	13,616
Natural Gas	0.04	.....	0.07	209.35	288.56	5.97	−2,926,874	−13,980	−603,723

The AECC BART evaluation did not identify any energy or non-air quality environmental impacts associated with switching to 1% sulfur No. 6 fuel oil, 0.5% sulfur No. 6 fuel oil, or diesel. The evaluation noted that switching to natural gas may have energy impacts during periods of natural gas curtailment. During periods of natural gas curtailment, natural gas infrastructure maintenance, and other emergencies, the McClellan Generating Station relies on the fuel oil stored at the plant to maintain electrical reliability. The AECC evaluation notes that because of this, it is important to maintain the ability to burn fuel oil at McClellan, even if fuel oil is currently more expensive to burn than natural gas.

With regard to consideration of the remaining useful life of Unit 1, this factor does not impact the SO_2 BART analysis because the emissions control approaches being evaluated for BART do not require capital cost expenditures. Thus, there are no control costs that need to be amortized over the lifetime of the unit.

AECC assessed the visibility improvement associated with fuel switching by comparing the 98th percentile modeled visibility impact of the baseline scenario (*i.e.,* existing) to the 98th percentile modeled visibility impact of each control scenario. The table below shows a comparison of the baseline visibility impacts and the visibility impacts of the different fuel switching control scenarios that were evaluated, including the cumulative visibility benefits.

TABLE 18—AECC MCCLELLAN UNIT 1: SUMMARY OF 98TH PERCENTILE VISIBILITY IMPACTS AND IMPROVEMENT DUE TO FUEL SWITCHING

Class I area	Baseline visibility impact (Δdv)	No. 6 fuel oil—1% sulfur		No. 6 fuel oil—0.5% sulfur		Diesel		Natural gas	
		Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)	Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)	Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)	Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)
Caney Creek	0.622	0.537	0.085	0.322	0.3	0.174	0.448	0.125	0.497
Upper Buffalo	0.266	0.231	0.035	0.146	0.12	0.073	0.193	0.052	0.214
Hercules-Glades	0.231	0.202	0.029	0.115	0.116	0.062	0.169	0.040	0.191
Mingo	0.228	0.193	0.035	0.136	0.092	0.080	0.148	0.058	0.17
Cumulative Visibility Improvement (Δdv)			0.184		0.628		0.958		1.072

The table above shows that switching to No. 6 fuel oil with 1% sulfur content at McClellan Unit 1 is projected to result in visibility improvement of 0.085 dv at Caney Creek. The visibility improvement at each of the other three affected Class I areas is projected to be 0.035 dv or less, while the cumulative visibility improvement at the four Class I areas is projected to be 0.184 dv. Switching to No. 6 fuel oil with 0.5% sulfur content is projected to result in considerable visibility improvement. It is projected to result in 0.3 dv visibility improvement at Caney Creek. The visibility improvement at each of the other three affected Class I areas is projected to be 0.12 dv or less, while the cumulative visibility improvement at the four Class I areas is projected to be 0.628 dv. Switching to diesel or natural gas is also projected to result in considerable visibility improvement. The visibility improvement at Caney Creek is projected to be 0.448 dv for switching to diesel and 0.497 dv for switching to natural gas. The cumulative visibility improvement at the four Class I areas is projected to be 0.958 dv for switching to diesel and 1.072 dv for switching to natural gas.

Our Proposed SO_2 BART Determination: Taking into consideration the five factors, we are proposing to determine that BART for McClellan Unit 1 is switching to fuels with 0.5% or lower sulfur content by weight. The cost of switching to No. 6 fuel oil with 0.5% sulfur content is within the range of what we consider to be cost-effective for BART and it is projected to result in considerable visibility improvement compared to the baseline at the affected Class I areas. Switching to No. 6 fuel oil with 0.5% sulfur content has an estimated average cost-effectiveness of $3,823 per ton of SO_2 removed and is projected to result in visibility improvement ranging from 0.092 to 0.3 dv at each modeled Class I area, and a cumulative visibility improvement of 0.628 dv at the four affected Class I areas. Switching to natural gas currently would cost less than the baseline fuel and is projected to result in even greater visibility improvement than switching to No. 6 fuel oil with 0.5% sulfur content. However, the BART Guidelines provide that it is not our intent to direct subject-to-BART sources to switch fuel forms, such as from coal or fuel oil to gas (40 CFR part 51, Appendix Y, section IV.D.1). Because natural gas has a sulfur content by weight that is well below 0.5%, the facility may elect to use this type of fuel to comply with BART, but we are not proposing to require a switch to natural gas for Unit 1. Switching to diesel is projected to result in considerable visibility improvement. The visibility improvement of switching to diesel is projected to range from 0.148 to 0.448 dv at each modeled Class I area, and the cumulative visibility improvement is 0.958 dv at the four affected Class I areas. The incremental visibility improvement of switching to diesel compared to switching to No. 6 fuel oil with a sulfur content of 0.5% is projected to range from 0.056 dv to 0.148 dv at each affected Class I area. However, the average cost-effectiveness of switching to diesel is estimated to be $7,145 and the incremental cost-effectiveness compared to No. 6 fuel oil with a sulfur content of 0.5% is $13,616 per ton of SO_2 removed, which we do not consider to be cost-effective in view of the incremental visibility improvement. Since diesel also has a sulfur content by weight that is well below 0.5%, the facility may elect to use this fuel type to comply with BART, but we are not proposing to require a switch to diesel for Unit 1. We are proposing to determine that SO_2 BART for McClellan Unit 1 is switching to fuels with 0.5% or lower sulfur content by weight. We propose to require that the facility purchase no fuel after the effective date of the rule that does not meet the sulfur content requirement and that 5 years from the effective date of the rule no fuel be burned that does not meet the requirement. We propose that any higher sulfur fuel oil that remains from the facility's 2009 fuel oil shipment cannot be burned past this point. As discussed above, the unit's baseline fuel is No. 6 fuel oil with 1.38% sulfur content, based on the average sulfur content of the fuel oil from the most recent shipment received by the facility in 2009. Based on our discussions with the facility, it is our understanding that the unit burns fuel oil primarily during periods of natural gas curtailment and during periodic testing and that the facility still has stockpiles of fuel oil from the most recent fuel oil shipment. Because the unit burns primarily natural gas and does not ordinarily burn fuel oil on a frequent basis, we believe it is appropriate to allow the facility 5 years to burn its existing supply of No. 6 fuel oil, as the normal course of business dictates and in accordance with any operating restrictions enforced by ADEQ. We believe that a shorter compliance date may result in the facility burning its existing supply of higher sulfur No. 6 fuel oil relatively quickly, resulting in a high amount of SO_2 emissions being emitted by the unit over a short period of time. This is not the intent of our regional haze regulations. We are also proposing regulatory text that includes monitoring, reporting, and recordkeeping

requirements associated with this proposed determination.

b. *Proposed BART Analysis and Determination for NO_X.* The AECC evaluation examined BART controls for NO_X for McClellan Unit 1. McClellan Unit 1 does not currently have pollution control equipment for NO_X. AECC identified all available control technologies, eliminated options that are not technically feasible, and evaluated the control effectiveness of the remaining control options. Each technically feasible control option was then evaluated in terms of a five factor BART analysis.

For NO_X BART, the AECC evaluation considered both combustion and post-combustion controls. The combustion controls evaluated by AECC consisted of FGR, OFA, and LNB. The post-combustion controls evaluated consisted of SCR and SNCR. AECC found that some boilers may be restricted from installing OFA retrofits due to physical size and space restraints. For purposes of the NO_X BART evaluation, AECC assumed OFA to be a technically feasible option for McClellan Unit 1, but noted that if OFA was determined to be BART based on the evaluation of the five BART factors, then further analyses would have to be performed to determine if: (1) The dimensions of McClellan's main boilers have sufficient upper furnace volume for OFA mixing and complete combustion and (2) the furnace meets the physical space requirements for OFA ports and air supply ducts. The remaining NO_X control options were found to be technically feasible.

AECC evaluated three control scenarios: A combination of combustion controls (FGR, OFA, and LNB); the combination of combustion controls and SNCR; and SCR. Based on literature estimates, AECC found that the estimated NO_X control range for oil and gas wall-fired boilers, such as McClellan Unit 1, is approximately 0.2–0.4 lb/MMBtu using FGR and 0.2–0.3 lb/MMBtu using OFA.[33] When LNB is combined with OFA and FGR, AECC estimated that a NO_X controlled emission rate of 0.15–0.20 lb/MMBtu can be achieved at McClellan Unit 1. The NO_X controlled emission rate of combustion controls combined with SNCR is estimated to be 0.10–0.12 lb/MMBtu. The NO_X control efficiency of SCR is estimated to be 80–90% for gas fired boilers and 70–80% for oil fired boilers, which corresponds to a controlled emission rate of 0.05–0.12 lb/MMBtu for McClellan Unit 1.

AECC's cost analysis for NO_X controls was based on ''budgetary'' cost estimates it obtained from the pollution control vendor, Babcock Power Systems. AECC estimated the capital and operating costs of controls based on the vendor's estimates, engineering estimates, and published calculation methods using the EPA Control Cost Manual. We are not aware of any enforceable shutdown date for the McClellan Generating Station, nor did AECC's evaluation indicate any future planned shutdown. This means that the anticipated useful life of the boiler is expected to be at least as long as the capital cost recovery period of controls. Therefore, a 30-year amortization period was assumed in the NO_X BART analysis as the remaining useful life of Unit 1. The table below summarizes the estimated cost for installation and operation of NO_X controls for McClellan Unit 1.

TABLE 19—SUMMARY OF NO_X CONTROL COSTS FOR AECC MCCLELLAN UNIT 1

Control scenario	Baseline emission rate (NO_X tpy)	Natural gas controlled emission level (lb/MMBtu)	Fuel oil controlled emission level (lb/MMBtu)	Controlled emission rate (tpy)	Annual emissions reductions (NO_X tpy)	Total annual cost ($/yr)	Average cost effectiveness ($/ton)	Incremental cost ($/ton)
Combustion Controls	294.04	0.15	0.15	174.89	119.15	746,051	6,261	.....
Combustion Controls + SNCR	294.04	0.12	0.10	136.40	157.64	1,990,988	12,630	32,344
SCR	294.04	0.05	0.12	64.98	229.06	1,732,870	7,565	−3,614

AECC estimated the average cost-effectiveness of installing and operating combustion controls to be $6,261 per ton of NO_X removed. The combination of combustion controls and SNCR was estimated to cost $12,630 per ton of NO_X removed, while SCR was estimated to cost $7,565 per ton of NO_X removed. In its evaluation, AECC also explained that AECC expects the average cost-effectiveness of NO_X controls to be lower (*i.e.,* greater dollars per ton removed) in future years due to projected reduced operation of the unit.

AECC did not identify any energy or non-air quality environmental impacts associated with the use of LNB, OFA, or FGR. As for SCR and SNCR, we are not aware of any unusual circumstances at the facility that could create non-air quality environmental impacts associated with the operation of these controls greater than experienced elsewhere and that may therefore provide a basis for their elimination as BART (40 CFR part 51, Appendix Y, section IV.D.4.i.2.). Therefore, we do not believe there are any energy or non-air quality environmental impacts associated with NO_X controls at AECC McClellan Unit 1 that would affect our proposed BART determination.

AECC assessed the visibility improvement associated with NO_X controls by modeling the NO_X emission rates associated with each control option using CALPUFF, and then comparing the visibility impairment associated with the baseline emission rates to the visibility impairment associated with the controlled emission rates as measured by the 98th percentile modeled visibility impact. The tables below show a comparison of the baseline (*i.e.,* existing) visibility impacts and the visibility impacts associated with NO_X controls.

[33] ''Controlling Nitrogen Oxides Under the Clean Air Act: A Menu of Options,'' section II, dated July 1994, State and Territorial Air Pollution Program Administrators (STAPPA) and Association of Local Air Pollution Control Officials (ALAPCO).

TABLE 20—AECC MCCLELLAN UNIT 1: SUMMARY OF THE 98TH PERCENTILE VISIBILITY IMPACTS AND IMPROVEMENT DUE TO NO_X CONTROLS—NATURAL GAS FIRING

[2001–2003]

Class I area	Baseline visibility impact (Δdv)	Combustion controls		Combustion controls + SNCR		SCR	
		Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)	Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)	Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)
Caney Creek	0.125	0.068	0.057	0.056	0.069	0.027	0.098
Upper Buffalo	0.052	0.028	0.024	0.023	0.029	0.012	0.04
Hercules-Glades	0.040	0.021	0.019	0.018	0.022	0.009	0.031
Mingo	0.058	0.031	0.027	0.026	0.032	0.012	0.046
Cumulative Visibility Improvement (Δdv)			0.127		0.152		0.215

TABLE 21—AECC MCCLELLAN UNIT 1: SUMMARY OF THE 98TH PERCENTILE VISIBILITY IMPACTS AND IMPROVEMENT DUE TO NO_X CONTROLS—FUEL OIL FIRING

[2001–2003]

Class I area	Baseline visibility impact (Δdv)	Combustion controls		Combustion controls + SNCR		SCR	
		Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)	Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)	Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)
Caney Creek	0.621	0.554	0.067	0.542	0.079	0.548	0.073
Upper Buffalo	0.266	0.264	0.002	0.264	0.002	0.264	0.002
Hercules-Glades	0.230	0.209	0.021	0.203	0.027	0.207	0.023
Mingo	0.227	0.203	0.024	0.200	0.027	0.201	0.026
Cumulative Visibility Improvement (Δdv)			0.114		0.135		0.124

The tables above show that the installation and operation of NO_X controls is projected to result in a very modest visibility improvement from the baseline. Combustion controls at McClellan Unit 1 are projected to result in visibility improvement of up to 0.057 dv at any single Class I area for the natural gas firing scenario and 0.067 dv for the fuel oil firing scenario. A combination of combustion controls and SNCR is projected to result in only slight incremental visibility improvement compared to combustion controls alone. For example, a combination of combustion controls and SNCR at McClellan Unit 1 is projected to result in visibility improvement of up to 0.069 dv at any single Class I area for natural gas firing and 0.079 dv for fuel oil firing, which is an incremental visibility improvement for each fuel firing scenario of 0.012 dv going from combustion controls to combustion controls in combination with SNCR. Similarly, the installation and operation of SCR is projected to result in only slight incremental visibility improvement compared to a combination of combustion controls and SNCR, except for the fuel oil firing scenario. For the fuel oil firing scenario, SCR is projected to result in slightly less than or equal visibility improvement than a combination of combustion controls and SNCR.

Our Proposed NO_X BART Determination: Taking into consideration the five factors, we are proposing to determine that NO_X BART for McClellan Unit 1 is no additional controls, and are proposing that the facility's existing NO_X emission limits satisfy BART for NO_X. We are proposing the existing emission limits of 869.1 lb/hr for natural gas firing and 705.8 lb/hr for fuel oil firing for NO_X BART for McClellan Unit 1.[34] As discussed above, the operation of combustion controls at McClellan Unit 1 is projected to result in a maximum visibility improvement of 0.067 dv (Caney Creek), and a smaller amount of visibility improvement at each of the other Class I areas. The installation and operation of combustion controls at McClellan Unit 1 has an average cost-effectiveness of $6,261 per ton of NO_X removed, which is not within the range of what we generally consider to be cost-effective. We believe the relatively small visibility benefit projected from the operation of combustion controls both when combusting fuel oil and natural gas does not justify the high estimated cost of those controls. The operation of a combination of combustion controls and SNCR is estimated to cost $12,630 per ton of NO_X removed, which is not cost-effective. A combination of combustion controls and SNCR is projected to result in only slight incremental visibility benefit compared to combustion controls alone. The operation of SCR is estimated to cost $7,565 per ton of NO_X removed, which is not generally considered cost-effective, and is projected to result in only slight incremental visibility benefit compared to a combination of combustion controls and SNCR. We are proposing to find that NO_X BART for McClellan Unit 1 is no additional controls and are proposing that the existing NO_X emission limits of 869.1 lb/hr for natural gas firing and 705.8 lb/hr for fuel oil firing are BART for NO_X and that compliance be demonstrated using the unit's existing CEMS. We are proposing that these emissions limitations be complied with for BART purposes from the date of effectiveness of the finalized

[34] See ADEQ Operating Air Permit No. 0181–AOP–R5, Section IV, Specific Condition No. 1, 3, and 13.

action. We are also proposing regulatory text that includes monitoring, reporting, and recordkeeping requirements associated with these emission limits.

c. *Proposed BART Analysis and Determination for PM.* McClellan Unit 1 does not currently have pollution control equipment for PM. For PM BART, AECC's evaluation considered the following control technologies: Dry ESP, wet ESP, fabric filter, wet scrubber, cyclone (*i.e.,* mechanical collector), and fuel switching. Residual fuel, such as the baseline No. 6 fuel oil burned at McClellan Unit 1, has inherent ash that contributes to emissions of filterable PM. Reductions in filterable PM emissions are directly related to the sulfur content of the fuel.[35] Therefore, switching to No. 6 fuel oil with a lower sulfur content is expected to result in lower filterable PM emissions. The AECC evaluation considered switching to No. 6 fuel oil with 1% sulfur content by weight, No. 6 fuel oil with 0.5% sulfur content by weight, diesel, and natural gas. These are the same lower sulfur fuel types evaluated in the SO_2 BART analysis for the unit.

The AECC evaluation noted that the particulate matter from oil-fired boilers tends to be sticky and small, affecting the collection efficiency of dry ESPs and fabric filters. Dry ESPs operate by placing a charge on the particles through a series of electrodes, and then capturing the charged particles on collection plates, while fabric filters work by filtering the PM in the flue gas through filter bags. The collected particles are periodically removed from the filter bag through a pulse jet or reverse flow mechanism. Because of the sticky nature of particles from oil-fired boilers, dry ESPs and fabric filters are deemed technically infeasible for use at McClellan Unit 1. Wet ESPs, cyclones, wet scrubbers, and fuel switching were identified as technically feasible options for McClellan Unit 1. AECC noted that although cyclones and wet scrubbers are considered technically feasible for use at these boiler types, they are not very efficient at controlling particles in the smaller size fraction, particularly particles smaller than a few microns. However, the majority of the PM emissions from McClellan Unit 1 are greater than a few microns in size.

AECC estimated that switching to a lower sulfur fuel has a PM control efficiency ranging from approximately 44%–99%, depending on the fuel type. The other technically feasible control technologies are estimated to have the following PM control efficiency: Wet ESP—up to 90%, cyclone—85%, and wet scrubber—55%.

AECC evaluated the capital costs, operating costs, and average cost-effectiveness of wet ESPs, cyclones, and wet scrubbers. AECC also evaluated the average cost-effectiveness of switching to No. 6 fuel oil with 1% sulfur content, No. 6 fuel oil with 0.5% sulfur content, diesel, and natural gas. AECC developed the capital and operating costs of a wet ESP and wet scrubber using the Electric Power Research Institute's (EPRI) Integrated Emissions Control Cost Estimating Workbook (IECCOST) Software. The capital costs of controls (except for fuel switching) were annualized over a 15-year period and then added to the annual operating costs to obtain the total annualized costs. The table below summarizes the average cost-effectiveness of PM controls. The average cost-effectiveness was determined by dividing the annualized cost of controls by the annual PM emissions reductions. The annual emissions reductions were determined by subtracting the estimated controlled annual emission rates from the baseline annual emission rates. AECC estimated the baseline and controlled annual emission rates by conducting a mass balance on the sulfur content of the various fuels evaluated.

We disagree with two aspects of AECC's cost evaluation for PM controls for McClellan Unit 1. First, the total annual cost numbers associated with fuel switching should be the same as those used in the SO_2 BART cost analysis (see Table 17). In earlier draft versions of AECC's analysis, which were provided to us for review, the cost numbers for fuel switching used in the PM and SO_2 BART analyses were identical. In response to comments provided by us, the total annual cost and average cost-effectiveness numbers for fuel switching were revised in the final version of AECC's SO_2 BART analysis. However, it appears that AECC overlooked updating these cost numbers in the final PM BART analysis.[36] In the table below, we have revised the total annual cost of fuel switching for the PM BART analysis to be consistent with the cost estimates from AECC's SO_2 BART analysis, and we have also updated the PM average cost-effectiveness values. The second aspect of AECC's cost evaluation for PM controls that we disagree with is the use of a 15-year capital cost recovery period for calculating the average cost-effectiveness of a wet ESP, wet scrubber, and cyclone. As previously discussed, we are not aware of any enforceable shutdown date for the AECC McClellan Generating Station, nor did AECC's BART evaluation indicate any future planned shutdown. Therefore, we believe that assuming a 30-year equipment life rather than a 15-year equipment life would be more appropriate for these control technologies. Extending the amortization period from 15 to 30 years has the effect of decreasing the total annual cost of each control option, thereby improving the average cost-effectiveness of controls (*i.e.,* less dollars per ton removed). However, after considering all five BART factors, we do not believe AECC's assumption of a 15-year amortization period has an impact on our proposed BART decision and therefore we did not revise the amortization period or the average cost-effectiveness calculations for the PM control equipment options. This is discussed in more detail below. The table below summarizes the estimated cost for fuel switching and the installation and operation of PM control equipment for McClellan Unit 1.

TABLE 22—SUMMARY OF COST OF PM CONTROLS FOR AECC MCCLELLAN UNIT 1

Control scenario	Baseline emission rate (PM tpy)	Control efficiency (%)	Controlled emission rate (PM tpy)	Annual emissions reduction (PM tpy)	Capital cost ($)	Total annual cost ($/yr)	Average PM cost effectiveness ($/ton)	Incremental cost effectiveness (S/ton)
No. 6 Fuel oil—1% S	136.08	43.6	76.70	59.38		145,866	2,456	
Wet Scrubber	136.08	55.0	61.23	74.84	146,303,011	52,056,542	695,549	3,357,741
No. 6 Fuel oil—0.5% S	136.08	82.4	23.94	112.14		510,532	4,553	−1,381,931
Cyclone	136.08	85.0	20.41	115.67	1,432,971	1,721,384	14,882	343,018
Wet ESP	136.08	90.0	13.61	122.47	151,509,333	32,605,907	266,237	4,541,842

[35] See ''AP–42, Compilation of Air Pollutant Emission Factors,'' section 1.3.3.1, and Table 1.3–1, available at *http://www.epa.gov/ttnchie1/ap42/.*

[36] The final version of AECC's BART analysis for SO_2 and PM, upon which our analysis is largely based, is titled ''BART Five Factor Analysis Arkansas Electric Cooperative Corporation Bailey and McClellan Generating Stations, March 2014, Version 4.'' A copy of AECC's analysis can be found in the docket for our proposed rulemaking.

TABLE 22—SUMMARY OF COST OF PM CONTROLS FOR AECC MCCLELLAN UNIT 1—Continued

Control scenario	Baseline emission rate (PM tpy)	Control efficiency (%)	Controlled emission rate (PM tpy)	Annual emissions reduction (PM tpy)	Capital cost ($)	Total annual cost ($/yr)	Average PM cost effectiveness ($/ton)	Incremental cost effectiveness (S/ton)
Natural Gas	136.08	99.0	1.36	134.72		−2,926,874	−21,725	−2,900,635
Diesel	136.08	99.2	1.10	134.98		1,444,077	10,698	16,811,350

The table above shows that the average cost-effectiveness values of all add-on PM control technology options evaluated for McClellan Unit 1 ranged in cost-effectiveness from approximately $15,000 to $700,000 per ton of PM removed, based on AECC's cost estimates. The incremental cost-effectiveness of add-on PM control technology options ranged from $343,018 to $16,811,350 per ton of PM removed. Switching to No. 6 fuel oil with either a 1% or 0.5% sulfur content was found to be within the range of what we generally consider cost-effective for BART. Switching to No. 6 fuel oil with 1% sulfur content is estimated to cost $2,456 per ton of PM removed, while switching to No. 6 fuel oil with 0.5% sulfur content is estimated to cost $4,553 per ton of PM removed at McClellan Unit 1. As discussed in the SO_2 BART analysis, the current cost of natural gas is actually lower than the cost of the baseline fuel. Therefore, the average cost-effectiveness of switching from the baseline fuel to natural gas is denoted as a negative value in the table above. As discussed above, AECC also explained that it expects the average cost-effectiveness of PM control equipment to be lower (*i.e.,* greater dollars per ton removed) in future years due to projected reduced operation of the units due to a change in the management of the load control area the facilities are located in. Less projected operating time is expected to result in lower annual emissions, which in turn would result in decreased average cost-effectiveness for the add-on PM control technology options.

AECC did not identify any energy or non-air quality environmental impacts associated with fuel switching, but did identify impacts associated with the use of wet ESPs and wet scrubbers due to their electricity usage. Energy use in and of itself does not disqualify a technology (40 CFR part 51, Appendix Y, section IV.D.4.h.1.). In addition, the cost of the electricity needed to operate this equipment has already been factored into the cost of controls. AECC also noted that both wet ESPs and wet scrubbers generate wastewater streams that must either be treated on-site or sent to a waste water treatment plant, and the wastewater treatment process will generate a filter cake that would likely require landfilling. The BART Guidelines provide that the fact that a control device creates liquid and solid waste that must be disposed of does not necessarily argue against selection of that technology as BART, particularly if the control device has been applied to similar facilities elsewhere and the solid or liquid waste is similar to those other applications (40 CFR part 51, Appendix Y, section IV.D.4.i.2.). We are not aware of any unusual circumstances at the AECC McClellan Generating Station that could potentially create greater problems than experienced elsewhere related to the treatment of wastewater and any necessary landfilling, nor did the AECC BART evaluation discuss or mention any such unusual circumstances. Therefore, the need to treat wastewater or landfill any filter cake or other waste in and of itself does not provide a basis for disqualification or elimination of a wet ESP or wet scrubber.

As previously discussed, we are not aware of any enforceable shutdown date for the AECC McClellan Generating Station, nor did the AECC evaluation indicate any future planned shutdown. Therefore, we believe it is appropriate to assume a 30-year amortization period in the PM BART analysis as the remaining useful life of the unit. Assuming a 30-year amortization period, these controls would have a lower estimated total annual cost and would therefore have an improved cost-effectiveness (*i.e.,* less dollars per ton removed) compared to what was estimated in AECC's evaluation. However, we did not adjust the amortization period because we do not believe this has an impact on our proposed BART decision. As discussed in the subsection below, the visibility benefit expected from the installation and operation of PM control equipment is too small to justify the cost of these controls. Therefore, we did not revise the amortization period and the average cost-effectiveness calculations for the PM control equipment options.

As switching to lower sulfur fuels has impacts on both SO_2 and PM emissions, AECC's assessment of the visibility improvement associated with fuel switching is addressed in the SO_2 BART analysis for McClellan Unit 1. Table 18 summarizes the visibility improvement associated with controlled emission rates for SO_2 and PM as a result of fuel switching. AECC assessed the visibility improvement associated with wet ESPs, wet scrubbers, and cyclones by modeling the PM emission rates associated with each control option using CALPUFF, and then comparing the visibility impairment associated with the baseline emission rates to the visibility impairment associated with the controlled emission rates as measured by the 98th percentile modeled visibility impact. The controlled PM_{10} emission rates associated with wet ESPs, wet scrubbers, and cyclones were calculated by reducing the uncontrolled annual PM_{10} emission rates by the pollutant removal efficiency of each control technology. The SO_2 and NO_X emission rates modeled in the controlled scenarios are the same as those from the baseline scenario, as it is assumed that SO_2 and NO_X emissions would remain unchanged. The table below shows a comparison of the baseline (*i.e.,* existing) visibility impacts and the visibility impacts associated with PM controls.

TABLE 23—AECC MCCLELLAN UNIT 1: SUMMARY OF THE 98TH PERCENTILE VISIBILITY IMPACTS AND IMPROVEMENT FROM PM CONTROLS

Class I area	Baseline visibility impact (Δdv)	Wet ESP		Wet scrubber		Cyclone	
		Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)	Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)	Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)
Caney Creek	0.621	0.617	0.004	0.619	0.002	0.619	0.002
Upper Buffalo	0.266	0.263	0.003	0.264	0.002	0.265	0.001
Hercules-Glades	0.230	0.227	0.003	0.228	0.002	0.229	0.001
Mingo	0.227	0.223	0.004	0.224	0.003	0.225	0.002
Cumulative Visibility Improvement (Δdv)			0.014		0.009		0.006

The table above shows that the operation of a wet ESP, wet scrubber, and cyclone at McClellan Unit 1 is projected to result in minimal visibility improvement at the four affected Class I areas. The modeled visibility improvement from switching to No. 6 fuel oil with 1% sulfur content; No. 6 fuel oil with 0.5% sulfur content; diesel; and natural gas are summarized in Table 18. The modeled visibility improvement shown in Table 18 reflects both SO_2 and PM emissions reductions as a result of switching to fuels with lower sulfur content. However, the majority of the baseline visibility impact at each Class I area when burning the baseline fuel oil is due to SO_2 emissions, while PM_{10} emissions contribute only a small portion of the baseline visibility impacts at each Class I area (see Table 15). Accordingly, the majority of the visibility improvement associated with switching to lower sulfur fuels can reasonably be expected to be the result of a reduction in SO_2 emissions.

Our Proposed PM BART Determination: Taking into consideration the five factors, we propose to determine that PM BART for AECC McClellan Unit 1 does not require add-on controls. Consistent with our proposed determination for SO_2 BART, we are proposing that PM BART is satisfied by Unit 1 switching to fuels with 0.5% or lower sulfur content by weight. As discussed above, we disagree with AECC's use of a 15-year amortization period in the cost analysis for a wet ESP, wet scrubber, and cyclone. Assuming a 30-year amortization period, these controls would have a lower estimated total annual cost and would therefore have an improved cost-effectiveness (*i.e.,* less dollars per ton removed) compared to what was estimated in AECC's evaluation. However, after considering all five BART factors, even if we revised AECC's cost estimates to reflect a 30-year amortization period, resulting in a lower total annual cost and improved cost-effectiveness, we would still not be able to justify the cost in light of the minimal visibility benefit of these controls (see the table above).

We are proposing to determine that PM BART for McClellan Unit 1 is switching to fuels with 0.5% or lower sulfur content by weight. We propose to require that the facility purchase no fuel after the effective date of the rule that does not meet the sulfur content requirement and that 5 years from the effective date of the rule no fuel be burned that does not meet the requirement. We propose that any higher sulfur fuel oil that remains from the facility's 2009 fuel oil shipment cannot be burned past this point. As discussed above, the unit's baseline fuel is No. 6 fuel oil with 1.38% sulfur content, based on the average sulfur content of the fuel oil from the most recent shipment received by the facility in 2009. Based on our discussions with the facility, it is our understanding that the unit burns fuel oil primarily during periods of natural gas curtailment and during periodic testing and that the facility still has stockpiles of fuel oil from the most recent fuel oil shipment. Because the unit burns primarily natural gas and does not ordinarily burn fuel oil on a frequent basis, we believe it is appropriate to allow the facility 5 years to burn its existing supply of No. 6 fuel oil, as the normal course of business dictates and in accordance with any operating restrictions enforced by ADEQ. We believe that a shorter compliance date may result in the facility burning its existing supply of higher sulfur No. 6 fuel oil relatively quickly, resulting in a high amount of SO_2 emissions being emitted by the unit over a short period of time. This is not the intent of our regional haze regulations. We are also proposing regulatory text that includes monitoring, reporting, and recordkeeping requirements associated with this proposed determination.

3. AEP Flint Creek Power Plant

The AEP Flint Creek Power Plant Unit 1 is subject to BART. We previously disapproved Arkansas' BART determination for SO_2 and NO_X for Flint Creek Unit 1 in our March 12, 2012 final action (77 FR 14604). Flint Creek Unit 1 is a dry bottom wall-fired boiler with a nominal generating capacity rating of 558 MW and a nominal design maximum heat input rate of 6,324 MMBtu/hr. The unit burns primarily low-sulfur western coal and is currently equipped with an ESP and low NO_X burners. AEP hired a consultant to prepare a BART five-factor analysis for the AEP Flint Creek Unit 1 (AEP BART analysis).[37]

The table below summarizes the baseline emission rates for this source. The SO_2 and NO_X baseline emission rates are the highest actual 24-hour emission rates based on 2001–2003 CEMS data. The emission rates for the PM_{10} species reflect the breakdown of the filterable and condensable PM_{10} determined from the National Park Service (NPS) ''speciation spreadsheet'' for *Dry Bottom Boiler Burning Pulverized Coal using only ESP.*[38] The sulfate (SO_4) emission rate was calculated using an EPRI methodology that considers the SO_2 to SO_4 conversion rate and SO_4 reduction

[37] See ''BART Five Factor Analysis Flint Creek Power Plant Gentry, Arkansas (AFIN 04–00107),'' dated September 2013, Version 4, prepared by Trinity Consultants Inc. in conjunction with American Electric Power Service Corporation for the Southwestern Electric Power Company Flint Creek Power Plant. A copy of this BART analysis is found in the docket for our proposed rulemaking.

[38] The NPS Workbook, ''PC Dry Bottom ESP Example.xls'' updated 03/2006, was obtained from the NPS Web site: *http://www.nature.nps.gov/air/Permits/ect/index.cfm*. Trinity input the following parameters into the workbook for speciation determination: total PM_{10} emission rate of 192.5 lb/hr, heat value of 8,500 Btu/lb, sulfur content of 0.31%, ash content of 4.9%.

factors for various downstream equipment.[39]

TABLE 24—AEP FLINT CREEK UNIT 1: BASELINE MAXIMUM 24-HOUR EMISSION RATES

Source	SO_2 (lb/hr)	SO_4 (lb/hr)	NO_X (lb/hr)	PMc (lb/hr)	PMf (lb/hr)	SOA (lb/hr)	EC (lb/hr)
Unit 1 (SN–01)	4,728.4	3.1	1,945.0	65.1	50.1	15.1	1.9

AEP modeled the baseline emission rates using the CALPUFF dispersion model to determine the baseline visibility impairment attributable to Flint Creek Unit 1 at the four Class I areas impacted by emissions from BART sources in Arkansas. These Class I areas are the Caney Creek Wilderness Area, Upper Buffalo Wilderness Area, Hercules-Glades Wilderness Area, and Mingo National Wildlife Refuge. The baseline (*i.e.,* 2001–2003) visibility impairment attributable to the source at each Class I area is summarized in the table below.

TABLE 25—BASELINE VISIBILITY IMPAIRMENT ATTRIBUTABLE TO AEP FLINT CREEK UNIT 1

[2001–2003]

Unit	Caney Creek	Upper Buffalo	Hercules-Glades	Mingo
AEP Flint Creek Unit 1:				
Maximum (Δdv)	1.318	2.426	2.103	1.488
98th Percentile (Δdv)	0.963	0.965	0.657	0.631

a. *Proposed BART Analysis and Determination for SO_2.* AEP identified all available control technologies, eliminated options that are not technically feasible, and evaluated the control effectiveness of the remaining control options. Each technically feasible control option was then evaluated in terms of a five factor BART analysis.

The AEP evaluation considered Dry Sorbent Injection (DSI), dry FGD (*i.e.,* dry scrubber), and wet FGD (*i.e.,* wet scrubber) for SO_2 BART. All three options were identified as technically feasible for use at Flint Creek Unit 1. The AEP evaluation noted that depending on residence time, gas stream temperature, and limitations of the particulate control device, DSI control efficiency can range between 40 to 60%.[40] Dry FGD control efficiency generally ranges from 60 to 95%. There are various designs of dry FGD systems, including Spray Dryer Absorber (SDA), Circulating Dry Scrubbing (CDS), and Novel Integrated Desulfurization (NID) technology. According to AEP's evaluation, discussions with vendors indicated that an outlet emission rate of 0.06 lb/MMBtu at Flint Creek Unit 1 would be achievable with NID technology. AEP noted that it has no data to suggest that lower emission levels are sustainably achievable with the NID technology in a retrofit application, and that equipment vendors did not guarantee better performance than this. An emission rate of 0.06 lb/MMBtu represents 92% control from the unit's baseline 30-day average rate of 0.75 lb/MMBtu. AEP's analysis notes that dry FGD using lime as the reagent is capable of achieving 80 to 95% control when used with lower sulfur coals such as those burned at Flint Creek Unit 1. The remainder of AEP's analysis focused on wet FGD and dry FGD (NID). We concur with AEP's decision to focus the remainder of the analysis on the two control options with the highest control efficiency.

The estimated capital and operating costs of wet FGD and dry FGD (NID) developed by AEP and used in the cost-effectiveness calculations were based on EPA's Control Cost Manual and supplemented, where available, with vendor and site-specific information obtained by AEP. AEP annualized the capital cost of controls over a 30-year amortization period and then added these to the annual operating costs to obtain the total annualized costs. The average cost-effectiveness was calculated by dividing the total annualized cost of controls by the annual SO_2 emissions reductions. AEP estimated the average cost-effectiveness of a wet FGD system to be $4,919 per ton of SO_2 removed, while the average cost-effectiveness of NID was estimated to be $3,845 per ton of SO_2 removed (see table below).

We disagree with one aspect of AEP's cost analysis.[41] AEP's cost estimates are based on 2016 dollars, which means that they were escalated to a future build date. BART cost analyses should be based on present dollars, and the EPA Control Cost Manual approach explicitly excludes future escalation, as cost comparisons should be made on a current real dollar basis. Escalation of costs from past to the current year of analysis is permitted, as costs are compared based on the time of estimate, but future escalation is not allowed. We expect that de-escalation to 2014 dollars would result in lower cost numbers and overall lower average cost-effectiveness values for all controls evaluated. We believe that wet FGD and NID are both more cost-effective (*i.e.,* less dollars per SO_2 ton removed) than what has been estimated by AEP. However, we did not adjust the cost numbers and the cost-effectiveness values because we do not expect this to change our proposed BART decision. This is discussed in more detail below in the subsection titled ''Our Proposed SO_2 BART Determination.''

[39] Electric Power Research Institute (EPRI) Estimating Total Sulfuric Acid Emissions from Stationary Power Plants: Version 2010a. EPRI, Palo Alto, CA: 2010.

[40] ''Assessment of Control Technology Options for BART-Eligible Sources: Steam Electric Boilers, Industrial Boilers, Cement Plants and Paper and Pulp Facilities'' Northeast States for Coordinated Air Use Management (NESCAUM), March 2005.

[41] See ''BART Five Factor Analysis Flint Creek Power Plant Gentry, Arkansas (AFIN 04–00107),'' dated September 2013, Version 4, prepared by Trinity Consultants Inc. in conjunction with American Electric Power Service Corporation for the Southwestern Electric Power Company Flint Creek Power Plant. AEP's SO_2 control cost calculations are found in Appendix A of the BART analysis. An Excel file titled ''Consolidated Spreadsheet_2013–09–09'' containing spreadsheets with cost information was also provided by AEP Flint Creek in support of the cost analysis. A copy of the BART analysis and the Excel file is found in the docket for our proposed rulemaking.

TABLE 26—SUMMARY OF COST OF SO_2 CONTROLS FOR AEP FLINT CREEK UNIT 1

Control technology	Baseline emission rate (SO_2 tpy)	Controlled emission rate (SO_2 lb/MMBtu)	Controlled emission rate (SO_2 tpy)	Annual emissions reductions (SO_2 tpy)	Capital cost ($)	Total annual cost ($/yr)	Average cost effectiveness ($/ton)	Incremental cost-effectiveness ($/ton)
NID	11,641	0.06	1,120	10,521	281,738,024	40,448,089	3,845	.....
Wet Scrubber	11,641	0.04	747	10,894	374,427,351	53,592,663	4,919	35,240

AEP's evaluation noted that the potential negative energy and non-air quality environmental impacts are greater with wet FGD systems than dry FGD systems. AEP noted that wet FGD requires increased water use and generates large volumes of wastewater and solid waste/sludge that must be treated or stabilized before landfilling, placing additional burden on the wastewater treatment and solid waste management capabilities. We do not expect that water availability would affect the feasibility of wet FGD at Flint Creek Unit 1 because the facility is not located in an exceptionally arid region. Additionally, the BART Guidelines provide that the fact that a control device creates liquid and solid waste that must be disposed of does not necessarily argue against selection of that technology as BART, particularly if the control device has been applied to similar facilities elsewhere (40 CFR part 51, Appendix Y, section IV.D.4.i.2.). In cases where the facility can demonstrate that there are unusual circumstances that would create greater problems than experienced elsewhere, this may provide a basis for the elimination of that control option as BART. But in this case, AEP has not indicated that there are any such unusual circumstances. Another potential negative energy and non-air quality environmental impact associated with wet FGD is the potential for increased power requirements and greater reagent usage compared to dry FGD. The costs associated with increased power requirements and greater reagent usage have already been factored into the cost analysis for wet FGD.

AEP assessed the visibility improvement associated with wet FGD and NID technology by modeling the SO_2 emission rates associated with each control option using CALPUFF, and then comparing the visibility impairment associated with the baseline emission rates to the visibility impairment associated with the controlled emission rates as measured by the 98th percentile modeled visibility impact. The table below compares the baseline (*i.e.,* existing) visibility impacts with the visibility impacts associated with SO_2 controls.

TABLE 27—AEP FLINT CREEK UNIT 1: SUMMARY OF THE 98TH PERCENTILE VISIBILITY IMPACTS AND IMPROVEMENT DUE TO SO_2 CONTROLS

Class I area	Baseline visibility impact (Δdv)	NID Technology		Wet scrubber	
		Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)	Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)
Caney Creek	0.963	0.348	0.615	0.334	0.629
Upper Buffalo	0.965	0.501	0.464	0.488	0.477
Hercules-Glades	0.657	0.312	0.345	0.305	0.352
Mingo	0.631	0.217	0.414	0.208	0.423
Cumulative Visibility Improvement (Δdv)	.....	.....	1.838	.....	1.881

The table above shows that the installation and operation of SO_2 controls is projected to result in considerable visibility improvement from the baseline at the four impacted Class I areas. Installation and operation of NID technology is projected to result in visibility improvement of up to 0.615 dv at any single Class I area (based on the 98th percentile modeled visibility impacts), while wet FGD is projected to result in visibility improvement of up to 0.629 dv. Wet FGD is projected to result in very minimal incremental visibility benefit over NID technology, with the projected incremental visibility improvement over NID ranging from 0.007 to 0.014 dv at each Class I area.

Our Proposed SO_2 BART Determination: Taking into consideration the five factors, we propose to determine that BART for AEP Flint Creek Unit 1 is an emission limit of 0.06 lb/MMBtu on a 30 boiler-operating-day rolling average based on the installation and operation of NID. The operation of NID is projected to result in visibility improvement ranging from 0.352 to 0.629 dv at each affected Class I area (98th percentile basis), and based on AEP's evaluation, is estimated to have an average cost-effectiveness of $3,845 per ton of SO_2 removed. By comparison, AEP estimated wet FGD to have an average cost-effectiveness of $4,919 per ton of SO_2 removed and the incremental cost-effectiveness of wet FGD compared to NID is estimated to be $35,240 per ton of SO_2 removed. As discussed above, we believe that AEP's escalation of the cost of controls to 2016 dollars has likely resulted in the over-estimation of the average cost-effectiveness. Therefore, we believe wet FGD and NID are both more cost-effective (*i.e.,* less dollars per ton of SO_2 removed) than estimated by AEP (see table above). However, we did not adjust the cost numbers and cost-effectiveness calculations because we do not believe that doing so would change our proposed BART determination. We believe that the average cost-effectiveness of both control options was likely over-estimated and the costs associated with wet FGD would continue to be higher than the costs associated with NID if the estimates were adjusted, yet the installation and operation of wet FGD is projected to result in minimal incremental visibility improvement over NID. We are proposing to determine that SO_2 BART

for Flint Creek Unit 1 is an emission limit of 0.06 lb/MMBtu on a 30 boiler-operating-day rolling average based on the installation and operation of NID. We believe that the full compliance time [42] of 5 years is warranted for a new scrubber retrofit and so propose to require compliance with this requirement no later than 5 years from the effective date of the final rule. We are proposing to require that compliance be demonstrated using the unit's existing CEMS. We are also proposing regulatory text that includes monitoring, reporting, and recordkeeping requirements associated with this emission limit.

b. *Proposed BART Analysis and Determination for NO_X.* AEP's BART evaluation examined BART controls for NO_X for Flint Creek Unit 1 by identifying all available control technologies, eliminating options that are not technically feasible, and evaluating the control effectiveness of the remaining control options. Each technically feasible control option was then evaluated in terms of a five factor BART analysis.

For NO_X BART, the AEP evaluation considered both combustion and post-combustion controls. The combustion controls considered by AEP consisted of FGR, OFA, and LNB. The post-combustion controls considered consisted of SCR and SNCR. All control options evaluated were found to be technically feasible. AEP estimated that FGR would be able to achieve a controlled emission rate of 0.23–0.29 lb/MMBtu at Unit 1, which is a less stringent emission rate than would be achieved with LNB/OFA. Therefore, FRG was not further considered in the BART evaluation, while LNB/OFA were further considered. AEP evaluated three control scenarios: (1) LNB with OFA (LNB/OFA); (2) the combination of LNB with OFA and SNCR (LNB/OFA + SNCR); and (3) SCR. The baseline NO_X emission rate assumed by AEP in the analysis is 0.31 lb/MMBtu. AEP estimated that the installation and operation of LNB/OFA at Flint Creek Unit 1 would achieve a NO_X control level of approximately 0.23 lb/MMBtu on a 30 boiler-operating-day averaging basis. It also estimated that LNB/OFA + SNCR would achieve a NO_X control level of approximately 0.20 lb/MMBtu, and that SCR would achieve a NO_X control level of approximately 0.07 lb/MMBtu, also on a 30 boiler-operating-day averaging basis.

AEP estimated the capital costs, operating costs, and average cost-effectiveness of controls based on vendor estimates and published calculation methods. AEP noted that the EPA Control Cost Manual was followed to the extent possible and estimates were supplemented with vendor and site-specific information where available. The cost analysis assumed a 30-year amortization period for LNB/OFA and for SCR, and a 20-year amortization period for SNCR. We discuss the appropriateness of the choice of amortization periods below. The total annual costs were estimated by annualizing the capital cost of controls over either a 30-year or 20-year period and then adding to this value the annual operating cost of controls. AEP determined the annual tons reduced associated with each NO_X control option by subtracting the estimated controlled annual emission rate from the baseline annual emission rate. The baseline annual emission rate is the average rate as reported by AEP Flint Creek in the 2001–2003 air emission inventories. The average cost-effectiveness of NO_X controls was calculated by dividing the total annual cost of each control option by the estimated annual NO_X emissions reductions. The table below summarizes the average-cost effectiveness of NO_X controls for Flint Creek Unit 1.

TABLE 28—SUMMARY OF NO_X CONTROL COSTS FOR FLINT CREEK UNIT 1

Control technology	Baseline emission rate (NO_X tpy)	Controlled emission level (NO_X lb/MMBtu)	Controlled emission rate (NO_X tpy)	Annual emissions reductions (NO_X tpy)	Capital cost ($)	Total annual cost ($/yr)	Average cost effectiveness ($/ton)	Incremental cost-effectiveness ($/ton)
LNB/OFA	5,120	0.23	4,295	826	16,000,000	1,454,621	1,761	.....
LNB/OFA/SNCR	5,120	0.20	3,772	1,348	23,124,235	4,177,782	3,099	5,217
SCR	5,120	0.07	1,251	3,869	121,440,000	13,769,599	3,559	3,805

AEP estimated the average cost-effectiveness of installing and operating LNB/OFA to be $1,761 per ton of NO_X removed, while the combination of LNB/OFA + SNCR is estimated to cost $3,099 per ton of NO_X removed, and SCR is estimated to cost $3,559 per ton of NO_X removed.

AEP did not identify any energy or non-air quality environmental impacts associated with the use of LNB/OFA. As for SCR and SNCR, we are not aware of any unusual circumstances at the facility that could create non-air quality environmental impacts associated with the operation of these controls greater than experienced elsewhere and that may therefore provide a basis for their elimination as BART (40 CFR part 51, Appendix Y, section IV.D.4.i.2.). Therefore, we do not believe there are any energy or non-air quality environmental impacts associated with the operation of NO_X controls at AEP Flint Creek Unit 1 that would affect our proposed BART determination.

Flint Creek Unit 1 is currently equipped with early generation low NO_X burners for control of NO_X emissions. Consideration of the presence of existing pollution control technology at each source is reflected in the BART analysis in two ways: First, in the consideration of available control technologies, and second, in the development of baseline emission rates for use in cost calculations and visibility modeling. The baseline emission rate used in the cost calculations and visibility modeling reflects the operation of these controls. The newer generation low NO_X burners evaluated by AEP are expected to achieve a higher level of NO_X control than the currently installed early generation low NO_X burners.

We are not aware of any enforceable shutdown date for the AEP Flint Creek Power Plant, nor did AEP's evaluation indicate any future planned shutdown. This means that the anticipated useful life of the boiler is expected to be at least as long as the capital cost recovery period of controls. AEP assumed a 30-year amortization period in the evaluation of LNB, OFA, and SCR as the remaining useful life of the unit, and a 20-year amortization period in the evaluation of SNCR. We disagree with AEP's assumption of a 20-year amortization period in the cost analysis of SNCR. Any air pollution controls on the unit are expected to have the same

[42] Section 51.308(e)(1)(iv), requires, ''each source subject to BART be required to install and operate BART as expeditiously as practicable, but in no event later than 5 years after approval of the implementation plan revision.''

life as the boiler. Therefore, we believe it is appropriate to assume a 30-year amortization period for SNCR, as was done for SCR and combustion controls. Assuming a 30-year amortization period, SNCR would have a lower estimated total annual cost and would therefore have an improved cost-effectiveness (*i.e.,* less dollars per ton removed) compared to what was estimated in AEP's evaluation. However, we did not adjust the amortization period assumed in AEP's evaluation because we do not believe this has an impact on our proposed BART decision. As discussed in the subsection below, the incremental visibility benefit expected from the installation and operation of SNCR is too small to justify the cost of this control compared to combustion controls alone. Therefore, we did not revise the amortization period and the average cost-effectiveness calculations for SNCR.

AEP assessed the visibility improvement associated with NO_X controls by modeling the NO_X emission rates associated with each control option using CALPUFF, and then comparing the visibility impairment associated with the baseline emission rate to the visibility impairment associated with the controlled emission rates as measured by the 98th percentile modeled visibility impact. The table below shows a comparison of the baseline (*i.e.,* existing) visibility impacts and the visibility impacts associated with NO_X controls.

TABLE 29—AEP FLINT CREEK UNIT 1: SUMMARY OF THE 98TH PERCENTILE VISIBILITY IMPACTS AND IMPROVEMENT DUE TO NO_X CONTROLS

Class I area	Baseline visibility impact (Δdv)	LNB/OFA		LNB/OFA + SNCR		SCR	
		Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)	Visibility impact (Δdv)	Visibility Improvement from Baseline (Δdv)	Visibility Impact (Δdv)	Visibility Improvement from Baseline (Δdv)
Caney Creek	0.963	0.882*	0.081*	0.849	0.114	0.718	0.245
Upper Buffalo	0.965	0.939	0.026	0.932	0.033	0.895	0.07
Hercules-Glades	0.657	0.633	0.024	0.623	0.034	0.573	0.084
Mingo	0.631	0.617	0.014	0.612	0.019	0.588	0.043
Cumulative Visibility Improvement (Δdv)	.....	.....	0.145	.....	0.2	.....	0.442

*EPA identified a discrepancy in the results presented by AEP and reran the model for the 2003 model year. These values have been adjusted to reflect the results of the EPA model run.

As shown in the table above, the installation and operation of LNB/OFA is projected to result in visibility improvement of up to 0.081 dv at any single Class I area, based on the 98th percentile visibility impairment. The installation and operation of LNB/OFA + SNCR is projected to result in visibility improvement of up to 0.114 dv over the baseline. The installation and operation of SCR is projected to result in visibility improvement of up to 0.245 dv in any single Class I area. The combination of LNB/OFA + SNCR would result in slight incremental visibility benefit over LNB/OFA at Caney Creek and in negligible incremental visibility benefit at the other three affected Class I areas. SCR would result in 0.131 dv incremental visibility benefit over LNB/OFA + SNCR at Caney Creek and less than half as much incremental visibility benefit at the other three affected Class I areas.

Our Proposed NO_X BART Determination: Taking into consideration the five factors, we propose to determine that NO_X BART for Flint Creek Unit 1 is an emission limit of 0.23 lb/MMBtu on a 30 boiler-operating-day rolling average based on the installation and operation of new LNB/OFA. The operation of new LNB/OFA is projected to result in visibility improvement ranging from 0.014 to 0.081 dv at each affected Class I area (98th percentile basis) and is projected to have a cumulative visibility improvement of 0.145 dv across the four affected Class I areas. The operation of LNB/OFA is estimated to have an average cost-effectiveness of $1,761 per ton of NO_X removed, which we consider to be very cost-effective. By comparison, the operation of LNB/OFA + SNCR is projected to result in small incremental visibility improvement over LNB/OFA, but is estimated to have an average cost-effectiveness of $3,099 per ton of NO_X removed and an incremental cost-effectiveness of $5,217 per ton of NO_X removed. We believe that AEP's assumption of a 20-year amortization period for SNCR has likely resulted in lower cost-effectiveness for SNCR. Therefore, we believe LNB/OFA + SNCR is more cost-effective (*i.e.,* less dollars per ton of NO_X removed) than estimated by AEP (see table above). However, we did not adjust the cost numbers and cost-effectiveness values because we do not believe that doing so would change our proposed BART determination, as the installation and operation of LNB/OFA + SNCR is projected to result in minimal incremental visibility improvement over LNB/OFA alone such that the additional cost of SNCR is not justified.

The operation of SCR is projected to result in visibility improvement ranging from 0.043 to 0.245 dv at each Class I area, and has an average cost-effectiveness of $3,559 per ton of NO_X removed. The incremental visibility benefit of SCR compared to LNB/OFA + SNCR is projected to be 0.131 dv at Caney Creek and is projected to range from 0.024 to 0.05 dv at the remaining Class I areas. The incremental cost-effectiveness of SCR is estimated to be $3,805 per ton of NO_X removed. Although we are not adjusting the cost estimate for the reason discussed above, we note that AEP's assumption of a 20-year amortization period for SNCR has the effect of making the average cost-effectiveness of SCNR appear lower (*i.e.,* greater dollars per ton removed), while the incremental cost-effectiveness of SCR over LNB/OFA + SNCR appears to be higher (*i.e.,* less dollars per ton removed) than it actually is. Therefore, an adjustment of the amortization period and average cost effectiveness for SNCR is expected to result in an incremental cost effectiveness for SCR that is less favorable than currently estimated. While we believe the average and incremental cost-effectiveness of SCR, as calculated by AEP, is within the range of what we consider to be cost-effective, we do not believe the 0.131 dv incremental visibility benefit of SCR over LNB/OFA + SCNR at a single Class I area warrants the higher costs associated with SCR. We are proposing to determine that NO_X BART for Flint

Creek Unit 1 is an emission limit of 0.23 lb/MMBtu on a 30 boiler-operating-day rolling average based on the installation and operation of new LNB/OFA. We are proposing to require that compliance be demonstrated using the unit's existing CEMS. We consider 3 years to be an adequate time for the installation of NO_X combustion controls and thus propose to require compliance with this requirement no later than 3 years from the effective date of the final rule. We are also proposing regulatory text that includes monitoring, reporting, and recordkeeping requirements associated with this emission limit.

4. Entergy White Bluff Plant

The Entergy White Bluff Plant Unit 1, Unit 2, and the Auxiliary Boiler are subject to BART. As mentioned previously, we disapproved Arkansas' BART determinations for SO_2 and NO_X for Units 1 and 2 and the BART determination for all pollutants for the Auxiliary Boiler in our March 12, 2012 final action (77 FR 14604). White Bluff Units 1 and 2 are identical tangentially-fired boilers with a maximum net power rating of 850 MW each and a nominal heat input capacity of 8,950 MMBtu/hr each. The boilers burn sub-bituminous coal as the primary fuel and No. 2 fuel oil or biofuel as a start-up fuel. Units 1 and 2 are currently equipped with ESPs for control of PM emissions. The Auxiliary Boiler is a 183 MMBtu/hr auxiliary boiler that burns only No. 2 fuel oil or biodiesel, and its purpose is to provide steam for the start-up of the two primary boilers, Units 1 and 2. The Auxiliary Boiler is typically only used in the rare instance when both of the main boilers are not operating.

Entergy hired a consultant to conduct a BART five-factor analysis for White Bluff Units 1, 2, and the Auxiliary Boiler (Entergy BART analysis).[43] The table below summarizes the baseline emission rates Entergy assumed in the BART analysis for the subject to BART units. The SO_2 and NO_X baseline emission rates are the highest actual 24-hour emission rates based on data from the Clean Air Markets Division (CAMD) database from 2001–2003 for SO_2 and from 2009–2011 for NO_X. The 2001–2003 period was not used as the baseline for NO_X because that period no longer represents actual operation of the boilers. In 2006, Entergy completed the addition of a neural network system and conducted extensive boiler tuning that substantially reduced NO_X emissions, resulting in an actual change in operations and emissions between the original baseline period (2001–2003) and current operations. Neural network systems are online enhancements to digital control systems (DCS) and plant information systems that improve boiler performance parameters such as heat rate, NO_X emissions, and carbon monoxide (CO) levels. According to information provided by the facility, the purpose of the neural network system was to monitor and control the heat rate at Units 1 and 2.[44] The neural network system installed at Units 1 and 2 is optimized first for monitoring and controlling the heat rate, and second for minimizing NO_X emissions. We believe the use of 2009–2011 as the new baseline period for NO_X for Units 1 and 2 is consistent with the BART Guidelines, which provide that ''The baseline emissions rate should represent a realistic depiction of anticipated annual emissions for the source.''[45] The PM_{10} emission rates are based on emission factors from AP–42 for PM filterable and PM condensable with a 99% control efficiency for ESP applied to the PM_{10} filterable. The emission rates for the PM_{10} species reflect the breakdown of the PM_{10} determined from the National Park Service (NPS) ''speciation spreadsheet'' for Dry Bottom Boiler Burning Pulverized Coal using only ESP.[46] To estimate sulfuric acid emissions to model for the baseline and control cases, AEP assumed all inorganic PM was SO_4. We note that this methodology can overestimate the amount of sulfuric acid emitted from the facility and we recommend that sulfuric acid emissions from power plants be calculated by estimating the amount of H_2SO_4 produced and the amount of H_2SO_4 removed by control equipment using information from the Electric Power Research Institute (EPRI).[47] Rather than assuming that 100% of inorganic condensable PM is SO_4, the EPRI method estimates the amount of SO_2 that is oxidized to SO_3, assumes that 100% of SO_3 is converted to H_2SO_4, and then accounts for losses due to downstream equipment. The sulfuric acid emissions for the base and control scenarios may be slightly overestimated in AEP's modeling. However, in this specific situation, we do not anticipate that this difference would significantly impact the relative benefits of the SO_2 controls examined or impact our BART determination since the overall impacts and benefits of control are large.

TABLE 30—ENTERGY WHITE BLUFF: BASELINE MAXIMUM 24-HOUR EMISSION RATES

Subject to BART Unit	SO_2 (lb/hr)	NO_X (lb/hr)	Total PM_{10} (lb/hr)	SO_4 (lb/hr)	PMc (lb/hr)	PMf (lb/hr)	SOA (lb/hr)	EC (lb/hr)
Unit 1 (SN–01)	7,763.5	3,001.4	118.6	36.8	40.4	31.1	9.2	1.2
Unit 2 (SN–02)	7,825.1	3,527.4	118.6	36.8	40.4	31.1	9.2	1.2
Auxiliary Boiler (SN–05)	5.8	31.7	2.8	0.9	0.5	1.2	0.2	0.1

Entergy modeled the baseline emission rates using the CALPUFF dispersion model to determine the baseline visibility impairment attributable to White Bluff Unit 1, Unit 2, and the Auxiliary Boiler at the four Class I areas impacted by emissions from BART sources in Arkansas. These Class I areas are the Caney Creek Wilderness Area, Upper Buffalo Wilderness Area, Hercules-Glades Wilderness Area, and Mingo National

[43] See ''Revised BART Five Factor Analysis White Bluff Steam Electric Station Redfield, Arkansas (AFIN 35–00110),'' dated October 2013, prepared by Trinity Consultants Inc. in conjunction with Entergy Services Inc. We refer to this BART analysis as ''Entergy's BART analysis'' throughout this proposed rulemaking, and a copy of it is found in the docket for our proposed rulemaking.

[44] See the ''S&L NO_X Control Technology Study,'' which is found in Appendix E to the ''Revised BART Five Factor Analysis White Bluff Steam Electric Station Redfield, Arkansas (AFIN 35–00110),'' dated October 2013, prepared by Trinity Consultants Inc. in conjunction with Entergy Services Inc. A copy of this BART analysis and its appendices is found in the docket for our proposed rulemaking.

[45] 40 CFR part 51, Appendix Y, section IV.D.4.c.

[46] The NPS Workbook, ''PC Dry Bottom ESP Example.xls'' updated 03/2006, was obtained from the NPS Web site: *http://www.nature.nps.gov/air/Permits/ect/index.cfm.* Trinity input the following parameters into the workbook for speciation determination: total PM_{10} emission rate of 118.6 lb/hr, heat value of 8,950 Btu/lb, sulfur content of 0.27%, ash content of 4.87%.

[47] Electric Power Research Institute (EPRI) Estimating Total Sulfuric Acid Emissions from Stationary Power Plants: Version 2010a. EPRI, Palo Alto, CA: 2010

Wildlife Refuge. The baseline (*i.e.,* existing) visibility impairment attributable to the source at each Class I area is summarized in the table below.

TABLE 31—BASELINE VISIBILITY IMPAIRMENT ATTRIBUTABLE TO ENTERGY WHITE BLUFF

[2001–2003]

Unit	Caney Creek	Upper Buffalo	Hercules-Glades	Mingo
Unit 1 (SN–01).				
Maximum (Δdv)	4.194	2.339	2.230	1.569
98th Percentile (Δdv)	1.628	1.140	1.041	0.887
Unit 2 (SN–02).				
Maximum (Δdv)	4.437	2.385	2.263	1.701
98th Percentile (Δdv)	1.695	1.185	1.060	0.903
Auxiliary Boiler (SN–05).				
Maximum (Δdv)	0.036	0.014	0.008	0.019
98th Percentile (Δdv)	0.01	0.004	0.004	0.008

a. *Proposed SO_2 BART Analysis and Determination for Units 1 and 2.* In its 2008 RH SIP Arkansas evaluated FGD controls (both wet and dry scrubbers) and determined that SO_2 BART for White Bluff Units 1 and 2 is the presumptive emission limit of 0.15 lb/MMBtu based on the installation of FGD controls. In our March 12, 2012 final action (77 FR 14604), we disapproved Arkansas' SO_2 BART determination because wet and dry FGD were evaluated at the presumptive emission limit only and not at the most stringent level of control these technologies are capable of achieving. In our October 17, 2011 proposed action we discussed that, considering the coal burned in this case, wet FGD is typically capable of achieving a controlled emission rate of 0.04 lb/MMBtu, while dry FGD is typically capable of achieving a controlled emission rate of 0.06 lb/MMBtu (76 FR 64186). We also discussed that operating these controls at the most stringent achievable controlled emission rate versus the presumptive emission limit was not expected to increase the capital cost of controls. Rather, it was expected that a more stringent level of control would increase the operation and maintenance costs as a result of increased reagent usage, among other things. However, we expected the increase in annualized cost to be offset by the increase in tons of SO_2 removed, causing the cost effectiveness ($/ton) to remain the same or slightly improve (*i.e.,* lower $/ton). The fact that wet and dry FGD were not evaluated at the most stringent level of control they are capable of achieving, even though installation and operation of these control technologies at that control level was still expected to be cost-effective was the primary reason for our March 12, 2012 disapproval of Arkansas' SO_2 BART determination for White Bluff Units 1 and 2. We note that the 2008 Arkansas RH SIP included FGD controls for White Bluff Units 1 and 2, and that Entergy submitted an application for a Title V permit modification for the White Bluff facility on February 4, 2009, for the installation of a dry FGD system (*i.e.,* dry scrubbers) to satisfy the SO_2 BART requirement.[48] However, Entergy suspended the project for the installation of these SO_2 controls after our final disapproval of SO_2 BART for Units 1 and 2.

The Entergy BART analysis [49] considered Dry Sorbent Injection (DSI), dry FGD (dry scrubbers), and wet FGD (wet scrubbers) for SO_2 BART. All three options were identified as technically feasible for use at White Bluff Units 1 and 2. Entergy's evaluation noted that DSI control efficiency ranges between 40 to 60%,[50] dry FGD control efficiency ranges from 60 to 95%, and wet FGD ranges from 80–95% control efficiency, but can achieve up to 97% control efficiency when burning higher sulfur coal. Entergy evaluated wet FGD at an outlet SO_2 emission rate of 0.04 lb/MMBtu for Units 1 and 2. The remainder of Entergy's analysis focused on wet FGD and dry FGD. We concur with Entergy's decision to focus the remainder of the analysis on the two control options with the highest control efficiency.

Our Dry Scrubbing Cost Analysis for Entergy White Bluff: Entergy's estimates of the capital and direct operating and maintenance costs of a dry scrubber were based on vendor estimates. Estimates of the indirect operating costs were based on calculation methods from our Control Cost Manual. The estimates of the capital and operating and maintenance costs of wet FGD were based on vendor estimates obtained by Entergy for a system estimated to achieve 97% control and calculation methods from our Control Cost Manual.

We have reviewed the cost analysis that is part of Entergy's evaluation and have analyzed it for compliance with the Regional Haze Rule, and disagree with several aspects of the cost analysis and have made adjustments to it as necessary.[51] First, we found that Entergy assumed in its dry FGD cost analysis that it will burn a coal corresponding to an uncontrolled SO_2 emission rate of 2.0 lb/MMBtu—far in excess of the sulfur level of the coals it has historically burned, presumably for future fuel flexibility. For the years 2009–2013, the maximum monthly SO_2 emission rate for Unit 1 is 0.653 lbs/MMBtu and that for Unit 2 is 0.679 lbs/MMBtu. Thus, Entergy has costed SO_2 dry scrubber systems for the White Bluff facility that are overdesigned compared to its historical needs. Such a system, being capable of a much higher level of sulfur removal than is currently required, has a correspondingly higher cost. Entergy selected its SO_2 emission baseline by using ''the average rate from 2001–2003, as reported by Entergy in their air

[48] See the document titled ''Response of Entergy Arkansas, Inc. to Arkansas Public Service Commission Order No. 17.'' A copy of this document can be found in the docket for this proposed rulemaking.

[49] See ''Revised BART Five Factor Analysis White Bluff Steam Electric Station Redfield, Arkansas (AFIN 35–00110),'' dated October 2013, prepared by Trinity Consultants Inc. in conjunction with Entergy Services Inc. We refer to this BART analysis as ''Entergy's BART analysis'' throughout this proposed rulemaking, and a copy of it is found in the docket for our proposed rulemaking.

[50] ''Assessment of Control Technology Options for BART-Eligible Sources: Steam Electric Boilers, Industrial Boilers, Cement Plants and Paper and Pulp Facilities'' Northeast States for Coordinated Air Use Management (NESCAUM), March 2005.

[51] See ''Technical Support Document for the SDA Control Cost Analysis for the Entergy White Bluff and Independence Facilities Arkansas Regional Haze Federal Implementation Plan (SO_2 Cost TSD).'' A copy of this document is found in the docket for our proposed rulemaking.

emission inventories,'' [52] while selecting its annualized costs based on a 2.0 lb/MMBtu coal. In calculating baseline emissions, the BART Guidelines assume the source in question is otherwise unchanged in the future, except for the addition of BART controls.[53] Thus, we believe it is appropriate to adjust the cost analysis presented in Entergy's report.[54] Additionally, the cost estimate for dry FGD presented in Entergy's report includes line items that have not been documented, appear to be already covered in other cost items, or do not appear to be valid costs under our Control Cost Manual methodology. This includes line items such as capital suspense,[55] Entergy internal costs, and certain line items under balance of plant (BOP) costs. Please see our SO_2 Cost TSD for more details concerning the adjustments we propose to make to the White Bluff dry FGD cost analysis. A summary of our adjusted cost analysis, which is based on 2013 dollars, is presented in the table below.

TABLE 32—SUMMARY OF EPA DRY FGD COST ANALYSIS FOR WHITE BLUFF UNITS 1 AND 2

Item	White Bluff Unit 1	White Bluff Unit 2
Total Annualized Cost	$31,981,230	$31,981,230
Interest Rate (%)	7	7
Equipment Lifetime (years)	30	30
Capital Recovery Factor (CRF)	0.0806	0.0806
SO_2 Emission Rate (lbs/MMBtu)	0.65	0.68
Controlled SO_2 Emission Rate (%)	90.81	91.16
SO_2 Emission Baseline (tons)	15,816	16,697
SO_2 Emission Reduction (tons)	14,363	15,221
Cost Effectiveness ($/ton)	$2,227	$2,101

Our Wet Scrubbing Cost Analysis for Entergy White Bluff: Entergy uses a 2012 contractor wet FGD estimate for the White Bluff Units 1 and 2 as the starting point for its cost analysis.[56] It then used multiplier approximations from our Control Cost Manual [57] to calculate the Total Capital Investment (TCI). Entergy then calculated the direct annual costs, using fixed and variable O&M costs from another 2011 contractor cost summary as a surrogate for the apparently unavailable direct annual costs from the 2012 estimate.[58] Following this, Entergy calculated the indirect annual costs using additional multiplier approximations from our Control Cost Manual.[59] Lastly, Entergy calculated the annualized capital cost in the usual manner by multiplying the TCI by the capital recovery factor.

As with its dry FGD cost estimates, Entergy designed its wet FGD systems to burn coal corresponding to an uncontrolled SO_2 emission rate of 2.0 lb/MMBtu, which are overdesigned compared to its historical needs. Please see our SO_2 Cost TSD for more details concerning the adjustments we propose to make to the White Bluff wet FGD cost analysis, which is similar to our dry FGD analysis. A summary of our adjusted cost analysis, which is based on 2013 dollars, is presented in the table below:

TABLE 33—SUMMARY OF EPA WET FGD COST ANALYSIS FOR WHITE BLUFF UNITS 1 AND 2

Item	White Bluff Unit 1	White Bluff Unit 2
Total Annualized Cost	$49,526,167	$49,526,167
Interest Rate (%)	7	7
Equipment Lifetime (years)	30	30
Capital Recovery Factor (CRF)	0.0806	0.0806
SO_2 Emission Rate (lbs/MMBtu)	0.65	0.68
Controlled SO_2 Emission Rate (%)	93.87	94.11
SO_2 Emission Baseline (tons)	15,816	16,697
SO_2 Emission Reduction (tons)	14,847	15,713
Cost Effectiveness ($/ton)	$3,336	$3,152

Entergy's evaluation noted that the potential negative non-air quality environmental impacts are greater with wet FGD systems than dry FGD systems. Entergy noted that wet scrubbers require increased water use and generate large

[52] Revised Bart Five Factor Analysis, White Bluff Steam Electric Station, Redfield, Arkansas (AFIN 35–00110), dated October 2013, prepared by Trinity Consultants Inc. in conjunction with Entergy Services Inc., Page 5–5.

[53] 70 FR 39167.

[54] See ''Technical Support Document for the SDA Control Cost Analysis for the Entergy White Bluff and Independence Facilities Arkansas Regional Haze Federal Implementation Plan (SO_2 Cost TSD),'' for a detailed discussion of how Entergy's cost analysis was adjusted.

[55] Entergy states capital suspense ''is a distribution of overhead costs associated with administrators, engineers, and supervisors and includes function specific rates and A&G (Corporate Accounting) rates. Function specific capital suspense is dependent upon the personal hours allocated to a specific project for a time period. However, the percent of a total project that is dedicated to capital suspense is not a constant. Rather, it is dependent upon the yearly total capital expense budget and the budgeted capital spending for a specific function.'' See Entergy Response to EPA Region 6 comments on Entergy White Bluff draft BART Report 06/10/13.Page 9. A copy of this document is found in the docket for this proposed rulemaking.

[56] White Bluff Station Unit 1 & 2, Wet FGD—2.0 lb/MMBtu, Order Of Magnitude Cost Estimate Summary. Attached as Attachment C to the 6/10/13 Entergy Response to EPA comments on the White Bluff draft BART Report. Pdf page 29. Below is

[57] Section 5.2 Post-Combustion Controls, Chapter 1—Wet Scrubbers for Acid Gas, Table 1.3.

[58] 6/10/13 Entergy Response to EPA comments on the White Bluff draft BART Report. Pdf page 11. This information was supplemented with a cut sheet from the 2011 S&L report via email from David Triplett on 2–10–15. Entergy declined to provide the full report, citing confidentiality concerns.

[59] Section 5.2 Post-Combustion Controls, Chapter 1—Wet Scrubbers for Acid Gas, Table 1.4.

volumes of wastewater and solid waste/sludge that must be treated or stabilized before landfilling, placing additional burden on the wastewater treatment and solid waste management capabilities. We do not expect that water availability would affect the feasibility of a wet scrubber since the facility is not located in an exceptionally arid region. Additionally, the BART Guidelines provide that the fact that a control device creates liquid and solid waste that must be disposed of does not necessarily argue against selection of that technology as BART, particularly if the control device has been applied to similar facilities elsewhere (40 CFR part 51, Appendix Y, section IV.D.4.i.2.). In cases where the facility can demonstrate that there are unusual circumstances there that would create greater problems than experienced elsewhere, this may provide a basis for the elimination of that control option as BART. But in this case, Entergy White Bluff has not indicated that there are any such unusual circumstances. Another potential negative energy and non-air quality environmental impact associated with wet FGD systems is the potential for increased power requirements and greater reagent usage compared to dry FGD. The costs associated with increased power requirements and greater reagent usage have already been factored into the cost analysis for the wet FGD system.

Entergy assessed the visibility improvement associated with wet FGD and a dry FGD by modeling the SO_2 emission rates associated with each control option using CALPUFF, and then comparing the visibility impairment associated with the baseline emission rates to the visibility impairment associated with the controlled emission rates as measured by the 98th percentile modeled visibility impact. The tables below compare the baseline (*i.e.,* existing) visibility impacts with the visibility impacts associated with SO_2 controls.

TABLE 34—ENTERGY WHITE BLUFF UNIT 1: SUMMARY OF THE 98TH PERCENTILE VISIBILITY IMPACTS AND IMPROVEMENT DUE TO SO_2 CONTROLS

Class I area	Visibility impact (Δdv)			Visibility improvement over baseline (dv)		Incremental visibility improvement of wet FGD vs. dry scrubber
	Baseline	Dry scrubber	Wet FGD	Dry scrubber	Wet FGD	
Caney Creek	1.628	0.815	0.794	0.813	0.834	0.021
Upper Buffalo	1.140	0.378	0.350	0.762	0.790	0.028
Hercules-Glades	1.041	0.358	0.360	0.683	0.681	−0.002
Mingo	0.887	0.267	0.271	0.620	0.616	−0.004
Total	4.696	1.818	1.775	2.878	2.921	0.043

TABLE 35—ENTERGY WHITE BLUFF UNIT 2: SUMMARY OF THE 98TH PERCENTILE VISIBILITY IMPACTS AND IMPROVEMENT DUE TO SO_2 CONTROLS

Class I area	Visibility impact (Δdv)			Visibility improvement over baseline (dv)		Incremental visibility improvement of wet FGD vs. dry scrubber
	Baseline	Dry scrubber	Wet FGD	Dry scrubber	Wet FGD	
Caney Creek	1.695	0.941	0.920	0.754	0.775	0.021
Upper Buffalo	1.185	0.418	0.405	0.767	0.780	0.013
Hercules-Glades	1.061	0.415	0.416	0.645	0.644	−0.001
Mingo	0.903	0.310	0.315	0.593	0.588	−0.005
Total	4.844	2.084	2.056	2.759	2.787	0.028

The tables above show that the installation and operation of SO_2 controls is projected to result in considerable visibility improvement over the baseline at the four impacted Class I areas. Installation and operation of dry FGD is projected to result in visibility improvement of up to 0.813 dv at any single Class I area for Unit 1 and 0.767 dv for Unit 2, based on the 98th percentile visibility impairment. Installation and operation of wet FGD is projected to result in visibility improvement of up to 0.834 dv at any single Class I area for Unit 1 and 0.780 dv for Unit 2. The installation and operation of wet FGD is projected to result in very minimal incremental visibility benefit over dry FGD at Caney Creek and Upper Buffalo, while at Hercules-Glades and Mingo, it is projected to result in slightly less visibility improvement than dry FGD (*i.e.,* a slight visibility disbenefit).

Our Proposed SO_2 BART Determination: Based on our cost analysis, a dry FGD system is estimated to have an average cost-effectiveness of $2,227 per ton of SO_2 removed for Unit 1 and $2,101 per ton of SO_2 removed for Unit 2. By comparison, a wet FGD system is estimated to have an average cost-effectiveness of $3,336 per ton of SO_2 removed for Unit 1 and $3,152 per ton of SO_2 removed for Unit 2. Therefore, considering the five BART factors and the slight visibility benefit at Caney Creek and Upper Buffalo and slight disbenefit at Hercules-Glades and Mingo of wet FGD over dry FGD, we are proposing to determine that SO_2 BART for White Bluff Units 1 and 2 is an emission limit of 0.06 lb/MMBtu on a 30 boiler-operating-day rolling average based on the installation and operation

of dry FGD or another control technology that achieves that level of control. We are proposing to require compliance with this requirement no later than 5 years from the effective date of the final rule, consistent with the regional haze regulations.[60] We are proposing to require that compliance be demonstrated using the unit's existing CEMS. We are also proposing regulatory text that includes monitoring, reporting, and recordkeeping requirements associated with this emission limit.

b. *Proposed NO_X BART Analysis and Determination for Units 1 and 2.* Entergy identified all available control technologies, eliminated options that are not technically feasible, and evaluated the control effectiveness of the remaining NO_X control options for Units 1 and 2. Each technically feasible control option was then evaluated in terms of a five factor BART analysis.

For NO_X BART, Entergy's BART evaluation considered both combustion and post-combustion controls. The combustion controls evaluated consisted of FGR, separated overfire air (SOFA), and LNB. The post-combustion controls evaluated consisted of SCR and SNCR. Entergy found that FGR technology is not currently offered by vendors for coal-fired units. Therefore, it did not consider FGR to be a technically feasible control technology for the coal-fired White Bluff Units 1 and 2. All other available NO_X control options were identified as technically feasible. Entergy evaluated three control scenarios: LNB with SOFA (LNB/SOFA); the combination of LNB, SOFA, and SNCR (LNB/SOFA + SNCR); and the combination of LNB, SOFA, and SCR (LNB/SOFA + SCR). According to Entergy, the baseline NO_X emission rate is approximately 0.31 lb/MMBtu for Unit 1 and 0.36 lb/MMBtu for Unit 2. Entergy relied on literature control ranges and efficiencies, as well as vendor estimates to arrive at the expected controlled emission rates for White Bluff Units 1 and 2. Based on contractor evaluations, SOFA is expected to achieve a controlled NO_X emission rate of 0.28–0.32 lb/MMBtu for Units 1 and 2. When LNB is combined with SOFA, it is expected to achieve a controlled NO_X emission rate of 0.15 lb/MMBtu. When SNCR is combined with LNB and SOFA, it is expected to achieve a controlled NO_X emission rate of 0.13 lb/MMBtu for Units 1 and 2, and when SCR is combined with LNB and SOFA it is expected to achieve a controlled NO_X emission rate of 0.055 lb/MMBtu.

Entergy estimated the capital costs, operating costs, and average cost-effectiveness of LNB, SOFA, SNCR, and SCR. The capital and operating costs of controls were based on vendor estimates specific to Units 1 and 2. The total annual costs were estimated by annualizing the capital cost of controls over a 30-year period and then adding to this value the annual operating cost of controls. Entergy determined the annual emissions reductions associated with each NO_X control option by subtracting the estimated controlled annual emission rate from the baseline annual emission rate. The baseline annual emission rate is the average rate as reported by Entergy in the 2009–2011 air emission inventories. The average cost-effectiveness of controls was calculated by dividing the total annual cost of each control option by the estimated annual NO_X emissions reductions.

We note that Entergy's cost estimate for each NO_X control option includes capital suspense in the total capital costs.[61] A capital cost suspense of $955,673 for both units for LNB/SOFA; $1,745,429 for both units for LNB/SOFA + SNCR; and $20,552,528 for Unit 1 and $21,332,288 for Unit 2 for LNB/SOFA + SCR is included in the capital costs. As discussed above, Entergy described capital suspense as a distribution of overhead costs associated with administrators, engineers, and supervisors that includes function specific rates and corporate accounting rates. However, we do not believe capital suspense should be included in the cost analysis because those costs have not been documented by Entergy and do not appear to be valid costs under the Control Cost Manual methodology. We have adjusted the cost estimate of NO_X controls by subtracting the capital suspense line item from the capital costs.[62] Based on our adjustment of Entergy's cost estimate, the average cost-effectiveness of LNB/SOFA is estimated to be $350 per ton of NO_X removed for Unit 1 and $340 per ton of NO_X removed for Unit 2, while the average cost-effectiveness of LNB/SOFA + SNCR is estimated to be $1,758 per ton of NO_X removed for Unit 1 and $1,449 per ton of NO_X removed for Unit 2 (see table below). The average cost-effectiveness of LNB/SOFA + SCR is estimated to be $3,552 per ton of NO_X removed for Unit 1 and $2,749 per ton of NO_X removed for Unit 2.

TABLE 36—SUMMARY OF NO_X CONTROL COSTS FOR WHITE BLUFF UNITS 1 AND 2

Control technology	Baseline emission rate (NO_X tpy)	Controlled emission level (lb/MMBtu)	Controlled emission rate (tpy)	Annual emissions reduction (NO_X tpy)	Capital cost ($)	Total annual cost ($/yr)	Average cost effectiveness ($/ton)	Incremental cost-effectiveness ($/ton)
Unit 1 (SN–01)								
LNB/SOFA	7,249	0.15	4,145	3,104	9,505,533	1,085,904	350	
LNB/SOFA/SNCR	7,249	0.13	3,593	3,657	19,625,896	6,430,580	1,758	9,665
LNB/SOFA/SCR	7,249	0.055	1,520	5,729	209,776,610	20,349,142	3,552	6,717
Unit 2 (SN–02)								
LNB/SOFA	8,185	0.15	4,060	4,125	13,532,533	1,403,376	340	
LNB/SOFA/SNCR	8,185	0.13	3,519	4,666	23,652,896	6,759,102	1,449	9,900
LNB/SOFA/SCR	8,185	0.055	1,489	6,697	185,415,610	18,407,977	2,749	5,736

Entergy did not identify any energy or non-air quality environmental impacts associated with the use of LNB/SOFA. As for SCR and SNCR, we are not aware of any unusual circumstances at the facility that could create non-air quality

[60] 40 CFR 51.308(e)(1)(iv).

[61] See ''Revised BART Five Factor Analysis White Bluff Steam Electric Station Redfield, Arkansas (AFIN 35–00110),'' dated October 2013, prepared by Trinity Consultants Inc. in conjunction with Entergy Services Inc. Entergy's NO_X control cost estimates are found in Appendix A of the BART analysis and Appendix E contains the ''NO_X Control Technology Cost and Performance Study'' prepared by Sargent & Lundy on behalf of Entergy. A copy of the BART analysis and all appendices are found in the docket for our proposed rulemaking.

[62] See the spreadsheet titled ''EPA NO_X Control Cost revisions_White Bluff.'' A copy of this spreadsheet is found in the docket for our proposed rulemaking.

environmental impacts associated with the operation of these controls greater than experienced elsewhere and that may therefore provide a basis for their elimination as BART (40 CFR part 51, Appendix Y, section IV.D.4.i.2.). Therefore, we do not believe there are any energy or non-air quality environmental impacts associated with the operation of NO_X controls at Entergy White Bluff Units 1 and 2 that would affect our proposed BART determination.

Consideration of the presence of existing pollution control technology at each source is reflected in the BART analysis in two ways: First, in the consideration of available control technologies, and second, in the development of baseline emission rates for use in cost calculations and visibility modeling. Other than the installation of a neural net system in 2006 to optimize boiler combustion efficiency that resulted in lower NO_X emissions compared to the 2001–2003 baseline, White Bluff Units 1 and 2 have no existing NO_X pollution control technology. The lower NO_X emissions achieved as a co-benefit of installing the neural net system is reflected in the analysis by the use of 2009–2011 as the baseline for the NO_X BART analysis.

Entergy assessed the visibility improvement associated with NO_X controls by modeling the NO_X emission rates associated with each control option using CALPUFF, and then comparing the visibility impairment associated with the baseline emission rate to the visibility impairment associated with the controlled emission rates as measured by the 98th percentile modeled visibility impact. The tables below show a comparison of the baseline (*i.e.,* existing) visibility impacts and the visibility impacts associated with NO_X controls.

TABLE 37—ENTERGY WHITE BLUFF UNIT 1: SUMMARY OF THE 98TH PERCENTILE VISIBILITY IMPACTS AND IMPROVEMENT DUE TO NO_X CONTROLS

Class I area	Baseline visibility impact (Δdv)	LNB/SOFA		LNB/SOFA + SNCR		LNB/SOFA + SCR	
		Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)	Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)	Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)
Caney Creek	1.628	1.462	0.166	1.428	0.2	1.359	0.269
Upper Buffalo	1.140	1.039	0.101	1.029	0.111	0.991	0.149
Hercules-Glades	1.041	0.865	0.176	0.844	0.197	0.832	0.209
Mingo	0.887	0.849	0.038	0.842	0.045	0.817	0.07
Cumulative Visibility Improvement (Δdv)			0.481		0.553		0.697

TABLE 38—ENTERGY WHITE BLUFF UNIT 2: SUMMARY OF THE 98TH PERCENTILE VISIBILITY IMPACTS AND IMPROVEMENT DUE TO NO_X CONTROLS

Class I area	Baseline visibility impact (Δdv)	LNB/SOFA		LNB/SOFA + SNCR		LNB/SOFA + SCR	
		Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)	Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)	Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)
Caney Creek	1.695	1.47	0.225	1.437	0.258	1.368	0.327
Upper Buffalo	1.185	1.046	0.139	1.035	0.15	0.997	0.188
Hercules-Glades	1.060	0.870	0.190	0.849	0.211	0.838	0.222
Mingo	0.903	0.856	0.047	0.849	0.054	0.823	0.08
Cumulative Visibility Improvement (Δdv)			0.601		0.673		0.817

The tables above show that the installation and operation of LNB/SOFA is projected to result in visibility improvement of up to 0.176 dv at any single Class I area for Unit 1 and 0.225 dv for Unit 2, based on the 98th percentile visibility impairment. The installation and operation of LNB/SOFA + SNCR is projected to result in visibility improvement of up to 0.2 dv in any single Class I area for Unit 1 and 0.258 dv for Unit 2. The installation and operation of LNB/SOFA + SCR is projected to result in visibility improvement of up to 0.269 dv in any single Class I area for Unit 1 and 0.327 dv for Unit 2. The combination of LNB/SOFA + SNCR would result in minimal incremental visibility benefit over LNB/SOFA at all affected Class I areas for both units. The combination of LNB/SOFA + SCR at Unit 1 would result in incremental visibility benefit over LNB/SOFA + SNCR of 0.069 dv at Caney Creek; 0.038 dv at Upper Buffalo; 0.012 dv at Hercules-Glades; and 0.025 dv at Mingo. The combination of LNB/SOFA + SCR at Unit 2 would result in incremental visibility benefit over LNB/SOFA + SNCR of 0.069 dv of at Caney Creek; 0.038 dv at Upper Buffalo; 0.011 dv at Hercules-Glades; and 0.026 dv at Mingo.

Our Proposed NO_X BART Determination for Units 1 and 2: Taking into consideration the five factors, we propose to determine that BART for White Bluff Units 1 and 2 is an emission limit of 0.15 lb/MMBtu on a 30 boiler-operating-day rolling average based on the installation and operation of LNB/SOFA. The operation of LNB/SOFA is projected to result in visibility improvement ranging from 0.038 to 0.176 dv for Unit 1 and 0.047 to 0.225 dv for Unit 2 at each of the affected Class I areas (98th percentile basis). Based on our adjustments to the cost analysis included in Entergy's evaluation, the operation of LNB/SOFA is estimated to have an average cost-effectiveness of $350 per ton of NO_X removed for Unit 1 and $340 per ton of NO_X removed for Unit 2, which we

consider to be very cost-effective. The operation of LNB/SOFA + SNCR is estimated to have an average cost-effectiveness of $1,758 per ton of NO_X removed for Unit 1 and $1,449 per ton of NO_X removed for Unit 2. The incremental cost-effectiveness of LNB/SOFA + SNCR compared to LNB/SOFA is $9,665 per ton of NO_X removed for Unit 1 and $9,900 per ton of NO_X removed for Unit 2.While the average cost-effectiveness of LNB/SOFA + SNCR is still very cost effective, the incremental visibility benefit of LNB/SOFA + SNCR compared to LNB/SOFA is estimated to range from 0.007 to 0.034 dv for Unit 1 and 0.007 to 0.033 dv for Unit 2 at each of the affected Class I areas. We do not believe this small amount of incremental visibility benefit justifies the incremental cost of LNB/SOFA + SNCR.

The operation of LNB/SOFA + SCR at Unit 1 is projected to result in up to 0.269 dv visibility improvement over the baseline at any single Class I area, and based on our adjustments to Entergy's cost analysis, has an average cost-effectiveness of $3,552 per ton of NO_X removed. LNB/SOFA + SCR at Unit 1 is projected to result in up to 0.069 dv of incremental visibility improvement over LNB/SOFA + SNCR at any single Class I area, and its incremental cost-effectiveness is estimated to be $6,717 per ton of NO_X removed. The operation of LNB/SOFA + SCR at Unit 2 is projected to result in up to 0.327 dv visibility improvement over the baseline at any single Class I area, and has an average cost-effectiveness of $2,749 per ton of NO_X removed. LNB/SOFA + SCR at Unit 2 is also projected to result in up to 0.069 dv of incremental visibility improvement over LNB/SOFA + SNCR at any single Class I area, and its incremental cost-effectiveness is estimated to be $5,736 per ton of NO_X removed. Although the average and incremental cost-effectiveness of LNB/SOFA + SCR at Units 1 and 2 is still within the range of what we consider to be cost-effective, we believe the incremental visibility benefit over LNB/SOFA + SNCR of up to 0.069 dv at a single Class I area is relatively small considering the incremental cost-effectiveness of $6,717 per ton of NO_X removed for Unit 1 and $5,736 per ton of NO_X removed for Unit 2. Therefore, we are proposing to determine that NO_X BART for White Bluff Units 1 and 2 is an emission limit of 0.15 lb/MMBtu on a 30 boiler-operating-day rolling average based on the installation and operation of LNB/SOFA. We are proposing to require compliance with this requirement no later than 3 years from the effective date of the final rule, consistent with our regional haze regulations.[63] We are proposing to require that compliance be demonstrated using the unit's existing CEMS. We are also proposing regulatory text that includes monitoring, reporting, and recordkeeping requirements associated with this emission limit.

c. *Proposed BART Analysis and Determination for the Auxiliary Boiler.* As shown in the table above, the baseline visibility impairment attributable to the Auxiliary Boiler is 0.01 Δdv at Caney Creek and even lower at the other modeled Class I areas (98th percentile basis). The BART Rule provides:

> ''Consistent with the CAA and the implementing regulations, States can adopt a more streamlined approach to making BART determinations where appropriate. Although BART determinations are based on the totality of circumstances in a given situation, such as the distance of the source from a Class I area, the type and amount of pollutant at issue, and the availability and cost of controls, it is clear that in some situations, one or more factors will clearly suggest an outcome. Thus, for example, a State need not undertake an exhaustive analysis of a source's impact on visibility resulting from relatively minor emissions of a pollutant where it is clear that controls would be costly and any improvements in visibility resulting from reductions in emissions of that pollutant would be negligible.'' (70 FR 39116).

Given the very small baseline visibility impacts from the Auxiliary Boiler, we believe it is appropriate to take a streamlined approach for determining BART in this case. Because of the very low baseline visibility impacts from the Auxiliary Boiler at each modeled Class I area, we believe that the visibility improvement that could be achieved through the installation and operation of controls would be negligible, such that the cost of those controls could not be justified. Therefore, we are proposing that the existing emission limits satisfy BART for SO_2, NO_X, and PM. We are proposing that the existing emission limit of 105.2 lb/hr is BART for SO_2, the existing emission limit of 32.2 lb/hr is BART for NO_X, and the existing emission limit of 4.5 lb/hr is BART for PM for the Auxiliary Boiler.[64] Because we are proposing a BART emission limit that represents current operations and no control equipment installation is necessary, we are proposing that these emissions limitations be complied with for BART purposes from the date of effectiveness of the finalized action.

5. Entergy Lake Catherine Plant

The Entergy Lake Catherine Unit 4 is subject to BART. We previously disapproved Arkansas' BART determinations for NO_X for the natural gas firing scenario and for SO_2, NO_X, and PM for the fuel oil firing scenario in our March 12, 2012 final action (77 FR 14604). Lake Catherine Unit 4 is a tangentially-fired boiler with a nominal net power rating of 558 MW and a nominal heat input capacity of 5,850 MMBtu/hr. The boiler is permitted to burn natural gas and No. 6 fuel oil. Entergy hired a consultant to conduct a BART five-factor analysis for Lake Catherine Unit 4 (Entergy's BART analysis).[65] Entergy's analysis states that Lake Catherine Unit 4 has not burned fuel oil since prior to the 2001–2003 baseline period, currently does not burn fuel oil, and that Entergy does not project to burn fuel oil at the unit in the foreseeable future. Therefore, Entergy's analysis[66] addresses BART for the natural gas firing scenario and does not consider emissions from fuel oil firing. Entergy's analysis states that if conditions change such that it becomes economic to burn fuel oil, the facility will submit a BART five factor analysis for the fuel oil firing scenario to the State to be submitted to us as a SIP revision, and that fuel oil combustion will not take place until final EPA approval of BART for the fuel oil firing scenario. We concur with this commitment.[67] Before fuel oil firing is allowed to take place at Lake Catherine Unit 4, revised BART determinations must be promulgated for all pollutants for the fuel oil firing scenario through a FIP and/or through our action upon and approval of revised BART

[63] 40 CFR 51.308(e)(1)(iv).

[64] See ADEQ Operating Air Permit No. 0263–AOP–R7, Section IV, Specific Condition No. 32.

[65] See ''Revised BART Five Factor Analysis Lake Catherine Steam Electric Station Malvern, Arkansas (AFIN 30–00011),'' dated May 2014, prepared by Trinity Consultants Inc. in conjunction with Entergy Services Inc. A copy of this BART analysis is found in the docket for our proposed rulemaking.

[66] See ''Revised BART Five Factor Analysis Lake Catherine Steam Electric Station Malvern, Arkansas (AFIN 30–00011),'' dated May 2014, prepared by Trinity Consultants Inc. in conjunction with Entergy Services Inc. A copy of this BART analysis is found in the docket for our proposed rulemaking.

[67] As stated in the regulatory text for this proposed rulemaking, if Lake Catherine Unit 4 decides to begin burning fuel oil, we will complete a BART analysis for each pollutant for the fuel oil firing scenario after receiving notification that the source will begin burning fuel oil and we will revise the FIP as necessary in accordance with Regional Haze Rule requirements, including the BART provisions in 40 CFR 51.308(e). Alternatively, if the State submits a SIP revision with BART determinations for the fuel oil firing scenario, we will take action on the State's submittal.

determinations submitted by the State as a SIP revision. We approved Arkansas' BART determinations for Lake Catherine Unit 4 for SO_2 and PM for the natural gas firing scenario in our March 12, 2012 final action (77 FR 14604). Therefore, the only BART determination that remains to be addressed for the natural gas firing scenario is NO_X BART.

The table below summarizes the baseline emission rates for Lake Catherine Unit 4. The SO_2 and NO_X baseline emission rates are the highest actual 24-hour emission rates based on CAMD data from 2001–2003 for natural gas burning. The PM_{10} emission rate reflects the breakdown of the filterable and condensable PM_{10} determined from AP–42 Table 1.4–2 *Combustion of Natural Gas.*

TABLE 39—ENTERGY LAKE CATHERINE UNIT 4 (NATURAL GAS FIRING): BASELINE MAXIMUM 24-HOUR EMISSION RATES

Source	SO_2 (lb/hr)	NO_X (lb/hr)	Total PM_{10} (lb/hr)	SO_4 (lb/hr)	PMc (lb/hr)	PMf (lb/hr)	SOA (lb/hr)	EC (lb/hr)
Unit 4	3.1	2,456.4	44.3	1.5	0.0	0.0	31.8	11.0

Entergy modeled the baseline emission rates using the CALPUFF dispersion model to determine the baseline visibility impairment attributable to Lake Catherine Unit 4 at the four Class I areas impacted by emissions from BART sources in Arkansas. These Class I areas are the Caney Creek Wilderness Area, Upper Buffalo Wilderness Area, Hercules-Glades Wilderness Area, and Mingo National Wildlife Refuge. The baseline (*i.e.,* existing) visibility impairment attributable to the source at each Class I area is summarized in the table below.

TABLE 40—BASELINE VISIBILITY IMPAIRMENT ATTRIBUTABLE TO ENTERGY LAKE CATHERINE UNIT 4—NATURAL GAS FIRING

[2001–2003]

Unit	Caney Creek	Upper Buffalo	Hercules-Glades	Mingo
Unit 4 (SN–01):				
Maximum (Δdv)	3.480	2.044	1.016	0.763
98th Percentile (Δdv)	1.371	0.489	0.387	0.429

a. *Proposed NO_X BART Analysis and Determination.* Entergy identified all available control technologies, eliminated options that are not technically feasible, and evaluated the control effectiveness of the remaining control options for Lake Catherine Unit 4. Each technically feasible control option was then evaluated in terms of a five factor BART analysis.

For NO_X BART, the Entergy BART analysis evaluated both combustion and post-combustion controls. The combustion controls evaluated consisted of Burners out of Service (BOOS), FGR, SOFA, and LNB. The post-combustion controls evaluated consisted of SCR and SNCR. In its evaluation, Entergy noted that SNCR combined with LNB/SOFA was being evaluated as a control option for Lake Catherine Unit 4, but SNCR is not adaptable to all gas-fired boilers. All other available NO_X control options were identified as technically feasible.

The baseline NO_X emission rate Entergy used in the analysis is 0.48 lb/MMBtu. Entergy relied on literature control ranges and efficiencies and vendor estimates in arriving at the expected controlled emission rates for Lake Catherine Unit 4. BOOS is a staged combustion technique in which fuel is introduced through operational burners in the lower furnace zone to create fuel-rich conditions, while not introducing fuel to other burners. The removal of fuel from certain zones reduces the temperature and the production of thermal NO_X. Additional air is then supplied to the non-operational burners to complete combustion. Based on a NO_X control study developed by Sargent & Lundy on behalf of Entergy (Sargent & Lundy NO_X Control Study), the estimated controlled NO_X level for Unit 4 while operating BOOS at maximum load is 0.24 lb/MMBtu.[68] Based on the level of control expected to be achieved by BOOS and the expected utilization levels at Unit 4, Entergy believes that an emission rate of 0.22 lb/MMBtu is achievable on a 30 boiler-operating-day rolling average basis. Entergy estimated the controlled NO_X level for Unit 4 operating with FGR to be 0.19 lb/MMBtu. Entergy estimated that when operated without additional controls, SOFA results in NO_X emissions for gas fired boilers of 0.2—0.4 lb/MMBtu. When operated without additional controls, the estimated controlled NO_X emission rate for gas fired boilers operating with LNB is approximately 0.25 lb/MMBtu, and when combined with SOFA, the estimated controlled NO_X emission rate is 0.19 lb/MMBtu. When SNCR is combined with LNB/SOFA it is estimated that the controlled NO_X emission rate is 0.14 lb/MMBtu, and when SCR is combined with LNB/SOFA it is estimated that the controlled NO_X emission rate is 0.03 lb/MMBtu.

In its evaluation, Entergy noted that the Sargent & Lundy NO_X Control Study estimated that FGR would result in the same controlled emission level as LNB/SOFA, but at a higher cost. Therefore, Entergy's evaluation did not further consider FGR. The remainder of the analysis focused on four control scenarios: (1) BOOS; (2) LNB/SOFA; (3) the combination of LNB/SOFA + SNCR; and (4) the combination of LNB/SOFA + SCR. Entergy estimated the capital costs, operating costs, and cost-effectiveness of these four control scenarios based on cost estimates provided by Sargent & Lundy.[69] The capital cost of each NO_X control was annualized over a 30-year period and

[68] See ''NO_X Control Technology Cost and Performance Study,'' Final Report, Rev. 4, dated May 16, 2013, prepared by Sargent & Lundy. A copy of this report is included as Attachment D to Entergy's BART Five Factor Analysis for Lake Catherine Unit 4, which can be found in the docket for this proposed rulemaking.

[69] The capital and operating cost estimates for each control option are found in Appendix A to Entergy's BART Five Factor Analysis for Lake Catherine Unit 4, which can be found in the docket for this proposed rulemaking.

then added to the annual operating costs to obtain the total annualized costs.[70] The annual emissions reductions associated with each NO_X control option were determined by subtracting the estimated controlled annual emission rate from the baseline annual emission rate. The baseline annual emission rate was calculated using the baseline emission level of 0.48 lb/MMBtu and an annual heat input reflecting a 10% capacity factor.[71] Entergy assumed a 10% capacity factor because the annual capacity factor of the unit during each of the years from 2003–2011 was under 10%, and Entergy anticipates that future annual capacity factors are expected to be comparable to those experienced by the unit in 2003–2011. We agree that assuming a 10% capacity factor is consistent with the BART Guidelines, which provide that the baseline emission rate should represent a realistic depiction of anticipated annual emissions for the source.[72]

The controlled annual emission rates were based on the lb/MMBtu levels believed to be achievable from the control technologies multiplied by the annual heat input. The average cost-effectiveness of NO_X controls was calculated by dividing the total annual cost of each control option by the estimated annual NO_X emissions reductions. The incremental cost-effectiveness of controls when compared to BOOS was also calculated. The table below summarizes the cost of NO_X controls for Lake Catherine Unit 4. Based on Entergy's analysis, the average cost-effectiveness of BOOS at a NO_X controlled emission rate of 0.22 lb/MMBtu is estimated to be $138 per ton of NO_X removed, while the average cost-effectiveness of LNB/SOFA is estimated to be $1,596 per ton of NO_X removed. The average cost-effectiveness of a combination of LNB/SOFA + SNCR is estimated to be $3,827 per ton of NO_X removed, while the average cost-effectiveness of the combination of LNB/SOFA + SCR is estimated to be $6,223 per ton of NO_X removed.

We disagree with two aspects of Entergy's cost analysis.[73] First, Entergy's cost estimates for LNB/SOFA, LNB/SOFA + SNCR, and LNB/SOFA + SCR include capital suspense as a line item under the capital costs. However, we do not believe capital suspense should be included in the cost analysis because those costs have not been documented by Entergy and do not appear to be valid costs under the Control Cost Manual methodology. Second, Entergy's cost estimates for these controls also include Allowance for Funds Used During Construction (AFUDC). AFUDC is the cost of capital that is incurred to finance a project during the construction period, and is not a valid cost under the methodology in the EPA Control Cost Manual. The exclusion of capital suspense and AFUDC from the capital cost estimates results in lower total annual costs and improved average cost-effectiveness (*i.e.,* less dollars per NO_X ton removed) for the aforementioned NO_X control options compared to what is estimated in Entergy's evaluation. In the table below, we have revised the cost-effectiveness of NO_X controls for Unit 4 to reflect our adjustments to Entergy's cost estimates.[74]

TABLE 41—SUMMARY OF NO_X CONTROL COSTS FOR LAKE CATHERINE UNIT 4

[Natural gas firing]

	Baseline emission rate (NO_X tpy)	Controlled emission level (lb/MMBtu)	Controlled emission rate (NO_X tpy)	Annual emissions reduction (NO_X tpy)	Capital cost ($)	Total annual cost ($/yr)	Average cost effectiveness ($/ton)	Incremental cost effectiveness ($/ton)
BOOS	1,236	0.22	564	673	893,000	92,964	138	
LNB/SOFA	1,236	0.19	495	742	10,508,863	1,075,905	1,450	14,246
LNB/SOFA/SNCR	1,236	0.14	371	865	26,015,863	3,047,525	3,523	16,029
LNB/SOFA/SCR	1,236	0.03	77	1159	70,370,863	6,506,935	5,614	11,767

Entergy did not identify any energy or non-air quality environmental impacts associated with the use of BOOS, LNB, or SOFA. As for SCR and SNCR, we are not aware of any unusual circumstances at the facility that could create non-air quality environmental impacts associated with the operation of these controls greater than experienced elsewhere and that may therefore provide a basis for their elimination as BART (40 CFR part 51, Appendix Y, section IV.D.4.i.2.). Therefore, we do not believe there are any energy or non-air quality environmental impacts associated with the operation of NO_X controls at Entergy Lake Catherine Unit 4 that would affect our proposed BART determination.

Lake Catherine Unit 4 is not currently equipped with any NO_X pollution control equipment. The baseline emission rates used in the cost calculations and visibility modeling reflects this.

Entergy assessed the visibility improvement associated with NO_X controls by modeling the NO_X emission rates associated with each control option using CALPUFF, and then comparing the visibility impairment associated with the baseline emission rate to the visibility impairment associated with the controlled emission rates as measured by the 98th percentile modeled visibility impact. The table below shows a comparison of the baseline (*i.e.,* existing) visibility impacts and the visibility impacts associated with NO_X controls.

[70] Based on Entergy's evaluation, it is anticipated that BOOS can be implemented at Unit 4 without any capital expenditures, but there are one-time costs associated with BOOS implementation. To provide an ''apples-to-apples'' comparison with the other NO_X control options, these one-time additional costs were treated as if they were a capital expenditure in calculating the cost effectiveness.

[71] The annual heat input reflecting a 10% annual capacity factor is 5,124,600 MMBtu/yr (5,850 MMBtu/hr * 8760 hrs/yr * 10% = 5,124,600 MMBtu/yr).

[72] 40 CFR Appendix Y to Part 51—Guidelines for BART Determinations Under the Regional Haze Rule, section IV.D.4.d.

[73] See ''Revised BART Five Factor Analysis Lake Catherine Steam Electric Station Malvern, Arkansas (AFIN 30–00011),'' dated May 2014, prepared by Trinity Consultants Inc. in conjunction with Entergy Services Inc. Entergy's NO_X control cost estimates are found in Appendices A and D of the BART analysis. A copy of the BART analysis, including the appendices, is found in the docket for our proposed rulemaking.

[74] See the spreadsheet titled ''EPA NO_X Control Cost revisions_Lake Catherine.xlsx.'' A copy of this spreadsheet is found in the docket for our proposed rulemaking.

TABLE 42—ENTERGY LAKE CATHERINE UNIT 4: SUMMARY OF 98TH PERCENTILE VISIBILITY IMPACTS AND IMPROVEMENT DUE TO NO_X CONTROLS

[Natural gas firing]

Class I area	Baseline visibility impact (Δdv)	BOOS		LNB/SOFA		LNB/SOFA + SNCR		LNB/SOFA + SCR	
		Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)	Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)	Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)	Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)
Caney Creek	1.371	0.775	0.596	0.683	0.688	0.529	0.842	0.163	1.208
Upper Buffalo	0.532	0.284	0.248	0.25	0.282	0.193	0.339	0.057	0.475
Hercules-Glades ..	0.387	0.212	0.175	0.185	0.202	0.141	0.246	0.043	0.344
Mingo	0.429	0.233	0.196	0.204	0.225	0.154	0.275	0.042	0.387
Cumulative Visibility Improvement (Δdv)	.....	.....	1.215	.....	1.397	.....	1.702	.....	2.414

The table above shows that the installation and operation of BOOS is projected to result in visibility improvement of up to 0.596 dv at any single Class I area (based on the 98th percentile modeled visibility impacts), while LNB/SOFA is projected to result in visibility improvement of up to 0.688 dv. The installation and operation of the combination of LNB/SOFA + SNCR is projected to result in visibility improvement of up to 0.842 dv at any single Class I area, while the combination of LNB/SOFA + SCR is projected to result in visibility improvement of up to 1.208 dv. The installation and operation of LNB/SOFA is projected to result in 0.092 dv of incremental visibility benefit over BOOS at Caney Creek, and much lower incremental visibility benefit over BOOS at the other Class I areas. The combination of LNB/SOFA + SNCR is projected to result in 0.154 dv of incremental visibility benefit over LNB/SOFA at Caney Creek, and 0.057 dv or less incremental visibility benefit at the other affected Class I areas. The combination of LNB/SOFA + SCR is projected to result in 0.366 dv of incremental visibility benefit over LNB/SOFA + SNCR at Caney Creek, 0.136 dv at Upper Buffalo, 0.098 Δdv at Hercules-Glades, and 0.112 dv at Mingo.

Our Proposed NO_X BART Determination: Taking into consideration the five factors, we are proposing to determine that NO_X BART for Lake Catherine Unit 4 for the natural gas firing scenario is an emission limit of 0.22 lb/MMBtu on a 30 boiler-operating-day rolling average based on the installation and operation of BOOS. The operation of BOOS is projected to result in visibility improvement ranging from 0.175 to 0.596 dv at each affected Class I area (98th percentile basis). The cumulative visibility improvement across the four affected Class I areas is projected to be 1.215 dv. The operation of BOOS is estimated to have an average cost-effectiveness of $138 per ton of NO_X removed, which we consider to be very cost-effective. By comparison, the installation and operation of LNB/SOFA is estimated to have an average cost-effectiveness of $1,450 per ton of NO_X removed, which is still very cost-effective. However, the incremental cost-effectiveness of LNB/SOFA over BOOS is $14,246 per ton of NO_X ton removed, while the incremental visibility benefits are only 0.027 to 0.092 dv (depending on the Class I area). As discussed in the preceding paragraph, the operation of a combination of LNB/SOFA + SNCR is projected to result in visibility improvement over the baseline ranging from 0.246 to 0.842 dv at each affected Class I area and an incremental visibility improvement over LNB/SOFA ranging from 0.05 to 0.154 dv at each Class I area. However, the combination of LNB/SOFA + SNCR has an average cost-effectiveness of $3,523 per ton of NO_X removed and an incremental cost-effectiveness compared to LNB/SOFA of $16,029 per ton of NO_X removed. We believe that the high incremental costs of the combination of LNB/SOFA + SNCR when compared to LNB/SOFA do not justify the amount of incremental visibility benefit projected at the affected Class I areas. The operation of a combination of LNB/SOFA + SCR is projected to result in considerable visibility improvement over the baseline, ranging from 0.344 to 1.208 dv at each affected Class I area. The incremental visibility benefit of the combination of LNB/SOFA + SCR over LNB/SOFA + SNCR ranges from 0.098 to 0.366 dv at each Class I area. However, the combination of LNB/SOFA + SCR has an average cost-effectiveness of $5,614 per ton of NO_X removed and an incremental cost-effectiveness (compared to the combination of LNB/SOFA + SNCR) of $11,767 per ton of NO_X removed. While the incremental visibility benefit is considerable, we do not consider the average and the incremental cost-effectiveness values of the combination of LNB/SOFA + SCR to be cost-effective. Therefore, we are proposing to determine that NO_X BART for Lake Catherine Unit 4 for the natural gas firing scenario is an emission limit of 0.22 lb/MMBtu on a 30 boiler-operating-day rolling average based on the installation and operation of BOOS. We are proposing to require compliance with this requirement no later than 3 years from the effective date of the final rule, consistent with our regional haze regulations.[75] We are proposing to require that compliance be demonstrated using the unit's existing CEMS. We are inviting public comment specifically on whether this proposed NO_X emission limit is appropriate or whether an emission limit based on more stringent NO_X controls would be appropriate. We are also proposing regulatory text that includes monitoring, reporting, and recordkeeping requirements associated with this emission limit.

6. Domtar Ashdown Paper Mill

The Domtar Ashdown Paper Mill Power Boilers No. 1 and 2 are subject to BART. As mentioned previously, we disapproved Arkansas' BART determinations for SO_2 and NO_X for Power Boiler No. 1 and the BART determination for SO_2, NO_X, and PM for the No. 2 Power Boiler in our March 12, 2012 final action (77 FR 14604). The No. 1 Power Boiler has a heat input rating of 580 MMBtu/hr and an average steam generation rate of approximately 120,000 lb/hr. The No. 1 Power Boiler combusts primarily bark, but is also permitted to burn wood waste, tire-

[75] 40 CFR 51.308(e)(1)(iv).

derived fuel (TDF), municipal yard waste, pelletized paper fuel (PPF), fuel oil, reprocessed fuel oil, and natural gas. It is equipped with a traveling grate, a combustion air system, and a wet ESP. The No. 2 Power Boiler has a heat input rating of 820 MMBtu/hr and an average steam generation rate of approximately 600,000 lb/hr. The No. 2 Power Boiler combusts primarily pulverized bituminous coal, but is also permitted to burn bark, PPF, TDF, municipal yard waste, fuel oil, used oil, natural gas, petroleum coke, and reprocessed fuel oil. It is equipped with a traveling grate, combustion air system including OFA, multiclones for particulate removal, and two venturi scrubbers in parallel for removal of remaining particulates and SO_2. Domtar hired a consultant to perform a BART five-factor analysis for the Domtar Ashdown Mill Power Boilers No. 1 and 2 (Domtar's 2014 BART analysis).[76] In this proposal, we also refer to certain parts of the Domtar BART evaluation submitted by the State in the 2008 Arkansas RH SIP, which we are hereafter referring to as the ''2006/2007 Domtar BART analysis.'' [77] Although we already took action on that SIP submittal, we reference the 2006/2007 Domtar BART analysis as it contains the best available information we have related to certain NO_X controls for Power Boilers No. 1 and 2.

The table below summarizes the baseline emission rates for Power Boilers No. 1 and 2. The SO_2 baseline emission rate for Power Boiler No. 1 used in Domtar's 2014 BART analysis is the highest actual 24-hour emission rate estimated using maximum 24-hour fuel usage rates during 2009–2011 and sulfur content values for each fuel type.[78] The 2009–2011 period was used as the baseline in Domtar's evaluation for Power Boiler No. 1 because a wet ESP was installed on Power Boiler No. 1 in 2007 to meet the Maximum Achievable Control Technology (MACT) standards under CAA section 112, resulting in a reduction in PM and SO_2 emissions from Power Boiler No. 1. Therefore, we believe that the 2009–2011 period is more representative of the boiler's current emissions than 2001–2003. We believe the use of 2009–2011 as the new baseline period for Power Boiler No. 1 is consistent with the BART Guidelines, which provide that the baseline emissions rate should represent a realistic depiction of anticipated annual emissions for the source.[79] The NO_X and PM baseline emission rates used for Power Boiler No. 1 are the highest actual 24-hour emission rates estimated using the maximum heat input from 2009–2011 and emission factors developed from the analysis of stack testing the facility had previously conducted. For Power Boiler No. 2, the baseline emission rates are the highest actual 24-hour emission rates based on a combination of 2001–2003 CEMS data, source-specific stack testing results, and emission factors from AP–42.

TABLE 43—DOMTAR ASHDOWN MILL: BASELINE MAXIMUM 24-HOUR EMISSION RATES

Subject to BART unit	NO_X Emissions (lb/hr)	SO_2 Emissions (lb/hr)	PM_{10}/PM_f Emissions (lb/hr)
Power Boiler No. 1	207.4	21.0	30.4
Power Boiler No. 2	526.8	788.2	81.6

Domtar modeled the baseline emission rates using the CALPUFF dispersion model to determine the baseline visibility impairment attributable to the Domtar Ashdown Mill's Power Boilers No. 1 and 2 at the four Class I areas impacted by emissions from BART sources in Arkansas. These Class I areas are the Caney Creek Wilderness Area, Upper Buffalo Wilderness Area, Hercules-Glades Wilderness Area, and Mingo National Wildlife Refuge. The baseline visibility impairment attributable to the source at each Class I area is summarized in the table below.

TABLE 44—BASELINE VISIBILITY IMPAIRMENT ATTRIBUTABLE TO THE DOMTAR ASHDOWN MILL

Emission unit	Caney Creek	Upper Buffalo	Hercules-Glades	Mingo
Power Boiler No. 1:				
Maximum (Δdv)	0.476	0.090	0.077	0.060
98th Percentile (Δdv)	0.335	0.038	0.020	0.014
Power Boiler No. 2:				
Maximum (Δdv)	1.603	0.381	0.329	0.246
98th Percentile (Δdv)	0.844	0.146	0.105	0.065

a. *Proposed SO_2 BART Analysis and Determination for Power Boiler No. 1.* The table above shows that the baseline visibility impairment attributable to Power Boiler No. 1 is relatively low based on the 98th percentile visibility impacts, ranging from 0.014–0.335 dv at each Class I area. An examination of the species contribution to the 98th percentile visibility impacts shows that SO_2 emissions contribute a very small portion of the visibility impairment

[76] See ''Supplemental BART Determination Information Domtar A.W. LLC, Ashdown Mill (AFIN 41–00002),'' originally dated June 28, 2013 and revised on May 16, 2014, prepared by Trinity Consultants Inc. in conjunction with Domtar A.W. LLC. A copy of this BART analysis is found in the docket for our proposed rulemaking.

[77] See ''Best Available Retrofit Technology Determination Domtar Industries Inc., Ashdown Mill (AFIN 41–00002),'' originally dated October 31, 2006 and revised on March 26, 2007, prepared by Trinity Consultants Inc. This BART analysis is part of the 2008 Arkansas RH SIP, upon which EPA took final action on March 12, 2012 (77 FR 14604). A copy of this BART analysis is found in the docket for this proposed rulemaking.

[78] In Domtar's 2014 BART analysis, 2009–2011 was used as the baseline period for Power Boiler No. 1 because a wet ESP was installed on Power Boiler No. 1 in 2007. The installation of the wet ESP resulted in a reduction in PM and SO_2 emissions from Power Boiler No. 1. Therefore, 2009–2011 is more representative of the boiler's emissions than 2001–2003.

[79] 40 CFR part 51, Appendix Y, section IV.D.4.c.

attributable to Power Boiler No. 1 (see the table below). The SO_4 species contributes only 2.23—4.03% of the visibility impairment attributable to Power Boiler No. 1 at the modeled Class I areas. We also note that Power Boiler No. 1 combusts primarily bark, which results in very low SO_2 emissions due to the low sulfur content of bark.

TABLE 45—BASELINE VISIBILITY IMPAIRMENT AND SPECIES CONTRIBUTION FOR DOMTAR ASHDOWN MILL—POWER BOILER NO. 1

Emissions unit	Class I area	98th Percentile visibility impacts (dv) [80]	Species contribution to 98th percentile visibility impacts			
			98th Percentile % SO_4	98th Percentile % NO_3	98th Percentile % PM_{10}	98th Percentile % NO_2
Power Boiler No. 1	Caney Creek	0.335	2.23	85.26	6.68	5.83
	Upper Buffalo	0.038	2.75	85.89	8.03	3.32
	Hercules-Glades	0.020	2.70	91.82	3.94	1.55
	Mingo	0.014	4.03	90.06	5.13	0.78

As noted above, we believe that the BART Rule provides that states, or EPA in this case, can adopt a more streamlined approach to making BART determinations where appropriate.[81] Considering the very low baseline visibility impairment that is due to SO_2 emissions from Power Boiler No. 1 and the fact that the boiler combusts primarily bark, which has a low sulfur content, we believe that any visibility improvement that could be achieved as a result of emissions reductions associated with the installation and operation of SO_2 controls would be negligible, and that the cost of those controls could not be justified. Therefore, we are proposing that the SO_2 baseline emission rate of 21.0 lb/hr satisfies SO_2 BART for Power Boiler No. 1. We are proposing this SO_2 emission rate on a 30 boiler-operating-day averaging basis, where in this particular case boiler-operating-day is defined as a 24-hour period between 12 midnight and the following midnight during which any fuel is fed into and/or combusted at any time in the Power Boiler. Power Boiler No. 1 is not currently equipped with a CEMS. To demonstrate compliance with this SO_2 BART emission limit we are proposing to require the facility to use a site-specific curve equation,[82] provided to us by the facility, to calculate the SO_2 emissions from Power Boiler No. 1 when combusting bark, and to confirm the curve equation using stack testing.[83] We are also proposing that to calculate the SO_2 emissions from fuel oil combustion, the facility must assume that the SO_2 inlet is equal to the SO_2 being emitted at the stack. We are inviting public comment on whether this method of demonstrating compliance with the proposed BART emission limit is appropriate. Since this proposed BART determination does not require the installation of control equipment, we are proposing that this SO_2 emission limit be complied with by the effective date of the final action.

b. *Proposed NO_X BART Analysis and Determination for Power Boiler No. 1.* For NO_X BART, Domtar's 2014 BART analysis evaluated SNCR and Methane de-NO_X (MdN). In the 2006/2007 Domtar BART analysis, which was submitted in the 2008 Arkansas RH SIP, other NO_X controls were also evaluated but found by Arkansas to be either already in use or not technically feasible for use at Power Boiler No. 1. Fuel blending, boiler operational modifications, and boiler tuning/optimization are already in use at the source, while FGR, LNB, Ultra Low NO_X Burners (ULNB), OFA, and SCR were determined to be technically infeasible for use at Power Boiler No. 1. Domtar did not further evaluate these NO_X controls in its 2014 BART analysis for Power Boiler No. 1, focusing instead on SNCR and MdN.

MdN utilizes the injection of natural gas together with recirculated flue gases to create an oxygen-rich zone above the combustion grate. Air is then injected at a higher furnace elevation to burn the combustibles. In response to comments provided by us regarding Domtar's 2014 BART analysis, Domtar stated that discussions regarding the technical infeasibility of MdN in the 2006/2007 Domtar BART analysis, submitted as part of the 2008 Arkansas RH SIP, remain correct.[84] The 2006/2007 Domtar BART analysis submitted in the 2008 Arkansas RH SIP discussed that MdN has not been fully demonstrated for this source type and incorporates FGR, which is technically infeasible for use at Power Boiler No. 1. Domtar also stated it recently completed additional research and found that since the 2006/2007 Domtar BART analysis, MdN has not been placed into operation in power boilers at paper mills or any comparable source types. We are also not aware of any power boilers at paper mills that operate MdN for NO_X control, and agree that this control can be considered technically infeasible for use at Power Boiler No. 1 and do not further consider it in this evaluation. Domtar also questioned the technical feasibility of SNCR for bark fired boilers and boilers with high load swings such as Power Boiler No. 1, but in response to our comments, SNCR was evaluated for Power Boiler No. 1 in Domtar's 2014 BART analysis.

Domtar's 2014 BART analysis evaluated SNCR at removal efficiencies of 20%, 32.5%, and 45% for Power Boiler No. 1. The estimated 32.5% and 45% removal efficiencies were based on equipment vendor estimates that came from the vendor's proposal,[85] which according to the facility, is not an appropriations request level quote and

[80] The visibility impact shown represents the highest 98th percentile value among the three modeled years.

[81] 70 FR 39116.

[82] The curve equation is Y = 0.4005 * X − 0.2645, where Y = pounds of sulfur emitted per ton dry fuel feed to the boiler and X = pounds of sulfur input per ton of dry bark. The purpose of this equation is to factor in the degree of SO_2 scrubbing provided by the combustion of bark.

[83] Background information and an explanation of the site specific curve equation provided by Domtar can be found in the documents titled ''Site Specific Curve Equation Background_Domtar PB No1,'' and ''1PB SO_2 Emissions from Curve.'' Copies of these documents can be found in the docket for this proposed rulemaking.

[84] See the document titled ''Domtar Responses to ADEQ Regarding Region 6 Comments on Domtar BART Analysis,'' p. 10. A copy of this document can be found in the docket for our proposed rulemaking.

[85] Fuel Tech Proposal titled ''Domtar Paper Ashdown, Arkansas—NO_X Control Options, Power Boilers 1 and 2,'' dated June 29, 2012. A copy of the vendor proposal is included under Appendix D to the ''Supplemental BART Determination Information Domtar A.W. LLC, Ashdown Mill (AFIN 41–00002),'' originally dated June 28, 2013 and revised on May 16, 2014, prepared by Trinity Consultants Inc. in conjunction with Domtar A.W. LLC. A copy of this BART analysis and its appendices is found in the docket for our proposed rulemaking.

therefore needs further refinement.[86] For example, Domtar's 2014 BART analysis discusses that for a base loaded pulp mill boiler with steady flue gas flow patterns and temperature distribution across the flue gas pathway, SNCR can achieve a 45% removal efficiency. However, Power Boiler No. 1 is not a base loaded boiler. Domtar's 2014 BART analysis states that for pulp mill boilers with fluctuating loads (*i.e.,* high load swing), such as Power Boiler No. 1, SNCR is used primarily for polishing purposes (*i.e.,* < 20 to 30% NO_X reduction) and it is uncertain whether higher removal efficiencies are achievable on a long-term basis. The facility believes that 20% removal efficiency, which has been demonstrated at a similar bark fired power boiler at another paper mill, is the most reasonable estimate of the removal efficiency of SNCR for Power Boiler No. 1.

In Domtar's 2014 BART analysis, the capital costs, operating costs, and cost-effectiveness of SNCR were calculated based on methods and assumptions found in our Control Cost Manual, and supplemented with mill-specific cost information for water, fuels, and ash disposal and urea solution usage estimates from the equipment vendor. The capital cost was annualized over a 30-year period and then added to the annual operating cost to obtain the total annualized costs. The annual emissions reductions associated with each NO_X control option were determined by subtracting the estimated controlled annual emission rate from the baseline annual emission rate. The baseline annual emissions used in the calculations are the uncontrolled actual emissions from the 2009–2011 baseline period. The average cost-effectiveness was calculated by dividing the total annual cost by the estimated annual NO_X emissions reductions. The table below summarizes the cost of NO_X controls for Power Boiler No. 1.

TABLE 46—SUMMARY OF COST OF NO_X CONTROLS FOR POWER BOILER NO. 1

NO_X Control scenarios	Baseline emission rate (NO_X tpy)	NO_X Control efficiency (%)	Annual emissions reduction (NO_X tpy)	Capital cost ($)	Total annual cost ($/yr)	Average cost effectiveness ($/ton)	Incremental cost-effectiveness ($/ton)
SNCR—20%	440	20	88	2,152,365	1,118,178	12,700	.....
SNCR—32.5%	440	32.5	143	2,423,587	1,144,103	7,996	471
SNCR—45%	440	45	198	2,707,431	1,513,602	7,640	6,718

Domtar's 2014 BART analysis did not identify any energy or non-air quality environmental impacts associated with the use of SNCR. We are not aware of any unusual circumstances at the facility that create greater non-air quality environmental impacts than experienced elsewhere that may provide a basis for the elimination of these control options as BART (40 CFR part 51, Appendix Y, section IV.D.4.i.2.). Therefore, we do not believe there are any energy or non-air quality environmental impacts associated with the operation of NO_X controls at Power Boiler No. 1 that would affect our proposed BART determination.

Consideration of the presence of existing pollution control technology at the source is reflected in the BART analysis in two ways: First, in the consideration of available control technologies, and second, in the development of baseline emission rates for use in cost calculations and visibility modeling. Power Boiler No. 1 is currently equipped with a combustion air system to optimize boiler combustion efficiency, which has the co-benefit of reducing emissions. The baseline emission rate used in the cost calculations and visibility modeling reflects the use of the existing combustion air system.

In the 2014 BART analysis, Domtar assessed the visibility improvement associated with SNCR by modeling the NO_X emission rates associated with each control option using CALPUFF, and then comparing the visibility impairment associated with the baseline emission rate to the visibility impairment associated with the controlled emission rates as measured by the 98th percentile modeled visibility impact. The table below shows a comparison of the baseline (*i.e.,* existing) visibility impacts and the visibility impacts associated with SNCR.

TABLE 47—DOMTAR ASHDOWN MILL POWER BOILER NO. 1: SUMMARY OF THE 98TH PERCENTILE VISIBILITY IMPACTS AND IMPROVEMENT DUE TO SNCR

Class I area	Baseline visibility impact (dv)	SNCR—20%		SNCR—32.5%		SNCR—45%	
		Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)	Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)	Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)
Caney Creek	0.335	0.274	0.061	0.237	0.098	0.199	0.136
Upper Buffalo	0.038	0.031	0.007	0.027	0.011	0.023	0.015
Hercules-Glades	0.020	0.017	0.003	0.014	0.006	0.012	0.008
Mingo	0.014	0.011	0.003	0.009	0.005	0.008	0.006
Cumulative Visibility Improvement (Δdv)	.....	.....	0.074	.....	0.12	.....	0.165

The table above shows that the installation and operation of SNCR is projected to result in visibility improvements of up to 0.136 dv at any single Class I area when operated at 45% removal efficiency, 0.098 dv when operated at 32.5% removal efficiency, and 0.061 dv when operated at 20%

[86] See the document titled ''Domtar Responses to ADEQ Regarding Region 6 Comments on Domtar BART Analysis,'' p. 9. A copy of this document can be found in the docket for our proposed rulemaking.

removal efficiency (based on the 98th percentile modeled visibility impacts).

Our Proposed NO_X BART Determination: Taking into consideration the five factors, we are proposing to determine that NO_X BART for the Domtar Ashdown Mill Power Boiler No. 1 is an emission limit of 207.4 lb/hr on a 30 boiler-operating-day rolling average, where boiler-operating-day is defined as a 24-hour period between 12 midnight and the following midnight during which any fuel is fed into and/or combusted at any time in the Power Boiler. This emission limit is based on the boiler's NO_X baseline emission rate and therefore represents current operating conditions. MdN was determined to be not technically feasible for use at Power Boiler No. 1 because it has not been fully demonstrated for this source type and incorporates FGR, which is technically infeasible for use at the boiler. The installation and operation of SNCR is projected to result in some visibility improvement at the Class I areas. As discussed in more detail above, we concur with Domtar's position that 20% removal efficiency is the most reasonable estimate of the level of NO_X control SNCR can achieve at Power Boiler No. 1. When operated at 20% removal efficiency, SNCR is projected to result in visibility improvement of up to 0.061 dv at any single Class I area and is estimated to cost $12,700 per ton of NO_X removed. We do not believe this high cost justifies the modest visibility improvement projected from the installation and operation of SNCR at 20% removal efficiency. Although there is uncertainty as to whether SNCR can achieve a long term removal efficiency of 45% or even 32.5% at Power Boiler No. 1, we believe that the associated costs are also too high to justify the small projected visibility benefits. Installation and operation of SNCR at a 45% removal efficiency is projected to result in a visibility improvement of up to 0.136 dv at any single Class I area and is estimated to cost $7,640 per ton of NO_X removed. The operation of SNCR at a 32.5% removal efficiency is projected to result in visibility improvement of up to 0.098 dv at any single Class I area and is estimated to cost $7,996 per ton of NO_X removed. Therefore, we are proposing to determine that NO_X BART for Power Boiler No. 1 is no additional control and are proposing that an emission limit of 207.4 lb/hr on a 30 boiler-operating-day rolling average satisfies NO_X BART. In this particular case, we are defining boiler-operating-day as a 24-hour period between 12 midnight and the following midnight during which any fuel is fed into and/or combusted at any time in the Power Boiler. Power Boiler No. 1 is not currently equipped with a CEMS. To demonstrate compliance with this NO_X BART emission limit we are proposing to require annual stack testing. We are inviting public comment on the appropriateness of this method for demonstrating compliance with the NO_X BART emission limit for Power Boiler No. 1. Since this proposed BART determination does not require the installation of control equipment, we are proposing that this NO_X emission limit be complied with by the effective date of the final action. We are also proposing regulatory text that includes monitoring, reporting, and recordkeeping requirements associated with this proposed BART determination.

c. *Proposed SO_2 BART Analysis and Determination for Power Boiler No. 2.* Power Boiler No. 2 is currently equipped with two venturi wet scrubbers in parallel for removal of particulates and SO_2. Domtar's 2014 BART analysis evaluated upgrades to the existing venturi wet scrubbers and new add-on spray scrubbers for Power Boiler No. 2.[87] Domtar's analysis explains that it contracted with a vendor to evaluate upgrades to the existing venturi scrubbers and provide a quote for a new add-on spray scrubber system that would be installed downstream of the existing venturi scrubbers.[88] Domtar's analysis states that the existing venturi scrubbers achieve an SO_2 control efficiency of approximately 90% and notes that this is within the normal range for the highest control efficiency achieved by SO_2 control technologies. Domtar's analysis indicates that the upgrades it considered for the existing venturi scrubbers include: (1) The elimination of bypass reheat, (2) the installation of liquid distribution rings, (3) the installation of perforated trays, (4) improvements to the auxiliary system requirement, and (5) a redesign of spray header and nozzle configuration. Domtar's analysis states that any additional control that could potentially be achieved from implementation of such upgrades would be marginal, but the facility was unable to quantify the potential additional control. Therefore, it was determined that the installation of new add-on spray scrubbers to operate downstream of the existing scrubbers was more feasible than any upgrade option. The remainder of Domtar's analysis focused on the add-on spray scrubber option. Based on the information provided to Domtar by the vendor, the add-on spray scrubbers would utilize sodium hydroxide (NaOH), bleach plant EO filtrate (*i.e.,* bleaching filtrate), and water as the scrubbing reagent. The add-on spray scrubbers are estimated to achieve 90% control efficiency above the SO_2 removal the existing venturi scrubbers are currently achieving. In Domtar's analysis, it is estimated that a controlled SO_2 emission rate of 78.8 lb/hr would be achieved by the operation of add-on spray scrubbers installed downstream of the existing venturi scrubbers.

Domtar's estimates of the capital and operating and maintenance costs of add-on spray scrubbers for Power Boiler No. 2 were based on the equipment vendor's budget proposal and on calculation methods from our Control Cost Manual. Domtar annualized the capital cost of the add-on spray scrubbers over a 30-year amortization period and then added these to the annual operating costs to obtain the total annualized cost.[89] The average cost-effectiveness in dollars per ton removed was calculated by dividing the total annualized cost by the annual SO_2 emissions reductions. The average cost-effectiveness of the add-on spray scrubbers for Power Boiler No. 2 was estimated to be $5,258 per ton of SO_2 removed (see table below). Domtar's analysis notes that because of constricted space, there is no existing property or adequate structure to support the add-on spray scrubber equipment. In our discussions with Domtar, the facility indicated that the installation of add-on spray scrubbers would require construction at the facility to accommodate the equipment, but an estimate of these costs was not available and therefore not factored into the cost estimates presented in Domtar's analysis.

[87] See ''Supplemental BART Determination Information Domtar A.W. LLC, Ashdown Mill (AFIN 41–00002),'' originally dated June 28, 2013 and revised on May 16, 2014, prepared by Trinity Consultants Inc. in conjunction with Domtar A.W. LLC. A copy of this BART analysis is found in the docket for our proposed rulemaking.

[88] See ''Lundberg Budget Proposal Spray Scrubber—Domtar Industries, Ashdown, AR,'' dated April 17, 2014. The vendor proposal is found under Appendix D to Domtar's BART analysis titled ''Supplemental BART Determination Information Domtar A.W. LLC, Ashdown Mill (AFIN 41–00002),'' originally dated June 28, 2013 and revised on May 16, 2014, prepared by Trinity Consultants Inc. in conjunction with Domtar A.W. LLC.

[89] See Appendices B and D to the ''Supplemental BART Determination Information Domtar A.W. LLC, Ashdown Mill (AFIN 41–00002),'' originally dated June 28, 2013 and revised on May 16, 2014, prepared by Trinity Consultants Inc. in conjunction with Domtar A.W. LLC.

TABLE 48—SUMMARY OF COSTS FOR ADD-ON SPRAY SCRUBBER FOR POWER BOILER NO. 2

Control technology	Baseline emission rate (SO_2 tpy)	Controlled emission level (lb/hr)	Controlled emission rate (tpy)	Annual emissions reductions (SO_2 tpy)	Capital cost * ($)	Annual direct O&M cost ($/yr)	Annual indirect O&M cost ($/yr)	Total annual cost ($/yr)	Average cost effectiveness ($/ton)
Add-on Spray Scrubber	2,078	78.8	208	1,870	7,175,000	8,833,382	421,789	9,833,378	5,258

* Capital cost does not include new construction to accommodate equipment.

Domtar's 2014 BART analysis did not identify any energy or non-air quality environmental impacts associated with the use of add-on spray scrubbers. We are not aware of any unusual circumstances at the facility that create non-air quality environmental impacts associated with the use of add-on spray scrubbers greater than experienced elsewhere that may therefore provide a basis for the elimination of this control option as BART (40 CFR part 51, Appendix Y, section IV.D.4.i.2.). Therefore, we do not believe there are any energy or non-air quality environmental impacts associated with this control option at Power Boiler No. 2 that would affect our proposed BART determination.

Consideration of the presence of existing pollution control technology at the source is reflected in the BART analysis in two ways: First, in the consideration of available control technologies, and second, in the development of baseline emission rates for use in cost calculations and visibility modeling. Power Boiler No. 2 is equipped with multiclones for particulate removal and two venturi scrubbers in parallel for control of SO_2 emissions. It is also equipped with a combustion air system including overfire air to optimize boiler combustion efficiency, which also helps control emissions. The baseline emission rate used in the cost calculations and visibility modeling reflects the use of these existing controls. As discussed above, Domtar's analysis also evaluated upgrades to the existing venturi scrubbers to potentially achieve greater SO_2 control efficiency. Another option we have identified to achieve greater SO_2 control efficiency of the existing scrubbers involves using additional scrubbing reagent, but this was not considered in Domtar's 2014 BART analysis. Our analysis of this control option is presented below, following the analysis of add-on spray scrubbers.

In the 2014 BART analysis, Domtar assessed the visibility improvement associated with the add-on spray scrubbers by modeling the controlled SO_2 emission rate using CALPUFF, and then comparing the visibility impairment associated with the controlled emission rate to that of the baseline emission rate as measured by the 98th percentile modeled visibility impact. The table below shows a comparison of the baseline (*i.e.,* existing) visibility impacts and the visibility impacts associated with the add-on spray scrubbers. The installation and operation of add-on spray scrubbers is projected to result in visibility improvement of 0.146 dv at Caney Creek. The visibility improvement is projected to range from 0.026–0.053 dv at each of the other Class I areas.

TABLE 49—DOMTAR ASHDOWN MILL POWER BOILER NO. 2: SUMMARY OF THE 98TH PERCENTILE VISIBILITY IMPACTS AND IMPROVEMENT DUE TO ADD-ON SPRAY SCRUBBERS

Class I area	Baseline visibility impact [90] (dv)	Add-on spray scrubbers	
		Visibility impact (Δdv)	Visibility improvement from baseline (Δdv)
Caney Creek	0.844	0.698	0.146
Upper Buffalo	0.146	0.093	0.053
Hercules-Glades	0.105	0.054	0.051
Mingo	0.065	0.039	0.026
Cumulative Visibility Improvement (Δdv)	.....	.....	0.276

As mentioned above, another option not evaluated in Domtar's 2014 BART analysis is the optimization of the existing venturi scrubbers to achieve a higher SO_2 control efficiency through the use of additional scrubbing reagent. Following discussions between us and Domtar, the facility provided additional information regarding the existing venturi scrubbers, including a description of the internal structure of the scrubbers, whether any scrubber upgrades have taken place, the type of reagent used, how the facility determines how much reagent to use, and the SO_2 control efficiency.[91] Domtar confirmed that no upgrades to the scrubbers have ever been performed and stated that 100% of the flue gas is treated by the scrubber systems. The scrubbing solution used in the venturi scrubbers is made up of three components: 15% caustic solution (*i.e.,* NaOH), bleach plant EO filtrate (typical pH above 9.0), and demineralizer anion rinse water (approximately 2.5% NaOH). The bleach plant EO filtrate and demineralizer anion rinse water are both waste byproducts from the processes at the plant. The 15% caustic solution is added to adjust the pH of the scrubbing solution and maintain it within the required range to ensure that sufficient SO_2 is removed from the flue gas in the scrubber to meet the permitted SO_2

[90] The baseline visibility impacts reflect the operation of the existing venturi scrubbers.

[91] See the following: Letters dated July 9, 2014; July 21, 2014; August 15, 2014; August 29, 2014; and September 12, 2014, from Annabeth Reitter, Corporate Manager of Environmental Regulation, Domtar, to Dayana Medina, U.S. EPA Region 6. Copies of these letters and all attachments are found in the docket for our proposed rulemaking.

emission limit of 1.20 lb/MMBtu on a three hour average. Each venturi scrubber has a recirculation tank that is equipped with level control systems to ensure that an adequate supply of the scrubbing solution is maintained. There are pH controllers in place that provide signals for the 15% caustic flow controllers to adjust the flow of the caustic solution to bring the pH into the desired set point range. The pH controllers are overridden in the event that SO_2 levels measured at the stack by the CEMS are above the operator set point of 0.86 lb/MMBtu on a two hour average (the SO_2 permit limit is 1.20 lb/MMBtu on a three hour average). This allows additional caustic feed to the scrubber solution to increase the pH and reduce the SO_2 measured at the stack. According to Domtar, the scrubber systems operate in this manner to maintain continuous compliance with permitted emission limits.

Domtar provided monthly average data for 2011, 2012, and 2013 on monitored SO_2 emissions from Power Boiler No. 2, mass of the fuel burned for each fuel type, and the percent sulfur content of each fuel type burned.[92] Based on the information provided by Domtar, the monthly average SO_2 control efficiency of the existing scrubbers for the 2011–2013 period ranged from 57% to 90%. The data indicate that the monthly average control efficiency of the scrubbers is usually below 90%. The information provided also indicates that the facility could add more scrubbing solution to achieve greater SO_2 removal than what is necessary to meet permit limits. We believe that it is feasible for the facility to use additional scrubbing solution to consistently achieve at least a 90% SO_2 removal on a monthly average basis. To estimate the SO_2 annual emissions reductions expected from increasing the control efficiency of the scrubbers through the use of additional scrubbing solution, we calculated the annual average SO_2 control efficiency of the existing scrubbers. Based on the monthly average SO_2 control efficiency data for the 2011–2013 period, we estimated the annual average SO_2 control efficiency for the three-year period to be approximately 69%.[93] Considering the baseline annual emissions for Power Boiler No. 2 are 2,078 SO_2 tpy, and assuming that the scrubbers currently operate at an annual average control efficiency of 69%, we have estimated that the uncontrolled annual emissions would be 6,769 SO_2 tpy and that operating the scrubbers at 90% control efficiency would result in controlled annual emissions of 677 SO_2 tpy. By subtracting the controlled annual emission rate of 677 SO_2 tpy from the baseline annual emission rate of 2,078 SO_2 tpy, we estimate that increasing the control efficiency of the existing venturi scrubbers from current levels to 90% control efficiency would result in annual emissions reductions of 1,401 SO_2 tpy from baseline levels.[94] Based on the cost information provided by the facility, increasing the monthly average SO_2 control efficiency of the existing venturi scrubbers from current levels to 90% control efficiency would require replacing two scrubber pumps, which involves capital costs of $200,000.[95] It would also require additional scrubbing reagent, treatment of additional wastewater, treatment of additional raw water, and additional energy usage, which involves annual operation and maintenance costs of approximately $1.96 million. Based on the information provided by Domtar, we estimate the average cost-effectiveness of using additional scrubbing reagent to increase the SO_2 control efficiency of the existing venturi scrubbers from the current control efficiency (estimated to be 69%) to 90% is $1,411 per ton of SO_2 removed. The cost information is presented in the table below. To determine the controlled emission rate that corresponds to the operation of the existing venturi scrubbers at a 90% removal efficiency, we first determined the SO_2 emission rate that corresponds to the operation of the scrubbers at the current control efficiency of 69%. Based on emissions data we obtained from Domtar, we determined that the No. 2 Power Boiler's annual average SO_2 emission rate for the years 2009–2011 was 280.9 lb/hr.[96] This annual average SO_2 emission rate corresponds to the operation of the scrubbers at a 69% removal efficiency. We also estimated that 100% uncontrolled emissions would correspond to an emission rate of approximately 915 lb/hr. Application of 90% control efficiency to this results in a controlled emission rate of 91.5 lb/hr, or 0.11 lb/MMBtu based on the boiler's maximum heat input of 820 MMBtu.[97]

TABLE 50—SUMMARY OF COST OF USING ADDITIONAL SCRUBBING REAGENT TO INCREASE CONTROL EFFICIENCY OF EXISTING VENTURI SCRUBBERS AT POWER BOILER NO. 2

Control option	Baseline emission rate (SO_2 tpy)	Controlled emission rate (tpy)	Annual emissions reductions (SO_2 tpy)	Capital costs[98] ($)	Operation & maintenance cost[99] ($/yr)	Total annual cost ($/yr)	Average cost effectiveness ($/ton)
Use of Additional Scrubbing Reagent	2,078	677	1,401	200,000	1,960,434	1,976,554	1,411

[92] August 29, 2014 letter from Annabeth Reitter, Corporate Manager of Environmental Regulation, Domtar, to Dayana Medina, U.S. EPA Region 6. A copy of this letter and an Excel file attachment titled ''Domtar 2PB Monthly SO_2 Data,'' are found in the docket for our proposed rulemaking.

[93] See the spreadsheet titled ''Domtar 2PB Monthly SO_2 Data.'' This spreadsheet was included as an attachment to the August 29, 2014 letter from Annabeth Reitter, Corporate Manager of Environmental Regulation, Domtar, to Dayana Medina, U.S. EPA Region 6. See also the spreadsheet titled ''Domtar PB No2—Cost Effectiveness calculations.'' Copies of these documents can be found in the docket for this proposed rulemaking.

[94] See the spreadsheet titled ''Domtar PB No2—Cost Effectiveness calculations.'' A copy of this spreadsheet can be found in the docket for this proposed rulemaking.

[95] September 30, 2014 letter from Annabeth Reitter, Corporate Manager of Environmental Regulation, Domtar, to Dayana Medina, U.S. EPA Region 6. See also the spreadsheet titled ''Domtar PB No2—Cost of Using Additional Scrubbing Reagent. Copies of these documents can be found in the docket for this proposed rulemaking.

[96] See the spreadsheet titled ''Domtar 2PB Monthly SO_2 Data.'' This spreadsheet was included as an attachment to the August 29, 2014 letter from Annabeth Reitter, Corporate Manager of Environmental Regulation, Domtar, to Dayana Medina, U.S. EPA Region 6. See also the spreadsheet titled ''No2 Boiler_Monthly Avg SO_2 emission rate and calculations.'' Copies of these documents can be found in the docket for this proposed rulemaking.

[97] See the spreadsheet titled ''No2 Boiler_Monthly Avg SO_2 emission rate and calculations.'' A copy of this spreadsheet can be found in the docket for this proposed rulemaking.

[98] The capital costs consist of two new pumps for the existing scrubber system.

[99] The operation and maintenance costs consist of the following costs: Additional scrubbing reagent, treatment of additional wastewater, treatment of additional raw water, and additional energy usage.

Using the visibility modeling analysis of the baseline visibility impacts from Power Boiler No. 2 and the visibility improvement projected from the installation and operation of new add-on spray scrubbers, we have extrapolated the visibility improvement projected as a result of using additional scrubbing reagent to increase the SO_2 control efficiency of the existing venturi scrubbers from the current control efficiency (estimated to be 69%) to 90%, or an outlet emission rate of 0.11 lb/MMBtu. We have assumed that the maximum 24-hour baseline emission rate used in the visibility modeling represents the operation of the existing venturi scrubbers at a 69% control efficiency. We estimate that the visibility improvement of using additional scrubbing reagent to increase the SO_2 control efficiency of the existing venturi scrubbers to 90% control efficiency is 0.139 dv at Caney Creek and 0.05 dv or less at each of the other Class I areas (see table below).

TABLE 51—DOMTAR ASHDOWN MILL POWER BOILER NO. 2: SUMMARY OF THE 98TH PERCENTILE VISIBILITY IMPACTS AND IMPROVEMENT FROM USE OF ADDITIONAL SCRUBBING REAGENT

Class I area	Baseline visibility impact (dv)	Add-on spray scrubber impacts (dv)		Estimated impacts from use of additional reagent (dv)	
		Visibility impact (dv)	Visibility improvement from baseline (dv)	Visibility impact (dv)	Visibility improvement from baseline (dv)
Caney Creek	0.844	0.698	0.146	0.705	0.139
Upper Buffalo	0.146	0.093	0.053	0.096	0.05
Hercules-Glades	0.105	0.054	0.051	0.057	0.048
Mingo	0.065	0.039	0.026	0.04	0.025
Cumulative Visibility Improvement (dv)	.....	.....	0.276	.....	0.262

Our Proposed SO_2 BART Determination: Taking into consideration the five factors, we propose to determine that SO_2 BART for Power Boiler No. 2 is an emission limit of 0.11 lb/MMBtu on a 30 boiler-operating-day rolling average, which we estimate is representative of operating the existing scrubbers at 90% control efficiency. In this particular case, we define boiler-operating-day as a 24-hour period between 12 midnight and the following midnight during which any fuel is fed into and/or combusted at any time in the Power Boiler. We are inviting public comment specifically on the appropriateness of this proposed SO_2 emission limit. We believe that this emission limit can be achieved by using additional scrubbing reagent in the operation of the existing venturi scrubbers. We estimate that operating the existing scrubbers to achieve this level of control would result in visibility improvement of 0.139 dv at Caney Creek and 0.05 dv or lower at each of the other Class I areas. We estimate the cumulative visibility improvement at the four Class I areas to be 0.262 dv. Based on the cost information provided by the facility, we have estimated that the use of additional scrubbing reagent to increase the control efficiency of the existing venturi scrubbers is estimated to cost $1,411 per ton of SO_2 removed. Based on Domtar's BART analysis, new add-on spray scrubbers that would be operated downstream of the existing venturi scrubbers are projected to result in visibility improvement of 0.146 dv at Caney Creek and 0.053 dv or lower at each of the other Class I areas. The cumulative visibility improvement at the four Class I areas is projected to be 0.276 dv. The cost of add-on spray scrubbers is estimated to be $5,258 per ton of SO_2 removed, not including additional construction costs that would likely be incurred to make space to house the new scrubbers. We do not believe that the amount of visibility improvement that is projected from the installation and operation of new add-on spray scrubbers would justify their high average cost-effectiveness. The incremental visibility improvement of new add-on spray scrubbers compared to using additional scrubbing reagent to increase the control efficiency of the existing venturi scrubbers ranges from 0.001 to 0.007 dv at each Class I area, yet the incremental cost-effectiveness is estimated to be $16,752. We do not believe the incremental visibility benefit warrants the higher cost associated with new add-on spray scrubbers. Therefore, we are proposing to determine that SO_2 BART for Power Boiler No. 2 is an emission limit of 0.11 lb/MMBtu on a 30 boiler-operating-day rolling averaging basis, and are inviting comment on the appropriateness of this emission limit. We propose to require the facility to demonstrate compliance with this emission limit using the existing CEMS. Since the SO_2 emission limit we are proposing can be achieved with the use of the existing venturi scrubbers but will require scrubber pump upgrades and additional scrubbing reagent, we propose to require compliance with this BART emission limit no later than 3 years from the effective date of the final action, but are inviting public comment on the appropriateness of a compliance date anywhere from 1–5 years.

d. *Proposed NO_X BART Analysis and Determination for Power Boiler No. 2.* For NO_X BART, Domtar's 2014 BART analysis evaluated LNB, SNCR, and Methane de-NO_X (MdN). In the 2006/2007 Domtar BART analysis, which was submitted in the 2008 Arkansas RH SIP, other NO_X controls were also evaluated but found by the State to be either already in use or not technically feasible for use at Power Boiler No. 2. Fuel blending, boiler operational modifications, and boiler tuning/optimization are already in use at the source, while FGR, OFA, and SCR were found to be technically infeasible for use at Power Boiler No. 2. Domtar did not further evaluate these NO_X controls, and instead focused on LNB, SNCR, and MdN in its 2014 BART analysis for Power Boiler No. 2.

MdN utilizes the injection of natural gas together with recirculated flue gases to create an oxygen-rich zone above the combustion grate. Air is then injected at a higher furnace elevation to burn the combustibles. In response to comments provided by us regarding Domtar 2014 BART analysis, Domtar stated that discussions regarding the technical infeasibility of MdN in the 2006/2007 Domtar BART analysis, submitted as part of the 2008 Arkansas RH SIP,

remain correct.[100] The 2006/2007 Domtar BART analysis submitted in the 2008 Arkansas RH SIP discussed that MdN has not been fully demonstrated for this type of boiler and incorporates FGR, which is considered technically infeasible for use at Power Boiler No. 2. Domtar also stated it recently completed additional research and found that since the 2006/2007 Domtar BART analysis, MdN has not been placed into operation in power boilers at paper mills or any comparable source types. We are also not aware of any power boilers at paper mills that operate MdN for NO_X control, and agree that this control can be considered technically infeasible for use at Power Boiler No. 2 and do not further consider it in this evaluation. Domtar also questioned the technical feasibility of SNCR for boilers with high load swing such as Power Boiler No. 2, but in response to comments from us, SNCR was evaluated in Domtar's 2014 BART analysis.

Based on vendor estimates, the 2006/2007 Domtar BART analysis estimated the potential control efficiency of LNB to be 30%. In Domtar's 2014 BART analysis, SNCR was evaluated at a control efficiency of 27.5% and 35% for Power Boiler No. 2. These values were based on SNCR control efficiency estimates that came from the equipment vendor's proposal,[101] which according to the facility, is not an appropriations request level quote and therefore requires further refinement.[102] For example, Domtar's 2014 BART analysis discusses that for a base loaded coal boiler with steady flue gas flow patterns and temperature distribution across the flue gas pathway, SNCR is typically capable of achieving 50% NO_X reduction. However, Power Boiler No. 2 is not a base loaded boiler and does not have steady flue gas flow patterns or steady temperature distribution across the flue gas pathway. To demonstrate the wide range in temperature at Power Boiler No. 2 and its relationship to steam demand, Domtar obtained an analysis of furnace exit gas temperatures for Power Boiler No. 2 from an engineering consultant.[103] The furnace exit gas temperatures were analyzed for a 12-day period that according to Domtar is representative of typical boiler operations. The consultant's report indicated that furnace exit gas temperatures are representative of temperatures in the upper portion of the furnace, which is the optimal location for installation of the SNCR injection nozzles. The consultant estimated that 1700–1800°F represents the temperature range at which SNCR can be expected to reach 40% control efficiency at the current boiler operating conditions. It was found that there is wide variability in the furnace exit gas temperatures for Power Boiler No. 2, with temperatures ranging from 1000–2000°F. The data also indicate that there is a direct positive relationship between boiler steam demand and furnace exit gas temperatures. It was also found that Power Boiler No. 2 operated in the optimal temperature zone at which SNCR can be expected to reach 40% control efficiency for only a total of 20 hours over the 12-day period analyzed (288 continuous hours), which is approximately 7% of the time. According to Domtar, the significant temperature swings, which are due to load following and steam demand variability, create a scenario where urea injection will either be too high or too low. When not enough urea is injected, NO_X removal will be less than projected and when too much urea is injected, excess ammonia slip will occur. Domtar stated that the observed significant temperature swings demonstrate that it will be difficult to maintain stable, optimal furnace temperatures at which urea can be injected to effectively reduce NO_X with minimal ammonia slip. We agree that because of the wide variability in steam demand and wide range in furnace temperature observed at Power Boiler No. 2, the NO_X control efficiency of SNCR at the boiler would not reach optimal control levels on a long-term basis. We also believe there is uncertainty as to the level of control efficiency that SNCR would be able to achieve on a long-term basis for Power Boiler No. 2. However, we further consider SNCR in the remainder of the analysis.

In the 2006/2007 Domtar BART analysis, the capital cost, operating cost, and cost-effectiveness of LNB were estimated based on vendor estimates. The analysis was based on a 10-year amortization period, based on the equipment's life expectancy. However, since we believe a 30-year equipment life is a more appropriate estimate for LNB, we have revised the cost estimate for LNB.[104] The annual emissions reductions used in the cost-effectiveness calculations were determined by subtracting the estimated controlled annual emission rate from the baseline annual emission rate. We have also revised the average cost-effectiveness calculations presented in the 2006/2007 Domtar BART analysis for LNB by using the boiler's actual annual uncontrolled NO_X emissions rather than the maximum 24-hour emission rate as the baseline annual emissions. The table below summarizes the estimated cost of LNB for Power Boiler No. 2, based on the cost estimates in the 2006/2007 Domtar BART analysis our revisions discussed above.

In Domtar's 2014 BART analysis, the capital costs, operating costs, and cost-effectiveness of SNCR were calculated based on methods and assumptions found in our Control Cost Manual, and supplemented with mill-specific cost information for water, fuels, and ash disposal and urea solution usage estimates from the equipment vendor. The two SNCR control scenarios evaluated were 27.5% and 35% control efficiencies. The capital cost was annualized over a 30-year period and then added to the annual operating cost to obtain the total annualized costs. The annual emissions reductions associated with each NO_X control option were determined by subtracting the estimated controlled annual emission rate from the baseline annual emission rate. The baseline annual emissions used in the calculations are the uncontrolled actual emissions from the 2001–2003 baseline period. The average cost-effectiveness was calculated by dividing the total annual cost by the estimated annual NO_X emissions reductions. The table below summarizes the cost of SNCR for Power Boiler No. 2.

[100] A copy of Domtar's response is found in the docket for this proposed rulemaking. See email from Kelly Crouch, dated May 16, 2014.

[101] Fuel Tech Proposal titled ''Domtar Paper Ashdown, Arkansas- NO_X Control Options, Power Boilers 1 and 2,'' dated June 29, 2012. A copy of the vendor proposal is included under Appendix D to the ''Supplemental BART Determination Information Domtar A.W. LLC, Ashdown Mill (AFIN 41–00002),'' originally dated June 28, 2013 and revised on May 16, 2014, prepared by Trinity Consultants Inc. in conjunction with Domtar A.W. LLC. A copy of this BART analysis and its appendices is found in the docket for our proposed rulemaking.

[102] See the document titled ''Domtar Responses to ADEQ Regarding Region 6 Comments on Domtar BART Analysis,'' p. 9. A copy of this document can be found in the docket for our proposed rulemaking.

[103] September 12, 2014 letter from Annabeth Reitter, Corporate Manager of Environmental Regulation, Domtar, to Dayana Medina, U.S. EPA Region 6. A copy of this letter and its attachments are found in the docket for our proposed rulemaking.

[104] See the spreadsheet titled ''Domtar PB No. 2 LNB_cost revisions.'' A copy of this spreadsheet is found in the docket for this proposed rulemaking.

TABLE 52—SUMMARY OF COST OF NO_X CONTROLS FOR POWER BOILER NO. 2

NO_X Control scenario	Baseline emission rate (NO_X tpy)	NO_X Removal efficiency of controls (%)	Annual emissions reduction (NO_X tpy)	Capital cost ($)	Total annual cost ($/yr)	Average cost effectiveness ($/ton)	Incremental cost-effectiveness ($/ton)
SNCR—27.5%	1,536	27.5	422	2,681,678	843,575	1,998	
LNB	1,536	30	461	6,131,745	899,605	1,951	1,437
SNCR—35%	1,536	35	537	2,877,523	1,026,214	1,909	1,666

Domtar's 2014 BART analysis did not identify any energy or non-air quality environmental impacts associated with the use of LNB or SNCR. We are not aware of any unusual circumstances at the facility that could create non-air quality environmental impacts associated with the operation of NO_X controls greater than experienced elsewhere and that may therefore provide a basis for the elimination of these control options as BART (40 CFR part 51, Appendix Y, section IV.D.4.i.2.). Therefore, we do not believe there are any energy or non-air quality environmental impacts associated with NO_X controls at Power Boiler No. 2 that would affect our proposed BART determination.

Consideration of the presence of existing pollution control technology at the source is reflected in the BART analysis in two ways: First, in the consideration of available control technologies, and second, in the development of baseline emission rates for use in cost calculations and visibility modeling. Power Boiler No. 2 is equipped with multiclones for particulate removal and two venturi scrubbers in parallel for control of SO_2 emissions. It is also equipped with a combustion air system including overfire air to optimize boiler combustion efficiency, which also helps control emissions. The NO_X baseline emission rate used in the cost calculations and visibility modeling reflects the use of these existing controls.

In the 2014 BART analysis, Domtar assessed the visibility improvement associated with LNB and SNCR by modeling the NO_X emission rates associated with each control option using CALPUFF, and then comparing the visibility impairment associated with the baseline emission rate to the visibility impairment associated with the controlled emission rates as measured by the 98th percentile modeled visibility impact. The table below shows a comparison of the baseline (*i.e.,* existing) visibility impacts and the visibility impacts associated with LNB and SNCR.

TABLE 53—DOMTAR ASHDOWN MILL POWER BOILER NO. 2: SUMMARY OF THE 98TH PERCENTILE VISIBILITY IMPACTS AND IMPROVEMENT DUE TO NO_X CONTROLS

Class I area	Baseline visibility impact (dv)	SNCR—27.5% Control efficiency		LNB 30% Control efficiency		SNCR—35% Control efficiency	
		Visibility impact (dv)	Visibility improvement from baseline (dv)	Visibility impact (dv)	Visibility improvement from baseline (dv)	Visibility impact (dv)	Visibility improvement from baseline (dv)
Caney Creek	0.844	0.678	0.166	0.663	0.181	0.632	0.212
Upper Buffalo	0.146	0.134	0.012	0.132	0.014	0.129	0.017
Hercules-Glades	0.105	0.095	0.010	0.094	0.011	0.092	0.013
Mingo	0.065	0.060	0.005	0.060	0.005	0.059	0.006
Cumulative Visibility Improvement (dv)			0.193		0.211		0.248

The table above shows that the installation and operation of SNCR when operated at 35% control efficiency, if feasible, is projected to result in visibility improvement of 0.212 dv at Caney Creek and 0.017 dv or less at each of the other Class I areas. When operated at 27.5% control efficiency, if feasible, SNCR is projected to result in visibility improvement of 0.166 dv at Caney Creek and 0.012 dv or less at each of the other Class I areas. The installation and operation of LNB is projected to result in visibility improvement of 0.181 dv at Caney Creek and 0.014 dv or less at each of the other Class I areas.

Our Proposed NO_X BART Determination: Taking into consideration the five factors, we are proposing to determine that NO_X BART for the Domtar Ashdown Mill Power Boiler No. 2 is an emission limit of 345 lb/hr on a 30 boiler-operating-day rolling averaging basis, based on the installation and operation of LNB. In this particular case, we define boiler-operating-day as a 24-hour period between 12 midnight and the following midnight during which any fuel is fed into and/or combusted at any time in the Power Boiler. MdN was determined to be not technically feasible for use at Power Boiler No. 2 because it has not been fully demonstrated for this type of boiler and incorporates FGR, which is technically infeasible for use at the boiler. The installation and operation of SNCR is projected to result in some visibility improvement at the Class I areas when operated at 27.5% and 35% control efficiency. However, based on the information provided by the facility, we believe that because of the wide variability in steam demand and wide range in furnace temperature observed in Power Boiler No. 2, the NO_X control efficiency of SNCR at the boiler would not reach optimal control levels on a long-term basis. There is uncertainty as to the level of control efficiency that SNCR would be able to achieve on a long-term basis for Power Boiler No. 2. The installation and operation of LNB is projected to result in visibility improvement of 0.181 dv at Caney Creek and 0.005–0.014 dv at each of the other Class I areas. The installation and operation of LNB is estimated to cost $1,951 per ton of NO_X removed, which

we consider to be cost-effective. Therefore, we are proposing to determine that NO_X BART for Power Boiler No. 2 is an emission limit of 345 lb/hr on a 30 boiler-operating-day rolling average basis, based on the installation and operation of LNB. We are proposing to require compliance with this emission limit no later than 3 years from the effective date of the final rule, and are inviting public comment on the appropriateness of this compliance date. We are proposing that the facility demonstrate compliance with this emission limit using the existing CEMS. We are also proposing regulatory text that includes monitoring, reporting, and recordkeeping requirements associated with this emission limit.

e. *PM BART Analysis and Determination for Power Boiler No. 2.* PM BART for Power Boiler No. 2 is addressed in Domtar's 2014 BART analysis. Power Boiler No. 2 is subject to the Boiler MACT standards required under CAA section 112, and found at 40 CFR part 63, subpart DDDDD—National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters. Domtar streamlined the BART analysis for Power Boiler No. 2 by relying on the Boiler MACT standards for PM to satisfy the PM BART requirement. Power Boiler No. 2 was determined to fall under the ''biomass hybrid suspension grate'' subcategory for the Boiler MACT.[105] As such, Power Boiler No. 2 is subject to the Boiler MACT PM emission limit of 0.44 lb/MMBtu. The BART Guidelines provide that for VOC and PM sources subject to MACT standards, the BART analysis may be streamlined by including a discussion of the MACT controls and whether any major new technologies have been developed subsequent to the MACT standards.[106] The BART Guidelines discuss that there are many VOC and PM sources that are well controlled because they are regulated by the MACT standards, and in many cases it will be unlikely that emission controls more stringent than the MACT standards will be identified without identifying control options that would cost many thousands of dollars per ton. Therefore, the BART Guidelines provide that unless there are new technologies subsequent to the MACT standards which would lead to cost-effective increases in the level of control, the MACT standards may be relied on for purposes of BART. Domtar's 2014 BART analysis does not discuss whether any new technologies subsequent to the MACT standards have become available and whether they would lead to cost-effective increases in the level of PM control for Power Boiler No. 2. However, Domtar at one point estimated the cost of installing both an add-on spray scrubber and wet ESP on Power Boiler No. 2. Based on this cost information previously provided by Domtar,[107] we have determined that a wet ESP alone would have a purchased equipment cost (PEC) of $3.22 million and capital costs of approximately $11.3 million. The total annual cost of a wet ESP alone is estimated to be approximately $1.96 million. The average annual PM emissions from Power Boiler No. 2 for the 2001–2003 baseline period were 183 tpy. Assuming that the wet ESP has a 95% control efficiency for PM emissions, we estimate that it would remove 174 PM tpy. Based on this, we estimate that the average cost-effectiveness of installing and operating a wet ESP on Power Boiler No. 2 is $11,254 per PM ton removed. Additionally, an examination of the species contribution to the 98th percentile visibility impacts shows that PM emissions contribute a very small portion of the visibility impairment attributable to Power Boiler No. 2. As shown in the table below, the baseline visibility impairment attributable to Power Boiler No. 2 is 0.844 dv at Caney Creek and 0.146 dv or less at each of the other Class I areas, based on the 98th percentile visibility impacts. The PM species contribute only 1.06–4.58% of the baseline visibility impairment attributable to Power Boiler No. 2 at the modeled Class I areas.

TABLE 54—BASELINE VISIBILITY IMPAIRMENT AND SPECIES CONTRIBUTION FOR DOMTAR ASHDOWN MILL—POWER BOILER NO. 2

Emissions unit	Class I area	98th Percentile visibility impacts (dv) [108]	Species contribution to 98th percentile visibility impacts			
			98th Percentile % SO_4	98th Percentile % NO_3	98th Percentile % PM_{10}	98th Percentile % NO_2
Power Boiler No. 2	Caney Creek	0.844	22.04	70.68	4.58	2.69
	Upper Buffalo	0.146	76.99	20.76	2.26	0.00
	Hercules-Glades	0.105	61.17	37.68	1.06	0.09
	Mingo	0.065	81.46	15.47	3.07	0.00

Because of the very low baseline visibility impacts that are due to PM emissions from Power Boiler No. 2, we believe that there is potential for a very small amount of visibility improvement from the installation and operation of a wet ESP. We conclude that the installation and operation of a wet ESP for PM control is not cost-effective in light of the relatively small improvement in visibility. Therefore, we are proposing to find that the current Boiler MACT PM standard of 0.44 lb/MMBtu satisfies the PM BART requirement for Power Boiler No. 2. We are also proposing that the same method for demonstrating compliance with the Boiler MACT PM standard is to be used for demonstrating compliance with the PM BART emission limit. Because we are proposing a BART emission limit that represents current/baseline operations and no control equipment installation is necessary, we are proposing that this emission limitation be complied with for BART purposes from the date of effectiveness of the finalized action.

[105] See letter dated October 28, 2013, from Thomas Rheaume, Permits Branch Manager, ADEQ, to Ms. Kelly Crouch, Manager of Environmental, Energy, and Pulp Tech. at Domtar Ashdown Mill. A copy of this letter is found in the docket for this proposed rulemaking.

[106] 40 CFR part 51, Appendix Y, section IV.C.

[107] The cost estimate of new add-on spray scrubbers and a wet ESP for Power Boiler No. 2 is found in Appendix B to the analysis titled ''Supplemental BART Determination Information Domtar A.W. LLC, Ashdown Mill (AFIN 41–00002),'' dated June 28, 2013, prepared by Trinity Consultants Inc. in conjunction with Domtar A.W. LLC. A copy of the BART analysis is found in the docket for our proposed rulemaking.

[108] The visibility impact shown represents the highest 98th percentile value among the three modeled years.

IV. Our Proposed Reasonable Progress Analysis and Determinations

The Regional Haze Rule does not mandate specific milestones or rates of progress towards achieving the national visibility goal, but instead calls for states to establish goals that provide for ''reasonable progress'' toward achieving natural (*i.e.,* ''background'') visibility conditions. The Regional Haze Rule and section 169A of the CAA require the states, or us in the case of a FIP, to set RPGs by considering four factors: The costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance, and the remaining useful life of any potentially affected sources (collectively ''the RP factors'').[109] States, or us in the case of a FIP, have considerable flexibility in how they take these factors into consideration, as noted in our Reasonable Progress Guidance.[110] The RPGs must provide for an improvement in visibility on the most impaired days, and ensure no degradation in visibility on the least impaired days during the planning period.[111] Furthermore, if the projected progress for the worst days is less than the Uniform Rate of Progress (URP), then the state or EPA must demonstrate, based on the factors above, that it is not reasonable to provide for a rate of progress consistent with the URP.[112]

In our final action on the Arkansas RH SIP published on March 12, 2012, we disapproved the RPGs established by Arkansas for Caney Creek and Upper Buffalo because Arkansas did not establish the RPGs in accordance with the requirements of the CAA and the RHR.[113] Specifically, Arkansas did not take into consideration the four RP factors in establishing its RPGs for Caney Creek and Upper Buffalo, stating that it was an unnecessary exercise. Arkansas believed, incorrectly, that no additional analysis of potential reasonable progress measures was necessary because visibility projections for the Class I areas indicated improvements in visibility consistent with the URP. As discussed in our disapproval action, a state must determine whether additional control measures are reasonable based on a consideration of the four RP factors. Accordingly, in this proposed rule, we are evaluating the four RP factors to determine whether additional controls are reasonable and we are establishing RPGs for Caney Creek and Upper Buffalo after consideration of the RP factors.

A. Reasonable Progress Analysis of Point Sources

A discussion of the particular pollutants that contribute to visibility impairment at Arkansas' two Class I areas was provided in our October 17, 2011 proposed action on the 2008 Arkansas RH SIP (see 76 FR 64186). In that proposed action, we explained that CENRAP used CAMx with its Particulate Source Apportionment (PSAT) tool to provide source apportionment by geographic region and major source category (*i.e.,* point, natural, on-road, non-road, and area sources). Sulfate from all the source categories combined contributed 87.05 inverse megameters (Mm^{-1}) out of 133.93 Mm^{-1} of light extinction at Caney Creek and 83.18 Mm^{-1} out of 131.79 Mm^{-1} of light extinction at Upper Buffalo on the 20% worst days in 2002, which is approximately 65% and 63% of the total light extinction at each Class I area, respectively. Nitrate from all source categories combined contributed 13.78 Mm^{-1} out of 133.93 Mm^{-1} of light extinction at Caney Creek and 13.30 Mm^{-1} out of 131.79 Mm^{-1} of light extinction at Upper Buffalo, which is approximately 10% of the total light extinction in 2002 on the 20% worst days at each Class I area. The source category point sources contributed 81.04 Mm^{-1} out of 133.93 Mm^{-1} of light extinction at Caney Creek and 77.80 Mm^{-1} out of 131.79 Mm^{-1} of light extinction at Upper Buffalo on the 20% worst days in 2002 (see the tables below). This represents approximately 60% of the total light extinction at each Class I area. Each of the source categories other than the point source category, contribute a much smaller proportion of the total light extinction at each Class I area. We are therefore focusing only on the point sources category in our reasonable progress analysis for this regional haze planning period. Sulfate from point sources contributed 75.1 Mm^{-1} out of 133.93 Mm^{-1} of light extinction at Caney Creek and 72.17 Mm^{-1} out of 131.79 Mm^{-1} of light extinction at Upper Buffalo, which is approximately 56% of the total light extinction at Caney Creek and 55% of the total light extinction at Upper Buffalo. Nitrate from point sources contributed 4.06 Mm^{-1} out of 133.93 Mm^{-1} of light extinction at Caney Creek and 3.93 Mm^{-1} out of 131.79 Mm^{-1} of light extinction at Upper Buffalo, which is approximately 3% of the total light extinction at each Class I area. On the 20% worst days in 2002, sulfate from Arkansas point sources contributed 2.20% of the total light extinction at Caney Creek and 1.99% at Upper Buffalo, and nitrate from Arkansas point sources contributed 0.27% of the total light extinction at Caney Creek and 0.14% at Upper Buffalo.[114] For both Caney Creek and Upper Buffalo, SO_2 emissions (sulfate precursor) are the principal driver of regional haze on the 20% worst days in Arkansas' Class I areas, as visibility impairment in 2002 on the 20% worst days is largely due to sulfate from point sources.

TABLE 55—MODELED BASELINE LIGHT EXTINCTION FOR 20% WORST DAYS AT CANEY CREEK WILDERNESS AREA IN 2002 (MM^{-1})

	Total[1]	Point	Natural	On-road	Non-road	Area
SO_4	87.05	75.10	0.09	1.19	1.70	5.66
NO_3	13.78	4.06	0.64	4.70	2.45	1.37
POA	10.50	1.29	1.33	0.46	1.34	5.32
EC	4.80	0.19	0.33	0.86	1.79	1.40
SOIL	1.12	0.19	0.01	0.01	0.01	0.87
CM	3.73	0.21	0.04	0.03	0.02	3.19

[109] 40 CFR 51.308(d)(1)(i)(A) and CAA section 169A(g)(1).

[110] *Guidance for Setting Reasonable Progress Goals Under the Regional Haze Program,* June 1, 2007, memorandum from William L. Wehrum, Acting Assistant Administrator for Air and Radiation, to EPA Regional Administrators, EPA Regions 1–10 (pp. 4–2, 5–1).

[111] *Id.*

[112] 40 CFR 51.308(d)(1)(ii).

[113] 77 FR 14604, March 12, 2012.

[114] See the CENRAP TSD and the August 27, 2007 CENRAP PSAT tool (CENRAP_PSAT_Tool_ENVIRON_Aug27_2007.mdb). A copy of the CENRAP TSD and instructions for accessing the August 27, 2007 CENRAP PSAT tool can be found in the docket for this proposed rulemaking.

TABLE 55—MODELED BASELINE LIGHT EXTINCTION FOR 20% WORST DAYS AT CANEY CREEK WILDERNESS AREA IN 2002 (Mm^{-1})—Continued

	Total [1]	Point	Natural	On-road	Non-road	Area
Sum	133.93	81.04	2.45	7.26	7.31	17.81

[1]Totals include contributions from boundary conditions. Sums include secondary organic matter.

TABLE 56—MODELED BASELINE LIGHT EXTINCTION FOR 20% AT UPPER BUFFALO WILDERNESS AREA IN 2002 (Mm^{-1})

	Total [1]	Point	Natural	On-road	Non-road	Area
SO_4	83.18	72.17	0.08	1.15	1.67	5.24
NO_3	13.30	3.93	0.61	4.14	2.71	1.23
POA	10.85	1.06	1.33	0.47	1.38	5.75
EC	4.72	0.16	0.31	0.80	1.93	1.30
SOIL	1.21	0.20	0.02	0.01	0.01	0.93
CM	6.85	0.29	0.05	0.05	0.02	6.02
Sum	131.79	77.80	2.39	6.62	7.72	20.46

[1]Totals include contributions from boundary conditions. Sums include secondary organic matter.

The CENRAP's 2018 visibility projections show the total extinction at Caney Creek for the 20% worst days is estimated to be 85.84 Mm − 1, which is a reduction of approximately 36% from 2002 levels (see table below). The total extinction at Upper Buffalo for the 20% worst days in 2018 is estimated to be 86.16 Mm^{-1}, which is a reduction of approximately 35% from 2002 levels (see the table below).Sulfate from all source categories combined is projected to contribute 48.95 Mm^{-1} out of 85.84 Mm^{-1} of light extinction at Caney Creek on the 20% worst days in 2018, or approximately 57% of the total light extinction. Nitrate from all source categories combined is projected to contribute 7.57 Mm^{-1} out of 85.84 Mm^{-1} of light extinction at Caney Creek on the 20% worst days in 2018, or approximately 9% of the total light extinction. The other source categories are each projected to continue contributing a much smaller proportion of the total light extinction at each Class I area. At Upper Buffalo, sulfate from all source categories combined is projected to contribute 45.38 Mm^{-1} out of 86.16 Mm^{-1} of light extinction on the 20% worst days in 2018, which is approximately 53% of the total light extinction. Nitrate from all source categories combined is projected to contribute 9.22 Mm^{-1} out of 86.16 Mm^{-1} of light extinction on the 20% worst days at Upper Buffalo, which is approximately 11% of the total light extinction. Sulfate from point sources is projected to contribute 39.83 Mm^{-1} out of 85.84 Mm^{-1} of light extinction at Caney Creek on the 20% worst days in 2018, or approximately 46% of the total light extinction. Nitrate from point sources is projected to contribute 2.84 Mm^{-1} out of 85.84 Mm^{-1} of light extinction at Caney Creek on the 20% worst days, which is approximately 3% of the total light extinction. At Upper Buffalo, sulfate from point sources is projected to contribute 37.09 Mm^{-1} out of 86.16 Mm^{-1} of light extinction on the 20% worst days in 2018, which is approximately 43% of the total light extinction. On the 20% worst days in 2018, sulfate from Arkansas point sources is projected to contribute 3.58% of the total light extinction at Caney Creek and 3.20% at Upper Buffalo, and nitrate from Arkansas point sources is projected to contribute 0.29% of the total light extinction at Caney Creek and 0.25% at Upper Buffalo.[115] Based on the 2018 visibility projections, sulfate from point sources is expected to continue being the principal driver of regional haze on the 20% worst days at Arkansas Class I areas.

TABLE 57—MODELED FUTURE LIGHT EXTINCTION FOR 20% WORST DAYS AT CANEY CREEK WILDERNESS AREA IN 2018 (Mm^{-1})

	Total [1]	Point	Natural	On-road	Non-road	Area
SO_4	48.95	39.83	0.07	0.12	0.44	5.31
NO_3	7.57	2.84	0.53	0.97	1.33	1.37
POA	9.93	1.76	1.18	0.14	1.03	5.09
EC	3.17	0.24	0.30	0.16	0.94	1.31
SOIL	1.29	0.35	0.01	0.01	0.01	0.87
CM	3.58	0.24	0.04	0.03	0.01	3.02
Sum	85.84	45.27	2.12	1.44	3.76	16.96

[1]Totals include contributions from boundary conditions and secondary organic matter.

[115] See the CENRAP TSD and the August 27, 2007 CENRAP PSAT tool (CENRAP_PSAT_Tool_ENVIRON_Aug27_2007.mdb). A copy of the CENRAP TSD and instructions for accessing the August 27, 2007 CENRAP PSAT tool can be found in the docket for this proposed rulemaking.

TABLE 58—MODELED FUTURE LIGHT EXTINCTION FOR 20% WORST DAYS AT UPPER BUFFALO WILDERNESS AREA IN 2018 (Mm^{-1})

	Total [1]	Point	Natural	On-road	Non-road	Area
SO_4	45.38	37.09	0.06	0.12	0.42	4.95
NO_3	9.22	3.48	0.63	1.10	1.81	1.48
POA	10.17	1.48	1.20	0.14	1.01	5.49
EC	3.07	0.21	0.28	0.15	0.99	1.21
SOIL	1.40	0.40	0.01	0.01	0.01	0.93
CM	6.53	0.36	0.05	0.04	0.02	5.65
Sum	86.16	43.02	2.24	1.57	4.25	19.71

[1] Totals include contributions from boundary conditions and secondary organic matter.

As a starting point in our analysis to determine whether additional controls on Arkansas sources are reasonable in the first regional haze planning period, we examined the most recent SO_2 and NO_X emissions inventories for point sources in Arkansas. Based on the 2011 National Emissions Inventory (NEI), the Entergy White Bluff Plant, the Entergy Independence Plant, and the AEP Flint Creek Power Plant are the three largest point sources of SO_2 and NOx emissions in Arkansas (see table below).[116] The combined annual emissions from these three sources make up approximately 84% of the statewide SO_2 point-source emissions and 55% of the statewide NO_X point-source emissions. We have evaluated White Bluff Units 1 and 2 and Flint Creek Unit 1 for controls under BART and are proposing to require these units to install SO_2 and NO_X controls to meet the BART requirements. We believe that our five-factor BART analysis for these three units is adequate for this first planning period to eliminate these sources from further consideration of controls under the reasonable progress requirements for this first regional haze planning period. Compliance with the BART requirements is anticipated to result in a substantial reduction in SO_2 and NO_X emissions from these two facilities. The Entergy Independence Plant is not subject to BART, but its emissions were 30,398 SO_2 tpy and 13,411 NO_X tpy based on the 2011 NEI. The Entergy Independence Plant is the second largest source of SO_2 and NO_X point-source emissions in Arkansas, accounting for approximately 36% of the SO_2 point-source emissions and 21% of the NO_X point-source emissions in the State. Additionally, as we discuss in more detail in the proceeding subsection, the White Bluff and Independence Plants are sister facilities with nearly identical units. Based on this, we expect that the cost-effectiveness of controls will be very similar for the two facilities.

TABLE 59—TEN LARGEST SO_2 AND NO_X POINT SOURCES IN ARKANSAS (NEI 2011 V1)

Facility name	County	NEI 2011 v1 Emissions (tpy)	
		SO_2	NO_X
Entergy Arkansas—White Bluff	Jefferson	*31,684	*16,013
Entergy-Services Inc—Independence Plant	Independence	30,398	13,411
Flint Creek Power Plant (SWEPCO)	Benton	*8,620	*5,326
FutureFuel Chemical Company	Independence	3,421	385
Plum Point Energy Station Unit 1	Mississippi	2,830	1,525
Evergreen Packaging—Pine Bluff	Jefferson	1,755	1,010
Domtar A.W. LLC, Ashdown Mill	Little River	*1,603	*3,152
Albemarle Corporation—South Plant	Columbia	1,279	443
Nucor-Yamato Steel Company	Mississippi	607	263
Ash Grove Cement Company	Little River	440	1,081
Georgia-Pacific LLC—Crossett Paper	Ashley	215	2,402
Marion Intermodal	Crittenden	12	1,328
Natural Gas Pipeline Co of America #308	Randolph	0.4	3,194
Natural Gas Pipeline Co of America #307	White	0.4	2,941
Natural Gas Pipeline Co of America #305	Miller	0.3	1,731

* Proposed FIP controls under BART requirements will result in emission reductions.

Because in our March 12, 2012 final partial approval and partial disapproval of the 2008 Arkansas RH SIP we made a finding that Arkansas did not complete a reasonable progress analysis and did not properly demonstrate that additional controls were not reasonable under 40 CFR 51.308(d)(1)(i)(A) and we disapproved the RPGs it established for Caney Creek and Upper Buffalo, we are required to complete the reasonable progress analysis and establish revised RPGs, unless we first approve a SIP revision that corrects the disapproved portions of the SIP submittal. As Arkansas has not as yet submitted a revised SIP following our partial disapproval, we must now complete the reasonable progress analysis and establish revised RPGs for Caney Creek and Upper Buffalo. We believe it is appropriate that our evaluation of the reasonable progress factors focuses on the Entergy Independence Power Plant

[116] See NEI 2011 v1. A spreadsheet containing the emissions inventory is found in the docket for our proposed rulemaking.

because it is a significant source of SO_2 and NO_X, as it is the second largest point source for both NO_X and SO_2 point source emissions in the State.

We believe it is appropriate to evaluate Entergy Independence even though Arkansas Class I areas and those outside of Arkansas most significantly impacted by Arkansas sources are projected to meet the URP for the first planning period. This is because we believe that in determining whether reasonable progress is being achieved, it would be unreasonable to ignore a source representing more than a third of the State's SO_2 emissions and a significant portion of NO_X point source emissions. The preamble to the Regional Haze Rule also states that the URP does not establish a ''safe harbor'' for the state in setting its progress goals.[117] If the state determines that the amount of progress identified through the URP analysis is reasonable based upon the statutory factors, the state, or us in the case of a FIP, should identify this amount of progress as its reasonable progress goal for the first long-term strategy, unless it determines that additional progress beyond this amount is also reasonable. If the state or we determine that additional progress is reasonable based on the statutory factors, that amount of progress should be adopted as the goal for the first long-term strategy.

In this proposed rulemaking, we are proposing controls for the largest and third largest point sources for both NO_X and SO_2 emissions in Arkansas under the BART requirements. As these two BART sources combined with Independence make up a large majority of the SO_2 point source emissions (84%) and a large proportion of the NO_X point source emissions (55%) in Arkansas, we believe that a sufficient amount of point source emissions in the State would be addressed in this first regional haze planning period by addressing the Independence facility in our reasonable progress analysis, which as we note above is the second largest source of both SO_2 and NO_X. We are proposing under Option 1 to control Entergy Independence for the first planning period for both SO_2 and NO_X. Alternatively, under Option 2, for the first planning period, we are proposing to control Entergy Independence only for SO_2. The fourth largest SO_2 and NO_X point sources in Arkansas are the Future Fuel Chemical Company, with emissions of 3,421 SO_2 tpy, and the Natural Gas Pipeline Company of America #308, with emissions of 3,194 NO_X tpy (2011 NEI). In comparison to the emissions of the top three sources, emissions from these two facilities are relatively small. Therefore, we are not proposing controls in this first planning period for these two facilities because we believe it is appropriate to defer the consideration of any additional sources besides Independence to future regional haze planning periods. For Independence, however, under Option 1, in combination with the BART sources we would be addressing 84% of the SO_2 point source emissions in the State and over 55% of the NO_X point source emissions. Under Option 2, we would be deferring the consideration of additional NO_X controls to future regional haze planning periods. In the next section, we describe our consideration of the four reasonable progress factors for the Entergy Independence Plant as well as the CALPUFF modeling we conducted to assess the potential visibility benefits of controls.[118]

1. Entergy Independence Plant Units 1 and 2

a. *Reasonable Progress Analysis for SO_2 Controls—Costs of Compliance:* The Entergy Independence Plant is an electric generating station with two nearly identical coal-fired units (Units 1 and 2) with a nameplate capacity of 900 MW each. Units 1 and 2 are tangentially-fired boilers that burn sub-bituminous coal as their primary fuel and No. 2 fuel oil or Bio-diesel as the start-up fuel. To verify that the White Bluff and Independence Plants are sister facilities, we have constructed a master spreadsheet[119] that contains information concerning ownership, location, boiler type, environmental controls and other pertinent information on these facilities. The spreadsheet includes information contained within EIA Forms 860 and 923. According to EIA,[120] the boilers were manufactured by Combustion Engineering with installation dates of 1974 for White Bluff, and 1983 and 1984 for Independence. The two units at White Bluff and the two units at Independence are tangentially firing boilers having nameplate capacities of 900 MW and similar gross ratings. All four units burn coal from the Powder River Basin (PRB) of Wyoming with similar characteristics. All four units employ cold side ESPs for particulate collection. Other pertinent characteristics are similar. The layout of the White Bluff and Independence facilities are also very similar.[121] Due to the similarity of these facilities, we applied the total annualized dry FGD and wet FGD costs we developed for the White Bluff units to the Independence units. However, we adjusted the cost-effectiveness ($/ton) due to the differing baseline SO_2 emissions from the units.

Consistent with the cost estimate we developed for White Bluff, we estimated a total annual cost for dry FGD at Independence of approximately $31,981,230 at each unit.[122] We expect dry FGD to achieve a controlled emission level of 0.06 lb/MMBtu, and estimate that the annual emissions reductions at Unit 1 would be 12,912 SO_2 tpy, assuming baseline emissions[123] of 14,269 SO_2 tpy (see table below). The average cost-effectiveness of dry FGD at Unit 1 is estimated to be $2,477 per SO_2 ton removed. For Unit 2, we estimate that the annual emissions reductions would be 13,990 SO_2 tpy, assuming baseline emissions of 15,511 SO_2 tpy. The average cost-effectiveness of dry FGD at Unit 2 is estimated to be $2,286 per SO_2 ton removed.

[117] See 64 FR 35732.

[118] While visibility is not an explicitly listed factor to consider when determining whether additional controls are reasonable, the purpose of the four-factor analysis is to determine what degree of progress toward natural visibility conditions is reasonable. Therefore, it is appropriate to consider the projected visibility benefit of the controls when determining if the controls are needed to make reasonable progress.

[119] This spreadsheet, entitled ''EIA Consolidated Data_WB and Ind_Y2012.xlsx,'' is located in the docket for our proposed rulemaking.

[120] See ''EIA Consolidated Data_WB and IND_Y2012.xlsx.''

[121] See ''Technical Support Document for the SDA Control Cost Analysis for the Entergy White Bluff and Independence Facilities Arkansas Regional Haze Federal Implementation Plan (SO_2 Cost TSD),'' Figures 1 and 2.

[122] See ''Technical Support Document for the SDA Control Cost Analysis for the Entergy White Bluff and Independence Facilities Arkansas Regional Haze Federal Implementation Plan (SO_2 Cost TSD).'' A copy of this TSD is found in the docket for our proposed rulemaking.

[123] Baseline emissions were determined by examining annual SO_2 emissions for the years 2009–2013, eliminating the year with the highest emissions and the year with the lowest emissions, and obtaining the average of the three remaining years.

TABLE 60—SUMMARY OF DRY FGD COSTS FOR ENTERGY INDEPENDENCE UNITS 1 AND 2

Unit	Baseline emission rate (SO_2 tpy)	Controlled emission level (lb/MMBtu)	Annual emissions reductions (SO_2 tpy)	Total annual cost ($/yr)	Average cost effectiveness ($/ton)
Unit 1	14,269	0.06	12,912	$31,981,230	$2,477
Unit 2	15,511	0.06	13,990	31,981,230	2,286

Because our proposed BART determination for the White Bluff facility is that dry FGD is more cost-effective (lower $/ton) than wet FGD, and that the additional visibility benefits obtained as a result of the greater level of control wet FGD offers over dry FGD are not worth the additional cost of wet FGD, we expect that the same would apply to Independence Units 1 and 2. Therefore, our evaluation of SO_2 controls for Independence Units 1 and 2 focuses on dry FGD. Nevertheless, we have calculated the cost-effectiveness of wet FGD for Independence Units 1 and 2 using the total annualized cost estimate provided by Entergy for White Bluff Units 1 and 2, with certain adjustments we made to the cost estimate provided by the facility.[124] Consistent with our estimate for White Bluff, we estimated a total annual cost for wet FGD at Independence of approximately $49,526,167 at each unit.[125] We expect wet FGD to achieve a controlled emission level of 0.04 lb/MMBtu, and estimate that the annual emissions reductions at Unit 1 would be 13,364 SO_2 tpy, assuming baseline emissions[126] of 14,269 SO_2 tpy (see table below). The average cost-effectiveness of wet FGD at Unit 1 is estimated to be $3,706 per SO_2 ton removed. For Unit 2, we estimate that the annual emissions reductions would be 14,497 SO_2 tpy, assuming baseline emissions of 15,511 SO_2 tpy. The average cost-effectiveness of wet FGD at Unit 2 is estimated to be $3,416 per SO_2 ton removed.

TABLE 61—SUMMARY OF WET FGD COSTS FOR ENTERGY INDEPENDENCE UNITS 1 AND 2

Unit	Baseline emission rate (SO_2 tpy)	Controlled emission level (lb/MMBtu)	Annual emissions reductions (SO_2 tpy)	Total annual cost ($/yr)	Average cost effectiveness ($/ton)
Unit 1	14,269	0.04	13,463	$49,526,167	$3,706
Unit 2	15,511	0.04	14,532	49,526,167	3,416

Time Necessary for Compliance: As is generally the case for installation of scrubber controls on EGUs, we expect that 5 years from the date of our final action would be sufficient time for Independence to install and operate either dry or wet FGD controls at Units 1 and 2 and to comply with the associated emission limits.

Energy and Non-Air Quality Environmental Impacts of Compliance: The installation and operation of wet FGD at Independence Units 1 and 2 would require greater energy usage and reagent usage compared to dry FGD. The cost of this additional energy usage and reagent usage has already been factored into the cost analysis. Non-air quality environmental impacts associated with wet FGD systems include increased water usage and the generation of large volumes of wastewater and solid waste/sludge that must be treated or stabilized before landfilling. Because the facility is not located in an exceptionally arid region, we do not anticipate that there would be water-availability issues that would affect the feasibility of wet FGD. Lastly, wet FGD systems have the potential for increased particulate and sulfuric acid mist releases that contribute to regional haze, which we are taking into consideration through an evaluation of the visibility benefits of each control option.

Remaining Useful Life: Independence Units 1 and 2 were installed in 1983 and 1984. Unit 1 was placed into operation in 1983 and Unit 2 was placed into operation in 1985. As there is no enforceable shut-down date for Units 1 and 2, we assume an equipment life of 30 years.[127]

Degree of Improvement in Visibility: While visibility is not an explicitly listed factor to consider when determining whether additional controls are reasonable under the reasonable progress requirements, the purpose of the four-factor analysis is to determine what degree of progress toward natural visibility conditions is reasonable. Therefore, it is appropriate to consider the projected visibility benefit of the controls when determining if the controls are needed to make reasonable progress.[128] There are four Class I areas within 300 km of the Entergy Independence Plant. We conducted CALPUFF modeling to determine the visibility improvement of SO_2 controls at these Class I areas, based on the 98th percentile visibility impacts.[129] As shown in the tables below, both dry FGD and wet FGD are projected to result in considerable visibility improvement from the baseline at each modeled Class I area. For Unit 1, dry FGD is projected to result in almost 0.5 dv of visibility improvement at each modeled Class I area, and for Unit 2 it is projected to result in almost or slightly greater than

[124] See our discussion above of the cost analysis for SO_2 BART for White Bluff Units 1 and 2, under section III.C.4 of this proposed rulemaking.

[125] See our Cost Analysis TSD titled ''Technical Support Document for the SDA Control Cost Analysis for the Entergy White Bluff and Independence Facilities Arkansas Regional Haze Federal Implementation Plan (SO_2 Cost TSD).'' The TSD is found in the docket for our proposed rulemaking.

[126] Baseline emissions were determined by examining annual SO_2 emissions for the years 2009–2013, eliminating the year with the highest emissions and the year with the lowest emissions, and obtaining the average of the three remaining years.

[127] As we note in our Oklahoma FIP, we typically assume a 30 year equipment life for scrubbers, as we do here. Please see Response to Technical Comments for Sections E. through H. of the **Federal Register** Notice for the Oklahoma Regional Haze and Visibility Transport Federal Implementation Plan, Docket No. EPA–R06–OAR–2010–0190. Page 35.

[128] See 79 FR at 74838, 74840, and 74874.

[129] See Appendix C to the TSD, titled ''Technical Support Document for Visibility Modeling Analysis for Entergy Independence Generating Station,'' for a detailed discussion of the visibility modeling protocol and model inputs. A copy of the TSD and its appendices is found in the docket for this proposed rulemaking.

0.5 dv of visibility improvement at each Class I area. The incremental visibility improvement of wet FGD over dry FGD is projected to be minimal, ranging from 0.008–0.028 dv at each Class I area for Unit 1 and 0.009–0.022 dv for Unit 2.

TABLE 62—ENTERGY INDEPENDENCE UNIT 1: EPA MODELED 98TH PERCENTILE VISIBILITY IMPACTS OF SO_2 CONTROLS

Class I area	Distance (km)	Visibility impact (Δdv)			Visibility improvement over baseline (dv)		Incremental visibility improvement of wet FGD vs. dry FGD
		Baseline	Dry FGD	Wet FGD	Dry FGD	Wet FGD	
Caney Creek	277	1.133	0.657	0.64	0.476	0.493	0.017
Upper Buffalo	180	0.845	0.385	0.377	0.460	0.468	0.008
Hercules-Glades	173	0.793	0.295	0.267	0.498	0.526	0.028
Mingo	174	0.739	0.298	0.284	0.441	0.455	0.014
Total		3.51	1.635	1.568	1.875	1.942	0.067

TABLE 63—ENTERGY INDEPENDENCE UNIT 2: EPA MODELED 98TH PERCENTILE VISIBILITY IMPACTS OF SO_2 CONTROLS

Class I area	Distance (km)	Visibility impact (Δdv)			Visibility improvement over baseline (dv)		Incremental visibility improvement of wet FGD vs. dry FGD
		Baseline	Dry FGD	Wet FGD	Dry FGD	Wet FGD	
Caney Creek	277	1.412	0.865	0.843	0.547	0.569	0.022
Upper Buffalo	180	0.997	0.509	0.499	0.488	0.498	0.01
Hercules-Glades	173	0.977	0.364	0.355	0.613	0.622	0.009
Mingo	174	0.883	0.388	0.374	0.495	0.509	0.014
Total		4.269	2.126	2.071	2.143	2.198	0.055

TABLE 64—ENTERGY INDEPENDENCE: EPA MODELED 98TH PERCENTILE VISIBILITY IMPACTS OF SO_2 CONTROLS (FACILITY-WIDE)

Class I area	Distance (km)	Visibility impact (Δdv)			Visibility improvement over baseline (dv)		Incremental visibility improvement of wet FGD vs. dry FGD
		Baseline	Dry FGD	Wet FGD	Dry FGD	Wet FGD	
Caney Creek	277	2.412	1.474	1.442	0.938	0.97	0.032
Upper Buffalo	180	1.764	0.876	0.86	0.888	0.904	0.016
Hercules-Glades	173	1.704	0.648	0.608	1.056	1.096	0.04
Mingo	174	1.547	0.676	0.649	0.871	0.898	0.027
Total		7.427	3.674	3.559	3.753	3.868	0.115

Proposed RP Determination for SO_2: Based on our analysis of the four RP factors, as well as the considerable projected visibility improvement, we propose to require compliance with an emission limit of 0.06 lb/MMBtu for Independence Units 1 and 2 based on a 30 boiler-operating-day rolling average basis. We propose to find that this emission limit, which is based on the installation and operation of dry FGD, is cost-effective at $2,477 per SO_2 ton removed for Unit 1 and $2,286 per SO_2 ton removed for Unit 2, and would result in significant visibility benefits at the Caney Creek and Upper Buffalo Wilderness Areas and the two Class I areas in Missouri. Under either Option 1 or 2, we are proposing SO_2 controls on Independence Units 1 and 2 for the first planning period. We note that more recent emission data show an overall increase in SO_2 emissions from the facility. Therefore anticipated visibility improvement from controls would be anticipated to be larger and the $/$SO_2$ ton reduced would be smaller had we used a more recent time period for the baseline emissions modeled. We found that in this instance, the cost of wet FGD on a dollars per ton removed basis is higher than that of dry FGD. We found the cost of wet FGD to be $3,706 and $3,416 per ton of SO_2 removed at Units 1 and 2, respectively. We found the cost of dry FGD to be $2,477 and $2,286 per ton of SO_2 removed for Units 1 and 2, respectively. We do not believe that the minimal amount of incremental visibility improvement projected to result from wet FGD justifies the higher cost compared to dry FGD. We are proposing to require compliance with an emission limit of 0.06 lb/MMBtu based on a 30 boiler-operating-day rolling average basis for Independence Units 1 and 2 no later than 5 years from the effective date of the final rule, based on the installation and operation of dry FGD. We are proposing that the facility demonstrate compliance with this emission limit using the existing CEMS. We are also proposing regulatory text that includes monitoring, reporting, and recordkeeping requirements associated with this emission limit.

b. *Reasonable Progress Analysis for NO_X controls.* As noted previously, monitoring data as well as CENRAP's CAMx source apportionment modeling results for 2002 and 2018 show that visibility impairment is not projected to be significantly impacted by nitrate on the 20% worst days at Caney Creek or Upper Buffalo. Point source emissions of NO_X are projected to contribute to

less than 5% of the total impairment on the 20% worst days in both 2002 and 2018. The CENRAP CAMx source apportionment modeling does not provide visibility impairment estimates for individual facilities.

As part of our analysis for Independence, we performed modeling using CALPUFF to assess the facility's individual visibility impact and the visibility benefit of controls, as was done for the subject-to-BART units discussed above including the sister facility, White Bluff. CALPUFF is the recommended model [130] for visibility impact analysis for BART determinations and other single source visibility modeling where the Class I areas of interest are within 300 km of the source. This modeling provided information on the total visibility impairment from emissions from the source, including impacts from SO_2 and NO_X emissions. The primary goal of this modeling was to assess the potential visibility benefit of SO_2 controls, given the relatively large emissions of SO_2 from the facility and that SO_2 emissions are the primary cause of visibility impairment on the 20% worst days at the Class I areas of interest. The results of this analysis of SO_2 controls are discussed in the section above. These CALPUFF results also indicated that impacts from NO_X emissions can be significant on some days, and as discussed further below, NO_X emission controls can be anticipated to result in a sizeable reduction in the maximum impacts from the facility. The analysis of the sister facility, Entergy Independence, revealed similar results.

In evaluating CALPUFF modeling results for BART, the 98th percentile ranked impact (H8H) was used consistent with our guideline techniques in conducting the CALPUFF modeling. CALPUFF modeling provides an assessment of the near maximum (98th percentile) visibility impairment on nearby Class I areas from the source of interest based on the facility's maximum short term emissions modeled over a three year period. It is important to note that a specific facility's maximum impact on a Class I area may not correlate with the same meteorological conditions or days when visibility is most impaired at a particular Class I area since CALPUFF modeling is only for one facility and does not include other facilities and emissions sources. Because of the nature of visibility impairment, we consider it appropriate to assess visibility impacts from a single source against a natural background. Visibility impairment on the 20% worst days may be driven by impacts from other facilities and different meteorological conditions. Identification of the 20% worst days is determined by IMPROVE monitor data during the baseline period at each Class I area. The source apportionment results for the 20% worst days are then based on CAMx modeling using a single year of meteorological data (2002) and using estimates of actual emissions from 2002 and projected to 2018 for all emission sources in the modeling domain (continental U.S.). Due in large part to the difference in metrics between the maximum impact as modeled by CALPUFF and the average impact during the 20% worst days, the CALPUFF modeling results discussed below indicate a more significant impact than suggested by the source apportionment CAMx results. We also note that differences in the metrics examined (maximum 98th percentile impact versus average impact during the 20% worst days), emissions modeled (single–source maximum 24-hour actual emissions versus actual emissions from all emission sources [131]), and differences in chemistry models result in CAMx visibility analysis results for a source or group of sources being much lower in magnitude than visibility impacts as modeled by CALPUFF.

The single source CALPUFF modeling shows that sizeable reductions to the maximum 98th percentile visibility impact from the Independence facility may be achieved through NO_X controls. We recognize, however, that at this time, point source NO_X emissions are not the main contributors to visibility impairment on the 20% worst days at Arkansas' Class I areas, as projected by CAMx source apportionment modeling. Also, Arkansas Class I areas are projected to achieve progress greater than that needed to meet the URP. Because our assessment of the Independence facility indicates that it is potentially one of the largest single contributors to visibility impairment at Class I areas in Arkansas, we believe that it is appropriate to evaluate the appropriateness of NO_X controls during this planning period.

As discussed above, due to the similarity of these facilities, we applied the total annualized LNB/SOFA cost developed by Entergy for White Bluff Units 1 and 2, with one line item revision made by us, to Independence Units 1 and 2.[132] However, we adjusted the cost-effectiveness ($/ton) due to the differing NO_X emissions from the units. Since our proposed BART determination for the White Bluff facility is that LNB/SOFA is more cost effective (lower $/ton) than SNCR or SCR, and that the additional visibility benefits obtained as a result of the greater level of control SNCR and SCR offer over combustion controls are not worth the additional cost of SNCR or SCR, we expect that the same would apply to Independence Units 1 and 2. Therefore, our evaluation of NO_X controls for Independence Units 1 and 2 will focus solely on LNB/SOFA.

Consistent with the cost estimate developed for White Bluff, we estimated a total annual cost for LNB/SOFA at Independence of approximately $1,085,904 at Unit 1 and $1,403,376 at Unit 2.[133] We expect LNB/SOFA to achieve a controlled emission level of 0.15 lb/MMBtu, and estimate that the annual emissions reductions at Unit 1 would be 2,710 NO_X tpy, assuming baseline emissions [134] of 6,329 NO_X tpy (see table below). The average cost-effectiveness of LNB/SOFA at Unit 1 is estimated to be $401 per NO_X ton removed. For Unit 2, we estimate that the annual emissions reductions would be 3,217 NO_X tpy, assuming baseline emissions of 6,384 NO_X tpy. The average cost-effectiveness of LNB/SOFA at Unit 2 is estimated to be $436 per NO_X ton removed.

[130] 70 FR 39104.

[131] Emissions used in CALPUFF modeling represented the maximum 24-hour emission rate. Based on evaluation of some sources that had both annual and maximum 24-hour actual data, EPA recommended that sources could use an emission rate that was double the annual emission rate (used in CAMx) to approximate the maximum 24-hour actual emission rates for some sources for CALPUFF modeling when there was not enough data to generate a maximum 24-hr actual emission rate.

[132] See our discussion above of the cost analysis for NO_X BART for White Bluff Units 1 and 2, under section III.C.4 of this proposed rulemaking.

[133] See the spreadsheet titled ''Independence Cost Spreadsheet_LNB–SOFA.'' A copy of this spreadsheet is found in the docket for our proposed rulemaking.

[134] Baseline emissions were determined by examining annual NO_X emissions for the years 2009–2013, eliminating the year with the highest emissions and the year with the lowest emissions, and obtaining the average of the three remaining years.

TABLE 65—SUMMARY OF LNB/SOFA COSTS FOR ENTERGY INDEPENDENCE UNITS 1 AND 2

Unit	Baseline emission rate (NO_X tpy)	Controlled emission level (lb/MMBtu)	Annual emissions reductions (NO_X tpy)	Total annual cost ($/yr)	Average cost effectiveness ($/ton)
Unit 1	6,329	0.15	2,710	$1,085,904	$401
Unit 2	6,384	0.15	3,217	1,403,376	436

Time Necessary for Compliance: As is generally the case for installation of NO_X controls on EGUs, we expect that 3 years from the date of our final action would be sufficient time for Independence to install and operate LNB/SOFA controls at Units 1 and 2 and to comply with the associated emission limits.

Energy and Non-Air Quality Environmental Impacts of Compliance: We are not aware of any energy or non-air quality environmental impacts that would preclude LNB/SOFA from consideration at Independence Units 1 and 2.

Remaining Useful Life: Independence Units 1 and 2 were installed in 1983 and 1984. Unit 1 was placed into operation in 1983 and Unit 2 was placed into operation in 1985. As there is no enforceable shut-down date for Units 1 and 2, we presume that the units would continue to operate for greater than 30 years and fully amortize the cost of controls. In our analysis of the cost of controls we have assumed an equipment life of 30 years.

Degree of Improvement in Visibility: While visibility is not an explicitly listed factor to consider when determining whether additional controls are reasonable under the reasonable progress requirements, the purpose of the four-factor analysis is to determine what degree of progress toward natural visibility conditions is reasonable. Therefore, it is appropriate to consider the projected visibility benefit of the controls when determining if the controls are needed to make reasonable progress.[135] There are four Class I areas within 300 km of the Entergy Independence Plant. We conducted CALPUFF modeling to determine the visibility improvement of NO_X controls at these Class I areas, based on the 98th percentile visibility impacts.[136] As shown in the table below, LNB/SOFA is projected to result in a visibility improvement from the baseline at each modeled Class I area.[137] On a facility-wide basis, the installation and operation of LNB/SOFA on Units 1 and 2 is projected to result in 0.461 dv in visibility improvement at Caney Creek, while the projected visibility improvement at each of the other modeled Class I areas ranges from 0.213–0.264 dv. We also conducted a modeling run of both LNB/OFA and dry FGD, which shows projected visibility benefits ranging from 1.18–1.48 dv at each Class I area.[138] As discussed above, more recent emission data show an overall increase in SO_2 emissions from the facility. Therefore anticipated visibility improvement from controls would be anticipated to be larger and there would be an improvement in the cost-effectiveness (*i.e.,* lower dollars per ton removed) of controls had we used a more recent time period for the baseline emissions modeled.

TABLE 66—ENTERGY INDEPENDENCE UNITS 1 AND 2 (FACILITY-WIDE): EPA MODELED 98TH PERCENTILE VISIBILITY IMPACTS OF LNB/SOFA

Class I area	Distance (km)	Visibility impact (Δdv)		Visibility improvement of LNB/SOFA over baseline (dv)
		Baseline [139]	LNB/SOFA	
Caney Creek	277	2.054	1.593	0.461
Upper Buffalo	180	1.724	1.476	0.248
Hercules-Glades	173	1.482	1.218	0.264
Mingo	174	1.492	1.279	0.213
Total	.....	6.752	5.566	1.186

Proposed RP Determination for NO_X: As discussed above, based on the CENRAP's CAMx modeling, sulfate from point sources is the driver of regional haze at Caney Creek and Upper Buffalo on the 20% worst days in both 2002 and 2018. Nitrate from point sources is not considered a driver of regional haze at these Class I areas on the 20% worst days, contributing only approximately 3% of the total light extinction. The Regional Haze Rule requires that the established RPGs provide for an improvement in visibility for the most impaired days (*i.e.,* the 20% worst days) over the period of the implementation plan and ensure no degradation in visibility for the least impaired days over the same period (40 CFR 51.308(d)(1)). Because of the small contribution of nitrate from point sources to the total light extinction at Caney Creek and Upper Buffalo on the most impaired days, we do not expect that NO_X controls under the reasonable progress requirements would offer as much improvement on the most impaired days compared to SO_2 controls. However, upon evaluation of the four reasonable progress factors, we found that the installation and operation of LNB/SOFA at Independence Units 1 and 2 is estimated to cost $401/$NO_X$ ton

[135] See 79 FR at 74838, 74840, and 74874.

[136] See Appendix C to the TSD, titled ''Technical Support Document for Visibility Modeling Analysis for Entergy Independence Generating Station,'' for a detailed discussion of the visibility modeling protocol and model inputs. A copy of the TSD and its appendices is found in the docket for this proposed rulemaking.

[137] *Id.*

[138] This is discussed in more detail in Appendix C to the TSD, titled ''Technical Support Document for Visibility Modeling Analysis for Entergy Independence Generating Station.''

[139] Baseline NO_X emissions were updated to the maximum 24-hr emissions from 2011–2013 for the evaluation of the anticipated benefit from NO_X controls.

removed at Unit 1 and $436/$NO_X$ ton removed at Unit 2, which we consider to be very cost-effective. These NO_X controls are also projected to result in significant visibility improvements at Arkansas and Missouri Class I areas, based on CALPUFF modeling using the 98th percentile modeled visibility impacts. Therefore, under Option 1, for the first planning period, we are proposing both an SO_2 emission limit as described above and a NO_X emission limit of 0.15 lb/MMBtu on a 30 boiler-operating-day averaging basis based on the installation and operation of LNB/SOFA, in light of their cost-effectiveness and visibility benefit based on CALPUFF modeling, even though nitrate from point sources is projected to contribute a very small proportion of the total light extinction at Caney Creek and Upper Buffalo on the 20% worst days in 2018. Based on our visibility modeling of both LNB/OFA and dry FGD, proposed Option 1 is projected to have visibility benefits ranging from 1.18—1.48 dv at each Class I area.[140] Under Option 2, we are proposing only SO_2 controls for Independence Units 1 and 2 under the reasonable progress requirements. Based on our visibility modeling of dry FGD, proposed Option 2 is projected to have visibility benefits ranging from 0.87—1.06 dv at each Class I area. We specifically solicit public comment on this proposed alternative approach.

In addition to options 1 and 2, we also solicit public comment on any alternative SO_2 and NO_X control measures that would address the regional haze requirements for Entergy White Bluff Units 1 and 2 and Entergy Independence Units 1 and 2 for this planning period. This includes, but is not limited to, a combination of early unit shutdowns and other emissions control measures that would achieve greater reasonable progress than the BART and reasonable progress requirements we have proposed for these four units in this rulemaking.

B. Reasonable Progress Goals

We propose RPGs for Caney Creek and Upper Buffalo that are consistent with the combination of control measures from the approved portion of the 2008 Arkansas RH SIP and our proposed Arkansas RH FIP. In total, these final and proposed controls to meet the BART and RP requirements will result in higher emissions reductions and commensurate visibility improvements beyond what was in the 2008 Arkansas RH SIP. Development of refined numerical RPGs for Arkansas' Class I areas would require photochemical grid modeling of a multistate area, involving thousands of emission sources, unlike the comparatively simple single-source CALPUFF modeling used for individual BART assessments. In order to accurately reflect all emissions reductions expected to occur during this planning period, the new photochemical modeling would require an update of the emissions inventory for Arkansas and the surrounding states to include not just the actions under this FIP, but all EPA and state regulatory actions on point, area, and mobile sources. After the inventory is developed and reviewed by the affected states for accuracy, it must be converted to a model-ready format before air quality modeling can be used to estimate the future visibility levels at the Class I areas. This modeling would require specialized and extensive computing hardware and expertise. Developing all of the necessary input files, running the photochemical model, and post-processing the model outputs would take several months at a minimum. Therefore, we are not conducting new photochemical grid modeling to establish revised numeric RPGs for Caney Creek and Upper Buffalo.

In order to provide RPGs that account for emission reductions from the FIP controls, we have used a method similar to the one used in our Regional Haze FIP for Hawaii [141] and Arizona,[142] which is based on a scaling of visibility extinction components in proportion to emission changes. To determine the new RPGs for Caney Creek and Upper Buffalo, we started with the 2018 projection of extinction components from the CENRAP's CAMx photochemical modeling with source apportionment. The 2018 CAMx emission scenario included some assumptions of state BART determinations and other SIP controls, as well as projected emissions from other point, area, and mobile sources. We scaled the modeled visibility extinction components for sulfate (SO_4) and nitrate (NO_3) from point sources in Arkansas in proportion to the FIP's emission reductions for SO_2 and NO_X, respectively. The sulfate scaling factor was the 2018 CENRAP emission inventory for Arkansas point source SO_2 emissions with FIP controls for BART and RP sources in place, divided by the original 2018 CENRAP emission inventory for Arkansas point source SO_2 emissions. We conducted the same scaling exercise with nitrate and NO_X. The scaled sulfate and nitrate extinctions were added to the unscaled extinctions for organic mass and other components to get total extinction, and then this was used to calculate post-FIP RPGs in deciviews. Although we recognize that this method is not refined, it allows us to translate the emission reductions contained in this proposed FIP into quantitative RPGs, based on modeling previously performed by the CENRAP. These RPGs reflect rates of progress that are faster than the rates projected by Arkansas. The revised RPGs for the first planning period for the 20% worst days are 22.27 dv for Caney Creek and 22.33 dv for Upper Buffalo. The results of our analysis are shown in the table below.[143] The RPG calculation was performed for both our proposed Options 1 and 2. Under Option 1 we are proposing to control Entergy Independence Units 1 and 2 for the first planning period for both SO_2 and NO_X. Alternatively, under Option 2, we are proposing to control Entergy Independence Units 1 and 2 only for SO_2 for the first planning period. Due to the small impact from all Arkansas point source NOx emissions combined on the 20% worst days and the scaling approach utilized to estimate the adjustment to the RPG, the difference between the two proposed options results in a very small difference in the calculated RPGs for Caney Creek and Upper Buffalo (less than 0.003 dv). We note that some FIP controls will not be in place by 2018, however, for the purpose of this calculation, we included reductions from all FIP controls. Arkansas will have to re-evaluate during the next regional haze planning period what BART and reasonable progress controls are in place and re-calculate the RPGs for the next planning period as needed. We also note that RPGs, unlike the emission limits that apply to specific RP sources, are not directly enforceable.[144] Rather, they are an analytical framework considered by us in evaluating whether measures in the implementation plan are sufficient to

[140] See Appendix C to the TSD, titled ''Technical Support Document for Visibility Modeling Analysis for Entergy Independence Generating Station,'' for a detailed discussion of the visibility modeling protocol and model inputs. A copy of the TSD and its appendices is found in the docket for this proposed rulemaking.

[141] See 77 FR 31692, 31708.

[142] See 79 FR 52420, 52468.

[143] Please see Appendix C to the TSD, titled ''Technical Support Document for Visibility Modeling Analysis for Entergy Independence Generating Station,'' and the RPG calculation spreadsheet for additional details on calculations. These documents are found in the docket for our proposed rulemaking.

[144] 40 CFR 51.308(d)(1)(v).

achieve reasonable progress.[145] Arkansas may choose to use these RPGs for purposes of its progress report, or may develop new RPGs for approval by us along with its progress report, based on new modeling or other appropriate techniques, in accordance with the requirements of 40 CFR 51.308(d)(1).

TABLE 67—PROPOSED REASONABLE PROGRESS GOALS FOR 20% WORST DAYS

[In Deciviews]

Class I area	2000–2004 Baseline	2064 Natural conditions	2018 URP	2018 Projection by CENRAP	Estimated FIP effect	Estimated FIP 2018 RPG
Caney Creek	26.36	11.58	22.91	22.48	−0.21	22.27
Upper Buffalo	26.27	11.57	22.84	22.52	−0.19	22.33

V. Our Proposed Long-Term Strategy

Section 169A(b) of the CAA and 40 CFR 51.308(d)(3) require that states include in their SIP a 10 to 15-year strategy, referred to as the long-term strategy, for making reasonable progress for each Class I area within their state. This long-term strategy is the compilation of all control measures a state will use during the implementation period of the specific SIP submittal to meet any applicable RPGs for a particular Class I area. The long-term strategy must include ''enforceable emissions limitations, compliance schedules, and other measures as necessary to achieve the reasonable progress goals'' for all Class I areas within, or affected by emissions from, the state.[146]

Section 51.308(d)(3)(v) requires that a state consider certain factors (the long-term strategy factors) in developing its long-term strategy for each Class I area. These factors are the following: (1) Emission reductions due to ongoing air pollution control programs, including measures to address RAVI; (2) measures to mitigate the impacts of construction activities; (3) emissions limitations and schedules for compliance to achieve the reasonable progress goal; (4) source retirement and replacement schedules; (5) smoke management techniques for agricultural and forestry management purposes including plans as currently exist within the state for these purposes; (6) enforceability of emissions limitations and control measures; and (7) the anticipated net effect on visibility due to projected changes in point, area, and mobile source emissions over the period addressed by the long-term strategy. Since states are required to consider emissions limitations and schedules of compliance to achieve the RPGs for each Class I area, the BART emission limits that are in the state's regional haze SIP are an element of the state's long-term strategy (40 CFR 51.308(d)(3)) for each Class I area. In our March 11, 2012 final action on the 2008 Arkansas RH SIP, since we disapproved a portion of Arkansas' BART determinations and both RPGs for Arkansas' two Class I areas, we also disapproved these elements and approved all other elements of Arkansas' long-term strategy. The BART limits and two RPGs for Arkansas' Class I areas that are in this proposed FIP address our March 11, 2011 disapproval of Arkansas' BART limits and two RPGs. We propose to find that the proposed BART limits and two RPGs that are in this proposed FIP also correct the deficiency in Arkansas' long-term strategy for each of its Class I areas.

VI. Our Proposal for Interstate Visibility Transport

We received the Arkansas Interstate Visibility Transport SIP that addresses the interstate visibility transport requirements of CAA section 110(a)(2)(D)(i)(II) for the 1997 8-hour ozone and $PM_{2.5}$ NAAQS on April 2, 2008. In its Interstate Visibility Transport SIP, Arkansas stated that its regional haze regulation, the APC&E Commission Regulation 19, chapter 15, codifying its Regional Haze SIP, satisfies the requirement of section 110(a)(2)(D)(i)(II) regarding the protection of visibility, and that it was not possible to assess whether there is any interference with measures in the applicable SIP for another state designed to protect visibility for the 8-hour ozone and $PM_{2.5}$ NAAQS in other states until Arkansas submits and we approve the 2008 Arkansas RH SIP. In our March 12, 2012 final action, we partially approved and partially disapproved the Arkansas Interstate Visibility Transport SIP because we partially approved and partially disapproved the 2008 Arkansas RH SIP. In particular, we disapproved a large portion of Arkansas' BART determinations, and as a result, the corresponding emissions reductions other states had relied upon in their RPG demonstrations under the RHR would not take place. Therefore, we made a finding that Arkansas' SIP does not fully ensure that emissions from sources in Arkansas do not interfere with other states' visibility programs as required by section 110(a)(2)(D)(i)(II) of the CAA. Our proposed regional haze FIP would address all disapproved BART determinations for sources in Arkansas as well as all other disapproved portions of the 2008 Arkansas RH SIP. Our proposed regional haze FIP together with our prior approval of portions of the Arkansas Regional Haze SIP would ensure that the emissions reductions other sates relied upon in their RPG demonstrations take place. Therefore, we propose to find that the deficiencies we identified in our prior disapproval action on the Arkansas Interstate Visibility Transport SIP are addressed by our proposed regional haze FIP along with our prior approval of portions of the Arkansas Regional Haze SIP. We are also proposing to find that the requirements of CAA section 110(a)(2)(D)(i)(II) with respect to visibility transport for the 1997 8-hour ozone and $PM_{2.5}$ NAAQS will be satisfied by the combination of the emission control measures in this proposed regional haze FIP and the previously approved portion of the Arkansas Interstate Visibility Transport SIP.

VII. Summary of Proposed Actions

A. Regional Haze

We propose to promulgate a FIP to address those portions of Arkansas' regional haze SIP that we disapproved on March 12, 2012, which include requirements for BART, reasonable progress, and the long-term strategy.[147] The FIP we are proposing includes BART emission limits for sources in Arkansas to reduce emissions that contribute to regional haze in Arkansas' two Class I areas and other nearby Class I areas and make reasonable progress for

[145] 64 FR 35733 and 40 CFR 51.308(d)(1)(v).

[146] 40 CFR 51.308(d)(3).

[147] 77 FR 14604.

the first regional haze planning period for Arkansas' two Class I areas. This includes more stringent SO_2 emission limits in comparison to what the 2008 Arkansas RH SIP contained for the AECC Carl E. Bailey Generating Station Unit 1, the AECC John L McClellan Generating Station Unit 1, the AEP Flint Creek Power Plant Unit 1, Entergy White Bluff Plant Units 1 and 2, and the Domtar Ashdown Paper Mill Power Boiler No. 2. We are also proposing in the alternative two options for addressing the reasonable progress requirements for this first planning period by controlling the Entergy Independence Power Plant for both the Caney Creek and Upper Buffalo Class I areas. Under Option 1, we propose to require SO_2 and NO_X emission reductions from the Entergy Independence Power Plant under the reasonable progress requirements. Under Option 2, we are also proposing only SO_2 controls for Independence Units 1 and 2 under the reasonable progress requirements. In particular, we are inviting public comment on the alternate proposed Options 1 and 2. We also solicit public comment on any alternative control measures for Entergy White Bluff Units 1 and 2 and Independence Units 1 and 2 that would address the regional haze requirements for these four units for this planning period. We also propose to find that the proposed BART and reasonable progress limits and RPGs that are in this proposed FIP correct the deficiency in Arkansas' long-term strategy for both Class I areas. Our proposed FIP, once finalized, along with the previously approved portion of the Arkansas regional haze SIP, will constitute Arkansas' regional haze program for the first planning period that ends in 2018.

B. Interstate Visibility Transport

We propose to find that the deficiencies we identified in our prior disapproval action on the Arkansas Interstate Visibility Transport SIP to address the requirement of CAA section 110(a)(2)(D)(i)(II) with respect to visibility transport for the 1997 8-hour ozone and 1997 $PM_{2.5}$ NAAQS will be remedied by our proposed Arkansas Regional Haze FIP along with our March 2, 2012 partial approval of certain elements of the 2008 Arkansas RH SIP. In its Interstate Visibility Transport SIP, Arkansas stated that its regional haze regulation, the APC&E Commission Regulation 19, chapter 15, codifying the Arkansas Regional Haze SIP, satisfies the requirement of section 110(a)(2)(D)(i)(II) regarding the protection of visibility, and that it was not possible to assess whether there is any interference with measures in the applicable SIP for another state designed to protect visibility for the 8-hour ozone and $PM_{2.5}$ NAAQS in other states until Arkansas submits and we approve the 2008 Arkansas RH SIP. Since our FIP addresses the portions of Arkansas Regional Haze SIP that we previously disapproved, we propose to find that the requirements of CAA section 110(a)(2)(D)(i)(II) with respect to visibility transport for the 1997 8-hour ozone and $PM_{2.5}$ NAAQS will be satisfied by the combination of this proposed regional haze FIP and the previously approved portion of the Arkansas Interstate Visibility Transport SIP.

VIII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Overview

This proposed action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011). The proposed FIP would not constitute a rule of general applicability, because it only proposes source specific requirements for particular, identified facilities (six total).

B. Paperwork Reduction Act

This proposed action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Because it does not contain any information collection activities, the Paperwork Reduction Act does not apply. See 5 CFR 1320(c).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant impact on a substantial number of small entities. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. This rule does not impose any requirements or create impacts on small entities. This proposed SIP action under Section 110 of the CAA will not in-and-of itself create any new requirements on small entities but simply approves or disapproves certain state requirements for inclusion into the SIP. Accordingly, it affords no opportunity for the EPA to fashion for small entities less burdensome compliance or reporting requirements or timetables or exemptions from all or part of the rule. The fact that the CAA prescribes that various consequences (*e.g.,* emission limitations) may or will flow from this action does not mean that the EPA either can or must conduct a regulatory flexibility analysis for this action. We have therefore concluded that, this action will have no net regulatory burden for all directly regulated small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and Tribal governments and the private sector. Under Section 202 of UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to state, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more (adjusted for inflation) in any one year. Before promulgating an EPA rule for which a written statement is needed, Section 205 of UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of Section

205 of UMRA do not apply when they are inconsistent with applicable law. Moreover, Section 205 of UMRA allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under Section 203 of UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that Title II of UMRA does not apply to this proposed rule. In 2 U.S.C. Section 1502(1) all terms in Title II of UMRA have the meanings set forth in 2 U.S.C. Section 658, which further provides that the terms ''regulation'' and ''rule'' have the meanings set forth in 5 U.S.C. Section 601(2). Under 5 U.S.C. Section 601(2), ''the term 'rule' does not include a rule of particular applicability relating to . . . facilities.'' Because this proposed rule is a rule of particular applicability relating to six named facilities, EPA has determined that it is not a ''rule'' for the purposes of Title II of UMRA.

E. Executive Order 13132: Federalism

This proposed 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 proposed rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments. Thus, Executive Order 13175 does not apply to this rulemaking.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks [148] applies to any rule that: (1) Is determined to be economically significant as defined under Executive Order 12866; and (2) concerns an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children. EPA interprets EO 13045 as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under Section 5–501 of the EO has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action is not subject to EO 13045 because it implements specific standards established by Congress in statutes. However, to the extent this proposed rule will limit emissions of SO_2, NO_X, and PM, the rule will have a beneficial effect on children's health by reducing air pollution.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This proposed action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical. EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994), establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. We have determined that this proposed rule, if finalized, will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population. This proposed federal rule limits emissions of NO_X, SO_2, and PM from six facilities in Arkansas.

[148] 62 FR 19885 (Apr. 23, 1997).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxides, Visibility, Interstate transport of pollution, Regional haze, Best available control technology.

Dated: March 6, 2015.

Samuel Coleman, P.E.

Acting Regional Administrator, Region 6.

Title 40, chapter I, of the Code of Federal Regulations is proposed to be amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart E—Arkansas

■ 2. Section 52.173 is amended by adding paragraphs (c) and (d) to read as follows:

§ 52.173 Visibility protection.

* * * * *

(c) Requirements for AECC Carl E. Bailey Unit 1; AECC John L. McClellan Unit 1; AEP Flint Creek Unit 1; Entergy White Bluff Units 1, 2, and Auxiliary Boiler; Entergy Lake Catherine Unit 4; Domtar Ashdown Paper Mill Power Boilers No. 1 and 2; and Entergy Independence Units 1 and 2 affecting visibility.

(1) *Applicability.* The provisions of this section shall apply to each owner

or operator, or successive owners or operators, of the sources designated as: AECC Carl E. Bailey Unit 1; AECC John L. McClellan Unit 1; AEP Flint Creek Unit 1; Entergy White Bluff Units 1, 2, and Auxiliary Boiler; Entergy Lake Catherine Unit 4; Domtar Ashdown Paper Mill Power Boilers No. 1 and 2; and Entergy Independence Units 1 and 2.

(2) *Definitions.* All terms used in this part but not defined herein shall have the meaning given them in the Clean Air Act and in parts 51 and 60 of CFR title 40. For the purposes of this section:

24-hour period means the period of time between 12:01 a.m. and 12 midnight.

Air pollution control equipment includes selective catalytic control units, baghouses, particulate or gaseous scrubbers, and any other apparatus utilized to control emissions of regulated air contaminants which would be emitted to the atmosphere.

Boiler-operating-day for electric generating units listed under paragraph (c)(1) of this section means any 24- hour period between 12:00 midnight and the following midnight during which any fuel is combusted at any time at the steam generating unit. For power boilers listed under paragraph (c)(1) of this section, we define boiler-operating-day as any 24-hour period between 12:00 midnight and the following midnight during which any fuel is fed into and/or combusted at any time in the Power Boiler.

Daily average means the arithmetic average of the hourly values measured in a 24-hour period.

Heat input means heat derived from combustion of fuel in a unit and does not include the heat input from preheated combustion air, recirculated flue gases, or exhaust gases from other sources. Heat input shall be calculated in accordance with 40 CFR part 75.

Owner or Operator means any person who owns, leases, operates, controls, or supervises any of the units or power boilers listed under paragraph (c)(1) of this section.

Regional Administrator means the Regional Administrator of EPA Region 6 or his/her authorized representative.

Unit means one of the natural gas, fuel oil, or coal fired boilers covered under paragraph (c) of this section.

(3) *Emissions limitations for AECC Bailey Unit 1 and AECC McClellan Unit 1.* The individual SO_2, NO_X, and PM emission limits for each unit shall be as listed in the following table.

Unit	SO_2 Emission limit	NO_X Emission limit	PM Emission limit
AECC Bailey Unit 1	Use of fuel with a sulfur content limit of 0.5% by weight.	887 lb/hr	Use of fuel with a sulfur content limit of 0.5% by weight.
AECC McClellan Unit 1	Use of fuel with a sulfur content limit of 0.5% by weight.	869.1 lb/hr (Natural Gas firing) 705.8 lb/hr (Fuel Oil firing)	Use of fuel with a sulfur content limit of 0.5% by weight.

(4) *Compliance dates for AECC Bailey Unit 1 and AECC McClellan Unit.* The owner or operator of each unit shall comply with the SO_2 and PM requirements listed in paragraph (c)(3) of this section within 5 years of the effective date of this rule. As of the effective date of this rule, the owner/operator of each unit shall not purchase fuel for combustion at the unit that does not meet the sulfur content limit in paragraph (c)(3) of this section. Five years from the effective date of the rule only fuel that meets the sulfur content limit in paragraph (c)(3) of this section shall be burned at each unit. The owner/operator of each unit shall comply with the NO_X emission limits in paragraph (c)(3) of this section as of the effective date of this rule.

(5) *Compliance determinations for AECC Bailey Unit 1 and AECC McClellan Unit*—(i) *SO_2 and PM.* To determine compliance with the SO_2 and PM requirements listed in paragraph (c)(3) of this section, the owner/operator shall sample and analyze each shipment of fuel to determine the sulfur content, except for natural gas shipments. A ''shipment'' is considered delivery of the entire amount of each order of fuel purchased. Fuel sampling and analysis may be performed by the owner or operator of an affected unit, an outside laboratory, or a fuel supplier.

(ii) *NO_X.* To determine compliance with the NO_X emission limits of paragraph (c)(3) of this section, the owner/operator shall determine the average emissions (arithmetic average of three contiguous one hour periods) of NO_X as measured by a CEMS and converted to pounds per hour using corresponding average (arithmetic average of three contiguous one hour periods) stack gas flow rates.

(iii) The owner or operator shall continue to maintain and operate a CEMS for NO_X on the units listed in paragraph (c)(3) of this section in accordance with 40 CFR 60.8 and 60.13(e), (f), and (h), and appendix B of part 60. The owner or operator shall comply with the quality assurance procedures for CEMS found in 40 CFR part 75. Compliance with the emission limits for NO_X shall be determined by using data from a CEMS.

(iv) Continuous emissions monitoring shall apply during all periods of operation of the units listed in paragraph (c)(3) of this section, including periods of startup, shutdown, and malfunction, except for CEMS breakdowns, repairs, calibration checks, and zero and span adjustments. Continuous monitoring systems for measuring NO_X and diluent gas shall complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period. Hourly averages shall be computed using at least one data point in each fifteen minute quadrant of an hour. Notwithstanding this requirement, an hourly average may be computed from at least two data points separated by a minimum of 15 minutes (where the unit operates for more than one quadrant in an hour) if data are unavailable as a result of performance of calibration, quality assurance, preventive maintenance activities, or backups of data from data acquisition and handling system, and recertification events. When valid NO_X pounds per hour emission data are not obtained because of continuous monitoring system breakdowns, repairs, calibration checks, or zero and span adjustments, emission data must be obtained by using other monitoring systems approved by the EPA to provide emission data for a minimum of 18 hours in each 24 hour period and at least 22 out of 30 successive boiler operating days.

(6) *Emissions limitations for AEP Flint Creek Unit 1 and Entergy White Bluff Units 1 and 2.* The individual SO_2 and NO_X emission limits for each unit shall be as listed in the following table in pounds per million British thermal units (lb/MMBtu) as averaged over a rolling 30 boiler-operating-day period.

Unit	SO_2 Emission limit (lb/MMBtu)	NO_X Emission limit (lb/MMBtu)
AEP Flint Creek Unit 1	0.06	0.23
Entergy White Bluff Unit 1	0.06	0.15
Entergy White Bluff Unit 2	0.06	0.15

(7) *Compliance dates for AEP Flint Creek Unit 1 and Entergy White Bluff Units 1 and 2.* The owner or operator of each unit shall comply with the SO_2 emission limit listed in paragraph (c)(6) of this section within 5 years of the effective date of this rule and the NO_X emission limit within 3 years of the effective date of this rule.

(8) *Compliance determination for AEP Flint Creek Unit 1 and Entergy White Bluff Units 1 and 2.* (i) For each unit, SO_2 and NO_X emissions for each calendar day shall be determined by summing the hourly emissions measured in pounds of SO_2 or pounds of NO_X. For each unit, heat input for each boiler-operating-day shall be determined by adding together all hourly heat inputs, in millions of BTU. Each boiler-operating-day of the thirty-day rolling average for a unit shall be determined by adding together the pounds of SO_2 or NO_X from that day and the preceding 29 boiler-operating-days and dividing the total pounds of SO_2 or NO_X by the sum of the heat input during the same 30 boiler-operating-day period. The result shall be the 30 boiler-operating-day rolling average in terms of lb/MMBtu emissions of SO_2 or NO_X. If a valid SO_2 or NO_X pounds per hour or heat input is not available for any hour for a unit, that heat input and SO_2 or NO_X pounds per hour shall not be used in the calculation of the 30 boiler-operating-day rolling average for SO_2 or NO_X.

(ii) The owner or operator shall continue to maintain and operate a CEMS for SO_2 and NO_X on the units listed in paragraph (c)(6) of this section in accordance with 40 CFR 60.8 and 60.13(e), (f), and (h), and Appendix B of Part 60. The owner or operator shall comply with the quality assurance procedures for CEMS found in 40 CFR part 75. Compliance with the emission limits for SO_2 and NO_X shall be determined by using data from a CEMS.

(iii) Continuous emissions monitoring shall apply during all periods of operation of the units listed in paragraph (c)(6) of this section, including periods of startup, shutdown, and malfunction, except for CEMS breakdowns, repairs, calibration checks, and zero and span adjustments. Continuous monitoring systems for measuring SO_2 and NO_X and diluent gas shall complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period. Hourly averages shall be computed using at least one data point in each fifteen minute quadrant of an hour. Notwithstanding this requirement, an hourly average may be computed from at least two data points separated by a minimum of 15 minutes (where the unit operates for more than one quadrant in an hour) if data are unavailable as a result of performance of calibration, quality assurance, preventive maintenance activities, or backups of data from data acquisition and handling system, and recertification events. When valid SO_2 or NO_X pounds per hour emission data are not obtained because of continuous monitoring system breakdowns, repairs, calibration checks, or zero and span adjustments, emission data must be obtained by using other monitoring systems approved by the EPA to provide emission data for a minimum of 18 hours in each 24 hour period and at least 22 out of 30 successive boiler operating days.

(9) *Emissions limitations for Entergy White Bluff Auxiliary Boiler.* The individual SO_2, NO_X, and PM emission limits for the unit shall be as listed in the following table in pounds per hour (lb/hr).

Unit	SO_2 Emission limit (lb/hr)	NO_X Emission limit (lb/hr)	PM Emission limit (lb/hr)
Entergy White Bluff Auxiliary Boiler	105.2	32.2	4.5

(10) *Compliance dates for Entergy White Bluff Auxiliary Boiler.* The owner or operator of the unit shall comply with the SO_2, NO_X, and PM emission limits listed in paragraph (c)(9) of this section as of the effective date of this rule.

(11) *Emissions limitations for Entergy Lake Catherine Unit 4.* The individual NO_X emission limit for the unit for natural gas firing shall be as listed in the following table in pounds per million British thermal units (lb/MMBtu) as averaged over a rolling 30 boiler-operating-day period. The unit shall not burn fuel oil until BART determinations are promulgated for the unit for SO_2, NO_X, and PM for the fuel oil firing scenario through a FIP and/or through EPA action upon and approval of revised BART determinations submitted by the State as a SIP revision.

Unit	NO_X Emission limit—natural gas firing (lb/MMBtu)
Entergy Lake Catherine Unit 4	0.22

(12) *Compliance dates for Entergy Lake Catherine Unit 4.* The owner or operator of the unit shall comply with the NO_X emission limit listed in paragraph (c)(11) of this section within 3 years of the effective date of this rule.

(13) *Compliance determination for Entergy Lake Catherine Unit 4.* (i) NO_X emissions for each calendar day shall be determined by summing the hourly emissions measured in pounds of NO_X. The heat input for each boiler-operating-day shall be determined by adding together all hourly heat inputs, in millions of BTU. Each boiler-operating-day of the thirty-day rolling average for the unit shall be determined by adding together the pounds of NO_X from that day and the preceding 29 boiler-operating-days and dividing the total pounds of NO_X by the sum of the heat input during the same 30 boiler-operating-day period. The result shall be the 30 boiler-operating-day rolling average in terms of lb/MMBtu emissions of NO_X. If a valid NO_X pounds per hour or heat input is not available for any hour for the unit, that heat input and NO_X pounds per hour shall not be used in the calculation of the 30 boiler-operating-day rolling average for NO_X.

(ii) The owner or operator shall continue to maintain and operate a CEMS for NO_X on the unit listed in paragraph (c)(11) of this section in accordance with 40 CFR 60.8 and 60.13(e), (f), and (h), and appendix B of

part 60. The owner or operator shall comply with the quality assurance procedures for CEMS found in 40 CFR part 75. Compliance with the emission limit for NO_X shall be determined by using data from a CEMS.

(iii) Continuous emissions monitoring shall apply during all periods of operation of the unit listed in paragraph (c)(11) of this section, including periods of startup, shutdown, and malfunction, except for CEMS breakdowns, repairs, calibration checks, and zero and span adjustments. Continuous monitoring systems for measuring NO_X and diluent gas shall complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period. Hourly averages shall be computed using at least one data point in each fifteen minute quadrant of an hour. Notwithstanding this requirement, an hourly average may be computed from at least two data points separated by a minimum of 15 minutes (where the unit operates for more than one quadrant in an hour) if data are unavailable as a result of performance of calibration, quality assurance, preventive maintenance activities, or backups of data from data acquisition and handling system, and recertification events. When valid NO_X pounds per hour emission data are not obtained because of continuous monitoring system breakdowns, repairs, calibration checks, or zero and span adjustments, emission data must be obtained by using other monitoring systems approved by the EPA to provide emission data for a minimum of 18 hours in each 24 hour period and at least 22 out of 30 successive boiler operating days.

(14) *Emissions limitations for Domtar Ashdown Paper Mill Power Boiler No.1.* The individual SO_2 and NO_X emission limits for the power boiler shall be as listed in the following table in pounds per hour (lb/hr) as averaged over a rolling 30 boiler-operating-day period. For this power boiler, boiler-operating-day is defined as a 24-hour period between 12 midnight and the following midnight during which any fuel is fed into and/or combusted at any time in the power boiler.

Unit	SO_2 Emission limit (lb/hr)	NO_X Emission limit (lb/hr)
Domtar Ashdown Paper Mill Power Boiler No. 1	21.0	207.4

(15) *Compliance dates for Domtar Ashdown Mill Power Boiler No. 1.* The owner or operator of the power boiler shall comply with the SO_2 and NO_X emission limits listed in paragraph (c)(14) of this section as of the effective date of this rule.

(16) *Compliance determination for Domtar Ashdown Paper Mill Power Boiler No. 1.* (i) SO_2 emissions for each calendar day shall be determined by summing the hourly emissions measured in pounds of SO_2. SO_2 emissions from combustion of bark shall be determined by using the following site-specific curve equation, which accounts for the SO_2 scrubbing capabilities of bark combustion:

$$Y = 0.4005 * X - 0.2645$$

Where:

Y= pounds of sulfur emitted per ton of dry fuel feed to the boiler

X= pounds of sulfur input per ton of dry bark

The owner or operator shall confirm the site-specific curve equation through stack testing. No later than 1 year after the effective date of this rule, the owner or operator shall provide a report to EPA showing confirmation of the site specific-curve equation accuracy. Stack SO_2 emissions from combustion of fuel oil shall be determined by assuming that the SO_2 inlet is equal to the SO_2 being emitted at the stack.

(ii) To demonstrate compliance with the NO_X emission limit under paragraph (c)(14) of this section, the owner or operator shall conduct annual stack testing.

(iii) Each boiler-operating-day of the thirty-day rolling average for the power boiler shall be determined by adding together the pounds of SO_2 or NO_X from that day and the preceding 29 boiler-operating-days and dividing the total pounds of SO_2 or NO_X by the sum of the total number of hours during the same 30 boiler-operating-day period. The result shall be the 30 boiler-operating-day rolling average in terms of lb/hr emissions of SO_2 or NO_X. If a valid SO_2 or NO_X pounds per hour is not available for any hour for the power boiler, that SO_2 or NO_X pounds per hour shall not be used in the calculation of the applicable 30 boiler-operating-day rolling average.

(17) *SO_2 and NO_X emissions limitations for Domtar Ashdown Paper Mill Power Boiler No.2.* The individual SO_2 and NO_X emission limits for the power boiler shall be as listed in the following table in pounds per hour (lb/hr) or pounds per million British thermal units (lb/MMBtu) as averaged over a rolling 30 boiler-operating-day period. For this power boiler, boiler-operating-day is defined as a 24-hour period between 12 midnight and the following midnight during which any fuel is fed into and/or combusted at any time in the power boiler.

Unit	SO_2 Emission limit (lb/MMBtu)	NO_X Emission limit (lb/hr)
Domtar Ashdown Paper Mill Power Boiler No. 2	0.11	345

(18) *SO_2 and NO_X compliance dates for Domtar Ashdown Mill Power Boiler No. 2.* The owner or operator of the power boiler shall comply with the SO_2 and NO_X emission limits listed in paragraph (c)(17) of this section within 3 year of the effective date of this rule.

(19) *SO_2 and NO_X compliance determination for Domtar Ashdown Mill Power Boiler No. 2.* (i) SO_2 emissions for each calendar day shall be determined by summing the hourly emissions measured in pounds of SO_2. The heat input for each boiler-operating-day shall be determined by adding together all hourly heat inputs, in millions of BTU. Each boiler-operating-day of the thirty-day rolling average for a unit shall be determined by adding together the pounds of SO_2 from that day and the preceding 29 boiler-operating-days and dividing the total pounds of SO_2 by the sum of the heat input during the same 30 boiler-operating-day period. The result shall be the 30 boiler-operating-day rolling average in terms of lb/MMBtu emissions of SO_2. If a valid SO_2 pounds per hour or heat input is not available for any hour for a unit, that heat input and SO_2 pounds per hour shall not be used in the calculation of the 30 boiler-operating-day rolling average for SO_2.

(ii) NO_X emissions for each calendar day shall be determined by summing the hourly emissions measured in pounds of NO_X. Each boiler-operating-day of the thirty-day rolling average for the power boiler shall be determined by adding together the pounds of NO_X from that day and the preceding 29 boiler-operating-days and dividing the total pounds of NO_X by the sum of the total number of hours during the same 30 boiler-operating-day period. The result shall be the 30 boiler-operating-day rolling average in terms of lb/hr emissions of NO_X. If a valid NO_X pounds per hour is not available for any hour for the power boiler, that NO_X pounds per hour shall not be used in the calculation of the 30 boiler-operating-day rolling average for NO_X.

(iii) The owner or operator shall continue to maintain and operate a CEMS for SO_2 and NO_X on the power boiler listed in paragraph (c)(17) of this section in accordance with 40 CFR 60.8 and 60.13(e), (f), and (h), and Appendix B of Part 60. The owner or operator shall comply with the quality assurance procedures for CEMS found in 40 CFR part 75. Compliance with the emission limits for SO_2 and NO_X shall be determined by using data from a CEMS.

(iv) Continuous emissions monitoring shall apply during all periods of operation of the units listed in paragraph (c)(17) of this section, including periods of startup, shutdown, and malfunction, except for CEMS breakdowns, repairs, calibration checks, and zero and span adjustments. Continuous monitoring systems for measuring SO_2 and NO_X and diluent gas shall complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period. Hourly averages shall be computed using at least one data point in each fifteen minute quadrant of an hour. Notwithstanding this requirement, an hourly average may be computed from at least two data points separated by a minimum of 15 minutes (where the unit operates for more than one quadrant in an hour) if data are unavailable as a result of performance of calibration, quality assurance, preventive maintenance activities, or backups of data from data acquisition and handling system, and recertification events. When valid SO_2 or NO_X pounds per hour emission data are not obtained because of continuous monitoring system breakdowns, repairs, calibration checks, or zero and span adjustments, emission data must be obtained by using other monitoring systems approved by the EPA to provide emission data for a minimum of 18 hours in each 24 hour period and at least 22 out of 30 successive boiler operating days.

(20) *PM Emissions limitations for Domtar Ashdown Paper Mill Power Boiler No.2.* The individual particulate matter emission limit for the power boiler shall be as listed in the following table in pounds per million British thermal units (lb/MMBtu).

Unit	PM Emission limit (lb/MMBtu)
Domtar Ashdown Paper Mill Power Boiler No. 2	0.44

(21) *PM compliance dates for Domtar Ashdown Mill Power Boiler No. 2.* The owner or operator of the power boiler shall comply with the PM emission limit listed in paragraph (c)(20) of this section as of the effective date of this rule.

(22) *PM compliance determination for Domtar Ashdown Paper Mill Power Boiler No.2.* Compliance with the PM emission limit listed in paragraph (c)(20) of this section shall be determined by maintaining the 30-day rolling average wet scrubber pressure drop and the 30-day rolling average wet scrubber liquid flow rate at or above the lowest one-hour average pressure drop and the lowest one-hour average liquid flow rate, respectively, measured during the most recent performance test demonstrating compliance with the PM emission limit according to 40 CFR 63.7530(b) and Table 7 to subpart DDDDD of part 63. The pressure drop and liquid flow rate monitoring system data shall be collected according to 40 CFR 63.7525 and 63.7535; data shall be reduced to 30-day rolling averages; and the 30-day rolling average pressure drop and liquid flow-rate shall be maintained at or above the operating limits established during the performance test according to 40 CFR 63.7530(b).

(23) *Emissions limitations for Entergy Independence Units 1 and 2.* The individual emission limits for each unit shall be as listed in the following table in pounds per million British thermal units (lb/MMBtu) as averaged over a rolling 30 boiler-operating-day period. EPA is taking comment on two possible options. Under Option 1, the SO_2 and a NO_X emission limits as listed in the following table shall apply to each unit. Under Option 2, only the SO_2 emission limit as listed in the following table shall apply to each unit. EPA expects only to finalize one of these options.

Unit		SO_2 Emission limit (lb/MMBtu)	NO_X Emission limit (lb/MMBtu)
Option 1	Entergy Independence Unit 1 and 2	0.06	0.15
Option 2	Entergy Independence Unit 1 and 2	0.06	.....

(24) *Compliance dates for Entergy Independence Units 1 and 2.* The owner or operator of each unit shall comply with the SO_2 emission limit in paragraph (c)(23) of this section within 5 years of the effective date of this rule and the NO_X emission limit within 3 years of the effective date of this rule.

(25) *Compliance determination for Entergy Independence Units 1 and 2.* (i) For each unit, SO_2 and NO_X emissions for each calendar day shall be determined by summing the hourly emissions measured in pounds of SO_2 or pounds of NO_X. For each unit, heat input for each boiler-operating-day shall be determined by adding together all hourly heat inputs, in millions of BTU. Each boiler-operating-day of the thirty-day rolling average for a unit shall be determined by adding together the pounds of SO_2 or NO_X from that day and the preceding 29 boiler-operating-days and dividing the total pounds of SO_2 or NO_X by the sum of the heat input during the same 30 boiler-operating-day period. The result shall be the 30 boiler-operating-day rolling average in terms of lb/MMBtu emissions of SO_2 or NO_X. If a valid SO_2 or NO_X pounds per hour or heat input is not available for any hour for a unit, that heat input and SO_2 or NO_X pounds per hour shall not be used in the calculation of the applicable 30 boiler-operating-day rolling average.

(ii) The owner or operator shall continue to maintain and operate a CEMS for SO_2 and NO_X on the units listed in paragraph (c)(23) of this section in accordance with 40 CFR 60.8 and 60.13(e), (f), and (h), and appendix B of part 60. The owner or operator shall comply with the quality assurance procedures for CEMS found in 40 CFR part 75. Compliance with the emission limits for SO_2 and NO_X shall be determined by using data from a CEMS.

(iii) Continuous emissions monitoring shall apply during all periods of operation of the units listed in paragraph (c)(23) of this section, including periods of startup, shutdown, and malfunction, except for CEMS breakdowns, repairs, calibration checks, and zero and span adjustments. Continuous monitoring systems for measuring SO_2 and NO_X and diluent gas shall complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period. Hourly averages shall be computed using at least one data point in each fifteen minute quadrant of an hour. Notwithstanding this requirement, an hourly average may be computed from at least two data points separated by a minimum of 15 minutes (where the unit operates for more than one quadrant in an hour) if data are unavailable as a result of performance of calibration, quality assurance, preventive maintenance activities, or backups of data from data acquisition and handling system, and recertification events. When valid SO_2 or NO_X pounds per hour emission data are not obtained because of continuous monitoring system breakdowns, repairs, calibration checks, or zero and span adjustments, emission data must be obtained by using other monitoring systems approved by the EPA to provide emission data for a minimum of 18 hours in each 24 hour period and at least 22 out of 30 successive boiler operating days.

(26) *Reporting and recordkeeping requirements.* Unless otherwise stated all requests, reports, submittals, notifications, and other communications to the Regional Administrator required under paragraph (c) of this section shall be submitted, unless instructed otherwise, to the Director, Multimedia Planning and Permitting Division, U.S. Environmental Protection Agency, Region 6, to the attention of Mail Code: 6PD, at 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. For each unit subject to the emissions limitation under paragraph (c) of this section, the owner or operator shall comply with the following requirements:

(i) For each emissions limit under paragraph (c) of this section where compliance shall be determined by using data from a CEMS, comply with the notification, reporting, and recordkeeping requirements for CEMS compliance monitoring in 40 CFR 60.7(c) and (d).

(ii) For each day, provide the total SO_2 emitted that day by AEP Flint Creek Unit 1, Entergy White Bluff Units 1 and 2, Domtar Ashdown Mill Power Boilers No. 1 and 2, and Entergy Independence Units 1 and 2. For each day, provide the total NO_X emitted that day by AECC Bailey Unit 1, AECC McClellan Unit 1, AEP Flint Creek Unit 1, Entergy White Bluff Units 1 and 2, Entergy Lake Catherine Unit 4, Domtar Ashdown Mill Power Boiler No. 2, and Entergy Independence Units 1 and 2. For any hours on any unit or power boiler where data for hourly pounds or heat input is missing, identify the unit number and monitoring device that did not produce valid data that caused the missing hour.

(27) *Equipment operations.* At all times, including periods of startup, shutdown, and malfunction, the owner or operator shall, to the extent practicable, maintain and operate the unit including associated air pollution control equipment in a manner consistent with good air pollution control practices for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Regional Administrator which may include, but is not limited to, monitoring results, review of operating and maintenance procedures, and inspection of the unit.

(28) *Enforcement.* (i) Notwithstanding any other provision in this implementation plan, any credible evidence or information relevant as to whether the unit would have been in compliance with applicable requirements if the appropriate performance or compliance test had been performed, can be used to establish whether or not the owner or operator has violated or is in violation of any standard or applicable emission limit in the plan.

(ii) Emissions in excess of the level of the applicable emission limit or requirement that occur due to a malfunction shall constitute a violation of the applicable emission limit.

(d) *Measures addressing partial disapproval of portion of Interstate Visibility Transport SIP for the 1997 8-hour ozone and $PM_{2.5}$ NAAQS.* (1) The deficiencies identified in EPA's partial disapproval of the portion of the SIP pertaining to adequate provisions to prohibit emissions in Arkansas from interfering with measures required in another state to protect visibility, submitted on March 28, 2008, and supplemented on September 27, 2011 are satisfied by § 52.173.

(2) [Reserved]

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