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Presidential Documents

Title 3—

Memorandum of February 19, 2015

The President

Delegation of Authority Under the Ukraine Freedom Support Act of 2014

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, I hereby order as follows:

I hereby delegate to the Secretary of State the authority to prepare and submit to the Congress the reports and strategies required by subsections 6(b), 7(d), 9(c), and 10(c) of the Ukraine Freedom Support Act of 2014 (Public Law 113–272) (the “Act”).

Any reference in this memorandum to the Act shall be deemed to be a reference to any future Act that is the same or substantially the same as such provision.

You are authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
Washington, February 19, 2015

Rules and Regulations

Federal Register

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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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NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2014–0120]

RIN 3150–AJ42

List of Approved Spent Fuel Storage Casks: Holtec International HI–STORM Underground Maximum Capacity Canister Storage System, Certificate of Compliance No. 1040

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its spent fuel storage regulations by adding the Holtec International HI–STORM Underground Maximum Capacity (UMAX) Canister Storage System, Certificate of Compliance (CoC) No. 1040, to the “List of approved spent fuel storage casks.” Holtec International’s intent with this design is to provide an underground storage option compatible with the Holtec International HI–STORM FLOOD/WIND (FW) System (CoC No. 1032).

DATES: This final rule is effective on April 6, 2015.

ADDRESSES: Please refer to Docket ID NRC–2014–0120 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC–2014–0120. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: Carol.Gallagher@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC’s Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “ADAMS Public Documents” and then select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to pdr.resource@nrc.gov. For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the “Availability of Documents” section.

- *NRC’s PDR:* You may examine and purchase copies of public documents at the NRC’s PDR, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT:

Gregory R. Trussell, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–6445, email: Gregory.Trussell@nrc.gov.

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I. Background

Section 218(a) of the Nuclear Waste Policy Act (NWPA) of 1982, as amended, requires that “the Secretary [of the Department of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by

the Commission.” Section 133 of the NWPA states, in part, that “[the Commission] shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 219(a) [sic: 218(a)] for use at the site of any civilian nuclear power reactor.”

To implement this mandate, the Commission approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule in part 72 of Title 10 of the *Code of Federal Regulations* (10 CFR), which added a new subpart K within 10 CFR part 72 entitled, “General License for Storage of Spent Fuel at Power Reactor Sites” (55 FR 29181; July 18, 1990). This rule also established a new subpart L within 10 CFR part 72 entitled, “Approval of Spent Fuel Storage Casks,” which contains procedures and criteria for obtaining NRC approval of spent fuel storage cask designs.

The NRC published a direct final rule on this amendment in the **Federal Register** on September 9, 2014 (79 FR 53281). The NRC also concurrently published an identical proposed rule on September 9, 2014 (79 FR 53352). The NRC received at least one comment that is treated as a significant adverse comment on the proposed rule; therefore, the NRC withdrew the direct final rule on November 19, 2014 (79 FR 68763), and is proceeding, in this document, to address the comments on the proposed rule (see Section III, Public Comment Analysis, of this document).

II. Discussion of Changes

By letter dated June 29, 2012, and as supplemented on July 16 and November 20, 2012; January 30, April 2, April 19, June 21, August 28, December 6, and December 31, 2013; and January 13, and January 28, 2014, Holtec International submitted an application to add the HI–STORM UMAX Canister Storage System to the list of approved spent fuel storage casks in 10 CFR part 72. The HI–STORM UMAX Canister Storage System is a spent fuel storage system designed to be in full compliance with the requirements of 10 CFR part 72. Holtec International’s intent with this design is to provide an underground storage option compatible with the Holtec International HI–STORM FW System as described in the Final Safety Analysis Report (FSAR) for the HI–STORM FW

System. The underground structure system is described in the FSAR for the HI-STORM UMAX Canister Storage System. The HI-STORM UMAX Canister Storage System stores a hermetically sealed canister containing spent nuclear fuel (SNF) in an in-ground vertical ventilated module (VVM). The HI-STORM UMAX Canister Storage System is designed to provide long-term underground storage of loaded multi-purpose canisters (MPC) previously certified for storage in CoC No. 1032. The HI-STORM UMAX VVM is the underground equivalent of the HI-STORM FW storage module. Although the storage cavity dimensions and the air ventilation system in the HI-STORM UMAX VVM have been selected to enable it to also store all MPCs certified for storage in the HI-STORM 100 storage module, CoC No. 1040 does not approve the storage of all MPCs certified for storage in the HI-STORM 100 storage module in the HI-STORM UMAX VVM at this time. The HI-STORM UMAX Canister Storage System can store either Pressurized Water Reactor or Boiling Water Reactor fuel assemblies in the MPC-37 or MPC-89 models, respectively. The number associated with the MPC is the maximum number of fuel assemblies the MPC can contain in the fuel basket. The external diameters of the MPC-37 and MPC-89 are identical to allow the use of a single storage module design, however the height of the MPC, as well as the storage module and transfer cask, are variable based on the SNF to be loaded.

As documented in the safety evaluation report (SER), the NRC staff performed a detailed safety evaluation of the proposed CoC request submitted by Holtec International.

The HI-STORM UMAX Canister Storage System, when used under the conditions specified in the CoC, the Technical Specifications (TSs), and the NRC's regulations, will meet the requirements of 10 CFR part 72; therefore, adequate protection of public health and safety will continue to be ensured. When this final rule becomes effective, persons who hold a general license under 10 CFR 72.210 may load spent nuclear fuel into HI-STORM UMAX Canister Storage Systems that meet the criteria of CoC No. 1040 under 10 CFR 72.212.

III. Public Comment Analysis

The NRC received multiple comments from private citizens on the companion proposed rule to the direct final rule published on September 9, 2014. The NRC has not made any changes to the

proposed rule as a result of the public comments the NRC has received.

Summary of Comments

The NRC received almost a dozen comments on the proposed rule, many raising multiple and overlapping issues. Because the NRC received at least one comment that it is treating as a significant adverse comment on the proposed rule (raising issues the NRC deemed serious enough to warrant a substantive response to clarify the record), the NRC withdrew the direct final rule and is responding to the comments here. Other comments were not treated as significant adverse comments because, in most instances, they were beyond the scope of this rulemaking. Nonetheless, in addition to responding to the issues raised in the comments treated as significant adverse comments, the NRC is also taking this opportunity to respond to some of the issues raised in the comments that are beyond this scope of this rulemaking in order to clarify information about the CoC rulemaking process related to the comments received.

Aging Management Programs

Many of the comments the NRC received questioned the fact that aging management programs (AMPs) were not being established for this CoC system. Commenters noted that the NRC has not yet issued the revision to NUREG-1927 ("Standard Review Plan for Renewal of Spent Fuel Dry Cask Storage System Licenses and Certificates of Compliance"), which is currently being updated to include information regarding AMPs, among other things. The comments stated that the approval of this CoC system, "should be put on hold until after the revised NUREG-1927 is final and any appropriate aging management issues are addressed in this CoC."

The comments questioned some specific example AMPs discussed at public meetings, including questions regarding an example AMP for Chloride-Induced Stress Corrosion Cracking Tests (seismic concerns and sampling size), as well as the absence of an AMP given issues with damaged fuels and the "unknowns of extended storage with high burnup fuel." In sum, these commenters felt that approval of CoCs, such as this one, should await the formulation and approval of aging management programs.

Response

These comments are outside the scope of this rulemaking which is limited to amending the spent fuel storage regulations by adding the UMAX

Canister Storage System, CoC No. 1040, to the "List of approved spent fuel storage casks" in 10 CFR 72.214. This rulemaking is not making any changes to the regulations governing the standards for approval of a CoC.

The CoC for the HI-STORM UMAX is being issued for 20 years in accordance with 10 CFR part 72. According to the NRC staff's SER published in the **Federal Register** under Docket ID NRC-2014-0120, the staff has determined that the use of the HI-STORM UMAX Canister Storage System will be conducted in compliance with the applicable regulations of 10 CFR part 72, and the CoC should be approved for the initial 20-year term. There are currently no technical or regulatory requirements for the inclusion of AMPs for the initial 20-year CoC term. AMPs are required for spent fuel storage cask renewal which allows storage beyond 20 years, as provided in 10 CFR 72.240. The current regulatory requirements provide the necessary defense in depth for safe storage of spent nuclear fuel for at least 20 years.

Based on the regulations in 10 CFR part 72, an AMP will be required to be included in any renewal application for the HI-STORM UMAX Canister Storage System, for a duration beyond the initial 20-year term. The renewal application, if filed, will be required to comply with the applicable regulations, and consider applicable NRC aging management guidance available at the time of submittal. While NUREG-1927 may prove useful to applicants seeking to renew a CoC, because it does not provide guidance regarding applications seeking initial approval of certificates, there is no reason to await the guidance before proceeding with the addition of this system to the 10 CFR part 72 regulations.

Inspection Access

Several comments also questioned the ability of the underground storage system to be adequately inspected and potentially repaired if necessary during the initial certification period of 20 years, especially if the system was being used in a coastal environment where stress corrosion cracking could be an issue.

Response

The NRC is treating this comment as a significant adverse comment warranting clarification of the record. The NRC has evaluated the design of the HI-STORM UMAX Canister Storage System and has determined that the design is robust, and contains numbers of layers of acceptable confinement systems in compliance with 10 CFR part

72 requirements. In addition, the staff is not aware of empirical evidence that supports a finding that surveillance would be required in the initial certification period of the proposed CoC. This evaluation is documented in the NRC staff's SER under Docket ID NRC-2014-0120.

Furthermore, the NRC has evaluated the susceptibility to and effects of stress corrosion cracking and other corrosion mechanisms on safety significant systems for SNF dry cask storage (DCS) systems during an initial certification period. The staff has determined that the HI-STORM UMAX Canister Storage System, when used within the requirements of the proposed CoC, will safely store SNF and prevent radiation releases and exposure consistent with regulatory requirements.

Seismic Protection

Several comments also raised concerns regarding the ability of this CoC system to withstand seismic events, particularly if the system were to be used at specific sites with known seismic activity, such as San Onofre Nuclear Generating Station (SONGS).

Response

The NRC is treating this comment as a significant adverse comment warranting clarification of the record. This rulemaking would add a CoC system to the list of approved spent fuel storage casks in 10 CFR 72.214. The certification provided by this approval does not, in and of itself, authorize use of this system at any specific site. Instead, general licensees (a power reactor that stores spent fuel under a general Part 72 license) that wish to use this system must first ensure that other applicable requirements are met. (See 10 CFR 72.212).

The seismic design levels of the HI-STORM UMAX Canister Storage System as provided in this CoC are acceptable for most areas in the continental U.S. For locations that have potential seismic activity beyond those analyzed for this system, additional evaluations and certifications may be required before the system may be used in those locations. The NRC is currently evaluating an amendment request to the HI-STORM UMAX Canister Storage System that provides additional analysis intended to ensure the system's integrity during an earthquake with higher seismic demands, including the seismic demands at the location of SONGS. If the NRC approves that amendment request, the amended system could be selected for use at SONGS, provided regulatory requirements are met.

Bankruptcy

A comment also raised questions about the implications of the potential bankruptcy of corporations that seek CoC approvals.

Response

This comment is outside the scope of this rulemaking. This rulemaking would add a certified system to the list of spent fuel systems in 10 CFR 72.214 and does not seek to alter the standards for approval of a CoC system. In any event, NRC regulations in 10 CFR part 72 address the financial viability of licensees to ensure spent fuel management and decommissioning are funded. Pursuant to NRC requirements, once a general licensee accepts delivery of a storage system authorized by a CoC, the financial responsibility for maintaining and decommissioning the system become the responsibility of the general licensee (see 10 CFR 72.30(b), (c), (d), (e), and (f)).

Flood Protection

One comment stated that the design basis of the Watts Bar 2 reactor (not yet licensed for operation) intends that safe shut down could occur if there were a flood event that delivered 13½ feet of water at the reactor buildings. This comment raised the concern that the cask waste storage in an adjacent area would have equal or greater flooding.

Response

This rulemaking is limited to the approval of a CoC system to be added to the list of spent fuel storage casks in 10 CFR 72.214. This rulemaking does not propose any change to the standards for approval of a CoC, or the requirements that govern the use of this CoC by a general licensee. Therefore, this comment is outside the scope of this rulemaking.

The NRC's regulations at 10 CFR 72.212, "Conditions of a general license issued under 10 CFR 72.210," require that a general licensee (a power reactor that stores spent fuel under a general part 72 license) perform written evaluations to ensure that the DCS systems used at the location meet the technical requirements of the CoC. The NRC inspects these evaluations prior to the first use of the DCS system and every three years after first use to ensure compliance with the terms of the CoC. If the CoC does not allow for water intrusion, then the general licensee is required to provide engineered measures to ensure that this condition does not occur.

High Burnup Fuel

Several comments also raised questions regarding the long-term acceptability of the extended storage of high burnup fuel (HBF).

Response

Most of the comments raising HBF as an issue did so in the context of the need for AMPs for approval of the CoC for the first 20 years, and that is beyond the scope of this rulemaking, as explained above.

To the extent commenters raised issues about the storage of HBF in the CoC for the first 20 years, the NRC is treating this portion of the comment as a significant adverse comment warranting clarification of the record. The NRC has evaluated the acceptability of storage of HBF for the initial 20-year certification term for the HI-STORM UMAX Canister Storage System. As documented in the NRC staff's SER under Docket ID NRC-2014-0120, the staff has determined that the use of the HI-STORM UMAX Canister Storage System, including storage of HBF, will be conducted in compliance with the applicable regulations of 10 CFR part 72, and the CoC should be approved for the initial 20-year term.

Storage beyond the initial term of 20 years will require the applicant to submit a license renewal application with the inclusion of AMPs addressing HBF. In that regard, a demonstration project is being planned by the U.S. Department of Energy to provide confirmatory data on the performance of HBF in DCS. The NRC plans to evaluate the data obtained from the project to confirm the accuracy of current models that are relied upon for authorizing the storage of HBF for extended storage periods beyond the initial 20-year certification term.

Duration of Certificate

Some comments also raised issues with the limited duration of this initial CoC for a term of only 20 years and stated that the systems should have to demonstrate safe storage of nuclear fuel for a much longer storage period.

Response

The issues of long-term storage and disposal of SNF are outside the scope of this CoC rulemaking. This rule is limited to the addition of this storage system to the list of approved designs in 10 CFR 72.214. The regulations governing the length of the CoC term are not within the changes proposed by this rule.

Inspector General's Report

One comment highlighted issues addressed in the 2014 NRC Inspector General's report of the SONGS steam generator replacement, entitled, "NRC Oversight of Licensee's Use of 10 CFR 50.59 Process to Replace SONGS Steam Generators (Case No. 13-006)."

Response

The issues raised by the NRC's IG report of the SONGS steam generator replacement are outside the scope of this rulemaking. This report is applicable only to that proposed steam generator replacement effort, and does not apply to nor is it related to this specific CoC rulemaking. Approval of this CoC is based upon a safety and environmental review of this specific CoC design as submitted by the vendor. If power reactor licensees wish to use this system at their specific sites, they must first ensure other applicable regulatory requirements are met (see 10 CFR 72.212).

IV. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104-113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this final rule, the NRC will add the Holtec International HI-STORM UMAX Canister Storage System design to the listing in 10 CFR 72.214. This action does not constitute the establishment of a standard that contains generally applicable requirements.

V. Agreement State Compatibility

Under the "Policy Statement on Adequacy and Compatibility of Agreement State Programs" approved by the Commission on June 30, 1997, and published in the **Federal Register** on September 3, 1997 (62 FR 46517), this final rule is classified as Compatibility Category "NRC." Compatibility is not required for Category "NRC" regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended, or the provisions of 10 CFR. Although an Agreement State may not adopt program elements reserved to the NRC, it may wish to inform its licensees of certain requirements via a mechanism that is consistent with the particular State's administrative procedure laws, but does not confer regulatory authority on the State.

VI. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111-274), requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum "Plain Language in Government Writing," published June 10, 1998 (63 FR 31883).

VII. Environmental Assessment and Finding of No Significant Environmental Impact

A. The Action

The action is to amend 10 CFR 72.214 to add the Holtec International HI-STORM UMAX Canister Storage System to the listing within the "List of approved spent fuel storage casks" as CoC No. 1040. Under the National Environmental Policy Act of 1969, as amended, and the NRC's regulations in subpart A of 10 CFR part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions," the NRC has determined that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The NRC has made a finding of no significant impact on the basis of this environmental assessment.

B. The Need for the Action

This final rule adds CoC No. 1040 for the Holtec International HI-STORM UMAX Canister Storage System design within the list of approved spent fuel storage casks that power reactor licensees can use to store spent fuel at reactor sites under a general license. Specifically, Holtec International's intent with this design is to provide an underground storage option compatible with the Holtec International HI-STORM FW System.

C. Environmental Impacts of the Action

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent fuel under a general license in cask designs approved by the NRC. The potential environmental impact of using NRC-approved storage casks was initially analyzed in the environmental assessment for the 1990 final rule. The environmental assessment for this CoC addition tiers off of the environmental assessment for the July 18, 1990, final rule. Tiering on past environmental assessments is a standard process under the National Environmental Policy Act.

Holtec International HI-STORM UMAX Canister Storage Systems are designed to mitigate the effects of design basis accidents that could occur during storage. Design basis accidents account for human-induced events and the most severe natural phenomena reported for the site and surrounding area. Postulated accidents analyzed for an ISFSI, the type of facility at which a holder of a power reactor operating license would store spent fuel in casks in accordance with 10 CFR part 72, include tornado winds and tornado-generated missiles, a design basis earthquake, a design basis flood, an accidental cask drop, lightning effects, fire, explosions, and other incidents.

Considering the specific design requirements for each accident condition, the design of the HI-STORM UMAX Canister Storage System would prevent loss of containment, shielding, and criticality control. If there is no loss of containment, shielding, or criticality control, the environmental impacts would be insignificant. In addition, any resulting occupational exposure or offsite dose rates from the use of the HI-STORM UMAX Canister Storage System would remain well within the 10 CFR part 20 limits. Therefore, the proposed addition of CoC No. 1040 will not result in radiological or non-radiological environmental impacts that significantly differ from the environmental impacts evaluated in the environmental assessment supporting the July 18, 1990, final rule. There will be no significant change in the types or significant revisions in the amounts of effluent released, no significant increase in the individual or cumulative radiation exposure, and no significant increase in the potential for or consequences from radiological accidents. The staff documented its safety findings for this review in the SER.

D. Alternative to the Action

The alternative to this action is to withhold approval of this new design and issue a site-specific license to each utility that proposes to use the casks. This alternative would cost both the NRC and utilities more time and money for each site-specific license. Conducting site-specific reviews would ignore the procedures and criteria currently in place for the addition of new cask designs that can be used under a general license, and would be in conflict with NPPA direction to the Commission to approve technologies for the use of spent fuel storage at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site reviews. This alternative also would

tend to exclude new vendors from the business market without cause and would arbitrarily limit the choice of cask designs available to power reactor licensees. This final rule will eliminate the above problems and is consistent with previous Commission actions. Further, the rule will have no adverse effect on public health and safety. Therefore, the environmental impacts would be the same or less than the action.

E. Alternative Use of Resources

Approval of the addition of CoC No. 1040 would result in no irreversible commitments of resources.

F. Agencies and Persons Contacted

No agencies or persons outside the NRC were contacted in connection with the preparation of this environmental assessment.

G. Finding of No Significant Impact

The environmental impacts of the action have been reviewed under the requirements in 10 CFR part 51. Based on the foregoing environmental assessment, the NRC concludes that this final rule entitled, "List of Approved Spent Fuel Storage Casks: Holtec International HI-STORM UMAX Canister Storage System, Certificate of Compliance No. 1040," will not have a significant effect on the human environment. Therefore, the NRC has determined that an environmental impact statement is not necessary for this final rule.

VIII. Paperwork Reduction Act Statement

This rule does not contain any information collection requirements and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a current valid OMB control number.

IX. Regulatory Analysis

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR

part 72 to provide for the storage of spent nuclear fuel under a general license in cask designs approved by the NRC. Any nuclear power reactor licensee can use NRC-approved cask designs to store spent nuclear fuel if it notifies the NRC in advance, the spent fuel is stored under the conditions specified in the cask's CoC, and the conditions of the general license are met. A list of NRC-approved cask designs is contained in 10 CFR 72.214.

By letter dated June 29, 2012, and as supplemented on July 16 and November 20, 2012; January 30, April 2, April 19, June 21, August 28, December 6, and December 31, 2013; and January 13, and January 28, 2014, Holtec International submitted an application to add the HI-STORM UMAX Canister Storage System.

The alternative to this action is to withhold approval of this new design and issue a site-specific license to each utility that proposes to use the casks. This alternative would cost both the NRC and utilities more time and money for each site-specific license. Conducting site-specific reviews would ignore the procedures and criteria currently in place for the addition of new cask designs that can be used under a general license, and would be in conflict with NWP direction to the Commission to approve technologies for the use of spent fuel storage at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site reviews. This alternative also would tend to exclude new vendors from the business market without cause and would arbitrarily limit the choice of cask designs available to power reactor licensees. This final rule will eliminate the above problems and is consistent with previous Commission actions. Further, the rule will have no adverse effect on public health and safety.

Approval of this final rule is consistent with previous NRC actions. Further, as documented in the SER and the environmental assessment, the final rule will have no adverse effect on public health and safety or the environment. This final rule has no significant identifiable impact or benefit on other Government agencies. Based on this regulatory analysis, the NRC concludes that the requirements of the final rule are commensurate with the

NRC's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory, and therefore, this action is recommended.

X. Regulatory Flexibility Certification

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this rule will not, if issued, have a significant economic impact on a substantial number of small entities. This final rule affects only nuclear power plant licensees and Holtec International. These entities do not fall within the scope of the definition of small entities set forth in the Regulatory Flexibility Act or the size standards established by the NRC (10 CFR 2.810).

XI. Backfitting and Issue Finality

The NRC has determined that the backfit rule (10 CFR 72.62) does not apply to this final rule. Therefore, a backfit analysis is not required. This final rule adds CoC No. 1040 for the Holtec International HI-STORM UMAX Canister Storage System to the "List of approved spent fuel storage casks."

The addition of CoC No. 1040 for the Holtec International HI-STORM UMAX Canister Storage System was initiated by Holtec International and was not submitted in response to new NRC requirements, or in response to an NRC request. The addition of CoC No. 1040 does not constitute backfitting under 10 CFR 72.62, 10 CFR 50.109(a)(1), or otherwise represent an inconsistency with the issue finality provisions applicable to combined licenses in 10 CFR part 52. Accordingly, no backfit analysis or additional documentation addressing the issue finality criteria in 10 CFR part 52 has been prepared by the staff.

XII. Congressional Review Act

In accordance with the Congressional Review Act of 1996 (5 U.S.C. 801–808), the NRC has determined that this action is not a rule as defined in the Congressional Review Act.

XIII. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document	ADAMS Accession No.
CoC No. 1040	ML14122A443
Safety Evaluation Report	ML14122A441
Technical Specifications, Appendix A	ML14122A444
Technical Specifications, Appendix B	ML14122A442

Document	ADAMS Accession No.
Application	ML121880102
Application supplemental July 16, 2012	ML12205A134
Application supplemental November 20, 2012	ML12348A483
Application supplemental January 30, 2013	ML13032A008
Application supplemental April 2, 2013	ML13107B249
Application supplemental April 19, 2013	ML13114A191
Application supplemental June 21, 2013	ML13175A363
Application supplemental August 28, 2013	ML13261A062
Application supplemental December 6, 2013	ML13343A169
Application supplemental December 31, 2013	ML14002A402
Application supplemental January 13, 2014	ML14015A145
Application supplemental January 28, 2014	ML14030A055
HI-STORM FW System FSAR	ML12363A284
HI-STORM UMAX Canister Storage System FSAR	ML12363A282

The NRC may post materials related to this document, including public comments, on the Federal rulemaking Web site at <http://www.regulations.gov> under Docket ID NRC-2014-0120. The Federal rulemaking Web site allows you to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) Navigate to the docket folder (NRC-2014-0120); (2) click the "Sign up for Email Alerts" link; and (3) enter your email address and select how frequently you would like to receive emails (daily, weekly, or monthly).

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE AND REACTOR-RELATED GREATER THAN CLASS C WASTE

■ 1. The authority citation for part 72 continues to read as follows:

Authority: Atomic Energy Act secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 223, 234, 274 (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2239, 2273, 2282, 2021); Energy Reorganization Act secs. 201, 202, 206, 211 (42 U.S.C. 5841, 5842, 5846, 5851); National Environmental Policy Act sec. 102 (42 U.S.C. 4332); Nuclear Waste Policy Act secs. 131, 132, 133, 135, 137, 141,

148 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); Government Paperwork Elimination Act sec. 1704, (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. 109-58, 119 Stat. 788 (2005).

Section 72.44(g) also issued under Nuclear Waste Policy Act secs. 142(b) and 148(c), (d) (42 U.S.C. 10162(b), 10168(c), (d)).

Section 72.46 also issued under Atomic Energy Act sec. 189 (42 U.S.C. 2239); Nuclear Waste Policy Act sec. 134 (42 U.S.C. 10154).

Section 72.96(d) also issued under Nuclear Waste Policy Act sec. 145(g) (42 U.S.C. 10165(g)).

Subpart J also issued under Nuclear Waste Policy Act secs. 117(a), 141(h) (42 U.S.C. 10137(a), 10161(h)).

Subpart K also issued under Nuclear Waste Policy Act sec. 218(a) (42 U.S.C. 10198).

■ 2. Section 72.214 is amended by adding Certificate of Compliance 1040 to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1040.

Initial Certificate Effective Date: April 6, 2015.

SAR Submitted by: Holtec International, Inc.

SAR Title: Final Safety Analysis Report for the Holtec International HI-STORM UMAX Canister Storage System.

Docket Number: 72-1040.

Certificate Expiration Date: March 6, 2035.

Model Number: MPC-37, MPC-89.

Dated at Rockville, Maryland, this 24th day of February 2015.

For the Nuclear Regulatory Commission.

Mark A. Satorius,

Executive Director for Operations.

[FR Doc. 2015-05238 Filed 3-5-15; 8:45 am]

BILLING CODE 7590-01-P

DEPARTMENT OF ENERGY

10 CFR Part 431

[Docket Number EERE-2008-BT-STD-0015]

RIN 1904-AB86

Energy Conservation Program: Energy Conservation Standards for Walk-In Coolers and Freezers; Correction

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

ACTION: Final rule; correction.

SUMMARY: On June 3, 2014, the U.S. Department of Energy (DOE) issued a final rule adopting conservation standards for some classes of walk-in cooler and walk-in freezer components. The final rule was published with typographical errors to some of the reported values. DOE is providing corrections to address these errors. Neither the errors nor the corrections in this document affect the substance of the rulemaking or any of the conclusions reached in support of the final rule.

DATES: This correction is effective March 6, 2015.

FOR FURTHER INFORMATION CONTACT:

Mr. John Cymbalsky, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE-5B, 1000 Independence Avenue SW., Washington, DC 20585-0121. Telephone: (202) 287-1692. Email: walk-in_coolers_and_walk-in_freezers@EE.Doe.Gov.

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, GC-33, 1000 Independence Avenue SW., Washington, DC 20585-0121. Telephone: (202) 586-8145. Email: Michael.Kido@hq.doe.gov.

SUPPLEMENTARY INFORMATION: The Department of Energy ("DOE") is

correcting certain typographical errors that appeared in a final rule amending the energy conservation standards for walk-in coolers and freezers. 79 FR 32050 (June 3, 2014). Neither the errors nor the corrections in this document affect the substance of the rulemaking or any of the conclusions reached in support of the final rule. DOE is making

these corrections to ensure that the presentation of its analysis performed in support of that rulemaking is accurate.

In FR Doc 2014–11489 appearing in the issue of June 3, 2014 (79 FR 32049), make the following corrections:

Corrections

1. On page 32052, in Table I.2, under the Average LCC savings, and Median payback period values, for DC.M.I, first row, is corrected to read “1485”, second column and “2.8” third column, respectively.

2. On page 32102, Table V.12 is corrected to read as follows:

TSL	Energy consumption kWh/yr	Mean values of 2013\$			Life-cycle cost savings				Median payback period years
		Installed cost	Annual operating cost	LCC	Average savings 2013\$	Customer that experience %			
						Net cost %	No impact %	Net benefit %	
1	7550	5997	1512	18320	1485	0	0	100	2.8
2	7550	5997	1512	18320	1485	0	0	100	2.8
3	7550	5997	1512	18320	1485	0	0	100	2.8

3. On page 32115, in Table V.44, the Mean LCC Savings values for DC.M.I, third row, TSL 2 and TSL 3, third and fourth columns, are both corrected to read “1485”.

4. On page 32115, in Table V.45, Median Payback Period (in years) values for DC.M.I, third row, TSL 2 and TSL 3, third and fourth columns, are both corrected to read “2.8”.

5. On page 32115, in Table V.46, the Net Cost (%) values, for DC.M.I, third row, TSL 2 and TSL 3, third and fourth columns, are both corrected to read “0”.

6. On page 32115, in Table V.46, the Net Benefit (%) values, for DC.M.I, third row, TSL 2 and TSL 3, third and fourth columns, are both corrected to read “100”.

Issued in Washington, DC, on February 12, 2015.

Kathleen B. Hogan,

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

[FR Doc. 2015–05224 Filed 3–5–15; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL ELECTION COMMISSION

11 CFR Parts 104 and 114

[Notice 2015–03]

Independent Expenditures and Electioneering Communications by Corporations and Labor Organizations

AGENCY: Federal Election Commission.

ACTION: Announcement of Effective Date.

SUMMARY: On October 21, 2014, the Commission published in the **Federal Register** a final rules implementing changes to its rules governing independent expenditures and

electioneering communications by corporations and labor organizations. This document announces the effective date of amendments made by that final rule.

DATES: The effective date for the final rule published October 21, 2014, at 79 FR 62797, is January 27, 2015.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Knop, Assistant General Counsel, or Ms. Joanna S. Waldstreicher, Ms. Esther D. Gyory, or Ms. Cheryl A.F. Hemsley, Attorneys, 999 E Street NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: On October 21, 2014, the Commission published final rules to implement changes to its rules governing independent expenditures and electioneering communications by corporations and labor organizations. Final Rules on Independent Expenditures and Electioneering Communications by Corporations and Labor Organizations 79 FR 62797 (Oct. 21, 2014). These changes responded to a Petition for Rulemaking filed by the James Madison Center for Free Speech petitioning the Commission to amend its regulations in response to the decision of the Supreme Court in *Citizens United v. FEC*, 558 U.S. 310 (2010). The final rules removed provisions prohibiting corporations and labor organizations from making independent expenditures and electioneering communications, and also removed or amended other regulations that implemented or referred to those prohibitions.

Pursuant to 52 U.S.C. 30111(d), the Commission must transmit any rules or regulations to the Speaker of the House of Representatives and the President of the Senate for a period of 30 legislative

days before they are finally prescribed. For the changes to 11 CFR parts 104 and 114 concerning independent expenditures and electioneering communications by corporations and labor organizations, the rules were sent to Congress on October 10, 2014. The 30 legislative day period ended on January 26, 2015, in the Senate and January 27, 2015, in the House of Representatives.

In the final rules, the Commission stated that it would publish a separate notice announcing the effective date of the amendments to 11 CFR parts 104 and 114. 79 FR 62797. Through this Notice, the Commission announces that the effective date of amendments to 11 CFR parts 104 and 114 is January 27, 2015.

Dated: March 3, 2015.

On behalf of the Commission.

Ann M. Ravel,

Chair, Federal Election Commission.

[FR Doc. 2015–05178 Filed 3–5–15; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

RIN 0648–BC94

Boundary Expansion of Thunder Bay National Marine Sanctuary; Notification of Effective Date

AGENCY: Office of National Marine Sanctuaries (ONMS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notification of effective date.

SUMMARY: NOAA published a final rule to expand the boundary of Thunder Bay National Marine Sanctuary (TBNMS or sanctuary), clarify the correlation between TBNMS regulations and Indian tribal fishing activities, and revise the corresponding sanctuary terms of designation on September 5, 2014 (79 FR 52960). The new boundary for TBNMS increases the size of the sanctuary from 448 square miles to 4,300 square miles and extends protection to 47 additional known historic shipwrecks of national significance. Pursuant to Section 304(b) of the National Marine Sanctuaries Act (16 U.S.C. 1434(b)) the final regulations take effect after 45 days of continuous session of Congress beginning on September 5, 2014. Through this notification, NOAA is announcing the regulations became effective on February 3, 2015.

DATES: The regulations published on September 5, 2014 (79 FR 52960) are effective on February 3, 2015.

FOR FURTHER INFORMATION CONTACT: Jeff Gray, Thunder Bay National Marine Sanctuary Superintendent, at (989) 356-8805 ext 12.

Dated: February 24, 2015.

W. Russell Callender,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 2015-05196 Filed 3-5-15; 8:45 am]

BILLING CODE 3510-NK-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Part 12

[CBP Dec. 15-05]

RIN 1515-AE01

Extension of Import Restrictions Imposed on Certain Categories of Archaeological Material From the Pre-Hispanic Cultures of the Republic of El Salvador

AGENCIES: U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Final rule.

SUMMARY: This final rule amends U.S. Customs and Border Protection (CBP) regulations to reflect the extension of import restrictions on certain categories of archaeological material from the Pre-Hispanic cultures of the Republic of El Salvador (El Salvador). The restrictions,

which were originally imposed by Treasury Decision (T.D.) 95-20 and previously extended by T.D. 00-16, CBP Decision (CBP Dec.) 05-10 and CBP Dec. 10-01, are due to expire on March 8, 2015, unless extended. The Assistant Secretary for Educational and Cultural Affairs, U.S. Department of State (State), has determined that conditions continue to warrant the imposition of import restrictions. Accordingly, these import restrictions will remain in effect for an additional five years, and the CBP regulations are being amended to reflect this extension until March 8, 2020. These restrictions are being extended pursuant to determinations of the U.S. Department of State made under the terms of the Convention on Cultural Property Implementation Act in accordance with the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. T.D. 95-20 contains the Designated List of archaeological material representing Pre-Hispanic cultures of El Salvador, and describes the articles to which the restrictions apply.

DATES: Effective March 8, 2015.

FOR FURTHER INFORMATION CONTACT: For legal aspects, Lisa L. Burley, Chief, Cargo Security, Carriers and Restricted Merchandise Branch, Regulations and Rulings, Office of International Trade, (202) 325-0030. For operational aspects, William R. Scopa, Branch Chief, Partner Government Agency Branch, Trade Policy and Programs, Office of International Trade, (202) 863-6554, William.R.Scopa@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to the provisions of the 1970 UNESCO Convention, codified into U.S. law as the Convention on Cultural Property Implementation Act (hereafter, the Cultural Property Implementation Act or the Act (Pub. L. 97-446, 19 U.S.C. 2601 *et seq.*)), signatory nations (State Parties) may enter into bilateral or multilateral agreements to impose import restrictions on eligible archaeological and ethnological materials under procedures and requirements prescribed by the Act. Under the Act and applicable U.S. Customs and Border Protection (CBP) regulations (19 CFR 12.104g), the restrictions are effective for no more than five years beginning on the date on which the agreement enters into force with respect to the United States (19 U.S.C. 2602(b)). This period may be

extended for additional periods, each such period not to exceed five years, where it is determined that the factors justifying the initial agreement still pertain and no cause for suspension of the agreement exists (19 U.S.C. 2602(e); 19 CFR 12.104g(a)).

On March 8, 1995, the United States entered into a bilateral agreement with the Government of the Republic of El Salvador (El Salvador) concerning the imposition of import restrictions on certain categories of archaeological material from the Pre-Hispanic cultures of El Salvador. On March 10, 1995, the former U.S. Customs Service (now U.S. Customs and Border Protection (CBP)) published Treasury Decision (T.D.) 95-20 in the **Federal Register** (60 FR 13352), which amended 19 CFR 12.104g(a) to reflect the imposition of these restrictions and included a list designating the types of articles covered by the restrictions.

Import restrictions listed in 19 CFR 12.104g(a) are effective for no more than five years beginning on the date on which the agreement enters into force with respect to the United States. This period can be extended for additional periods not to exceed five years if it is determined that the factors which justified the initial agreement still pertain and no cause for suspension of the agreement exists. 19 CFR 12.104g(a).

Since the initial notice was published on March 10, 1995, the import restrictions were subsequently extended three times. First, on March 9, 2000, the former U.S. Customs Service published T.D. 00-16 in the **Federal Register** (65 FR 12470) to extend the import restrictions for an additional period of five years. Subsequently, on March 9, 2005, CBP published CBP Dec. 05-10 in the **Federal Register** (70 FR 11539) to again extend the import restriction for five years. Most recently, on March 8, 2010, CBP published CBP Dec. 10-01 in the **Federal Register** (75 FR 10411) to extend the import restriction for an additional five year period to March 8, 2015.

After reviewing the findings and recommendations of the Cultural Property Advisory Committee, and in response to a request by the Government of the Republic of El Salvador, on February 3, 2015, the Assistant Secretary for Educational and Cultural Affairs, U.S. Department of State, concluding that the cultural heritage of El Salvador continues to be in jeopardy from pillage of Pre-Hispanic archaeological resources, made the necessary determinations to extend the import restrictions for an additional five years. Diplomatic notes have been exchanged, reflecting the extension of

those restrictions. Accordingly, CBP is amending 19 CFR 12.104g(a) to reflect the extension of the import restrictions.

The Designated List of Archaeological Material Representing Pre-Hispanic Cultures of El Salvador covered by these import restrictions is set forth in T.D. 95–20. The Designated List and accompanying image database may also be accessed from the following Internet Web site address: <http://exchanges.state.gov/heritage/culprop/esimage.html>.

The restrictions on the importation of these archaeological materials from El Salvador are to continue in effect for an additional five years. Importation of such material continues to be restricted unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

Inapplicability of Notice and Delayed Effective Date

This amendment involves a foreign affairs function of the United States and is, therefore, being made without notice or public procedure (5 U.S.C. 553(a)(1)). For the same reasons, a delayed effective date is not required under 5 U.S.C. 553(d)(3).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Executive Order 12866

Because this rule involves a foreign affairs function of the United States, it is not subject to Executive Order 12866.

Signing Authority

This regulation is being issued in accordance with 19 CFR 0.1(a)(1).

List of Subjects in 19 CFR Part 12

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise.

Amendment to CBP Regulations

For the reasons set forth above, part 12 of Title 19 of the Code of Federal Regulations (19 CFR part 12), is amended as set forth below:

PART 12—SPECIAL CLASSES OF MERCHANDISE

■ 1. The general authority citation for part 12 and the specific authority citation for § 12.104g continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

* * * * *

§ 12.104g [Amended]

■ 2. In § 12.104g, paragraph (a), the table is amended in the entry for El Salvador by removing the reference to “CBP Dec. 10–01” in the column headed “Decision No.” and adding in its place “CBP Dec. 15–05”.

R. Gil Kerlikowske,

Commissioner, U.S. Customs and Border Protection.

Approved: February 25, 2015.

Mark J. Mazur,

Assistant Secretary of the Treasury.

[FR Doc. 2015–05060 Filed 3–5–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs

CFR Correction

In Title 21 of the Code of Federal Regulations, Parts 500 to 599, revised as of April 1, 2014, on page 147, in § 520.580, the heading for paragraph (d) is restored to read “*Conditions of use*—”.

[FR Doc. 2015–05128 Filed 3–5–15; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs

CFR Correction

In Title 21 of the Code of Federal Regulations, Parts 500 to 599, revised as of April 1, 2014, on page 167, in § 520.1193, in paragraph (b)(2), revise “051311 and 059130” to read “000859 and 051311”.

[FR Doc. 2015–05184 Filed 3–5–15; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF STATE

22 CFR Part 172

[Public Notice: 9045]

RIN 1400–AD75

Service of Process; Address Change

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rulemaking changes the address for service of process on the Department of State.

DATES: This rule is effective on March 6, 2015.

FOR FURTHER INFORMATION CONTACT:

Alice Kottmyer, Office of the Legal Adviser, Department of State; phone: 202–647–2318, kottmyeram@state.gov.

SUPPLEMENTARY INFORMATION: This rulemaking provides the new address, effective immediately, for the service on the U.S. Department of State of the documents or actions listed in 22 CFR 172.1(a).

Regulatory Findings

Administrative Procedure Act

This rule is published as a final rule, effective immediately, pursuant to 5 U.S.C. 553(b) and 553(d)(3). The Department finds good cause for the immediate effect of the rule without notice and comment because public comment on an address change is unnecessary; and, more importantly, it is in the interest of the public for the Department to provide the correct address for service of process, and for it to be effective, as expeditiously as possible.

Other Authorities

(1) Since this rule is exempt from the rulemaking provisions of 5 U.S.C. 553, it does not require analysis under the Regulatory Flexibility Act.

(2) This rulemaking does not meet the criteria for Department actions under the Unfunded Mandates Reform Act of 1995; the Small Business Regulatory Enforcement Fairness Act of 1996; Executive Order 13175 (impact on tribes); or Executive Orders 12372 and 13132 (federalism). This rulemaking is not a major rule as defined by 5 U.S.C. 804.

(3) In the view of the Department, this rule is not a significant regulatory action as defined in Executive Order 12866, and is consistent with the guidance in Executive Order 13563. The benefits of this rulemaking—in providing a current address for service of process—outweigh any costs.

* * * * *

(4) This rulemaking does not impose or revise any information collections subject to the Paperwork Reduction Act.

List of Subjects in 22 CFR Part 172

Service of process.

Accordingly, for the reasons set forth above, title 22, part 172, is amended as follows:

PART 172—SERVICE OF PROCESS; PRODUCTION OR DISCLOSURE OF OFFICIAL INFORMATION IN RESPONSE TO COURT ORDERS, SUBPOENAS, NOTICES OF DEPOSITIONS, REQUESTS FOR ADMISSIONS, INTERROGATORIES, OR SIMILAR REQUESTS OR DEMANDS IN CONNECTION WITH FEDERAL OR STATE LITIGATION; EXPERT TESTIMONY

■ 1. The authority citation for part 172 is amended as follows:

Authority: 5 U.S.C. 301; 8 U.S.C. 1202(f); 22 U.S.C. 2658, 2664, 3926.

■ 2. In § 172.2(a), the last sentence is revised to read as follows:

§ 172.2 Service of summonses and complaints.

(a) * * * All such documents should be delivered or addressed to: The Executive Office, Office of the Legal Adviser, Suite 5.600, 600 19th Street NW., Washington DC 20036. (Note that the suite number is 5.600.)

* * * * *

Dated: February 27, 2015.

Alice Kottmyer,

Attorney Adviser, Office of the Legal Adviser.

[FR Doc. 2015-05285 Filed 3-5-15; 8:45 am]

BILLING CODE 4710-08-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2015-0079]

Drawbridge Operation Regulation; Oakland Inner Harbor, Alameda, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Alameda County highway drawbridge at High Street across the Oakland Inner Harbor, mile 6.0, at Alameda, CA. The deviation is necessary to allow the bridge owner to make necessary repairs and

rehabilitation of the bridge. This deviation allows single leaf operation of the double leaf, bascule-style drawbridge during the deviation period.

DATES: This deviation is effective without actual notice from March 6, 2015 through 6:30 p.m. on April 27, 2015. For the purposes of enforcement, actual notice will be used from 9:30 a.m. on March 2, 2015, until March 6, 2015.

ADDRESSES: The docket for this deviation, [USCG-2015-0079], is available at <http://www.regulations.gov>. Type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510-437-3516, email David.H.Sulouff@uscg.mil. If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION: Alameda County has requested a temporary change to the operation of the Alameda County highway bridge at High Street, mile 6.0, over Oakland Inner Harbor, at Alameda, CA. The drawbridge navigation span provides horizontal clearance of 244 feet between pier fenders. During single leaf operation, horizontal clearance is reduced to approximately 100 feet. The drawbridge provides a vertical clearance of 16 feet above Mean High Water in the closed-to-navigation position and unlimited vertical clearance in the open-to-navigation position. As required by 33 CFR 117.181, the draw opens on signal; except that, from 8 a.m. to 9 a.m. and 4:30 p.m. to 6:30 p.m. Monday through Friday except Federal holidays, the draw need not be opened for the passage of vessels. However, the draw shall open during the above closed periods for vessels which must for reasons of safety, move on a tide or slack water, if at least two hours notice is given. Navigation on the waterway is commercial, recreational, emergency and law enforcement vessels.

During the deviation period, the drawspan will be operated with only one leaf between 9:30 a.m. and 6:30 p.m., Monday through Friday, while the

opposite leaf will be secured in the closed-to-navigation position for rehabilitation. A two hour advance notice will be required from vessel operators for a double leaf opening. At night and on weekends, the drawbridge will resume the normal double leaf operation, when work is not being performed on the bridge. This temporary deviation has been coordinated with the waterway users. No objections to the proposed temporary deviation were raised.

Vessels able to pass through the bridge in the closed position may do so at any time. The bridge will be able to open for emergencies and there is no immediate alternate route for larger vessels to pass. The Coast Guard will also inform the waterway users via our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: February 17, 2015.

D.H. Sulouff,

District Bridge Chief, Eleventh Coast Guard District.

[FR Doc. 2015-05231 Filed 3-5-15; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2015-0065]

Drawbridge Operation Regulations; Harlem River, New York City, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the operation of the Metro-North (Park Avenue) Bridge across the Harlem River, mile 2.1, at New York City, New York. This deviation is necessary to allow the bridge owner to perform electrical repairs at the bridge. This deviation allows the bridge to remain closed from March 13, 2015 through May 21, 2015.

DATES: This deviation is effective from March 13, 2015 through May 21, 2015.

ADDRESSES: The docket for this deviation, [USCG–2015–0065] is available at <http://www.regulations.gov>. Type the docket number in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140, on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC, 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Joe M. Arca, Project Officer, First Coast Guard District, telephone (212) 514–4336, joe.m.arca@uscg.mil. If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION: The Metro-North (Park Avenue) Bridge across the Harlem River, mile 2.1, at New York City, New York, has a vertical clearance in the closed position of 25 feet at mean high water and 30 feet at mean low water. The existing bridge operating regulations are found at 33 CFR 117.789(c).

The waterway is transited by commercial vessels.

The bridge owner, Metro-North, requested a temporary deviation from the normal operating schedule to facilitate electrical repairs as a result of damage incurred from Hurricane Sandy.

Under this temporary deviation, the Metro-North (Park Avenue) Bridge may remain in the closed position from March 13, 2015 through May 21, 2015.

The habitual users can transit under the bridge without requesting bridge openings due to the high vertical clearance under the bridge.

There are no alternate routes for vessel traffic; however, vessels that can pass under the closed draw during this closure may do so at all times. The bridge may not be opened in the event of an emergency.

The Coast Guard will inform the users of the waterways through our Local and Broadcast Notice to Mariners of the change in operating schedule for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: February 23, 2015.

C.J. Bisignano,

*Supervisory Bridge Management Specialist,
First Coast Guard District.*

[FR Doc. 2015–05233 Filed 3–5–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2015–0085]

Drawbridge Operation Regulations; Cheesecake Creek, Morgan, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the operation of the New Jersey Transit Rail Operations (NJTRO) railroad bridge across Cheesecake Creek, mile 0.2, at Morgan, New Jersey. This deviation is necessary to allow the bridge owner to perform structural repairs at the bridge. This deviation allows the bridge to remain closed on three consecutive weekends.

DATES: This deviation is effective from 6 a.m. on March 14, 2015 through 7 p.m. on March 28, 2015.

ADDRESSES: The docket for this deviation, [USCG–2015–0085] is available at <http://www.regulations.gov>. Type the docket number in the “SEARCH” box and click “SEARCH.” Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140, on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC, 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Joe M. Arca, Project Officer, First Coast Guard District, telephone (212) 514–4336, joe.m.arca@uscg.mil. If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION: The NJTRO railroad bridge across Cheesecake Creek, mile 0.2, at Morgan, New Jersey, has a vertical clearance in the closed position of 3 feet at mean high water and 8 feet at mean low water.

The existing bridge operating regulations are found at 33 CFR 117.709(b).

The waterway is transited by seasonal recreational vessels of various sizes.

The bridge owner, NJTRO, requested a temporary deviation from the normal operating schedule to facilitate structural repairs at the bridge.

Under this temporary deviation the NJTRO railroad bridge shall remain in the closed position for three consecutive weekends from 6 a.m. on Saturday through 7 p.m. on Sunday on the following dates: March 14 and 15, March 21 and 22, and March 28 and 29, 2015.

The draw shall maintain its normal operating schedule at all other times.

There are no alternate routes for vessel traffic; however, vessels that can pass under the closed draw during this closure may do so at all times. The bridge may be opened in the event of an emergency.

The Coast Guard will inform the users of the waterways through our Local and Broadcast Notice to Mariners of the change in operating schedule for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: February 23, 2015.

C.J. Bisignano,

*Supervisory Bridge Management Specialist,
First Coast Guard District.*

[FR Doc. 2015–05234 Filed 3–5–15; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 721

[EPA–HQ–OPPT–2011–0941; FRL–9922–30]

RIN 2070–AB27

Significant New Use Rule for Pentane, 1,1,1,2,3,3-hexafluoro-4-(1,1,2,3,3,3-hexafluoropropoxy)-

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a significant new use rule (SNUR) under the Toxic Substances Control Act (TSCA) for the chemical substance Pentane, 1,1,1,2,3,3-hexafluoro-4-(1,1,2,3,3,3-hexafluoropropoxy)- that was the

subject of premanufacture notice (PMN) P-07-204. This action requires persons who intend to manufacture (including import) this chemical substance for an activity that is designated as a significant new use by this final rule to notify EPA at least 90 days before commencing that activity. The required notification will provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it occurs.

DATES: This final rule is effective April 6, 2015.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA-HQ-OPPT-2011-0941, is available at <http://www.regulations.gov> or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 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 OPPT Docket is (202) 566-0280. Please review the visitor instructions and additional information about the docket, available at <http://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; telephone number: (202) 564-9232; email address: moss.kenneth@epa.gov.

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; email address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this action apply to me?

You may be potentially affected by this action if you manufacture, process, or use the chemical substance Pentane, 1,1,1,2,3,3-hexafluoro-4-(1,1,2,3,3,3-hexafluoropropoxy)- (PMN P-07-204; CAS No. 870778-34-0) contained in this final rule. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Manufacturers or processors of the subject chemical substance (NAICS codes 325 and 324110), *e.g.*, chemical manufacturing and petroleum refineries.

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127 and 19 CFR 127.28. Chemical importers must certify that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. Importers of chemicals subject to these SNURs must certify their compliance with the SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export a chemical substance that is the subject of this final rule are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see § 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

II. Background

A. What action is the agency taking?

EPA is finalizing a SNUR, under TSCA section 5(a)(2), for the chemical

substance Pentane, 1,1,1,2,3,3-hexafluoro-4-(1,1,2,3,3,3-hexafluoropropoxy)- (PMN P-07-204; CAS No. 870778-34-0) codified at 40 CFR 721.10509. This final rule requires persons who intend to manufacture or process the chemical substance for an activity that is designated as a significant new use by this final rule to notify EPA at least 90 days before commencing that activity.

In the **Federal Register** of September 21, 2012 (77 FR 58666) (FRL-9357-2), EPA issued a direct final SNUR for the chemical substance. EPA received notice of intent to submit adverse comments for the direct final SNUR. In response to that notification a rule was proposed in the **Federal Register** issue of January 23, 2013 (78 FR 4806) (FRL-6369-9). In response to the proposed rule, EPA received one public comment from the submitter of PMN P-07-204.

The comment noted that in the time period between filing of a Notice of Commencement of Manufacture or Import in March 2008, and the time of publication of the direct final SNUR in September 2012, the company had entered into an industrial solvent use that did not specifically fall within the scope of the 40 CFR 721.80(j) (the confidential uses identified in the amended premanufacture notice) significant new use reporting requirement contained in the rule. Therefore, the use was considered an ongoing use at the time of the direct final SNUR.

Further, the commenter mentioned the intent to submit several health and safety studies on the PMN substance that were completed after the expiration of the PMN review period. The following table identifies the studies that were subsequently submitted to the Agency for review and the results of EPA's review of those studies:

Study	EPA findings from study
5-day Inhalation toxicity test in rats	Uncertain increase in liver weights at highest dose.
Acute dermal toxicity test in rats	No Observed Adverse Effect Level (NOAEL) of 2,000 milligram/kilogram/day (mg/kg/day).
Acute eye irritation/corrosion test in rabbits	Not an eye irritant.
Assessment of contact hypersensitivity in the mouse	Not a skin sensitizer.
Color microarray analysis of liver RNA	Indications of ability to activate the xenobiotic nuclear receptor CAR (constitutive androstane receptor), but of uncertain significance relative to ability to affect clinical chemistry endpoints.
Primary skin irritation/corrosion test in rabbits.	Not a skin irritant.
Sub-acute (29-day) inhalation toxicity test in rats	Lowest Observed Adverse Effect Level (LOAEL) of 495 parts per million (ppm) based on liver effects.
Analysis of the effect on primary cell cultures (low potency peroxisome proliferator-activated receptor (PPAR) agonist).	Uncertain significance.

Agency review of the 29-day inhalation toxicity study, which demonstrated liver effects, along with the perfluorochemical analog data cited in the proposed SNUR, demonstrate the concern cited in the proposed SNUR for neurotoxicity and liver effects as a result of unprotected occupational exposures via the dermal route. Therefore, the Agency is issuing a final SNUR as proposed that designates as a significant new use manufacture or processing of the substance without impervious gloves, where there is a potential for dermal exposure, and simplifies the wording in the significant new use designation under 40 CFR 721.80 to encompass the ongoing use as follows: "A significant new use is any use of the substance other than for the specific confidential industrial solvent uses identified in the amended premanufacture notice (PMN)."

B. What is the agency's authority for taking this action?

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors, including those listed in TSCA section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, TSCA section 5(a)(1)(B) requires persons to submit a significant new use notice (SNUN) to EPA at least 90 days before they manufacture or process the chemical substance for that use. Persons who must report are described in § 721.5.

C. Applicability of General Provisions

General provisions for SNURs appear in 40 CFR part 721, subpart A. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the final rule to uses occurring before the effective date of the final rule. Provisions relating to user fees appear at 40 CFR part 700. According to § 721.1(c), persons subject to these SNURs must comply with the same SNUN requirements and EPA regulatory procedures as submitters of PMNs under TSCA section 5(a)(1)(A). In particular, these requirements include the information submission requirements of TSCA section 5(b) and 5(d)(1), the exemptions authorized by TSCA section 5(h)(1), (2), (3), and (5), and the regulations at 40 CFR part 720. Once EPA receives a SNUN, EPA may take regulatory action under TSCA section 5(e), 5(f), 6, or 7 to control the activities for which it has received the SNUN. If EPA does not take action, EPA

is required under TSCA section 5(g) to explain in the **Federal Register** its reasons for not taking action.

III. Rationale and Objectives of the Final Rule

A. Rationale

During review of the PMN for the chemical substance Pentane, 1,1,1,2,3,3,3-hexafluoro-4-(1,1,2,3,3,3-hexafluoropropoxy)- (PMN P-07-204; CAS No. 870778-34-0), EPA determined that one or more of the criteria of concern established at § 721.170 were met. For additional discussion of the rationale for the SNUR on this chemical, see Units II., IV., and V. of the proposed rule.

B. Objectives

EPA is issuing this final SNUR for the chemical substance Pentane, 1,1,1,2,3,3,3-hexafluoro-4-(1,1,2,3,3,3-hexafluoropropoxy)- (PMN P-07-204; CAS N. 870778-34-0) because the Agency wants to achieve the following objectives with regard to the significant new uses designated in this final rule:

- EPA will receive notice of any person's intent to manufacture or process a listed chemical substance for the described significant new use before that activity begins.
- EPA will have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing or processing a listed chemical substance for the described significant new use.
- EPA will be able to regulate prospective manufacturers or processors of a listed chemical substance before the described significant new use of that chemical substance occurs, provided that regulation is warranted pursuant to TSCA sections 5(e), 5(f), 6, or 7.

Issuance of a SNUR for a chemical substance does not signify that the chemical substance is listed on the TSCA Chemical Substance Inventory (TSCA Inventory). Guidance on how to determine if a chemical substance is on the TSCA Inventory is available on the Internet at <http://www.epa.gov/opptintr/existingchemicals/pubs/tscainventory/index.html>.

IV. Significant New Use Determination

Section 5(a)(2) of TSCA states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors, including:

- The projected volume of manufacturing and processing of a chemical substance.
- The extent to which a use changes the type or form of exposure of human

beings or the environment to a chemical substance.

- The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.

- The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

In addition to these factors enumerated in TSCA section 5(a)(2), the statute authorized EPA to consider any other relevant factors.

To determine what would constitute a significant new use for the chemical substance pentane, 1,1,1,2,3,3,3-hexafluoro-4-(1,1,2,3,3,3-hexafluoropropoxy)- (PMN P-07-204; CAS No. 870778-34-0), EPA considered relevant information about the toxicity of the chemical substances, likely human exposures and environmental releases associated with possible uses, and the four bulleted TSCA section 5(a)(2) factors listed in this unit.

V. Applicability of the Significant New Use Designation

If uses begun after the proposed rule was published were considered ongoing rather than new, any person could defeat the SNUR by initiating the significant new use before the final rule was issued. Therefore EPA has designated the date of publication of the proposed rule as the cutoff date for determining whether the new use is ongoing. Consult the **Federal Register** Notice of April 24, 1990 (55 FR 17376, FRL 3658-5) for a more detailed discussion of the cutoff date for ongoing uses.

Any person who began commercial manufacture or processing of the chemical substance identified as pentane, 1,1,1,2,3,3,3-hexafluoro-4-(1,1,2,3,3,3-hexafluoropropoxy)- (PMN P-07-204; CAS No. 870778-34-0) for any of the significant new uses designated in the proposed SNUR after the date of publication of the proposed SNUR, must stop that activity before the effective date of the final rule. Persons who ceased those activities will have to first comply with all applicable SNUR notification requirements and wait until the notice review period, including any extensions, expires, before engaging in any activities designated as significant new uses. If a person were to meet the conditions of advance compliance under 40 CFR 721.45(h), the person would be considered to have met the requirements of the final SNUR for those activities.

VI. Test Data and Other Information

EPA recognizes that TSCA section 5 does not require developing any particular test data before submission of a SNUN. The two exceptions are:

1. Development of test data is required where the chemical substance subject to the SNUR is also subject to a test rule under TSCA section 4 (see TSCA section 5(b)(1)).

2. Development of test data may be necessary where the chemical substance has been listed under TSCA section 5(b)(4) (see TSCA section 5(b)(2)).

In the absence of a TSCA section 4 test rule or a TSCA section 5(b)(4) listing covering the chemical substance, persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them (see 40 CFR 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing.

Recommended testing that would address the criteria of concern of § 721.170 can be found in Unit IV. of the proposed rule. Descriptions of tests are provided only for informational purposes. EPA strongly encourages persons, before performing any testing, to consult with the Agency pertaining to protocol selection.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information on the following:

- Human exposure and environmental release that may result from the significant new use of the chemical substances.
- Potential benefits of the chemical substances.
- Information on risks posed by the chemical substances compared to risks posed by potential substitutes.

VII. SNUN Submissions

According to § 721.1(c), persons submitting a SNUN must comply with the same notification requirements and EPA regulatory procedures as persons submitting a PMN, including submission of test data on health and environmental effects as described in 40 CFR 720.50. SNUNs must be submitted on EPA Form No. 7710–25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in 40 CFR 720.40 and § 721.25. E-PMN software is available electronically at <http://www.epa.gov/opptintr/newchems>.

VIII. Economic Analysis

EPA has evaluated the potential costs of establishing SNUN requirements for potential manufacturers and processors

of the chemical substance during the development of the direct final rule. EPA's complete economic analysis is available in the docket under docket ID number EPA-HQ-OPPT-2011-0941.

IX. Statutory and Executive Order Reviews

A. Executive Order 12866

This final rule establishes a SNUR for a chemical substance that was the subject of a PMN. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled “*Regulatory Planning and Review*” (58 FR 51735, October 4, 1993).

B. Paperwork Reduction Act (PRA)

According to PRA (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable. EPA is amending the table in 40 CFR part 9 to list the OMB approval number for the information collection requirements contained in this final rule. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the display requirements of PRA and OMB's implementing regulations at 5 CFR part 1320. This Information Collection Request (ICR) was previously subject to public notice and comment prior to OMB approval, and given the technical nature of the table, EPA finds that further notice and comment to amend it is unnecessary. As a result, EPA finds that there is “good cause” under section 553(b)(3)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)) to amend this table without further notice and comment.

The information collection requirements related to this action have already been approved by OMB pursuant to PRA under OMB control number 2070–0012 (EPA ICR No. 574). This action does not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data

needed, and complete, review, and submit the required SNUN.

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques, to the Director, Collection Strategies Division, Office of Environmental Information (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

C. Regulatory Flexibility Act (RFA)

On February 18, 2012, EPA certified pursuant to RFA section 605(b) (5 U.S.C. 601 *et seq.*), that promulgation of a SNUR does not have a significant economic impact on a substantial number of small entities where the following are true:

1. A significant number of SNUNs would not be submitted by small entities in response to the SNUR.
2. The SNUR submitted by any small entity would not cost significantly more than \$8,300.

A copy of that certification is available in the docket for this final rule.

This final rule is within the scope of the February 18, 2012 certification. Based on the Economic Analysis discussed in Unit VIII. and EPA's experience promulgating SNURs (discussed in the certification), EPA believes that the following are true:

- A significant number of SNUNs would not be submitted by small entities in response to the SNUR.
- Submission of the SNUN would not cost any small entity significantly more than \$8,300.

Therefore, the promulgation of the SNUR would not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act (UMRA)

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or Tribal government will be impacted by this final rule. As such, EPA has determined that this action does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of UMRA sections 202, 203, 204, or 205 (2 U.S.C. 1501 *et seq.*).

E. Executive Order 13132

This action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999).

F. Executive Order 13175

This action does not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This final rule does not significantly nor uniquely affect the communities of Indian Tribal governments, nor does it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), do not apply to this final rule.

G. Executive Order 13045

This action is not subject to Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address environmental health or safety risks disproportionately affecting children.

H. Executive Order 13211

This action 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), because this action is not expected to affect energy supply, distribution, or use and because this action is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

In addition, since this action does not involve any technical standards, NTTAA section 12(d) (15 U.S.C. 272 note), does not apply to this action.

J. Executive Order 12898

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898, entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (59 FR 7629, February 16, 1994).

X. Congressional Review Act (CRA)

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this final rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the final rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects*40 CFR Part 9*

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: February 23, 2015.

Maria J. Doa,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR parts 9 and 721 are amended as follows:

PART 9—[AMENDED]

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

Authority: 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

■ 2. In § 9.1, add the following section in numerical order under the undesignated center heading "Significant New Uses of Chemical Substances" to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

*	*	*	*	*
40 CFR citation			OMB Control No.	
*	*	*	*	*
Significant New Uses of Chemical Substances				
*	*	*	*	*
721.10509			2070–0012	
*	*	*	*	*

* * * * *

PART 721—[AMENDED]

■ 3. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 4. Add § 721.10509 to subpart E to read as follows:

§ 721.10509 Pentane, 1,1,1,2,3,3-hexafluoro-4-(1,1,2,3,3,3-hexafluoropropoxy)-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as pentane, 1,1,1,2,3,3-hexafluoro-4-(1,1,2,3,3,3-hexafluoropropoxy)- (PMN P–07–204; CAS No. 870778–34–0) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Protection in the workplace.* Requirements as specified in § 721.63(a)(1), (a)(2)(i), (a)(3), (b)(concentration set at 1.0 percent), and (c).

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80. A significant new use is any use of the substance other than for the specific confidential industrial solvent uses identified in the amended premanufacture notice (PMN).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a) through (e), and (i) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to paragraph (a)(2)(ii) of this section.

[FR Doc. 2015–05069 Filed 3–5–15; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MB Docket No. 05–311; FCC 15–3]

Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as Amended by the Cable Television Consumer Protection and Competition Act of 1992

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: In this document, the Federal Communications Commission (“Commission” or “we”) respond to Petitions for Reconsideration of the *Second Report and Order*, interpreting Section 621 of the Communications Act of 1934, which deals with local franchising of cable companies. We clarify the applicability of the *Second Report and Order* in states that have state-level franchising, grant the request that we reconsider our Final Regulatory Flexibility Analysis to align with the text of the *Second Report and Order*, and deny the petitions in all other respects.

DATES: Effective April 6, 2015.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Brendan Murray, Brendan.Murray@fcc.gov, of the Media Bureau, Policy Division, (202) 418–1573 or Holly Saurer, Holly.Saurer@fcc.gov, of the Media Bureau, (202) 418–7283.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission’s *Order on Reconsideration*, FCC 15–3, adopted on January 20, 2015 and released on January 21, 2015. The full text of these documents is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW., CY–A257, Washington, DC, 20554. These documents will also be available via ECFS (<http://www.fcc.gov/cgb/ecfs/>). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) The complete text may be purchased from the Commission’s copy contractor, 445 12th Street SW., Room CY–B402, Washington, DC 20554. To request these documents in accessible formats (computer diskettes, large print, audio recording, and Braille), send an email to fcc504@fcc.gov or call the Commission’s Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Summary of the Order on Reconsideration

1. In the *Order on Reconsideration* (“*Order*”), we respond to several Petitions for Reconsideration. Petitioners sought reconsideration of our rulings regarding most favored nation (MFN) clauses, in-kind payments, mixed-use networks, and the applicability of the *Second Report and Order*, 72 FR 65670, November 23, 2007, to state level franchising. They also brought to our attention an inconsistency between the rules adopted and the rules analyzed in the accompanying Final Regulatory Flexibility Analysis (“FRFA”). We reaffirm that (1) prior rulings were intended to apply only to the local franchising process, and not to franchising laws or decisions at the state level; (2) MFN clauses are contractual terms that are not affected by any of the Commission’s prior findings; and (3) “in-kind” payments—non-cash payments, such as goods, or services—count toward the five percent franchise fee cap for incumbent operators and new entrants. We decline to modify our conclusions regarding mixed-use networks. We grant Petitioner’s request that we depart from our Regulatory Flexibility Analysis and submit a revised FRFA in order to comply with the mandates of the Regulatory Flexibility Act.

I. Background

2. In the Cable Communications Policy Act of 1984, Congress added section 621(a)(1) to the Communications Act. That section requires a local franchise for the provision of cable service. A local franchising authority (“LFA”) may not grant an exclusive franchise and may not unreasonably refuse to award an additional competitive franchise. Section 621 prohibits a cable franchise authority from prohibiting, limiting, or restricting the provision of telecommunications service by a cable operator. Congress, in enacting this section, sought to enhance cable competition and accelerate broadband deployment.

3. In 2007, the Commission adopted the *First Report and Order and Further Notice of Proposed Rulemaking*, 72 FR 13189, March 21, 2007, to implement section 621(a)(1). The order adopted rules and provided guidance to ensure that LFAs do not unreasonably refuse to award competitive franchises for the provision of cable services. The *First Report and Order* found that certain LFA practices violated section 621(a)(1) by: (1) Failing to issue a decision on a competitive application within the

order’s specified timeframes; (2) failing to grant a franchise when an applicant did not agree to unreasonable build-out mandates; (3) refusing to grant a competitive franchise when an applicant did not agree to impermissible franchise fee requirements; (4) denying applications based on a new entrant’s refusal to undertake certain obligations relating to public, educational, and government channels (“PEG”), and institutional networks (“I-Nets”); and (5) refusing to grant a franchise based on issues related to non-cable services or facilities. The Commission issued a *Further Notice of Proposed Rulemaking* (“*FNPRM*”) for comment on whether or not these findings should be made applicable to incumbent providers and how that should be done.

4. In the *Second Report and Order*, the Commission determined that the prior findings involving franchise fees relied on statutory provisions that did not distinguish between incumbents and new entrants, and therefore should be applicable to incumbent operators. The Commission also determined that most favored nation clauses would provide some franchisees the option and ability to adjust their existing obligations if and when a competing provider obtains more favorable franchise provisions. Petitioners sought reconsideration of these rulings and brought to our attention an inconsistency between the rules adopted and the rules analyzed in the accompanying Final Regulatory Flexibility Analysis (“FRFA”). We respond to those petitions in the *Order*.

II. Discussion

A. State Level Franchising

5. Petitioners request clarification regarding whether the *Second Report and Order* applies to state level franchises. We clarify that the prior rulings were intended to apply only to the local franchising process, and not to franchising laws or decisions at the state level. The *First Report and Order* stated that its rulings were limited to competitive franchises “at the local level,” as the Commission did not have a sufficient record to determine what constitutes an “unreasonable refusal to award an additional competitive franchise” with respect to franchising decisions where a state is involved versus a local franchising authority. The United States Court of Appeals for the Sixth Circuit agreed, holding that the Commission, in the *First Report and Order*, did not to preempt state law, state-level franchising decisions, or local franchising decisions authorized by state law because the Commission

lacked the information necessary to evaluate state-level franchising laws.

6. In both the *FNPRM* and the *Second Report and Order*, the Commission expressed its intent to extend the *First Report and Order's* rulings to incumbent cable operators, but said nothing about extending those rulings to state-level franchising laws. The State of Hawaii argues that because the Commission did not address this issue in the *Second Report and Order*, it did not apply its findings to state-level franchising. Both NCTA and Verizon argue that the Commission unambiguously applied the *Second Report and Order's* findings to state-level franchising because it stated that the statutory interpretations at issue in the proceeding are “valid throughout the nation.” The Commission reaffirms that it did not extend those rulings in the *Second Report and Order* to state-level franchising laws or decisions.

B. Most Favored Nation Clauses and Disruption of Existing Contracts

7. Petitioners argue that the Commission's conclusions on MFN clauses are inconsistent with our preemption of level playing field regulations in the *First Report and Order*. NCTA counters that the decisions on MFN clauses should not be reconsidered because of their pro-competitive and public policy purposes. NATOA disagrees with that assertion because both the Department of Justice and the Federal Trade Commission have labeled MFN clauses as “anti-competitive” in certain instances. We decline to modify the conclusions concerning MFN clauses and disruption of existing contracts. In the *Second Report and Order* the Commission concluded that the determinations in the *First Report and Order* may allow competitive providers to enter markets with franchise provisions more favorable than those of the incumbent provider, and expected that MFN clauses, “pursuant to the operation of their own design, will provide some franchisees the option and ability to change provisions of their existing agreements.” We reaffirm the prior conclusion that MFN clauses are contractual terms that are not affected by any of the Commission's findings in the *First Report and Order*.

C. In-Kind Payments

8. LFAs petitioned for reconsideration of the inclusion of in-kind payments in calculating the franchise fee cap, arguing that the Commission's determinations give an overly expansive scope of section 622(g)(2)(D), which exempts “charges incidental to the awarding or enforcing of the franchise”

from the five percent franchise fee cap and also expand the definition of in-kind payments in the *First Report and Order*. We disagree with Petitioners and adhere to our previous conclusions in the *Second Report and Order*. In the *First Report and Order*, the Commission interpreted Section 622, which limits the amount of franchise fees that an LFA may collect from a cable operator to five percent of the cable operator's gross revenues, subject to certain exceptions in subsection (g). The Commission concluded that in-kind payments count toward the five percent franchise fee cap. In the *Second Report and Order*, the Commission concluded that its interpretation of Section 622 “applies to both incumbent operators and new entrants.”

9. We disagree with the Petitioners that the Commission's interpretation of the phrase “incidental to” in section 622(g)(2)(D) goes beyond or is inconsistent with our interpretation in the *First Report and Order*. The Commission concluded in the first order that the term “incidental” in section 622(g)(2)(D) should be limited to the list of incidental charges provided in the statute, as well as other minor expenses. The Commission examined the existing case law under section 622(g)(2)(D) and determined that certain fees are not necessarily to be regarded as “incidental” and thus exempt from the five percent franchise fee cap. The Sixth Circuit Court of Appeals upheld this interpretation. The Commission's interpretation of section 622(g)(2)(D) in the *Second Report and Order* mirrors, and does not expand, the interpretation in the *First Report and Order*.

10. Further, we disagree with Petitioners that the *First Report and Order* limited the exemption of in-kind payments only when such in-kind payments are unrelated to cable service. The *First Report and Order* identified “free or discounted services provided to an LFA” as one type of “non-incidental” cost that counted toward the franchise fee cap. In that context, the Commission was referring to free or discounted cable services. The Sixth Circuit also referenced these different types of in-kind payments separately when it upheld the FCC's interpretation of the five percent cap on fees. For these reasons, we reaffirm our conclusion that in-kind payments count toward the five percent franchise fee cap.

D. Mixed Use Networks

11. Petitioners argue that the *Second Report and Order's* findings that LFA jurisdiction is limited to cable service is incorrect, as the Act “recognizes local authority with respect to ‘cable systems’

or ‘cable operators’ without restriction to ‘cable service.’” We adhere to our previous determination on this issue. The Commission's *First Report and Order* and the *Second Report and Order* make clear that LFAs may not use their franchising authority to regulate non-cable services provided by either an incumbent or new entrant. As petitioners have not raised any new arguments, we reaffirm the prior conclusion.

E. Conclusion

12. We reaffirm that (1) prior rulings were intended to apply only to the local franchising process, and not to franchising laws or decisions at the state level; (2) MFN clauses are contractual terms that are not affected by any of the Commission's prior findings; and (3) “in-kind” payments—non-cash payments, such as goods, or services—count toward the five percent franchise fee cap for incumbent operators and new entrants. We decline to modify our conclusions regarding mixed-use networks. We grant Petitioner's request that we depart from our Regulatory Flexibility Analysis and submit a revised FRFA in order to comply with the mandates of the Regulatory Flexibility Act.

III. Procedural Matters

A. Paperwork Reduction Act Analysis

13. The *Order* does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (“PRA”), Public Law 104–13. In addition, we note there is no new or modified “information burden for small business concerns with fewer than 25 employees,” pursuant to the Small Business paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4).

B. Final Regulatory Flexibility Analysis

14. As required by the Regulatory Flexibility Act, the Commission has prepared a Final Regulatory Flexibility Analysis (“FRFA”) relating to the *Report and Order*.

C. Congressional Review Act

15. The Commission will send a copy of this *Order on Reconsideration* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

IV. Final Regulatory Flexibility Analysis

16. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the

FNPRM. The Commission sought written public comment on the proposals in the *FNPRM*, including comment on the IRFA. The Commission received one comment on the IRFA. Subsequently, the Commission adopted a Final Regulatory Flexibility Analysis (“FRFA”) in the *Second Report and Order* in this proceeding. Following the release of the *Second Report and Order*, petitioners sought reconsideration of the FRFA based on an inconsistency between the rules adopted and the rules analyzed in the accompanying FRFA. As explained in the *Order*, we submit this Supplemental Final Regulatory Flexibility Analysis to reflect the rules adopted in the *Second Report and Order* and to conform to the RFA.

A. Need for, and Objectives of, the Second Report and Order

17. The need for FCC regulation in this area derives from eliminating barriers to competitive entry of cable operators into local markets. This *Order* extends a number of the rules and findings promulgated in the *First Report and Order* dealing with Section 611 and Section 622 of the Communications Act of 1934. The objectives of the rules we adopt are to support a competitive market for both new and incumbent cable operators to further the interrelated goals of enhanced cable competition and broadband deployment.

18. Specifically, we reaffirm that (1) prior rulings were intended to apply only to the local franchising process, and not to franchising laws or decisions at the state level; (2) most favored nation (“MFN”) clauses are contractual terms that are not affected by any of the Commission’s prior findings; and (3) “in-kind” payments—non-cash payments, such as goods, or services—count toward the five percent franchise fee cap for incumbent operators and new entrants. We decline to modify our conclusions regarding mixed-use networks. We grant Petitioner’s request that we depart from our Regulatory Flexibility Analysis and submit a revised FRFA in order to comply with the mandates of the Regulatory Flexibility Act.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

19. Only one commenter, the Local Government Lawyer’s Roundtable, submitted a comment that specifically responded to the IRFA. The Local Government Lawyer’s Roundtable contends that the Commission should issue a revised IRFA because of the erroneous determination that the

proposed rules would have a *de minimus* effect on small governments, specifically engendering additional training and hiring.

20. We disagree with the Local Government Lawyer’s Roundtable’s assertion that our rules will have any more than a *de minimus* effect on small governments. LFAs will continue to review and decide upon competitive and renewal cable franchise applications. Additional training and hiring of additional personnel is not necessary to understand these actions. The *Order* simply extends existing, limited requirements, and therefore should not need additional training or personnel to implement.

21. After issuing the FRFA in the *Second Report and Order*, the Commission received a Petition for Reconsideration and Clarification from the National Association of Telecommunications Officers and Advisors (“NATOA”) *et al.* regarding the Regulatory Flexibility Analysis. The petition repeated the Local Government Lawyer’s Roundtable’s arguments, and also argued that the Commission failed to consider actual alternatives, failed to include small organizations in the IRFA, and that the FRFA provided an analysis of the tentative conclusions set forth in the IRFA rather than the rules adopted.

22. The Commission determined that since the findings in the *Second Report and Order* were matters of statutory interpretation, the result was statutorily mandated regardless of the RFA analysis, and that, therefore, no meaningful alternatives existed. Additionally, we find that the IRFA and FRFA discuss the economic impact on small entities. No commenter suggested that further entities should be additionally considered in the analysis. However, the Commission does agree with the analysis was inadvertently based on the tentative conclusions presented in the IRFA. In order to comply with the mandates of the RFA, we are submitting this Supplemental Final Regulatory Flexibility Analysis to correctly reflect the rules adopted in the *Second Report and Order*.

C. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

23. The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the proposed rules. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental entity” under Section 3 of the Small Business Act. In

addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (“SBA”).

24. The rules adopted by the *Order* will streamline the local franchising process by adopting rules that provide guidance as to the applicability or prior findings in this procedure to incumbents and the limitations on the Commission’s authority regarding customer service regulations. The Commission has determined that the group of small entities directly affected by the rules adopted herein consists of small governmental entities (which, in some cases may be represented in the local franchising process by not-for-profit enterprises). Therefore, in this SFRFA, we consider the impact of the rules on small governmental organizations.

D. Small Businesses, Small Organizations, and Small Governmental Jurisdictions

25. Our action may, over time, affect small entities that are not easily categorized at present. Small businesses represented 99.9% of the 27.5 million businesses in the United States in 2009. There were 1,621,315 small organizations nationwide in 2007, which are defined as independently owned and operated not-for-profit enterprises that are not dominant in their perspective fields. Finally, there were 89,527 small governmental jurisdictions in 2007, which are defined as governments of cities, towns and other entities with a population of less than fifty thousand.

E. Cable and Other Subscription Programming

26. This category includes establishments primarily engaged in operating studios and facilities for the broadcasting of programs on a subscription or fee basis. Census data for 2007 shows that there were 396 such firms that operated for the entire year. Of that number, 349 operated with annual revenues below \$25 million and 47 operated with annual revenues of \$25 million or more. Therefore, under this size standard, the majority of such businesses can be considered small.

F. Cable Companies and Systems

27. The Commission defines a small cable company as one that serves 400,000 or fewer subscribers

nationwide. There are 1,258 cable operators—all but 10 incumbent cable companies are small under this size standard. In addition, the Commission defines a small cable system as one that serves 15,000 or fewer subscribers. There are 4,584 cable systems nationwide. Of this total, 4,012 cable systems have 20,000 subscribers or more. Thus, under this standard, we estimate that most cable systems are small.

G. Cable System Operators (Telecom Act Standard)

28. The Communication Act of 1934 defines a small cable system operator as “a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000.” The Commission has determined that an operator serving fewer than 677,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed \$250 million in the aggregate. Industry data indicate that, of 1,076,934 cable operators nationwide, all but 13 are small under this size standard.

H. Open Video Systems (“OVS”)

29. The OVS framework provides opportunities for the distribution of video programming other than through cable systems. Because OVS operators provide subscription services, OVS falls within the SBA small business size standard covering cable services, which is Wired Telecommunications Carriers. A small business in this category is a business that has 1,500 or fewer employees. Census data for 2007 shows that there were 3,188 firms that operated that year. Of this total, 3,144 had fewer than 1,000 employees and 44 had 1,000 or more employees. Therefore, under this size standard, we estimate that a majority of businesses can be considered small entities.

I. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

30. The rule and guidance adopted in the Order imposes no additional reporting or record keeping requirements and imposes *de minimus* other compliance requirements. Because the rules limit the terms than an LFA may consider and impose in a franchise agreement, the rules will decrease the procedural burdens faced by LFAs. Therefore, the rules adopted will not require any additional special skills beyond any already needed in the cable franchising context.

J. Steps Taken To Minimize Significant Impact on Small Entities, and Significant Alternatives Considered

31. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

32. In the *FNPRM*, the Commission sought comment on the extension of its findings in the First Report and Order to incumbent cable operators, and to comment on the basis for the Commission’s authority to do so. The Commission tentatively concluded that the rules adopted in the Second Report and Order likely would have at most a *de minimus* impact on small governmental jurisdictions, and that the interrelated, high-priority federal communications policy goals of enhanced cable competition and accelerated broadband deployment necessitated the extension of its rules to incumbent cable providers. We agree with those tentative conclusions and we believe that the rules in the *Second*

Report and Order will not impose a significant impact on any small entity.

K. Federal Rules Which Duplicate, Overlap, or Conflict With the Commission’s Proposals

33. None.

V. Ordering Clauses

34. Accordingly, *it is ordered* that pursuant to the sections 1, 2, 4(i), 303, 405, 602, 611, 621, 622, 625, 626, and 632 of the Communications Act of 1934, 47 U.S.C. 151, 152, 154(i), 303, 405, 522, 531, 541, 542, 545, 546, and 552, and § 1.429 of the Commission’s rules, 47 CFR 1.429, the Order on Reconsideration *is adopted*.

35. *It is further ordered* that the petitions for reconsideration filed by the City of Albuquerque, New Mexico et al, the City of Breckenridge Hills, Missouri and National Association of Telecommunications Officers and Advisors, et al. *are hereby granted in part and denied in part* as described above. This action is taken pursuant to the authority contained in sections 1, 2, 4(i), 303, 405, 602, 611, 621, 622, 625, 626, and 632 of the Communications Act of 1934, 47 U.S.C. 151, 152, 154(i), 303, 405, 522, 531, 541, 542, 545, 546, and 552, and § 1.429 of the Commission’s rules, 47 CFR 1.429.

36. *It is further ordered* that the Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of the Order on Reconsideration, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

37. *It is further ordered* that the Commission *shall send* a copy of the Order on Reconsideration in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

[FR Doc. 2015–05180 Filed 3–5–15; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register

Vol. 80, No. 44

Friday, March 6, 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); U.S. Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: The DOT proposes to amend its regulations implementing 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.

DATES: Comments must be received on or before April 6, 2015. Late-filed comments will be considered to the extent practicable, but the DOT may issue a final rule at any time after the close of the comment period.

ADDRESSES: To ensure that you do not duplicate your docket submissions, please submit them by only one of the following means:

- *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., W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Ave. SE., between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366–9329.

• *Instructions:* You must include the agency name and docket number or the Regulatory Identification Number (RIN) for the rulemaking at the beginning of your comments. All comments received

will be posted without change to <http://www.regulations.gov>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Michael Harkins, Deputy Assistant General Counsel for General Law (OST–C10), Office of the Secretary, Department of Transportation, 1200 New Jersey Avenue SE., Room W83–312, Washington, DC 20590, 202–366–0590.

SUPPLEMENTARY INFORMATION: On December 26, 2014, the DOT's regulations at 2 CFR part 1201 became effective, which adopted the Office of Management and Budget's (OMB) revised Government-wide Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal awards to non-Federal entities at 2 CFR part 200 (Common Rule). These requirements at 2 CFR 200.319(b) prohibit the use of in-state or local geographic preferences in the evaluation of bids or proposals except where Federal statute mandates or encourages the use of such preferences.¹ This prohibition extends to the use of geographic hiring preferences in contracts that are awarded by recipients and subrecipients with Federal financial assistance since such preferences could result in a competitive advantage for contractors based in the targeted hiring area. This provision in the OMB Common Rule is not new and was found in the DOT's implementation of the prior version of OMB's Common Rule (49 CFR 18.36(c)(2) (2014)).

Many recipients and subrecipients at the local governmental level have local hiring provisions that they otherwise apply to procurements that do not involve Federal funding. Such provisions are intended to ensure that the communities in which the projects are located benefit from the jobs that result from their investment of their funds, particularly for workers in low income areas. Transportation plays a critical role in connecting Americans and communities to economic opportunity. The choices that are made regarding transportation infrastructure can strengthen communities, create pathways to jobs and improve the quality of life for all Americans.

¹ For example, 23 U.S.C. 140(d) authorizes the preferential employment of Indians living on or near a reservation on projects and contracts on Indian reservations roads under the Federal-aid Highway Program.

Transportation investments and policies can improve access to jobs, education, and goods movement, while providing construction and operations jobs. As such, the DOT believes that local and other geographic-based hiring preferences are essential to promoting Ladders of Opportunity for the workers in these communities by ensuring that they participate in, and benefit from, the economic opportunities such projects present.

Additionally, Section 418 of the Consolidated and Further Continuing Appropriations Act, 2015, Public Law 113–235 (FY 2015 Appropriations Act), prohibits the Federal Transit Administration from using fiscal year (FY) 2015 funds to implement, administer, or enforce 49 CFR 18.36(c)(2), for construction hiring. Section 18.36(c)(2) prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals.² Thus, at least for FTA-funded project in FY 2015, Congress has diminished the legal effectiveness of this provision.

Therefore, the DOT is proposing to amend Part 1201 by promulgating a provision to deviate from the OMB guidance by making clear that geographic hiring preferences may be used in DOT grant programs. With this deviation, local communities will be in a better position to leverage Federal and State and local funds into local jobs and economic growth. However, this deviation would only apply to the extent that such geographic hiring preferences are not otherwise prohibited by Federal statute or regulation. For example, the Federal statutory provision at 23 U.S.C. 112 requires full and open competition in the award of contracts under the Federal-aid highway program. The Federal Highway Administration has traditionally interpreted this provision as prohibiting the use of geographic hiring preferences and reinforced this interpretation in 23 CFR 635.117(b). Under a 2013 Opinion from

² Effective December 26, 2014, 49 CFR part 18 will apply only to grants obligated on or before December 25, 2014. Grants obligated on or after December 26, 2014 will be subject to 2 CFR part 200. This provision (18.36(c)(2)) has been recodified at 2 CFR 200.319(b) and is substantively the same as 18.36(c)(2). Although Congress did not address the change in codification in section 418, FTA intends to apply section 418 to grants obligated on or after December 26, 2014 and subject to 2 CFR 200.319(b).

the Office of Legal Counsel (OLC), OLC clarified that section 112 does not compel the DOT from prohibiting recipients and subrecipients under the Federal-aid Highway Program from imposing contract requirements that do not directly relate to the performance of work. Rather, the OLC opinion states that the Secretary has discretion to permit such requirements as long as they do not “unduly limit competition.” (See *Competitive Bidding Requirements Under the Federal-Aid Highway Program*, 23 U.S.C. 112, (Aug. 23, 2013)).

In order to determine whether contracting requirements may be used consistent with the 2013 OLC opinion, the DOT has established a pilot program under which such geographic-based hiring requirements may be used on an experimental basis. This program, which is published in today’s **Federal Register**, allows recipients and subrecipients of Federal Highway Administration and Federal Transit Administration funds to use such requirements pursuant to the experimental authorities of those agencies. For any such projects, the DOT will monitor and evaluate whether the contracting requirements approved for use under the pilot program have an undue restriction on competition.

Regulatory Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and USDOT Regulatory Policies and Procedures

The DOT has preliminarily determined that this action would not be a significant regulatory action within the meaning of Executive Order 12866 and would not be significant within the meaning of DOT regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking would be minimal. These proposed changes would not adversely affect, in a material way, any sector of the economy. In addition, these changes would not interfere with any action taken or planned by another agency and would not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. Consequently, a full regulatory evaluation is not required.

Allowing local geographic preferences in hiring, where none currently exist, may result in additional local hiring and in non-local workers not obtaining jobs they otherwise might get. To the extent this occurs this would be an economic transfer from non-local workers to local workers and not a cost.

To the extent local labor markets are tight this could increase labor costs for

the DOT-Grant funded projects if all hiring is local. Similarly, if local supply of labor in the skilled trades is low, productivity on DOT-Grant funded project could decrease and project costs could increase if all hiring is local. However, the proposed rule is not forcing local governments to hire locally; it is only saying that they *may* use geographic hiring preferences. They will only exercise this option if they feel it is net beneficial to their communities to do so.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), the DOT has evaluated the effects of this proposed action on small entities and has determined that the proposed action would not have a significant economic impact on a substantial number of small entities. This proposed action does not affect any funding distributed under any of the programs administered by the DOT. For these reasons, I hereby certify that this action would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This proposed rule would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48). This proposed rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$128.1 million or more in any one year (2 U.S.C. 1532). Further, in compliance with the Unfunded Mandates Reform Act of 1995, the DOT will evaluate any regulatory action that might be proposed in subsequent stages of the proceeding to assess the effects on State, local, tribal governments and the private sector.

Executive Order 13132 (Federalism Assessment)

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and the DOT has determined preliminarily that this proposed action would not have sufficient federalism implications to warrant the preparation of a federalism assessment. The DOT has also determined that this proposed action would not preempt any State law or State regulation or affect the States’ ability to discharge traditional State governmental functions.

Executive Order 13211 (Energy Effects)

We have analyzed this action under Executive Order 13211, Actions

Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use, dated May 18, 2001. We have determined that it is not a significant energy action under that order since it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program. Accordingly, the DOT solicits comments on this issue.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The DOT has determined that this proposal does not contain collection of information requirements for the purposes of the PRA.

Executive Order 12988 (Civil Justice Reform)

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

Executive Order 13045 (Protection of Children)

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. The DOT certifies that this proposed action would not cause any environmental risk to health or safety that might disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

The DOT has analyzed this proposed rule under Executive Order 12630, Governmental Actions and Interface with Constitutionally Protected Property Rights. The DOT does not anticipate that this proposed action would affect a taking of private property or otherwise have taking implications under Executive Order 12630.

National Environmental Policy Act

The DOT has analyzed the environmental impacts of this proposed action pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and has determined that it is categorically excluded pursuant to DOT Order 5610.1C, Procedures for Considering Environmental Impacts (44 FR 56420, Oct. 1, 1979). Categorical exclusions are actions identified in an agency's NEPA implementing procedures that do not normally have a significant impact on the environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS). See 40 CFR 1508.4. In analyzing the applicability of a categorical exclusion, the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS. *Id.* Paragraph 3.c.5 of DOT Order 5610.1C incorporates by reference the categorical exclusions for all DOT Operating Administrations. This action is covered by the categorical exclusion listed in the Federal Highway Administration's implementing procedures, "[p]romulgation of rules, regulations, and directives." 23 CFR 771.117(c)(20). The purpose of this rulemaking is to permit recipients and subrecipients to impose geographic-based hiring preferences whenever not otherwise prohibited by Federal statute. The agency does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

Regulation Identifier Number

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

List of Subjects in 2 CFR Part 1201

Uniform administrative requirements, Cost principles, and audit requirements for Federal awards.

Issued in Washington, DC, on February 24, 2015.

Anthony R. Foxx,
Secretary of Transportation.

For the reasons set forth in the preamble, part 1201 of title 2 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1201—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

■ 1. The authority citation for part 1201 continues to read:

Authority: 49 U.S.C. 322.

■ 2. Add § 1201.319 to read as follows:

§ 1201.319 Competition.

Notwithstanding 2 CFR 200.319, non-Federal entities may utilize geographic hiring preferences (including local hiring preferences) pertaining to the use of labor on a project consistent with such non-Federal entities' policies and procedures, when not otherwise prohibited by Federal statute or regulation.

[FR Doc. 2015-05215 Filed 3-5-15; 8:45 am]

BILLING CODE 4910-9X-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2015-0250; Directorate Identifier 2014-NM-216-AD]

RIN 2120-AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Airbus Model A318, A319, A320, and A321 series airplanes. This proposed AD was prompted by reports of airspeed indication discrepancies while flying at high altitudes in inclement weather. This proposed AD would require replacing certain pitot probes on the captain, first officer, and standby sides with certain new pitot probes. We are proposing this AD to prevent airspeed indication discrepancies during inclement weather, which, depending on the prevailing altitude, could lead to unknown accumulation of ice crystals and consequent reduced controllability of the airplane.

DATES: We must receive comments on this proposed AD by April 20, 2015.

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

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

- **Fax:** 202-493-2251.

- **Mail:** U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590.

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2015-0250; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT:

Sanjay Ralhan, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057-3356; telephone 425-227-1405; fax 425-227-1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2015-0250; Directorate Identifier 2014-NM-216-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy

aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2014–0237R1, dated December 5, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or “the MCAI”), to correct an unsafe condition for all Airbus Model A318, A319, A320, and A321 series airplanes. The MCAI states:

Occurrences have been reported on A320 family aeroplanes of airspeed indication discrepancies while flying at high altitudes in inclement weather conditions. Investigation results indicated that A320 aeroplanes equipped with Thales Avionics Part Number (P/N) 50620–10 or P/N C16195AA pitot probes appear to have a greater susceptibility to adverse environmental conditions than aeroplanes equipped with certain other pitot probes.

Prompted by earlier occurrences, DGAC [Direction Générale de l’Aviation Civile] France issued [DGAC] AD 2001–362 [http://ad.easa.europa.eu/blob/easa_ad_2001_362.pdf/AD_2001-362] [which corresponds to paragraph (f) of FAA AD 2004–03–33, Amendment 39–13477 (69 FR 9936, March 3, 2004)] to require replacement of Thales (formerly known as Sextant) P/N 50620–10 pitot probes with Thales P/N C16195AA probes.

Since that [DGAC] AD was issued, Thales pitot probe P/N C15195BA was designed, which improved airspeed indication behavior in heavy rain conditions, but did not demonstrate the same level of robustness to withstand high-altitude ice crystals. Based on these findings, EASA have decided to implement replacement of the affected Thales [pitot] probes as a precautionary measure to improve the safety level of the affected aeroplanes.

Consequently, EASA issued AD 2014–0237 [http://ad.easa.europa.eu/blob/easa_ad_2014_0237.pdf/AD_2014-0237], retaining the requirements of DGAC France AD 2001–362, which was superseded, to require replacement of Thales Avionics pitot probes P/N C16195AA and P/N C16195BA.

The following related DGAC France ADs were also cancelled by EASA AD 2014–0237, without retaining any of their requirements:

- AD 91–227–021R1 [http://ad.easa.europa.eu/blob/easa_ad_91_227_021R1.pdf/AD_91_227_021R1], that required replacement of Titeflex hoses; and
- AD 2002–586R1 [http://ad.easa.europa.eu/blob/easa_ad_2002_586R1.pdf/AD_2002_586R1], that required cleaning of Thales P/N C16195AA probes.

Since EASA issued AD 2014–0237, it was brought to the Agency’s attention that Airbus modification (mod) 155737 was introduced to install Thales probes in production. This affects paragraph (4) of the [EASA] AD.

For the reasons described above, this [EASA] AD is revised to amend paragraph (4), making reference to aeroplanes which are post-mod 25578, but also post-mod 155737, as a result of which they have Thales probes installed.

You may examine the MCAI in the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA–2015–0250.

Related Rulemaking

On February 4, 2004, we issued AD 2004–03–33, Amendment 39–13477 (69 FR 9936, March 3, 2004), applicable to certain Airbus Model A300 B2 and B4 series airplanes; Model A300 B4–600, A300 B4–600R, and A300 F4–600R series airplanes; Model A310 series Airplanes; Model A319, A320, and A321 series airplanes; Model A330–301, –321, –322, –341, and –342 airplanes; and Model A340 series airplanes. That AD requires, among other actions, replacement of certain pitot probes with certain new pitot probes. That AD was issued to prevent loss or fluctuation of indicated airspeed, which could result in misleading information being provided to the flightcrew.

Related Service Information Under 1 CFR Part 51

Airbus has issued Service Bulletin A320–34–1170, Revision 28, dated September 1, 2014; Service Bulletin A320–34–1456, Revision 01, dated May 15, 2012; and Service Bulletin A320–34–1463, Revision 01, dated May 15, 2012. The service information describes procedures for replacing certain Thales Avionics pitot probes on the captain, first officer, and standby sides with certain other Goodrich pitot probes.

The actions described in this service information are intended to correct the unsafe condition identified in the MCAI. This service information is reasonably available; see **ADDRESSES** for ways to access this service information.

FAA’s Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this

AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of these same type designs.

Difference Between This Proposed AD and the MCAI or Service Information

The EASA MCAI specifies that installation of a pitot probe approved after the effective date of the EASA AD, and compliant with the “new EASA icing requirements,” is equal to compliance with the requirements in paragraph (h) of this proposed AD, provided the part is approved by EASA or Airbus’s EASA Design Organization Approval (DOA). However, this proposed AD does not include that requirement because EASA regulations do not apply to airplanes type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29).

Paragraph (1) of the MCAI requires replacement of Thales part number (P/N) 50620–10 pitot probes with Thales P/N C16195AA pitot probes. However, that action is not included in this proposed AD. Paragraph (f) of AD 2004–03–33, Amendment 39–13477 (69 FR 9936, March 3, 2004), requires that action.

Costs of Compliance

We estimate that this proposed AD affects 953 airplanes of U.S. registry.

We also estimate that it would take about 4 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is \$85 per work-hour. Required parts would cost about \$21,930 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be \$21,223,310, or \$22,270 per product.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in “Subtitle VII, Part A, Subpart III, Section 44701: General requirements.” Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority

because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

1. Is not a “significant regulatory action” under Executive Order 12866;
2. Is not a “significant rule” under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2015–0250; Directorate Identifier 2014–NM–216–AD.

(a) Comments Due Date

We must receive comments by April 20, 2015.

(b) Affected ADs

This AD affects AD 2004–03–33, Amendment 39–13477 (69 FR 9936, March 3, 2004).

(c) Applicability

This AD applies to the airplanes identified in paragraphs (c)(1), (c)(2), (c)(3), and (c)(4) of this AD, certificated in any category, all manufacturer serial numbers.

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

- (2) Airbus Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes.
- (3) Airbus Model A320–211, –212, –214, –231, –232, and –233 airplanes.

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

(d) Subject

Air Transport Association (ATA) of America Code 34, Navigation.

(e) Reason

This AD was prompted by reports of airspeed indication discrepancies while flying at high altitudes in inclement weather. We are issuing this AD to prevent airspeed indication discrepancies during inclement weather, which, depending on the prevailing altitude, could lead to unknown accumulation of ice crystals and consequent reduced controllability of the airplane.

(f) Compliance

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

(g) Replacement of Pitot Probes

Within 48 months after the effective date of this AD: Replace any Thales pitot probe having part number (P/N) C16195AA or P/N C16195BA, with a Goodrich pitot probe having P/N 0851HL, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–34–1170, Revision 28, dated September 1, 2014. Accomplishing the replacement in this paragraph terminates the requirements of paragraph (f) of AD 2004–03–33, Amendment 39–13477 (69 FR 9936, March 3, 2004), for that airplane only.

(h) Methods of Compliance for Replacement

- (1) Replacement of the pitot probes in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–34–1456, Revision 01, dated May 15, 2012 (pitot probes on the captain and standby sides); and Airbus Service Bulletin A320–34–1463, Revision 01, dated May 15, 2012 (pitot probes on the first officer side); is an acceptable method of compliance with the requirements of paragraph (g) of this AD.

- (2) Airplanes on which Airbus Modification 25578 was embodied in production, except for post-modification 25578 airplanes on which Airbus Modification 155737 (installation of Thales pitot probes) was also embodied in production, are compliant with the requirements of paragraph (g) of this AD, provided it can be conclusively determined that no Thales pitot probe having P/N C16195AA, P/N C16195BA, or P/N 50620–10 has been installed since the date of issuance of the original certificate of airworthiness or the date of issuance of the original export certificate of airworthiness. Post-modification 25578 airplanes on which Airbus Modification 155737 (installation of Thales pitot probes) was also embodied in production must be in compliance with the requirements of paragraph (g) of this AD.

(i) Credit for Previous Actions

- (1) This paragraph provides credit for the actions required by paragraph (g) of this AD, if those actions were performed before the

effective date of this AD using the service information identified in paragraph (i)(1)(i) through (i)(1)(xxiv) of this AD. This service information is not incorporated by reference in this AD.

- (i) Airbus Service Bulletin A320–34–1170, Revision 04, dated May 24, 2000.

- (ii) Airbus Service Bulletin A320–34–1170, Revision 05, dated September 11, 2000.

- (iii) Airbus Service Bulletin A320–34–1170, Revision 06, dated October 18, 2001.

- (iv) Airbus Service Bulletin A320–34–1170, Revision 07, dated December 4, 2001.

- (v) Airbus Service Bulletin A320–34–1170, Revision 08, dated January 15, 2003.

- (vi) Airbus Service Bulletin A320–34–1170, Revision 09, dated February 17, 2003.

- (vii) Airbus Service Bulletin A320–34–1170, Revision 10, dated November 21, 2003.

- (viii) Airbus Service Bulletin A320–34–1170, Revision 11, dated August 18, 2004.

- (ix) Airbus Service Bulletin A320–34–1170, Revision 12, dated December 2, 2004.

- (x) Airbus Service Bulletin A320–34–1170, Revision 13, dated January 18, 2005.

- (xi) Airbus Service Bulletin A320–34–1170, Revision 14, dated April 21, 2005.

- (xii) Airbus Service Bulletin A320–34–1170, Revision 15, dated July 19, 2005.

- (xiii) Airbus Service Bulletin A320–34–1170, Revision 16, dated November 23, 2006.

- (xiv) Airbus Service Bulletin A320–34–1170, Revision 17, dated February 14, 2007.

- (xv) Airbus Service Bulletin A320–34–1170, Revision 18, dated October 9, 2009.

- (xvi) Airbus Service Bulletin A320–34–1170, Revision 19, dated November 9, 2009.

- (xvii) Airbus Service Bulletin A320–34–1170, Revision 20, dated December 1, 2010.

- (xviii) Airbus Service Bulletin A320–34–1170, Revision 21, dated March 24, 2011.

- (xix) Airbus Service Bulletin A320–34–1170, Revision 22, dated July 19, 2011.

- (xx) Airbus Service Bulletin A320–34–1170, Revision 23, dated February 3, 2012.

- (xxi) Airbus Service Bulletin A320–34–1170, Revision 24, dated April 12, 2012.

- (xxii) Airbus Service Bulletin A320–34–1170, Revision 25, dated September 4, 2012.

- (xxiii) Airbus Service Bulletin A320–34–1170, Revision 26, dated September 16, 2013.

- (xxiv) Airbus Service Bulletin A320–34–1170, Revision 27, dated March 18, 2014.

(2) This paragraph provides credit for the replacement of pitot probes on the captain and standby sides specified in paragraph (h)(1) of this AD, if the replacement was performed before the effective date of this AD using Airbus Service Bulletin A320–34–1456, dated December 2, 2009, which is not incorporated by reference in this AD.

- (3) This paragraph provides credit for the replacement of pitot probes on the first officer side specified in paragraph (h)(1) of this AD, if those actions were performed before the effective date of this AD using Airbus Service Bulletin A320–34–1463, dated March 9, 2010, which is not incorporated by reference in this AD.

(j) Parts Installation Limitations

- (1) At the applicable time specified in paragraph (j)(1)(i) or (j)(1)(ii) of this AD: No person may install on any airplane a Thales pitot probe having P/N C16195AA or P/N C16195BA.

(i) For airplanes with a Thales pitot probe having P/N C16195AA or P/N C16195BA installed: After accomplishing the replacement required by paragraph (g) of this AD.

(ii) For airplanes without a Thales pitot probe having P/N C16195AA or P/N C16195BA installed: As of the effective date of this AD.

(2) As of the effective date of this AD, no person may install on any airplane a Thales pitot probe having part number P/N 50620–10.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2014–0237R1, dated December 5, 2014, for related information. This MCAI may be found in the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA–2015–0250.

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

Issued in Renton, Washington, on February 19, 2015.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–04495 Filed 3–5–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–100400–14]

RIN 1545–BM14

Guidance Regarding Reporting Income and Deductions of a Corporation That Becomes or Ceases To Be a Member of a Consolidated Group

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to the consolidated return regulations. These proposed regulations would revise the rules for reporting certain items of income and deduction that are reportable on the day a corporation joins or leaves a consolidated group. The proposed regulations would affect such corporations and the consolidated groups that they join or leave.

DATES: Written or electronic comments and requests for a public hearing must be received by June 4, 2015.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–100400–14), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–100400–14), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC, or sent electronically via the Federal eRulemaking Portal at <http://www.regulations.gov/> (IRS REG–100400–14).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Russell G. Jones, (202) 317–6847; concerning the submission of comments or to request a public hearing, Oluwafunmilayo (Funmi) P. Taylor, (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

1. Introduction

This notice of proposed rulemaking contains proposed regulations that

amend 26 CFR part 1 under section 1502 of the Internal Revenue Code (Code). Section 1502 authorizes the Secretary to prescribe regulations for corporations that join in filing a consolidated return, and it expressly provides that those rules may be different from the provisions of chapter 1 of subtitle A of the Code that would apply if those corporations filed separate returns. Terms used in the consolidated return regulations generally are defined in § 1.1502–1.

These proposed regulations provide guidance under § 1.1502–76, which prescribes rules for determining the taxable period in which items of income, gain, deduction, loss, and credit (tax items) of a corporation that joins in filing a consolidated return are included. Section 1.1502–76(b) provides, in part, that if a corporation (S) becomes or ceases to be a member of a consolidated group during a consolidated return year, S must include in the consolidated return its tax items for the period during which it is a member. S also must file a separate return (including a consolidated return of another group) that includes its items for the period during which it is not a member.

2. Prior and Current Regulations

On September 8, 1966, the IRS and the Treasury Department promulgated regulations under § 1.1502–76 in TD 6894, 31 FR 11794 (1966 regulations). Section 1.1502–76(b) of the 1966 regulations was silent regarding the treatment of S's tax items that accrued on the day S became or ceased to be a member of a consolidated group (S's change in status). Thus, whether S's tax items for the day of S's change in status should have been reflected on S's tax return for the short period ending with S's change in status, or whether these tax items should have been reflected instead on S's tax return for the short period beginning after S's change in status, was unclear under the 1966 regulations.

On August 15, 1994, the IRS and the Treasury Department published final regulations (TD 8560; 59 FR 41666) under § 1.1502–76(b) (current regulations) that revised the 1966 regulations to eliminate uncertainty regarding the treatment of tax items recognized by S on the day of S's change in status. Under the general rule of § 1.1502–76(b)(1)(ii)(A)(1) of the current regulations (current end of the day rule), S is treated for all federal income tax purposes as becoming or ceasing to be a member of a consolidated group at the end of the day of S's change in status, and S's tax items that are reportable on

that day generally are included in the tax return for the taxable year that ends as a result of S's change in status.

The notice of proposed rulemaking that proposed the current end of the day rule (57 FR 53634, Nov. 12, 1992) (1992 NPRM) indicated that the current end of the day rule was intended to provide certainty and prevent inconsistent reporting of S's items between the consolidated and separate returns. Prior to the 1992 NPRM, some taxpayers had inferred (based upon the administrative practice of the IRS) that the inclusion in a particular return of a tax item of S incurred on the day of S's change in status depended on a factual determination of whether the transaction occurred before or after noon on the day of S's change in status (the so-called "lunch rule").

There are two exceptions to the current end of the day rule. The first exception (in § 1.1502-76(b)(1)(ii)(A)(2)) provides that if a corporation is an S corporation (within the meaning of section 1361(a)(1)) immediately before becoming a member of a consolidated group, the corporation becomes a member of the group at the beginning of the day the termination of its S corporation election is effective (termination date), and its taxable year ends for all federal income tax purposes at the end of the preceding day (S corporation exception). The S corporation exception was added by TD 8842 (64 FR 61205; Nov. 10, 1999) to eliminate the need to file a one-day C corporation return for the day an S corporation is acquired by a consolidated group. No additional rule was necessary with respect to a qualified S corporation subsidiary (QSub) of an S corporation that joins a consolidated group. See § 1.1361-5(a)(3).

Added at the same time as the current end of the day rule, the second exception (in § 1.1502-76(b)(1)(ii)(B)) provides that if a transaction occurs on the day of S's change in status that is properly allocable to the portion of S's day after the event resulting in S's change in status, S and certain related persons must treat the transaction as occurring at the beginning of the following day for all federal income tax purposes (current next day rule). The current next day rule was added in response to comments to the 1992 NPRM suggesting that the current end of the day rule created a "seller beware" problem with respect to S's tax items arising on the day of S's change in status but after the event causing S's change in status. Commenters suggested that, for example, if consolidated group A sold the stock of S to consolidated group B,

and group B caused S to sell one of its divisions on the same day it was acquired by group B, the gain from the sale of the division would be inappropriately allocable to group A's consolidated return. Commenters recommended that final regulations adopt rules substantially similar to the current next day rule to protect the reasonable expectations of sellers and buyers of S's stock. Commenters suggested that a rule providing this type of protection was most appropriate with respect to extraordinary items, and some commenters suggested that a rule similar to the current next day rule should operate unless the seller and buyer of S agreed otherwise.

3. Proposed Regulations

A. Overview

The IRS and the Treasury Department have determined that changes should be made to the regulations under § 1.1502-76(b) due to uncertainty regarding the appropriate application of the current next day rule. These proposed regulations address this concern as well as additional concerns with the current regulations, as summarized in this section 3.A. and discussed in greater detail in sections 3.B. through 3.K. of this preamble.

To provide certainty, the proposed regulations generally clarify the period in which S must report certain tax items by replacing the current next day rule with a new exception to the end of the day rule (proposed next day rule) that is more narrowly tailored to clearly reflect taxable income and prevent certain post-closing actions from adversely impacting S's tax return for the period ending on the day of S's change in status. The proposed next day rule applies only to "extraordinary items" (as defined in § 1.1502-76(b)(2)(ii)(C) of the proposed regulations) that result from transactions that occur on the day of S's change in status, but after the event causing the change, and that would be taken into account by S on that day. This rule requires those extraordinary items to be allocated to S's tax return for the period beginning the next day. The proposed next day rule is expressly inapplicable to any extraordinary item that arises simultaneously with the event that causes S's change in status.

The proposed regulations further clarify that fees for services rendered in connection with S's change in status constitute a "compensation-related deduction" for purposes of § 1.1502-76(b)(2)(ii)(C)(9) (if payment of the fees would give rise to a deduction), and therefore an extraordinary item. The

proposed regulations also clarify that the anti-avoidance rule in § 1.1502-76(b)(3) may apply to situations in which a person modifies an existing contract or other agreement in anticipation of S's change in status.

The proposed regulations also add a rule (previous day rule, described in section 3.C. of this preamble) to clarify the application of the S corporation exception. In addition, the proposed regulations limit the scope of the end of the day rule, the next day rule, the S corporation exception, and the previous day rule to determining the period in which S must report certain tax items and determining the treatment of an asset or a tax item for purposes of sections 382(h) and 1374 (as opposed to applying for all federal income tax purposes).

Additionally, the proposed regulations provide that short taxable years resulting from intercompany transactions to which section 381(a) applies (intercompany section 381 transactions) are not taken into account in determining the carryover period for a tax item of the distributor or transferor member in the intercompany section 381 transaction or for purposes of section 481(a). Furthermore, the proposed regulations provide that the due date for filing S's separate return for the taxable year that ends as a result of S becoming a member is not accelerated if S ceases to exist in the same consolidated return year.

The proposed regulations make several other conforming and non-substantive changes to the current regulations as well. Finally, the proposed regulations add several examples to illustrate the proposed rules.

The IRS and the Treasury Department note that neither the current regulations nor the proposed regulations are intended to supersede general rules in the Code and regulations concerning whether an item is otherwise includible or deductible.

B. Proposed Next Day Rule

The current next day rule provides that S and certain related persons must treat a transaction as occurring at the beginning of the day following S's change in status if the transaction occurs on the day of S's change in status and is "properly allocable" to the portion of that day following S's change in status. The IRS and the Treasury Department believe, however, that the standards provided in the current next day rule for determining whether a transaction is "properly allocable" to the portion of S's day after the event resulting in S's change in status have

been inappropriately interpreted by taxpayers. The current next day rule provides that a determination of whether a transaction is “properly allocable” to the portion of S’s day after the event resulting in S’s change in status is respected if it is “reasonable and consistently applied by all affected persons.” In determining whether an allocation is “reasonable,” certain factors enumerated in the current regulations are to be considered, including whether tax items arising from the same transaction are allocated inconsistently. Some taxpayers have interpreted these rules as providing flexibility in reporting tax items that result from transactions occurring on the day of S’s change in status so that those items can be allocated by agreement to the day of, or to the day following, S’s change in status. The IRS and the Treasury Department view this interpretation of the current next day rule as inappropriate because it effectively would permit taxpayers to elect the income tax return on which these tax items are reported and therefore may not result in an allocation that clearly reflects taxable income. This electivity is inconsistent with the purpose of § 1.1502–76(b) to clearly reflect the income of S and the consolidated group. Further, the IRS and the Treasury Department have observed that the current regulations create controversy between taxpayers and the IRS as to whether certain of S’s tax items that become reportable on the day of S’s change in status are properly allocated to S’s tax return for the period ending that day rather than to S’s tax return for the period beginning the next day.

The proposed next day rule is intended to eliminate the perceived electivity and the source of these controversies. Under the proposed regulations, the application of the proposed next day rule is mandatory rather than elective—if an extraordinary item results from a transaction that occurs on the day of S’s change in status, but after the event resulting in the change, and if the item would be taken into account by S on that day, the transaction resulting in the extraordinary item is treated as occurring at the beginning of the following day for purposes of determining the period in which S must report the item.

The proposed regulations also provide that the proposed next day rule is inapplicable to items that arise simultaneously with the event that causes S’s change in status. Under the end of the day rule (as revised by these proposed regulations), those items are

reported on S’s tax return for the short period ending on the day of S’s change in status. The proposed regulations are expected to afford taxpayers and the IRS greater certainty regarding the period to which S’s tax items resulting from such a transaction are allocated.

C. Previous Day Rule

As noted in section 2 of this preamble, the special rule for S corporations provides an exception to the end of the day rule if an S corporation joins a consolidated group. To avoid creating a one-day C corporation tax return for the termination date, the S corporation exception provides that S becomes a member of the group at the beginning of the termination date, and that S’s taxable year ends for all federal income tax purposes at the end of the preceding day.

Although these proposed regulations retain the S corporation exception, the proposed regulations add a previous day rule that mirrors the principles of the proposed next day rule. Whereas the proposed next day rule requires extraordinary items resulting from transactions that occur on the day of S’s change in status (but after the event causing the change) to be allocated to S’s tax return for the short period that begins the following day, the previous day rule requires extraordinary items resulting from transactions that occur on the termination date (but before or simultaneously with the event causing S’s status as an S corporation to terminate) to be allocated to S’s tax return for the short period that ends on the previous day (that is, the day preceding the termination date).

D. Revised Scope of the End of the Day Rule and Related Rules

Under the current end of the day rule, S becomes or ceases to be a member at the end of the day on which its status as a member changes, and its tax year ends “for all federal income tax purposes” at the end of that day. However, applying the end of the day rule for purposes other than the reporting of S’s tax items could yield results inconsistent with other consolidated return rules. For example, under §§ 1.1502–13 and 1.1502–80(d)(1), if a member contributes property subject to a liability in excess of the property’s basis to a nonmember in exchange for the nonmember’s stock, and if the transferee becomes a member of the transferor’s consolidated group as a result of the exchange, the transaction is treated as an intercompany transaction and section 357(c) does not apply. However, if the end of the day

rule applies “for all federal income tax purposes,” it may be unclear whether the transferee becomes a member “immediately after the transaction,” whether the transaction is an intercompany transaction, and whether section 357(c) could apply to the transaction.

To eliminate possible confusion arising from application of the current end of the day rule and related rules, these proposed regulations provide that the end of the day rule, the proposed next day rule, the S corporation exception, and the previous day rule apply for purposes of determining the period in which S must report its tax items, as well as for purposes of sections 382(h) and 1374 (discussed in section 3.I. of this preamble).

E. Extraordinary Items

The proposed next day rule mandatorily applies to extraordinary items that result from a transaction that occurs on the day of S’s change in status but after the event that causes the change. In contrast, the previous day rule mandatorily applies to extraordinary items that result from a transaction that occurs on the day of S’s change in status but before or simultaneously with the event that causes S’s status as an S corporation to terminate.

One category of extraordinary items, set forth in § 1.1502–76(b)(2)(ii)(C)(9) of the current regulations, applies to any “compensation-related deduction in connection with S’s change in status.” The proposed regulations clarify that this category of extraordinary items includes (among other items) a deduction for fees for services rendered in connection with S’s change in status. For example, if payment of a fee for the services of a financial adviser is contingent upon a successful acquisition of S’s stock, to the extent the fee gives rise to a deduction, the deduction for the accrual of that expense is an extraordinary item, and the deduction is allowable only in S’s taxable year that ends at the close of the day of the change.

The IRS and the Treasury Department request comments as to whether the list of extraordinary items set forth in § 1.1502–76(b)(2)(ii)(C) should be modified to include any item not currently listed or whether any item currently included should be deleted or modified. Specifically, the IRS and the Treasury Department are considering whether the item in § 1.1502–76(b)(2)(ii)(C)(5) (“[a]ny item carried to or from any portion of the original year (e.g., a net operating loss carried under section 172), and any section 481(a)

adjustment”) should be modified to include “any section 481(a) adjustment or the acceleration thereof,” and whether the item in § 1.1502–76(b)(2)(ii)(C)(6) (“[t]he effects of any change in accounting method initiated by the filing of the appropriate form after S’s change in status”) should continue to be included in the list of extraordinary items.

The IRS and the Treasury Department also request comments as to whether any extraordinary item should be excluded, in whole or in part, from application of the next day rule and the previous day rule. In particular, the IRS and the Treasury Department request comments as to whether the extraordinary items set forth in § 1.1502–76(b)(2)(ii)(C)(5) and (6) of the current regulations should be excluded, in whole or in part, from application of these rules.

F. Ratable Allocation

Rather than require S to perform a closing of the books on the day of its change in status, the current regulations under § 1.1502–76(b)(2)(ii) permit S’s tax items, other than the extraordinary items, to be ratably allocated between S’s two short taxable years if certain conditions are met. The IRS and the Treasury Department request comments as to whether S no longer should be permitted to elect to ratably allocate its tax items between the periods ending and beginning with S’s change in status.

G. Certain Foreign Entities

Solely for purposes of determining the short taxable year of S to which the items of a passthrough entity in which S owns an interest are allocated, § 1.1502–76(b)(2)(vi)(A) of the current regulations generally provides that S is treated as selling or exchanging its entire interest in the entity immediately before S’s change in status. This rule does not apply to certain foreign corporations the ownership of which may give rise to deemed income inclusions under the Code. In addition, a deemed income inclusion from a foreign corporation and a deferred tax amount from a passive foreign investment company under section 1291 are treated as extraordinary items under § 1.1502–76(b)(2)(ii)(C)(11). The IRS and the Treasury Department request comments as to whether such deemed income inclusions or deferred tax amounts should continue to be treated as extraordinary items, whether rules having similar effects to the rule in § 1.1502–76(b)(2)(vi)(A) relating to passthrough entities should be adopted for controlled foreign corporations and passive foreign investment companies

in which S owns an interest, and whether any other changes should be made to § 1.1502–76(b)(2)(vi) of the current regulations.

H. Anti-Avoidance Rule

Under § 1.1502–76(b)(3) of the current regulations, if any person acts with a principal purpose contrary to the purposes of § 1.1502–76(b) to substantially reduce the federal income tax liability of any person (prohibited purpose), adjustments must be made as necessary to carry out the purposes of § 1.1502–76 of the current regulations (anti-avoidance rule). The proposed regulations clarify that the anti-avoidance rule may apply to situations in which a person modifies an existing contract or other agreement in anticipation of S’s change in status in order to shift an item between the taxable years that end and begin as a result of S’s change in status if such actions are undertaken with a prohibited purpose. The IRS and the Treasury Department request comments regarding this proposed amendment to the anti-avoidance rule.

I. Coordination With Sections 382(h) and 1374

1. Section 382

For purposes of section 382, the term *recognized built-in loss* (RBIL) means any loss recognized during the recognition period on the disposition of any asset held by the loss corporation immediately before the date of the section 382 ownership change (change date), to the extent the loss reflects a built-in loss on the change date. Section 382(h)(2)(B). The term *recognition period* means the five-year period beginning on the change date. Section 382(h)(7)(A).

Section 382(h)(1)(B) generally provides that if a loss corporation has a net unrealized built-in loss (NUBIL), then any RBIL taken into account in a taxable year any portion of which falls in the recognition period (recognition period taxable year) is treated as a deduction subject to the loss corporation’s section 382 limitation as if the RBIL were a pre-change loss. The amount of RBILs subject to the section 382 limitation in any recognition period taxable year is limited, however, to the excess of the NUBIL over total RBILs in prior taxable years ending in the recognition period. (The amount of such excess is referred to in this preamble as the outstanding NUBIL balance.) In other words, the amount of the NUBIL limits the amount of RBILs that are treated as pre-change losses, and any

built-in loss treated as an RBIL further reduces the outstanding NUBIL balance.

In many cases, the event that causes S’s change in status for purposes of § 1.1502–76(b)(1)(ii) also causes S to undergo an ownership change for purposes of section 382. Thus, an item of deduction or loss that becomes reportable on the day of S’s change in status falls within the recognition period beginning that day, even if the item is allocated to S’s short period ending that day under the end of the day rule. As a consequence, an item that should be a pre-change loss is treated as an RBIL that reduces the outstanding NUBIL balance. For example, assume consolidated group A sells all of S’s stock to consolidated group B. If on the day of S’s change in status (but before the event causing the change), S recognizes a loss on the sale of an asset, under the end of the day rule the loss is reported on group A’s consolidated return. However, notwithstanding that the loss may not be claimed by group B, the loss may be treated as an RBIL and reduce the outstanding NUBIL balance.

To prevent such an outcome, these proposed regulations provide that, for purposes of section 382(h), items includible in the short taxable year that ends as a result of S’s change in status (including items allocated to that taxable year under the end of the day rule) are not treated as occurring in the recognition period. Rather, only items includible in S’s short taxable year that begins as a result of S’s change in status (including items allocated to that taxable year under the proposed next day rule) are treated as occurring in the recognition period. Therefore, the beginning of the recognition period for purposes of section 382(h) would correspond with the beginning of S’s short taxable year that begins on the day after S’s change in status.

2. Section 1374

Section 1374 generally imposes a corporate-level tax (section 1374 tax) on the recognition of gain by an S corporation that formerly was a C corporation (or that acquired assets from a C corporation in a transferred basis transaction) during a recognition period specified in section 1374(d)(7) (section 1374 recognition period), but only to the extent of the corporation’s net recognized built-in gain (as defined in section 1374(d)(2)) for a given taxable year. The section 1374 tax also applies to certain tax items attributable to the corporation’s C corporation taxable years. In addition, regulations under section 1374(d) extend section 1374 treatment to (1) a C corporation’s conversion to a real estate investment

trust (REIT), regulated investment company (RIC), and certain tax-exempt entities, or (2) certain cases in which a REIT, RIC, or tax-exempt entity acquires assets in a transferred basis transaction from a C corporation.

As with the application of section 382(h), the event that causes S's change in status for purposes of § 1.1502-76(b)(1)(ii) may be the event that results in S being a corporation that is subject to the section 1374 tax. Therefore, it is necessary to determine in which return (the group's consolidated return or S's separate return beginning the day after S's change in status) S's tax items for the day of S's change in status are included. Similarly, if the event that causes S's change in status for purposes of § 1.1502-76(b)(1)(ii) is the event that results in S ceasing to be a corporation subject to the section 1374 tax, it is necessary to determine in which return (the group's consolidated return or S's separate return for the period ending the day before S's change in status) S's tax items for the day of S's change in status are included. The proposed regulations thus provide that if S ceases to be a corporation subject to the section 1374 tax upon becoming a member, or if S elects to be a corporation that is subject to the section 1374 tax for its first separate return year after ceasing to be a member, S's items of recognized built-in gain or loss for purposes of section 1374 will include only the amounts reported on S's separate return (including items reported on that return under the previous day rule or the next day rule).

J. Intercompany Section 381 Transactions

Under the current consolidated return regulations, if a member distributes or transfers its assets to another corporation that is a member immediately after the distribution or transfer in an intercompany section 381 transaction, and if the distributor or transferor member has a net operating loss carryover or a net capital loss carryover, the distributor or transferor member will not be treated as having a short taxable year for purposes of determining the years to which the loss may be carried. Sections 1.1502-21(b)(3)(iii) and 1.1502-22(b)(4).

These proposed regulations would amend current law by moving these rules to § 1.1502-76(b)(2)(i) and making conforming changes to §§ 1.1502-21(b)(3)(iii) and 1.1502-22(b)(4). In addition, these proposed regulations would expand these rules by providing that a short taxable year of the distributor or transferor member by reason of an intercompany section 381

transaction is not counted as a separate taxable year for purposes of determining either the taxable years to which any tax attribute of the distributor or transferor member may be carried or the taxable years in which an adjustment under section 481(a) is taken into account. No inference should be drawn from the proposed changes to these rules as to whether a short taxable year of a member resulting from an intercompany section 381 transaction is counted under current law for purposes of determining the years to which a tax credit may be carried or in which a section 481 adjustment is taken into account.

K. Due Date for Filing Tax Returns

The proposed regulations also eliminate a provision that could cause taxpayers to inadvertently miss a return filing deadline. Under § 1.1502-76(b)(4) of the current regulations, if S joins a consolidated group, the due date for filing S's separate return is the earlier of the due date (with extensions) of the group's return or the due date (with extensions) of S's return if S had not joined the group. If S goes out of existence during the consolidated return year in which S joins a group, its taxable year would end. Under section 6072, the due date for S's short period return would be the 15th day of the third month (ninth month, with extensions) following the date on which S ceases to exist. Accordingly, if S ceases to exist during the same consolidated return year in which it becomes a member, the due date for S's tax return for the short period that ended as a result of S becoming a member could be accelerated. To prevent a taxpayer from inadvertently missing a filing date and being subject to potential penalties for filing a late return, the proposed regulations provide that if S goes out of existence in the same consolidated return year in which it becomes a member, the due date for filing S's separate return is determined without regard to S's ceasing to exist.

L. Non-Substantive Changes

In addition to the changes described in this preamble, the proposed regulations make several non-substantive changes to the current regulations, including moving an example concerning § 1.1502-80(d) from the text of § 1.1502-76(b)(1)(ii)(B)(2) of the current regulations to § 1.1502-13(c)(7)(ii), Example 3(e).

Effective/Applicability Date

The amendments to §§ 1.1502-21(b)(3)(iii), 1.1502-22(b)(4)(i), 1.1502-76(b)(2)(i), and 1.1502-76(b)(4) will

apply to consolidated return years beginning on or after the date these regulations are published as final regulations in the **Federal Register**. The other amendments to § 1.1502-76(b) will apply to corporations becoming or ceasing to be members of consolidated groups on or after the date these regulations are published as final regulations in the **Federal Register**.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It is hereby certified that these regulations will not have a significant impact on a substantial number of small entities. This certification is based on the fact that the regulations apply only to transactions involving corporations that file consolidated federal income tax returns, and that such corporations tend to be larger businesses. Accordingly, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the "Addresses" heading. The IRS and the Treasury Department request comments on all aspects of the proposed rules. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by any person who timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place of the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Russell G. Jones of the Office of Associate Chief Counsel (Corporate). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

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

Section 1.1361–5 also issued under 26 U.S.C. 1361. * * *

Section 1.1362–3 also issued under 26 U.S.C. 1362. * * *

Section 1.1502–13 also issued under 26 U.S.C. 1502. * * *

Section 1.1502–21 also issued under 26 U.S.C. 1502. * * *

Section 1.1502–22 also issued under 26 U.S.C. 1502. * * *

Section 1.1502–28 also issued under 26 U.S.C. 1502. * * *

Section 1.1502–76 also issued under 26 U.S.C. 382(m) and 26 U.S.C. 1502. * * *

§ 1.1361–5 [Amended]

■ **Par. 2.** Section 1.1361–5 is amended:

■ 1. In paragraph (a)(3), by removing “§ 1.1502–76(b)(1)(ii)(A)(2) (relating to a special rule)” and adding “§ 1.1502–76(b)(1)(ii)(B) (relating to special rules)” in its place.

■ 2. In paragraph (a)(4), *Example 4*, by removing “§ 1.1502–76(b)(1)(ii)(A)(2)” and adding “§ 1.1502–76(b)(1)(ii)(B)(1)” in its place.

§ 1.1362–3 [Amended]

■ **Par. 3.** Section 1.1362–3 is amended in paragraph (a) by removing “§ 1.1502–76(b)(1)(ii)(A)(2)” and adding “§ 1.1502–76(b)(1)(ii)(B)” in its place.

■ **Par. 4.** Section 1.1502–13 is amended by adding *Example 3(e)* to paragraph (c)(7)(ii) to read as follows:

§ 1.1502–13 Intercompany transactions.

* * * * *

(c) * * *

(7) * * *

(ii) * * *

Example 3. * * *

(e) *Liability in excess of basis.* The facts are the same as in paragraph (a) of this *Example 3*, except that S and B are not members of the same consolidated group immediately before S's transfer of the land to B, and the land is encumbered with an \$80 liability. Immediately after the transfer, S and B are members of the same consolidated group. Thus, the transfer is an intercompany transaction to which section 357(c) does not apply pursuant to § 1.1502–80(d).

* * * * *

■ **Par. 5.** Section 1.1502–21 is amended by revising paragraph (b)(3)(iii) and adding paragraph (h)(1)(iv) to read as follows:

§ 1.1502–21 Net operating losses.

* * * * *

(b) * * *

(3) * * *

(iii) *Short years in connection with intercompany transactions to which section 381(a) applies.* If a member distributes or transfers assets in an intercompany transaction to which section 381(a) applies, see § 1.1502–76(b)(2)(i).

* * * * *

(h) * * *

(1) * * *

(iv) Paragraph (b)(3)(iii) of this section applies to consolidated return years beginning on or after the date these regulations are published as final regulations in the **Federal Register**. For transactions occurring before the date these regulations are published as final regulations in the **Federal Register**, see § 1.1502–21(b) as contained in 26 CFR part 1, revised as of April 1 preceding the date these regulations are published as final regulations in the **Federal Register**.

* * * * *

■ **Par. 6.** Section 1.1502–22 is amended by:

■ 1. Revising paragraph (b)(4)(i).

■ 2. Revising the heading of paragraph (h).

■ 3. Adding paragraph (h)(1)(iii).

The revisions and addition read as follows:

§ 1.1502–22 Consolidated capital gain and loss.

* * * * *

(b) * * *

(4) *Special rules—(i) Short years in connection with intercompany transactions to which section 381(a) applies.* If a member distributes or transfers assets in an intercompany transaction to which section 381(a) applies, see § 1.1502–76(b)(2)(i).

* * * * *

(h) *Effective/applicability date—*

(1) * * *

(iii) Paragraph (b)(4)(i) of this section applies to consolidated return years beginning on or after the date these regulations are published as final regulations in the **Federal Register**. For transactions occurring before the date these regulations are published as final regulations in the **Federal Register**, see § 1.1502–22(b) as contained in 26 CFR part 1, revised as of April 1 preceding the date these regulations are published as final regulations in the **Federal Register**.

* * * * *

§ 1.1502–28 [Amended]

■ **Par. 7.** Section 1.1502–28 is amended in paragraph (b)(11) by removing “§ 1.1502–76(b)(1)(ii)(B)” and adding “§ 1.1502–76(b)(1)(ii)(A)(2)” in its place.

■ **Par. 8.** Section 1.1502–76 is amended:

■ 1. By adding a sentence at the end of paragraph (b)(1)(i).

■ 2. By revising paragraphs (b)(1)(ii)(A) and (B).

■ 3. By adding paragraph (b)(1)(ii)(D).

■ 4. By adding a sentence at the end of paragraph (b)(2)(i).

■ 5. By revising paragraph (b)(2)(ii)(C)(9).

■ 6. By removing the last sentence of paragraph (b)(2)(iii).

■ 7. By removing the last sentence of paragraph (b)(2)(v).

■ 8. In paragraph (b)(2)(vi)(C) by removing “paragraph (b)(2)(v)” and adding “paragraph (b)(2)(vi)” in its place.

■ 9. By revising paragraph (b)(3).

■ 10. By adding a sentence at the end of paragraph (b)(4).

■ 11. By adding *Examples 8, 9, and 10* to paragraph (b)(5).

■ 12. By revising paragraph (b)(6).

The revisions and additions read as follows:

§ 1.1502–76 Taxable year of members of group.

* * * * *

(b) * * *

(1) * * *

(i) * * * If a corporation (S) becomes or ceases to be a member in a stock disposition or purchase for which an election under section 336(e) or section 338 is made, paragraphs (b)(1)(ii), (b)(2)(ii), and (b)(2)(iii) of this section do not apply to the transaction.

(ii) * * *

(A) *In general—(1) End of the day rule.* If S becomes or ceases to be a member during a consolidated return year, S's tax year ends, and (except as provided in paragraph (b)(1)(ii)(A)(2) or paragraph (b)(1)(ii)(B) of this section) for purposes of determining the period in which S must report an item of income, gain, deduction, loss, or credit, S is treated as becoming or ceasing to be a member at the end of the day on which its status as a member changes (end of the day rule).

(2) *Next day rule.* If an extraordinary item (as defined in paragraph (b)(2)(ii)(C) of this section) results from a transaction that occurs on the day of S's change in status as a member, but after the event resulting in the change, and the item would be taken into account by S on that day, the transaction resulting in the extraordinary item is treated as occurring at the beginning of the following day for purposes of determining the period in which S must report the item (next day rule). The next day rule does not apply to any extraordinary item that becomes

includible or deductible simultaneously with the event that causes the change in S's status.

(B) *Special rules for former S corporations*—(1) *Beginning of the day rule*. If an election under section 1362(a) is in effect for S immediately before S becomes a member, S is treated as becoming a member at the beginning of the day the termination of its election under section 1362(a) is effective (termination date), and S's taxable year ends at the end of the day preceding the termination date. See § 1.1361–5(a)(3) for the treatment of certain qualified S corporation subsidiaries.

(2) *Previous day rule*. If an extraordinary item (as defined in paragraph (b)(2)(ii)(C) of this section) results from a transaction that occurs on the termination date, but before or simultaneously with the event resulting in the termination of S's election under section 1362(a), and the item would be taken into account by S on that day, the transaction resulting in the extraordinary item is treated as occurring at the end of the previous day for purposes of determining the period in which S must report the item (previous day rule). See § 1.1361–5(a)(3) for the treatment of certain qualified S corporation subsidiaries.

* * * * *

(D) *Coordination with sections 382 and 1374*. If the day of S's change in status is also the date of an ownership change for purposes of section 382, the rules and principles of this section apply in determining the treatment of any item or asset for purposes of section 382(h). Accordingly, if the day of S's change in status is also a change date, the determination of net unrealized built-in gain or loss will reflect the application of both the end of the day rule and the next day rule, to the extent each applies. Moreover, items includible in the taxable year that ends as a result of S's change in status are not treated as occurring in the recognition period described in section 382(h)(7)(A), and items includible in the taxable year that begins as a result of S's change in status are treated as occurring in the recognition period. If S ceases to be a corporation subject to the tax imposed by section 1374 upon becoming a member of a consolidated group, or if S elects to be a corporation that is subject to such tax for its first separate return year after ceasing to be a member, S's items of recognized built-in gain or loss for purposes of section 1374 will include only the amounts reported on S's separate return (including items

reported on that return under the previous day rule or the next day rule).

* * * * *

(2) * * *

(i) * * * If a member distributes or transfers assets in an intercompany transaction to which section 381(a) applies, a short taxable year of the distributor or transferor corporation is not taken into account either for purposes of determining the taxable years to which any tax attribute of the distributor or transferor corporation may be carried or for purposes of determining the taxable years in which an adjustment under section 481(a) is taken into account.

(ii) * * *

(C) * * *

(9) Any compensation-related deduction in connection with S's change in status (including, for example, a deduction for fees for services rendered in connection with S's change in status and for bonus, severance, and option cancellation payments made in connection with S's change in status);

* * * * *

(3) *Anti-avoidance rule*. If any person acts with a principal purpose contrary to the purposes of this paragraph (b) to substantially reduce the federal income tax liability of any person (including by modifying an existing contract or other agreement in anticipation of a change in S's status to shift an item between the taxable years that end and begin as a result of S's change in status), adjustments must be made as necessary to carry out the purposes of this section.

(4) * * * In addition, if S ceases to exist in the same consolidated return year in which S becomes a member, the due date for filing S's separate return shall be determined without regard to S's ceasing to exist in that year.

(5) * * *

Example 8. Allocation of certain amounts that become deductible on the day of S's change in status—(a) *Facts*. P purchases all of the stock of S, an accrual-basis, stand-alone C corporation, on June 30 pursuant to a stock purchase agreement. At the time of the stock purchase, S has outstanding nonqualified stock options issued to certain employees. The options did not have a readily ascertainable fair market value when granted, and the options do not provide for a deferral of compensation (as defined in § 1.409A–1(b)). Under the option agreements, S is obligated to pay its employees certain amounts in cancellation of their stock options upon a change in control of S. P's purchase of S's stock causes a change in control of S, and S's obligation to make option cancellation payments to its employees becomes fixed and determinable upon the closing of the stock purchase. Several days after the closing of the stock

purchase, S pays its employees the amounts required under the option agreements.

(b) *Analysis*. P's purchase of S's stock causes S to become a member of the P group at the end of the day on June 30. Under paragraph (b)(2)(ii)(C)(9) of this section, a deduction arising from S's liability to pay its employees in cancellation of their stock options in connection with S's change in status is an extraordinary item that cannot be prorated and must be allocated to June 30. The next day rule is inapplicable to this deduction because S's liability to pay its employees becomes deductible on the day of S's change in status simultaneously with the event that causes S's change in status. Consequently, a deduction for the option cancellation payments must be reported under the end of the day rule on S's tax return for the period ending June 30.

(c) *Success-based fees*. The facts are the same as in paragraph (a) of this *Example 8*, except that S also engages a consulting firm to provide services in connection with P's purchase of S's stock. Under the terms of the engagement letter, S's obligation to pay for these services is contingent upon the successful closing of the stock purchase. The stock purchase closes successfully, and S's obligation to pay its consultants becomes fixed and determinable at closing. To the extent S's payment of a success-based fee to its consultants is otherwise deductible, this item is an extraordinary item that cannot be prorated and must be reported under the end of the day rule on S's return for the period ending June 30. (See paragraph (b)(2)(ii)(C)(9) of this section.) The next day rule is inapplicable to the deduction because S's liability to pay its consultants becomes deductible on the day of S's change in status simultaneously with the event that causes S's change in status.

(d) *Unwanted assets*. The facts are the same as in paragraph (a) of this *Example 8*, except that, after closing on June 30, S sells to an unrelated party certain assets used in S's trade or business that are not wanted by the P group. Gain or loss on the sale of these assets is an extraordinary item that results from a transaction that occurs on the day of S's change in status, but after the event resulting in the change. Consequently, under the next day rule, the gain or loss must be reported on S's tax return for the period beginning July 1.

Example 9. Redemption that causes a change in status—(a) *Facts*. P owns 80 shares of S's only class of outstanding stock, and a person whose ownership of S stock is not attributed to P under section 302(c) owns the remaining 20 shares. On June 30, S distributes land with a basis of \$100 and a fair market value of \$140 to P in redemption of all of P's stock in S.

(b) *Analysis*. As a result of the redemption, S ceases to be a member of P's consolidated group on June 30. S will recognize \$40 of gain under section 311(b) on the distribution of the land to P. The next day rule is inapplicable because S's gain becomes includible on the day of S's change in status simultaneously with the event that causes S's change in status. Consequently, S's gain must be reported under the end of the day rule in its taxable year ending June 30, during which

S was a member of the P group. Under § 1.1502–32(b)(2)(i), P's basis in its S stock is increased to reflect S's \$40 gain immediately before the redemption of S's stock.

(c) *Partial redemption.* The facts are the same as in paragraph (a) of this *Example 9*, except that S distributes the land to P in redemption of 20 shares of P's stock in S. Thus, immediately after the redemption, P owns 75% (60 shares/80 shares) of S's outstanding stock, and S's minority shareholder owns 25% (20 shares/80 shares). The redemption does not satisfy the requirements of section 302(b) and is treated under section 302(d) as a distribution to which section 301 applies. The end of the day rule does not apply for purposes of determining whether P and S are members of the same consolidated group immediately after the redemption. Because P owns only 75% of S's stock immediately after the redemption, the distribution is not an intercompany distribution described in § 1.1502–13(f)(2)(i). Thus, P may not exclude any amount of the distribution that is a dividend, and P's basis in S's stock is not reduced under § 1.1502–32(b)(2)(iv). P may be entitled to a dividends received deduction under section 243(c) (but see section 1059(e)). For the reasons discussed in paragraph (b) of this *Example 9*, S's gain under section 311(b) must be reported under the end of the day rule in S's taxable year ending June 30, during which S was a member of the P group.

(d) *Distribution of loss property.* The facts are the same as in paragraph (a) of this *Example 9*, except that the land distributed by S to P has a fair market value of \$60 rather than \$140. The end of the day rule applies for purposes of determining the taxable year in which S must take into account its realized loss on the distribution of the land. Thus, under the end of the day rule, S's loss on the distribution of the land, which occurs simultaneously with S's ceasing to be a member, is taken into account in S's taxable year that ends as a result of the redemption. However, the end of the day rule does not apply for other purposes; for example, the rule does not apply in determining whether the transaction is an intercompany distribution or in determining the attributes (as defined in § 1.1502–13(b)(6)) of the loss. Therefore, because S is not a member immediately after the distribution, S's loss on the distribution is not recognized under section 311(a). Under the end of the day rule, the loss is taken into account as a noncapital, nondeductible expense on the P group's consolidated return, and under § 1.1502–32(b)(1)(i), P's basis in its S stock is decreased by \$40 immediately before S leaves the group.

Example 10. Extraordinary item of S corporation—(a) Facts. On July 1, P purchases all the stock of S, an accrual-basis corporation with an election in effect under section 1362(a). Prior to the sale, S had engaged a consulting firm to find a buyer for S's stock, and the consulting firm's fee was contingent upon the successful closing of the sale of S's stock.

(b) *Analysis.* To the extent S's payment of the success-based fee to its consultants is otherwise deductible, this item is an

extraordinary item (see paragraph (b)(2)(ii)(C)(9) of this section) that becomes deductible on July 1 simultaneously with the event that terminates S's election as an S corporation. Under paragraph (b)(1)(ii)(B)(2) of this section, S's obligation to pay the fee is treated as becoming deductible on June 30 under the previous day rule.

(6) *Effective/applicability date.* Paragraphs (b)(2)(i) and (b)(4) of this section apply to consolidated return years beginning on or after the date these regulations are published as final regulations in the **Federal Register**. Otherwise, this paragraph (b) applies to corporations becoming or ceasing to be members of consolidated groups on or after the date these regulations are published as final regulations in the **Federal Register**.

* * * * *

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2015–05123 Filed 3–5–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF JUSTICE

28 CFR Part 15

[Docket No. CIV 150; AG Order No. 3504–2015]

RIN 1105–AB37

Determination That an Individual Shall Not Be Deemed an Employee of the Public Health Service

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: The proposed rule proposes criteria and a process by which the Attorney General or designee may determine that an individual shall not be deemed an employee of the Public Health Service for purposes of coverage under the Federal Tort Claims Act.

DATES: Written comments must be postmarked on or before May 5, 2015, and electronic comments must be sent on or before midnight Eastern time May 5, 2015.

ADDRESSES: To ensure proper handling of comments, please reference “Docket No. CIV 150” on all written and electronic correspondence. Written comments being sent via regular or express mail should be sent to James G. Touhey, Jr., Director, Torts Branch, Civil Division, Department of Justice, Room 8098N National Place Building, 1331 Pennsylvania Avenue NW., Washington, DC 20530. Comments may also be sent electronically through <http://www.regulations.gov> using the

electronic comment form provided on that site. An electronic copy of this document is also available at the <http://www.regulations.gov> Web site. The Department will accept attachments to electronic comments in Microsoft Word, WordPerfect, Adobe PDF, or Excel file formats only. The Department will not accept any file formats other than those specifically listed here.

Please note that the Department is requesting that electronic comments be submitted before midnight Eastern Time on the day the comment period closes because <http://www.regulations.gov> terminates the public's ability to submit comments at midnight Eastern Time on the day the comment period closes. Commenters in time zones other than Eastern Time may want to consider this so that their electronic comments are received. All comments sent via regular or express mail will be considered timely if postmarked on the day the comment period closes.

FOR FURTHER INFORMATION CONTACT: James G. Touhey, Jr., Director, Torts Branch, Civil Division, Department of Justice, Washington, DC 20530, (202) 616–4400.

SUPPLEMENTARY INFORMATION:

Posting of Public Comments. Please note that all comments received are considered part of the public record and made available for public inspection online at <http://www.regulations.gov> and in the Department's public docket. Such information includes personal identifying information (such as your name, address, etc.) voluntarily submitted by the commenter.

You are not required to submit personal identifying information in order to comment on this rule. Nevertheless, 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 posted online or made available in the public docket 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 posted online or made available in the public docket, 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. If a comment has so much confidential business information that it cannot be effectively redacted, all or part of that comment may not be posted online or made available in the public docket.

Personal identifying information and confidential business information identified and located as set forth above will be redacted and the comment, in redacted form, will be posted online and placed in the Department's public docket file. Please note that the Freedom of Information Act applies to all comments received. If you wish to inspect the agency's public docket file in person by appointment, please see the "For Further Information" paragraph.

Discussion

The Federally Supported Health Centers Assistance Acts of 1992 (Pub. L. 102–501) and 1995 (Pub. L. 104–73) amended section 224 of the Public Health Service Act (42 U.S.C. 233) to make the Federal Tort Claims Act (FTCA) (28 U.S.C. 1346(b), 2671–2680) the exclusive remedy for personal injury or death resulting from the performance of medical, surgical, dental or related functions by federally supported health centers and their employees, to the extent the centers and employees have been deemed by the Public Health Service, Department of Health and Human Services, to be eligible for FTCA coverage. Section 233(i) of title 42 provides that the Attorney General, in consultation with the Secretary of Health and Human Services (Secretary), may on the record determine, after notice and an opportunity for a full and fair hearing, that an individual physician or other licensed or certified health care practitioner who is an officer, employee, or contractor of an entity described in 42 U.S.C. 233(g)(4) shall not be deemed to be an employee of the Public Health Service for purposes of 42 U.S.C. 233 if “treating such individual as such an employee would expose the Government to an unreasonably high degree of risk of loss” based on certain prescribed circumstances. This proposed rule proposes that the determination may be made based on one or more of the following statutory criteria: (1) The individual does not comply with the policies and procedures that the entity has implemented pursuant to 42 U.S.C. 233(h)(1); (2) the individual has a history of claims filed against him or her as provided for under 42 U.S.C. 233 that is outside the norm for licensed or certified health care practitioners within the same specialty; (3) the individual refused to reasonably cooperate with the

Attorney General in defending against any such claim; (4) the individual provided false information relevant to the individual's performance of his or her duties to the Secretary, the Attorney General, or an applicant for or recipient of funds under title 42 chapter 6A; or (5) the individual was the subject of disciplinary action taken by a state medical licensing authority or a state or national professional society.

The proposed rule proposes a process for making such a determination. The first step, pursuant to § 15.13(a), is a determination by the “initiating official,” who is a Deputy Assistant Attorney General of the Department of Justice's Civil Division, that treating an individual as an employee of the Public Health Service may expose the Government to an unreasonably high degree of risk of loss. Section 15.13(a) requires the initiating official, after consultation with the Secretary of the Department of Health and Human Services, to provide notice to the individual in question that an administrative hearing will be held to determine whether treating the individual as an employee of the Public Health Service for purposes of 42 U.S.C. 233(g) would expose the United States to an unreasonably high degree of risk of loss. Following a period for discovery and depositions, to the extent determined appropriate by an administrative law judge under § 15.15, the hearing is then conducted by the administrative law judge in the manner prescribed in § 15.14. After the hearing is conducted and the record is closed, § 15.16 requires the administrative law judge to submit written findings of fact, conclusions of law, and a recommended decision to the “adjudicating official,” who is the Assistant Attorney General for the Department of Justice's Civil Division. Section 15.17(b) then gives the parties 30 days to submit certain additional materials, including exceptions to the administrative law judge's recommended decision, to the adjudicating official, who then must make a final agency determination of whether treating the individual as an employee of the Public Health Service for purposes of 42 U.S.C. 233(g) would expose the United States to an unreasonably high degree of risk of loss. Section 15.18 provides that an individual who is dissatisfied with the determination may seek rehearing within 30 days after notice of the determination is sent, and § 15.20 allows individuals who have been determined to expose the United States to an unreasonably high degree of risk of loss to apply for reinstatement after

a period of time. Consistent with 42 U.S.C. 1320a–7e(a) and 45 CFR 60.3, 60.5(h) and 60.16, the rule also provides for the Department to notify the National Practitioner Data Bank (NPDB), a confidential information clearinghouse created by Congress with primary goals of improving health care quality and protecting the public, of the issuance of a final order deeming an individual not to be an employee of the Public Health Service under this rule.

This proposed rule would add a new subpart B in part 15 of title 28, Code of Federal Regulations, containing the regulations of the Department of Justice governing such a determination.

The Department invites comments on any issues relating to the proposed rule.

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this proposed rule and, by approving it, certifies that it would not have a significant economic impact on a substantial number of small entities because it pertains to personnel and administrative matters affecting the Department.

Executive Orders 12866 and 13563: Regulatory Planning and Review

This proposed rule has been drafted and reviewed in accordance with Executive Order 12866, “Regulatory Planning and Review,” and in accordance with Executive Order 13563, “Improving Regulation and Regulatory Review.”

The Department of Justice has determined that this proposed rule is a “significant regulatory action” under Executive Order 12866, section 3(f), and accordingly this proposed rule has been reviewed by the Office of Management and Budget.

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Department has assessed the costs and benefits of this proposed rule and believes that its benefits would justify its costs. As an initial matter, the Department does not expect that the proposed rule would have systemic or large-scale costs, because it is only the

exceptional provider who would be subject to a de-deeming proceeding or determination; proceedings under this proposed rule would be rare and would not affect the overwhelming majority of patients, providers, or health centers. The costs associated with the proposed rule, then, would come in the individual instances of its application. A de-deeming administrative process would impose certain limited litigation-like costs, but §§ 15.14 and 15.15 provide flexibility that will enable the parties and administrative law judge to avoid unduly burdensome costs when those costs are unnecessary. In the event that an individual is ultimately determined to expose the United States to an unreasonably high degree of risk of loss, there will be certain costs and benefits to patients, providers, and health centers. A provider who is deemed not to be a member of the Public Health Service may be required to obtain his or her own medical malpractice insurance (as may the health center, for matters involving the provider that are determined not to be covered by the FTCA) or leave the practice. If the individual leaves the practice, the employing center may incur costs of replacing him or her with a new provider. The Department expects that substantial benefits will arise from such replacements, as any individual who is replaced will be one who has been determined to create an unreasonably high degree of risk of loss. It is thus likely that the individual's replacement will provide reduced risks of loss for the United States and better care for patients. While there may be instances in which an individual who presented such a risk of loss cannot be replaced, possibly resulting in impaired access to care for medically underserved health center patients, the Department believes that these costs are substantially outweighed by the benefits of implementing this authority.

The Department is unable to quantify these costs at this time, as the authority to deem a provider not a member of the Public Health Service has not previously been used. However, based on the expectation that the authority will be used sparingly and only for providers who expose the United States to an unreasonably high degree of risk of loss, the Department has concluded that the net benefits of improved patient care and reduced costs of malpractice will outweigh these possible costs.

Executive Order 13132: Federalism

This proposed rule would 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. Therefore, in accordance with Executive Order 13132, the Department of Justice has determined that this proposed rule would not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988: Civil Justice Reform

This proposed rule meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

Unfunded Mandates Reform Act of 1995

This proposed rule would not result in 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, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.*

Small Business Regulatory Enforcement Fairness Act of 1996

This proposed rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. This proposed rule would not result in an annual effect on the economy of \$100 million or more; a major increase in cost or prices; significant adverse effects on competition, employment, investment, productivity, or innovation; or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

List of Subjects in 28 CFR Part 15

Claims, Government contracts, Government employees, Health care, Immunization, Nuclear energy.

For the reasons set forth in the preamble, the Attorney General proposes to amend part 15 of title 28 of the Code of Federal Regulations as follows:

PART 15—CERTIFICATIONS, DECERTIFICATIONS, AND NON-DEEMING DETERMINATIONS FOR PURPOSES OF THE FEDERAL TORT CLAIMS ACT

- 1. The authority citation for part 15 is revised to read as follows:

Authority: 5 U.S.C. 301, 554, 556, 557, and 8477(e)(4); 10 U.S.C. 1054, 1089; 22 U.S.C. 2702, 28 U.S.C. 509, 510, and 2679; 38 U.S.C.

7316; 42 U.S.C. 233, 2212, 2458a, and 5055(f); and sec. 2, Pub. L. 94–380, 90 Stat. 1113 (1976).

- 2. The heading for part 15 is revised to read as set forth above.

- 3. Add a heading for subpart A to read as follows:

Subpart A—Certification and Decertification in Connection With Certain Suits Based Upon Acts or Omissions of Federal Employees and Other Persons

§§ 15.1, 15.2, 15.3, and 15.4
[Designated as Subpart A]

- 4. Designate §§ 15.1 through 15.4 as subpart A.

§§ 15.5, 15.6, 15.7, 15.8, 15.9, and 15.10 [Added and Reserved]

- 5. Add reserved §§ 15.5 through 15.10 to newly designated subpart A.

- 6. Add subpart B to read as follows:

Subpart B—Determination of Individuals Deemed Not To Be Employees of the Public Health Service

Sec.

- 15.11 Purpose.
- 15.12 Definitions.
- 15.13 Notice of hearing.
- 15.14 Conduct of hearing.
- 15.15 Discovery.
- 15.16 Recommended decision.
- 15.17 Final agency determination.
- 15.18 Rehearing.
- 15.19 Effective date of a final agency determination.
- 15.20 Reinstatement.

§ 15.11 Purpose.

(a) The purpose of this regulation is to implement the notice and hearing procedures applicable to a determination by the Attorney General or his designee under 42 U.S.C. 233(i) that an individual shall not be deemed an employee of the Public Health Service for purposes of 42 U.S.C. 233(g).

(b) Section 233(i) of title 42 provides that the Attorney General, in consultation with the Secretary of Health and Human Services, may on the record determine, after notice and an opportunity for a full and fair hearing, that an individual physician or other licensed or certified health care practitioner who is an officer, employee, or contractor of an entity described in 42 U.S.C. 233(g)(4) shall not be deemed to be an employee of the Public Health Service for purposes of 42 U.S.C. 233 if treating such individual as such an employee would expose the Government to an unreasonably high degree of risk of loss.

§ 15.12 Definitions.

As used in this regulation:

(a) *Attorney General* means the Attorney General of the United States or any designee of the Attorney General to whom authority has been delegated to conduct a hearing and to make a determination pursuant to section 233(i) of title 42, United States Code.

(b) *Adjudicating official* means the Assistant Attorney General for the Civil Division.

(c) *Entity* means an entity described in 42 U.S.C. 233(g)(4).

(d) *Health and Human Services* means the Department of Health and Human Services or a division or component of the Department of Health and Human Services.

(e) *Individual* means an individual physician or other licensed or certified health care practitioner who is or was an officer, employee, or contractor of an entity described in 42 U.S.C. 233(g)(4).

(f) *Initiating official* means a Deputy Assistant Attorney General of the Civil Division of the Department of Justice or, except for responsibilities that the initiating official must perform personally, his or her designee.

(g) *Parties* means an *Individual*, as defined in paragraph (e) of this section, and the *Initiating official*, as defined in paragraph (f) of this section.

(h) *Public Health Service* means the Public Health Service or a division or component of the Public Health Service.

(i) *Secretary* means the Secretary of the Department of Health and Human Services or the Secretary's designee.

(j) *Unreasonably high degree of risk of loss* is a determination based on consideration of one or more of the following criteria—

(1) The individual does not comply with the policies and procedures that the entity has implemented pursuant to 42 U.S.C. 233(h)(1);

(2) The individual has a history of claims filed against him or her as provided for under 42 U.S.C. 233 that is outside the norm for licensed or certified health care practitioners within the same specialty;

(3) The individual refused to reasonably cooperate with the Attorney General in defending against any such claim;

(4) The individual provided false information relevant to the individual's performance of his or her duties to the Secretary, the Attorney General, or an applicant for or recipient of funds under title 42, chapter 6A, United States Code; or

(5) The individual was the subject of disciplinary action taken by a state medical licensing authority or a state or national professional society.

§ 15.13 Notice of hearing.

(a) Whenever the initiating official personally concludes that treating an individual as an employee of the Public Health Service may expose the Government to an unreasonably high degree of risk of loss, the initiating official, after consultation with the Secretary, shall notify the individual that an administrative hearing will be conducted for the purpose of determining whether treating the individual as an employee of the Public Health Service for purposes of 42 U.S.C. 233(g) would expose the United States to an unreasonably high degree of risk of loss.

(b) The notice of hearing shall be in writing and shall be sent by registered or certified mail to the individual at the individual's last known address, or to the individual's attorney in the event the Attorney General has received written notice that the individual has retained counsel.

(c) The notice shall contain:

(1) A statement of the nature and purpose of the hearing;

(2) The name of the administrative law judge;

(3) A statement of the nature of the action proposed to be taken; and

(4) A statement of the time, date, and location of the hearing.

(d) The hearing shall be initiated not sooner than 60 days of the date on the written notice of hearing.

§ 15.14 Conduct of hearing.

(a) An administrative law judge appointed in accordance with 5 U.S.C. 3105 shall preside over the hearing.

(b) If the administrative law judge appointed is unacceptable to the individual, the individual shall inform the Attorney General within 14 days of the notification of the reasons for his or her position. The Attorney General may select another administrative law judge, or affirm the initial selection. In either case, the official shall inform the individual of the reasons for the decision.

(c) The administrative law judge shall have the following powers:

(1) Administer oaths and affirmations;

(2) Issue subpoenas authorized by law;

(3) Rule on offers of proof and receive relevant evidence;

(4) Take depositions or have depositions taken when the ends of justice would be served;

(5) Regulate the course of the hearing;

(6) Hold conferences for the settlement or simplification of the issues by consent of the parties or by the use of alternative means of dispute resolution;

(7) Inform the parties as to the availability of one or more alternative means of dispute resolution, and encourage use of such methods;

(8) Dispose of procedural requests or similar matters;

(9) Make or recommend decisions;

(10) Require and, in the discretion of the administrative law judge, adopt proposed findings of fact, conclusions of law, and orders.

(11) Take other action authorized by agency rule consistent with this subchapter;

(12) All powers and duties reasonably necessary to perform the functions enumerated in paragraphs (c)(1) through (11) of this section.

(d) The administrative law judge may call upon the parties to consider:

(1) Simplification or clarification of the issues;

(2) Stipulations, admissions, agreements on documents, or other understandings that will expedite conduct of the hearing;

(3) Limitation of the number of witnesses and of cumulative evidence;

(4) Such other matters as may aid in the disposition of the case.

(e) At the discretion of the administrative law judge, parties or witnesses may participate in hearings by video conference.

(f) All hearings under this part shall be public unless otherwise ordered by the administrative law judge.

(g) The hearing shall be conducted in conformity with 5 U.S.C. 554–557 (sections 5–8 of the Administrative Procedure Act).

(h) The initiating official shall have the burden of going forward with the evidence and shall generally present the government's evidence first.

(i) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules designed to assure production of the most credible evidence available and to subject testimony to cross-examination shall be applied where reasonably necessary by the administrative law judge. The administrative law judge may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties, and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record.

(j) During the time a proceeding is before an administrative law judge, all motions shall be addressed to the administrative law judge and, if within

his or her delegated authority, shall be ruled upon. Any motion upon which the administrative law judge has no authority to rule shall be certified to the adjudicating official with a recommendation. The opposing party may answer within such time as may be designated by the administrative law judge. The administrative law judge may permit further replies by both parties.

§ 15.15 Discovery.

(a) At any time after the initiation of the proceeding, the administrative law judge may order, by subpoena if necessary, the taking of a deposition and the production of relevant documents by the deponent. Such order may be entered upon a showing that the deposition is necessary for discovery purposes, and that such discovery could not be accomplished by voluntary methods. Such an order may also be entered in extraordinary circumstances to preserve relevant evidence upon a showing that there is substantial reason to believe that such evidence could not be presented through a witness at the hearing. The decisive factors for a determination under this subsection, however, shall be fairness to all parties and the requirements of due process. A deposition may be taken orally or upon written questions before any person who has the power to administer oaths and shall not exceed one day of seven hours.

(b) Each deponent shall be duly sworn, and any adverse party shall have the right to cross-examine. Objections to questions or documents shall be in short form, stating the grounds upon which objections are made. The questions propounded and the answers thereto, together with all objections made (but not including argument or debate), shall be reduced to writing and certified by the person before whom the deposition was taken. Thereafter, the person taking the deposition shall forward the deposition and one (1) copy thereof to the party at whose instance the deposition was taken and shall forward one (1) copy to the representative of the other party.

(c) A deposition may be admitted into evidence as against any party who was present or represented at the taking of the deposition, or who had due notice thereof, if the administrative law judge finds that there are sufficient reasons for admission and that the admission of the evidence would be fair to all parties and comport with the requirements of due process.

§ 15.16 Recommended decision.

Within a reasonable time after the close of the record of the hearings conducted under § 15.14, the administrative law judge shall submit written findings of fact, conclusions of law, and a recommended decision to the adjudicating official. The administrative law judge shall promptly make copies of these documents available to the parties and the Secretary.

§ 15.17 Final agency determination.

(a) In hearings conducted under § 15.14, the adjudicating official shall make the final agency determination, on the basis of the record, findings, conclusions, and recommendations presented by the administrative law judge.

(b) Prior to making a final agency determination, the adjudicating official shall give the parties an opportunity to submit the following, within thirty (30) days after the submission of the administrative law judge's recommendations:

(1) Proposed findings and determinations;

(2) Exceptions to the recommendations of the administrative law judge;

(3) Supporting reasons for the exceptions or proposed findings or determinations; and

(4) Final briefs summarizing the arguments presented at the hearing.

(c) All determinations made by the adjudicating official under this rule shall constitute final agency actions.

After a final agency determination under this rule that an individual shall not be deemed to be an employee of the Public Health Service, such individual will be deemed not to be an employee of the Public Health Service except pursuant to § 15.20.

§ 15.18 Rehearing.

(a) An individual dissatisfied with a final agency determination under § 15.17 may, within 30 days after the notice of the final agency determination is sent, request the adjudicating official to re-review the record, and may present additional evidence that is appropriate and pertinent to support a different decision.

(b) The adjudicating official may require that another oral hearing be held on one or more of the issues in controversy, or permit the dissatisfied party to present further evidence or argument in writing, if the adjudicating official finds that the individual has:

(1) Presented evidence or argument that is sufficiently significant to require the conduct of further proceedings; or

(2) Shown some defect in the conduct of the adjudication under this subpart

sufficient to cause substantial unfairness or an erroneous finding in that adjudication.

(c) Any rehearing ordered by the adjudicating official shall be conducted pursuant to §§ 15.13 through 15.16.

(d) A determination that an individual may be deemed to be an employee of the Public Health Service for purposes of 42 U.S.C. 233 pursuant to this section shall be distributed in the same manner as provided in § 15.19.

§ 15.19 Effective date of a final agency determination.

(a) A final agency determination under § 15.17 that an individual shall not be deemed to be an employee of the Public Health Service for purposes of 42 U.S.C. 233 shall be provided to the Department of Health and Human Services and sent by certified or registered mail to the individual and to the entity employing such individual if the individual is currently an officer, employee, or contractor of an entity described in 42 U.S.C. 233(g)(4). In the event the individual is no longer an officer, employee, or contractor of such an entity, the determination shall be sent by certified or registered mail to the individual and to the last entity described in 42 U.S.C. 233(g)(4) at which such individual was an officer, employee, or contractor.

(b) A final agency determination shall be effective upon the date the written determination is received by such entity.

(c) An adverse final agency determination shall apply to all acts or omissions of the individual occurring after the date the adverse final determination is received by such entity.

(d) The Attorney General will inform the National Practitioner Data Bank of any final agency determination under § 15.17 that an individual shall not be deemed to be an employee of the Public Health Service for purposes of 42 U.S.C. 233.

§ 15.20 Reinstatement.

(a) No less than five years after the time for rehearing has expired, and no more often than every five years, an individual who has been the subject of a final agency determination under § 15.17 may petition the Attorney General for reconsideration of that determination and reinstatement. The individual bears the burden of proof and persuasion.

(b) In support of the petition for reinstatement, the individual shall submit relevant evidence relating to the period since the original proceedings under this subpart and a statement

demonstrating that treating the individual as an employee of the Public Health Service for purposes of 42 U.S.C. 233(g) would no longer expose the United States to an unreasonably high degree of risk of loss.

(c) Upon receiving a petition for reinstatement, the initiating official shall determine, in the initiating official's unreviewable discretion, whether the petition makes a prima facie case that no longer would expose the United States to an unreasonably high degree of risk of loss. The initiating official's determination that a petition does not make a prima facie case is not subject to further review.

(d) Upon a prima facie case having been made, an administrative law judge shall be appointed in accordance with 5 U.S.C. 3105 and shall conduct such proceedings pursuant to §§ 15.13 through 15.16 as the administrative law judge deems necessary, in his or her sole discretion, to determine whether the individual has established that treating the individual as an employee of the Public Health Service for purposes of 42 U.S.C. 233(g) would no longer expose the United States to an unreasonably high degree of risk of loss, and shall submit written findings of fact, conclusions of law, and a recommended decision to the adjudicating official pursuant to § 15.16.

(e) On a petition for reinstatement, the adjudicating official shall make the final agency determination, on the basis of the record, findings, conclusions, and recommendations presented by the administrative law judge, which shall include the record from the original determination and any petition for rehearing. All determinations made by the adjudicating official under this rule shall constitute final agency actions.

(f) A determination that an individual is reinstated pursuant to this section shall be distributed in the same manner as provided in § 15.19.

Dated: February 25, 2015.

Eric H. Holder, Jr.,
Attorney General.

[FR Doc. 2015-05027 Filed 3-5-15; 8:45 am]

BILLING CODE 4410-12-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2014-0528; FRL-9924-04-Region 7]

Approval and Promulgation of Implementation Plans; State of Kansas; Infrastructure SIP Requirements for the 2010 Sulfur Dioxide National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve elements of a State Implementation Plan (SIP) submission from the State of Kansas addressing the applicable requirements of Clean Air Act (CAA) section 110 for the 2010 National Ambient Air Quality Standards (NAAQS) for Sulfur Dioxide (SO₂), which requires that each state adopt and submit a SIP to support implementation, maintenance, and enforcement of each new or revised NAAQS promulgated by EPA. These SIPs are commonly referred to as "infrastructure" SIPs. The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA.

DATES: Comments must be received on or before April 6, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R07-OAR-2014-0528, by one of the following methods:

1. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. *Email:* kemp.lachala@epa.gov.

3. *Mail:* Ms. Lachala Kemp, Air Planning and Development Branch, U.S. Environmental Protection Agency, Region 7, Air and Waste Management Division, 11201 Renner Boulevard, Lenexa, Kansas 66219.

4. *Hand Delivery or Courier:* Deliver your comments to Ms. Lachala Kemp, Air Planning and Development Branch, U.S. Environmental Protection Agency, Region 7, Air and Waste Management Division, 11201 Renner Boulevard, Lenexa, Kansas 66219.

Instructions: Direct your comments to Docket ID No. EPA-R07-OAR-2014-0528. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless

the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through <http://www.regulations.gov> or email information that you consider to be CBI or otherwise protected. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through <http://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and should be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at <http://www.regulations.gov> or in hard copy at U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219 from 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Ms. Lachala Kemp, Air Planning and Development Branch, U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, KS 66219; *telephone number:* (913) 551-7214; *fax number:* (913) 551-7065; *email address:* kemp.lachala@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we refer to EPA. This section provides additional

information by addressing the following questions:

- I. What is a section 110(a)(1) and (2) infrastructure SIP?
- II. What are the applicable elements under sections 110(a)(1) and (2)?
- III. What is EPA's approach to the review of infrastructure SIP submissions?
- IV. What is EPA's evaluation of how the state addressed the relevant elements of sections 110(a)(1) and (2)?
- V. What action is EPA proposing?
- VI. Statutory and Executive Order Review

I. What is a section 110(a)(1) and (2) infrastructure SIP?

Section 110(a)(1) of the CAA requires, in part, that states make a SIP submission to EPA to implement, maintain and enforce each of the NAAQS promulgated by EPA after reasonable notice and public hearings. Section 110(a)(2) includes a list of specific elements that such infrastructure SIP submissions must address. SIPs meeting the requirements of sections 110(a)(1) and (2) are to be submitted by states within three years after promulgation of a new or revised NAAQS. These SIP submissions are commonly referred to as "infrastructure" SIPs.

II. What are the applicable elements under sections 110(a)(1) and (2)?

On June 22, 2010, EPA revised the current 24-hour and annual standards with a new short-term standard based on the 3-year average of the 99th percentile of the yearly distribution of 1-hour daily maximum SO₂ concentrations. The level of the revised SO₂ standard (hereafter the 2010 SO₂ NAAQS) was set at 75 parts per billion (ppb) (75 FR 35519).

For the 2010 SO₂ NAAQS, states typically have met many of the basic program elements required in section 110(a)(2) through earlier SIP submissions in connection with previous NAAQS. Nevertheless, pursuant to section 110(a)(1), states must review and revise, as appropriate, their existing SIPs to ensure that the SIPs are adequate to address the 2010 SO₂ NAAQS. To assist states in meeting this statutory requirement, EPA issued guidance on September 13, 2013 (2013 Guidance), addressing the infrastructure SIP elements required under section 110(a)(1) and (2) for the 2010 SO₂ NAAQS.¹ EPA will address these elements below under the following headings: (A)

Emission limits and other control measures; (B) Ambient air quality monitoring/data system; (C) Program for enforcement of control measures (prevention of significant deterioration)(PSD)), New Source Review for nonattainment areas, and construction and modification of all stationary sources); (D) Interstate and international transport; (E) Adequate authority, resources, implementation, and oversight; (F) Stationary source monitoring system; (G) Emergency authority; (H) Future SIP revisions; (I) Nonattainment areas; (J) Consultation with government officials, public notification, prevention of significant deterioration (PSD), and visibility protection; (K) Air quality and modeling/data; (L) Permitting fees; and (M) Consultation/participation by affected local entities.

III. What is EPA's approach to the review of infrastructure SIP submissions?

EPA is acting upon the July 15, 2013, SIP submission from Kansas that addresses the infrastructure requirements of CAA sections 110(a)(1) and 110(a)(2) for the 2010 SO₂ NAAQS. The requirement for states to make a SIP submission of this type arises out of CAA section 110(a)(1). Pursuant to section 110(a)(1), states must make SIP submissions "within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof)," and these SIP submissions are to provide for the "implementation, maintenance, and enforcement" of such NAAQS. The statute directly imposes on states the duty to make these SIP submissions, and the requirement to make the submissions is not conditioned upon EPA taking any action other than promulgating a new or revised NAAQS. Section 110(a)(2) includes a list of specific elements that "[e]ach such plan" submission must address.

EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of CAA sections 110(a)(1) and 110(a)(2) as "infrastructure SIP" submissions. Although the term "infrastructure SIP" does not appear in the CAA, EPA uses the term to distinguish this particular type of SIP submission from submissions that are intended to satisfy other SIP requirements under the CAA, such as "nonattainment SIP" or "attainment plan SIP" submissions to address the nonattainment planning requirements of part D of title I of the CAA, "regional haze SIP" submissions required by EPA rule to address the

visibility protection requirements of CAA section 169A, and nonattainment new source review permit program submissions to address the permit requirements of CAA, title I, part D.

Section 110(a)(1) addresses the timing and general requirements for infrastructure SIP submissions, and section 110(a)(2) provides more details concerning the required contents of these submissions. The list of required elements provided in section 110(a)(2) contains a wide variety of disparate provisions, some of which pertain to required legal authority, some of which pertain to required substantive program provisions, and some of which pertain to requirements for both authority and substantive program provisions.² EPA therefore believes that while the timing requirement in section 110(a)(1) is unambiguous, some of the other statutory provisions are ambiguous. In particular, EPA believes that the list of required elements for infrastructure SIP submissions provided in section 110(a)(2) contains ambiguities concerning what is required for inclusion in an infrastructure SIP submission.

The following examples of ambiguities illustrate the need for EPA to interpret some section 110(a)(1) and section 110(a)(2) requirements with respect to infrastructure SIP submissions for a given new or revised NAAQS. One example of ambiguity is that section 110(a)(2) requires that "each" SIP submission must meet the list of requirements therein. EPA has long noted that this literal reading of the statute is internally inconsistent and would create a conflict with the nonattainment provisions in part D of title I of the Act, which specifically address nonattainment SIP requirements.³ However, section 110(a)(2)(I) which pertains to nonattainment SIP requirements and part D, addresses when attainment plan SIP submissions to address nonattainment area requirements are due. For example, section 172(b) requires EPA to establish a schedule for

² For example: Section 110(a)(2)(E)(i) provides that states must provide assurances that they have adequate legal authority under state and local law to carry out the SIP; section 110(a)(2)(C) provides that states must have a SIP-approved program to address certain sources as required by part C of title I of the CAA; and section 110(a)(2)(G) provides that states must have legal authority to address emergencies as well as contingency plans that are triggered in the event of such emergencies.

³ See, e.g., "Rule To Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to the NO_x SIP Call; Final Rule," 70 FR 25162, at 25163—65 (May 12, 2005) (explaining relationship between timing requirement of section 110(a)(2)(D) versus section 110(a)(2)(I)).

¹ Stephen D. Page, Director, Air Quality Policy Division, Office of Air Quality Planning and Standards, "Guidance on Infrastructure State Implementation Plan (SIP) Elements Under Clean Air Act Sections 110(a)(1) and 110(a)(2)," Memorandum to EPA Regional Air Division Directors, Regions I–X, September 13, 2013.

submission of such plans for certain pollutants when the Administrator promulgates the designation of an area as nonattainment, and section 107(d)(1)(B) allows up to two years, or in some cases three years, for such designations to be promulgated.⁴ This ambiguity illustrates that rather than apply all the stated requirements of section 110(a)(2) in a strict literal sense, EPA must determine which provisions of section 110(a)(2) are applicable for a particular infrastructure SIP submission.

Another example of ambiguity within sections 110(a)(1) and 110(a)(2) with respect to infrastructure SIPs pertains to whether states must meet all of the infrastructure SIP requirements in a single SIP submission, and whether EPA must act upon such SIP submission in a single action. Although section 110(a)(1) directs states to submit “a plan” to meet these requirements, EPA interprets the CAA to allow states to make multiple SIP submissions separately addressing infrastructure SIP elements for the same NAAQS. If states elect to make such multiple SIP submissions to meet the infrastructure SIP requirements, EPA can elect to act on such submissions either individually or in a larger combined action.⁵ Similarly, EPA interprets the CAA to allow it to take action on the individual parts of one larger, comprehensive infrastructure SIP submission for a given NAAQS without concurrent action on the entire submission. For example, EPA has sometimes elected to act at different times on various elements and sub-elements of the same infrastructure SIP submission.⁶

⁴ EPA notes that this ambiguity within section 110(a)(2) is heightened by the fact that various subparts of part D set specific dates for submission of certain types of SIP submissions in designated nonattainment areas for various pollutants. Note, e.g., that section 182(a)(1) provides specific dates for submission of emissions inventories for the ozone NAAQS. Some of these specific dates are necessarily later than three years after promulgation of the new or revised NAAQS.

⁵ See, e.g., “Approval and Promulgation of Implementation Plans; New Mexico; Revisions to the New Source Review (NSR) State Implementation Plan (SIP); Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) Permitting,” 78 FR 4339 (January 22, 2013) (EPA’s final action approving the structural PSD elements of the New Mexico SIP submitted by the State separately to meet the requirements of EPA’s 2008 PM_{2.5} NSR rule), and “Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Infrastructure and Interstate Transport Requirements for the 2006 PM_{2.5} NAAQS,” (78 FR 4337) (January 22, 2013) (EPA’s final action on the infrastructure SIP for the 2006 PM_{2.5} NAAQS).

⁶ On December 14, 2007, the State of Tennessee, through the Tennessee Department of Environment and Conservation, made a SIP revision to EPA demonstrating that the State meets the requirements of sections 110(a)(1) and (2). EPA proposed action for infrastructure SIP elements (C) and (J) on

Ambiguities within sections 110(a)(1) and 110(a)(2) may also arise with respect to infrastructure SIP submission requirements for different NAAQS. Thus, EPA notes that not every element of section 110(a)(2) would be relevant, or as relevant, or relevant in the same way, for each new or revised NAAQS. The states’ attendant infrastructure SIP submissions for each NAAQS therefore could be different. For example, the monitoring requirements that a state might need to meet in its infrastructure SIP submission for purposes of section 110(a)(2)(B) could be very different for different pollutants, therefore the content and scope of a state’s infrastructure SIP submission to meet this element might be very different for an entirely new NAAQS than for a minor revision to an existing NAAQS.⁷

EPA notes that interpretation of section 110(a)(2) is also necessary when EPA reviews other types of SIP submissions required under the CAA. Therefore, as with infrastructure SIP submissions, EPA also has to identify and interpret the relevant elements of section 110(a)(2) that logically apply to these other types of SIP submissions. For example, section 172(c)(7) requires that attainment plan SIP submissions required by part D have to meet the “applicable requirements” of section 110(a)(2). Thus, for example, attainment plan SIP submissions must meet the requirements of section 110(a)(2)(A) regarding enforceable emission limits and control measures and section 110(a)(2)(E)(i) regarding air agency resources and authority. By contrast, it is clear that attainment plan SIP submissions required by part D would not need to meet the portion of section 110(a)(2)(C) that pertains to the PSD program required in part C of title I of the CAA, because PSD does not apply to a pollutant for which an area is designated nonattainment and thus subject to part D planning requirements. As this example illustrates, each type of SIP submission may implicate some elements of section 110(a)(2) but not others.

Given the potential for ambiguity in some of the statutory language of section 110(a)(1) and section 110(a)(2), EPA believes that it is appropriate to interpret the ambiguous portions of

January 23, 2012 (77 FR 3213) and took final action on March 14, 2012 (77 FR 14976). On April 16, 2012 (77 FR 22533) and July 23, 2012 (77 FR 42997), EPA took separate proposed and final actions on all other section 110(a)(2) infrastructure SIP elements of Tennessee’s December 14, 2007 submittal.

⁷ For example, implementation of the 1997 PM_{2.5} NAAQS required the deployment of a system of new monitors to measure ambient levels of that new indicator species for the new NAAQS.

section 110(a)(1) and section 110(a)(2) in the context of acting on a particular SIP submission. In other words, EPA assumes that Congress could not have intended that each and every SIP submission, regardless of the NAAQS in question or the history of SIP development for the relevant pollutant, would meet each of the requirements, or meet each of them in the same way. Therefore, EPA has adopted an approach under which it reviews infrastructure SIP submissions against the list of elements in section 110(a)(2), but only to the extent each element applies for that particular NAAQS.

Historically, EPA has elected to use guidance documents to make recommendations to states for infrastructure SIPs, in some cases conveying needed interpretations on newly arising issues and in some cases conveying interpretations that have already been developed and applied to individual SIP submissions for particular elements.⁸ EPA most recently issued guidance for infrastructure SIPs on September 13, 2013 (2013 Guidance).⁹ EPA developed the 2013 Guidance document to provide states with up-to-date guidance for infrastructure SIPs for any new or revised NAAQS. Within the 2013 guidance, EPA describes the duty of states to make infrastructure SIP submissions to meet basic structural SIP requirements within three years of promulgation of a new or revised NAAQS. EPA also made recommendations about many specific subsections of section 110(a)(2) that are relevant in the context of infrastructure SIP submissions.¹⁰ The guidance also

⁸ EPA notes, however, that nothing in the CAA requires EPA to provide guidance or to promulgate regulations for infrastructure SIP submissions. The CAA directly applies to states and requires the submission of infrastructure SIP submissions, regardless of whether or not EPA provides guidance or regulations pertaining to such submissions. EPA elects to issue such guidance in order to assist states, as appropriate.

⁹ “Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2),” Memorandum from Stephen D. Page, September 13, 2013.

¹⁰ EPA’s September 13, 2013, guidance did not make recommendations with respect to infrastructure SIP submissions to address section 110(a)(2)(D)(i)(I). EPA issued the guidance shortly after the U.S. Supreme Court agreed to review the DC Circuit decision in *EME Homer City*, 696 F.3d 7 (D.C. Cir. 2012) which had interpreted the requirements of section 110(a)(2)(D)(i)(I). In light of the uncertainty created by this litigation (which culminated in the Supreme Court’s recent decision, 134 S. Ct. 1584), EPA elected not to provide additional guidance on the requirements of section 110(a)(2)(D)(i)(I) at that time. As the guidance is neither binding nor required by statute, whether EPA elects to provide guidance on a particular section has no impact on a state’s CAA obligations.

discusses the substantively important issues that are germane to certain subsections of section 110(a)(2). Significantly, EPA interprets sections 110(a)(1) and 110(a)(2) such that infrastructure SIP submissions need to address certain issues and need not address others. Accordingly, EPA reviews each infrastructure SIP submission for compliance with the applicable statutory provisions of section 110(a)(2), as appropriate.

As an example, section 110(a)(2)(E)(ii) is a required element of section 110(a)(2) for infrastructure SIP submissions. Under this element, a state must meet the substantive requirements of section 128, which pertain to state boards that approve permits or enforcement orders and heads of executive agencies with similar powers. Thus, EPA reviews infrastructure SIP submissions to ensure that the state's SIP appropriately addresses the requirements of section 110(a)(2)(E)(ii) and section 128. The 2013 Guidance explains EPA's interpretation that there may be a variety of ways by which states can appropriately address these substantive statutory requirements, depending on the structure of an individual state's permitting or enforcement program (e.g., whether permits and enforcement orders are approved by a multi-member board or by a head of an executive agency). However they are addressed by the state, the substantive requirements of section 128 are necessarily included in EPA's evaluation of infrastructure SIP submissions because section 110(a)(2)(E)(ii) explicitly requires that the state satisfy the provisions of section 128.

As another example, EPA's review of infrastructure SIP submissions with respect to the PSD program requirements in sections 110(a)(2)(C), (D)(i)(II), and (J) focuses upon the structural PSD program requirements contained in part C and EPA's PSD regulations. Structural PSD program requirements include provisions necessary for the PSD program to address all regulated sources and New Source Review (NSR) pollutants, including greenhouse gases (GHGs). By contrast, structural PSD program requirements do not include provisions that are not required under EPA's regulations at 40 CFR 51.166 but are merely available as an option for the state, such as the option to provide grandfathering of complete permit applications with respect to the 2012 PM_{2.5} NAAQS. Accordingly, the latter optional provisions are types of provisions EPA considers irrelevant in

the context of an infrastructure SIP action.

For other section 110(a)(2) elements, however, EPA's review of a state's infrastructure SIP submission focuses on assuring that the state's SIP meets basic structural requirements. For example, section 110(a)(2)(C) includes, *inter alia*, the requirement that states have a program to regulate minor new sources. Thus, EPA evaluates whether the state has an EPA-approved minor NSR program and whether the program addresses the pollutants relevant to that NAAQS. In the context of acting on an infrastructure SIP submission, however, EPA does not think it is necessary to conduct a review of each and every provision of a state's existing minor source program (i.e., already in the existing SIP) for compliance with the requirements of the CAA and EPA's regulations that pertain to such programs.

With respect to certain other issues, EPA does not believe that an action on a state's infrastructure SIP submission is necessarily the appropriate type of action in which to address possible deficiencies in a state's existing SIP. These issues include: (i) existing provisions related to excess emissions from sources during periods of startup, shutdown, or malfunction that may be contrary to the CAA and EPA's policies addressing such excess emissions ("SSM"); (ii) existing provisions related to "director's variance" or "director's discretion" that may be contrary to the CAA because they purport to allow revisions to SIP-approved emissions limits while limiting public process or not requiring further approval by EPA; and (iii) existing provisions for PSD programs that may be inconsistent with current requirements of EPA's "Final NSR Improvement Rule," 67 FR 80186 (December 31, 2002), as amended by 72 FR 32526 (June 13, 2007) ("NSR Reform"). Thus, EPA believes it may approve an infrastructure SIP submission without scrutinizing the totality of the existing SIP for such potentially deficient provisions and may approve the submission even if it is aware of such existing provisions.¹¹ It is important to note that EPA's approval of a state's infrastructure SIP submission should not be construed as explicit or implicit re-approval of any existing potentially deficient provisions that

relate to the three specific issues just described.

EPA's approach to review of infrastructure SIP submissions is to identify the CAA requirements that are logically applicable to that submission. EPA believes that this approach to the review of a particular infrastructure SIP submission is appropriate, because it would not be reasonable to read the general requirements of section 110(a)(1) and the list of elements in 110(a)(2) as requiring review of each and every provision of a state's existing SIP against all requirements in the CAA and EPA regulations merely for purposes of assuring that the state in question has the basic structural elements for a functioning SIP for a new or revised NAAQS. Because SIPs have grown by accretion over the decades as statutory and regulatory requirements under the CAA have evolved, they may include some outmoded provisions and historical artifacts. These provisions, while not fully up to date, nevertheless may not pose a significant problem for the purposes of "implementation, maintenance, and enforcement" of a new or revised NAAQS when EPA evaluates adequacy of the infrastructure SIP submission. EPA believes that a better approach is for states and EPA to focus attention on those elements of section 110(a)(2) of the CAA most likely to warrant a specific SIP revision due to the promulgation of a new or revised NAAQS or other factors.

For example, EPA's 2013 Guidance gives simpler recommendations with respect to carbon monoxide than other NAAQS pollutants to meet the visibility requirements of section 110(a)(2)(D)(i)(II), because carbon monoxide does not affect visibility. As a result, an infrastructure SIP submission for any future new or revised NAAQS for carbon monoxide need only state this fact in order to address the visibility prong of section 110(a)(2)(D)(i)(II).

With respect to element[s] C and J, EPA interprets the CAA to require each state to make an infrastructure SIP submission for a new or revised NAAQS that demonstrates that the air agency has a complete PSD permitting program meeting the current requirements for all regulated NSR pollutants. The requirements of element D(i)(II) may also be satisfied by demonstrating the air agency has a complete PSD permitting program correctly addressing all regulated NSR pollutants. Kansas has shown that it currently has a PSD program in place that covers all regulated NSR pollutants, including greenhouse gases (GHGs).

¹¹ By contrast, EPA notes that if a state were to include a new provision in an infrastructure SIP submission that contained a legal deficiency, such as a new exemption for excess emissions during SSM events, then EPA would need to evaluate that provision for compliance against the rubric of applicable CAA requirements in the context of the action on the infrastructure SIP.

On June 23, 2014, the United States Supreme Court issued a decision addressing the application of PSD permitting requirements to GHG emissions. *Utility Air Regulatory Group v. Environmental Protection Agency*, 134 S.Ct. 2427. The Supreme Court said that the EPA may not treat GHGs as an air pollutant for purposes of determining whether a source is a major source required to obtain a PSD permit. The Court also said that the EPA could continue to require that PSD permits, otherwise required based on emissions of pollutants other than GHGs, contain limitations on GHG emissions based on the application of Best Available Control Technology (BACT). In order to act consistently with its understanding of the Court's decision pending further judicial action to effectuate the decision, the EPA is not continuing to apply EPA regulations that would require that SIPs include permitting requirements that the Supreme Court found impermissible. Specifically, EPA is not applying the requirement that a state's SIP-approved PSD program require that sources obtain PSD permits when GHGs are the only pollutant (i) that the source emits or has the potential to emit above the major source thresholds, or (ii) for which there is a significant emissions increase and a significant net emissions increase from a modification (e.g. 40 CFR 51.166(b)(48)(v)). EPA anticipates a need to revise Federal PSD rules in light of the Supreme Court opinion. In addition, EPA anticipates that many states will revise their existing SIP-approved PSD programs in light of the Supreme Court's decision. The timing and content of subsequent EPA actions with respect to the EPA regulations and state PSD program approvals are expected to be informed by additional legal process before the United States Court of Appeals for the District of Columbia Circuit. At this juncture, EPA is not expecting states to have revised their PSD programs for purposes of infrastructure SIP submissions and is only evaluating such submissions to assure that the state's program correctly addresses GHGs consistent with the Supreme Court's decision.

At present, EPA has determined the Kansas' SIP is sufficient to satisfy elements C, D(i)(II), and J with respect to GHGs because the PSD permitting program previously approved by EPA into the SIP continues to require that PSD permits (otherwise required based on emissions of pollutants other than GHGs) contain limitations on GHG emissions based on the application of BACT. Although the approved Kansas PSD permitting program may currently

contain provisions that are no longer necessary in light of the Supreme Court decision, this does not render the infrastructure SIP submission inadequate to satisfy elements C, D(i)(II), and J. The SIP contains the necessary PSD requirements at this time, and the application of those requirements is not impeded by the presence of other previously-approved provisions regarding the permitting of sources of GHGs that EPA does not consider necessary at this time in light of the Supreme Court decision. Accordingly, the Supreme Court decision does not affect EPA's proposed approval of Kansas' infrastructure SIP as to the requirements of elements C, D(i)(II), and J.

Finally, EPA believes that its approach with respect to infrastructure SIP requirements is based on a reasonable reading of sections 110(a)(1) and 110(a)(2) because the CAA provides other avenues and mechanisms to address specific substantive deficiencies in existing SIPs. These other statutory tools allow EPA to take appropriately tailored action, depending upon the nature and severity of the alleged SIP deficiency. Section 110(k)(5) authorizes EPA to issue a "SIP call" whenever the Agency determines that a state's SIP is substantially inadequate to attain or maintain the NAAQS, to mitigate interstate transport, or to otherwise comply with the CAA.¹² Section 110(k)(6) authorizes EPA to correct errors in past actions, such as past approvals of SIP submissions.¹³ Significantly, EPA's determination that an action on a state's infrastructure SIP submission is not the appropriate time and place to address all potential existing SIP deficiencies does not preclude EPA's subsequent reliance on provisions in section 110(a)(2) as part of the basis for action to correct those deficiencies at a later time. For example,

¹² For example, EPA issued a SIP call to Utah to address specific existing SIP deficiencies related to the treatment of excess emissions during SSM events. See "Finding of Substantial Inadequacy of Implementation Plan; Call for Utah State Implementation Plan Revisions," 74 FR 21639 (April 18, 2011).

¹³ EPA has used this authority to correct errors in past actions on SIP submissions related to PSD programs. See "Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Final Rule," 75 FR 82536 (December 30, 2010). EPA has previously used its authority under CAA section 110(k)(6) to remove numerous other SIP provisions that the Agency determined it had approved in error. See, e.g., 61 FR 38664 (July 25, 1996) and 62 FR 34641 (June 27, 1997) (corrections to American Samoa, Arizona, California, Hawaii, and Nevada SIPs); 69 FR 67062 (November 16, 2004) (corrections to California SIP); and 74 FR 57051 (November 3, 2009) (corrections to Arizona and Nevada SIPs).

although it may not be appropriate to require a state to eliminate all existing inappropriate director's discretion provisions in the course of acting on an infrastructure SIP submission, EPA believes that section 110(a)(2)(A) may be among the statutory bases that EPA relies upon in the course of addressing such deficiency in a subsequent action.¹⁴

IV. What is EPA's evaluation of how the State addressed the relevant elements of sections 110(a)(1) and (2)?

EPA Region 7 received Kansas' infrastructure SIP submission for the 2010 SO₂ standard on July 15, 2013. The SIP submission became complete as a matter of law on January 15, 2014. EPA has reviewed Kansas' infrastructure SIP submission and the applicable statutory and regulatory authorities and provisions referenced in those submissions or referenced in Kansas' SIP. Below is EPA's evaluation of how the state addressed the relevant elements of section 110(a)(2) for the 2010 SO₂ NAAQS.

(A) *Emission limits and other control measures*: Section 110(a)(2)(A) requires SIPs to include enforceable emission limits and other control measures, means or techniques, schedules for compliance, and other related matters as needed to implement, maintain and enforce each NAAQS.¹⁵

The State of Kansas' statutes and regulations authorize the Kansas Department of Health and Environment (KDHE) to regulate air quality and implement air quality control regulations. KDHE's statutory authority can be found in chapter 65, article 30 of the Kansas Statutes Annotated (KSA), otherwise known as the Kansas Air Quality Act. KSA section 65-3003 places the responsibility for air quality conservation and control of air pollution with the Secretary of Health and

¹⁴ See, e.g., EPA's disapproval of a SIP submission from Colorado on the grounds that it would have included a director's discretion provision inconsistent with CAA requirements, including section 110(a)(2)(A). See, e.g., 75 FR 42342 at 42344 (July 21, 2010) (proposed disapproval of director's discretion provisions); 76 FR 4540 (January 26, 2011) (final disapproval of such provisions).

¹⁵ The specific nonattainment area plan requirements of section 110(a)(2)(I) are subject to the timing requirements of section 172, not the timing requirement of section 110(a)(1). Thus, section 110(a)(2)(A) does not require that states submit regulations or emissions limits specifically for attaining the 2010 SO₂ NAAQS. Those SIP provisions are due as part of each state's attainment plan, and will be addressed separately from the requirements of section 110(a)(2)(A). In the context of an infrastructure SIP, EPA is not evaluating the existing SIP provisions for this purpose. Instead, EPA is only evaluating whether the state's SIP has basic structural provisions for the implementation of the NAAQS.

Environment (“Secretary”). The Secretary in turn administers the Kansas Air Quality Act through the Division of Environment within KDHE. Air pollution is defined in KSA section 65–3002(c) as the presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as is, or tends significantly to be, injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or property, or would contribute to the formation of regional haze.

KSA section 65–3005(a)(1) provides authority to the Secretary to adopt, amend and repeal rules and regulations implementing the Kansas Air Quality Act. It also gives the Secretary the authority to establish ambient air quality standards for the State of Kansas as a whole or for any part thereof. KSA section 65–3005(a)(12). The Secretary has the authority to promulgate rules and regulations to ensure that Kansas is in compliance with the provisions of the Act, in furtherance of a policy to implement laws and regulations consistent with those of the Federal government. KSA section 65–3005(b). The Secretary also has the authority to establish emission control requirements as appropriate to facilitate the accomplishment of the purposes of the Kansas Air Quality Act. KSA section 65–3010(a).

Based upon review of the state’s infrastructure SIP submission for the 2010 SO₂ NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in Kansas’ SIP, EPA believes that the Kansas SIP adequately addresses the requirements of section 110(a)(2)(A) for the 2010 SO₂ NAAQS and is proposing to approve this element of the July 15, 2013, SIP submission.

(B) Ambient air quality monitoring/data system: Section 110(a)(2)(B) requires SIPs to include provisions to provide for establishment and operation of ambient air quality monitors, collection and analysis of ambient air quality data, and making these data available to EPA upon request.

To address this element, KSA section 65–3007 provides the enabling authority necessary for Kansas to fulfill the requirements of section 110(a)(2)(B). This provision gives the Secretary the authority to classify air contaminant sources which, in his or her judgment, may cause or contribute to air pollution. Furthermore, the Secretary has the authority to require such air contaminant sources to monitor emissions, operating parameters,

ambient impacts of any source emissions, and any other parameters deemed necessary. The Secretary can also require these sources to keep records and make reports consistent with the Kansas Air Quality Act. KSA section 65–3007(b).

Kansas has an air quality monitoring network operated by KDHE and local air quality agencies that collects air quality data that are compiled, analyzed, and reported to EPA. KDHE’s Web site contains up-to-date information about air quality monitoring, including a description of the network and information about the monitoring of SO₂. *See, generally, <http://www.kdheks.gov/bar/air-monitor/indexMon.html>*. KDHE also conducts five-year monitoring network assessments, including the SO₂ monitoring network, as required by 40 CFR 58.10(d). On December 3, 2013, EPA approved Kansas’ 2013–2014 Ambient Air Monitoring Network Plan. This plan includes, among other things, the location for the SO₂ monitoring network in Kansas. Specifically, KDHE operates four sulfur dioxide monitors in the state in accordance with the source-oriented sulfur dioxide monitoring requirements of 40 CFR part 58, appendix D, paragraph 4.4.1(a). Data gathered by the monitors is submitted to EPA’s Air Quality System, which in turn determines if the network site monitors are in compliance with the NAAQS.

Within KDHE, the Bureau of Air implements these requirements. Along with its other duties, the Monitoring and Planning Section collects air monitoring data, quality assures the results, and reports the data. The data is then used to develop the appropriate regulatory or outreach strategies to reduce air pollution.

Based upon review of the state’s infrastructure SIP submission for the 2010 SO₂ NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in Kansas’ SIP, EPA believes that the Kansas SIP adequately addresses the requirements of section 110(a)(2)(B) for the 2010 SO₂ NAAQS and is proposing to approve this element of the July 15, 2013, SIP submission.

(C) Program for enforcement of control measures (PSD, New Source Review for nonattainment areas, and construction and modification of all stationary sources): Section 110(a)(2)(C) requires states to include the following three elements in the SIP: (1) A program providing for enforcement of all SIP measures described in section 110(a)(2)(A); (2) a program for the

regulation of the modification and construction of stationary sources as necessary to protect the applicable NAAQS (*i.e.*, state-wide permitting of minor sources); and (3) a permit program to meet the major source permitting requirements of the CAA (for areas designated as attainment or unclassifiable for the NAAQS in question).¹⁶

(1) Enforcement of SIP Measures. With respect to enforcement of requirements of the SIP, KSA section 65–3005(a)(3) gives the Secretary the authority to issue orders, permits and approvals as may be necessary to effectuate the purposes of the Kansas Air Quality Act and enforce the Act by all appropriate administrative and judicial proceedings. Pursuant to KSA section 65–3006, the Secretary also has the authority to enforce rules, regulations and standards to implement the Kansas Air Quality Act and to employ the professional, technical and other staff to effectuate the provisions of the Act. In addition, if the Secretary or the director of the Division of Environment finds that any person has violated any provision of any approval, permit or compliance plan or any provision of the Kansas Air Quality Act or any rule or regulation promulgated thereunder, he or she may issue an order directing the person to take such action as necessary to correct the violation. KSA section 65–3011.

KSA section 65–3018 gives the Secretary or the Director of the Division of Environment the authority to impose a monetary penalty against any person who, among other things, either violates any order or permit issued under the Kansas Air Quality Act, or violates any provision of the Act or rule or regulation promulgated thereunder. Section 65–3028 provides for criminal penalties for knowing violations.

(2) Minor New Source Review. Section 110(a)(2)(C) also requires that the SIP include measures to regulate construction and modification of stationary sources to protect the NAAQS. With respect to smaller sources that meet the criteria listed in KAR 28–19–300(b) “Construction Permits and Approvals,” Kansas has a SIP-approved permitting program. Any person proposing to conduct a construction or modification at such a source must obtain approval from KDHE prior to commencing construction or modification. If KDHE determines that

¹⁶ As discussed in further detail below, this infrastructure SIP rulemaking will not address the Kansas program for nonattainment area related provisions, since EPA considers evaluation of these provisions to be outside the scope of infrastructure SIP actions.

air contaminant emissions from a source will interfere with attainment or maintenance of the NAAQS, it cannot issue an approval to construct or modify that source (KAR 28–19–301(d) “Construction Permits and Approvals; Application and Issuance”).

In this action, EPA is proposing to approve Kansas’ infrastructure SIP for the 2010 SO₂ standard with respect to the general requirement in section 110(a)(2)(C) to include a program in the SIP that regulates the modification and construction of any stationary source as necessary to assure that the NAAQS are achieved. In this action, EPA is not proposing to approve or disapprove the state’s existing minor NSR program to the extent that it is inconsistent with EPA’s regulations governing this program. EPA has maintained that the CAA does not require that new infrastructure SIP submissions correct any defects in existing EPA-approved provisions of minor NSR programs in order for EPA to approve the infrastructure SIP for element (C) (*e.g.*, 76 FR 41076–76 FR 41079).

(3) *Prevention of Significant Deterioration (PSD) permit program.* Kansas also has a program approved by EPA as meeting the requirements of part C, relating to prevention of significant deterioration of air quality. In order to demonstrate that Kansas has met this sub-element, this PSD program must cover requirements not just for the 2010 SO₂ NAAQS, but for all other regulated NSR pollutants as well.

In a previous action on June 20, 2013, EPA determined that Kansas has a program in place that meets all the PSD requirements related to all required pollutants (78 FR 37126).¹⁷ Therefore, Kansas has adopted all necessary provisions to ensure that its PSD program covers the requirements for the SO₂ NAAQS and all other regulated NSR pollutants.

Based upon review of the state’s infrastructure SIP submission for the 2010 SO₂ NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in Kansas’ SIP, EPA believes that the Kansas SIP adequately addresses the requirements of section 110(a)(2)(C) for the 2010 SO₂ NAAQS and is proposing to approve this element of the July 15, 2013, SIP submission.

(D) *Interstate and international transport:* Section 110(a)(2)(D)(i) includes four requirements referred to

as prongs 1 through 4. Prongs 1 and 2 are provided at section 110(a)(2)(D)(i)(I); Prongs 3 and 4 are provided at section 110(a)(2)(D)(i)(II). Section 110(a)(2)(D)(i)(I) requires SIPs to include adequate provisions prohibiting any source or other type of emissions activity in one state from contributing significantly to nonattainment, or interfering with maintenance, of any NAAQS in another state. Section 110(a)(2)(D)(i)(II) requires SIPs to include adequate provisions prohibiting any source or other type of emissions activity in one state from interfering with measures required of any other state to prevent significant deterioration of air quality or to protect visibility.

In this notice, we are not proposing to take any actions related to the interstate transport requirements of section 110(a)(2)(D)(i)(I)—prongs 1 and 2. At this time, there is no SIP submission from Kansas relating to 110(a)(2)(D)(i)(I) for the 2010 SO₂ NAAQS pending before the Agency.

With respect to the PSD requirements of section 110(a)(2)(D)(i)(II)—prong 3, EPA notes that Kansas’ satisfaction of the applicable infrastructure SIP PSD requirements for attainment/unclassifiable areas of the 2010 SO₂ NAAQS have been detailed in the section addressing section 110(a)(2)(C). EPA also notes that the proposed action in that section related to PSD is consistent with the proposed approval related to PSD for section 110(a)(2)(D)(i)(II).

With regard to the applicable requirements for visibility protection of section 110(a)(2)(D)(i)(II)—prong 4, states are subject to visibility and regional haze program requirements under part C of the CAA (which includes sections 169A and 169B). The 2013 Guidance states that these requirements can be satisfied by an approved SIP addressing reasonably attributable visibility impairment, if required, and an approved SIP addressing regional haze.

Kansas meets this requirement through EPA’s final approval of Kansas’ regional haze plan on December 27, 2011 (76 FR 80754). In this final approval, EPA determined that the Kansas SIP met requirements of the CAA, for states to prevent any future and remedy any existing anthropogenic impairment of visibility in Class I areas caused by emissions of air pollutants located over a wide geographic area. Therefore, EPA is proposing to fully approve this aspect of the submission.

Section 110(a)(2)(D)(ii) also requires that the SIP insure compliance with the applicable requirements of sections 126 and 115 of the CAA, relating to

interstate and international pollution abatement, respectively.

Section 126(a) of the CAA requires new or modified sources to notify neighboring states of potential impacts from sources within the state. The Kansas regulations address abatement of the effects of interstate pollution. For example, KAR 28–19–350(k)(2) “Prevention of Significant Deterioration (PSD) of Air Quality” requires KDHE, prior to issuing any construction permit for a proposed new major source or major modification, to notify EPA, as well as: Any state or local air pollution control agency having jurisdiction in the air quality control region in which the new or modified installation will be located; the chief executives of the city and county where the source will be located; any comprehensive regional land use planning agency having jurisdiction where the source will be located; and any state, Federal land manager, or Indian governing body whose lands will be affected by emissions from the new source or modification.¹⁸ See also KAR 28–19–204 “General Provisions; Permit Issuance and Modification; Public Participation” for additional public participation requirements. In addition, no Kansas source or sources have been identified by EPA as having any interstate impacts under section 126 in any pending actions relating to any air pollutant.

Section 115 of the CAA authorizes EPA to require a state to revise its SIP under certain conditions to alleviate international transport into another country. There are no final findings under section 115 of the CAA against Kansas with respect to any air pollutant. Thus, the state’s SIP does not need to include any provisions to meet the requirements of section 115.

Based upon review of the state’s infrastructure SIP submission for the 2010 SO₂ NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in Kansas’ SIP, EPA believes that Kansas has the adequate infrastructure needed to address sections 110(a)(2)(D)(i)(II)—Prongs 3 and 4 and 110 (a)(2)(D)(ii) for the 2010 SO₂ NAAQS and is proposing to approve this element of the July 15, 2013, submission.

(E) *Adequate authority, resources, implementation, and oversight:* Section 110(a)(2)(E) requires that SIPs provide for the following: (1) Necessary assurances that the state (and other entities within the state responsible for

¹⁷ For a detailed discussion on EPA’s analysis of how Kansas meets the PSD requirements, see EPA’s April 17, 2013, proposed approval of Kansas’ 1997 and 2006 PM_{2.5} infrastructure SIP (78 FR 22827).

¹⁸ KAR 28–19–16k(b) provides similar requirements for construction permits issued in nonattainment areas.

implementing the SIP) will have adequate personnel, funding, and authority under state or local law to implement the SIP, and that there are no legal impediments to such implementation; (2) requirements that the state comply with the requirements relating to state boards, pursuant to section 128 of the CAA; and (3) necessary assurances that the state has responsibility for ensuring adequate implementation of any plan provision for which it relies on local governments or other entities to carry out that portion of the plan.

(1) Section 110(a)(2)(E)(i) requires states to establish that they have adequate personnel, funding and authority. With respect to adequate authority, we have previously discussed Kansas' statutory and regulatory authority to implement the 2010 SO₂ NAAQS, primarily in the discussion of section 110(a)(2)(A) above. Neither Kansas nor EPA has identified any legal impediments in the state's SIP to implementation of the NAAQS.

With respect to adequate resources, KDHE asserts that it has adequate personnel to implement the SIP. The Kansas statutes provide the Secretary the authority to employ technical, professional and other staff to effectuate the purposes of the Kansas Air Quality Act from funds appropriated and available for these purposes. See KSA section 65–3006(b). Within KDHE, the Bureau of Air implements the Kansas Air Quality Act. This Bureau is further divided into the Air Compliance and Enforcement Section, Air Permit Section; the Monitoring and Planning Section; and the Radiation and Asbestos Control Section.

With respect to funding, the Kansas Legislature annually approves funding and personnel resources for KDHE to implement the air program. The annual budget process provides a periodic update that enables KDHE and the local agencies to adjust funding and personnel needs. In addition, the Kansas statutes grant the Secretary authority to establish various fees for sources, to cover any and all parts of administering the provisions of the Kansas Air Quality Act. For example, KSA section 65–3008(f) grants the Secretary authority to fix, charge, and collect fees for construction approvals and permits (and the renewals thereof). KSA section 65–3024 grants the Secretary the authority to establish annual emissions fees. These emission fees, along with any moneys recovered by the state under the provisions of the Kansas Air Quality Act, are deposited into an air quality fee fund in the state treasury. Moneys in the air quality fee fund can only be used for

the purpose of administering the Kansas Air Quality Act.

Kansas also uses funds in the non-Title V subaccounts, along with General Revenue funds and EPA grants under, for example, sections 103 and 105 of the Act, to fund the programs. EPA conducts periodic program reviews to ensure that the state has adequate resources and funding to, among other things, implement the SIP.

(2) Conflict of interest provisions—section 128. Section 110(a)(2)(E)(ii) requires that each state SIP meet the requirements of section 128, relating to representation on state boards and conflicts of interest by members of such boards. Section 128(a)(1) requires that any board or body which approves permits or enforcement orders under the CAA must have at least a majority of members who represent the public interest and do not derive any “significant portion” of their income from persons subject to permits and enforcement orders under the CAA. Section 128(a)(2) requires that members of such a board or body, or the head of an agency with similar powers, adequately disclose any potential conflicts of interest.

On June 20, 2013, EPA approved Kansas' SIP revision addressing the section 128 requirements (78 FR 37126). For a detailed discussion on EPA's analysis of how Kansas meets the section 128 requirements, see EPA's April 17, 2013, proposed approval of Kansas' 1997 and 2006 PM_{2.5} infrastructure SIP (78 FR 22827).

(3) With respect to assurances that the state has responsibility to implement the SIP adequately when it authorizes local or other agencies to carry out portions of the plan, KSA section 65–3005(a)(8) grants the Secretary authority to encourage local units of government to handle air pollution problems within their own jurisdictions and to provide technical and consultative assistance therefor. The Secretary may also enter into agreements with local units of government to administer all or part of the provisions of the Kansas Air Quality Act in the units' respective jurisdictions. In fact, KSA section 65–3016 allows for cities and/or counties (or combinations thereof) to form local air quality conservation authorities. These authorities will then have the authority to enforce air quality rules and regulations adopted by the Secretary and adopt any additional rules, regulations and standards as needed to maintain satisfactory air quality within their jurisdictions.

At the same time, the Kansas statutes also retain authority in the Secretary to carry out the provisions of the state air

pollution control law. KSA section 65–3003 specifically places responsibility for air quality conservation and control of air pollution with the Secretary. The Secretary shall then administer the Kansas Air Quality Act through the Division of Environment. As an example of this retention of authority, KSA section 65–3016 only allows for the formation of local air quality conservation authorities with the approval of the Secretary. In addition, although these authorities can adopt additional air quality rules, regulations and standards, they may only do so if those rules, regulations and standards are in compliance with those set by the Secretary for that area. Currently, KDHE oversees the following local agencies that implement that Kansas Air Quality Act: The City of Wichita Office of Environmental Health, Johnson County Department of Health and Environment, and Unified Government of Wyandotte County–Kansas City, Kansas Public Health Department.

Based upon review of the state's infrastructure SIP submission for the 2010 SO₂ NAAQS and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in Kansas' SIP, EPA believes that Kansas has the adequate infrastructure needed to address section 110(a)(2)(E) for the 2010 SO₂ NAAQS and is proposing to approve this element of the July 15, 2013, submission.

(F) *Stationary source monitoring system*: Section 110(a)(2)(F) requires states to establish a system to monitor emissions from stationary sources and to submit periodic emission reports. Each SIP shall require the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources, to monitor emissions from such sources. The SIP shall also require periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and requires that the state correlate the source reports with emission limitations or standards established under the CAA. These reports must be made available for public inspection at reasonable times.

To address this element, KSA section 65–3007 gives the Secretary the authority to classify air contaminant sources which, in his or her judgment, may cause or contribute to air pollution. The Secretary shall require air contaminant emission sources to monitor emissions, operating parameters, ambient impact of any source emissions, and any other parameters deemed necessary.

Furthermore, the Secretary may require these emissions sources to keep records and make reports consistent with the purposes of the Kansas Air Quality Act.

In addition, KAR 28–19–12(A) “Measurement of Emissions” states that KDHE may require any person responsible for the operation of an emissions source to make or have tests made to determine the rate of contaminant emissions from the source whenever it has reason to believe that existing emissions exceed limitations specified in the Kansas air quality regulations. At the same time, KDHE may also conduct its own tests of emissions from any source. KAR 28–19–12(B). The Kansas regulations also require that all Class I operating permits include requirements for monitoring of emissions (KAR 28–19–512(a)(9) “Class I Operating Permits; Permit Content”).

Kansas makes all monitoring reports (as well as compliance plans and compliance certifications) submitted as part of a construction permit or Class I or Class II permit application publicly available. See KSA section 65–3015(a); KAR 28–19–204(c)(6) “General Provisions; Permit Issuance and Modification; Public Participation.” KDHE uses this information to track progress towards maintaining the NAAQS, developing control and maintenance strategies, identifying sources and general emission levels, and determining compliance with emission regulations and additional EPA requirements. Although the Kansas statutes allow a person to request that records or information reported to KDHE be regarded and treated as confidential on the grounds that it constitutes trade secrets, emission data is specifically excluded from this protection. See KSA section 65–3015(b).

Based upon review of the state’s infrastructure SIP submission for the 2010 SO₂ NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in Kansas’ SIP, EPA believes that Kansas has the adequate infrastructure needed to address section 110(a)(2)(F) for the 2010 SO₂ NAAQS and is proposing to approve this element of the July 15, 2013, submission.

(G) *Emergency authority:* Section 110(a)(2)(G) requires SIPs to provide for authority to address activities causing imminent and substantial endangerment to public health or welfare or the environment (comparable to the authorities provided in section 303 of the CAA), and to include contingency plans to implement such authorities as necessary.

KSA section 65–3012(a) states that whenever the Secretary receives evidence that emissions from an air pollution source or combination of sources presents an imminent and substantial endangerment to public health or welfare or to the environment, he or she may issue a temporary order directing the owner or operator, or both, to take such steps as necessary to prevent the act or eliminate the practice. Upon issuance of this temporary order, the Secretary may then commence an action in the district court to enjoin these acts or practices.

KAR 28–19–56 “Episode Criteria” allows the Secretary to proclaim an air pollution alert, air pollution warning, or air pollution emergency whenever he or she determines that the accumulation of air contaminants at any sampling location has attained levels which could, if such levels are sustained or exceeded, threaten the public health. KAR 28–19–57 “Emission Reduction Requirements” imposes restrictions on emission sources in the event one of these three air pollution episode statuses is declared.

Based upon review of the state’s infrastructure SIP submissions for the 2010 SO₂ NAAQS, and relevant statutory and regulatory authorities and provisions referenced in those submissions or referenced in Kansas’ SIP, EPA believes that the Kansas SIP adequately addresses section 110(a)(2)(G) for the 2010 SO₂ NAAQS and is proposing to approve this element of the July 15, 2013, submission.

(H) *Future SIP revisions:* Section 110(a)(2)(H) requires states to have the authority to revise their SIPs in response to changes in the NAAQS, availability of improved methods for attaining the NAAQS, or in response to an EPA finding that the SIP is substantially inadequate to attain the NAAQS.

KSA section 65–3005(b) specifically states that it is the policy of the state of Kansas to regulate the air quality of the state and implement laws and regulations that are applied equally and uniformly throughout the state and consistent with that of the Federal government. Therefore, the Secretary has the authority to promulgate rules and regulations to ensure that Kansas is in compliance with the provisions of the Federal CAA. KSA 65–3005(b)(1).

As discussed previously, KSA section 65–3005(a)(1) provides authority to the Secretary to adopt, amend and repeal rules and regulations implementing and consistent with the Kansas Air Quality Act. The Secretary also has the authority to establish ambient air quality standards for the state of Kansas or any

part thereof. KSA section 65–3005(a)(12). Therefore, as a whole, the Secretary has the authority to revise rules as necessary to respond to any necessary changes in the NAAQS.

Based upon review of the state’s infrastructure SIP submission for the 2010 SO₂ NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in Kansas’ SIP, EPA believes that Kansas has adequate authority to address section 110(a)(2)(H) for the 2010 SO₂ NAAQS and is proposing to approve this element of the July 15, 2013, submission.

(I) *Nonattainment areas:* Section 110(a)(2)(I) requires that in the case of a plan or plan revision for areas designated as nonattainment areas, states must meet applicable requirements of part D of the CAA, relating to SIP requirements for designated nonattainment areas.

As noted earlier, EPA does not expect infrastructure SIP submissions to address subsection (I). The specific SIP submissions for designated nonattainment areas, as required under CAA title I, part D, are subject to different submission schedules than those for section 110 infrastructure elements. Instead, EPA will take action on part D attainment plan SIP submissions through a separate rulemaking governed by the requirements for nonattainment areas, as described in part D.

(J) *Consultation with government officials, public notification, PSD and visibility protection:* Section 110(a)(2)(J) requires SIPs to meet the applicable requirements of the following CAA provisions: (1) Section 121, relating to interagency consultation regarding certain CAA requirements; (2) section 127, relating to public notification of NAAQS exceedances and related issues; and (3) part C of the CAA, relating to prevention of significant deterioration of air quality and visibility protection.

(1) With respect to interagency consultation, the SIP should provide a process for consultation with general-purpose local governments, designated organizations of elected officials of local governments, and any Federal Land Manager having authority over Federal land to which the SIP applies. KSA section 65–3005(a)(14) grants the Secretary the authority to advise, consult and cooperate with other agencies of the state, local governments, other states, interstate and interlocal agencies, and the Federal government. Furthermore, as noted earlier in the discussion on section 110(a)(2)(D), Kansas’ regulations require that whenever it receives a construction

permit application for a new source or a modification, KDHE must notify state and local air pollution control agencies, as well as regional land use planning agencies and any state, Federal land manager, or Indian governing body whose lands will be affected by emissions from the new source or modification. See KAR 28–19–350(k)(2) “Prevention of Significant Deterioration (PSD) of Air Quality.”

(2) With respect to the requirements for public notification in section 127, the infrastructure SIP should provide citations to regulations in the SIP requiring the air agency to regularly notify the public of instances or areas in which any NAAQS are exceeded; advise the public of the health hazard associated with such exceedances; and enhance public awareness of measures that can prevent such exceedances and of ways in which the public can participate in the regulatory and other efforts to improve air quality.

As discussed previously with element (G), KAR 28–19–56 “Episode Criteria” contains provisions that allow the Secretary to proclaim an air pollution alert, air pollution warning, or air pollution emergency status whenever he or she determines that the accumulation of air contaminants at any sampling location has attained levels which could, if such levels are sustained or exceeded, threaten the public health. Any of these emergency situations can also be declared by the Secretary even in the absence of issuance of a high air pollution potential advisory or equivalent advisory from a local weather bureau meteorologist, if deemed necessary to protect the public health. In the event of such an emergency situation, public notification will occur through local weather bureaus.

In addition, information regarding air pollution and related issues is provided on a KDHE Web site, <http://www.kdheks.gov/bar/>. This information includes air quality data, information regarding the NAAQS, health effects of poor air quality, and links to the Kansas Air Quality Monitoring Network. KDHE also has an “Outreach and Education” Web page (http://www.kdheks.gov/bar/air_outreach/air_quality_edu.htm) with information on how individuals can take measures to reduce emissions and improve air quality in daily activities.

(3) With respect to the applicable requirements of part C of the CAA, relating to PSD of air quality and visibility protection, as noted in above under element (C), the Kansas SIP meets the PSD requirements, incorporating the Federal rule by reference. With respect to the visibility component of section

110(a)(2)(J), EPA recognizes that states are subject to visibility and regional haze program requirements under part C of the CAA. However, when EPA establishes or revises a NAAQS, these visibility and regional haze requirements under part C do not change. EPA believes that there are no new visibility protection requirements under part C as a result of a revised NAAQS. Therefore, there are no newly applicable visibility protection obligations pursuant to element J after the promulgation of a new or revised NAAQS.

Nevertheless, as noted above in section D, EPA has already approved Kansas’ Regional Haze Plan and determined that it met the CAA requirements for preventing future and remedying existing impairment of visibility caused by air pollutants.

Based upon review of the state’s infrastructure SIP submission for the 2010 SO₂ NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in Kansas’ SIP, EPA believes that Kansas has met the applicable requirements of section 110(a)(2)(J) for the 2010 SO₂ NAAQS in the state and is therefore proposing to approve this element of the July 15, 2013, submission.

(K) Air quality and modeling/data: Section 110(a)(2)(K) requires that SIPs provide for performing air quality modeling, as prescribed by EPA, to predict the effects on ambient air quality of any emissions of any NAAQS pollutant, and for submission of such data to EPA upon request.

Kansas has authority to conduct air quality modeling and report the results of such modeling to EPA. KSA section 65–3005(a)(9) gives the Secretary the authority to encourage and conduct studies, investigations and research relating to air contamination and air pollution and their causes, effects, prevention, abatement and control. As an example of regulatory authority to perform modeling for purposes of determining NAAQS compliance, the regulations at KAR 28–19–350 “Prevention of Significant Deterioration (PSD) of Air Quality” incorporate EPA modeling guidance in 40 CFR part 51, appendix W for the purposes of demonstrating compliance or non-compliance with a NAAQS.

The Kansas statutes and regulations also give KDHE the authority to require that modeling data be submitted for analysis. KSA section 65–3007(b) grants the Secretary the authority to require air contaminant emission sources to monitor emissions, operating parameters, ambient impact of any

source emissions or any other parameters deemed necessary. The Secretary may also require these sources to keep records and make reports consistent with the purposes of the Kansas Air Quality Act. These reports could include information as may be required by the Secretary concerning the location, size, and height of contaminant outlets, processes employed, fuels used, and the nature and time periods or duration of emissions, and such information as is relevant to air pollution and available or reasonably capable of being assembled. KSA section 65–3007(c).

Based upon review of the state’s infrastructure SIP submission for the 2010 SO₂ NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in Kansas’ SIP, EPA believes that Kansas has the adequate infrastructure needed to address section 110(a)(2)(K) for the 2010 SO₂ NAAQS and is proposing to approve this element of the July 15, 2013, submission.

(L) Permitting Fees: Section 110(a)(2)(L) requires SIPs to require each major stationary source to pay permitting fees to the permitting authority, as a condition of any permit required under the CAA, to cover the cost of reviewing and acting upon any application for such a permit, and, if the permit is issued, the costs of implementing and enforcing the terms of the permit. The fee requirement applies until a fee program established by the state pursuant to Title V of the CAA, relating to operating permits, is approved by EPA.

KSA section 65–3008(f) allows the Secretary to fix, charge, and collect fees for approvals and permits (and the renewals thereof). KSA section 65–3024 grants the Secretary the authority to establish annual emissions fees. Fees from the construction permits and approvals are deposited into the Kansas state treasury and credited to the state general fund. Emissions fees are deposited into an air quality fee fund in the Kansas state treasury. Moneys in the air quality fee fund can only be used for the purpose of administering the Kansas Air Quality Act.

Kansas’ Title V program, found at KAR 28–19–500 to 28–19–564, was approved by EPA on January 30, 1996 (61 FR 2938). EPA reviews the Kansas Title V program, including Title V fee structure, separately from this proposed action. Because the Title V program and associated fees legally are not part of the SIP, the infrastructure SIP action we are proposing today does not preclude EPA

from taking future action regarding Kansas' Title V program.

Based upon review of the state's infrastructure SIP submission for the 2010 SO₂ NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in Kansas' SIP, EPA believes that the requirements of section 110(a)(2)(L) for the 2010 SO₂ NAAQS are met and is proposing to approve this element of the July 15, 2013, submission.

(M) Consultation/participation by affected local entities: Section 110(a)(2)(M) requires SIPs to provide for consultation and participation by local political subdivisions affected by the SIP.

KSA section 65–3005(a)(8)(A) gives the Secretary the authority to encourage local units of government to handle air pollution problems within their respective jurisdictions and on a cooperative basis and to provide technical and consultative assistance therefor. The Secretary may also enter into agreements with local units of government to administer all or part of the provisions on the Kansas Air Quality Act in the units' respective jurisdiction. The Secretary also has the authority to advise, consult, and cooperate with local governments. KSA section 65–3005(a)(14). He or she may enter into contracts and agreements with local governments as is necessary to accomplish the goals of the Kansas Air Quality Act. KSA section 65–3005(a)(16).

Currently, KDHE's Bureau of Air has signed state and/or local agreements with the Department of Air Quality from the Unified Government of Wyandotte County—Kansas City, Kansas; the Wichita Office of Environmental Health; the Johnson County Department of Health and Environment; and the Mid-America Regional Council. These agreements establish formal partnerships between the Bureau of Air and these local agencies to work together to develop and annually update strategic goals, objectives and strategies for reducing emissions and improving air quality.

In addition, as previously noted in the discussion about section 110(a)(2)(J), Kansas' statutes and regulations require that KDHE consult with local political subdivisions for the purposes of carrying out its air pollution control responsibilities.

Based upon review of the state's infrastructure SIP submission for the 2010 SO₂ NAAQS, and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in Kansas' SIP, EPA

believes that Kansas has the adequate infrastructure needed to address section 110(a)(2)(M) for the 2010 SO₂ NAAQS and is proposing to approve this element of the July 15, 2013, submission.

V. What action is EPA proposing?

EPA is proposing to approve the infrastructure SIP submissions from Kansas which address the requirements of CAA sections 110(a)(1) and (2) as applicable to the 2010 SO₂ NAAQS. Specifically, EPA is proposing to approve the following infrastructure elements, or portions thereof: 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). As discussed in each applicable section of this rulemaking, EPA is not proposing action on section 110(a)(2)(D)(i)(I), and section 110(a)(2)(I)—Nonattainment Area Plan or Plan Revisions Under Part D.

Based upon review of the state's infrastructure SIP submissions and relevant statutory and regulatory authorities and provisions referenced in the submission or referenced in Kansas' SIP, EPA believes that Kansas has the infrastructure to address all applicable required elements of sections 110(a)(1) and (2) (except otherwise noted) to ensure that the 2010 SO₂ NAAQS are implemented in the state.

We are hereby soliciting comment on this proposed action. Final rulemaking will occur after consideration of any comments.

VI. Statutory and Executive Order Review

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the EPA approved Kansas Nonregulatory Provision for Section 110(a)(2) Infrastructure Requirements for the 2010 SO₂ NAAQS described in the proposed amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and/or in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of

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

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

Statutory Authority

The statutory authority for this action is provided by section 110 of the CAA, as amended (42 U.S.C. 7410).

List of Subjects in 40 CFR Part 52

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

Dated: February 24, 2015.

Karl Brooks,

Regional Administrator, Region 7.

For the reasons stated in the preamble, the Environmental Protection

Agency proposes to amend 40 CFR part 52 as set forth below:

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 R—Kansas

■ 2. In § 52.870(e) the table is amended by adding entry (40) in numerical order to read as follows:

§ 52.870 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED KANSAS NONREGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic area or Nonattainment area	State submittal date	EPA Approval date	Explanation
(40) Section 110(a)(2) Infrastructure Requirements for the 2010 SO ₂ NAAQS.	Statewide	3/19/2013	3/6/2015, [Insert Federal Register citation].	This action addresses the following CAA elements 110(a)(2)(A), (B), (C), (D)(i)(II), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).

[FR Doc. 2015-05328 Filed 3-5-15; 08:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Parts 1, 2, 15, 90, and 95**

[ET Docket Nos. 15-26, 11-90, 10-28, RM-11555, RM-11666, and WT Docket No. 11-202; FCC 15-16]

Operation of Radar Systems in the 76-81 GHz Band

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) proposes to authorize radar applications in the 76-81 GHz band. The Commission seeks to develop a flexible and streamlined regulatory framework that will encourage efficient, innovative uses of the spectrum and to allow various services to operate on an interference-protected basis. In doing so, it further seeks to adopt service rules that will allow for the deployment of the various radar applications in this band, both within and outside the U.S. The Commission takes this action in response to a petition for rulemaking filed by Robert Bosch, LLC (Bosch) and two petitions for reconsideration of the 2012 *Vehicular Radar R&O*.

DATES: Comments must be filed on or before April 6, 2015, and reply comments must be filed on or before April 20, 2015.

FOR FURTHER INFORMATION CONTACT:

Aamer Zain, Office of Engineering and Technology, (202) 418-2437, email: aamer.zain@fcc.gov, TTY (202) 418-2989.

ADDRESSES: You may submit comments, identified by ET Docket No. 15-26, by any of the following methods:

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

■ *Federal Communications Commission's Web site:* <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.

■ *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking and Reconsideration Order*, ET Docket No. 15-26, RM-11555, RM-11666, ET Docket Nos. 11-90, 10-28 and WT Docket No. 11-202; FCC 15-16, adopted February 3, 2015, and released February 5, 2015. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY-A257), 445 12th Street SW., Washington, DC 20554.

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

■ *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.

■ *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

■ All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

Summary of Notice of Proposed Rulemaking

1. In the Notice of Proposed Rule Making and Reconsideration Order (NPRM), the Commission proposes rules that will accommodate the commercial development and use of various radar technologies in the 76–81 GHz band under part 95 of its rules. These proposals include allocation changes to the bands as well as provisions to ensure that new and incumbent operations can share the available frequencies in the band. Specifically, the Commission seeks comment on the following 76–81 GHz band matters;

- Expanding radar operations in the 76–81 GHz band;
- Modifying the Table of Frequency Allocations to provide an allocation for the radiolocation service in the 77.5–78 GHz band;
- Authorizing the expanded radar operations on a licensed basis under part 95;
- Shifting vehicular and other users away from the existing part 15 unlicensed operating model; and
- Evaluating the compatibility of incumbent operations, including that of amateur radio, with radar applications in the 77–81 GHz band.

Collectively, these actions propose a unified approach for providing allocation and service rules for the various types of radar applications that will operate within the 76–81 GHz range.

Background

2. The 76–77.5 GHz and 78–81 GHz bands are allocated to the Radio Astronomy service (RAS) and the Radiolocation service on a primary basis and to the Amateur and Space research (space-to-Earth) services on a secondary basis. The 77.5–78 GHz band is allocated to the Amateur and Amateur-Satellite services on a primary basis and to the Radio astronomy and Space research (space-to-Earth) services on a

secondary basis. Discussed further are primary radiolocation services that are allocated in the 76–77.5 GHz and 78–81 GHz bands.

3. These bands are in the region of the radiofrequency spectrum known as “millimeter wave” spectrum. At these frequencies, radio propagation decreases more rapidly with distance than at lower frequencies and antennas that can narrowly focus transmitted energy are practical and of modest size. While the limited range of such transmissions might be a disadvantage for many applications, it does allow frequency reuse within very short distances and thereby enables a higher concentration of transmitters in a geographical area than is possible at lower frequencies.

4. In recent years, the Commission has sought to make frequencies in the 76–81 GHz range available for new and innovative radar applications that can provide important benefits to the public at large. In a series of rulemaking proceedings that date back to 1995, the Commission has established rules to allow the use of this spectrum by automotive collision avoidance radar applications (“vehicular radars”) and radar systems that detect foreign object debris (FOD) at airport facilities (“FOD detection radars”). Vehicular radars are authorized under part 15 of our rules, while FOD detection radars currently are permitted to operate under parts 15 and 90 of the Commission’s rules.

Vehicular Radar

5. Vehicular radars can determine the exact distance and relative speed of objects in front of, beside, or behind a car to improve the driver’s ability to perceive objects under bad visibility conditions or objects in blind spots. In 1995, the Commission adopted rules to allow the use of the 76–77 GHz band by vehicular radars on an unlicensed basis. These provisions were limited to vehicle-mounted radars; fixed applications were not permitted.

6. On May 24, 2011, Toyota Motor Corporation filed a petition to modify the technical rules for vehicular radars to allow greater flexibility in vehicular radar applications. In response, the Commission issued a *Notice of Proposed Rule Making (Vehicular Radar NPRM)* and subsequently issued a *Report and Order (Vehicular Radar R&O)* modifying the part 15 rules for vehicular radars in the 76–77 GHz band. The Commission, *inter alia*, modified the rules to specify average and peak radiated emission limits in equivalent EIRP and power density units so that manufacturers could use either specification to express the emissions from their devices.

7. Vehicular radar technology has continued to evolve, and industry has developed more enhanced and cost-effective long-range vehicular radars (LRR) in the 76–77 GHz band.

Developers of these technologies claim that the existing 1 gigahertz bandwidth used by LRR is insufficient to develop high-resolution short-range vehicular radars (SRR) that can implement safety features such as collision warning, lane departure warning, lane change assistance, blind-spot detection, and pedestrian protection. As background, LRRs have narrow beams with bandwidth less than 1 gigahertz and typical spatial resolution of 0.5 meters. Their range of operation is up to 150 to 250 meters. SRRs on the other hand have wide beam with bandwidths up to 4 gigahertz and typical spatial resolution of 0.1 meters. Their range of operation is up to 30 meters.

8. Recently, Bosch filed a petition for rulemaking to modify § 15.253 of the Commission’s rules to expand the operation of unlicensed vehicular radar systems from 76–77 GHz to the 76–81 GHz band to develop SRR applications. It claims that the additional 4 gigahertz bandwidth will provide SRR with both frequency separation from LRR and the necessary bandwidth for range accuracy, angular accuracy, and good object discrimination.

9. On July 17, 2012, the Commission issued a public notice seeking comment on Bosch’s petition. The petition drew general support from the automotive industry, opposition from an individual amateur radio operator and interest from two developing non-vehicular radio applications for the band. Specifically, eight parties filed comments and three parties submitted ex parte written communications.

Millimeter Wave Band Radar Operation at Airports

10. The Commission has recognized the benefits associated with radars that can detect FOD at airports. Generally speaking, FOD include any substance, debris, or object that can damage aircraft or equipment. FOD can seriously threaten the safety of airport personnel and airline passengers and can have a negative impact on airport logistics and operations. According to the Federal Aviation Administration (FAA), FOD “has the potential to damage aircraft during critical phases of flight, which can lead to catastrophic loss of life and airframe, and at the very least increased maintenance and operating costs.” Moreover, the direct maintenance costs to airlines caused by FOD have been estimated to be one to four billion dollars per year. The Commission

provides for both unlicensed FOD detection radar use in the 76–77 GHz band under its part 15 rules and licensed FOD detection radar use in the 78–81 GHz band under its part 90 rules.

11. Interest in using the millimeter wave bands to support FOD detection radars dates back to February 23, 2009, when Era Systems Corporation (“Era”) requested for waiver of §§ 2.803, 15.201 and 15.253 of the Commission’s rules. In response, the Office of Engineering and Technology issued a public notice seeking comments on Era waiver request and later granted Era a limited waiver to allow the installation of radar systems at Hartsfield-Jackson Atlanta International Airport.

12. Also in a separate proceeding, Era filed comments asking the Commission to amend its part 15 rules to permit fixed use of 76–77 GHz radars at airports for monitoring air traffic and airport service vehicles only. The Office of Engineering and Technology (OET) decided to treat ERA’s comments as a Petition for Rulemaking, and consolidated Era and Vehicular Radar petitions into single rule making proceeding in the 76–77 GHz band. During the course of this proceeding, Xsight Systems Ltd. (Xsight) filed *ex parte* comments in support of Era and asked the Commission to allow operation of FOD detection radars in the 76–77 GHz band at airport locations only.

13. Subsequently, as part of the *Vehicular Radar NPRM*, the Commission examined the use of fixed radar systems in the 76–77 GHz band and proposed to allow such use at any location, rather than restrict their use to only airport locations per the Era petition for rulemaking. The Commission stated that limiting fixed radar operations to specific locations such as airports might be overly restrictive and could unnecessarily burden the public. In the subsequent *Vehicular Radar R&O*, the Commission permitted unlicensed operation of fixed radars, including FOD detection radars, in the 76–77 GHz band at airport locations. It permitted such operation on an unlicensed basis under the same part 15 rules and with the same emission limits that it applied to vehicular radars in the band.

14. Licensed FOD detection radar can be traced to an August 10, 2010, petition for Rulemaking in which Trex Enterprises Corporation (Trex) asked us to amend part 90 of the Commission’s rules to permit FOD detection radars to operate in the 78–81 GHz band and to impose service rules that require each airport location to be individually licensed to operate FOD detection

radars. The Commission subsequently issued a *Notice of Proposed Rule Making and Order* seeking comment on the best way to enable the use FOD detection radars. On July 11, 2013, the Commission adopted a Report and Order that permitted the certification, licensing, and use of FOD detection radars in the 78–81 GHz band under our part 90 rules. In that Report and Order, the Commission did not adopt technical specifications for FOD detection radars, see 78 FR 45072, July 26, 2013. The Commission addresses this issue herein.

Petitions for Reconsideration

15. Our evaluation of the 76–81 GHz band also implicates two outstanding petitions for reconsideration. Both petitions were filed in response to the *Vehicular Radar R&O* that modified our part 15 rules to permit vehicular radar technologies and airport-based fixed radar applications in the 76–77 GHz band.

16. The first petition concerns the scope of fixed infrastructure applications in the 76–77 GHz band. In the *Vehicular Radar R&O*, the Commission stated that it continues to believe that vehicular radars should be able to share the band with fixed radars operating at the same levels and noted that there were no conclusive test results indicating that there would be incompatibility issues between the two types of radars. It nevertheless declined to adopt provisions for unlicensed fixed radar operations outside of airport locations in the 76–77 GHz band, stating that no parties had come forward to establish a clear demand for fixed radar applications beyond such locations. Navtech Radar (Navtech) asks that the Commission reconsider this decision. Navtech claims that evidence suggests the band can be more broadly shared between vehicular and fixed radars, and that there is demand for new fixed radar applications that are not permitted under the current rules. Numerous parties, including representatives of the automotive industry, oppose the Navtech petition on both substantive and procedural grounds. In a subsequent *ex parte* presentation, Navtech reiterated its claims.

17. Second, Honeywell International, Inc. (Honeywell) asks that the Commission clarify that § 15.253(a) of its rules does not prohibit the operation of 76–77 GHz band radar devices located on aircraft while the aircraft are on the ground. Honeywell envisions that its radar application will help aircraft avoid collisions with other aircraft, stationary objects, and service vehicles.

18. Numerous representatives of the automotive industry as well as Xsight Systems, Inc., filed to oppose the Honeywell petition. These parties raised procedural arguments—that the issue of removing the current prohibition on the use of 76–77 GHz frequency range on aircraft or satellite was not properly raised in the proceeding and is otherwise outside the scope of the decision—as well as claims that there is insufficient evidence that both aircraft-mounted and vehicular radars can co-exist in the 76–77 GHz band. In response, Honeywell claims that the issues it raises are within the scope of the Commission’s rulemaking proceeding, that there is no technical reason why aircraft-mounted radar cannot operate in the 76–77 GHz band while the aircraft is on ground, and that there is an urgent and recognized public interest need for the anti-collision benefits its aircraft-mounted radars can provide.

19. The Commission originally adopted rules to allow use of the 76–77 GHz band, limited to vehicle-mounted radars. It recognized concerns raised by the Committee on Radio Frequencies (CORF) of the National Academies about potential interference to radio astronomy operations, and prohibited the use of 76–77 GHz unlicensed devices aboard aircraft and satellites as a way to protect the radio astronomy services. Any change to the restriction on the use of 76–77 GHz unlicensed devices aboard aircraft and satellites was neither part of the *Vehicular Radar NPRM* nor of the subsequent *Vehicular Radar R&O*.

Radio Astronomy Service

20. The radio astronomy service is a passive service that receives radio waves of cosmic origin to better understand our universe. Astronomical research above 50 GHz is particularly well suited for studies of star formation, the properties of the interstellar medium, the chemical evolution of the Universe, detection of extra-solar planets and many other phenomena. RAS has a mix of primary and secondary allocations that span the 76–81 GHz band. RAS installations are remotely located to provide interference protection from active services. The Commission previously concluded that there is very negligible risk of potential interference to RAS equipment from vehicular radars in the 76–77 GHz band. The Commission also concluded that unlicensed FOD detection equipment would not cause harmful interference to RAS equipment as both applications only operate fixed stations, are limited

in number and are not located in close proximity.

Amateur

21. In addition to the above services, the Commission also allows amateur radio use within the 76–81 GHz band. Generally speaking, amateur operators use radio spectrum for private recreation, non-commercial exchange of messages, wireless experimentation, self-training, and emergency communication purposes. The amateur radio community previously stated that the frequencies in the 76–81 GHz range (which it identifies as the “4 mm band”) are well suited for experiments relating to short-range high-speed data communication. The Commission has previously considered compatibility issues for amateur operations with vehicular radar and FOD detection radar operations. In light of concerns about interference between amateur operations and vehicular radars, the Commission imposed (and, more recently, maintained) a suspension of the amateur-satellite service allocation in the 76–77 GHz band.

Level Probing Radar

22. An additional permitted operation in the 77–81 GHz band is that of level probing radars (LPRs) which operate on an unlicensed basis under part 15. LPRs are used to measure the amount of various materials contained in storage tanks or vessels or to measure water or other material levels in outdoor locations. They are typically mounted inside storage tanks or on bridges or on other elevated structures in outdoor locations, and emit radio frequency (RF) signals through an antenna aimed downwards to the surface of the substance to be measured. The Commission recently concluded that LPR devices would be able to co-exist successfully with vehicular radars. It based its conclusion on the nature of LPR equipment, which is installed in a downward-looking position at fixed locations, and because the main-beam emission limits have been carefully calculated to avoid harmful interference to other radio services.

Notice of Proposed Rulemaking

23. The Commission undertakes this proceeding to expand the available spectrum for radar operations in the 76–81 GHz band. Specifically, it proposes to add rules for radars in the 76–81 GHz band as licensed services under part 95 of our rules. In doing so, the Commission recognizes that the millimeter wave bands support numerous beneficial services and incumbent operations, including

vehicular radars, radio astronomy, FOD detection radars, level probing radars and amateur applications, and that this frequency band could host other additional applications in the future. The following discussion addresses the compatibility issues among services and proposes rules to authorize vehicular radars, FOD detection radars, fixed infrastructure radars and aircraft-mounted radars in the 76–81 GHz band. As with other spectrum users, the Commission seeks to promote the efficient use of these resources by radar applications.

Vehicular Radar

24. The Commission recognizes that the usage of vehicular radar applications has continued to grow and evolve since the Commission issued the *Vehicular Radar R&O*, and that providing expanded access to the 76–81 GHz band could help those applications deliver important public benefits. Therefore, the Commission has set forth, a compressive approach for authorizing vehicular radars in the 76–81 GHz band while maintaining a view to ensuring an efficient use of spectrum by radar applications.

25. The Commission’s proposals are informed in large part by the Bosch petition, which was filed on behalf of the “79 GHz Project”—an industry-backed group that seeks to make the 77–81 GHz frequency range available for short-range automotive radar systems on a worldwide basis. In its petition, Bosch describes the development of short-range radar (SRR) applications that are used for both active and passive automotive safety applications. According to Bosch, SRR active safety applications include “stop and follow,” “stop and go,” autonomous braking, firing of restraint systems and pedestrian protection. Passive safety applications include obstacle and pedestrian avoidance, collision warning, lane departure warning, lane change aids, blind spot detection, parking aids and airbag arming. Collectively, collision-warning systems, vehicle environmental sensing systems, and other SRR applications are referred to as a “safety belt” for vehicles. As a practical matter, these applications offer new and tangible ways to enhance the safety of the Nation’s drivers, and to meet important automotive safety objectives.

26. The Commission proposes to make additional spectrum available for vehicular radars to accommodate the new SRR applications. As an initial matter, Bosch contends that sharing studies conducted by the automotive industry have concluded that sharing is

not achievable between the LRR systems that are currently deployed in the 76–77 GHz band and new high-resolution SRR applications, due to foreseeable saturating interference from LRRs into SRRs (but not vice-versa). Bosch claims that in such a co-channel environment, the SRRs would be jammed due to the lack of frequency separation. Bosch further notes that the 76–77 GHz band has already been designated for vehicular and infrastructure radar systems in the United States pursuant to § 15.253, and in Europe pursuant to ECC Decision ECC/DEC/(02)01 on Road Transport and Traffic Telematic (RTTT) systems, and is used for such LRR applications as Adaptive Cruise Control (ACC) systems, with a maximum bandwidth of 1 gigahertz. For these reasons, it asserts that a common band between the two systems is not feasible, and that the Commission should identify alternate spectrum for SRR use.

27. Bosch identifies a 4 gigahertz-wide band in the 77–81 GHz range for SRR applications. Other automotive interests support Bosch’s request. They argue that the existing LRR systems must be supplemented by a wider bandwidth segment of up to 4 gigahertz for SRRs to perform effectively. They contend that greater bandwidth leads to better range separation and object discrimination that enables SRRs to implement functions such as pedestrian/automotive collision avoidance, side impact warning, and roadwork avoidance. Trex, however, urges the Commission to examine closely the need for 4 GHz of bandwidth for automotive radars in the context of ensuring efficient and flexible use of our spectrum resources, and asks that in addressing Bosch’s request, the Commission also ensure that any rules that it adopts do not unreasonably restrict additional, valuable uses of the band. The Commission seeks comment on how the FCC can accommodate SRR applications while ensuring efficient and flexible use of spectrum by radar applications.

28. The Commission finds merit in Bosch’s request, and proposes to grant SRR applications access to additional spectrum apart and distinct from the spectrum currently used for LRR. In particular, the Commission proposes to provide up to 4 gigahertz of bandwidth for SRRs so that these radars can gather information about objects with a sufficient resolution. Moreover, the extensive catalogue of enhanced features supported by SRR and the expectation that their deployment will become more widespread suggests that the public interest would be served by providing SRR with expanded access to

the 77–81 GHz band. Given that the LRR applications use a narrower bandwidth than that used by SRR applications, the SRR applications will have a lower transmit power density level than that for LRR applications and therefore will have low likelihood for causing any potential interference. The Commission seek comment on these observations.

29. The Commission also believes that the spectrum identified by Bosch—the 77–81 GHz band—is a good fit for vehicular radar. At these millimeter wave frequencies, radio propagation losses increase more rapidly with distance than at lower frequencies and antennas that can narrowly focus transmitted energy are practical and of modest size. While the limited range of such transmissions might appear to be a major disadvantage for many applications, it does allow the reuse of frequencies within very short distances and, thereby enables a higher concentration of transmitters to be located in a geographic area than is possible at lower frequencies. This characteristic makes the band especially desirable as vehicular radars become more common throughout the transportation ecosystem. Moreover, these frequencies are adjacent to the 76–77 GHz band, which has already proven to be well suited for LRR applications. Because manufacturers can adapt equipment already designed to operate in the 76–77 GHz band, they will enjoy the benefits of expanded radar use at a lower cost than if they had to design equipment for a different non-adjacent band.

30. As Bosch notes in its petition, permitting vehicular radars throughout the 76–81 GHz band can also support industry efforts to consolidate vehicular radar into an internationally harmonized frequency band. Materials prepared by the 79 GHz project indicate that the 77–81 GHz band is already available for SRR applications in many parts of the world, including Europe, Australia, Russia, and Chile, and is in progress in many others. Bosch and Continental further note that the 2015 World Radio Communication Conference is expected to adopt an allocation to support the operation of vehicular radars in the 76–81 GHz range on a worldwide basis. In response to the Bosch petition, several commenters contend that global spectrum harmonization of LRRs at 76–77 GHz and SRRs at 78–81 GHz will reduce prices and will encourage deployment of automotive radars in lower-cost vehicles. Lastly, the National Telecommunications and Information Administration (NTIA), in prior matters regarding vehicular radars operating in

the 24 GHz band, encouraged us to continue to monitor technology advancements in the 77–81 GHz range and committed to “work with the Commission to ensure that an adequate frequency allocation in the 77–81 GHz band is available for the operation of vehicular radar systems.”

31. The Commission believes that new proposed radar operations will be compatible with incumbent operations in the 76–81 GHz band. As a general matter, the same technical principles that already allow successful shared operation in the 76–77 GHz band should apply in the larger 76–81 GHz range.

32. In the *Vehicular Radar R&O*, the Commission has already established that vehicular radars and RAS are compatible in the 76–77 GHz band. In that proceeding, it noted that the National Science Foundation (NSF) sponsored a study documenting measurements performed jointly by representatives from the radio astronomy community and several vehicular radar manufacturers in which vehicular radar emissions were measured in the 77–80 GHz range. Tests performed in the study with stationary short range vehicular radar systems, positioned at distances of 1.7 km and 26.9 km from the University of Arizona’s 12 Meter millimeter wave telescope, demonstrated that these radars could have a significant impact upon radio astronomy observations in the 77 to 81 GHz region. The Joint Study concludes that a zone of avoidance of about 30 to 40 km around a mm-wave observatory would be needed, in order to keep interference from a single vehicle below the threshold defined in ITU-R RA.769–2. It further concludes that smaller zones of avoidance might suffice in areas without direct line of sight to the radio telescope and/or by taking mitigation factors into account. The study acknowledged that mitigation factors, such as terrain shielding, orientation of the vehicular radar transmitter antenna with respect to the observatory, or attenuation of the vehicular radar transmitter if mounted behind the vehicle bumper, were not taken into account and would tend to reduce the distance at which interference could occur. Commenters offered mixed views on the interference issue; however, none offered specific reasons to refute the conclusions in the study. The Commission therefore seeks comment on the conclusions of the study and how the results of the study would impact a proposal to adopt technical requirements for the entire 76–81 GHz band similar to the existing vehicular radars operating in 76–77 GHz band. How can mitigation factors be

used to reduce interference to radio observatories? The Commission invites interested parties to comment on the potential for such interference. In particular, it invites interested parties who believe that the NSF study does not accurately describe the potential for such interference to submit evidence in the record sufficient to support their arguments. The Commission also seeks comment on whether the potential for interference resulting from vehicular radars in the 76–77 GHz band is likely to be similar to or different from the potential for such interference in the entire 76–81 GHz band. Finally, the Commission seeks comment on whether the mitigation factors identified in the study should be implemented for vehicular radars.

33. The Commission also believes that vehicular radar use in the expanded frequency range of 77–81 GHz will be compatible with FOD detection radars and LPR devices in that range. Although the Commission discusses proposals to expand the use of FOD detection radars in detail, it tentatively concludes here the same principles that informed our conclusion in the *Vehicular Radar R&O* that these uses are compatible in the 76–77 GHz band also apply in the 77–81 GHz band. The Commission believes that the limited geographic usage of FOD detection radars (*i.e.* at airports and not illuminating public roadways) along with the propagation characteristics of the millimeter wave band yields negligible risk of interference potential between vehicular and FOD detection radars. In the expanded 76–81 GHz frequency range, the Commission similarly believes that LPR devices will be able to continue to co-exist with vehicular radars. LPR equipment is installed in a downward-looking position at fixed locations and the main-beam emission limits have been carefully calculated to avoid receiving or causing harmful interference to other radio services. The Commission seeks comment on these observations and tentative conclusions.

34. In its petition, Bosch states that it expects no interference issues between Amateur Radio operation and vehicular radar operations at 77–81 GHz. It notes that it is unconvinced after several meetings with the technical staff of ARRL that there is any “significant incompatibility” and describes how amateur operations in the band “tend to be largely experimental, occurring in geographic areas such as mountaintops and other rural areas where motor vehicle operation is not typical.” However, the Commission has previously recognized evidence of potential interference conflicts between

the amateur-satellite service and vehicular radar systems in the 76–77 GHz band. Given that similar propagation characteristics exist throughout the millimeter wave band frequencies, there appears to be the potential for similar compatibility issues to exist between the amateur-satellite service and vehicular radar systems above 77 GHz. The Commission seeks to expand its record on the compatibility between amateur and vehicular radar services. In particular, are there any mitigation strategies for compatibility between the two services? Are there any additional interference or compatibility studies that may exist on the subject? The goal is to adopt rules that address amateur use, including amateur satellite use, within the 76–81 GHz band in a comprehensive and consistent manner.

35. In its proposal, Bosch suggests that the Commission support SRR in the 77–81 GHz band by modifying our existing part 15 rules. Because the existing vehicular radars are governed under our rules for unlicensed devices, they may not cause interference to licensed services, and must accept interference from both licensed and unlicensed users. For reasons discussed in more detail below, this regulatory structure may not be the most appropriate fit. Nevertheless, the Commission seeks comment on the proposal.

36. The Commission is proposing an approach by which it would establish vehicular radars as a service licensed by rule within part 95 of its rules under a radiolocation allocation, but also seek comment on other options, including authorizing an expansion of vehicular radars under the current part 15 model. The Commission's approach in proposing to migrate vehicular radar services from part 15 to part 95 of its rules is based on several factors. A licensed approach would make the 76–81 GHz vehicular radar services consistent with other transportation-related services currently operating under parts 90 and 95 of the rules—in particular, the 5.9 GHz Dedicated Short-range Communication (DSRC) services, a Department of Transportation initiative to integrate communication and information technology to advance transportation systems. Additionally, Bosch, in its petition, states that SRRs in the 79 GHz band “require a certain (albeit low) degree of interference protection in order to function adequately.” A unified licensed approach for all vehicular radars under our part 95 rules can offer a level of interference protection that the part 15 rules cannot provide. While the Commission notes that Bosch proposes

modifying only the existing part 15 rules to support vehicular radar applications, it does not anticipate any opposition from Bosch for a licensing approach under the part 95 rules. Finally, in light of these considerations and the ongoing work to adopt an international allocation to support the operation of vehicular radars in the 76–81 GHz range on a worldwide basis, the Commission seeks comment on licensing by rule, pursuant to part 95, the proposed 77–81 GHz vehicular radar services the Commission proposed and on migrating existing 76–77 GHz vehicular radar services to part 95 of the rules. In particular, the Commission seeks comment on any benefits or drawbacks such an approach would provide and whether it would be appropriate to continue to authorize vehicular radars on an unlicensed basis.

37. The Commission's Personal Radio Services rules, codified in part 95, provide for a variety of personal communications, radio signaling, and business communications. In addition, many of these services are licensed by rule—that is, a user is not required to obtain an individual license document and is instead authorized to operate so long as it does so in accordance with the applicable service rules. Radio services licensed in this manner—such as the Family Radio Service and the Wireless Medical Telemetry Service—are typically designed to support a particular type of application (e.g. voice communication or telemetry), and its users must cooperatively share use of the spectrum. The Commission believes such an arrangement is a good match for vehicular radars—especially because it would likely be impractical to individually license users (e.g. each vehicle owner or driver) and because the nature of the millimeter wave band makes it possible for LRR and SSR vehicular radars to share use of the band. Accordingly, the Commission proposes to modify part 95 of our rules to incorporate the range of frequencies available to vehicular radars under a new 76–81 GHz Band Radar Service. In addition, by making vehicular radars authorized as a licensed service, the Commission would also promote greater regulatory parity with other radar applications, including the FOD detection radars and other types of radars that it discusses in detail in the following text, in the band. The Commission seeks comment on this proposal.

38. Under the proposed rules, the Commission would adopt the same emission limits as those defined in its rules for unlicensed vehicular radars in the 76–77 GHz band for the entire 76–

81 GHz band, and to likewise adopt technical specifications that mirror those currently provided under the Commission's part 15 rules for the newly expanded radar band. The Commission does not propose to distinguish between SRR and LRR operations in our rules, but instead rely on the market to determine the appropriate portions of the 76–81 GHz band for particular types of vehicular radar applications. As noted in the Bosch petition, as well as the related comment record, it already appears that there is widespread industry consensus on locating new SRR applications above 77 GHz. The Commission seeks comment on the applicability of these rules for both SRR and LRR across the 76–81 GHz band. Commenters that advocate different rules should provide detailed technical analyses showing how their preferred rules will provide for both SRR and LRR in the band as well as minimize any potential harmful interference with other services. In addition, the Commission seeks comment on our proposal not to specify specific portions of the band for SRR and LRR, but instead to rely on the market and the standards process to determine the best use of the available bandwidth. The Commission is proposing to upgrade the allocation status of the radiolocation service in the 77.5–78 GHz band. Currently the radio astronomy and space research (space-to-Earth) services are allocated on a secondary basis in the 77.5–78 GHz band. Should the radio astronomy and space research services also be upgraded to a primary allocation status in the 77.5–78 GHz band?

39. To support the expanded frequency range for vehicular radar use, the Commission proposes to allocate the 77.5–78 GHz band segment to the radiolocation service on a co-primary basis for Federal and non-Federal use. This would result in a co-primary allocation throughout the entire 77–81 GHz band. The Commission seeks comment on this allocation proposal.

40. Alternatively, the Commission seeks comment on whether vehicular radars should continue to operate as unlicensed devices under the part 15 rules. And, if so, whether FOD detection devices and other radar applications should be authorized in a consistent manner. Given anticipated extensive use of this spectrum, would band sharing under an unlicensed approach without any assurance of protection from harmful interference under the rules? What would be the relative benefits and disadvantages of unlicensed operation compared with the license-by-rule approach under part 95 or with the

individual station licensing under part 90? The Commission seeks comment on our proposals and these alternatives.

41. Lastly, the Commission proposes to consolidate future vehicular radar use into the new 76–81 GHz band as part of our effort to ensure spectrally efficient use of resources. Currently, vehicular radars may operate on an unlicensed basis in the 16.2–17.7 GHz, 23.12–29.0 GHz, 46.7–46.9 GHz, and 76–77 GHz bands. Continental, in its comments supporting the Bosch petition, notes that the use of the 24 GHz band for vehicular radars is being phased out in Europe and that “the effect of the cessation of the use of that band in Europe will strongly affect availability of 24 GHz radars in the United States in the near term.” In addition, the Commission’s records indicate no certifications in the 16.2–17.7 GHz and 46.7–46.9 GHz bands, and only three certifications in the 23.12–29 GHz band. This record suggests that there is little or no use of vehicular radars outside the 24 GHz and 76–77 GHz bands.

42. The Commission proposes to grandfather, for the life of the equipment, vehicular radars that are already installed or in use in the 22–29 GHz band range. It may be financially burdensome and logistically difficult for automobile owners to upgrade existing equipment; alternately, discontinuing the use of these radars would mean that drivers might not be able to repair existing equipment or might have to forego useful safety features. The Commission intends to prohibit the certification of new vehicular radars that do not operate in the 76–81 GHz range, effective 30 days from the date of publication of our final rules in the **Federal Register**. However, the Commission also believes that the ultimate transition of SRR applications from 22–29 GHz band to 77–81 GHz is best driven by the marketplace. If not, the Commission seeks comment as to how should the life cycle of SRRs operating in the 22–29 GHz band be taken into account in facilitating the transition of these radars to the 77–81 GHz band. The Commission also seeks comment on what appropriate methods of making a determination should be considered to set forth reasonable periods of time required for market place to make the 77–81 GHz band SRR readily available. To implement its proposal, the Commission intends to modify Sections 15.37, 15.252, 15.253, and 15.515, as shown in the attached rules appendix. In addition, given that there appears to be no equipment certified to operate in the 16.2–17.7 GHz and 46.7–46.9 GHz bands, should the Commission instead delete the portions

of those rules that relate to vehicular radars in those bands?

FOD Detection Radar

43. As previously mentioned, FOD at airports includes any substance, debris, or object in a location that can damage aircraft or equipment. FOD detection radars currently operate under part 15 and under part 90 of the Commission’s rules in the frequency bands 76–77 GHz (unlicensed) and 78–81 GHz (licensed) respectively. However, the Commission only recently authorized and not yet established technical rules for licensed FOD detection radar operation under part 90.

44. The Commission proposes to consolidate the FOD detection radar operations in the 76–81 GHz band under part 95 on a non-exclusive licensed basis. Also, with the introduction of specific technical requirements for these applications, the burden to facilitate coordination for these applications will be reduced. This proposal will afford an additional one gigahertz of spectrum (77–78 GHz), for these important applications. By providing a contiguous band of spectrum for FOD detection radars, the Commission can foster the development of technologically improved and cost-effective safety measures that will benefit both airport personnel and the general public. The 76–81 GHz band is well suited for FOD detection radar functions, including real-time monitoring of the position and shape of the foreign objects debris on the runways and taxiways.

45. As an initial matter, the Commission believes that the rationale for concluding that increased vehicular radar operations can be expanded throughout the 76–81 GHz band and such operations can co-exist with FOD detection radars is broadly applicable. In other words, there is good reason to conclude that, if vehicular radars can co-exist with FOD detection radars in 76–77 GHz band, then both vehicular radars and FOD detection radars operating under the part 95 rules will be able to operate successfully throughout the 76–81 GHz band. Furthermore, the Commission believes that our proposal will not increase the interference potential to any other authorized services operating in the band. The services that the Commission proposes to reallocate to the 76–81 GHz band typically employ highly directional antennas both to detect vehicles or objects in a particular area and to compensate for the relatively high propagation losses over short distances at these frequencies. The narrow beams utilized by the FOD detection radars, the geographic location of operations,

and the very high path losses in this region of the spectrum, should mitigate any potential interference. The location of FOD detection radars should prevent them from illuminating public roads, and should further reduce any likelihood of interference to vehicular radars while enabling airports to improve debris detection on the runways.

46. Our proposal would result in all radar applications operating in the 76–81 GHz range—including vehicular radars and mobile and fixed radars used at airport only for FOD detection and for monitoring aircraft and airport service vehicles—being governed by a single new subpart in part 95. This approach will promote spectrum efficiency and maximize the shared use of our spectrum resource, while also providing a comprehensive and consistent set of rules and policies to govern each of the different types of radar applications. In the case of FOD detection radars, it reduces the application and licensing burdens that will be associated with operation in the 78–81 GHz band under the part 90 model, and it offers the simplicity of operation under a singular licensing model. Also, the limited geographic use area and limited number of FOD detection radars alleviates any burdens associated with the sharing of spectrum. Thus, the Commission believes that the benefits in the unified licensing of FOD detection radars under part 95 outweigh any burdens. The Commission seeks comment on these proposals.

47. The Commission proposes to grandfather, for the life of the equipment, FOD detection radars that are already installed or in use in the 76–81 GHz band range. The Commission intends to prohibit the certification of new FOD detection radars, operating in the 76–81 GHz range, under part 90 of our Rules effective April 6, 2015. The Commission seeks comment on its proposals.

Fixed Radar

48. The Commission proposes to adopt rules that would permit fixed radar infrastructure applications as discussed below. Fixed infrastructure radars can detect locations of stopped vehicles or pedestrians on roads, provide obstacle detection capability for industrial machinery including port cranes, mining trucks and locomotives, and provide security monitoring for government and public infrastructures. As previously mentioned, Navtech filed a petition for partial reconsideration asking the Commission to reconsider its decision that limited the use of fixed infrastructure radars in the 76–77 GHz

band to airports only. The Commission's proposal largely tracks the issues Navtech raised in its petition.

49. In the *Vehicular Radar NPRM*, the Commission stated that the proposal to limit fixed radar operations to specific locations such as airports or other places where fixed radars would not illuminate public roads may be overly restrictive and could cause unnecessary burdens to the public if implemented. The Commission stated that fixed radars operating at the same maximum power levels as vehicular-mounted radars would be even less likely to interfere with the RAS and Radiolocation services than vehicle-mounted radars because the locations where they are used would not change. The Commission stated that fixed radars should be able to co-exist with vehicular radars because they both operate with the same power level and use antennas with narrow beam-widths, thus reducing the chances that the signal from one radar would be within the main lobe of the receive antenna of the other. In a worst-case scenario, where two radars are aiming directly at each other, fixed radar should have no more impact on vehicular radar than that by another radar located on a stationary vehicle. The Commission continues to believe this is the case.

50. The Commission's decision in the *Vehicular Radar R&O* to restrict the use of fixed infrastructure radar operation to airports was based on the fact that no parties had come forward to establish a clear demand for fixed radar applications beyond airport locations in the band and there were no conclusive data indicating that there would be compatibility between the vehicular and fixed radar types. The Commission observes that Navtech's petition for partial reconsideration demonstrates that there is demand for fixed infrastructure radars beyond airport locations. In its petition, Navtech describes current and future applications of fixed infrastructure radars. Examples of such current use includes monitoring tunnels or bridges for stopped vehicles, providing collision warning system for ship-to-shore cranes, and providing train detection for automatic control functions. Moreover, in April 2014, Mantissa Ltd. stated that it supported further proceedings consistent with the Navtech petition because it is interested in deploying fixed radar technologies in the United States for security applications.

51. In the *Vehicular Radar R&O*, the Commission stated that it continued to believe that vehicular radars should be able to share the band with fixed radars operating at the same level and thinks

those observations continue to be sound. At that time, the Commission noted that there were also no existing reports or studies that indicated incompatibility between the two types of radars. The Commission is unaware of any report or study that indicates incompatibility between the two types of radars, but the it recognizes that the record on this matter may still be evolving. The limited record that is available on this subject does not have the support of all interested parties in the matter. In the most recent comments received by the Commission in response to fixed infrastructure radars, the automotive industry opposes the use of these radars citing interference with vehicular radars. The automotive industry cites an ongoing study known as MOSARIM (More Safety for All by Radar Interference Mitigation), which suggested that vehicular radars and fixed infrastructure radars are incompatible due to the interference issues. Navtech, on the other hand, refutes the study and asserts that it was unfairly designed to favor the automotive industry. The Commission continues to believe that shared use by vehicular radars and fixed radars best promotes the public interest.

52. The Commission seeks to update the record and is especially interested in whether there are interference studies or reports indicating compatibility or lack thereof between vehicular and fixed radars in the 76–77 GHz band. As mentioned before, the Commission continues to believe that where two radars are aiming directly at each other, fixed radar should have no more impact on a vehicular radar than that from a radar located on a stationary vehicle. The Commission seeks comment on its conclusion and is particularly interested in the arguments as to why or why not a fixed radar would be more interfering than a vehicular radar located on a stopped vehicle.

53. While the Commission seeks broad comment on allowing the fixed infrastructure radar use within the 76–81 GHz range, it also asks commenters to address whether fixed infrastructure radars should be limited to the 76–77 GHz band. Because fixed infrastructure radars are intended to detect obstacles that are relatively large (e.g. pedestrians, vehicles, ships), a bandwidth of 1 gigahertz or less would appear to be sufficient for these fixed radars to identify the type and presence of such obstacles. For these reasons, the Commission is proposing to limit available bandwidth for fixed radars to 1 gigahertz and restricting operation to the 76–77 GHz band. Alternatively, the Commission seeks comment on other

approaches for accommodating fixed radars. Such approaches could include permitting fixed infrastructure radars to operate in a different one gigahertz frequency range between 77–81 GHz band, or allowing them in the entire 76–81 GHz band but with limited bandwidth usage of 1 gigahertz or less for any given operation. Our goal here is to seek efficient use of the spectrum, harmonize global use of the spectrum, and facilitate development of technologies that serve public interest and convenience.

Aircraft-Mounted Radar

54. The Commission also seeks comment on expanding the use of radar in the 76–77 GHz band to provide for aircraft-mounted radars used only on the ground. This application, also referred to by Honeywell as “wingtip radar,” is used while aircraft are on the ground to prevent and or mitigate the severity of aircraft wing collisions while planes are moving between gates and runways. This matter tracks the issues Honeywell first raised in its petition for reconsideration in ET Docket No. 10–28.

55. The Commission believes that wingtip radar technologies can provide important public benefits. Aircraft wingtip collisions, which account for approximately 25 percent of all aircraft ground accidents, involve substantial costs, both in terms of repairs to aircraft and ground facilities and in lost time for passengers due to flight delays and cancellations. Honeywell asserts that mitigating the risk of wingtip collisions can reduce these costs and improve safety for both aviation personnel and the travelling public. The use of wingtip radar also appears to support National Transportation Safety Board (NTSB) safety recommendations regarding the use of anti-collision aids on aircraft.

56. The Commission seeks to develop a full record on the compatibility of aircraft-mounted radar used only on the ground with the other applications in the 76–81 GHz band. At the time, Honeywell filed its petition, many automotive radar supporters expressed concern about the potential for interference. However, because the Commission expects that wingtip radars will be used in the same locations as FOD detection radars (that is, on airport property and, in the case of aircraft-mounted radars, only during taxi and other ground activities), and because the Commission has already tentatively concluded that FOD detection radars and automotive radars can successfully co-exist, it also tentatively concludes that aircraft-mounted radars should likewise be compatible with vehicular radars.

57. As an initial matter, the Commission notes that there are functional differences between the FOD detection radar and wingtip radar applications that may promote compatibility between the two operations: wingtip radars can be useful during times of aircraft movement, such as taxiing between runways and ramp areas and while being pushed out of gates, while FOD detection appear to have high value in runway environments and before takeoff and landing. Therefore, it may be possible to create time and space separation between the FOD detection radar and wingtip radar application uses to reduce the potential for interference. In addition, the nature of the millimeter wave bands, as the Commission discussed *supra*, allows for extensive frequency reuse and can accommodate many discrete users. In response to Honeywell's petition, Xsight Systems—a manufacturer of FOD detection products—stated that it was “in the process of setting up a meeting with Honeywell to . . . investigate whether a potential for interference exists between Xsight's system and equipment that would operate under Honeywell's proposal.” The Commission seeks further information about the results of such discussions, as well as updated information about the status of wingtip radar product development.

58. The Commission also seeks comment on whether it would be feasible to employ an automatic shut-off mechanism for wingtip radars that would prevent radar operation any time the aircraft is not on the ground. Are there existing aircraft components (such as altimeters) that could be used in conjunction with such a system, and if so, how easily could wingtip radar be integrated with such devices? Could such an automated system be easily deployable on all types of aircraft (e.g. commercial and personal)? The Commission tentatively concludes that it should adopt such an automatic shut-off mechanism, if such a mechanism is feasible, to protect the radio astronomy service from harmful interference that could be caused by inadvertent operation of a wingtip radar system while an aircraft is in flight. For this reason, the Commission proposes to distinguish wingtip radars from vehicular radars in our rules, as aircraft should not be considered as vehicles for purposes of radar use in the 76–81 GHz band. Finally, the Commission seeks comment on any compatibility issues with respect to other existing and proposed radar uses in the band, as well as to amateur radio users.

59. While the Commission seeks broad comment on allowing wingtip radar use within the 76–81 GHz range, it notes that the wingtip radar may only require bandwidth of one gigahertz or less to detect obstacles in its path. For this reason, the Commission proposes to allow wingtip radars to operate with a bandwidth of 1 gigahertz in the 76–77 GHz band. Alternatively, and similar to the fixed radar proposals discussed above, the Commission seeks comment on other ways the it could accommodate wingtip radars. Such approaches could include permitting wingtip radars to operate in a different one gigahertz frequency range between 77–81 GHz band, or allowing them in the entire 76–81 GHz band but with limited bandwidth usage of one Gigahertz or less over any portion of the band. Our overall objective is to promote efficient use of the spectrum and facilitate development of technologies that will improve airport operations and provide important benefits to both airport personnel and the general public.

Amateur Radio Use

60. In conjunction with our efforts to develop a comprehensive policy for use of the 76–81 GHz band, the Commission seeks comment on how it should structure future amateur 4 mm band use. As background, the Commission decided to temporarily restrict amateur station access to the 76–77 GHz band in 1998 to ensure against potential interference to what were then newly developing vehicular radar systems. The Commission observed that amateur station transmissions in the 76–77 GHz were not significant at the time, reasoned that its action would not have an immediate impact on amateur operators, and stated that it planned to revisit the issue later. In 2004, the Commission extended the amateur-satellite allocation suspension, citing interference issues and suggesting that it would be useful to consider the development of technical sharing criteria for the band. Bosch, in its petition, does not seek to alter the current 76–77 GHz arrangement.

61. Based on our proposals for new vehicular and other radars in the 77–81 GHz band, the Commission proposes to adopt a comprehensive approach for amateur radio use on these frequencies. Given the continuing lack of technical sharing criteria or any other evidence of compatibility, should the Commission extend the 76–77 GHz amateur suspension to the entire 76–81 GHz band? If so, should the Commission modify the current amateur suspension of use of the 76–77 GHz band by removing all amateur allocations from

the 76–81 GHz band? Alternately, would it be possible to lift our suspension of the amateur service and conduct both amateur and vehicular radar operations in the entire 76–81 GHz band? The Commission tentatively concludes that there is no apparent technical reason to treat the 76–77 GHz and the 77–81 GHz bands differently. Commenters who believe that the Commission should continue to distinguish between the two bands should explain the reasons for doing so. The Commission also seeks comment on whether there are other approaches that would achieve compatibility between the amateur and radiolocation services within the 76–81 GHz band that the Commission has not discussed above.

62. Bosch, in its petition, states that it “is unconvinced, after several meetings with technical staff of ARRL, the national association for Amateur Radio, that there is any significant incompatibility between Amateur Radio and SRR operation at 79 GHz.” It says the nature of amateur use of this spectrum—largely experimental and occurring on mountaintops and locations where motor vehicle operation is not typical—will provide sufficient geographic separation to prevent interference from amateur users to new vehicular radar operations above 77 GHz. However, Bosch also notes that European regulators previously determined “that the use of SRR within the band 77–81 may be incompatible with the Radio Amateur Service,” but also concluded that amateur users could be accommodated in the 75.5–76 GHz band (which is not currently available in the U.S.). The Commission seeks comment on these points. Additionally, to help better inform its decision, the Commission seeks to develop a record on the types of amateur use, and the extent of such use, that is currently undertaken in the amateur 4 mm band.

63. To the extent that commenters believe that amateur operators can continue to use the millimeter band, the Commission seeks comment on what additional rule modifications it would have to adopt to realize successful shared use of the entire band. For example, our existing service rules would permit amateur operators to transmit with significantly higher power than other proposed operations. Would adopting the same emission limits for amateur operations as the Commission proposed for other services in this band reduce the potential for mutual interference? Are there any additional conforming edits to the part 97 amateur radio service rules that the Commission would have to implement?

64. If, instead, the Commission were to remove all amateur allocations from the 76–81 GHz range, it seeks comment on alternate spectrum that it might be able to make available in this general region. Bosch recommends an amateur allocation at 75.5–76 GHz, arguing that such an allocation would permit re-accommodation of any displaced Amateur Radio operators as the result of aggregate noise from SRRs in the 79 GHz band, and harmonize the United States Amateur allocation with that in ITU Region 1 and in other areas of the world. The Commission seeks comment on allocating the 75.5–76 GHz band to the amateur service if the Commission were to remove the amateur allocation, including amateur satellite, in the 76–81 GHz band.

Service and Technical Rules

65. The Commission set forth proposed rules that would license vehicular and FOD detection radars in the 76–81 GHz band and aircraft-mounted and fixed infrastructure radars in the 76–77 GHz band as licensed services under part 95 of our rules. The Commission also proposes to add a primary allocation for radiolocation in the 77.5–78 GHz band. The Commission proposes technical rules that would be appropriate for a part 95 licensed-by-rule approach.

66. In general, the proposed technical rules are consistent with those already set forth for existing vehicular radar and FOD detection radars under part 15 of our rules, including that the average and peak emission limits for vehicular radars in the 76–81 GHz band not to exceed 88 $\mu\text{W}/\text{cm}^2$ and 279 $\mu\text{W}/\text{cm}^2$ respectively, measured at a distance of 3 meters from the exterior surface of the radiating structure. However, as discussed, the existing part 15 use is on a non-interference basis and may not be the best fit for the types of safety related applications that the Commission envisions being deployed in the 76–81 GHz range. Under our draft rules, users would operate on a licensed basis fully supported by a primary radiolocation allocation throughout the 76–81 GHz range. Authorizing these radars under part 95 of our rules will permit license-by-rule operation pursuant to section 307(e) of the Communications Act (Act). Under this approach, these devices may operate on a shared, non-exclusive basis with respect to each other and without the need for these radar systems to be individually licensed. By doing this, the Commission can provide for a greater range of radar uses while still allowing for an easy transition of existing equipment to part 95 operation. The Commission seeks comment on these

proposed rules. To the extent commenters support either regulatory approach, such as unlicensed operation under part 15, they should identify any rules that need to be modified to support the different types of radar applications the Commission discuss herein.

67. Because the existing part 95 rules do not specify rules for vehicular, FOD detection, aircraft-mounted and fixed infrastructure radar operations, the Commission propose to create a new subpart of part 95, titled the 76–81 GHz radar service, that will accommodate all authorized radar types within the band, but that will not otherwise distinguish among the different radar types. Our proposed service rules are intended to facilitate the industry in developing the various radar types in their authorized specific frequency ranges. For example, in the case of vehicular radars, the Commission leaves it up to the automotive industry to optimize the use of the 76–81 GHz frequency band and develop the SRR and LRR vehicular radar application within the band. Alternately, the Commission seeks comment on whether distinctive or differentiating rules for the different radars would be appropriate and if so, what those rules should be.

68. To fully implement our proposal to accommodate radars under part 95, the Commission also proposes to make additional modifications to parts 1, 2, 15, and 90 of our rules. All of our proposed rule modifications are shown in this NPRM. The Commission seeks comment on all of these proposals, and invites commenters to identify any additional rules that the Commission would need to update to accomplish our objectives.

Reconsideration Order

69. As part of our comprehensive look at shared use of the 76–81 GHz band, the Commission has incorporated matters that were first raised in pleadings filed in ET Docket Nos. 10–28 and 11–90—namely Honeywell Aircraft’s Petition relating to aircraft-mounted radar applications and Navtech’s Fixed Radar Petition. Although the Commission believes that there is merit in considering the issues raised by Honeywell and Navtech in the context of the *Vehicular Radar NPRM*, the Commission concludes that the parties underlying petitions in the respective dockets should be denied.

Honeywell Petition

70. As background, Honeywell first submitted a letter to the Office of Engineering and Technology seeking clarification of the rules adopted in the

Vehicular Radar R&O, but later refiled with the Commission’s Secretary asking that it the Commission treat the letter as a petition for reconsideration. On October 31, 2012, the Commission issued a Public Notice treating it as such.

71. Numerous representatives of the automotive industry as well as Xsight Systems, Inc., filed to oppose the Honeywell petition. These parties raised procedural arguments—that the issue of removing the current prohibition on the use of 76–77 GHz frequency range on aircraft or satellite was not properly raised in the proceeding and is otherwise outside the scope of the decision—as well as claims that there is insufficient evidence that both aircraft-mounted and vehicular radars can co-exist in the 76–77 GHz band. In response, Honeywell claims that the issues it raises are within the scope of the Commission’s rulemaking proceeding, that there is no technical reason why aircraft-mounted radar cannot operate in the 76–77 GHz band while the aircraft is on ground, and that there is an urgent and recognized public interest need for the anti-collision benefits its aircraft-mounted radars can provide.

72. The Commission deny Honeywell’s petition. Section 1.429(b) of the Commission’s rules provide three ways in which a petition for reconsideration can be granted, and none of these have been met. Honeywell has not shown that its petition relies on facts regarding fixed radar use which had not previously been presented to the Commission, nor does it show that its petition relies on facts that relate to events that changed since Honeywell had the last opportunity to present its facts regarding fixed radar use. Indeed, Honeywell did not previously participate in the proceeding before filing its letter. Moreover, it does not serve the public interest to consider Honeywell’s facts and arguments via reconsideration of the existing dockets. The Commission agrees with the commenters who opposed the petition that there may be technical and policy considerations associated with aircraft-mounted radar applications that parties could not have reasonably anticipated nor had an opportunity to address. Any public interest associated with the consideration of Honeywell’s arguments will be fully captured and considered within the new docket that the Commission initiates with this rulemaking. By doing so, it can ensure that another aspect of the public interest is served—that is, that all interested parties have ample notice and comment opportunities with respect to the

possible use of wingtip radars under our rules.

Navtech Petition

73. Similarly, the Commission agrees with those parties who oppose the Navtech pleading as procedurally defective. The Commission stated in the in the *Vehicular Radar R&O* that “no parties have come forward to support fixed radar applications beyond airport locations in this band,” and it decided not to adopt provisions for unlicensed fixed radar use other than those for FOD detection applications at airport locations. Because Navtech first participated in the proceeding when it filed its petition well after the decision was published, its petition fails to meet the timeliness standard of § 1.429(d).

74. The Commission emphasize that our decision does not address whether there are substantive merits to these claims. Such issues are fully incorporated into the proposals the Commission makes in conjunction with the *Vehicular Radar NPRM*.

75. Finally, because the Commission is considering several different types of radar applications that would share use within the millimeter wave bands, and because it is proposing a consolidated licensing scheme under our part 95 rules, the Commission concludes that it can best promote efficiency and reduce administrative burdens by opening a new docket, ET Docket No. 15–26. Here, the Commission will consider ongoing and future matters pertaining to the entire 76–81 GHz band in a consolidated and comprehensive manner. To that end, and in connection with its decision to deny the petitions for reconsideration discussed above, the Commission terminates ET Docket Nos. 10–28 and 11–90 (pertaining to vehicular radar) and WT Docket No. 11–202 (addressing FOD detection radar applications). The Commission concludes that future decisions regarding matters that it previously considered within those dockets can more practically be made within the comprehensive ET Docket No. 15–26 proceeding.

Initial Regulatory Flexibility Analysis

76. As required by the Regulatory Flexibility Act of 1980, as amended (RFA),¹ the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules

proposed in this Notice of Proposed Rulemaking and Reconsideration Order (NPRM). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines specified in the NPRM for comments. The Commission will send a copy of this NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).² In addition, the Notice and IRFA (or summaries thereof) will be published in the **Federal Register**.³

A. Need for, and Objectives of, the Proposed Rules

77. This Notice responds to petitions for rulemaking filed by Robert Bosch, LLC (Bosch) requesting modifications to § 15.253 of the rules to extend operating frequency for vehicular radar systems from 76–77 GHz to the 76–81 GHz band. Vehicular radars can determine the exact distance and relative speed of objects in front of, beside, or behind a car to improve the driver's ability to perceive objects under bad visibility conditions or objects that are in blind spots. Some examples of vehicular radar systems include collision warning and mitigation systems, blind spot detection systems, lane change assist, and parking aid systems. The Notice proposes to extend the operating frequency for unlicensed vehicular radar systems from 76–77 GHz to 76–81 GHz. These modifications to the rules will provide more efficient use of spectrum, and enable the automotive industries to develop enhanced safety measures for drivers and the general public.

78. Airports are challenged with managing increasing congestion on the ground. These rule modification will add to the tools that enhance an airport's ability to determine the location of airplanes and airport ground vehicles that are operating in taxiways and runways. The presence of foreign object debris (FOD) in an airport's air operations area (AOA) poses a significant threat to the safety of air travel. Foreign object debris on taxiways and runways has the potential to damage aircraft during the critical phases of takeoffs and landings, which can lead to catastrophic loss of life and at the very least increased maintenance and operating costs.⁴ These rule

modification will help reduce FOD hazards through the implementation of a FOD management program and the effective use of FOD detection and removal equipment.⁵

79. Our rule modifications also propose to expand the use of radar in the 76–77 GHz band to aircraft-mounted radars. This application, also referred to as “wingtip radar” and used only while aircraft are on the ground, is intended to prevent or mitigate the severity of aircraft wing collisions while the plane is taxiing tarmacs. Mitigating the risk of wingtip collisions can reduce costs and improve safety for both aviation personnel and the travelling public.⁶ The use of wingtip radar also appears to support National Transportation Safety Board (NTSB) safety recommendation regarding the use of anti-collision aids on aircraft.⁷ Our overall objective is to promote efficient use of the spectrum and facilitate development of technologies that will improve airport operations and provide enhance safety measures for both airport personnel and the general public.

80. There is new demand for fixed infrastructure radar applications beyond airport locations. Some of these applications are monitoring tunnels or bridges for stopped vehicles, providing collision warning systems for ship-to-shore cranes and providing train detection for automatic train control.⁸ In our rule modifications to permit such use we seek efficient use of the spectrum, harmonize global use of the spectrum, and facilitate development of technologies that serve public interest and convenience.

B. Legal Basis

81. This action is authorized under sections 1, 4(i), 302, 303(f) and (r), 332, and 337 of the Communications Act of 1934, as amended, 47 U.S.C. 1, 4(i), 154(i), 302, 303(f) and (r), 332, 337.

catastrophic series of events that caused the Concorde crash were precipitated when FOD on the runway tore a tire, resulting in additional damage to the aircraft. <http://www.guardian.co.uk/uk/2002/jan/17/concorde.world>.

⁵ See U.S. Department of Transportation, Federal Aviation Administration Advisory Circular No. 105/5210–24, http://www.faa.gov/documentLibrary/media/Advisory_Circular/105_5210_24.pdf (hereinafter AC 105/5210–24).

⁶ See *Aircraft Petition Reply* at 4.

⁷ See NTSB Mar. 13, 2013 *ex parte* filing in ET Docket No. 10–28 and RM–1190. All newly manufactured and newly type-certificated large airplanes and other airplane models where the wingtips are not easily visible from the cockpit to provide a cockpit indication that will help pilots determine wingtip clearance and path during taxi. The recommendation also requires retrofitting all existing airplane models with an anti-collision aid where the wingtips are not easily visible from the cockpit.

⁸ See *Fixed Radar Petition* at 3–4

¹ See 5 U.S.C. 603. The RFA, see 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996, (SBREFA) Public Law 104–121, Title II, 110 Stat. 857 (1996).

² See 5 U.S.C. 603(a).

³ See 5 U.S.C. 603(a).

⁴ On July 25, 2000, Air France Flight 4590 crashed shortly after take-off from Charles de Gaulle Airport outside Paris, France. All one hundred passengers and nine crewmembers, plus four people on the ground, were killed. The official investigation, concluded by France's Bureau Enquetes-Accidents, determined that the

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rule Will Apply

82. The RFA directs agencies to provide a description of, and, where feasible, an estimate of, the number of small entities that may be affected by the rules adopted herein.⁹ The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.”¹⁰ In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act.¹¹ A “small business concern” is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).¹²

83. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* The Census Bureau defines this category as follows: “This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.”¹³ The SBA has developed a small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, which is: all such firms having 750 or fewer employees. According to Census Bureau data for 2007, there were a total of 939 establishments in this category that operated for part or all of the entire year. According to Census bureau data for 2007, there were a total of 939 firms in this category that operated for the entire year. Of this total, 912 had fewer than

500 employees and 17 had more than 1000 employees.¹⁴ Thus, under that size standard, the majority of firms can be considered small.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

84. Radars operating in the 76–81 GHz band are required to be authorized under the Commission’s certification procedure as a prerequisite to marketing and importation, and the NPRM proposes no change to that requirement.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

85. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.¹⁵

86. The proposals contained in this NPRM are deregulatory in nature, which we expect will simplify compliance requirements for all parties, particularly small entities, and permit the development of improved radar systems. Extending the frequency for unlicensed vehicular radar from 76–77 GHz to 76–81 GHz will enable global spectrum harmonization of LRRs at 76–77 GHz and SRRs at 77–81 GHz that will reduce prices and encourage deployment of automotive radars in lower-cost vehicles. Consolidating FOD detection radars to operate under part 95 in lieu of current rules will reduce unnecessary burdens for the general public and will provide increased spectrum efficiency.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

87. None.

Ordering Clauses

88. Pursuant to sections 1, 2, 4(i), 301, 302, and 303(f) of the Communications Act of 1934, 47 U.S.C. 151, 152, 154(i),

301, 302a, and 303(f), that the Notice of Proposed Rulemaking *is adopted* and the Petition for Rulemaking filed by Robert Bosch in RM–11666 *is granted* to the extent described herein.

89. Pursuant to sections 4(i), 302, 303(e), 303(f), and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 302, 303(e), 303(f), and 405, the petitions for reconsideration filed by Honeywell and Navtech in ET Docket Nos. 10–28 and 11–90 *are denied*.

90. Pursuant to the authority contained in sections 4(i), 4(j), and 303 of the Communications Act, as amended, 47 U.S.C. 154(i), 154(j) and 303, that ET Docket Nos. 10–28 and 11–90 and WT Docket No. 11–202 *are closed* and the proceedings are *terminated* should no petitions for reconsideration or applications for review be timely filed.

91. The Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Parts 1, 2, 15, 90 and 95

Administrative practice and procedure, Radio, Unlicensed services. Federal Communications Commission.

Marlene H. Dortch,
Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 1, 2, 15, 90, and 95 as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 15 U.S.C. 79 *et seq.*; 47 U.S.C. 151, 154(i), 154(j), 155, 157, 160, 201, 225, 227, 303, 309, 332, 1403, 1404, 1451, 1452 and 1455.

■ 2. Section 1.1307 is amended by revising paragraphs (b)(2)(i) and (ii) to read as follows:

§ 1.1307 Actions that may have a significant environmental effect, for which Environmental Assessments (EAs) must be prepared.

* * * * *

(b) * * *

(2) * * *

(i) Mobile and portable transmitting devices that operate in the Commercial Mobile Radio Services pursuant to part 20 of this chapter; the Cellular

⁹ 5 U.S.C. 604(a)(3).

¹⁰ 5 U.S.C. 601(6).

¹¹ 5 U.S.C. 601(3) (incorporating by reference the definition of “small-business concern” in the Small Business Act, 15 U.S.C. 632). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies “unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the *Federal Register*.”

¹² 15 U.S.C. 632.

¹³ The NAICS Code for this service 334220. See 13 C.F.R. 121/201. See also http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-fds_name=EC0700A1&-geo_id=&-skip=300&-ds_name=EC0731SG2&-lang=en.

¹⁴ See http://factfinder.census.gov/servlet/IBQTable?_bm=y&-geo_id=&-fds_name=EC0700A1&-skip=4500&-ds_name=EC0731SG3&-lang=en.

¹⁵ See 5 U.S.C. 603(c).

Radiotelephone Service pursuant to part 22 of this chapter; the Personal Communications Services (PCS) pursuant to part 24 of this chapter; the Satellite Communications Services pursuant to part 25 of this chapter; the Miscellaneous Wireless Communications Services pursuant to part 27 of this chapter; the Maritime Services (ship earth stations only) pursuant to part 80 of this chapter; the Specialized Mobile Radio Service, the 4.9 GHz Band Service, or the 3650 MHz Wireless Broadband Service pursuant to part 90 of this chapter; the Wireless Medical Telemetry Service (WMTS), the

Medical Device Radiocommunication Service (MedRadio), or the 76–81 GHz Band Radar Service pursuant to part 95 of this chapter are subject to routine environmental evaluation for RF exposure prior to equipment authorization or use, as specified in §§ 2.1091 and 2.1093 of this chapter.

(ii) Unlicensed PCS, unlicensed NII and millimeter wave devices are also subject to routine environmental evaluation for RF exposure prior to equipment authorization or use, as specified in §§ 15.255(g), 15.257(g), 15.319(i), and 15.407(f) of this chapter.

* * * * *

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

■ 3. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

■ 4. Section 2.106, the Table of Frequency Allocations, is amended by revising page 61 to read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

TABLE OF FREQUENCY ALLOCATIONS (EHF) 71–100 GHz PAGE 61

International table			United States table		FCC Rule part(s)
Region 1 table	Region 2 table	Region 3 table	Federal table	Non-federal table	
71–74 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE MOBILE-SATELLITE (space-to-Earth)			71–74 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE MOBILE-SATELLITE (space-to-Earth) US389		Fixed Microwave (101).
74–76 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE BROADCASTING BROADCASTING-SATELLITE Space research (space-to-Earth) 5.561			74–76 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE Space research (space-to-Earth) US389	74–76 FIXED FIXED-SATELLITE (space-to-Earth) MOBILE BROADCASTING BROADCASTING-SATELLITE Space research (space-to-Earth) US389	RF Devices (15). Fixed Microwave (101).
76–77.5 RADIO ASTRONOMY RADIOLOCATION Amateur Amateur-satellite Space research (space-to-Earth) 5.149			76–77.5 RADIO ASTRONOMY RADIOLOCATION Space research (space-to-Earth) US342	76–77.5 RADIO ASTRONOMY RADIOLOCATION Amateur Amateur-satellite Space research (space-to-Earth) US342	RF Devices (15). Amateur Radio (97).
77.5–78 AMATEUR AMATEUR-SATELLITE Radio astronomy Space research (space-to-Earth) 5.149			77.5–78 RADIOLOCATION Radio astronomy Space research (space-to-Earth) US342	77.5–78 AMATEUR AMATEUR-SATELLITE RADIOLOCATION Radio astronomy Space research (space-to-Earth) US342	
78–79 RADIOLOCATION Amateur Amateur-satellite Radio astronomy Space research (space-to-Earth) 5.149 5.560			78–79 RADIO ASTRONOMY RADIOLOCATION Space research (space-to-Earth) 5.560 US342	78–79 RADIO ASTRONOMY RADIOLOCATION Amateur Amateur-satellite Space research (space-to-Earth) 5.560 US342	

TABLE OF FREQUENCY ALLOCATIONS (EHF) 71–100 GHz PAGE 61—Continued

International table			United States table		FCC Rule part(s)
Region 1 table	Region 2 table	Region 3 table	Federal table	Non-federal table	
79–81 RADIO ASTRONOMY RADIOLOCATION Amateur Amateur-satellite Space research (space-to-Earth) 5.149			79–81 RADIO ASTRONOMY RADIOLOCATION Space research (space-to-Earth) US342	79–81 RADIO ASTRONOMY RADIOLOCATION Amateur Amateur-satellite Space research (space-to-Earth) US342	

* * * * *

■ 5. Section 2.1091 is amended by revising paragraph (c)(1) introductory text and paragraph (c)(2) to read as follows:

§ 2.1091 Radiofrequency radiation exposure evaluation: mobile devices

* * * * *

(c)(1) Mobile devices that operate in the Commercial Mobile Radio Services pursuant to part 20 of this chapter; the Cellular Radiotelephone Service pursuant to part 22 of this chapter; the Personal Communications Services pursuant to part 24 of this chapter; the Satellite Communications Services pursuant to part 25 of this chapter; the Miscellaneous Wireless Communications Services pursuant to part 27 of this chapter; the Maritime Services (ship earth station devices only) pursuant to part 80 of this chapter; the Specialized Mobile Radio Service, the 3650 MHz Wireless Broadband Service pursuant to part 90 of this chapter; and the 76–81 GHz Radar Band Service pursuant to part 95 of this chapter are subject to routine environmental evaluation for RF exposure prior to equipment authorization or use if:

* * * * *

(2) Unlicensed personal communications service devices, unlicensed millimeter wave devices and unlicensed NII devices authorized under §§ 15.255(g), 15.257(g), 15.319(i), and 15.407(f) of this chapter are also subject to routine environmental evaluation for RF exposure prior to equipment authorization or use if their ERP is 3 watts or more or if they meet the definition of a portable device as specified in § 2.1093(b) requiring evaluation under the provisions of that section.

* * * * *

■ 6. Section 2.1093 is amended by revising paragraph (c)(1) to read as follows:

§ 2.1093 Radiofrequency radiation exposure evaluation: portable devices.

* * * * *

(c)(1) Portable devices that operate in the Cellular Radiotelephone Service pursuant to part 22 of this chapter; the Personal Communications Service (PCS) pursuant to part 24 of this chapter; the Satellite Communications Services pursuant to part 25 of this chapter; the Miscellaneous Wireless Communications Services pursuant to part 27 of this chapter; the Maritime Services (ship earth station devices only) pursuant to part 80 of this chapter; the Specialized Mobile Radio Service, the 4.9 GHz Band Service, and the 3650 MHz Wireless Broadband Service pursuant to part 90 of this chapter; and the Wireless Medical Telemetry Service (WMTS), the Medical Device Radiocommunication Service (MedRadio), and the 76–81 GHz Band Radar Service, pursuant to subparts H, I, and M of part 95 of this chapter, respectively, and unlicensed personal communication service, unlicensed NII devices and millimeter wave devices authorized under §§ 15.255(g), 15.257(g), 15.319(i), and 15.407(f) of this chapter are subject to routine environmental evaluation for RF exposure prior to equipment authorization or use.

* * * * *

PART 15—RADIO FREQUENCY DEVICES

■ 7. The authority citation for part 15 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, 304, 307, 336, 544a and 549.

■ 8. Section 15.37 is amended by adding paragraphs (i) and (j) to read as follows:

§ 15.37 Transition provision for compliance with the rules.

* * * * *

(i) Effective [DATE 30 DAYS AFTER DATE OF **Federal Register** PUBLICATION OF FINAL RULE] the certification of UWB vehicular radars that operate in the 22–29 GHz band will

no longer be permitted. Existing equipment may continue to operate in accordance with their previous certification.

(j) Effective [DATE 30 DAYS AFTER DATE OF **Federal Register** PUBLICATION OF FINAL RULE] the certification of field disturbance sensors that operate in the 16.2–17.7 GHz, 23.12–29.0 GHz, 46.7–46.9 GHz and 76.0–77.0 GHz bands will no longer be permitted. Existing equipment may continue to operate in accordance with their previous certification.

■ 9. Section 15.252 is amended by adding introductory text to read as follows:

§ 15.252 Operation of wideband vehicular radar systems within the bands 16.2–17.7 GHz and 23.12–29.0 GHz.

Effective [DATE 30 DAYS AFTER DATE OF **Federal Register** PUBLICATION OF FINAL RULE] field disturbance sensors that operate in the 16.2–17.7 GHz and 23.12–29.0 GHz bands will no longer be certified.

* * * * *

■ 10. Section 15.253 is amended by adding introductory text to read as follows:

§ 15.253 Operation within the bands 46.7–46.9 GHz and 76.0–77.0 GHz.

Effective [DATE 30 DAYS AFTER DATE OF **Federal Register** PUBLICATION OF FINAL RULE] field disturbance sensors and fixed radars that operate in the 46.7–46.9 GHz and 76.0–77.0 GHz bands will no longer be certified.

* * * * *

■ 11. Section 15.515 is amended by adding introductory text to read as follows:

§ 15.515 Technical requirements for vehicular radar systems.

Effective [DATE 30 DAYS AFTER DATE OF **Federal Register** PUBLICATION OF FINAL RULE] UWB field disturbance sensors that operate in

the 22–29 GHz band will no longer be certified.

* * * * *

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

■ 12. The authority citation for part 90 continues to read as follows:

Authority: Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), and 332(c)(7), and Title VI of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112–96, 126 Stat. 156.

§ 90.103 [Amended].

■ 13. Section 90.103 is amended by removing the last row of the table in paragraph (b) and removing paragraph (c)(30).

PART 95—PERSONAL RADIO SERVICES

■ 14. The authority citation for part 95 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302(a), 303, and 307(e).

■ 15. Section 95.401 is amended by adding paragraph (h) to read as follows:

Subpart D—Citizens Band (CB) Radio Service

§ 95.401 (CB Rule 1) What are the Citizens Band Radio Services?

* * * * *

(h) The 76–81 GHz Radar Service. The rules for this service are contained in Subpart M of this part. The 76–81 GHz Radar Service applications include, but are not limited to, vehicular radars and aircraft-mounted radars used for collision avoidance and other safety applications, as well as fixed radars used for foreign object debris detection at airports and for other purposes.

■ 16. Section 95.601 is amended to read as follows:

Subpart E—Technical Regulations

§ 95.601 Basis and Purpose.

This section provides the technical standards to which each transmitter (apparatus that converts electrical energy received from a source into RF (radio frequency) energy capable of being radiated) used or intended to be used in a station authorized in any of the Personal Radio Services must comply. This section also provides requirements for obtaining certification for such transmitters. The Personal Radio Services are the GMRS (General Mobile Radio Service)—subpart A, the Family Radio Service (FRS)—subpart B, the R/C (Radio Control Radio Service)—subpart C, the CB (Citizens Band Radio Service)—subpart D, the Low Power Radio Service (LPRS)—subpart G, the Wireless Medical Telemetry Service (WMTS)—subpart H, the Medical Device Radiocommunication Service (MedRadio)—subpart I, the Multi-Use Radio Service (MURS)—subpart J, Dedicated Short-Range Communications Service On-Board Units (DSRCS—OBUs)—subpart L, and the 76–81 GHz Radar Service—subpart M.

■ 17. Section 95.603 is amended by adding paragraph (i) to read as follows:

§ 95.603 Certification required.

* * * * *

(i) Each 76–81 GHz Radar Service transmitter must be certified.

■ 18. Section 95.605 is revised to read as follows:

§ 95.605 Certification procedures.

Any entity may request certification for its transmitter when the transmitter is used in the GMRS, FRS, R/C, CB,

218–219 MHz Service, LPRS, MURS, or MedRadio Service following the procedures in part 2 of this chapter. Dedicated Short-Range Communications Service On-Board Units (DSRCS—OBUs) must be certified in accordance with subpart L of this part and subpart J of part 2 of this chapter. 76–81 GHz Radar Service transmitters must be certified in accordance with subpart M of this part and subpart J of part 2 of this chapter.

■ 19. Add § 95.624 to read as follows:

§ 95.624 76–81 GHz Radar Service frequencies.

Transmitters in the 76–81 GHz Radar Service may operate within the 76–81 GHz frequency band. Specific frequency and bandwidth limitations are specified in subpart M of this part.

■ 20. Section 95.631 is amended by adding paragraph (l) to read as follows:

§ 95.631 Emission types.

* * * * *

(l) The 76–81 GHz Radar Service is governed under subpart M of this part.

■ 21. Section 95.633 is amended by adding paragraph (h) to read as follows:

§ 95.633 Emission bandwidth.

* * * * *

(h) The 76–81 GHz Radar Service is governed under subpart M of this part.

■ 22. Section 95.635 is amended by revising the introductory text and table of paragraph (b) and adding paragraph (g) to read as follows:

§ 95.635 Unwanted radiation.

* * * * *

(b) The power of each unwanted emission shall be less than TP as specified in the applicable paragraphs listed in the following table:

Transmitter	Emission type	Applicable paragraphs (b)
GMRS	A1D, A3E, F1D, G1D, F3E, G3E with filtering	(1), (3), (7).
	A1D, A3E, F1D, G1D, F3E, G3E without filtering	(5), (6), (7).
	H1D, J1D, R1D, H3E, J3E, R3E	(2), (4), (7).
	F3E with filtering	(1), (3), (7).
FRS		
R/C:		
27 MHz	As specified in § 95.631(b)	(1), (3), (7).
72–76 MHz	As specified in § 95.631(b)	(1), (3), (7), (10), (11), (12).
CB	A1D, A3E	(1), (3), (8), (9).
	H1D, J1D, R1D, H3E, J3E, R3E	(2), (4), (8), (9).
	A1D, A3E type accepted before September 10, 1976	(1), (3), (7).
	H1D, J1D, R1D, H3E, J3E, R3E type accepted before September 10, 1986.	(2), (4), (7).
LPRS	As specified in paragraph (c).	
MedRadio	As specified in paragraph (d).	
DSRCS—OBU	As specified in paragraph (f) of this section.	
76–81 GHz Radar Service	As specified in paragraph (g) of this section.	

* * * * *

(g) The 76–81 GHz Radar Service is governed under subpart M of this part.

■ 23. Section 95.637 is amended by adding paragraph (g) to read as follows:

§ 95.637 Modulation standard.

* * * * *

(g) The 76–81 GHz Radar Service is governed under subpart M of this part.
 ■ 24. Section 95.639 is amended by adding paragraph (j) to read as follows:

§ 95.639 Maximum transmitter power.

* * * * *

(j) The 76–81 GHz Radar Service is governed under subpart M of this part.
 ■ 25. Add § 95.641 under the undesignated center heading **TECHNICAL STANDARDS** to read as follows:

§ 95.641 76–81 GHz Radar Service certification.

Sections 95.643 through 95.655 do not apply to certification of vehicular radar devices and fixed radar devices operating in the 76–81 GHz Band Radar Service. These devices must be certified in accordance with subpart M of this part and subpart J of part 2 of this chapter.

■ 26. Appendix 1 to Subpart E of part 95—Glossary of Terms is amended by adding the definition of “Field disturbance sensor” in alphabetical order to read as follows:

Appendix 1 to Subpart E of Part 95—Glossary of Terms

* * * * *

Field disturbance sensor. A device that establishes a radio frequency field in its vicinity and detects changes in that field resulting from the movement of persons or objects within its range.

* * * * *

■ 27. Add Subpart M to part 95 to read as follows:

Subpart M—The 76–81 GHz Band Radar Service

Sec.	
95.1601	Scope.
95.1603	Permissible communications.
95.1605	Station identification.
95.1607	Station inspection.
95.1609	Authorized locations.
95.1611	Information to user.
95.1613	Frequency use policy.

95.1615 Technical requirements.
 95.1617 RF safety.

§ 95.1601 Scope.

This subpart sets out the regulations governing the operation of vehicular and fixed radars operating within the band 76.0–81 GHz. The following uses are permitted:

In the 76–81 GHz band: vehicle-mounted field disturbance sensors used as vehicular radar systems; and mobile and fixed radar systems used at airport locations for foreign object debris detection on runways and for monitoring aircraft and service vehicles on taxiways and other airport vehicle service areas that have no public vehicle access. In the 76–77 GHz band: Fixed radars (other than the type described above), and radars that are mounted on aircraft and that are operated only while the aircraft is on the ground.

§ 95.1603 Permissible communications.

The transmission of data is permitted provided the primary mode of operation is as a field disturbance sensor. Voice and video transmissions are prohibited.

§ 95.1605 Station identification.

A station is not required to transmit a station identification announcement.

§ 95.1607 Station inspection.

All 76–81 GHz Band Radar Service equipment must be made available for inspection upon request by an authorized FCC representative.

§ 95.1609 Authorized locations.

The operation of a 76–81 GHz Band Radar Service transmitter under this part is authorized anywhere CB station operation is permitted under § 95.405 of this part.

§ 95.1611 Information to user.

The user’s manual or instruction manual for an intentional or unintentional radiator shall caution the user that changes or modifications not

expressly approved by the party responsible for compliance could void the user’s authority to operate the equipment. In cases where the manual is provided only in a form other than paper, such as on a computer disk or over the Internet, the information required by this section may be included in the manual in that alternative form, provided the user can reasonably be expected to have the capability to access information in that form.

§ 95.1613 Frequency use policy.

(a) The frequencies authorized to 76–81 GHz Band Radar Service systems by this part are available on a shared basis only and will not be assigned for the exclusive use of any entity. Users should select and use frequencies in a manner that mitigates the risk of potential interference between authorized services.

§ 95.1615 Technical requirements.

(a) The fundamental radiated emission limits within the band 76–81 GHz provided in this section are expressed in terms of Equivalent Isotropic Radiated Power (EIRP) and are as follows:

(1) The maximum power (EIRP) within the bands specified in this section shall not exceed 50 dBm based on measurements employing a power averaging detector with a 1 MHz RBW.

(2) The maximum peak power (EIRP) within the bands specified in this section shall not exceed 55 dBm based on measurements employing a peak detector with a 1 MHz RBW.

(b) The unwanted emissions outside the operating band, 76–81 GHz, shall consist solely of spurious emissions and shall not exceed the following:

(1) Radiated emissions below 40 GHz shall not exceed the field strength as shown in the following emission table:

Frequency (MHz)	Field strength (microvolts/meter)	Measurement distance (meters)
0.009–0.490	2400/F(kHz)	300
0.490–1.705	24000/F(kHz)	30
1.705–30.0	30	30
30–88	100	3
88–216	150	3
216–960	200	3
Above 960	500	3

(i) In the emission table in paragraph (b)(1) of this section, the tighter limit applies at the band edges.

(ii) The limits in the table in paragraph (b)(1) of this section are based

on the frequency of the unwanted emission and not the fundamental frequency. However, the level of any unwanted emissions shall not exceed the level of the fundamental frequency.

(iii) The emission limits shown in the table in paragraph (b)(1) of this section are based on measurements employing a CISPR quasi-peak detector except for the frequency bands 9.0–90.0 kHz, 110.0–

490.0 kHz and above 1000 MHz. Radiated emission limits in these three bands are based on measurements employing an average detector with a 1 MHz RBW.

(2) The power density of radiated emissions outside the operating band above 40.0 GHz shall not exceed the following employing an average detector with a 1 MHz RBW:

(i) For radiated emissions between 40 and 200 GHz from field disturbance sensors and radar systems operating in the band 76–81 GHz: 600 pW/cm² at a distance of 3 meters from the exterior surface of the radiating structure.

(ii) For radiated emissions above 200 GHz from field disturbance sensors and radar systems operating in the 76–81 GHz band: 1000 pW/cm² at a distance of 3 meters from the exterior surface of the radiating structure.

(3) For field disturbance sensors and radar systems operating in the 76–81 GHz band, the spectrum shall be investigated up to 231.0 GHz.

(c) Fundamental emissions must be contained within the frequency bands specified in this section during all conditions of operation. Equipment is presumed to operate over the temperature range –20 to +50 degrees Celsius with an input voltage variation of 85% to 115% of rated input voltage, unless justification is presented to demonstrate otherwise.

§ 95.1617 RF safety.

Regardless of the power density levels permitted under this subpart, devices operating under the provisions of this subpart are subject to the radiofrequency radiation exposure requirements specified in §§ 1.1307(b), 2.1091 and 2.1093 of this chapter, as appropriate. Applications for equipment authorization of devices operating under this section must contain a statement confirming compliance with these requirements for both fundamental emissions and unwanted emissions. Technical information showing the basis for this statement must be submitted to the Commission upon request.

[FR Doc. 2015–04032 Filed 3–5–15; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Chapter III

[Docket No. FMCSA–2007–27748]

Minimum Training Requirements for Entry-Level Drivers of Commercial Motor Vehicles: Negotiated Rulemaking Committee Meetings

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of advisory committee public meetings.

SUMMARY: FMCSA announces the meeting schedule for the Entry-Level Driver Training Advisory Committee (ELDTAC), established to complete a negotiated rulemaking on Entry-Level Driver Training (ELDT) for individuals who want to operate Commercial Motor Vehicles (CMVs). ELDTAC is a negotiated rulemaking committee established to develop a Notice of Proposed Rulemaking (NPRM) to implement section 32304 of the Moving Ahead for Progress in the 21st Century (MAP–21) concerning ELDT standards for individuals applying for a commercial driver's license (CDL) or CDL upgrade. The meetings will be held Thursday–Friday, March 19–20, April 9–10 and 23–24, and May 14–15 and 28–29, 2015. The meetings are open to the public for their entirety.

DATES: The meetings will be held Thursday–Friday, March 19–20, April 9–10 and 23–24, and May 14–15 and 28–29, 2015, from 9 a.m. to 4:30 p.m., Eastern Daylight Time (E.T.), on Thursdays and 9 a.m. to 3 p.m., E.T., on Fridays at various locations in Washington, DC, and Arlington, VA. Specific locations and an agenda for each meeting will be posted in advance of the meetings at <http://www.fmcsa.dot.gov/eldtac>.

FOR FURTHER INFORMATION CONTACT: Ms. Shannon L. Watson, Senior Policy Advisor, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, (202) 366–2551, eltdtac@dot.gov.

Services for Individuals With Disabilities: For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Eran Segev at (617) 494–3174, eran.segev@dot.gov, one week prior to each meeting.

SUPPLEMENTARY INFORMATION:

I. Background

Entry-Level Driver Training

Section 32304 of the Moving Ahead for Progress in the 21st Century (MAP–21) (Pub. L. 112–141, 126 Stat. 405 (July 6, 2012)) requires FMCSA to establish new regulations concerning ELDT. MAP–21 requires “that the training regulations address knowledge and skills for motor vehicle operation, specific requirements for hazmat and passenger endorsements, create a certificate system for meeting requirements, and require training providers to demonstrate that their training meets uniform standards.” The new requirements would apply to individuals seeking a CDL to operate CMVs, as defined in 49 CFR 383.5.

On August 19, 2014 (79 FR 49044), FMCSA announced that the Agency would explore the feasibility of conducting a negotiated rulemaking concerning entry-level driver training for drivers of CMVs. The Agency announced the hiring of a convener to speak with interested parties about the feasibility of conducting an ELDT negotiated rulemaking and requested public comments by September 18, 2014. As part of the first step in this process, the convener conducted these interviews and submitted a report to the Agency on November 26, 2014, regarding the feasibility of conducting a negotiated rulemaking. The convening report is available both in the rulemaking docket at FMCSA–2007–27748 and on the Internet at eltdtac.fmcsa.dot.gov.

On December 10, 2014 (79 FR 73273), FMCSA announced its intent to establish a negotiated rulemaking committee to negotiate and develop proposed regulations to implement the MAP–21 provision concerning ELDT based on the recommendations of the convener. On February 12, 2015 (80 FR 7814), FMCSA announced the appointment of members to the Entry-Level Driver Training Advisory Committee (ELDTAC) established to complete a negotiated rulemaking on ELDT for individuals who want to operate CMVs.

ELDTAC

The ELDTAC is established by charter in accordance with the Federal Advisory committee Act (FACA), 5 U.S.C., App. 2. Transportation Secretary Anthony Foxx signed the ELDTAC charter on January 15, 2015, which provides up to 2 years for the Committee's duration, in accordance with section 14 of FACA. Additionally, as the ELDTAC is a negotiated rulemaking committee (“Reg Neg”), it

complies with the Negotiated Rulemaking Act (5 U.S.C. 564). The Committee is effective from the date of signature through January 15, 2017.

ELDTAC Membership

In its December 10, 2014, **Federal Register** notice, the Agency announced that it was soliciting applications and nominations for membership on the ELDTAC. These members are experts in their respective fields and appointed as Special Government employees or representatives of entities or interests including but not limited to the following: CMV driver training organizations; industry representatives; representatives of driver training schools; motor carriers (of property and passengers) and associations; State licensing agencies; State enforcement agencies; labor unions; safety advocacy groups; insurance companies; and others selected with a view toward achieving varied perspectives on ELDT. In an effort to balance these interests to the extent practicable, the FMCSA Acting Administrator appointed 26 members on January 30, 2015, who will each serve for up to one two-year term. The members met for the first time Thursday–Friday, February 26–27, 2015.

II. Meeting Participation

Oral comments from the public will be heard during the meeting, as managed by the Reg Neg facilitator.

III. Submitting Written Comments

Members of the public may submit written comments on the topics to be considered during the meeting one week prior to each meeting to Federal Docket Management System (FDMS) Docket Number FMCSA–2007–27748. If you submit a comment, please include the docket number for this notice (FMCSA–2007–27748). 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>, put the docket number, FMCSA–2007–27748, in the keyword box, and click “Search.” When the new screen appears, click on the “Comment Now!” button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

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.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>. Insert the docket number, FMCSA–2007–27748, in the keyword box, and click “Search.” Next, click the “Open Docket Folder” button and choose the document to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays.

Privacy Act

DOT posts 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.

IV. Future Committee Meetings and Rulemaking Calendar

In coordination with the Reg Neg facilitator, FMCSA has developed this schedule of committee meetings, running through May 2015.

FMCSA intends to complete the Reg Neg process for the proposed rule within the first half of 2015 and to publish a Notice of Proposed Rulemaking (NPRM) this year, followed by a Final Rule in 2016. After the conclusion of the committee meetings, the Agency will draft the NPRM, which is expected to take approximately 6–8 weeks, depending on the degree of consensus on the issues and the supporting data developed by the committee. The NPRM will then be reviewed by DOT’s Office of the Secretary and the Office of Management and Budget (OMB). The Agency will then publish the NPRM for public comment.

Following the close of the public comment period the Agency will evaluate and respond to public comments as it drafts a final rule, which will also undergo Departmental and OMB review. Although the time needed to address public comments to an NPRM that has been developed through a successful negotiated rulemaking process is typically shorter than for rules conducted through the ordinary informal notice and comment process, the Agency must nonetheless address substantive public comments in the final rule, in accordance with the Administrative Procedure Act. While the Agency cannot state with certainty the time required to complete the Reg Neg process and notice and comment rulemaking, the target date for publication of an NPRM is October 15, 2015.

Issued on: March 2, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–05197 Filed 3–5–15; 8:45 am]

BILLING CODE 4910–EX–P

Notices

Federal Register

Vol. 80, No. 44

Friday, March 6, 2015

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

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Commodity Credit Corporation

Information Collection Request; Debt Settlement Policies and Procedures

AGENCY: Farm Service Agency and Commodity Credit Corporation.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Commodity Credit Corporation (CCC) and the Farm Service Agency (FSA) are requesting comments from all interested individuals and organizations on an extension of a currently approved information collection that supports the FSA and CCC Debt Settlement Policies and Procedure regulations.

DATES: We will consider comments that we receive by May 5, 2015.

ADDRESSES: We invite you to submit comments on this notice. In your comments, include the date, volume, and page number of this issue of the **Federal Register**, the OMB control number and the title of the information collection. You may submit comments by any of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- **Mail:** Thomas F. Harris II, Claims Program Specialist, Financial Management Division, Office of Budget and Finance, Farm Service Agency, USDA, STOP 0581, 355 E Street SW., Suite 11–181B, Washington, DC 20024.

You may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Copies of the information collection may be requested by contacting Thomas F. Harris at the above address.

FOR FURTHER INFORMATION CONTACT:

Thomas F. Harris II, (202) 772–6014. Persons with disabilities who require alternative means for communication (Braille, large print, audio tape, etc.) should contact the USDA's TARGET Center at (202) 720–2600 (Voice only).

SUPPLEMENTARY INFORMATION:

Title: Debt Settlement Policies and Procedures.

OMB Control Number: 0560–0146.
Expiration Date of Approval: July 31, 2015.

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

Abstract: This information collection is required to enable FSA and CCC to effectively administer the regulations at 7 CFR part 792 (FSA) and 7 CFR part 1403 (CCC) pertaining to debt settlement policies and procedures and the identification of and settlement of outstanding claims. Collection of outstanding debts owed to FSA or to CCC can be effected by installment payments if a debtor furnishes satisfactory evidence of inability to pay a claim in full, and if the debtor specifically requests an installment agreement. Part of the requirement is that the debtor furnishes a financial statement or other information that would disclose the debtor's assets and liabilities. This information is required in order to evaluate any proposed plan. Such requests for documentation furnished by the debtor are also used in the other collection tools employed by both FSA and CCC in managing debt settlement policies and procedures. If an installment agreement is approved, then a Promissory Note (CCC–279), or an approved alternative promissory note format, should be executed between the debtor and the FSA/CCC representative(s).

During the past two years, \$13,930,548.07 in debt collection for Farm Programs and for the Commodity Office was facilitated by the use of this requested information. Eighty four (84) Promissory Notes were established between debtors and FSA and CCC from 10/01/2013 to 10/01/2014. Total active Note amount for the past two years is presently 305 total Promissory Notes (includes beginning outstanding notes (213); total notes established (84); notes defaulted (1), notes paid off in full (25); notes paid, small balance loans (-25); notes written off (07) and notes

discharged in Bankruptcy (00)) with a beginning outstanding amount in 2014 of \$31,131,509.78, and an ending outstanding amount of \$13,930,584.07. Collections for FSA and CCC from FSA/CCC offices, DOJ actions, and Voluntary Payments totaled \$3,416,702.42. The Debt Collection Improvement Act of 1996 (DCIA) requires the head of an agency to take all appropriate steps to collect delinquent debts before discharging the debts. The current information collection forms and formats have been successfully used for the past several years and have become familiar tools for both agency employees and producers. Thus, adequate forms and formats already exist and are in use. Developing new forms and formats would be costly and is not required to meet the demands of the DCIA. Public comment is requested on how the forms and process may be improved, as specified below. There are no changes to the information collection since the last OMB approval.

The formula used to calculate the total burden hour is estimated average time per responses hours times total annual responses.

Estimate of Burden: Public reporting burden for this information collection is estimated to average 0.66 hours per response. The average travel time, which is included in the total annual burden, is estimated to be 1 hour per respondent.

Respondents: Producers participating in FSA and CCC programs.

Estimated Number of Respondents: 300.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Responses: 300.

Estimated Average Time per Response: 0.66.

Estimated Total Annual Burden on Respondents: 200 Hours.

We are requesting comments on all aspects of this information collection to help us to:

(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 collection of information including the validity of the methodology and assumptions used;

(3) Evaluate the quality, utility, and clarity of the information technology; and

(4) Minimize the burden of the information collection on those who respond through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses where provided, will be made a matter of public record. Comments will be summarized and included in the request for OMB approval of the information collection.

Signed on March 3, 2015.

Val Dolcini,

Administrator, Farm Service Agency, and Executive Vice President, Commodity Credit Corporation.

[FR Doc. 2015-05227 Filed 3-5-15; 8:45 am]

BILLING CODE 3410-05-P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 2, 2015.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by April 6, 2015 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725-17th Street NW., Washington, DC 20503. Commenters are encouraged to submit their comments to OMB via email to: OIRA_Submission@omb.eop.gov or fax (202) 395-5806 and to Departmental

Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250-7602. Copies of the submission(s) may be obtained by calling (202) 720-8681.

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

National Agricultural Statistics Service

Title: Colony Loss Surveys.

OMB Control Number: 0535-NEW.

Summary of Collection: The primary objectives of the National Agricultural Statistics Service (NASS) are to prepare and issue official State and national estimates of crop and livestock production, disposition and prices, economic statistics, and environmental statistics related to agriculture and to conduct the Census of Agriculture and its follow-on surveys. Pollinators (honeybees) are vital to the agricultural industry for producing food for the world's population. Ad hoc surveys showed a dramatic rise in the number of disappearances of honeybee colonies in North America in late 2006. The collapse or decline of honeybee colonies is significant economically because many agricultural crops worldwide are pollinated by European honeybees. General authority for these data collection activities is granted under U.S.C. Title 7, Section 2204.

Need and Use of the Information: To collect critical information NASS will use two surveys which will complement its existing Bee and Honey Collection (0535-0153) that focuses on bee keepers with 5 or more colonies. The Colony Loss Quarterly Survey will be administered quarterly to a subsample of bee keepers responding to the annual Bee and Honey Inquiry. The Colony Loss Annual Survey will be administered to bee keepers with fewer than 5 colonies. The data collected will include state of colony residence, the commercial movement of colonies between states, newly added or replacement colonies, colony losses, and presence of colony stress factors, such as pests or parasites.

Description of Respondents: Farmers and Beekeepers.

Number of Respondents: 23,300.

Frequency of Responses: Reporting: Quarterly; One time.

Total Burden Hours: 8,353.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2015-05263 Filed 3-5-15; 8:45 am]

BILLING CODE 3410-20-P

DEPARTMENT OF AGRICULTURE

Forest Service

Flathead National Forest, Montana; Revision of the Land Management Plan for the Flathead National Forest and an Amendment of the Helena, Kootenai, Lewis and Clark, and Lolo National Forest Plans To Incorporate Relevant Direction From the Northern Continental Divide Ecosystem Grizzly Bear Conservation Strategy

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: As directed by the National Forest Management Act, the U.S. Department of Agriculture, Forest Service, is preparing the Flathead National Forest's revised land management plan (forest plan) and an amendment to provide relevant direction from the Northern Continental Divide Ecosystem (NCDE) Grizzly Bear Conservation Strategy into the forest plans for the Helena, Kootenai, Lewis and Clark and Lolo National Forests. The Forest Service will prepare a single environmental impact statement (EIS) for its revised forest plan and the amendment.

This notice briefly describes the proposed action based on the need to change the existing plans, the nature of the decision to be made, and information concerning public participation. This notice also provides estimated dates for filing the EIS, the name and address of the responsible agency officials, and the individuals who can provide additional information. Finally, this notice identifies the applicable planning rule that will be used for completing the plan revision and amendment.

The revised Flathead forest plan will supersede the existing forest plan that was approved by the Regional Forester in 1986, and amended more than 20 times since. The existing Flathead forest plan will remain in effect until the revised forest plan takes effect. The management direction pertaining to grizzly bear within the current forest plans of the Helena National Forest, approved by the Regional Forester in 1986; Kootenai National Forest, approved by the Regional Forester in

2015; Lewis and Clark National Forest, approved by the Regional Forester in 1986; and Lolo National Forest, approved by the Regional Forester in 1986, as amended, will remain in effect until the proposed amendment takes effect.

In response to this notice, we are asking for comments on the proposed action so we may refine the proposed action and identify possible alternatives to the proposed action.

DATES: Comments concerning the scope of the proposed action must be received by May 5, 2015. The draft EIS is expected in January 2016 and the final EIS is expected in June 2017.

ADDRESSES: Send or deliver written comments to the Flathead National Forest Supervisor's Office, Attn: Forest Plan Revision, 650 Wolfpack Way, Kalispell, Montana 59901. Comments may also be sent via email to flatheadplanrevision@fs.fed.us or via facsimile to (406) 758-5379. Further instructions for providing comments that will assist the planning team in reviewing comments can be found on the Flathead National Forest Web site www.fs.usda.gov/goto/flathead/fpr.

FOR FURTHER INFORMATION CONTACT: Joe Krueger, Forest Planner, Flathead National Forest, 650 Wolfpack Way, Kalispell, Montana 59901, (406) 758-5243, or at flatheadplanrevision@fs.fed.us. Information regarding the Flathead NF plan revision is available on the Forest's Plan Revision Web site at: www.fs.usda.gov/goto/flathead/fpr; information about the amendment is available at www.fs.usda.gov/goto/flathead/gbamend.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Proposed Action

The Forest Service is preparing the Flathead National Forest revised land management plan (forest plan) and an amendment to provide relevant direction from the North Continental Divide Ecosystem (NCDE) Grizzly Bear Conservation Strategy into the forest plans for the Helena, Kootenai, Lewis and Clark and Lolo National Forests. The full proposed action for the Flathead National Forest's revised forest plan includes forest-wide, geographic area, and management area desired conditions, objectives, standards, guidelines, and the suitability of lands for specific multiple uses, including, for example, those lands suitable for timber

production. The proposed action includes estimates of the long-term sustained yield and planned sale quantity for the forest. The proposed action includes a description of the plan area's distinctive roles and contributions within the broader landscape, the identification of priority restoration watersheds, and suitability of national forest lands to support a variety of proposed and possible actions that may occur on the plan area over the life of the plan. The proposed action also identifies a monitoring program. The proposed action includes 188,206 acres to be recommended to Congress for inclusion in the National Wilderness Preservation System and 22 rivers for inclusion into the National Wild and Scenic Rivers System.

Need for Action

The need for the proposed action is twofold: (1) Significant changes have occurred in conditions and demands since the Flathead's 1986 Forest Plan and (2) to ensure the adequacy of regulatory mechanisms regarding habitat protection across the national forests in the NCDE in support of the delisting of the grizzly bear. Several areas where changes are needed in the Flathead NF plan were brought to the forefront by the requirements of the 2012 Planning Rule for the National Forest System; findings from the development of the Assessment of the Flathead National Forest (a precursor document in the planning process that identified and evaluated the existing condition across the forest landscape); changes in conditions and demands since the 1986 Forest Plan; and public concerns to date.

The 2012 Planning Rule, which became effective May 9, 2012, requires inclusion of plan components, including standards or guidelines, that address social and economic sustainability, ecosystem services, and multiple uses integrated with the plan components for ecological sustainability and species diversity. Social and economic management direction is needed to provide people and communities with a range of social and economic benefits for present and future generations. As an example, since approval of the Flathead's 1986 Forest Plan, the role of timber harvest in meeting ecosystem management and social and economic objectives has changed. The 2012 Planning Rule requires the Forest to undertake a process to identify lands within the plan area for timber production suitability, and from this process, the Forest will develop plan components for lands suitable for timber production and for

lands where timber harvest is appropriate for purposes other than timber production. To meet the Planning Rule's requirement to provide for ecological sustainability, management direction is needed that addresses ecosystem diversity (including key ecosystem characteristics and their integrity), in light of changes in climate, fuels, vegetation management strategies, and future environmental conditions. Revised plan components are needed that focus on maintaining or restoring vegetation and ecosystems to provide for species diversity including threatened and endangered species, species of conservation concern, and species of public interest. Additionally, comprehensive management direction is needed to address suitability of certain areas for particular uses, address access and sustainable recreation, provide for the management of existing and anticipated uses, as well as protect resources. During the plan revision process, the 2012 Planning Rule requires the Forest Service to undertake processes to identify and evaluate lands that may be suitable for inclusion on the National Wilderness Preservation System and identify eligible rivers for inclusion into the National Wild and Scenic Rivers System.

Under the Endangered Species Act of 1973, federal agencies are directed to use their authorities to seek to conserve endangered and threatened species. The Canada lynx was listed as a threatened species in 2000. Since that time, the Flathead Forest Plan has been amended with the Northern Rockies Lynx Management Direction (USDA FS 2007), the USFWS designated and updated Canada lynx critical habitat (USDI FWS 2009, 2014), and the Lynx Conservation and Assessment Strategy has been updated (Lynx Biology Team 2013). Thus, the Forest Plan needs to integrate recent and relevant information for Canada lynx to its plan.

Habitat conditions and management on the Flathead, Helena, Kootenai, Lewis and Clark, and Lolo National Forests have contributed importantly to the increased population size and improved status of the grizzly bear across the NCDE. Supporting a healthy, recovered grizzly bear population will depend on continued, effective management of the NCDE grizzly bear's habitat. In 2013, the U.S. Fish and Wildlife Service's announced the availability of a draft Grizzly Bear Conservation Strategy for the NCDE population for public review and input. When finalized, the Grizzly Bear Conservation Strategy will become the post-delisting management plan for the

NCDE grizzly bear population and its habitat. By providing relevant direction from the NCDE Grizzly Bear Conservation Strategy into forest plans, the Forest Service will be able to demonstrate to the U.S. Fish and Wildlife Service that adequate regulatory mechanisms exist on national forests within the NCDE to support a delisted grizzly bear population. Under the transition provisions of the 2012 Forest Planning Rule (36 CFR 219.17), an amendment to a plan that was approved or revised under a prior planning regulation, may be initiated under the provisions of the prior planning regulation for 3 years after May 9, 2012, and may be completed and approved under those provisions (36 CFR 219.17 (b)(2)). The proposal is to amend the Helena, Kootenai, Lewis and Clark and Lolo National Forest plans under the 1982 planning regulations in effect prior to November 9, 2000 (see 36 CFR parts 200 to 299, Revised as of July 1, 2000). Thus, under the transition provisions of the 2012 Forest Planning Rule, the Forest Service has the opportunity to carry out the amendments concurrently with the Flathead forest plan revision. The Flathead planning team, in addition to conducting the plan revision, is coordinating the National Environmental Policy Act (NEPA) effort for the amendment with the Kootenai, Lolo, Lewis and Clark and Helena National Forests to ensure that adequate regulatory mechanisms for habitat protections specific to the de-listing of the grizzly bear is consistent on National Forest System lands throughout the NCDE. Finally, public participation through scoping may identify other needs for change that will be considered during the plan revision.

Public Involvement for the Flathead Plan Revision

The Flathead National Forest began public participation when developing the Assessment of the Flathead National Forest. To facilitate local participation, the Forest contracted with the U.S. Institute for Environmental Conflict Resolution in 2012 to develop a collaborative stakeholder engagement process. The Institute conducted assessments with Forest Service employees and a representative group of key stakeholders to determine their willingness to engage in a collaborative process convened by a neutral, third party. The Meridian Institute was selected to serve in that capacity and facilitated numerous topical work groups, an interagency group, and meetings to bring together all work groups and interested citizens. Also, as

part of the public involvement process, the Forest Service led field trips and held open house sessions to discuss existing information and trends related to a variety of conditions found on the forest. The information acquired from the public involvement process was used to help develop the Flathead NF forest plan revision proposed action.

Responsible Officials

The responsible official who will approve the Record of Decision for the Flathead NF revised forest plan is Sharon Labreque, Acting Forest Supervisor for the Flathead National Forest, 650 Wolfpack Way, Kalispell, MT 59901, (406) 758-5208. The responsible officials who will approve the Record of Decision for the Amendment are: William Avey, Forest Supervisor for the Helena and Lewis and Clark National Forests Supervisor's Office, 2880 Skyway Drive, Helena, MT 59602, (406) 449-5201; Christopher S. Savage, Forest Supervisor for the Kootenai National Forest, 31374 U.S. Highway 2, Libby, MT 59923-3022, (406) 293-6211; and Timothy Garcia, Forest Supervisor for the Lolo National Forest, 24 Fort Missoula Road, Missoula, MT 59803, (406) 329-3750.

Nature of Decision To Be Made

For the Flathead forest plan revision, the responsible official will decide whether the required plan components (desired conditions, objectives, standards, guidelines) are sufficient to promote the ecological integrity and sustainability of the Flathead National Forest's ecosystems, watersheds, and diverse plant and animal communities. In addition, the responsible official will decide if the plan provides sufficient management guidance to contribute to social and economic sustainability, to provide people and communities with ecosystem services and multiple uses including a range of social, economic, and ecological benefits for the present and into the future. Standards, guidelines, and other direction related to conservation of threatened and endangered species, (e.g., the Canada lynx, grizzly bear, bull trout, and water howellia) will be evaluated for the Flathead National Forest in the EIS.

For the amendment component of the proposed action, the responsible officials will decide whether desired conditions, standards, guidelines, and monitoring requirements relevant to national forest grizzly bear habitat management in the NCDE are necessary and appropriate to amend the Helena, Lewis and Clark, Kootenai, and Lolo forest plans. The Kootenai National Forest Plan spans two grizzly bear

ecosystems and the Lolo National Forest Plan spans three. The proposed action applies only to the NCDE. No changes in forest plan direction are being considered within the Cabinet-Yaak or Bitterroot recovery areas.

This proposed action is programmatic in nature and guides future implementation of site-specific projects. Additional NEPA compliance would be required for site-specific projects as part of a two-stage decision making process (Council of Environmental Quality regulations for implementing NEPA; 40 CFR 1508.23, 42 U.S.C. 4322(2)(C)), 36 CFR 219.7(f)).

Scoping Process

This notice of intent initiates the scoping process, which guides the development of the EIS. We are seeking your input to continue to develop the Flathead NF revised plan and for NCDE grizzly bear habitat management for the four amendment forests. In addition to requesting comments specific to the Flathead NF proposed action, we are also seeking comments regarding the potential list of species of conservation concern, the identified recommended wilderness acres and eligible wild and scenic rivers, as well as other significant issues.

The following community meetings are planned to provide additional information and address questions related to the revision and amendment proposed action:

- March 17, 2015, 5:30-7:30 p.m., Flathead National Forest Supervisors Office, 650 Wolfpack Way, Kalispell, MT 59901.
- March 19, 2015, 5:30-7:30 p.m., Riverstone Family Lodge, 6370 US Hwy 93N, Eureka, MT 59917.
- April 7, 2015, 5:30-7:30 p.m., Seeley Lake Community Center, Seely Lake, MT 59868.
- April 8, 2015, 5:30-7:30 p.m., Fort Missoula Pavilion, Missoula, MT 59804.
- April 9, 2015, 5:30-7:30 p.m., Superior Ranger Station Conference Room, Superior, MT 59872.
- April 14, 2015, 5:30-7:30 p.m., Lincoln Community Hall, 404 Main St., Lincoln, MT 59639.
- April 15, 2015, 5:30-7:30 p.m., Stage Stop Inn, 1005 Main Ave. North, Choteau, MT 59422.

Changes to the meeting schedule will be communicated on the Flathead Forest Plan revision Web page at www.fs.usda.gov/goto/flathead/fpr, as well as the amendment Web site at www.fs.usda.gov/goto/flathead/gbamend.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the

agency's preparation of the EIS. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions. Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action.

Decision Will Be Subject to Objection

Only those individuals and entities who have submitted substantive formal comments related to the Flathead NF plan revision and the four amendments during the opportunities provided for public comment (beginning with this NOI), will be eligible to file an objection (36 CFR 219.53(a)). The decision to approve the revised forest plan for the Flathead National Forest and the amendment for the Helena, Lewis and Clark, Kootenai, and Lolo National Forests will be subject to the objection process identified in 36 CFR part 219 subpart B (219.50 to 219.62).

Documents Available for Review

The Flathead National Forest plan revision Web site (www.fs.usda.gov/goto/flathead/fpr) provides the full text of the proposed action, describing preliminary desired conditions, objectives, standards, guidelines, and other plan content; the 2014 Assessment; summaries of the public meetings and public meeting materials; and public comments. The forest plan amendment component of the proposed action for the Helena, Kootenai, Lewis and Clark, and Lolo National Forests is located at www.fs.usda.gov/goto/flathead/gbamend, which can be linked from the individual Forest's Web sites as well. The material available on these sites may be updated or revised at any time as part of the planning process.

The 2012 Planning Rule is explained in more detail on the Forest Service's Web site at <http://www.fs.usda.gov/detail/planningrule/home/?cid=stelprdb5359471>. The draft NCDE Grizzly Bear Conservation Strategy is currently available on the U.S. Fish and Wildlife Service's Web site at <http://www.fws.gov/mountain-prairie/species/mammals/grizzly/continentalindex.html>.

Dated: February 26, 2015.

Sharon Labreque,

Acting Forest Supervisor, Flathead NF.

[FR Doc. 2015-05054 Filed 3-5-15; 8:45 am]

BILLING CODE 3411-15-P

DEPARTMENT OF AGRICULTURE

Forest Service

Forest Resource Coordinating Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Forest Resource Coordinating Committee (Committee) will meet via teleconference. The Committee is established consistent with the Federal Advisory Committee Act of 1972 (FACA) (5 U.S.C. App. II), and the Food, Conservation, and Energy Act of 2008 (the Act) (Pub. L. 110-246). Additional information concerning the Committee, including the meeting agenda, supporting documents and minutes, can be found by visiting the Committee's Web site at <http://www.fs.fed.us/spf/coop/frcc/>.

DATES: The teleconference will be held on March 17, 2015 from 12:00 p.m. to 1:00 p.m., Eastern Standard Time (EST). The meeting is subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held via teleconference. For anyone who would like to attend the teleconference, please visit the Web site listed in the **SUMMARY** section or contact Andrea Bedell-Loucks at abloucks@fs.fed.us for further details. Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments placed on the Committee's Web site listed above.

FOR FURTHER INFORMATION CONTACT: Andrea Bedell-Loucks, Designated Federal Officer, Cooperative Forestry staff, 202-205-1190. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Finalize April meeting agenda—topics, presentations and logistics, and
2. National Association of Conservation Districts presentation on their national survey results.

The teleconference is open to the public. However, the public is strongly encouraged to RSVP prior to the teleconference to ensure all related

documents are shared with public meeting participants. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should submit a request in writing 10 days before the planned meeting to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. Written comments and time requests for oral comments must be sent to Laurie Schoonhoven, 1400 Independence Avenue SW., Mailstop 1123, Washington, DC 20250 or by email to lschoonhoven@fs.fed.us. A summary of the meeting will be posted on the Web site listed above within 21 days after the meeting.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: March 2, 2015.

Patti Hiram,

Assistant Deputy Chief, State and Private Forestry.

[FR Doc. 2015-05195 Filed 3-5-15; 8:45 am]

BILLING CODE 3411-15-P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS-2015-0003]

Notice of Request for a New Information Collection: Gathering Sessions for Safe Food Handling Instructions

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations, the Food Safety and Inspection Service (FSIS) is announcing its intention to request a new information collection for a survey of consumers about safe food handling instructions.

DATES: Submit comments on or before May 5, 2015.

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

- *Federal eRulemaking Portal:* This Web site provides the ability to type short comments directly into the comment field or attach a file for lengthier comments. Go to <http://www.regulations.gov>. Follow the on-line instructions at that site for submitting comments.

- *Mail, including CD-ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Docket Clerk, Patriots Plaza 3, 1400 Independence Avenue SW., Mailstop 3782, Room 8-163A, Washington, DC 20250-3700.

- *Hand- or courier-delivered submittals:* Deliver to Patriots Plaza 3, 355 E Street SW., Room 8-163A, Washington, DC 20250-3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS-2014-0003. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to <http://www.regulations.gov>.

Docket: For access to hard copies of background documents or comments received, you can visit the FSIS Docket Room at Patriots Plaza 3, 355 E Street SW., Room 8-164, Washington, DC 20250-3700 between 8:00 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Lee W. Puricelli, Program Analyst, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW., Room 6073, South Building, Washington, DC 20250.

SUPPLEMENTARY INFORMATION:

Title: Safe Food Handling Instructions Survey.

Type of Request: New information collection.

Abstract: The Food Safety and Inspection Service has been delegated the authority to exercise the functions of the Secretary of Agriculture (7 CFR 2.18, 2.53) as specified in the Federal Meat Inspection Act and the Poultry Products Inspection Act (21 U.S.C. 453 *et seq.*, 601 *et seq.*). FSIS protects the public by verifying that meat and poultry products are wholesome, not adulterated, and properly marked, labeled, and packaged.

The U.S. Department of Agriculture's Food Safety and Inspection Service's Office of Public Affairs and Consumer Education (USDA, FSIS, OPACE) ensures that all segments of the farm-to-table chain receive valuable food safety information. The consumer education programs developed by OPACE's Food Safety Education Staff informs the public on how to safely handle, prepare, and store meat, poultry, and egg products to minimize incidence of foodborne illness.

Safe-handling instructions are required on a product if the product's meat or poultry component is raw or partially cooked (*i.e.*, not considered ready-to-eat) and if the product is destined for household consumers or institutional uses (9 CFR 317.2(l) [meat]; 9 CFR 381.125(b) [poultry]). FSIS conducted consumer focus groups to inform the design of the current safe-handling instructions in the regulations. Since the final safe handling rule became effective in 1994, the safe-handling instructions have not been revised.

In response to inquiries from consumer groups and other stakeholders for more information about potential changes to the safe-handling instructions regulations, FSIS sent a letter, in November 2013, to consumer groups, industry groups and academia posing questions about the current safe-handling instructions and how to revise them. The stakeholder comments supported the need for consumer testing of any changes to safe-handling instructions. FSIS presented a summary of the stakeholders suggestions to the National Advisory Committee on Meat and Poultry Inspection (NACMPI) in January 2014.

The feedback FSIS received from the NACMPI meeting echoed the stakeholders' emphasis of the necessity for consumer testing. In addition, NACMPI recommended that FSIS should consider requiring crucial endpoint temperatures on the label. The current safe-handling instructions use "Cook Thoroughly" as a simple, single statement appropriate to all products. This statement was used because, at the time of development, product label size limitations and many varying endpoint temperatures prevented an easy to understand label with endpoint cooking temperatures. Instead of multiple endpoint temperatures, FSIS now

recommends only three internal minimal temperatures: one for all poultry (165 °F), one for ground red meat (160 °F), and one for all whole-muscle red meat (145 °F and hold for 3 minutes). With only three temperature recommendations, the endpoint temperature information could be more easily incorporated into the safe-handling instructions through rulemaking than when the current instructions were finalized in 1994. Other possible changes to the safe-handling instructions might include incorporating new icons developed and branded under USDA's Food Safe Families campaign and providing a Web link or phone number for more information on food safety.

The NACMPI Subcommittee on Food Handling Labels recommended that FSIS pursue changes in the existing safe-handling instructions in the regulations and conduct consumer testing to determine the effectiveness of any revisions to the instructions.

To inform decisions about possible modifications to the safe-handling instructions, FSIS is requesting approval for a new information collection to conduct consumer focus groups. These focus groups will help FSIS understand what information in the instructions could better enable consumers to safely handle and prepare raw and partially cooked meat and poultry at home.

FSIS has contracted with RTI International to conduct six consumer focus groups to gather information on consumers' understanding and use of the current safe-handling instructions and responses to possible revisions to the instructions. To provide geographic diversity, FSIS will conduct two focus groups in three different geographic locations each with two focus groups (for a total of six). Locations will be representative of three of the four main geographical areas of the country (East Coast, South, Midwest, and West Coast). In each location, FSIS will conduct one focus group with English-speaking adults and one focus group with Spanish-speaking adults. The focus groups will include individuals at-risk for foodborne illness (*i.e.*, older adults, parents of young children, immunocompromised individuals or their caregivers) as well as from the general population as seen in Table 1.

TABLE 1—FOCUS GROUP SUBPOPULATIONS

Group	Subpopulation	Language
1	Parents of young children ^a	Spanish
2	Immunocompromised ^b	English

TABLE 1—FOCUS GROUP SUBPOPULATIONS—Continued

Group	Subpopulation	Language
3	Older adults ^c	Spanish
4	General population/less educated ^d	English
5	General population/less educated ^d	Spanish
6	Parents of young children ^{a,c}	English

^a Parents/caregivers of children aged 5 years old and younger, including pregnant women.

^b Adults diagnosed with cancer, diabetes, or a condition that weakens the immune system or their adult caregiver.

^c Adults aged 60 years or older.

^d Adults aged 26 to 59 years old with a high school education or less.

^e Adults with a college degree or higher.

Estimate of Burden: FSIS plans to screen 480 individuals to obtain no more than 60 focus group participants (10 participants per group). Each screening is expected to take 8 minutes (0.133 hour), and each focus group discussion is expected to last 1.45 hours. Before and after each group, participants will be asked to complete a short survey; each survey will take about 3 minutes (0.05 hour) to complete.

Respondents: Consumers.

Estimated No. of Respondents: 480.

Estimated No. of Annual Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 157 hours.

Copies of this information collection assessment can be obtained from Gina Kouba, Paperwork Reduction Act Coordinator, Food Safety and Inspection Service, USDA, 1400 Independence, SW., Room 6077, South Building, Washington, DC 20250, (202)690-6510.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253.

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

USDA Nondiscrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

How to File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which is available online at http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf, or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail

U.S. Department of Agriculture,
Director, Office of Adjudication, 1400
Independence Avenue SW.,
Washington, DC 20250-9410.

Fax

(202) 690-7442.

Email

program.intake@usda.gov.

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS Web page located at: <http://www.fsis.usda.gov/federal-register>.

FSIS also will make this **Federal Register** publication available through the FSIS Constituent Update, which is

used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Update is available on the FSIS Web page. Through the Web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: <http://www.fsis.usda.gov/subscribe>.

Done at Washington, DC, on: March 3, 2015.

Alfred V. Almanza,

Acting Administrator.

[FR Doc. 2015-05334 Filed 3-5-15; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

March 2, 2015.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques and other forms of information technology.

Comments regarding this information collection received by April 6, 2015 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW., Washington, DC 20503. Commentors are encouraged to submit their comments to OMB via email to: OIRA_Submission@omb.eop.gov or fax (202) 395-5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250-7602. Copies of the submission(s) may be obtained by calling (202) 720-8681.

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

Forest Service

Title: Good Neighbor Agreements with State Cooperators.

OMB Control Number: 0596—NEW.

Summary of Collection: The Forest Service (FS) is authorized under the Agricultural Act of 2014, Public Law 113-79 section 8206 and the amendment to the original Colorado version of the Good Neighbor Authority in the Omnibus Appropriations Act of 2014, Public Law 113-76 section 417 to perform specific activities in cooperation with State partners. These authorities encourage the FS to enter into Good Neighbor Agreements with the States, the Commonwealth of Puerto Rico, and State Forestry Agencies to carry out authorized forest, rangeland, and watershed restoration and protective services when similar and complementary projects are being performed on adjacent State or private lands, and on and off National Forest System (NFS) lands. <http://www.fs.fed.us/farmbill/gna.shtml>. The FS will maintain its land management responsibilities for all projects that take place on NFS lands.

Need and Use of the Information: Good Neighbor Agreements are considered cooperative agreements which permit the FS to work collaboratively with willing State agencies. FS will use a combination of agreement templates and federal financial assistance forms. Required information will be collected in the agreements, project type, project scope, financial plan, statement of work,

standard supporting documentation for the activity, and cooperator's business information. Without the collected information the FS would not be able to create, develop, and administer the Good Neighbor Agreements. The Agency would be unable to develop or monitor projects, make payments, or identify financial and accounting errors.

Description of Respondents: States and Commonwealth of Puerto Rico.

Number of Respondents: 51.

Frequency of Responses: One time.

Total Burden Hours: 200.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2015-05266 Filed 3-5-15; 8:45 am]

BILLING CODE 3411-15-P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Kansas Advisory Committee To Hear Testimony on Seclusion and Restraint of Children With Disabilities in Kansas Schools

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice of meeting.

SUMMARY: 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 that the Kansas Advisory Committee (Committee) will hold a meeting on Wednesday, March 25, 2015, at 12:00 p.m. CST for the purpose of hearing testimony from a balanced panel of interested parties on seclusion and restraint of children with disabilities in Kansas schools. An open session will be available at the end of the meeting for members of the public who call in to make a statement.

Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 888-572-7033, conference ID: 8127019. Any interested member of the public may call this number and listen to the meeting. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing

impairments may also follow the proceedings by first calling the Federal Relay Service at 1-800-977-8339 and providing the Service with the conference call number and conference ID number.

Member of the public are also entitled to submit written comments; the comments must be received in the regional office by April 25, 2015. Written comments may be mailed to the Midwestern Regional Office, U.S. Commission on Civil Rights, 55 W. Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the Commission at (312) 353-8324, or emailed to Administrative Assistant, Carolyn Allen at callen@usccr.gov. Persons who desire additional information may contact the Midwestern Regional Office at (312) 353-8311.

Records generated from this meeting may be inspected and reproduced at the Midwestern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available via www.facadatabase.gov under the Commission on Civil Rights, Kansas Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's Web site, <http://www.usccr.gov>, or may contact the Midwestern Regional Office at the above email or street address.

Agenda

Welcome and Introductions

12:00 p.m. to 12:05 p.m.—Elizabeth Kronk Warner, Chair

Panel Testimony on Seclusion and Restraint in Kansas schools

12:05 p.m. to 1:15 p.m.

Open Session

1:15 p.m. to 1:30 p.m.

Adjournment

1:30 p.m.

DATES: The meeting will be held on Wednesday, March 25, 2015, at 12:00 p.m.

Public Call Information:

Dial: 888-572-7033.

Conference ID: 8127019.

Dated: March 2, 2015.

David Mussatt,

Chief, Regional Programs Unit.

[FR Doc. 2015-05167 Filed 3-5-15; 8:45 am]

BILLING CODE 6335-01-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

RIN 0648–XC598

Endangered and Threatened Species; Availability of the Final Recovery Plan for Staghorn and Elkhorn Corals

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of availability.

SUMMARY: The National Marine Fisheries Service (NMFS) announces the adoption of a Final Endangered Species Act recovery plan for elkhorn coral and staghorn coral. The Final Recovery Plan (Plan) for Elkhorn Coral (*Acropora palmata*) and Staghorn Coral (*Acropora cervicornis*) is now available.

ADDRESSES: Electronic copies of the Plan are available on the NMFS Web site at <http://www.nmfs.noaa.gov/pr/recovery/plans.htm> and on the Southeast Regional Office Web site at http://sero.nmfs.noaa.gov/protected_resources/coral/.

A copy of the Plan can be obtained by writing to: Assistant Regional Administrator for Protected Resources, NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701, Attn: Acropora Recovery Plan.

FOR FURTHER INFORMATION CONTACT: Alison Moulding (727–824–5312), email Alison.Moulding@noaa.gov.

SUPPLEMENTARY INFORMATION:**Background**

The Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 *et seq.*) requires NMFS to develop and implement recovery plans for the conservation and survival of threatened and endangered species, unless it is determined that such plans would not result in the conservation of the species. NMFS designated elkhorn and staghorn corals as “threatened” under the ESA in May 2006. In September 2014, NMFS published a final rule maintaining the status of elkhorn and staghorn corals as threatened species. NMFS published a Notice of Availability and requested public comments on the Draft Recovery Plan for Elkhorn Coral and Staghorn Coral (Draft Plan) in the **Federal Register** on September 5, 2014. We revised the Draft Plan based on the comments received, and this final version now constitutes the Recovery Plan for Elkhorn Coral (*Acropora palmata*) and Staghorn Coral (*Acropora cervicornis*).

The Final Plan

Recovery plans describe actions beneficial for the conservation and recovery of species listed under the ESA. Section 4(f)(1) of the ESA requires that recovery plans incorporate, to the maximum extent practicable: (1) Objective, measurable criteria which, when met, would result in a determination that the species is no longer threatened or endangered; (2) site-specific management actions necessary to achieve the Plan’s goals; and (3) estimates of the time required and costs to implement recovery actions. The ESA requires the development of recovery plans for each listed species unless a recovery plan would not promote a species’ conservation.

The purpose of the Plan is to rebuild and assure the long-term viability of elkhorn and staghorn coral populations in the wild, allowing ultimately for the species’ removal from the federal list of endangered and threatened species. The goal of the Plan is to increase the abundance and to protect the genetic diversity of elkhorn and staghorn coral populations throughout their geographical ranges while sufficiently abating threats to warrant delisting of both species. Elkhorn and staghorn coral populations should be large enough to include numerous groups of successfully reproducing individuals, including thickets, across the historical range of these species. These groups should be large enough to protect genetic diversity and maintain ecosystem function. The recovery approach includes research and monitoring to identify, reduce, or eliminate threats so the recovery objectives outlined in the Plan have the greatest likelihood of being achieved. Because some threats to elkhorn and staghorn corals cannot be directly managed (*e.g.*, disease), the Plan pursues concurrent actions to address both global and local threats. Population enhancement is also an integral part of elkhorn and staghorn recovery through restoration, restocking, and active management. Ecosystem-level actions are identified to improve habitat quality and restore community structure and ecological functions, such as herbivory, to sustain adult colonies and enable successful recruitment in the wild over the long term. The goal, objectives, and criteria of the Plan represent NMFS’ expectation of conditions to recover elkhorn and staghorn corals so they no longer need the protective measures provided by the ESA.

The recovery criteria in the Plan are based on the current literature and

expert consensus. In some cases, the current best available information is so limited that it is not practicable to identify recovery criteria. Instead, interim criteria are identified to gather and obtain the information necessary to establish final recovery criteria. Recovery criteria can be viewed as targets, or values, by which progress toward achievement of recovery objectives can be measured. In the Plan we frame recovery criteria both in terms of population parameters (Population-based Recovery Criteria) and the five ESA listing factors (Threat-based Recovery Criteria). The Plan also includes the projected timeframe to recover elkhorn and staghorn corals and the cost of implementing actions.

Conclusion

NMFS has reviewed the Plan for compliance with the requirements of ESA section 4(f), determined that it does incorporate the required elements, and is therefore adopting it as the Final Recovery Plan for elkhorn and staghorn corals.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: March 3, 2015.

Angela Somma,

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

[FR Doc. 2015–05192 Filed 3–5–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****Proposed Information Collection; Comment Request; Submission of Conservation Efforts To Make Listings Unnecessary Under the Endangered Species Act**

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

ACTION: Notice.

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

DATES: Written comments must be submitted on or before May 5, 2015.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616,

14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at Jjessup@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Marta Nammack, (301) 427-8469 or Marta.Nammack@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

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

On March 28, 2003, the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (Services) announced a final policy on the criteria the Services will use to evaluate conservation efforts by states and other non-Federal entities (68 FR 15100). The Services take these efforts into account when making decisions on whether to list a species as threatened or endangered under the Endangered Species Act. The efforts usually involve the development of a conservation plan or agreement, procedures for monitoring the effectiveness of the plan or agreement, and an annual report.

II. Method of Collection

NMFS does not require, but will accept, plans and reports electronically. NMFS has not developed a form to be used for submission of plans or reports. In the past, NMFS has made plans and annual reports from states available through the Internet and plans to continue this practice.

III. Data

OMB Control Number: 0648-0466.
Form Number: None.

Type of Review: Regular submission (extension of a currently approved collection).

Affected Public: Business or other for-profit organizations; State, local or tribal governments.

Estimated Number of Respondents: 3.

Estimated Time Per Response: 2,500 hours to complete each agreement or plan that has the intention of making listing unnecessary; 320 hours to conduct monitoring for successful agreements; and 80 hours to prepare a report for successful agreements.

Estimated Total Annual Burden Hours: 3,300.

Estimated Total Annual Cost to Public: \$150 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance

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

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

Dated: March 3, 2015.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2015-05230 Filed 3-5-15; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-840]

Certain Frozen Warmwater Shrimp from India: Preliminary Results of Antidumping Duty Administrative Review; 2013-2014

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

SUMMARY: The Department of Commerce (Department) is conducting an administrative review of the antidumping duty order on certain frozen warmwater shrimp (shrimp) from India. The review covers 211 producers and/or exporters of the subject merchandise. The Department selected two mandatory respondents for individual examination, Devi Fisheries Limited (Devi Fisheries)¹ and Falcon Marine Exports Limited and its affiliate K.R. Enterprises (collectively, Falcon). The period of review (POR) is February 1, 2013, through January 31, 2014. We preliminarily determine that sales to the United States have been made below normal value and, therefore, are subject

to antidumping duties. If these preliminary results are adopted in the final results of this review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. We invite all interested parties to comment on these preliminary results.

DATES: *Effective Date:* March 6, 2015.

FOR FURTHER INFORMATION CONTACT: Stephen Banea or Blaine Wiltse, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-0656, or (202) 482-6345, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise subject to the order is certain frozen warmwater shrimp.² The product is currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) item numbers: 0306.17.00.03, 0306.17.00.06, 0306.17.00.09, 0306.17.00.12, 0306.17.00.15, 0306.17.00.18, 0306.17.00.21, 0306.17.00.24, 0306.17.00.27, 0306.17.00.40, 1605.21.10.30, and 1605.29.10.10. Although the HTSUS numbers are provided for convenience and for customs purposes, the written product description remains dispositive.

Methodology

The Department conducted this review in accordance with section 751(a)(2) of the Tariff Act of 1930, as amended (the Act). Export price is calculated in accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, 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

¹ The Department collapsed Devi Fisheries, Satya Seafoods Private Limited and Usha Seafoods during the 2011-2012 administrative review. See *Certain Frozen Warmwater Shrimp from India: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012*, 78 FR 15691 (March 12, 2013), unchanged in *Certain Frozen Warmwater Shrimp from India: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination; 2011-2012*, 78 FR 42492 (July 16, 2013).

² For a complete description of the Scope of the Order, see the memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, entitled, "Decision Memorandum for the Preliminary Results of the 2013-2014 Administrative Review of the Antidumping Duty Order on Certain Frozen Warmwater Shrimp from India" (dated concurrently with these results) (Preliminary Decision Memorandum), which is hereby adopted by this notice.

Electronic Service System (ACCESS).³ 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 at <http://enforcement.trade.gov/frn/>

index.html. 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 the Review

As a result of this review, we preliminarily determine that weighted-average dumping margins exist for the respondents for the period February 1, 2013, through January 31, 2014, as follows:

Manufacturer/exporter	Percent margin
Devi Fisheries Limited/Satya Seafoods Private Limited/Usha Seafoods ⁴	3.28
Falcon Marine Exports Limited/K.R. Enterprises	2.63

Review-Specific Average Rate
Applicable to the Following
Companies:⁵

Manufacturer/exporter	Percent margin
Abad Fisheries	2.96
Accelerated Freeze-Drying Co	2.96
Adilakshmi Enterprises	2.96
Akshay Food Impex Private Limited	2.96
Allana Frozen Foods Pvt. Ltd	2.96
Allanasons Ltd	2.96
AMI Enterprises	2.96
Amulya Seafoods	2.96
Anand Aqua Exports	2.96
Ananda Aqua Applications/Ananda Aqua Exports (P) Limited/Ananda Foods	2.96
Ananda Enterprises (India) Private Limited	2.96
Andaman Sea Foods Pvt. Ltd	2.96
Angelique Intl	2.96
Anjaneya Seafoods	2.96
Apex Frozen Foods Private Limited	2.96
Arvi Import & Export	2.96
Asvini Exports	2.96
Asvini Fisheries Private Limited	2.96
Avanti Feeds Limited	2.96
Ayshwarya Seafood Private Limited	2.96
Baby Marine Exports	2.96
Baby Marine International	2.96
Baby Marine Sarass	2.96
Balasore Marine Exports Private Limited	2.96
Bhatsons Aquatic Products	2.96
Bhavani Seafoods	2.96
Bijaya Marine Products	2.96
Blue Fin Frozen Foods Pvt. Ltd	2.96
Blue Water Foods & Exports P. Ltd	2.96
Bluefin Enterprises	2.96
Bluepark Seafoods Private Ltd	2.96
BMR Exports	2.96
Britto Exports	2.96
C P Aquaculture (India) Ltd	2.96

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 in the Department's regulations can be found at 79 FR 69046 (November 20, 2014).

⁴ In the *Initiation Notice*, Satya Seafoods Private Limited (Satya) and Usha Seafoods (Usha) were inadvertently listed both as part of Devi Fisheries Limited and as separate companies. The Department collapsed Devi Fisheries, Satya, and Usha during the 2011–2012 administrative review. See *Certain Frozen Warmwater Shrimp from India*;

Preliminary Results of Antidumping Duty Administrative Review; 2011–2012, 78 FR 15691 (March 12, 2013), unchanged in *Certain Frozen Warmwater Shrimp from India: Final Results of Antidumping Duty Administrative Review and Final No Shipment Determination; 2011–2012*, 78 FR 42492 (July 16, 2013). See also *Certain Frozen Warmwater Shrimp from India and Thailand: Notice of Initiation of Antidumping Duty Administrative Reviews*, 79 FR 18510 (April 2, 2014) (*Initiation Notice*). We hereby clarify that we are reviewing these companies as part of the Devi Fisheries Group, and we hereinafter refer to the Devi Fisheries Group as Devi Fisheries.

⁵ This rate is based on the simple average of the margins calculated for those companies selected for individual review. Because we cannot apply our

normal methodology of calculating a weighted-average margin due to requests to protect business proprietary information, we find this rate to be the best proxy of the actual weighted-average margin determined for the mandatory respondents. See *Ball Bearings and Parts Thereof From France, et al.: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53663 (September 1, 2010); see also the memorandum from Blaine Wiltse, Senior International Trade Compliance Analyst, to the file, entitled, "Calculation of the Review-Specific Average Rate in the 2013–2014 Administrative Review of Certain Frozen Warmwater Shrimp from India" (dated concurrently with these results).

Manufacturer/exporter	Percent margin
Calcutta Seafoods Pvt. Ltd	2.96
Canaan Marine Products	2.96
Capithan Exporting Co	2.96
Castlerock Fisheries Ltd	2.96
Chemmeens (Regd)	2.96
Cherukattu Industries (Marine Div.)	2.96
Choice Canning Company	2.96
Choice Trading Corporation Private Limited	2.96
Coastal Aqua	2.96
Coastal Corporation Ltd	2.96
Cochin Frozen Food Exports Pvt. Ltd	2.96
Coreline Exports	2.96
Corlim Marine Exports Pvt. Ltd	2.96
D2 D Logistics Private Limited	2.96
Damco India Private Limited	2.96
Delsea Exports Pvt. Ltd	2.96
Devi Marine Food Exports Private Ltd./Kader Exports Private Limited/Kader Investment and Trading Company Private Limited/ Liberty Frozen Foods Pvt. Ltd./Liberty Oil Mills Ltd./Premier Marine Products Private Limited/ ⁶ Universal Cold Storage Private Limited	2.96
Devi Sea Foods Limited ⁷	2.96
Diamond Seafood Exports/Edhayam Frozen Foods Pvt. Ltd./Kadalkanny Frozen Foods/Theva & Company	2.96
Digha Seafood Exports	2.96
Esmario Export Enterprises	2.96
Exporter Coreline Exports	2.96
Five Star Marine Exports Private Limited	2.96
Forstar Frozen Foods Pvt. Ltd	2.96
Frontline Exports Pvt. Ltd	2.96
G A Randerian Ltd	2.96
Gadre Marine Exports	2.96
Galaxy Maritech Exports P. Ltd	2.96
Gayatri Seafoods	2.96
Geo Aquatic Products (P) Ltd	2.96
Geo Seafoods	2.96
Goodwill Enterprises	2.96
Grandtrust Overseas (P) Ltd	2.96
GVR Exports Pvt. Ltd	2.96
Haripriya Marine Export Pvt. Ltd	2.96
Harmony Spices Pvt. Ltd	2.96
HIC ABF Special Foods Pvt. Ltd	2.96
Hindustan Lever, Ltd	2.96
Hiravata Ice & Cold Storage	2.96
Hiravati Exports Pvt. Ltd	2.96
Hiravati International P. Ltd. (located at APM—Mafco Yard, Sector—18, Vashi, Navi, Mumbai—400 705, India)	2.96
Hiravati International Pvt. Ltd. (located at Jawar Naka, Porbandar, Gujarat, 360 575, India)	2.96
IFB Agro Industries Ltd	2.96
Indian Aquatic Products	2.96
Indo Aquatics	2.96
Innovative Foods Limited	2.96
International Freezefish Exports	2.96
Interseas	2.96
ITC Limited, International Business	2.96
ITC Ltd	2.96
Jagadeesh Marine Exports	2.96
Jaya Satya Marine Exports	2.96
Jaya Satya Marine Exports Pvt. Ltd	2.96
Jayalakshmi Sea Foods Private Limited	2.96
Jinny Marine Traders	2.96
Jiya Packagings	2.96
K R M Marine Exports Ltd	2.96
K V Marine Exports	2.96
Kalyan Aqua & Marine Exports India Pvt. Ltd	2.96
Kalyanee Marine	2.96
Kanch Ghar	2.96
Kay Kay Exports	2.96
Kings Marine Products	2.96
KNC Agro Pvt. Ltd	2.96
Koluthara Exports Ltd	2.96
Konark Aquatics & Exports Pvt. Ltd	2.96
Landauer Ltd	2.96
Libran Cold Storages (P) Ltd	2.96
Lighthouse Trade Links Pvt. Ltd	2.96
Magnum Estates Limited	2.96
Magnum Export	2.96

Manufacturer/exporter	Percent margin
Magnum Sea Foods Limited	2.96
Malabar Arabian Fisheries	2.96
Malnad Exports Pvt. Ltd	2.96
Mangala Marine Exim India Pvt. Ltd	2.96
Mangala Sea Products	2.96
Mangala Seafoods	2.96
Meenaxi Fisheries Pvt. Ltd	2.96
MSC Marine Exporters	2.96
MSRDR Exports	2.96
Munnangi Sea Foods (Pvt) Ltd. ⁸	2.96
MTR Foods	2.96
N.C. John & Sons (P) Ltd	2.96
Naga Hanuman Fish Packers	2.96
Naik Frozen Foods Private Limited	2.96
Naik Seafoods Ltd	2.96
Navayuga Exports	2.96
Nekkanti Sea Foods Limited	2.96
Nezami Rekha Sea Food Private Limited	2.96
NGR Aqua International	2.96
Nila Sea Foods Pvt. Ltd	2.96
Nine Up Frozen Foods	2.96
Nutrient Marine Foods Limited	2.96
Overseas Marine Export	2.96
Paragon Sea Foods Pvt. Ltd	2.96
Parayil Food Products Pvt. Ltd	2.96
Penver Products Pvt. Ltd	2.96
Pesca Marine Products Pvt. Ltd	2.96
Pijikay International Exports P Ltd	2.96
Pisces Seafood International	2.96
Premier Exports International	2.96
Premier Marine Foods	2.96
Premier Seafoods Exim (P) Ltd	2.96
R V R Marine Products Limited	2.96
Raa Systems Pvt. Ltd	2.96
Raju Exports	2.96
Ram's Assorted Cold Storage Ltd	2.96
Raunaq Ice & Cold Storage	2.96
Raysons Aquatics Pvt. Ltd	2.96
Razban Seafoods Ltd	2.96
RBT Exports	2.96
RDR Exports	2.96
Riviera Exports Pvt. Ltd	2.96
Rohi Marine Private Ltd	2.96
S & S Seafoods	2.96
S. A. Exports	2.96
S Chanchala Combines	2.96
Safa Enterprises	2.96
Sagar Foods	2.96
Sagar Grandhi Exports Private Limited	2.96
Sagar Samrat Seafoods	2.96
Sagarvihar Fisheries Pvt. Ltd	2.96
Sai Marine Exports Pvt. Ltd	2.96
Sai Seafoods	2.96
Sanchita Marine Products Private Limited	2.96
Sandhya Aqua Exports	2.96
Sandhya Aqua Exports Pvt. Ltd	2.96
Sandhya Marines Limited	2.96
Santhi Fisheries & Exports Ltd	2.96
Sarveshwari Exports	2.96
Sawant Food Products	2.96
Sea Foods Private Limited	2.96
Seagold Overseas Pvt. Ltd	2.96
Selvam Exports Private Limited	2.96
Sharat Industries Ltd	2.96
Shimpo Exports Pvt. Ltd	2.96
Shippers Exports	2.96
Shiva Frozen Food Exp. Pvt. Ltd	2.96
Shree Datt Aquaculture Farms Pvt. Ltd	2.96
Shroff Processed Food & Cold Storage P Ltd	2.96
Silver Seafood	2.96
Sita Marine Exports	2.96
Sowmya Agri Marine Exports	2.96
Sprint Exports Pvt. Ltd	2.96

Manufacturer/exporter	Percent margin
Sri Chandrantha Marine Exports	2.96
Sri Sakthi Cold Storage	2.96
Sri Sakthi Marine Products P Ltd	2.96
Sri Satya Marine Exports	2.96
Sri Venkata Padmavathi Marine Foods Pvt. Ltd	2.96
Srikanth International	2.96
SSF Ltd	2.96
Star Agro Marine Exports Private Limited	2.96
Star Organic Foods Incorporated	2.96
Sun-Bio Technology Ltd	2.96
Supran Exim Private Limited	2.96
Suryamitra Exim Pvt. Ltd	2.96
Suvarna Rekha Exports Private Limited	2.96
Suvarna Rekha Marines P Ltd	2.96
TBR Exports Pvt Ltd	2.96
Teekay Marine P. Ltd	2.96
Tejaswani Enterprises	2.96
The Waterbase Ltd	2.96
Triveni Fisheries P Ltd	2.96
Uniloids Biosciences Private Limited	2.96
Uniroyal Marine Exports Ltd	2.96
Unitriveni Overseas	2.96
V.S Exim Pvt Ltd	2.96
Vasista Marine	2.96
Veejay Impex	2.96
Victoria Marine & Agro Exports Ltd	2.96
Vinner Marine	2.96
Vishal Exports	2.96
Wellcome Fisheries Limited	2.96
West Coast Frozen Foods Private Limited	2.96
Z A Sea Foods Pvt. Ltd	2.96

Disclosure and Public Comment

The Department intends to disclose to interested parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice.⁹ 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

⁶ On December 2, 2014, Premier Marine Products Private Limited was found to be the successor-in-interest to Premier Marine Products. *See Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Frozen Warmwater Shrimp from India*, 79 FR 71384 (December 2, 2014).

⁷ Shrimp produced and exported by Devi Sea Foods (Devi) was excluded from this order effective February 1, 2009. *See Certain Frozen Warmwater Shrimp From India: Final Results of Antidumping Duty Administrative Review, Partial Rescission of Review, and Notice of Revocation of Order in Part*, 75 FR 41813, 41814 (July 19, 2010). However, shrimp produced by other Indian producers and exported by Devi remain subject to the order. Thus, this administrative review with respect to Devi covers only shrimp which was produced in India by other companies and exported by Devi.

⁸ In the *Initiation Notice*, we inadvertently omitted one company, Munnangi Sea Foods (Pvt) Ltd., for which a timely review request was received with respect to the current review. Accordingly, as a correction to the *Initiation Notice*, this company was included in the *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 79 FR 24398 (April 30, 2014).

⁹ See 19 CFR 351.224(b).

briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.¹⁰ 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.¹¹ Case and rebuttal briefs should be filed using ACCESS.¹²

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 by the Department's electronic records system, ACCESS, by 5 p.m. Eastern Standard Time within 30 days after the date of publication of this notice.¹³ 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 will issue the

¹⁰ See 19 CFR 351.309(d).

¹¹ See 19 CFR 351.309(c)(2) and (d)(2).

¹² See 19 CFR 351.303.

¹³ See 19 CFR 351.310(c).

final results of this administrative review, including the results of its analysis of 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 completion of the administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries, in accordance with 19 CFR 351.212(b)(1).

Pursuant to 19 CFR 351.212(b)(1), because Devi Fisheries and Falcon reported the entered value for all of their U.S. sales, we have calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the sales for which entered value was reported. To determine whether the duty assessment rates are *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we have calculated importer-specific *ad valorem* ratios based on the entered value.

For the companies which were not selected for individual review, we will calculate an assessment rate based on

the average¹⁴ of the cash deposit rates calculated for the companies selected for mandatory review (*i.e.*, Devi Fisheries and Falcon) excluding any which are *de minimis* or determined entirely on adverse facts available.

The Department clarified its “automatic assessment” regulation on May 6, 2003. This clarification will apply to entries of subject merchandise during the POR produced by Devi Fisheries or Falcon for which these companies did not know that the merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

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

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for each specific company listed above will be that established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not participating in this review, the cash deposit will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 10.17 percent, the all-others rate made effective by the LTFV investigation.¹⁵ These 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) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary’s presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

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

Dated: March 2, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

1. Summary
2. Background
3. Scope of the Order
4. Discussion of the Methodology
 - a. Normal Value Comparisons
 - b. Determination of Comparison Method
 - c. Product Comparisons
 - d. Export Price
 - e. Normal Value
5. Currency Conversion
6. Recommendation

[FR Doc. 2015–05289 Filed 3–5–15; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD796

Schedules for Atlantic Shark Identification Workshops and Protected Species Safe Handling, Release, and Identification Workshops

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

ACTION: Notice of public workshops; correction.

SUMMARY: Free Atlantic Shark Identification Workshops and Protected Species Safe Handling, Release, and Identification Workshops will be held in April, May, and June of 2015. Also, due to inclement weather, NMFS cancelled the Atlantic Shark Identification workshop scheduled for February 26, 2015, in Norfolk, VA. NMFS has

rescheduled this workshop to March 26, 2015, to be held at the same time and location, 12 p.m. to 4 p.m., LaQuinta Inn & Suites, 1387 North Military Highway, Norfolk, VA 23502. Certain fishermen and shark dealers are required to attend a workshop to meet regulatory requirements and to maintain valid permits. Specifically, the Atlantic Shark Identification Workshop is mandatory for all federally permitted Atlantic shark dealers. The Protected Species Safe Handling, Release, and Identification Workshop is mandatory for vessel owners and operators who use bottom longline, pelagic longline, or gillnet gear, and who have also been issued shark or swordfish limited access permits. Additional free workshops will be conducted during 2015 and will be announced in a future notice.

DATES: The Atlantic Shark Identification Workshops will be held on April 9, May 7, and June 3, 2015. The Atlantic Shark Identification Workshop scheduled for February 26, 2015, has been rescheduled to March 26, 2015. See **SUPPLEMENTARY INFORMATION** for further details.

The Protected Species Safe Handling, Release, and Identification Workshops will be held on April 13, April 28, May 19, May 27, June 23, and June 26, 2015.

See **SUPPLEMENTARY INFORMATION** for further details.

ADDRESSES: The Atlantic Shark Identification Workshops will be held in Wilmington, NC; Bohemia, NY; and Manahawkin, NJ. The rescheduled workshop will be held in Norfolk, VA.

The Protected Species Safe Handling, Release, and Identification Workshops will be held in Port St. Lucie, FL; Kenner, LA; Charleston, SC; Manahawkin, NJ; Revere, MA; and Ocean City, MD.

See **SUPPLEMENTARY INFORMATION** for further details on workshop locations.

FOR FURTHER INFORMATION CONTACT: Rick Pearson by phone: (727) 824–5399, or by fax: (727) 824–5398.

SUPPLEMENTARY INFORMATION: The workshop schedules, registration information, and a list of frequently asked questions regarding these workshops are posted on the Internet at: <http://www.nmfs.noaa.gov/sfa/hms/workshops/>.

Atlantic Shark Identification Workshops

Since January 1, 2008, Atlantic shark dealers have been prohibited from receiving, purchasing, trading, or bartering for Atlantic sharks unless a valid Atlantic Shark Identification Workshop certificate is on the premises of each business listed under the shark

¹⁴ Calculated as discussed in footnote 5 above.

¹⁵ See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from India*, 70 FR 5147, 5148 (February 1, 2005).

dealer permit that first receives Atlantic sharks (71 FR 58057; October 2, 2006). Dealers who attend and successfully complete a workshop are issued a certificate for each place of business that is permitted to receive sharks. These certificate(s) are valid for 3 years. Approximately 107 free Atlantic Shark Identification Workshops have been conducted since January 2007.

Currently, permitted dealers may send a proxy to an Atlantic Shark Identification Workshop. However, if a dealer opts to send a proxy, the dealer must designate a proxy for each place of business covered by the dealer's permit which first receives Atlantic sharks. Only one certificate will be issued to each proxy. A proxy must be a person who is currently employed by a place of business covered by the dealer's permit; is a primary participant in the identification, weighing, and/or first receipt of fish as they are offloaded from a vessel; and who fills out dealer reports. Atlantic shark dealers are prohibited from renewing a Federal shark dealer permit unless a valid Atlantic Shark Identification Workshop certificate for each business location that first receives Atlantic sharks has been submitted with the permit renewal application. Additionally, trucks or other conveyances that are extensions of a dealer's place of business must possess a copy of a valid dealer or proxy Atlantic Shark Identification Workshop certificate.

Workshop Dates, Times, and Locations

1. April 9, 2015, 12 p.m.–4 p.m., Hampton Inn, 124 Old Eastwood Road, Wilmington, NC 28403.
2. May 7, 2015, 12 p.m.–4 p.m., LaQuinta Inn & Suites, 10 Aero Road, Bohemia, NY 11706.
3. June 3, 2015, 12 p.m.–4 p.m., Holiday Inn, 151 Route 72 East, Manahawkin, NJ 08050.

Registration

To register for a scheduled Atlantic Shark Identification Workshop, please contact Eric Sander at esander@peoplepc.com or at (386) 852–8588.

Registration Materials

To ensure that workshop certificates are linked to the correct permits, participants will need to bring the following specific items to the workshop:

- Atlantic shark dealer permit holders must bring proof that the attendee is an owner or agent of the business (such as articles of incorporation), a copy of the applicable permit, and proof of identification.

- Atlantic shark dealer proxies must bring documentation from the permitted dealer acknowledging that the proxy is attending the workshop on behalf of the permitted Atlantic shark dealer for a specific business location, a copy of the appropriate valid permit, and proof of identification.

Workshop Objectives

The Atlantic Shark Identification Workshops are designed to reduce the number of unknown and improperly identified sharks reported in the dealer reporting form and increase the accuracy of species-specific dealer-reported information. Reducing the number of unknown and improperly identified sharks will improve quota monitoring and the data used in stock assessments. These workshops will train shark dealer permit holders or their proxies to properly identify Atlantic shark carcasses.

Protected Species Safe Handling, Release, and Identification Workshops

Since January 1, 2007, shark limited-access and swordfish limited-access permit holders who fish with longline or gillnet gear have been required to submit a copy of their Protected Species Safe Handling, Release, and Identification Workshop certificate in order to renew either permit (71 FR 58057; October 2, 2006). These certificate(s) are valid for 3 years. As such, vessel owners who have not already attended a workshop and received a NMFS certificate, or vessel owners whose certificate(s) will expire prior to the next permit renewal, must attend a workshop to fish with, or renew, their swordfish and shark limited-access permits. Additionally, new shark and swordfish limited-access permit applicants who intend to fish with longline or gillnet gear must attend a Protected Species Safe Handling, Release, and Identification Workshop and submit a copy of their workshop certificate before either of the permits will be issued. Approximately 202 free Protected Species Safe Handling, Release, and Identification Workshops have been conducted since 2006.

In addition to certifying vessel owners, at least one operator on board vessels issued a limited-access swordfish or shark permit that uses longline or gillnet gear is required to attend a Protected Species Safe Handling, Release, and Identification Workshop and receive a certificate. Vessels that have been issued a limited-access swordfish or shark permit and that use longline or gillnet gear may not fish unless both the vessel owner and operator have valid workshop

certificates onboard at all times. Vessel operators who have not already attended a workshop and received a NMFS certificate, or vessel operators whose certificate(s) will expire prior to their next fishing trip, must attend a workshop to operate a vessel with swordfish and shark limited-access permits that uses longline or gillnet gear.

Workshop Dates, Times, and Locations

1. April 13, 2015, 9 a.m.–5 p.m., Holiday Inn, 10120 South Federal Highway, Port St. Lucie, FL 34952.
2. April 28, 2015, 9 a.m.–5 p.m., Hilton Inn, 901 Airline Drive Kenner, LA 70062.
3. May 19, 2015, 9 a.m.–5 p.m., Hampton Inn, 678 Citadel Haven Drive, Charleston, SC 29414.
4. May 27, 2015, 9 a.m.–5 p.m., Holiday Inn, 151 Route 72 East, Manahawkin, NJ 08050.
5. June 23, 2015, 9 a.m.–5 p.m., Hampton Inn, 230 Lee Burbank Highway Revere, MA 02151.
6. June 26, 2015, 9 a.m.–5 p.m., Princess Royale Hotel, 9100 Coastal Highway, Ocean City, MD 21842.

Registration

To register for a scheduled Protected Species Safe Handling, Release, and Identification Workshop, please contact Angler Conservation Education at (386) 682–0158.

Registration Materials

To ensure that workshop certificates are linked to the correct permits, participants will need to bring the following specific items with them to the workshop:

- Individual vessel owners must bring a copy of the appropriate swordfish and/or shark permit(s), a copy of the vessel registration or documentation, and proof of identification.
- Representatives of a business-owned or co-owned vessel must bring proof that the individual is an agent of the business (such as articles of incorporation), a copy of the applicable swordfish and/or shark permit(s), and proof of identification.
- Vessel operators must bring proof of identification.

Workshop Objectives

The Protected Species Safe Handling, Release, and Identification Workshops are designed to teach longline and gillnet fishermen the required techniques for the safe handling and release of entangled and/or hooked protected species, such as sea turtles, marine mammals, and smalltooth

sawfish. In an effort to improve reporting, the proper identification of protected species will also be taught at these workshops. Additionally, individuals attending these workshops will gain a better understanding of the requirements for participating in these fisheries. The overall goal of these workshops is to provide participants with the skills needed to reduce the mortality of protected species, which may prevent additional regulations on these fisheries in the future.

Correction

In the **Federal Register** of December 4, 2014, (79 FR 71982) in FR Doc. 2014–28502, on page 71983, in the second column, the workshop date of the second Atlantic Shark Identification workshop listed under the heading “Workshop Dates, Times, and Locations” is corrected to read as follows:

Workshop Dates, Times, and Locations

2. March 26, 2015, 12 p.m.–4 p.m., LaQuinta Inn & Suites, 1387 North Military Highway, Norfolk, VA 23502.

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

Dated: March 2, 2015.

Alan D. Risenhoover,

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

[FR Doc. 2015–05174 Filed 3–5–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; List of Gear by Fisheries and Fishery Management Council

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

ACTION: Notice.

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

DATES: Written comments must be submitted on or before May 5, 2015.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue NW.,

Washington, DC 20230 (or via the Internet at J.Jessup@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Chris Wright, (301) 427–8570 or Chris.Wright@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

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

Under the provisions of the Magnuson-Stevens Fishery and Conservation and Management Act (Magnuson-Stevens Act) [16 U.S.C. 1801 *et seq.*], as amended by the Sustainable Fisheries Act [Pub. L. 104–297], the Secretary of Commerce (Secretary) is required to publish a list of all fisheries under authority of each Regional Fishery Management Council (Council) and all such fishing gear used in such fisheries (see section 305(a) of the Magnuson-Stevens Act). The list has been published and appears in 50 CFR 600.725(v). Any person wishing to use gear not on the list, or engage in a fishery not on the list, must provide the appropriate Council or the Secretary, in the case of Atlantic highly migratory species, with 90 days of advance notice. If the Secretary takes no action to prohibit such a fishery or use of such a gear, the person may proceed.

II. Method of Collection

The respondent provides written notice. No form is used.

III. Data

OMB Number: 0648–0346.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 6.

Estimated Time per Response: 90 minutes.

Estimated Total Annual Burden Hours: 15.

Estimated Total Annual Cost to Public: \$30.00.

IV. Request for Comments

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

burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

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

Dated: March 3, 2015.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2015–05229 Filed 3–5–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Groundfish Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Thursday, March 26, 2015, at 9 a.m.

ADDRESSES:

Meeting address: The meeting will be held at the DoubleTree by Hilton, 363 Maine Mall Road, South Portland, ME 04106; telephone: (207) 775–6161; fax: (207) 756–6622.

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

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

SUPPLEMENTARY INFORMATION: The items of discussion on the agenda are:

The committee will discuss and make recommendations to the Council regarding Amendment 18 (A18) (fleet diversity and accumulation limits). They will review the Alternatives included in A18, and review the Draft Environmental Impact Statement (DEIS) for A18 including impacts analysis. The committee will also review the Groundfish Advisory Panel's

recommendations regarding A18. They will potentially recommend preferred alternatives and approval of the DEIS to the Council. The committee will receive an overview of the Council's Groundfish priorities for 2015. They will also discuss other business as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

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

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

Dated: March 2, 2015.

Tracey L. Thompson,

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

[FR Doc. 2015-05177 Filed 3-5-15; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Scientific Research, Exempted Fishing, and Exempted Activity Submissions

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

ACTION: Notice.

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

DATES: Written comments must be submitted on or before May 5, 2015.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW.,

Washington, DC 20230 (or via the Internet at JJessup@doc.gov).

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the information collection instrument and instructions should be directed to Jason Blackburn, (301) 427-8555 or Jason.Blackburn@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a current information collection.

Fishery regulations do not generally affect scientific research activities conducted by a scientific research vessel. Persons planning to conduct such research are encouraged to submit a scientific research plan to ensure that the activities are considered research and not fishing. The researchers are requested to submit reports of their scientific research activity after its completion. Eligible researchers on board federally permitted fishing vessels that plan to temporarily possess fish in a manner not compliant with applicable fishing regulations for the purpose of collecting scientific data on catch may submit a request for a temporary possession letter of authorization. The researchers are requested to submit reports of their scientific research activity after its completion. The National Marine Fisheries Service (NMFS) may also grant exemptions from fishery regulations for educational or other activities (e.g., using non-regulation gear). The applications for these exemptions must be submitted, as well as reports on activities.

II. Method of Collection

Information may be submitted on paper or electronically, and in some cases by telephone.

III. Data

OMB Number: 0648-0309.

Form Number: None.

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

Affected Public: Business or other for-profit; individuals or households; not for profit organizations; state, local or tribal governments.

Estimated Number of Respondents: 143.

Estimated Time per Response: Scientific research plans, 9 hours; scientific research reports, 4 hours; exempted fishing permit requests, 89 hours; exempted fishing permit reports, 15 hours; exempted educational requests, 4 hours; exempted educational reports, 2 hours.

Estimated Total Annual Burden Hours: 7,753.

Estimated Total Annual Cost to Public: \$452.

IV. Request for Comments

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

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

Dated: March 3, 2015.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2015-05228 Filed 3-5-15; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Groundfish Advisory Panel to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Wednesday, March 25, 2015, at 9 a.m.

ADDRESSES:

Meeting address: The meeting will be held at the DoubleTree by Hilton, 363 Maine Mall Road, South Portland, ME 04106; telephone: (207) 775-6161; fax: (207) 756-6622.

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

FOR FURTHER INFORMATION CONTACT:

Thomas A. Nies, Executive Director,
New England Fishery Management
Council; telephone: (978) 465-0492.

SUPPLEMENTARY INFORMATION: The items of discussion on the agenda are:

The panel will discuss and make recommendations to the Groundfish Committee regarding Amendment 18 (A18) (fleet diversity and accumulation limits). They will review the Alternatives included in A18, and review the Draft Environmental Impact Statement (DEIS) for A18 including impacts analysis. The panel will receive an overview of the Council's Groundfish priorities for 2015. They will also discuss other business as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during the meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

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

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

Dated: March 2, 2015.

Tracey L. Thompson,

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

[FR Doc. 2015-05176 Filed 3-5-15; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE**Foreign-Trade Zones Board**

[B-84-2014]

**Authorization of Production Activity;
Foreign-Trade Zone 82; MH Wirth, Inc.
(Offshore Drilling Riser Systems);
Theodore, Alabama**

On November 3, 2014, the City of Mobile, Alabama, grantee of FTZ 82, submitted a notification of proposed production activity to the Foreign-Trade Zones (FTZ) Board on behalf of MH Wirth, Inc., within FTZ 82, in Theodore, Alabama.

The notification was processed in accordance with the regulations of the

FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (79 FR 69831-69832, 11-24-2014). The FTZ Board has determined that no further review of the activity is warranted at this time. The production activity described in the notification is authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: March 3, 2015.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2015-05277 Filed 3-5-15; 8:45 am]

BILLING CODE 3510-DS-P

**COMMITTEE FOR PURCHASE FROM
PEOPLE WHO ARE BLIND OR
SEVERELY DISABLED**

**Procurement List; Proposed Addition
and Deletions**

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

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

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

DATES: *Comments Must Be Received On Or Before:* 4/6/2015.

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

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Patricia Briscoe, Telephone: (703) 603-7740, Fax: (703) 603-0655, or email CMTEFedReg@AbilityOne.gov.

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

Addition

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

The following service is proposed for addition to the Procurement List for production by the nonprofit agency listed:

Service Type: Base Operations and

Administrative Services
Service is Mandatory for: Marine Corps Base Hawaii (MCB), Camp Smith, Halawa, HI and Kaneohe Bay, HI
Mandatory Source of Supply: PRIDE Industries, Roseville, CA
Contracting Activity: Dept of the Navy, HQBN, Marine Corps Base Hawaii, Kaneohe Bay, HI

Deletions

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

Products

NSN: 7510-00-NIB-0588—Binder, Vinyl.
Previous Mandatory Source: ForSight Vision, York, PA.

Was Mandatory for: General Services Administration, New York, NY.

NSN: 7510-01-519-4361—Binder, Round Ring, Clear Overlay, Pockets, Brown, 1/2" Capacity, Letter.

Previous Mandatory Source: South Texas Lighthouse for the Blind, Corpus Christi, TX.

Was Mandatory for: Department of Veterans Affairs, NAC, Hines, IL and General Services Administration, New York, NY.

NSN: 6530-00-NIB-0129—Bottle, Pharmaceutical, White, Screw Cap, 60cc.

NSN: 6530-00-NIB-0130—Bottle, Pharmaceutical, White, Screw Cap, 100cc.

NSN: 6530-00-NIB-0131—Bottle, Pharmaceutical, White, Screw Cap, 150cc.

NSN: 6530-00-NIB-0132—Bottle, Pharmaceutical, White, Screw Cap, 300cc.

NSN: 6530-00-NIB-0133—Bottle, Pharmaceutical, White, Screw Cap, 500cc.

Previous Mandatory Source: Alphapointe, Kansas City, MO.

Was Mandatory for: Department of Health and Human Services, Division of Contract & Grants Operations, Washington, DC.

Patricia Briscoe,

Deputy Director, Business Operations (Pricing and Information Management).

[FR Doc. 2015-05210 Filed 3-5-15; 8:45 am]

BILLING CODE 6353-01-P

**CORPORATION FOR NATIONAL AND
COMMUNITY SERVICE**

**Generic Clearance for the Collection of
Qualitative Feedback on Agency
Service Delivery; Submission for OMB
Review, Comment Request**

AGENCY: Corporation for National and Community Service (CNCS).

ACTION: Notice.

SUMMARY: CNCS is submitting the below information for future CNCS **Federal Register** Notices in accordance with the Paperwork Reduction Act of 1995, Pub. L. 104-13, (44 U.S.C. chapter 35). As

part of a Federal Government-wide effort to streamline the process to seek feedback from the public on service delivery, OMB is coordinating the development of the following proposed Generic Information Collection Request (Generic ICR): "Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery" for approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*). This notice announces that CNCS intends to submit collections to OMB for approval and solicit comments on specific aspects for the proposed information collection.

DATES: Comments must be submitted April 6, 2015.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, Attn: Ms. Sharon Mar, OMB Desk Officer for CNCS, by any of the following two methods within 30 days from the date of publication in the **Federal Register**:

(1) By fax to: 202-395-6974, Attention: Ms. Sharon Mar, OMB Desk Officer for CNCS; and

(2) Electronically by email to: smar@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: To request additional information, please contact Amy Borgstrom, Associate Director of Policy, at 202-606-6930 or email to aborgstrom@cns.gov. Individuals who use a telecommunications device for the deaf (TTY-TDD) may call 1-800-833-3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, 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;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments

No comments were received in response to the 60-day notice published in the **Federal Register** of March 5, 2014 (79 FR 12493).

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Abstract: The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address the target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

Type of Review: Renewal.

Affected Public: Individuals and Households, Businesses and

Organizations, State, Local or Tribal Government.

Respondents: 10,000.

Annual responses: 10,000.

Frequency of Response: Once per request.

Average minutes per response: 10.

Burden hours: 1,667.

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 3, 2015.

Amy Borgstrom,

Associate Director of Policy.

[FR Doc. 2015-05300 Filed 3-5-15; 8:45 am]

BILLING CODE 6050-28-P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket No. DARS-2015-0012]

Acquisition of Items for Which Federal Prison Industries Has a Significant Market Share

ACTION: Notice.

SUMMARY: DoD is publishing the updated annual list of product categories for which the Federal Prison Industries' share of the DoD market is greater than five percent.

DATES: *Effective Date:* March 29, 2015.

FOR FURTHER INFORMATION CONTACT: Sheila Harris, telephone 703-614-1333.

SUPPLEMENTARY INFORMATION:

I. Background: On November 19, 2009, a final rule was published at 74 FR 59914 which amended the Defense Federal Acquisition Regulation Supplement (DFARS) subpart 208.6, to implement section 827 of the National Defense Authorization Act (NDAA) for Fiscal Year 2008, Public Law 110-181. Section 827 changed DoD competition requirements for purchases from Federal Prison Industries, Inc. (FPI) by requiring DoD to publish an annual list of product categories for which FPI's share of the DoD market was greater than five percent, based on the most recent fiscal year data available. Product categories on the current list, and the products within each identified product category, must be procured using competitive or fair opportunity procedures in accordance with DFARS 208.602-70.

The Director, Defense Procurement and Acquisition Policy (DPAP) issued a memorandum dated February 27, 2015, that provides the current list of product

categories for which FPI's share of the DOD market is greater than five percent based on Fiscal Year 2014 data from the Federal Procurement Data System. The product categories to be competed effective March 29, 2015, are the following:

- 3990 (Miscellaneous Materials Handling Equipment)
- 5210 (Measuring Tools, Craftsmen's)
- 7110 (Office Furniture)
- 7125 (Cabinets, Lockers, Bins and Shelving)
- 7230 (Draperies, Awnings, and Shades)
- 8405 (Outerwear, Men's)
- 8410 (Outerwear, Women's)
- 8415 (Clothing, Special Purpose)

The DPAP memorandum with the current list of product categories for which FPI has a significant market share is posted at: <http://www.acq.osd.mil/dpap/policy/policyvault/USA001110-15-DPAP.pdf>.

The statute as implemented also requires DoD to—

(1) Include FPI in the solicitation process for these items; a timely offer from FPI must be considered; and award procedures must be followed in accordance with existing policy at Federal Acquisition Regulation (FAR) 8.602(a)(4)(ii) through (v);

(2) Continue to be make acquisitions, in accordance with FAR Subpart 8.6, for items from product categories for which FPI does not have a significant market share. FAR 8.602 requires agencies to conduct market research and make a written comparability determination, at the discretion of the contracting officer. Competitive (or fair opportunity) procedures are appropriate if the FPI product is not comparable in terms of price, quality, or time of delivery; and

(3) Section 827 allows modification of the published list if DoD subsequently determines that new data requires adding or omitting a product category from the list.

Manuel Quinones,

Editor, Defense Acquisition Regulations Council.

[FR Doc. 2015-05270 Filed 3-5-15; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Office of the Secretary

Uniform Formulary Beneficiary Advisory Panel; Notice of Federal Advisory Committee Meeting

AGENCY: Assistant Secretary of Defense (Health Affairs), DoD.

ACTION: Notice of meeting.

SUMMARY: The Department of Defense is publishing this notice to announce a Federal Advisory Committee meeting of the Uniform Formulary Beneficiary Advisory Panel (hereafter referred to as the Panel).

DATES: Thursday, March 26, 2015, from 9 a.m. to 1 p.m.

ADDRESSES: Naval Heritage Center Theater, 701 Pennsylvania Avenue NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Mr. William H. Blanche, Alternate DFO, Uniform Formulary Beneficiary Advisory Panel, 7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042-5101. Telephone: (703) 681-2890. Fax: (703) 681-1940. Email Address: Baprequests@dha.mil.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (title 5, United States Code (U.S.C.), Appendix, as amended) and the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended).

Purpose of Meeting: The Panel will review and comment on recommendations made to the Director of Defense Health Agency, by the Pharmacy and Therapeutics Committee, regarding the Uniform Formulary.

Meeting Agenda

1. Sign-In
2. Welcome and Opening Remarks
3. Public Citizen Comments
4. Scheduled Therapeutic Class Reviews (Comments will follow each agenda item)
 - a. Pulmonary Artery Hypertension
 - b. Transmucosal Immediate Release Fentanyl Products
 - c. Oral Oncology Agents—Prostate I & II
5. Designated Newly Approved Drugs in Already-Reviewed Classes
6. Pertinent Utilization Management Issues
7. Panel Discussions and Vote

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, as amended, and 41 Code of Federal Regulations (CFR) 102-3.140 through 102-3.165, and the availability of space, this meeting is open to the public. Seating is limited and will be provided only to the first 220 people signing-in. All persons must sign-in legibly.

Administrative Work Meeting: Prior to the public meeting, the Panel will conduct an Administrative Work Meeting from 8:30 a.m. to 9 a.m. to discuss administrative matters of the Panel. The Administrative Work Meeting will be held at the Naval Heritage Center, 701 Pennsylvania Avenue NW., Washington, DC 20004.

Pursuant to 41 CFR 102-3.160, the Administrative Work Meeting will be closed to the public.

Written Statements: Pursuant to 41 CFR 102-3.140, the public or interested organizations may submit written statements to the membership of the Panel at any time or in response to the stated agenda of a planned meeting. Written statements should be submitted to the Panel's Designated Federal Officer (DFO). The DFO's contact information can be obtained from the General Services Administration's Federal Advisory Committee Act Database at <http://facadatabase.gov/>.

Written statements that do not pertain to the scheduled meeting of the Panel may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at a planned meeting, then these statements must be submitted no later than 5 business days prior to the meeting in question. The DFO will review all submitted written statements and provide copies to all the committee members.

Public Comments: In addition to written statements, the Panel will set aside 1 hour for individuals or interested groups to address the Panel. To ensure consideration of their comments, individuals and interested groups should submit written statements as outlined in this notice; but if they still want to address the Panel, then they will be afforded the opportunity to register to address the Panel. The Panel's DFO will have a "Sign-Up Roster" available at the Panel meeting for registration on a first-come, first-serve basis. Those wishing to address the Panel will be given no more than 5 minutes to present their comments, and at the end of the 1 hour time period, no further public comments will be accepted. Anyone who signs-up to address the Panel, but is unable to do so due to the time limitation, may submit their comments in writing; however, they must understand that their written comments may not be reviewed prior to the Panel's deliberation.

To ensure timeliness of comments for the official record, the Panel encourages that individuals and interested groups consider submitting written statements instead of addressing the Panel.

Dated: March 3, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015-05205 Filed 3-5-15; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory
Commission**

[Project No. 2246–063; Project No. 2246–058]

**Yuba County Water Agency; Notice of
Study Plan Meeting**

a. *Project Name and Number:* Yuba River Development Project No. 2246.

b. *Date and Time of Meeting:* March 11, 2015; 12:00 p.m. Pacific Time.

c. *Place:* Teleconference; Phone Number: (866) 994–6437; Passcode: 8013956799.

d. *FERC Contact:* Alan Mitchnick, alan.mitchnick@ferc.gov or (202) 502–6074.

e. *Purpose of Meeting:* Yuba County Water Agency (YCWA) plans to implement Study 7.11a, *Radio Telemetry Study of Spring- and Fall-Run Chinook Salmon Migratory Behavior Downstream of Narrows 2 Powerhouse*, in 2015. The purpose of the study is to gain a better understanding of the relationship between operation of the Narrows 2 powerhouse and spring-run and fall-run Chinook salmon movement and behavior in the Yuba River near the Narrows 2 powerhouse and as far downstream as the Narrows Pool. However, due to the continued dry conditions in California, the Narrows 2 powerhouse's normal operation may be curtailed in 2015, and would not operate within its full range of flows (*i.e.*, up to 3,400 cubic feet per second). As such, Commission staff and YCWA wish to discuss with interested stakeholders whether the implementation of Study 7.11a in 2015 is appropriate and whether study results would be sufficient to support the Commission's environmental review of the project.

f. All local, state, and federal agencies, Indian tribes, and other interested parties are invited to participate.

Dated: February 27, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–05247 Filed 3–5–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY**Federal Energy Regulatory
Commission**

[Docket No. OR15–19–000]

**Targa NGL Pipeline Company LLC;
Notice of Temporary Waiver of Filing
and Reporting Requirements**

Take notice that on February 23, 2015, pursuant to Rule 204 of the Commission's Rules of Practice and Procedure, 18 CFR 385.204 (2014), Targa NGL Pipeline Company LLC (Targa) requests that the Commission grant it a temporary waiver of Interstate Commerce Act section 6 and section 20, and the Commission's filing and reporting requirements thereunder at 18 CFR parts 341 and 357, for a natural gas liquids (NGL) pipeline located entirely in Texas that only transports NGLs owned by Targa or an affiliate.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email FERCOnlineSupport@ferc.gov, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on March 9, 2015.

Dated: March 2, 2015.

Kimberly D. Bose,
Secretary.

[FR Doc. 2015–05203 Filed 3–5–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY**Federal Energy Regulatory
Commission****Combined Notice of Filings #1**

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

Docket Numbers: EC15–78–000.

Applicants: Louisville Gas & Electric Company, Kentucky Utilities Company.
Description: Application of Louisville Gas & Electric Company, *et al.*

Filed Date: 2/25/15.

Accession Number: 20150225–5346.

Comments Due: 5 p.m. ET 3/18/15.

Docket Numbers: EC15–79–000.

Applicants: Blackwell Solar, LLC, Lost Hills Solar, LLC.

Description: Application of Blackwell Solar, LLC, *et al.* for Authorization Under Section 203 of the Federal Power Act and Request for Expedited Action, Confidential Treatment, and Waivers.

Filed Date: 2/26/15.

Accession Number: 20150226–5339.

Comments Due: 5 p.m. ET 3/19/15.

Docket Numbers: EC15–80–000.

Applicants: DES Wholesale, LLC.
Description: Application for Disposition of Facilities of DES Wholesale, LLC.

Filed Date: 2/26/15.

Accession Number: 20150226–5349.

Comments Due: 5 p.m. ET 3/19/15.

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

Docket Numbers: EG15–56–000.

Applicants: Red Horse Wind 2, LLC.
Description: Red Horse Wind 2, LLC Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 2/27/15.

Accession Number: 20150227–5368.

Comments Due: 5 p.m. ET 3/20/15.

Docket Numbers: EG15–57–000.

Applicants: Balko Wind, LLC.
Description: Balko Wind, LLC Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 2/27/15.

Accession Number: 20150227–5369.

Comments Due: 5 p.m. ET 3/20/15.

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

Docket Numbers: ER15–871–001.

Applicants: Wheelabrator Westchester, L.P.

Description: Compliance filing per 35: Compliance to 94 to be effective 3/18/2015.

Filed Date: 2/27/15.

Accession Number: 20150227–5137.

Comments Due: 5 p.m. ET 3/20/15.

Docket Numbers: ER15–999–001.

Applicants: Luke Paper Company.

Description: Compliance filing per 35: Amendment to be effective 4/7/2015.

Filed Date: 2/27/15.

Accession Number: 20150227–5227.

Comments Due: 5 p.m. ET 3/20/15.

Docket Numbers: ER15–1129–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Service Agreement No. 3402; Queue No. Y2–105 to be effective 1/27/2015.

Filed Date: 2/26/15.

Accession Number: 20150226–5309.

Comments Due: 5 p.m. ET 3/19/15.

Docket Numbers: ER15–1130–000.

Applicants: Midcontinent

Independent System Operator, Ameren Illinois Company.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2015–02–27_SA 2752 Ameren-Bishop Hill Interconnection FSA to be effective 1/28/2015.

Filed Date: 2/27/15.

Accession Number: 20150227–5125.

Comments Due: 5 p.m. ET 3/20/15.

Docket Numbers: ER15–1131–000.

Applicants: New England Power Pool Participants Committee.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): March 2015 Membership Filing to be effective 3/1/2015.

Filed Date: 2/27/15.

Accession Number: 20150227–5337.

Comments Due: 5 p.m. ET 3/20/15.

Docket Numbers: ER15–1132–000.

Applicants: Entergy Louisiana Power, LLC.

Description: Baseline eTariff Filing per 35.1: ELP MBR Application to be effective 12/31/9998.

Filed Date: 2/27/15.

Accession Number: 20150227–5340.

Comments Due: 5 p.m. ET 3/20/15.

Docket Numbers: ER15–1133–000.

Applicants: Idaho Power Company.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): PAC Long-Term Firm BORA–LGBP Service Agreement to be effective 5/1/2015.

Filed Date: 2/27/15.

Accession Number: 20150227–5381.

Comments Due: 5 p.m. ET 3/20/15.

Docket Numbers: ER15–1134–000.

Applicants: Midcontinent

Independent System Operator, Inc., American Transmission Company LLC.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2015–02–27_SA 2754

ATC–ACEC Elective Facilities Construction Agreement to be effective 4/29/2015.

Filed Date: 2/27/15.

Accession Number: 20150227–5387.

Comments Due: 5 p.m. ET 3/20/15.

Docket Numbers: ER15–1135–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Service Agreement No. 4094; NQ128 (ISA) to be effective 1/30/2015.

Filed Date: 2/27/15.

Accession Number: 20150227–5396.

Comments Due: 5 p.m. ET 3/20/15.

Docket Numbers: ER15–1136–000.

Applicants: Big Cajun I Peaking Power LLC.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Proposed Rate Schedule FERC No. 2 to be effective 5/1/2015.

Filed Date: 2/27/15.

Accession Number: 20150227–5424.

Comments Due: 5 p.m. ET 3/20/15.

Docket Numbers: ER15–1137–000.

Applicants: ISO New England Inc.

Description: ISO New England Inc. 9th Forward Capacity Auction Results.

Filed Date: 2/27/15.

Accession Number: 20150227–5434.

Comments Due: 5 p.m. ET 4/13/15.

Docket Numbers: ER15–1138–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Service Agreement No. 4097; Queue AA1–019 (WMPA) to be effective 2/2/2015.

Filed Date: 2/27/15.

Accession Number: 20150227–5440.

Comments Due: 5 p.m. ET 3/20/15.

Docket Numbers: ER15–1139–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): Attachment J Section III.D Revisions to be effective 5/1/2015.

Filed Date: 2/27/15.

Accession Number: 20150227–5457.

Comments Due: 5 p.m. ET 3/20/15.

Docket Numbers: ER15–1140–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) rate filing per 35.13(a)(2)(iii): 2198R18 Kansas Power Pool NITSA NOA to be effective 2/1/2015.

Filed Date: 2/27/15.

Accession Number: 20150227–5463.

Comments Due: 5 p.m. ET 3/20/15.

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

Any person desiring to intervene or protest in any of the above proceedings

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

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

Dated: February 27, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–05245 Filed 3–5–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–91–000]

East Tennessee Natural Gas, LLC; Notice of Application

Take notice that on February 20, 2015, East Tennessee Natural Gas, LLC (East Tennessee), 5400 Westheimer Court, Houston, Texas 77056–5310, filed an application in the above referenced docket pursuant to section 7(c) of the Natural Gas Act (NGA) requesting authorization to construct and operate its Loudon Expansion Project (Project) located in Monroe and Loudon Counties, Tennessee. East Tennessee asserts that the proposed Project will provide 40,000 dekatherms per day to the facilities of Tate & Lyle Ingredients Americas, LLC in Loudon County, Tennessee. East Tennessee states that the Project involves: (i) Approximately 10 miles of new 12-inch diameter pipeline; (ii) a new meter facility; and (iii) appurtenances. East Tennessee estimates the cost of the Project to be approximately \$53.1 million, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site web at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at FERCOnlineSupport@ferc.gov or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions concerning this application may be directed to Lisa A. Connolly, General Manager Rates and Certificates, East Tennessee Natural Gas, LLC, P.O. Box 1642, Houston, Texas 77251-1642, by telephone at (713) 627-4102, or by email at laconnolly@spectraenergy.com.

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

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

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone

will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

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

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

Comment Date: 5:00 p.m. Eastern Time on March 23, 2015.

Dated: March 2, 2015.

Kimberly D. Bose,
Secretary.

[FR Doc. 2015-05201 Filed 3-5-15; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL15-49-000]

City of Alexandria, Louisiana; Notice of Filing

Take notice that on February 26, 2015, the City of Alexandria, Louisiana submitted a petition for approval of revenue requirement for reactive power and voltage control from Generation Sources Service.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and

Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

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

Comment Date: 5:00 p.m. Eastern Time on March 20, 2015.

Dated: February 27, 2015.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2015-05250 Filed 3-5-15; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15-402-001; Docket No. ER15-817-000; Docket No. ER15-861-000]

California Independent System Operator Corporation; Notice of FERC Staff Attendance

The Federal Energy Regulatory Commission (Commission) hereby gives notice that on March 5, 2015 members of its staff will attend the following teleconferences to be conducted by the California Independent System Operator (CAISO). The agenda and other documents for the teleconferences are available on the CAISO's Web site, www.caiso.com.

—Energy Imbalance Market Transitional Committee
 —Market Update

Sponsored by the CAISO, the teleconferences are open to all market participants and staff's attendance is part of the Commission's ongoing outreach efforts. The teleconferences may discuss matters at issue in the above captioned dockets.

For further information, contact Saeed Farrokhpay at saeed.farrokhpay@ferc.gov (916) 294-0322.

Dated: February 27, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015-05246 Filed 3-5-15; 8:45 am]

BILLING CODE 6717-01P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL15-42-000]

FortisUS Energy Corporation, Central Hudson Gas & Electric Corporation, Tucson Electric Power Company, UNS Electric, Inc., UniSource Energy Development Company; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On February 27, 2015, the Commission issued an order in Docket No. EL15-42-000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation concerning the justness and reasonableness of the Fortis MBR Sellers' market-based rates in the Tucson Electric balancing authority area.¹ *FortisUS Energy Corporation, et al.*, 150 FERC ¶ 61,153 (2015).

The refund effective date in Docket No. EL15-42-000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Dated: February 27, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015-05254 Filed 3-5-15; 8:45 am]

BILLING CODE 6717-01-P

¹ For the purpose of this filing, the Fortis MBR Sellers include: FortisUS Energy Corporation; Central Hudson Gas and Electric Corporation; Tucson Electric Power Company (Tucson Electric); UNS Electric, Inc.; and UniSource Energy Development Company.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12635-002]

Moriah Hydro Corporation; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests

February 27, 2015.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original Major License.

b. *Project No.:* 12635-002.

c. *Date filed:* February 13, 2015.

d. *Applicant:* Moriah Hydro Corporation.

e. *Name of Project:* Mineville Energy Storage Project.

f. *Location:* The project would be located in an abandoned subterranean mine complex¹ in the town of Moriah, Essex County, New York. No federal lands are occupied by project works or located within the project boundary.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* James A. Besha, P.E., President, Moriah Hydro Corporation, 5 Washington Square, Albany, NY 12205; or at (518) 456-7712.

i. *FERC Contact:* John Mudre, (202) 502-8902 or john.mudre@ferc.gov.

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See*, 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

¹ The existing mine complex is composed of the interconnected Old Bed, Bonanza open pit, and Harmony mines.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* April 14, 2015.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P-12635-002.

m. The application is not ready for environmental analysis at this time.

n. The proposed project consists of:

(1) An upper reservoir located within the upper portion of the mine between elevations 495 and 1,095 feet above mean sea level (msl), with a surface area of 4 acres and a storage capacity of 2,448 acre-feet; (2) a lower reservoir in the lower portion of the mine between elevations -1,075 and -1,555 feet msl, with a surface area of 5.1 acres and a storage capacity of 2,448 acre-feet; (3) a 14-foot-diameter and 2,955-foot-long upper reservoir shaft connecting the upper reservoir to the high-pressure penstock located below the powerhouse chamber floor; (4) a 14-foot-diameter and 2,955-foot-long lower reservoir shaft connecting the lower reservoir and the lower reservoir ventilation tunnel; (5) two 6-foot-diameter emergency evacuation shafts located between the powerhouse chamber and the electrical equipment chamber; (6) a 25-foot-diameter main shaft extending 2,955 feet from the surface down to the powerhouse chamber; (7) 15-foot-diameter high- and low-pressure steel penstocks embedded beneath the powerhouse chamber floor; (8) a 320-foot-long by 80-foot-wide powerhouse chamber, containing 100 reversible pump-turbine units, each with a nameplate generating capacity of 2.4 megawatts; (9) a 274-foot-long by 36-foot-wide underground electrical equipment chamber adjacent to the powerhouse chamber; (10) an inclined electrical tunnel connecting the electrical equipment chamber to a new 115-kilovolt (kV) substation constructed adjacent to an existing single circuit 115-kV transmission line located about one horizontal mile from the underground powerhouse chamber; and (11) appurtenant facilities. The project would operate as a closed-loop system to meet energy demands and grid control requirements. The project would

have an average annual generation of 421 gigawatt-hours (GWh). The average pumping power used by the project would be 554 GWh.

o. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. *Procedural schedule:* The application will be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate.

Issue Notice of Acceptance or
Deficiency April 2015

Request Additional Information April
2015

Issue Acceptance Letter July 2015

Issue Scoping Document 1 for
comments August 2015

Comments on Scoping Document 1
September 2015

Issue Scoping Document 2 October
2015

Issue notice of ready for environmental
analysis October 2015

Commission issues EA, draft EA, or
draft EIS April 2016

Comments on EA, draft EA, or draft EIS
June 2016

Commission issues final EA or final EIS
August 2016

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2015-05251 Filed 3-5-15; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. PF15-5-000; PF15-6-000]

Dominion Transmission, Inc., Atlantic Coast Pipeline, LLC; Notice of Intent To Prepare an Environmental Impact Statement for the Planned Supply Header Project and Atlantic Coast Pipeline Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Meetings

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental impact statement (EIS) that will discuss the environmental impacts of the Supply Header Project (SHP) involving construction and operation of facilities by Dominion Transmission, Inc. (Dominion) in Pennsylvania and West Virginia, and the Atlantic Coast Pipeline Project (ACP Project) involving construction and operation of facilities by Atlantic Coast Pipeline, LLC (Atlantic) in West Virginia, Virginia, and North Carolina. The environmental impacts of both projects will be considered in one EIS, which will be used by the Commission in its decision-making process to determine whether the projects are in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the projects. Your input will help the Commission staff determine what issues they need to evaluate in the EIS. Please note that the scoping period will close on April 28, 2015.

You may submit comments in written form or verbally. Further details on how to submit written comments are in the Public Participation section of this notice. If you sent comments on the SHP or ACP Projects to the Commission before the opening of the dockets on October 31, 2014, you will need to file those comments under Docket No. PF15-5-000 or PF15-6-000 to ensure they are considered as part of this proceeding. In lieu of or in addition to sending written comments, the Commission invites you to attend any of the public scoping meetings scheduled as follows:

Date and time	Location
Monday, March 9, 2015, 7:00 p.m.	Pine Forest High School, 525 Andrews Road, Fayetteville, NC 28311.

Date and time	Location
Tuesday, March 10, 2015, 7:00 p.m.	Forest Hills Middle School, 1210 Forest Hills Road, Wilson, NC 27896.
Wednesday, March 11, 2015, 7:00 p.m.	William R. Davie Middle School, 4391 Hwy. 158, Roanoke Rapids, NC 27870.
Thursday, March 12, 2015, 7:00 p.m.	Jolliff Middle School, 1021 Jolliff Road, Chesapeake, VA 23331.
Monday, March 16, 2015, 7:00 p.m.	Dinwiddie Middle School, 11608 Courthouse Road, Dinwiddie, VA 23841.
Tuesday, March 17, 2015, 7:00 p.m.	Prince Edward County High School Auditorium, 1482 Zion Hill Road, Farmville, VA 23901.
Wednesday, March 18, 2015, 7:00 p.m.	Nelson County Middle School, 6925 Thomas Nelson Highway, Lovingston, VA 22949.
Thursday, March 19, 2015, 7:00 p.m.	Stuarts Draft High School, 1028 Augusta Farms Road, Stuarts Draft, VA 24477.
Monday, March 23, 2015, 7:00 p.m.	Elkins High School, 100 Kennedy Drive, Elkins, WV 26241.
Tuesday, March 24, 2015, 7:00 p.m.	Bridgeport High School, 515 Johnson Avenue, Bridgeport, WV 26330.

The purpose of these scoping meetings is to provide an opportunity to verbally comment on the projects. If a significant number of people are interested in commenting at the meetings, we¹ may establish a 3- to 5-minute time limit for each commentor to ensure that all people wishing to comment have the opportunity in the time allotted for the meeting. If time limits on comments are implemented, they will be strictly enforced. A transcript of each meeting will be added to the Commission's administrative record to ensure that your comments are accurately recorded.

This notice is being sent to the Commission's current environmental mailing list for these projects. State and local government representatives should notify their constituents of these

¹ "We," "us," and "our" refer to the environmental staff of the Commission's Office of Energy Projects.

planned projects and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the planned facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the projects, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

A fact sheet prepared by the FERC entitled "An Interstate Natural Gas Facility On My Land? What Do I Need To Know?" is available for viewing on the FERC Web site (www.ferc.gov). This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings.

Summary of the Planned Projects

The SHP would involve the construction and operation of approximately 38.7 miles of pipeline loop² and the modification of existing compression facilities in Pennsylvania and West Virginia. The pipeline facilities associated with the SHP would be comprised of two main components: (1) Approximately 3.8 miles of 30-inch-diameter natural gas pipeline loop adjacent to Dominion's existing LN-25 pipeline in Westmoreland County, Pennsylvania; and (2) approximately 34.9 miles of 36-inch-diameter pipeline loop adjacent to Dominion's existing TL-360 pipeline in Harrison, Doddridge, Tyler, and Wetzel Counties, West Virginia.

In addition to the planned pipelines, Dominion plans to modify four existing compressor stations in Westmoreland and Green Counties, Pennsylvania and Marshall and Wetzel Counties, West Virginia. Dominion would install new gas-fired turbines that would provide for a combined increase of 75,700 horsepower of compression. Dominion would also install new valves, pig launcher/receiver sites,³ and associated

appurtenances at these existing compressor station locations.

The ACP Project would involve the construction and operation of 554 miles of variable diameter natural gas pipeline in West Virginia, Virginia, and North Carolina. The pipeline facilities associated with the ACP Project would be comprised of four main components as follows:

- Approximately 295.6 miles of 42-inch-diameter pipeline in Harrison, Lewis, Upshur, Randolph, and Pocahontas Counties, West Virginia; Highland, Augusta, Nelson, Buckingham, Cumberland, Prince Edward, Nottoway, Dinwiddie, Brunswick, and Greensville Counties, Virginia; and Northampton County, North Carolina;
- approximately 179.9 miles of 36-inch-diameter pipeline in Northampton, Halifax, Nash, Wilson, Johnston, Sampson, Cumberland, and Robeson Counties, North Carolina;
- approximately 75.7 miles of 20-inch-diameter lateral pipeline in Northampton County, North Carolina; and Greensville, Southampton, Suffolk, and Chesapeake Counties, Virginia; and
- approximately 3.1 miles of 16-inch-diameter natural gas lateral pipeline in Brunswick County, Virginia.

In addition to the planned pipelines, Atlantic plans to construct and operate three new compressor stations totaling 108,275 horsepower of compression. These compressor stations would be located in Lewis County, West Virginia; Buckingham County, Virginia; and Northampton County, North Carolina. Atlantic would also install metering stations, valves, pig launcher/receiver sites, and associated appurtenances along the planned pipeline system.

The SHP and ACP Projects would be capable of delivering 1.5 billion cubic feet of natural gas per day to seven planned distribution points in West Virginia, Virginia, and North Carolina. If approved, construction of the projects is proposed to begin in September 2016. The general location of the projects' facilities and a number of alternatives under consideration are shown in the maps in appendix 1.⁴

Land Requirements for Construction

Construction of the planned facilities would disturb about 12,972 acres of

land for the pipeline and aboveground facilities. The typical construction right-of-way for pipeline facilities would vary between 125 feet wide for the 42-inch-diameter pipeline and 75 feet wide for the 16-inch-diameter lateral pipeline, with additional workspace needed in some locations due to site-specific conditions. Following construction, approximately 4,370 acres of land would be retained for permanent operation of the facilities. Land affected by construction but not required for operation would generally be allowed to revert to former uses.

The EIS Process

The FERC will be the lead federal agency for the preparation of the EIS. The U.S. Forest Service (USFS) is participating as a cooperating agency because the ACP Project would cross the Monongahela and George Washington National Forests in West Virginia and Virginia. As a cooperating agency, the USFS intends to adopt the EIS per Title 40 of the Code of Federal Regulations, Part 1506.3 to meet its responsibilities under the National Environmental Policy Act (NEPA) regarding Atlantic's planned application for a Right-of-Way Grant and Temporary Use Permit for crossing federally administered lands. The USFS additionally will assess how the planned pipeline conforms to the direction contained in the Monongahela and George Washington National Forests' Land and Resource Management Plans (LRMP). Changes in the LRMP could be required if the pipeline is authorized across the National Forests. The EIS will provide the documentation to support any needed amendments to the LRMPs.

NEPA requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. This process is referred to as scoping. The main goal of the scoping process is to focus the analysis in the EIS on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EIS. We will consider all filed comments during the preparation of the EIS.

In the EIS we will discuss impacts that could occur as a result of the construction and operation of the planned projects under these general headings:

- Geology and soils;
- land use;

² A pipeline "loop" is a segment of pipe constructed parallel to an existing pipeline to increase capacity.

³ A "pig" is a tool that the pipeline company inserts into and pushes through the pipeline for cleaning the pipeline, conducting internal inspections, or other purposes.

⁴ The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at www.ferc.gov using the link called "eLibrary" or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502-8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

- water resources, fisheries, and wetlands;
- cultural resources;
- vegetation and wildlife;
- air quality and noise;
- endangered and threatened species;
- socioeconomics; and
- public safety.

We will present our recommendations in the EIS on how to lessen or avoid impacts on the various resource areas, as applicable.

Dominion and Atlantic are evaluating several route alternatives that were developed through the company's route selection and constraint analysis processes or identified by stakeholders during public outreach efforts. Major route alternatives that have been identified by Dominion and Atlantic are presented in appendix 1. More detailed maps of these, and other, potential alternative routes can be found on the FERC Web site at www.ferc.gov, or Dominion's Web site at <https://www.dom.com/corporate/what-we-do/natural-gas/atlantic-coast-pipeline>. Part of our NEPA analysis will include evaluating possible alternatives to the planned projects or portions of the projects. Thus, as part of our scoping process, we are specifically soliciting comments on the range of alternatives for both of the projects.

Although no formal application has been filed, we have already initiated our NEPA review under the Commission's pre-filing process. The purpose of the pre-filing process is to encourage early involvement of interested stakeholders and to identify and resolve issues before the FERC receives an application. As part of our pre-filing review, we have begun to contact some federal and state agencies to discuss their involvement in the scoping process and the preparation of the EIS.

The EIS will present our independent analysis of the issues. We will publish and distribute the draft EIS for public comment. After the comment period, we will consider all timely comments and revise the document, as necessary, before issuing a final EIS. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section beginning on page 8.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues related to these projects to formally cooperate with us in the preparation of the EIS.⁵

⁵ The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice. As discussed above, the USFS has expressed its intention to participate as a cooperating agency in the preparation of the EIS to satisfy its NEPA responsibilities related to these projects. In addition to the USFS, the U.S. Bureau of Land Management, U.S. Fish and Wildlife Service Great Dismal Swamp National Wildlife Refuge, and the U.S. Army Corps of Engineers have also agreed to participate as cooperating agencies.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for Section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the applicable State Historic Preservation Offices, and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the projects' potential effects on historic properties.⁶ We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPOs as the projects develop. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EIS for these projects will document our findings on the impacts on historic properties and summarize the status of consultations under Section 106.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the planned facilities and the environmental information provided by Dominion and Atlantic. This preliminary list of issues may change based on your comments and our analysis.

- Land use impacts, including the exercise of eminent domain and future land use restrictions;
- impacts on property values, tourism, and recreational resources;

⁶ The Advisory Council on Historic Preservation regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

- safety issues, such as construction and operation of the planned facilities near existing residences, schools, businesses, and military training facilities, and in karst and steep slope terrain;

- alternatives, including routing within existing linear corridors, avoiding private property, National Forests, National Parkway lands, National Wildlife Refuge land, and other sensitive environmental features;
- impacts on local emergency management systems;
- impacts on forested areas and other vegetation;
- impacts on surface water resources including springs, seeps, and wetlands;
- impacts on groundwater resources and wells;
- impacts on protected species and habitat;
- impacts on cultural resources including battlefields, cemeteries, and historic properties; and
- concerns regarding construction and operational noise, especially related to compressor stations.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the projects. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before April 28, 2015.

For your convenience, there are three methods you can use to submit your comments to the Commission. In all instances, please reference the appropriate project docket number(s) (PF15–5–000 for the SHP and PF15–6–000 for the ACP Project) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or efiling@ferc.gov.

(1) You can file your comments electronically using the *eComment* feature located on the Commission's Web site (www.ferc.gov) under the link to *Documents and Filings*. This is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You can file your comments electronically using the *eFiling* feature located on the Commission's Web site (www.ferc.gov) under the link to *Documents and Filings*. With eFiling,

you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on “eRegister.” You must select the type of filing you are making. If you are filing a comment on a particular project, please select “Comment on a Filing;” or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission’s regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, as well as anyone who submits comments on the projects. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the planned projects.

Copies of the completed draft EIS will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).

Becoming an Intervenor

Once Dominion and Atlantic file applications with the Commission, you may want to become an “intervenor,” which is an official party to the Commission’s proceeding. Intervenor play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission’s final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the User’s Guide under the “e-filing” link on the Commission’s Web site. Please note that the Commission will not accept requests for intervenor status at this time. You

must wait until the Commission receives formal applications for the projects.

Additional Information

Additional information about the projects is available from the Commission’s Office of External Affairs, at (866) 208-FERC, or on the FERC Web site (www.ferc.gov) using the eLibrary link. Click on the eLibrary link, click on “General Search,” and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.*, PF15-5 or PF15-6). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at FercOnlineSupport@ferc.gov or toll free at (866) 208-3676, or for TTY, contact (202) 502-8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to www.ferc.gov/docs-filing/esubscription.asp.

Finally, public meetings or site visits will be posted on the Commission’s calendar located at www.ferc.gov/EventCalendar/EventsList.aspx along with other related information.

Dated: February 27, 2015.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2015-05248 Filed 3-5-15; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

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

Docket Numbers: EG15-58-000.

Applicants: Oak Grove Management Company LLC.

Description: Self-Certification of EG of Oak Grove Management Company LLC.

Filed Date: 3/2/15.

Accession Number: 20150302-5139.

Comments Due: 5 p.m. ET 3/23/15.

Docket Numbers: EG15-59-000.

Applicants: Sandow Power Company LLC.

Description: Self-Certification of EG of Sandow Power Company LLC.

Filed Date: 3/2/15.

Accession Number: 20150302-5141.

Comments Due: 5 p.m. ET 3/23/15.

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

Docket Numbers: ER13-2109-003; ER13-2106-003; ER10-1410-003; ER13-321-003; ER13-412-002; ER13-450-002; ER13-434-002; ER13-518-002; ER13-1403-004; ER14-2140-003; ER14-2141-003; ER15-632-001; ER15-634-001; ER14-2466-002; ER14-2465-002;

Applicants: Fowler Ridge Wind Farm LLC, Cottonwood Solar, LLC, CID Solar, LLC, RE Camelot LLC, RE Columbia Two LLC, Selmer Farm, LLC, Mulberry Farm, LLC, Dominion Retail, Inc., Dominion Energy Manchester Street, Inc., Dominion Energy Marketing, Inc., Dominion Nuclear Connecticut, LLC, Fairless Energy, LLC, NedPower Mount Storm, LLC, Dominion Bridgeport Fuel Cell, LLC, Virginia Electric and Power Company.

Description: Supplement to January 9, 2015 Notice of Non-Material Change in Status of the Dominion Companies.

Filed Date: 2/19/15.

Accession Number: 20150219-5211.

Comments Due: 5 p.m. ET 3/12/15.

Docket Numbers: ER14-1639-003.

Applicants: ISO New England Inc.

Description: Compliance filing per 35: Compliance Filing Concerning the Renewable Technology Resource Exemption to be effective 3/2/2015.

Filed Date: 3/2/15.

Accession Number: 20150302-5275.

Comments Due: 5 p.m. ET 3/23/15.

Docket Numbers: ER15-124-002.

Applicants: Tucson Electric Power Company.

Description: Tariff Amendment per 35.17(b): Response to Deficiency Letter dated January 15, 2015 to be effective 9/17/2014.

Filed Date: 3/2/15.

Accession Number: 20150302-5180.

Comments Due: 5 p.m. ET 3/23/15.

Docket Numbers: ER15-542-001.

Applicants: Midcontinent

Independent System Operator, Inc.

Description: Compliance filing per 35: 2015-03-02 Land Costs Recovery Compliance Filing to be effective 1/31/2015.

Filed Date: 3/2/15.

Accession Number: 20150302-5304.

Comments Due: 5 p.m. ET 3/23/15.

Docket Numbers: ER15-933-001.

Applicants: Midcontinent

Independent System Operator, Inc.

Description: Tariff Amendment per 35.17(b): 2015-03-02 Amend Schedule 31 Annual Update to be effective 4/1/2015.

Filed Date: 3/2/15.
Accession Number: 20150302–5300.
Comments Due: 5 p.m. ET 3/23/15.
Docket Numbers: ER15–995–001.
Applicants: Verso Androscoggin LLC.
Description: Compliance filing per 35: Amendment to Filing to be effective 4/6/2015.

Filed Date: 3/2/15.
Accession Number: 20150302–5298.
Comments Due: 5 p.m. ET 3/23/15.
Docket Numbers: ER15–1141–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Section 205(d) rate filing per 35.13(a)(2)(iii): 2015–02–27_ORCA Rate Schedule 44 to be effective 4/1/2015.

Filed Date: 2/27/15.
Accession Number: 20150227–5513.
Comments Due: 5 p.m. ET 3/20/15.
Docket Numbers: ER15–1142–000.
Applicants: PacifiCorp..
Description: Section 205(d) rate filing per 35.13(a)(2)(iii): PGE Hemlock Sub Tap Agreement to be effective 4/29/2015.

Filed Date: 2/27/15.
Accession Number: 20150227–5514.
Comments Due: 5 p.m. ET 3/20/15.
Docket Numbers: ER15–1143–000.
Applicants: Northern States Power Company, a Minnesota corporation.
Description: Section 205(d) rate filing per 35.13(a)(2)(iii): 2015–2–27 NSP–MMPA–Rev I&I_3–NSP_0.1.0 to be effective 1/1/2015.

Filed Date: 2/27/15.
Accession Number: 20150227–5524.
Comments Due: 5 p.m. ET 3/20/15.
Docket Numbers: ER15–1144–000.
Applicants: San Diego Gas & Electric Company.
Description: Section 205(d) rate filing per 35.13(a)(2)(iii): Appendix XI Gen Int. O&M Fixed Rate Charge to be effective 3/1/2015.

Filed Date: 2/27/15.
Accession Number: 20150227–5545.
Comments Due: 5 p.m. ET 3/20/15.
Docket Numbers: ER15–1145–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Section 205(d) rate filing per 35.13(a)(2)(iii): 2015–02–27_MISO–SPP JOA M2M Filing to be effective 3/1/2015.

Filed Date: 2/27/15.
Accession Number: 20150227–5549.
Comments Due: 5 p.m. ET 3/20/15.
Docket Numbers: ER15–1146–000.
Applicants: Bucksport Mill LLC.
Description: Compliance filing per 35: Bucksport Mill LLC eTariff 2015–03–02 to be effective 3/2/2015.

Filed Date: 3/2/15.
Accession Number: 20150302–5285.

Comments Due: 5 p.m. ET 3/23/15.
Docket Numbers: ER15–1147–000.
Applicants: Bucksport Generation LLC.

Description: Compliance filing per 35: Bucksport Generation LLC eTariff 2015–03–02 to be effective 3/2/2015.

Filed Date: 3/2/15.
Accession Number: 20150302–5286.
Comments Due: 5 p.m. ET 3/23/15.
Docket Numbers: ER15–1148–000.
Applicants: Milford Wind Corridor Phase I, LLC.

Description: Section 205(d) rate filing per 35.13(a)(2)(iii): Market-Based Rate Tariff Revisions to be effective 5/2/2015.

Filed Date: 3/2/15.
Accession Number: 20150302–5312.
Comments Due: 5 p.m. ET 3/23/15.
Docket Numbers: ER15–1149–000.
Applicants: Longfellow Wind, LLC.
Description: Section 205(d) rate filing per 35.13(a)(2)(iii): Market-Based Rate Tariff Revisions to be effective 5/2/2015.

Filed Date: 3/2/15.
Accession Number: 20150302–5318.
Comments Due: 5 p.m. ET 3/23/15.
 Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RR15–7–000.
Applicants: North American Electric Reliability Corporation.
Description: Petition of North American Electric Reliability Corporation for Approval of Amendments to the Bylaws of the Texas Reliability Entity, Inc.

Filed Date: 2/27/15.
Accession Number: 20150227–5580.
Comments Due: 5 p.m. ET 3/20/15.

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

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

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

Dated: March 2, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–05249 Filed 3–5–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15–88–000]

Tennessee Gas Pipeline Company, L.L.C.; Notice of Application

Take notice that on February 13, 2015, Tennessee Gas Pipeline Company, L.L.C. (Tennessee) filed an application with the Federal Energy Regulatory Commission pursuant to sections 7(b) and 7(c) of the Natural Gas Act (NGA) requesting authority to abandon, construct and operate certain mainline pipeline facilities located in Louisiana, Arkansas, Mississippi, Tennessee, Kentucky, and Ohio, all as more completely described in the Application. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site web at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at FERCOnlineSupport@ferc.gov or call toll-free, (886) 208–3676 or TTY, (202) 502–8659.

Any questions regarding the application should be directed to John E. Griffin, Assistant General Counsel, Tennessee Gas Pipeline Company, L.L.C., 1001 Louisiana Street, Houston, Texas 77002, phone: (713) 420–3624, facsimile: (713) 420–1601, email: john_griffin2@kindermorgan.com, or H. Milton Palmer, Jr., Rates and Regulatory Affairs, Tennessee Gas Pipeline Company, L.L.C., 1001 Louisiana Street, Houston, Texas 77002, phone: (713) 420–3297, facsimile: (713) 420–1605, email: milton_palmer@kindermorgan.com.

Specifically, Tennessee requests authorization to abandon one of its multiple looped parallel pipelines that comprise approximately 964 miles of mainline pipeline facilities between Natchitoches Parish, Louisiana, and Columbiana County, Ohio (Abandoned Line) by sale to Utica Marcellus Texas Pipeline LLC (UMTP), its affiliate. UMTP intends to use this pipeline, in part, for conversion to natural gas liquids service. In order to replace the capacity that would otherwise be lost by the sale of the Abandoned Line, Tennessee proposes to construct and operate approximately 7.6 miles of new pipeline looping in Kentucky and a total of 124,771 horsepower of compression at four new compressor stations in Ohio and two stations in Kentucky (collectively, the Replacement

Facilities). Prior to the abandonment and sale of the Abandoned Line, Tennessee will also undertake activities at a series of worksites along the length of the Abandoned Line to disconnect it from the remaining Tennessee system. The estimated cost for the abandonment and replacement is approximately \$412 million. When UMTF ultimately acquires the abandoned line under the terms of the Purchase and Sale Agreement, UMTF will reimburse Tennessee for all of the costs associated with the abandonment and replacement activities, and UMTF will provide for the reimbursement of fuel costs for a period of 10 years.

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

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

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

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

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

Comment Date: 5:00 p.m. Eastern Time on March 23, 2015.

Dated: March 2, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015-05202 Filed 3-5-15; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP15-92-000]

Equitrans, L.P.; Notice of Request Under Blanket Authorization

Take notice that on February 19, 2015, Equitrans, L.P. (Equitrans), 625 Liberty Avenue, Suite 1700, Pittsburgh, Pennsylvania 15222-3111, filed a prior notice application pursuant to section 7(b) of the Natural Gas Act (NGA) and sections 157.205, 157.208, 157.210, and 157.216 of the Federal Energy Regulatory Commission's (Commission) regulations under the NGA, and Equitrans' blanket certificate issued in Docket No. CP96-352-000. Equitrans seeks authorization to abandon and replace a segment of its TP-7911 pipeline located in Cambria County, Pennsylvania, all as more fully set forth in the application, which is open to the public for inspection. The filing may also be viewed on the Web at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at FERCOnlineSupport@ferc.gov or call toll-free, (866) 208-3676 or TTY, (202) 502-8659.

Any questions regarding this application should be Paul Diehl, Senior Counsel—Midstream, EQT Corporation, 625 Liberty Avenue, Suite 1700, Pittsburgh, PA 15222, or phone (412) 395-5540, or by email pdiehl@eqt.com.

Specifically, Equitrans proposes to replace approximately 3.0 miles of 12-inch diameter pipe with 20-inch diameter pipeline and install pig launchers and receivers to maintain system integrity by providing Equitrans with the ability to perform in-line inspections for assessing the condition of the pipeline, as well as increase the operational reliability of the TP-7911 pipeline.

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time

for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

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

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

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Dated: February 27, 2015.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2015-05253 Filed 3-5-15; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14-539-000]

Ozark Gas Transmission, LLC; Notice of Availability of the Environmental Assessment for the Proposed Ozark Abandonment Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Ozark Abandonment Project proposed by Ozark Gas Transmission, LLC (Ozark) in the above-referenced docket. Ozark requests authorization to abandon in-place approximately 159 miles of existing 10- to 20-inch-diameter mainline natural gas pipeline and auxiliary and associated facilities located between Sebastian and White Counties, Arkansas. Ozark would also abandon by removal 29 minor aboveground facilities at 27 sites.

The EA assesses the potential environmental effects of the abandonment activities associated with the Ozark Abandonment Project in accordance with the requirements of the National Environmental Policy Act (NEPA). The FERC staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The FERC staff mailed copies of the EA to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; newspapers and libraries in the project area; and parties to this proceeding. In addition, the EA is available for public viewing on the FERC's Web site (www.ferc.gov) using the eLibrary link. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE., Room 2A, Washington, DC 20426, (202) 502-8371.

Any person wishing to comment on the EA may do so. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that the Commission has the opportunity to consider your comments prior to making its decision on this project, it is

important that we receive your comments in Washington, DC on or before March 30, 2015.

For your convenience, there are three methods you can use to file your comments to the Commission. In all instances, please reference the project docket number (CP14-539-000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502-8258 or efiling@ferc.gov.

(1) You can file your comments electronically using the eComment feature on the Commission's Web site (www.ferc.gov) under the link to Documents and Filings. This is an easy method for submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the eFiling feature on the Commission's Web site (www.ferc.gov) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on "eRegister." You must select the type of filing you are making. If you are filing a comment on a particular project, please select "Comment on a Filing"; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).¹ Only intervenors have the right to seek rehearing of the Commission's decision. The Commission grants affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208-FERC, or on the FERC Web site (www.ferc.gov) using the eLibrary link. Click on the eLibrary link, click on "General Search," and enter the docket number excluding the last three digits in

¹ See the previous discussion on the methods for filing comments.

the Docket Number field (*i.e.*, CP14–539). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at FercOnlineSupport@ferc.gov or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to www.ferc.gov/docs-filing/esubscription.asp.

Dated: February 27, 2015.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2015–05252 Filed 3–5–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD15–5–000]

Available Transfer Capability Standards for Wholesale Electric Transmission Services; Supplemental Notice of Workshop on Available Transfer Capability Standards

As announced in a Notice issued on December 30, 2014, and Supplemental Notice issued January 30, 2015, Federal Energy Regulatory Commission (Commission) staff will hold a workshop on Thursday, March 5, 2015 to discuss standards for calculating Available Transfer Capability (ATC) for wholesale electric transmission services. The workshop will be held in the Commission Meeting Room at the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

As clarified in the attached Updated Agenda, the workshop will commence at 12:00 p.m. and conclude by 4:15 p.m., EST. The specific times of the session discussions, as well as the list of speakers, may be subject to further change. This workshop is free of charge and open to the public. Commission members may participate in the workshop.

Those who plan to attend the workshop are encouraged to complete the registration form located at: <https://www.ferc.gov/whats-new/registration/03-05-15-form.asp>. There is no registration deadline.

www.ferc.gov/whats-new/registration/03-05-15-form.asp. There is no registration deadline.

Transcripts of the workshop will be available for a fee from Ace-Federal Reporters, Inc. (202–347–3700 or 1–800–336–6646). Additionally, there will be a free webcast of the workshop. Anyone with Internet access who wants to listen to the workshop can do so by navigating to the Calendar of Events at www.ferc.gov, locating the technical workshop in the Calendar, and clicking on the webcast link. The Capitol Connection provides technical support for the webcast and offers the option of listening to the workshop via phone-bridge for a fee. If you have any questions, visit www.CapitolConnection.org or call 703–993–3100.

While this workshop is not convened for the purpose of discussing specific cases, the workshop may address matters that are at issue in the following pending Commission proceeding: *North American Electric Reliability Corporation*, Docket No. RM14–7–000.

Commission workshops are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to accessibility@ferc.gov or call toll free 1–866–208–3372 (voice) or 202–502–8659 (TTY), or send a FAX to 202–208–2106 with the required accommodations.

For further information on this workshop, please contact:

Logistical Information

Sarah McKinley, Office of External Affairs, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8368, sarah.mckinley@ferc.gov.

Technical Information

Christopher Young, Office of Energy Policy and Innovation, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–6403, christopher.young@ferc.gov.

Legal Information

Richard Wartchow, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8744, richard.wartchow@ferc.gov.

Dated: February 27, 2015.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[FR Doc. 2015–05257 Filed 3–5–15; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9923–91–Region 5]

Notice of Final Decision To Reissue the ArcelorMittal Burns Harbor, LLC Land-Ban Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final decision on a request by ArcelorMittal Burns Harbor, LLC of Burns Harbor, Indiana to reissue its exemption from the Hazardous and Solid Waste Amendments of the Resource Conservation and Recovery Act.

SUMMARY: Notice is hereby given by the U.S. Environmental Protection Agency (EPA or Agency) that an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments (HSWA) to the Resource Conservation and Recovery Act (RCRA) has been granted to ArcelorMittal Burns Harbor, LLC (AMBH) of Burns Harbor, Indiana, for four Class I injection wells located in Burns Harbor, Indiana. As required by 40 CFR part 148, AMBH has demonstrated, to a reasonable degree of certainty, that there will be no migration of hazardous constituents out of the injection zone or into an underground source of drinking water (USDW) for at least 10,000 years. This final decision allows the continued underground injection by AMBH of a specific restricted waste, Spent Pickle Liquor (SPL) into one Class I hazardous waste injection well specifically identified as SPL #1; and of waste ammonia liquor (WAL) into three Class I hazardous waste injection wells specifically identified as WAL #1, WAL #2 and WAL #3 at the AMBH facility. This decision constitutes a final EPA action for which there is no administrative appeal.

DATES: This action is effective as of March 6, 2015.

FOR FURTHER INFORMATION CONTACT: Stephen Roy, Lead Petition Reviewer, EPA, Region 5, Water Division, Underground Injection Control Branch, WU–16], Environmental Protection Agency, 77 W. Jackson Blvd., Chicago, Illinois 60604–3590; telephone number: (312) 886–6556; fax number (312) 692–2951; email address: roy.stephen@epa.gov. Copies of the petition and all pertinent information are on file and are part of the Administrative Record. It is recommended that you contact the lead reviewer prior to reviewing the Administrative Record.

SUPPLEMENTARY INFORMATION: AMBH submitted a request for reissuance of its

existing exemption from the land disposal restrictions of hazardous waste to include the newly-drilled WAL #3 well in July, 2013. EPA staff reviewed all data pertaining to the petition, including, but not limited to, well construction, well operations, regional and local geology, seismic activity, penetrations of the confining zone, and computational models of the injection zone. EPA has determined that the hydrogeological and geochemical conditions at the site and the nature of the waste streams are such that reliable predictions can be made that fluid movement conditions are such that injected fluids will not migrate out of the injection zone within 10,000 years, as set forth at 40 CFR part 148. The injection zone for the AMBH facility is composed of the lower Eau Claire Formation, the Mount Simon Sandstone and the upper portion of the Precambrian rocks, between 2170 and 4286 feet below the surface. The confining zone at the AMBH facility is the upper Eau Claire Formation, which is found between 1936 and 2170 feet. The confining zone is separated from the lowermost underground source of drinking water (at a depth of 726 feet below ground level) by a sequence of permeable and less permeable sedimentary rocks. This sequence provides additional protection from fluid migration into drinking water sources.

EPA issued a draft decision, which described the reasons for granting this exemption in more detail, a fact sheet, which summarized these reasons, and a public notice on November 14, 2014, pursuant to 40 CFR 124.10. The public comment period ended on December 16, 2014. EPA received no comments but during the comment period, EPA realized that the volume limitation identified in section I.B was inadvertently shown as gallons per month instead of gallons per year. The same mistake was made in Condition #8. Therefore, EPA is issuing the final exemption with this condition corrected to be consistent with the language in the AMBH UIC permits.

Conditions

This exemption is subject to the following conditions. Non-compliance with any of these conditions is grounds for termination of the exemption:

(1) All regulatory requirements in 40 CFR 148.23 and 148.24 are incorporated by reference;

(2) The exemption applies to the existing injection wells, Spent Pickle Liquor #1, Waste Ammonia Liquor #1, Waste Ammonia Liquor #2, and Waste Ammonia Liquor #3, located at the

ArcelorMittal facility at 250 West U.S. Highway 12, Burns Harbor, Indiana;

(3) Injection is limited to that part of the Lower Mount Simon Sandstone and the upper portion of the Precambrian rocks at depths between 2722 and 4286 feet below ground level;

(4) Hazardous wastes denoted by the waste codes D010, D018, and D038 may only be injected into Waste Ammonia Liquor #1, Waste Ammonia Liquor #2, and Waste Ammonia Liquor #3.

Hazardous waste denoted by waste code K062 may only be injected into Spent Pickle Liquor #1. Other fluids necessary for well testing, stimulation, etc. may be injected when approved by EPA;

(5) The chemical properties of the injectate that will be monitored are limited according to the table below:

Chemical constituent or property	Concentration limitation at the well head (mg/L)
Benzene	220 (maximum).
pH	Minimum pH is zero.
Chromium	133 (maximum).
Naphthalene	260 (maximum).
Nickel	50 (maximum).
Phenol	3780 (maximum).
Pyridine	116 (maximum).
Selenium	5 (maximum).

(6) The annual average of the specific gravity of the injected spent pickle liquor must be no greater than 1.31; the annual average of the specific gravity of the waste ammonia liquor must be no less than 0.99;

(7) The chemical properties of the injectate that defined the edge of the plume in the demonstration are benzene for waste ammonia liquor and pH for the spent pickle liquor;

(8) The monthly average injection rate for SPL must not exceed 175 gallons per minute and the monthly average injection rate for WAL must not exceed 300 gallons per minute, plant-wide, cumulatively covering all WAL injection wells.

(9) This exemption is approved for the 21-year modeled injection period, which ends on December 31, 2027. ArcelorMittal may petition EPA for a reissuance of the exemption beyond that date, provided that a new and complete no-migration petition is received at EPA, Region 5, by July 1, 2027;

(10) ArcelorMittal shall submit monthly reports to EPA containing a fluid analysis of the injected waste which shall indicate the chemical and physical properties upon which the no-migration demonstration was based, including the physical and chemical properties listed in Conditions 5 and 6 of this exemption approval;

(11) ArcelorMittal shall submit an annual report containing the results of

a bottom hole pressure survey (fall-off test) performed on Spent Pickle Liquor #1, Waste Ammonia Liquor #1, Waste Ammonia Liquor #2, or Waste Ammonia Liquor #3 to EPA. The survey shall be performed after shutting in the well for a period of time sufficient to allow the pressure in the injection interval to reach equilibrium, in accordance with 40 CFR 146.68(e)(1). The annual report shall include a comparison of reservoir parameters determined from the fall-off test with parameters used in the approved no-migration demonstration;

(12) The petitioner shall fully comply with all requirements set forth in Underground Injection Control Permits IN-127-1W-0001, IN-127-1W-0003, IN-127-1W-0004, and IN-127-1W-0007 issued by the U.S. Environmental Protection Agency; and

(13) Whenever EPA determines that the basis for approval of a petition may no longer be valid, EPA may terminate this exemption and may require a new demonstration in accordance with 40 CFR 148.20.

Electronic Access. You may access this **Federal Register** document electronically from the Government Publishing Office under the "**Federal Register**" listings at FDSys (<http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR>).

Dated: February 18, 2015.

Timothy C. Henry,

Acting Director, Water Division.

[FR Doc. 2015-05240 Filed 3-5-15; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPPT-2015-0047; FRL-9922-69]

Implementation of a New Label for the Design for the Environment (DfE) Safer Product Labeling Program and Supporting Modifications to the DfE Standard for Safer Products; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: EPA is making available a document that announces and implements several important changes to EPA's Safer Product Labeling Program (SPLP), as well as a number of conforming changes to the program's Standard for Safer Products, including: New label designs and a new name for the EPA SPLP; an associated fragrance-free label; and related changes to the standard that qualifies products for the label.

DATES: Comments must be received on or before May 5, 2015.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPPT-2015-0047, 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:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 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:

For technical information contact: David DiFiore, Chemistry, Economics and Sustainable Strategies Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; telephone number: 202-564-8796; email address: difiore.david@epa.gov.

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; email address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be affected by this action if you participate in or applying for certification under the DfE Safer Product Labeling Program and use or hope to use the program's logo on your products. Also potentially affected are consumers, institutional purchasers, retailers, and distributors of DfE-labeled products who use the logo to identify products that have met the Agency's safer-product criteria. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Manufacturing (NAICS codes 31-33).
- Construction (NAICS code 23).
- Wholesale trade (NAICS code 42).
- Retail trade (NAICS codes 44-45).
- Professional, scientific and technical services (NAICS code 54).
- Accommodations and food Services (NAICS code 72).
- Other services, except public administration (NAICS code 81).
- Public administration (NAICS code 92).

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](http://www.regulations.gov) or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to 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>.

II. What action is the Agency taking?

EPA is issuing a document, "Changes to the Standard to Implement the Safer Choice Label" (<https://wcm.epa.gov/sites/production/files/2015-02/documents/safer-choice-standard-changes.pdf>), that implements a new label and name for the DfE Safer Product Labeling Program, namely, the EPA "Safer Choice" Program. The new label is available for immediate use to program partners. The Agency is also making new-label-related changes to the program's standard that qualifies products for participation in the program. Finally, EPA is issuing a new, optional fragrance-free certification. The program has redesigned its label for several reasons: To better communicate the program's human health and environmental protection goals, increase consumer and institutional/industrial purchaser understanding and recognition of products bearing the label, and encourage innovation and the development of safer chemicals and chemical-based products. While

effective immediately, the Agency is requesting comment on the changes that are described in the referenced document (EPA-HQ-OPPT-2015-0047), including the fragrance-free certification, and may make further programmatic changes based on the comments received. Please note that the Agency has received extensive public input on the logo designs and is not requesting further comment on them.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: February 11, 2015.

Wendy C. Hamnett,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 2015-05073 Filed 3-5-15; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-9019-8]

Environmental Impact Statements; Notice of Availability

AGENCY: Environmental Protection Agency.

Weekly receipt of Environmental Impact Statements

Filed 02/23/2015 through 02/27/2015 Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: <http://www.epa.gov/compliance/nepa/eisdata.html>.

Responsible Agency: Office of Federal Activities, General Information (202) 564-7146 or <http://www.epa.gov/compliance/nepa/>.

EIS No. 20150047, Final EIS, USFS, CA, Heavenly Epic Discovery Project, Review Period Ends: 04/13/2015, Contact: Matt Dickinson, 530-543-2769.

EIS No. 20150048, Final EIS, USFS, CO, Middle Bald Mountain Area Communication Site, Review Period Ends: 04/06/2015, Contact: Carol Kruse, 970-295-6663.

EIS No. 20150049, Draft Supplement, NRCS, MS, Long Beach Watershed, Comment Period Ends: 04/20/2015, Contact: Kurt Readus, 601-965-5205.

EIS No. 20150050, Final EIS, USA, CA, The Modernization and Repair of Piers 2 and 3 at Military Ocean Terminal Concord, Review Period Ends: 04/06/2015, Contact: Sarah Garner, 618-220-6284.

EIS No. 20150051, Draft EIS, BLM, CA, West Mojave Planning Area, Draft

Plan Amendment to the California Desert Conservation Area Plan, Comment Period Ends: 06/04/2015, Contact: Edythe Seehafer, 760-252-6021.

EIS No. 20150052, Final EIS, FTA, CA, Redlands Passenger Rail Project, Contact: Dominique Paukowits, 415-744-2735. Under MAP-21 Section 1319, FTA has issued a single FEIS and ROD. Therefore, the 30-day wait/review period under NEPA does not apply to this action.

EIS No. 20150053, Final Supplement, BOEM, Gulf of Mexico OCS Oil and Gas Lease Sales 246 and 248 in the Western Planning Area, Review Period Ends: 04/06/2015, Contact: Gary Goeke, 504-736-3233.

EIS No. 20150054, Draft EIS, NRC, FL, Turkey Point Nuclear Plant Units 6 and 7, Combined Licenses (COLs), Comment Period Ends: 05/22/2015, Contact: Alicia Williamson-Dickerson, 301-415-1878.

EIS No. 20150055, Draft EIS, USFS, OR, Goose Project, Comment Period Ends: 04/20/2015, Contact: Elysia Retzlaff, 541-822-7214.

EIS No. 20150056, Draft EIS, USFS, FL, Beasley Pond Analysis Area, Comment Period Ends: 04/20/2015, Contact: Branden Tolver, 850-926-3561.

Amended Notices

EIS No. 20150007, Draft EIS, BLM, CO, Bull Mountain Unit Master Development Plan, Comment Period Ends: 04/16/2015, Contact: Gina Jones, 970-240-5300.

Revision to the FR Notice Published 01/16/2015; Extending Comment Period from 03/02/2015 to 04/16/2015.

Dated: March 3, 2015.

Cliff Rader,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2015-05322 Filed 3-5-15; 8:45 am]

BILLING CODE 6560-50P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-0791]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as

required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before *May 5, 2015*. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email PRA@fcc.gov and to Nicole.Ongele@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418-2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060-0791.

Title: Section 32.7300, Accounting for Judgments and Other Costs Associated with Litigation.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 2 respondents; 2 responses.

Estimated Time per Response: 4 to 36 hours.

Frequency of Response: On occasion reporting requirement and recordkeeping requirement.

Obligation To Respond: Required to obtain or retain benefits. Statutory

authority for this collection of information is contained in 47 U.S.C. 151, 152, 154, 161, 201-205 and 218-220 of the Communications Act of 1934, as amended.

Total Annual Burden: 40 hours.

Annual Cost Burden: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality:

There is no need for confidentiality. The Commission is not requesting that respondents submit confidential information to the FCC.

Needs and Uses: The Commission adopted accounting rules that require carriers to account for adverse federal antitrust judgments and post-judgment special charges. With regard to settlements of such lawsuits there will be a presumption that carriers can recover the portion of the settlement that represents the avoidable costs of litigation; provided that the carrier makes a required showing. To receive recognition of its avoided cost of litigation a carrier must demonstrate, in a request for special relief, the avoided costs of litigation by showing the amount corresponding to the additional litigation expenses discounted to present value, that the carrier reasonably estimates it would have paid if it had not settled. Settlement costs in excess of the avoided costs of litigation are presumed not recoverable unless a carrier rebuts that presumption by showing the basic factors that enticed the carrier to settle and demonstrating that ratepayers benefited from the settlement.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of the Managing Director.

[FR Doc. 2015-05181 Filed 3-5-15; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL ELECTION COMMISSION

[Notice 2015-02]

Filing Dates for the New York Special Election in the 11th Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: New York has scheduled a Special General Election on May 5, 2015, to fill the U.S. House seat in the Eleventh Congressional District vacated by Representative Michael G. Grimm.

DATES: Committees required to file reports in connection with the Special General Election on May 5, 2015, shall

file a 12-day Pre-General Report, and a 30-day Post-General Report.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth S. Kurland, Information Division, 999 E Street NW., Washington, DC 20463; Telephone: (202) 694-1100; Toll Free (800) 424-9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates who participate in the New York Special General Election shall file a 12-day Pre-General Report on April 23, 2015, and a 30-day Post-General Report on June 4, 2015. (See charts below for the closing date for each report.)

Unauthorized Committees (PACs and Party Committees)

Political committees filing on a semi-annual basis in 2015 are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the New York Special General Election by the close of books for the applicable report(s). (See charts below for the closing date for each report.)

Committees filing monthly that make contributions or expenditures in connection with the New York Special General Election will continue to file according to the monthly reporting schedule.

Additional disclosure information in connection with the New York Special

Election may be found on the FEC Web site at http://www.fec.gov/info/report_dates.shtml.

Disclosure of Lobbyist Bundling Activity

Principal campaign committees, party committees and Leadership PACs that are otherwise required to file reports in connection with the special elections must simultaneously file FEC Form 3L if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of \$17,600 during the special election reporting periods. (See charts below for closing date of each period.) 11 CFR 104.22(a)(5)(v), (b).

CALENDAR OF REPORTING DATES FOR NEW YORK SPECIAL ELECTION—QUARTERLY FILING COMMITTEES INVOLVED IN THE SPECIAL GENERAL (05/05/15) MUST FILE

Report	Close of books ¹	Reg./cert. and overnight mailing deadline	Filing deadline
April Quarterly	—WAIVED—		
Pre-General	04/15/15	04/20/15	04/23/15
Post-General	05/25/15	06/04/15	06/04/15
July Quarterly	06/30/15	07/15/15	07/15/15

SEMI-ANNUAL FILING COMMITTEES INVOLVED IN THE SPECIAL GENERAL (05/05/15) MUST FILE

Report	Close of books ¹	Reg./cert. and overnight mailing deadline	Filing deadline
Pre-General	04/15/15	04/20/15	04/23/15
Post-General	05/25/15	06/04/15	06/04/15
Mid-Year	06/30/15	07/31/15	07/31/15

Dated: March 2, 2015.

On behalf of the Commission.

Ann M. Ravel,

Chair, Federal Election Commission.

[FR Doc. 2015-05175 Filed 3-5-15; 8:45 am]

BILLING CODE 6715-01-P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

AGENCY: Federal Election Commission.

DATE AND TIME: *Thursday, March 5, 2015 at 10:00 a.m.*

PLACE: 999 E Street NW., Washington, DC (Ninth Floor)

STATUS: This meeting will be open to the public.

FEDERAL REGISTER NOTICE OF PREVIOUS ANNOUNCEMENT: 80 FR 11202, March 2, 2015.

CHANGE IN THE MEETING: The meeting has been rescheduled for Tuesday, March 10, 2015 at 1:00 p.m.

Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Shawn Woodhead Werth, Secretary and Clerk, at (202) 694-1040, at least 72 hours prior to the meeting date.

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer Telephone: (202) 694-1220.

Shawn Woodhead Werth,

Secretary and Clerk of the Commission.

[FR Doc. 2015-05440 Filed 3-4-15; 04:15 pm]

BILLING CODE 6715-01-P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE AND TIME: *Tuesday March 3, 2015 at 10:00 a.m. and its Continuation on Thursday March 5, 2015 at the Conclusion of the Open Meeting.*

PLACE: 999 E Street NW., Washington, DC.

STATUS: This meeting will be closed to the public.

FEDERAL REGISTER NOTICE OF PREVIOUS ANNOUNCEMENT: 80 FR 10482, February 26, 2015.

CHANGE IN THE MEETING: The meeting will be continued at the conclusion of the open meeting on Tuesday, March 10, 2015.

* * * * *

¹ These dates indicate the end of the reporting period. A reporting period always begins the day after the closing date of the last report filed. If the

committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered as a

political committee with the Commission up through the close of books for the first report due.

PERSON TO CONTACT FOR INFORMATION:

Judith Ingram, Press Officer, Telephone:
(202) 694-1220.

Shawn Woodhead Werth,

Secretary and Clerk of the Commission.

[FR Doc. 2015-05441 Filed 3-4-15; 04:15 pm]

BILLING CODE 6715-01-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 § 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 March 23, 2015.

A. Federal Reserve Bank of Minneapolis (Jacquelyn K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. *Merchants Financial Group, Inc.*, Employee Stock Ownership Plan, Winona, Minnesota; to retain voting shares of Merchants Financial Group, Inc., Winona, Minnesota, and thereby indirectly acquire voting shares of Merchants Bank, National Association, Winona, Minnesota.

B. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198-0001:

1. *Justine Hurry*, Glenbrook, Nevada; to acquire control of Premier Bank, Denver, Colorado.

Board of Governors of the Federal Reserve System, March 2, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015-05182 Filed 3-5-15; 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 April 2, 2015.

A. Federal Reserve Bank of St. Louis (Yvonne Sparks, Community Development Officer), P.O. Box 442, St. Louis, Missouri 63166-2034:

1. *BancorpSouth, Inc.*, Tupelo, Mississippi; to merge with Central Community Corporation, Temple, Texas, and thereby indirectly acquire First State Bank Central Texas, Austin, Texas.

2. *BancorpSouth, Inc.*, Tupelo, Mississippi; to acquire, through merger, Ouachita Bancshares Corporation, and thereby indirectly acquire Ouachita Independent Bank, both in Monroe, Louisiana.

B. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President), 1 Memorial Drive, Kansas City, Missouri 64198-0001:

1. *Ironhorse Financial Group, Inc.*, Muskogee, Oklahoma; to acquire 100 percent of the voting shares of Benefit Bank, Fort Smith, Arkansas.

Board of Governors of the Federal Reserve System, March 3, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015-05220 Filed 3-5-15; 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 § 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 March 23, 2015.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198-0001:

1. *NebraskaLand Financial Services, Inc.*, North Platte, Nebraska; to acquire 100 percent of the voting shares of NFS Holdings LLC, North Platte, Nebraska, and to continue to engage in lending and servicing of loans, pursuant to section 225.28(b)(1).

Board of Governors of the Federal Reserve System, March 2, 2015.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2015-05183 Filed 3-5-15; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL TRADE COMMISSION**[File No. 142 3249]****AmeriFreight, Inc. and Marius Lehmann; Analysis of Proposed Consent Order To Aid Public Comment****AGENCY:** Federal Trade Commission.**ACTION:** Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before March 31, 2015.

ADDRESSES: Interested parties may file a comment at <https://ftcpublic.commentworks.com/ftc/amerifreightconsent> online or on paper,

by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write “AmeriFreight, Inc.-Consent Agreement; File No. 142 3249” on your comment and file your comment online at <https://ftcpublic.commentworks.com/ftc/amerifreightconsent> by following the instructions on the Web-based form. If you prefer to file your comment on paper, write “AmeriFreight, Inc.-Consent Agreement; File No. 142 3249” on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC-5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Victor DeFrancis, Bureau of Consumer Protection, (202) 326-3495, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment

describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for February 27, 2015), on the World Wide Web, at <http://www.ftc.gov/os/actions.shtm>.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before March 31, 2015. Write “AmeriFreight, Inc.-Consent Agreement; File No. 142 3249” on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission tries to remove individuals’ home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone’s Social Security number, date of birth, driver’s license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any “[t]rade secret or any commercial or financial information which . . . is privileged or confidential,” as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).¹ Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion,

¹ In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c), 16 CFR 4.9(c).

grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/amerifreightconsent> by following the instructions on the Web-based form. If this Notice appears at <http://www.regulations.gov/#/home>, you also may file a comment through that Web site.

If you file your comment on paper, write “AmeriFreight, Inc.—Consent Agreement; File No. 142 3249” on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC-5610 (Annex D), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex D), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at <http://www.ftc.gov> to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before March 31, 2015. For information on the Commission’s privacy policy, including routine uses permitted by the Privacy Act, see <http://www.ftc.gov/ftc/privacy.htm>.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (“FTC” or “Commission”) has accepted, subject to final approval, an agreement containing a consent order from AmeriFreight, Inc. (“AmeriFreight”) and Marius Lehmann, an officer of AmeriFreight (“Respondents”).

The proposed consent order (“proposed order”) has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should

withdraw from the agreement or make final the agreement's proposed order.

AmeriFreight is an automobile shipment broker—that is, it arranges shipment of consumers' automobiles through third-party freight carriers. This matter involves AmeriFreight's online advertising for those services. The Commission's complaint alleges that the Respondents violated Section 5(a) of the Federal Trade Commission Act by misrepresenting that AmeriFreight was a highly rated or top-ranked automobile shipment broker based on its customers' unbiased reviews. The complaint also alleges that AmeriFreight failed to disclose that it paid consumers to post reviews.

The proposed order includes injunctive relief that prohibits these alleged violations and fences in similar and related violations.

Part I of the Order prohibits the Respondents from misrepresenting that their products or services are highly rated or top-ranked based on unbiased customer reviews or that their customer reviews are unbiased.

Part II of the Order requires the Respondents, when using an endorsement to advertise any product or service, to clearly and prominently disclose a material connection, if one exists, between the person providing the endorsement and Respondents.

Part III contains recordkeeping requirements for advertisements and other documents relevant to the order.

Parts IV through VII of the proposed order require Respondents to: Deliver a copy of the order to principals, officers, directors, managers, employees, agents, and representatives having responsibilities with respect to the subject matter of the order; notify the Commission of changes in corporate structure, discontinuance of current business or employment, or affiliation with any new business or employment that might affect compliance obligations under the order; and file compliance reports with the Commission.

Part VIII provides that the order will terminate after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the complaint or proposed order, or to modify the proposed order's terms in any way.

By direction of the Commission.

Donald S. Clark,
Secretary.

[FR Doc. 2015-05105 Filed 3-5-15; 8:45 am]

BILLING CODE 6750-01-P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension

AGENCY: Federal Trade Commission ("FTC" or "Commission").

ACTION: Notice.

SUMMARY: The information collection requirements described below will be submitted to the Office of Management and Budget ("OMB") for review, as required by the Paperwork Reduction Act ("PRA"). The FTC intends to ask OMB to extend for an additional three years the current PRA clearance for the FTC's enforcement of the information collection requirements in its Fair Packaging and Labeling Act regulations ("FPLA Rules"). That clearance expires on May 31, 2015.

DATES: Comments must be filed by April 6, 2015.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write "FPLA Rules, PRA Comment, P074200" on your comment and file your comment online at <https://ftcpublishcommentworks.com/ftc/fplaregspra2> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Megan Gray, Attorney, Division of Enforcement, Bureau of Consumer Protection, (202) 326-3405, 600 Pennsylvania Ave. NW., Room 9541, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: On December 16, 2014, the FTC sought public comment on the information collection requirements associated with the FPLA Rules (December 16, 2014 Notice¹), 16 CFR parts 500-503 (OMB Control Number 3084-0110).² No

¹ 79 FR 74722.

² Section 4 of the FPLA specifically requires packages or labels to be marked with: (1) A statement of identity; (2) a net quantity of contents disclosure; and (3) the name and place of business of the company responsible for the product. The FPLA Rules, 16 CFR parts 500-503, specify how

relevant comments were received. Pursuant to the OMB regulations, 5 CFR part 1320, that implement the PRA, 44 U.S.C. 3501 *et seq.*, the FTC is providing this second opportunity for public comment while seeking OMB approval to renew the pre-existing clearance for the Rule. All comments should be filed as prescribed herein, and must be received on or before April 6, 2015.

Burden Statement

As detailed in the December 16, 2014 Notice, the FTC estimates cumulative annual burden on affected entities to be 8,015,140 hours and \$185,149,734 in labor costs. Commission staff believes that the FPLA Rules impose negligible capital or other non-labor costs, as the affected entities are likely to have the necessary supplies and/or equipment already (*e.g.*, offices and computers) to implement the packaging and labeling disclosure requirements under the FPLA Rules.

Request for Comment

You can file a comment online or on paper. For the FTC to consider your comment, we must receive it on or before April 6, 2015.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before April 6, 2015. Write "FPLA Rules, PRA Comment, P074200" on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including to the extent practicable, on the public Commission Web site, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment doesn't include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment doesn't include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any "[t]rade secret or any commercial or financial information which . . . is

manufacturers, packagers, and distributors of "consumer commodities" must do this.

privileged or confidential,” as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, don’t include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to treat your comment as confidential, you must file it in paper form, with a request for confidentiality, and you have to follow the procedure explained in FTC Rule 4.9(c).³ Your comment will be kept confidential only if the FTC General Counsel grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublish.commentworks.com/ftc/fplaregspra2>, by following the instructions on the web-based form. When this Notice appears at <http://www.regulations.gov/#/home>, you also may file a comment through that Web site.

If you file your comment on paper, write “FPLA Rules, PRA Comment, P074200” on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW., Suite CC–5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW., 5th Floor, Suite 5610 (Annex J), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before April 6, 2015. For information on the Commission’s privacy policy, including routine uses permitted by the Privacy Act, see <http://www.ftc.gov/ftc/privacy.htm>. For supporting documentation and other information

underlying the PRA discussion in this Notice, see <http://www.reginfo.gov/public/jsp/PRA/praDashboard.jsp>.

Comments on the information collection requirements subject to review under the PRA should additionally be submitted to OMB. If sent by U.S. mail, they should be addressed to Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503. Comments sent to OMB by U.S. postal mail, however, are subject to delays due to heightened security precautions. Thus, comments instead should be sent by facsimile to (202) 395–5806.

David C. Shonka,

Principal Deputy General Counsel.

[FR Doc. 2015–05194 Filed 3–5–15; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30-Day–15–14LA]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies’ estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated,

electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to omb@cdc.gov. Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Annual Survey of Colorectal Cancer Control Activities Conducted by States and Tribal Organizations—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

In July 2009, the Centers for Disease Control and Prevention’s (CDC’s) Division of Cancer Prevention and Control, National Center for Chronic Disease Prevention and Health Promotion, funded the Colorectal Cancer Control Program (CRCCP) for a 5-year period. The purpose of the CRCCP is to promote colorectal cancer (CRC) screening to increase population-level screening rates to 80% and, subsequently, to reduce CRC incidence and mortality. The current awardees are 25 states and 4 tribal organizations.

The CRCCP includes two program components: (1) CRC screening of low-income, uninsured and underinsured people (screening provision) and (2) implementation of interventions to increase population-level screening rates (screening promotion).

As a comprehensive, organized screening program, the CRCCP supports activities including program management, partnership development, public education and targeted outreach, screening and diagnostic services, patient navigation, quality assurance and quality improvement, professional development, data management and utilization, and program monitoring and evaluation. For clinical service delivery, grantees fund health care providers in their state/territory/tribe to deliver colorectal cancer screening, diagnostic evaluation, and treatment referrals for those diagnosed with cancer.

An annual survey of CRCCP grantees was fielded from 2011–2013 through the

³ In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c), 16 CFR 4.9(c).

Cancer Prevention and Control Research Network. The survey was found to be useful by CDC and the grantees (which received feedback reports). For example, after the each survey administration, CDC was able to tailor sessions at the Program Director's meeting to the needs of grantees that had been expressed during last year's information collection. DCPC has decided to continue the data collection, and is being supported through the National Association of Chronic Disease Directors. CDC's proposed survey builds on previous information collections

conducted from 2011–2013 through the CPRN.

Questions are of various types including dichotomous and multiple response. All information is to be collected electronically through the web-based survey. The estimated burden per response is 75 minutes.

This assessment will enable CDC to gauge its progress in meeting CRCCP program goals, identify implementation activities, monitor program transition to efforts aimed at impacting population-based screening, identify technical assistance needs of state, tribe and territorial health department cancer

control programs, and identify implementation models with potential to expand and transition to new settings to increase program impact and reach. The assessment will identify successful activities that should be maintained, replicated, or expanded as well as provide insight into areas that need improvement.

OMB approval is requested for three years. Participation is voluntary for CRCCP awardees and there are no costs to respondents other than their time. The total estimated annualized burden hours are 36.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hrs.)
Colorectal Cancer Control Program Directors or Managers.	Colorectal Cancer Control Program (CRCCP) Grantee Survey of Program Implementation.	29	1	75/60

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. 2015–05211 Filed 3–5–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Health Resources and Services Administration (HRSA) has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

DATES: Comments on this ICR should be received no later than April 6, 2015.

ADDRESSES: Submit your comments, including the Information Collection Request Title, to the desk officer for HRSA, either by email to OIRA_submission@omb.eop.gov or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email the HRSA Information Collection Clearance Officer at paperwork@hrsa.gov or call (301) 443–1984.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: Voluntary Partner Surveys to Implement Executive Order 12862 in the Health Resources and Services Administration.

OMB No. 0915–0212—Extension.

Abstract: In response to Executive Order 12862, the Health Resources and Services Administration (HRSA) proposes to conduct voluntary customer surveys of its partners to assess strengths and weaknesses in program services and processes. HRSA partners are typically state or local governments, health care facilities, health care consortia, health care providers, and researchers. HRSA is requesting a generic approval from OMB to conduct the partner surveys.

Partner surveys to be conducted by HRSA might include, for example, online or telephone surveys of grantees to determine satisfaction with grant processes or technical assistance provided by a contractor, or in-class evaluation forms completed by providers who receive training from

HRSA grantees, to measure satisfaction with the training experience. Results of these surveys will be used to plan and redirect resources and efforts as needed to improve services and processes.

Focus groups may also be used to gain partner input into the design of mail and telephone surveys. Focus groups, in-class evaluation forms, mail surveys, and telephone surveys are expected to be the preferred data collection methods.

A generic approval allows HRSA to conduct a limited number of partner surveys without a full-scale OMB review of each survey. If generic approval is approved, information on each individual partner survey will not be published in the **Federal Register**.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
In-class evaluations	40,000	1	40,000	.05	2,000
Mail/Telephone/Online Surveys	12,000	1	12,000	.25	3,000
Focus groups	250	1	250	1.5	375
Total	52,250	1	52,250	.103	5,375

Jackie Painter,

Director, Division of the Executive Secretariat.

[FR Doc. 2015-05187 Filed 3-5-15; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS-1557, CMS-10531 and CMS-10535]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer April 6, 2015.

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured

consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395-5806 or Email: OIRA_submission@omb.eop.gov.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at <http://www.cms.hhs.gov/PaperworkReductionActof1995>.

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to Paperwork@cms.hhs.gov.

3. Call the Reports Clearance Office at (410) 786-1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786-1326.

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. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Survey Report

Form for Clinical Laboratory Improvement Amendments (CLIA) and Supporting Regulations; *Use:* The form is used to report surveyor findings during a CLIA survey. For each type of survey conducted (*i.e.*, initial certification, recertification, validation, complaint, addition/deletion of specialty/subspecialty, transfusion fatality investigation, or revisit inspections) the Survey Report Form incorporates the requirements specified in the CLIA regulations. *Form Number:* CMS-1557 (OMB control number: 0938-0544); *Frequency:* Biennially; *Affected Public:* Private sector (Business or other for-profit and Not-for-profit institutions, State, Local or Tribal Governments and Federal Government); *Number of Respondents:* 19,051; *Total Annual Responses:* 9,526; *Total Annual Hours:* 4,763. (For policy questions regarding this collection contact Kathleen Todd at 410-786-3385).

2. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* Transcatheter Mitral Valve Repair (TMVR) National Coverage Decision (NCD); *Use:* The data collection is required by the Centers for Medicare and Medicaid Services (CMS) National Coverage Determination (NCD) entitled, "Transcatheter Mitral Valve Repair (TMVR)". The TMVR device is only covered when specific conditions are met including that the heart team and hospital are submitting data in a prospective, national, audited registry. The data includes patient, practitioner and facility level variables that predict outcomes such as all-cause mortality and quality of life.

We find that the Society of Thoracic Surgery/American College of Cardiology Transcatheter Valve Therapy (STS/ACC TVT) Registry, one registry overseen by the National Cardiovascular Data Registry, meets the requirements specified in the NCD on TMVR. The TVT Registry will support a national surveillance system to monitor the safety and efficacy of the TMVR technologies for the treatment of mitral regurgitation (MR). The data will also

include the variables on the eight item Kansas City Cardiomyopathy Questionnaire (KCCQ–10) to assess health status, functioning and quality of life. In the KCCQ, an overall summary score can be derived from the physical function, symptoms (frequency and severity), social function and quality of life domains. For each domain, the validity, reproducibility, responsiveness and interpretability have been independently established. Scores are transformed to a range of 0–100, in which higher scores reflect better health status.

The conduct of the STS/ACC TVT Registry and the KCCQ–10 is pursuant to section 1142 of the Social Security Act (the ACT) that describes the authority of the Agency for Healthcare Research and Quality (AHRQ). Under section 1142, research may be conducted and supported on the outcomes, effectiveness, and appropriateness of health care services and procedures to identify the manner in which disease, disorders, and other health conditions can be prevented, diagnosed, treated, and managed clinically. Section 1862(a)(1)(E) of the Act allows Medicare to cover under coverage with evidence development (CED) certain items or services for which the evidence is not adequate to support coverage under section 1862(a)(1)(A) and where additional data gathered in the context of a clinical setting would further clarify the impact of these items and services on the health of beneficiaries.

The data collected and analyzed in the TVT Registry will be used to determine if TMVR is reasonable and necessary (*e.g.*, improves health outcomes) for Medicare beneficiaries under section 1862(a)(1)(A) of the ACT. Furthermore, data from the Registry will assist the medical device industry and the Food and Drug Administration (FDA) in surveillance of the quality, safety and efficacy of new medical devices to treat mitral regurgitation. For purposes of the TMVR NCD, the TVT Registry has contracted with the Data Analytic Centers to conduct the analyses. In addition, data will be made available for research purposes under the terms of a data use agreement that only provides de-identified datasets. *Form Number:* CMS–10531(OMB control number: 0938–NEW); *Frequency:* Annually; *Affected Public:* Private sector (Business or other for-profits); *Number of Respondents:* 4,000; *Total Annual Responses:* 16,000; *Total Annual Hours:* 5,600. (For policy questions regarding this collection contact Roya Lotfi at 410–786–4072).

3. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Employer Notification to HHS of its Objection to Providing Coverage for Contraceptive Services; *Use:* The proposed rules titled “Coverage of Certain Preventive Services Under the Affordable Care Act” (79 FR 51118), if finalized as proposed, would require each qualifying closely-held, for-profit entity seeking to be treated as an eligible organization to provide notification of its religious objection to coverage of all or a subset of contraceptive services. Issuers and third party administrators providing or arranging payments for contraceptive services for participants and beneficiaries in plans of eligible organizations would be required to meet the notice requirements as set forth in the 2013 final regulations, requiring them to provide notice of the availability of separate payments for contraceptive services to participants and beneficiaries in the eligible organizations’ plans (78 FR 39870, 39880 (July 2, 2013)).

The interim final regulations titled “Coverage of Certain Preventive Services Under the Affordable Care Act” (79 FR 51092) continue to allow eligible organizations that have religious objections to providing contraceptive coverage to notify an issuer or third party administrator using EBSA Form 700, as set forth in the 2013 final regulations. In addition, these interim final regulations permit an alternative process under which an eligible organization may notify HHS of its religious objection to coverage of all or a subset of contraceptive services.

Form Number: CMS–10535 (OMB control number: 0938–1248); *Frequency:* Once; *Affected Public:* Private sector (Business or other for-profits and not-for-profit institutions); *Number of Respondents:* 61; *Number of Responses:* 61; *Total Annual Hours:* 51. (For policy questions regarding this collection, contact Usree Bandyopadhyay at 410–786–6650.)

Dated: March 2, 2015.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2015–05165 Filed 3–5–15; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10464]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS’ intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency’s functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by May 5, 2015.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to <http://www.regulations.gov>. Follow the instructions for “Comment or Submission” or “More Search Options” to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address:

CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4–26–05, 7500

Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at <http://www.cms.hhs.gov/PaperworkReductionActof1995>.
2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to Paperwork@cms.hhs.gov.
3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10464 Agent/Broker Data Collection in Federally Facilitated Health Insurance Exchanges

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term “collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Agent/Broker Data Collection in Federally Facilitated Health Insurance Exchanges; *Use:* We collect personally identifiable information from agents/brokers to register them with the FFM and permit them to assist individuals and employers in enrolling in the FFM. We

use this collection of information to ensure agents/brokers possess the basic knowledge required to enroll individuals and SHOP employers/employees through the Marketplaces. Agents/brokers will use CMS or third-party systems to enter identifying information and register with the FFM. As a component of registration, agents/brokers are required to complete online training courses through a CMS or third-party Learning Management System (LMS). Upon completion of their applications and training requirements, agents/brokers will be required to attest to their agreement to adhere to FFM standards and requirements through a CMS or third-party LMS. *Form Number:* CMS–10464 (OMB Control Number 0938–1204); *Frequency:* Annually; *Affected Public:* Private sector (Business or other for-profits); *Number of Respondents:* 172,525; *Total Annual Responses:* 172,525; *Total Annual Hours:* 72,460. (For policy questions regarding this collection contact Daniel Brown at 301–492–5146).

Dated: March 2, 2015.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2015–05166 Filed 3–5–15; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Harmonizing the Health and Retirement Study (HRS).

Date: March 18, 2015.

Time: 9:00 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, Suite 2C212, 7201

Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Kimberly Firth, Ph.D., National Institutes of Health, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7702, firthkm@mail.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: March 2, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–05172 Filed 3–5–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences 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 General Medical Sciences Special Emphasis Panel; Review of P20 Research Training Grant Applications.

Date: March 26, 2015.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of General Medical Sciences, Natcher Building, 45 Center Drive, 3An.12, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Lisa A. Dunbar, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.12F, Bethesda, MD 20892, 301–594–2849, dunbarl@mail.nih.gov.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Review of P50 Research Training Grant Applications.

Date: March 31, 2015.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Room 3An.12, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Lisa A. Dunbar, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.12F, Bethesda, MD 20892, 301-594-2849, dunbarl@mail.nih.gov. (Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: March 2, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015-05171 Filed 3-5-15; 8:45 am]

BILLING CODE 4140-01P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Service Administration

Advisory Committee on Interdisciplinary, Community-Based Linkages, Notice for Request for Nominations

SUMMARY: The Health Resources and Services Administration (HRSA) is requesting nominations to fill eleven upcoming vacancies on the Advisory Committee on Interdisciplinary, Community-Based Linkages (ACICBL).

Authority: 42 U.S.C. 294f, section 757 of the Public Health Service (PHS) Act, as amended by the Patient Protection and Affordable Care Act. The Advisory Committee is governed by the Federal Advisory Act, Public Law 92-463, as amended (5 U.S.C. Appendix 2) which sets forth standards for the formation and use of advisory committees.

DATES: The Agency must receive nominations on or before May 1, 2015.

ADDRESSES: All nominations are to be submitted either by mail to Joan Weiss, Ph.D., RN, CRNP, FAAN, Designated Federal Official, ACICBL, Division of Medicine and Dentistry, Bureau of Health Workforce (BHW), Health Resources and Services Administration (HRSA), Parklawn Building, Room 12C-05, 5600 Fishers Lane, Rockville, Maryland 20857 or email to Dr. Joan Weiss at jweiss@hrsa.gov.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Dr. Joan Weiss, Division of Medicine and Dentistry, BHW, by email at jweiss@hrsa.gov or telephone at (301) 443-0430. A copy of the current committee membership, charter and reports can be obtained by accessing the Advisory Committee Web site at <http://www.hrsa.gov/advisorycommittees/bhpradvisory/acicbl/index.htm>.

SUPPLEMENTARY INFORMATION: Under the authorities that established the ACICBL and the Federal Advisory Committee Act, HRSA is requesting nominations for eleven committee members. The ACICBL provides advice and recommendations to the Secretary of Health and Human Services (Secretary) concerning policy, program development, and other matters of significance related to interdisciplinary, community-based training grant programs authorized under sections 750-759, title VII, part D of the PHS Act, as amended. The ACICBL prepares an annual report describing the activities conducted during the fiscal year, identifying findings and developing recommendations to enhance these title VII programs. The annual report is submitted to the Secretary and ranking members of the Senate Committee on Health, Education, Labor and Pensions, and the House of Representatives Committee on Energy and Commerce. The ACICBL develops, publishes, and implements performance measures for programs under this part; develops and publishes guidelines for longitudinal evaluations (as described in section 761(d)(2)) for programs under this part; and recommends appropriation levels for programs under this part.

The Department of Health and Human Services is requesting a total of eleven nominations for members of the ACICBL from schools that have administered or are currently administering awards from the following programs/areas: Area Health Education Centers (3); Education and Training Relating to Geriatrics (2); Rural Interdisciplinary Training (2); Chiropractic Demonstration Program (1); Preventive and Primary Care Training for Podiatric Physicians (1); and Social Work (2). Among these nominations, students, residents, and/or fellows from these programs are encouraged to apply.

HRSA has a special interest, and the legislation requires a fair balance between the health professions and members from urban and rural areas, a broad geographic distribution, and the adequate representation of women and minorities. HRSA encourages nominations of qualified candidates

from these groups as well as individuals with disabilities.

To allow the Secretary to choose from a highly qualified list of potential candidates, more than one nomination is requested per open position. Interested persons may nominate one or more qualified persons for membership. Self-nominations are also accepted. Nominations must be typewritten. The following information should be included in the package of materials submitted for each individual being nominated for consideration: (1) A letter of nomination that clearly states the name and affiliation of the nominee, the basis for the nomination (*i.e.*, specific attributes that qualify the nominee for service in this capacity), a statement that the nominee is willing to serve as a member of the Committee and appears to have no conflict of interest that would preclude the Committee membership—potential candidates will be asked to provide detailed information concerning such matters as financial holdings, consultancies, research grants, and/or contracts to permit an evaluation of possible sources of conflicts of interest; (2) the nominator's name, address, and daytime telephone number, and the home/or work address, telephone number, and email address of the individual being nominated; (3) a current copy of the nominee's curriculum vitae; and (4) a statement of interest from the nominee to support experience working with title VII interdisciplinary, community-based training grant programs; expertise in the field; and personal desire in participating on a National Advisory Committee.

Members will receive a stipend for each official meeting day of the Committee, as well as per diem and travel expenses as authorized by section 5 U.S.C. 5703 for persons employed intermittently in Government service.

Appointments shall be made without discrimination on the basis of age, ethnicity, gender, sexual orientation, and cultural, religious, or socioeconomic status. Qualified candidates will be invited to serve a 3-year term.

Jackie Painter,
Director,

Division of the Executive Secretariat.
[FR Doc. 2015-05189 Filed 3-5-15; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel; NEI Center Core Grants for Vision Research.

Date: March 27, 2015.

Time: 8:30 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Anne E. Schaffner, Ph.D., Chief, Scientific Review Branch, Division of Extramural Research, National Eye Institute, 5635 Fishers Lane, Suite 1300, MSC 9300, Bethesda, MD 20892-9300, (301) 451-2020, aes@nei.nih.gov.

(Catalogue of Federal Domestic Assistance Program No. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: March 2, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015-05169 Filed 3-5-15; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Service Administration

Council on Graduate Medical Education; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of the following meeting:

Name: Council on Graduate Medical Education (COGME).

Dates and Times: March 12, 2015 (8:30 a.m.–5 p.m. EST); March 13, 2015 (8:30 a.m.–5 p.m. EST).

Place: In-person meeting, webinar, and conference call format.

Status: The meeting will be open to the public.

Purpose: The COGME provides advice and recommendations to the Secretary of the Department of Health and Human Services and to Congress on a range of issues including the supply and distribution of physicians in the United States, current and future physician shortages or excesses, issues relating to foreign medical school graduates, the nature and financing of medical education training, and the development of performance measures and longitudinal evaluation of medical education programs.

The COGME members will discuss topics and issues for the 23rd report. The COGME's reports are submitted to the Secretary of the Department of Health and Human Services; the Committee on Health, Education, Labor, and Pensions of the Senate; and the Committee on Energy and Commerce of the House of Representatives.

Agenda: The COGME agenda includes an opportunity for members to discuss the 23rd report on Graduate Medical Education (GME) innovations. The COGME will review current recommendations for reform; examine and document innovations in GME financing and architecture; and make targeted recommendations to support these innovations as appropriate. GME architecture is defined as changes in the structure of GME training programs to enhance the efficiency of training, account for changes in medicine, and address physician workforce needs, while also maintaining the quality of medical education. Examples include the combined, shortened medical school to primary care residency programs and the integrated vascular surgery tracks which both reduce the total number of years of training by 1 year. Innovations in GME architecture—Committee Discussion Questions include:

- What are examples of innovations in streamlining the GME architecture to increase the throughput and cost efficiencies of GME, in order to reduce the overall length and cost of training?
- How can medical education technology be leveraged in the transformation and innovation in GME?
- What are the potential regulatory and licensing challenges from such changes, and how can they be mitigated?

The official agenda will be available 2 days prior to the meeting on the HRSA Web site at <http://www.hrsa.gov/advisorycommittees/bhpradvisory/cogme/index.html>.

SUPPLEMENTARY INFORMATION: Requests to make oral comments or provide

written comments to the COGME should be sent to Dr. Joan Weiss, Designated Federal Official, using the address and phone number below. Individuals who plan to participate on the conference call or webinar should notify Dr. Weiss at least 3 days prior to the meeting, using the address and phone number below. Members of the public will have the opportunity to provide comments. Interested parties should refer to the meeting subject as the HRSA Council on Graduate Medical Education.

The conference call-in number is (800) 369-1867. The passcode is: 8803797. The webinar link is https://hrsa.connectsolutions.com/cac_committee_meeting/.

As this meeting will be a combined format of both in-person, webinar, and conference call members of the public, and interested parties who wish to participate “in-person” should make an immediate request by emailing their first name, last name, and contact email to the Designated Federal Official for the committee, Dr. Joan Weiss, using the address and phone number below. Space is limited. Due to the fact that this meeting will be held within a federal government building and public entrance to such facilities require prior planning, access will be granted upon request only and will be on a first come, first served basis. The logistical challenges of scheduling this meeting hindered an earlier publication of this meeting notice.

Contact: Anyone requesting information regarding the COGME should contact Dr. Joan Weiss, Designated Federal Official within the Bureau of Health Workforce, Health Resources and Services Administration, in one of three ways: (1) Send a request to the following address: Dr. Joan Weiss, Designated Federal Official, Bureau of Health Workforce, Health Resources and Services Administration, Parklawn Building, Room 12C-05, 5600 Fishers Lane, Rockville, Maryland 20857; (2) call (301) 443-0430; or (3) send an email to jweiss@hrsa.gov.

Jackie Painter,

Director, Division of the Executive Secretariat.

[FR Doc. 2015-05188 Filed 3-5-15; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as

amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Neurodegenerative Disorders and Glial Biology.

Date: March 27, 2015.

Time: 11:30 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Christine A. Piggee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4186, MSC 7850, Bethesda, MD 20892, 301-435-0657, christine.piggee@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Mapping the Conformational Cycle of Transmembrane Transporters.

Date: April 1–2, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Nuria E. Assa-Munt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4164, MSC 7806, Bethesda, MD 20892, (301) 451-1323, assamunu@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Hematology and Vascular Diseases.

Date: April 1–2, 2015.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Ai-Ping Zou, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7814, Bethesda, MD 20892, 301-408-9497, zouai@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Virology.

Date: April 1, 2015.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Richard G. Kostriken, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7808, Bethesda, MD 20892, 240-519-7808, kostrikr@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Molecular Neurodegeneration and Signaling.

Date: April 1, 2015.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Carol Hamelink, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4192, MSC 7850, Bethesda, MD 20892, (301) 213-9887, hamelinc@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Biochemistry.

Date: April 1, 2015.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Richard D. Crosland, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4190, MSC 7850, Bethesda, MD 20892, 301-435-1220, crosland@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Biological Chemistry and Macromolecular Biophysics.

Date: April 2–3, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: David R. Jollie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4150, MSC 7806, Bethesda, MD 20892, (301) 435-1722, jollieda@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cell Biology.

Date: April 2–3, 2015.

Time: 11:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: David Balasundaram, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5189, MSC 7840, Bethesda, MD 20892, 301-435-1022, balasundaramd@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Urology.

Date: April 2, 2015.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Martha Garcia, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2186, MSC 7818, Bethesda, MD 20892, 301-435-1243, garciamc@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Gastrointestinal Physiology and Pathophysiology.

Date: April 2, 2015.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Bonnie L. Burgess-Beusse, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, 301-435-1783, beusseb@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR13-309-311: Translational Research in Pediatric and Obstetric Pharmacology and Therapeutics.

Date: April 2, 2015.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michael Knecht, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6176, MSC 7892, Bethesda, MD 20892, (301) 435-1046, knechtm@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Molecular Neuroscience: Mechanisms and Pathways.

Date: April 2, 2015.

Time: 12:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Laurent Taupenot, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4188, MSC 7850, Bethesda, MD 20892, 301-435-1203, laurent.taupenot@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 2, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015-05173 Filed 3-5-15; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: HHS-OS-0990-New-60D]

Agency Information Collection Activities; Proposed Collection; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, announces plans to submit a new Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting that ICR to OMB, OS seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on the ICR must be received on or before May 5, 2015.

ADDRESSES: Submit your comments to *Information.CollectionClearance@hhs.gov* or by calling (202) 690-6162.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690-6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the document identifier HHS-OS-0990-new-60D for reference.

Information Collection Request Title: Midwest HIV Prevention and Pregnancy Planning Initiative (MHPPPI).

Abstract: HHS Office of the Assistant Secretary for Health (OASH)/Office of Women's Health (OWH) is seeking an approval on a new information collection request by the Office of Management and Budget (OMB), the program office initiatives on the evaluation of the MHPPPI will be conducted by the AIDS Foundation of Chicago's (AFC) internal Research, Evaluation and Data Services (REDS) department, which specializes in documenting, evaluating and analyzing the process, impact and outcomes of health programs. The evaluation framework for MHPPPI includes process monitoring, impact evaluation, outcome evaluation and dissemination. The impact evaluation will be informed by an initial climate survey of a sample of medical providers within the Midwest to develop a conservative baseline

estimate of the counterfactual model. The counterfactual model will postulate what would have happened without the intervention. The impact evaluation will also document and analyze the degree to which services are integrated in medical settings based on change agent surveys administered through participating trainees. The outcome evaluation will assess changes that occurred in each domain as a result of the intervention, including knowledge, attitudes and behaviors related to the specific training content. The overall evaluation goal is to assess whether or not MHPPPI:

- (1) Increased the knowledge of providers,
- (2) Facilitated the integration of pregnancy planning into the care of HIV-positive women/women with HIV-positive partners, and
- (3) Increased access to innovative HIV prevention options in communities with high HIV prevalence.

Likely Respondents:

- HIV Primary Care Providers
 - Anyone who provides primary HIV care to persons of reproductive age (15-49).
- Reproductive Health Care Providers
 - Anyone who provides reproductive health care to HIV+ persons or HIV- persons with HIV+ partners.
- HIV-positive and HIV-negative women receiving reproductive health care

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Provider Survey	300	1	15/60	75
Patient Qualitative Interview	20	1	1	20
Provider Qualitative Interview	20	1	1	20
Total .....	.....	.....	.....	105

Darius Taylor,

Collection Clearance Officer.

[FR Doc. 2015-05120 Filed 3-5-15; 8:45 am]

BILLING CODE 4150-28-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Review of K99 Research Training Grant Applications.

Date: March 11, 2015.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Rd. NW., Washington, DC 20015.

Contact Person: Lee Warren Slice, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.12E, Bethesda, MD 20892, 301-435-0807, *sliselw@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and

Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: March 2, 2015.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015-05170 Filed 3-5-15; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG-2015-0049]

Merchant Marine Personnel Advisory Committee

AGENCY: Coast Guard, DHS.

ACTION: Notice of Federal Advisory Committee Meeting.

SUMMARY: The Merchant Marine Personnel Advisory Committee will meet to discuss various issues related to the training and fitness of merchant marine personnel. This meeting will be open to the public.

DATES: The Merchant Marine Personnel Advisory Committee working groups are scheduled to meet on March 18, 2015, from 8 a.m. until 5 p.m., and the full Committee is scheduled to meet on March 19, 2015, from 8 a.m. until 5 p.m. Written comments for distribution to Committee members and for inclusion on the Merchant Marine Personnel Advisory Committee Web site must be submitted on or before March 11, 2015. Please note that this meeting may adjourn early if all business is finished. These meetings will be held as scheduled subject to the availability of funds. Anyone interested in attending this meeting may want to contact the Coast Guard before making their travel and hotel reservations. Please contact either Mr. Davis Breyer at davis.j.breyer@uscg.mil or Mr. Mark Gould at mark.c.gould@uscg.mil to confirm that the meeting will be held on these dates or if the meeting has been rescheduled.

ADDRESSES: The Committee will meet in the St. Charles Ballroom B of the Astor Crowne Plaza Hotel, 739 Canal Street, New Orleans, LA 70130. For further information about the Astor Crowne Plaza Hotel, contact Ms. Angela Eckles at 504-962-0500 ext. 8004 or via email at aekles@astornorleans.com. The hotel Web site can also be viewed at www.astornorleans.com.

For information on facilities or services for individuals with disabilities or to request special assistance, please contact Mr. Davis Breyer as indicated in the **FOR FURTHER INFORMATION CONTACT** paragraph below.

Hotel Reservations: A block of rooms has been reserved at a group rate from Tuesday, March 17 through Thursday, March 19, 2015 at the Astor Crowne Plaza Hotel for the Merchant Marine Personnel Advisory Committee meeting attendees. Availability is limited. To make a reservation please visit the following Web site: <https://aws.passkey.com/event/12834866/owner/10756/home> Select "attendee" from the dropdown menu.

If you plan on attending the Merchant Mariner Medical Advisory Committee meeting being held March 16-17, 2015 immediately before the Merchant Marine Personnel Advisory Committee meeting, a separate hotel reservation will need to be made under a different block. To make a reservation for the Merchant Mariner Medical Advisory Committee meeting please visit the following Web site: <https://aws.passkey.com/event/12834543/owner/10756/landing>. To secure the group rate, reservations under both committee blocks must be made no later March 13, 2015.

To facilitate public participation, we are inviting public comment on the issues to be considered by the Committee and working groups as listed in the "Agenda" section below. Written comments must be identified by Docket No. USCG-2015-0049 and submitted by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments (preferred method to avoid delays in processing).
- **Fax:** 202-493-2251.
- **Mail:** Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.
- **Hand delivery:** Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. The telephone number is 202-366-9329.

Instructions: All submissions must include the words "Department of Homeland Security" and the docket number for this action. Comments received will be posted without alteration at <http://www.regulations.gov>, including any personal information provided. You may review a Privacy Act notice regarding our public dockets in

the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Docket: For access to the docket to read documents or comments related to this notice, go to <http://www.regulations.gov>, enter the docket number in the "Search" field and follow the instructions on the Web site.

Public oral comment periods will be held each day. Speakers are requested to limit their comments to 3 minutes. Please note that the public oral comment periods may end before the prescribed ending time following the last call for comments. Contact Mr. Davis Breyer as indicated below to register as a speaker.

This notice may be viewed in our online docket, USCG-2015-0049, at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Mr. Davis Breyer, Alternate Designated Federal Officer of the Merchant Marine Personnel Advisory Committee, telephone 202-372-1445, or at davis.j.breyer@uscg.mil. If you have any questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202-366-9826 or 1-800-647-5527.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act (Public Law 92-463, 5 U.S.C., Appendix).

The Merchant Marine Personnel Advisory Committee was established under the Secretary's authority in section 871 of the Homeland Security Act of 2002, Title 6, United States Code, section 451, and chartered under the provisions of the Federal Advisory Committee Act. The Committee acts solely in an advisory capacity to the Secretary of the Department of Homeland Security through the Commandant of the Coast Guard and the Director of Commercial Regulations and Standards on matters relating to personnel in the U.S. merchant marine, including but not limited to training, qualifications, certification, documentation, and fitness standards. The Committee will advise, consult with, and make recommendations reflecting its independent judgment to the Secretary.

A copy of all meeting documentation is available at <https://homeport.uscg.mil> by using these key strokes: Missions; Port and Waterways Safety; Advisory Committees; MERPAC; and then use the announcements key. Alternatively, you may contact Mr. Davis Breyer as noted in the **FOR FURTHER INFORMATION CONTACT** section above.

Agenda

Day 1

The agenda for the March 18, 2015, meeting is as follows:

(1) The full Committee will meet briefly to discuss the working groups' business/task statements, which are listed under paragraph 2(a)–(d) below.

(2) Working groups will address the following task statements which are available for viewing at <http://homeport.uscg.mil/merpac>:

(a) Task Statement 30, Utilizing Military Education, Training and Assessment for the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) and U.S. Coast Guard Certifications;

(b) Task Statement 58, Communication between External Stakeholders and the Mariner Credentialing Program, as it Relates to the National Maritime Center;

(c) Task Statement 84, Correction of Merchant Mariner Credentials issued with Clear Errors; and

(d) Task Statement 87, Review of Policy Documents Providing Guidance on the Implementation of the December 24, 2013 International Convention on Standards of Training, Certification and Watchkeeping and Changes to National Endorsements Rulemaking.

(3) Public comment period.

(4) Reports of working groups. At the end of the day, the working groups will report to the full Committee on what was accomplished in their meetings. The full Committee will not take action on these reports on this date. Any official action taken as a result of this working group meeting will be taken on day 2 of the meeting.

(5) Adjournment of meeting.

Day 2

The agenda for the March 19, 2015, full Committee meeting is as follows:

(1) Introduction;

(2) Remarks from Coast Guard Leadership;

(3) Designated Federal Officer announcements;

(4) Roll call of Committee members and determination of a quorum;

(5) Reports from the following working groups;

(a) Task Statement 30, Utilizing Military Education, Training and Assessment for the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) and U.S. Coast Guard Certifications;

(b) Task Statement 58, Communication between External Stakeholders and the Mariner

Credentialing Program, as it Relates to the National Maritime Center;

(c) Task Statement 76, Review of Performance Measures (Assessment Criteria);

(d) Task Statement 77, Development of Performance Measures (Assessment Criteria);

(e) Task Statement 78, Consideration of the International Labour Organization's Maritime Labour Convention, 2006;

(f) Task Statement 80, Develop training guidelines for mariners employed aboard vessels subject to the IGF Code;

(g) Task Statement 81, Development of Competency Requirements for Vessel Personnel Working Within the Polar Regions;

(h) Task Statement 84, Correction of Merchant Mariner Credentials issued with Clear Errors; and

(i) Task Statement 87, Review of Policy Documents Providing Guidance on the Implementation of the December 24, 2013 International Convention on Standards of Training, Certification and Watchkeeping and Changes to National Endorsements Rulemaking.

(6) Other items for discussion:

(a) Report on the Implementation of the 2010 Amendments to the International Convention on Standards of Training, Certification and Watchkeeping;

(b) Report on National Maritime Center activities from the National Maritime Center Commanding Officer, such as the net processing time it takes for mariners to receive their credentials after application submittal;

(c) Report on Mariner Credentialing Program Policy Division activities, such as its current initiatives and projects;

(d) Report on International Maritime Organization (IMO)/International Labor Organization (ILO) issues related to the merchant marine industry; and

(e) Briefings about on-going Coast Guard projects related to personnel in the U.S. merchant marine, including a draft task statement concerning job descriptions for the various billets on merchant vessels.

(7) Public comment period.

(8) Discussion of working group recommendations. The Committee will review the information presented on each issue, deliberate on any recommendations presented by the working groups and approve/formulate recommendations for the Department's consideration. Official action on these recommendations may be taken on this date.

(9) Closing remarks/plans for next meeting.

(10) Adjournment of meeting.

A copy of all meeting documentation is available at <http://homeport.uscg.mil/merpac>.

Dated: March 3, 2015.

J.G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2015–05368 Filed 3–5–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2011–0138]

Merchant Mariner Medical Advisory Committee

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Notice of Federal Advisory Committee Meeting.

SUMMARY: The Merchant Mariner Medical Advisory Committee will meet to discuss matters relating to medical certification determinations for issuance of licenses, certificates of registry, merchant mariners' documents, medical standards and guidelines for the physical qualifications of operators of commercial vessels, medical examiner education, and medical research. The meeting will be open to the public.

DATES: The Merchant Mariner Medical Advisory Committee is scheduled to meet on Monday, March 16 and Tuesday, March 17, 2015, from 8 a.m. to 5 p.m. Please note that the meeting may close early if the committee has completed its business. This meeting will be held as scheduled subject to the availability of funds. Anyone interested in attending this meeting may want to contact the Coast Guard before making their travel and hotel reservations. Please contact Lieutenant Ashley Holm, Alternate Designated Federal Officer for the Merchant Mariner Medical Advisory Committee, to confirm that the meeting will be held on these dates or if the meeting has been re-scheduled. All submitted written materials, comments, and requests to make oral presentations at the meeting should reach Lieutenant Ashley Holm no later than March 13, 2015. For contact information, please see the **FOR FURTHER INFORMATION CONTACT** section below. Any written material submitted by the public both before and after the meeting will be distributed to the Merchant Mariner Medical Advisory Committee and become part of the public record.

ADDRESSES: The meeting will be held at the Astor Crowne Plaza Hotel, St.

Charles Ballroom B, 739 Canal Street at Bourbon, New Orleans, LA 70130 (www.astorneworleans.com). For further information about the hotel facilities, please contact the front desk at (504) 962-0500.

For information on services for individuals with disabilities or to request special assistance at the meeting, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section as soon as possible. For planning purposes, please notify the Merchant Mariner Medical Advisory Committee Alternate Designated Federal Officer of your attendance as soon as possible.

Hotel Reservations: A block of rooms have been reserved at a group rate from Sunday, March 15 through Wednesday, March 18, 2015 at the Astor Crowne Plaza Hotel for the Merchant Mariner Medical Advisory Committee meeting attendees. Availability is limited. To make a reservation please visit the following Web site: <https://aws.passkey.com/event/12834543/owner/10756/landing>. Select “attendee” from the dropdown menu.

If you plan on attending the Merchant Marine Personnel Advisory Committee meeting being held March 18–19, 2015 following the Merchant Mariner Medical Advisory Committee, a separate hotel reservation will need to be made under a different block. To make a reservation for the Merchant Marine Personnel Advisory Committee meeting please visit the following Web site: <https://aws.passkey.com/event/12834866/owner/10756/home>. To secure the group rate, reservations under both committee blocks must be made no later than March 13, 2015.

To facilitate public participation, we are inviting public comment on the issues to be considered by the committee as listed in the “Agenda” section below. Written comments must be submitted no later than March 13, 2015, in order for committee members to review comments before the meeting, and must be identified by docket number USCG–2011–0138 and submitted by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments (preferred method to avoid delays in processing).

- **Fax:** 202–493–2251.

- **Mail:** Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

- **Hand delivery:** Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. The telephone number is 202–366–9329.

Instructions: All submissions must include the words “Department of Homeland Security” and the docket number for this action. All comments submitted will be posted without alteration at <http://www.regulations.gov>, including any personal information provided. You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Docket: For access to the docket to read documents or comments related to this Notice, go to <http://www.regulations.gov>, insert USCG–2011–0138 in the “SEARCH” box, press Enter and then click on the item you wish to view.

A public comment period will be held on March 16, 2015, from approximately 11 a.m.–11:30 a.m. Speakers are requested to limit their comments to 5 minutes. Please note that the public comment period may end before the time indicated, following the last call for comments. Additionally, public comment will be sought throughout the meeting as specific issues are discussed by the committee. Contact Lieutenant Ashley Holm as indicated below to register as a speaker.

FOR FURTHER INFORMATION CONTACT: Lieutenant Ashley Holm, Alternate Designated Federal Officer for the Merchant Mariner Medical Advisory Committee, at telephone 202–372–1128 or email Ashley.e.holm@uscg.mil. If you have any questions on viewing or submitting material to the docket, call Ms. Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826 or 1–800–647–5527.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the *Federal Advisory Committee Act*, 5 United States Code Appendix. The Merchant Mariner Medical Advisory Committee Meeting is authorized by 46 United States Code 7115 and advises the Secretary on matters related to (a) medical certification determinations for issuance of licenses, certificates of registry, and merchant mariners’ documents; (b) medical standards and guidelines for the physical qualifications of operators of commercial vessels; (c) medical examiner education; and (d) medical research.

A copy of all meeting documentation is available at <https://homeport.uscg.mil> by using these key strokes: Missions; Port and Waterways; Safety Advisory

Committees; MEDMAC and then use the announcements key. Alternatively, you may contact Lieutenant Ashley Holm as noted in the **FOR FURTHER INFORMATION CONTACT** section above.

Agenda:

Day 1

The agenda for the March 16, 2015 meeting is as follows:

- (1) Opening remarks from Coast Guard leadership.
- (2) Opening remarks from the Designated Federal Officer.
- (3) Roll call of committee members and determination of a quorum.
- (4) Review of last full committee meeting’s minutes.
- (5) Public comments.
- (6) Introduction of new task(s).
- (7) Working Groups addressing the following task statements may meet to deliberate—

(a) Task Statement 1, Revision of Navigation and Vessel Inspection Circular 04–08. The Navigation and Vessel Inspection Circular can be found at <http://www.uscg.mil/hq/cg5/nvic/>, Medical and Physical Guidelines for Merchant Mariner Credentials.

(b) The Committee will receive new task statements from the Coast Guard, review the information presented on each issue, deliberate and formulate recommendations for the Department’s consideration.

- (8) Adjournment of meeting.

Day 2

The agenda for the March 17, 2015 meeting is as follows:

- (1) Continue work on Task Statements.
- (2) By mid-afternoon, the Working Groups will report, and if applicable, make recommendations for the full committee to consider for presentation to the Coast Guard. The committee may vote on the working group’s recommendations on this date. The public will have an opportunity to speak after each Working Group’s Report before the full committee takes any action on each report.
- (3) Closing remarks/plans for next meeting.
- (4) Adjournment of Meeting.

Dated: March 3, 2015.

P.F. Thomas,

Assistant Commandant for Prevention Policy, United States Coast Guard.

[FR Doc. 2015–05369 Filed 3–5–15; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5831-N-13]

30-Day Notice of Proposed Information Collection: Re-entry Assistance Program**AGENCY:** Office of the Chief Information Officer, HUD.**ACTION:** Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* April 6, 2015.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington,

DC 20503; fax: 202-395-5806. Email: *OIRA_Submission@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT:

Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email at *Colette.Pollard@hud.gov* or telephone 202-402-3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877-8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on December 31, 2014 at 79 FR 78897.

A. Overview of Information Collection

Title of Information Collection: Re-entry Assistance Program.

OMB Approval Number: 2577-New.

Type of Request: New collection.

Form Number: N/A

Description of the need for the information and proposed use: The Reentry Assistance Program Information Collection represents a new information request. The OMB approval number for this collection is pending. The information provided by the eligible applicants will be reviewed and evaluated by HUD. The information to be collected by HUD will be used to preliminarily rate applications, to determine eligibility for the Reentry Assistance Program Grant Competition and to establish grant amounts. The Reentry Assistance Program Grant Competition Application will be used to determine eligibility and funding for recipients. Respondents of this information collection will be public housing agencies and/or their partners. Forms for this information collection are under development, however it is anticipated that applicants will provide quantitative and qualitative data as well as narrative information for evaluation.

Respondents (i.e. affected public): State, Local or Tribal Government.

Form	Number of respondents	Response/year	Total annual responses	Hours per response	Total hours
SF424-Application for Federal Assistance	2,500	1	2,500	0.5	1,250
SF425-Federal Financial Report	200	1	200	1.0	200
HUD 96011—Facsimile Transmittal (OMB No. 2535-0118)	200	1	200	1.0	200
Reentry Assistance Application—Narrative (Strategy, Approach, Match, Budget)	200	1	200	80.0	16,000
HUD 96010—Logic Model (OMB No. 2535-0114)	200	1	200	40.0	8,000
HUD2991 (Certification of Consistency with the Consolidated Plan (OMB No. 2506-0112)	200	1	200	1.0	200
Partnership Agreement between PHA and partners	200	1	200	40.0	8,000
<i>Subtotal Application:</i> .....	.....	.....	.....	163.5	33,850
HUD-1044—Grant Agreement	17.0	1.0	17.0	1.0	17
Quarterly Performance Report (Narrative and Data)	17.0	4.0	68.0	4.0	272
HUD27061 Race and Ethnic Data	17.0	1.0	17.0	2.0	34
<i>Subtotal (Program Reporting/Recordkeeping)</i> .....	.....	.....	.....	7.0	323
Total Burden .....	.....	.....	.....	170.5	34,173

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Dated: February 27, 2015.

Colette Pollard,

*Department Reports Management Officer,
Office of the Chief Information Officer.*

[FR Doc. 2015-05283 Filed 3-5-15; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5828-N-10]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7262, Washington, DC 20410; telephone (202) 402-3970; TTY number for the hearing- and speech-impaired (202) 708-2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800-927-7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless v. Veterans Administration*, No. 88-2503-OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: February 26, 2015.

Brian P. Fitzmaurice,

Director, Division of Community Assistance, Office of Special Needs Assistance Programs.

[FR Doc. 2015-05062 Filed 3-5-15; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5831-N-14]

30-Day Notice of Proposed Information Collection: Inspector Candidate Assessment Questionnaire

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The

purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* April 6, 2015.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202-395-5806. Email: OIRA_Submission@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email at ColettePollard@hud.gov or telephone 202-402-3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877-8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on December 31, 2014 at 79 FR 78899.

A. Overview of Information Collection

Title of Information Collection: Inspector Candidate Assessment Questionnaire.

OMB Approval Number: 2577-0243.

Type of Request: Revision of a currently approved collection.

Form Number: Form HUD 50002A and Form HUD 50002B-HFA

Description of the need for the information and proposed use: To meet the requirements of the Uniform Physical Condition Standards (UPCS), the Physical Condition of Multifamily Properties and the Public Housing Assessment System (PHAS) rules, the Department conducts physical condition inspections of approximately 14,000 multifamily and public housing properties annually. To conduct these inspections, HUD uses contract inspectors that are trained and certified in the Uniform Physical Condition Standards protocol by HUD. Individuals who wish to be trained and certified by HUD are requested to electronically submit the questionnaire via the Internet. The questionnaire provides HUD with basic knowledge of an

individual's inspection skills and abilities. As part of aligning REAC inspections, state Housing Finance Agencies may also fill out the form for informational purposes only.

Respondents: Applicants to the UPCS inspector certification program and state HFA staff.

Estimated Number of Respondents: 605.

Estimated Number of Responses: 605.

Frequency of Response: To apply to UPCS training.

Average Hours per Response: 15 to 20 minutes depending on the respondent.

Total Estimated Burdens: 192 hours.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Dated: February 27, 2015.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2015-05284 Filed 3-5-15; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5831-N-12]

30-Day Notice of Proposed Information Collection: Application for Resident Opportunity & Self Sufficiency (ROSS) Grant Forms

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection

requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* April 6, 2015.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202-395-5806. Email: OIRA_Submission@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email at ColettePollard@hud.gov or telephone 202-402-3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877-8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on December 31, 2014 at 79 FR 78898.

A. Overview of Information Collection

Title of Information Collection: Application for the Resident Opportunities and Self Sufficiency (ROSS) Grant Forms.

OMB Approval Number: 2577-0229.

Type of Request: Revision of currently approved collection.

Form Number: HUD 52752; HUD 52753; HUD-52754, HUD-52755; HUD-52768; HUD-52769; HUD-96010; SF-424; HUD-2880; HUD-2990; HUD-2991; SF-LLL, HUD-2993, HUD-2994-A.

Revision is being requested specifically for two forms: the HUD form 52768 (ROSS SERVICE COORDINATORS—FUNDING REQUEST) has been revised to add clarifying questions regarding two application types: resident associations and nonprofit organizations and the form has been somewhat reformatted. Minor formatting changes were made to the HUD form 52769 (ROSS SERVICE

COORDINATORS—NEEDS and SERVICE PARTNERS). The FSS Funding Request form (Form 52651) was removed from the collection.

Description of the need for the information and proposed use: The forms are used to evaluate capacity and eligibility of applicants to the ROSS program.

Respondents (i.e. affected public): Public Housing Authorities, tribes/TDHEs, public housing resident associations, and nonprofit organizations.

Estimated Number of Respondents: 400.

Estimated Number of Responses: 400.

Frequency of Response: 1.

Average Hours per Response: .5.5 hours.

Total Estimated Burdens: 2,200.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: February 27, 2015.

Colette Pollard,

*Department Reports Management Officer,
Office of the Chief Information Officer.*

[FR Doc. 2015-05272 Filed 3-5-15; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5830-N-01]

60-Day Notice of Proposed Information Collection; Production of Material or Provision of Testimony by HUD in Response to Demands in Legal Proceedings Among Private Litigants

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* May 5, 2015.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410-5000; telephone 202-402-3400 (this is not a toll-free number) or email at Colette.Pollard@hud.gov for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

FOR FURTHER INFORMATION CONTACT: Allen Villafuerte, Managing Attorney, Office of Litigation, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10258, Washington, DC 20410-0500, telephone (202 708-0300) (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Production of Material or Provision of Testimony in Response to Demands in Legal Proceedings Among Private Litigants.

OMB Approval Number: The OMB number will be change from 2501-0022 to 2510-Pending.

Type of Request: Reinstatement of collection.

Form Number: None. Please see 24 CFR 15.203.

Description of the need for the information and proposed use:

Section 15.203 of HUD's regulations in 24 CFR specify the manner in which demands for documents and testimony

from the Department should be made. Providing the information specified in 24 CFR 15.203 allows the Department to more promptly identify documents and testimony which a requestor may be seeking and determine whether the Department should produce such documents and testimony.

Members of affected public: All types of entities, private and non-profit organizations, individuals and households.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

	Number of respondents	Frequency of response	Hours per response	Total burden hours
106		1	1.5	159

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: March 2, 2015.

Camille E. Acevedo,

Associate General Counsel for Legislation and Regulations.

[FR Doc. 2015-05106 Filed 3-5-15; 8:45 am]

BILLING CODE 4210-67-P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[145A21000DDAAK3000000/
ADT00000.00000]

Salt River Pima-Maricopa Indian Community—Amendment to Alcoholic Beverage Control Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the technical amendment to the Salt River Pima-Maricopa Indian Community Alcoholic Beverage Control Ordinance, Chapter 14, Salt River Pima-Maricopa Indian Community Code of Ordinances, to clarify the authority of the Community Regulatory Agency to share information with the Arizona Department of Safety and the Federal Bureau of Investigation for the purpose of conducting criminal background checks on liquor license applicants and holders. The amended Salt River Pima-Maricopa Indian Alcohol Beverage Control Ordinance, Chapter 14 of the Salt River Pima-Maricopa Indian Community Code of Ordinances was last published in the **Federal Register** on July 13, 2010 (75 FR 39960). Sections 14-5(c)(4), 14-9(g), 14-18(o) and (t) of the Salt River Pima-Maricopa Indian Community Code of Ordinances were repealed and replaced in their entirety, and a new Section 14-12, was added via publication in the **Federal Register** on July 24, 2013 (78 FR 44590). Section 14-5(b) of the Salt River Pima-Maricopa Indian Community Code of Ordinances shall be amended to include Section 14-5(b)(9).

DATES: This Amendment is effective 30 days after March 6, 2015.

FOR FURTHER INFORMATION CONTACT: Ms. Sharlot Johnson, Tribal Government Services Officer, Western Regional Office, Bureau of Indian Affairs, 2600 North Central Avenue, Phoenix, Arizona 85004, Phone: (602) 379-6786; Fax: (602) 379-4100; or Ms. Laurel Iron Cloud, Chief, Division of Tribal Government Services, Office of Indian Services, Bureau of Indian Affairs, 1849 C Street NW., MS-4513-MIB, Washington, DC 20240; Telephone (202) 513-7641.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Public Law 83-277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice v. Rehner*, 463 U.S. 713 (1983), the Secretary of the Interior shall

certify and publish in the **Federal Register** notice of adopted liquor ordinances for the purpose of regulating liquor transactions in Indian country. The Salt River Pima-Maricopa Indian Community adopted this amendment to the Salt River Pima-Maricopa Indian Alcohol Beverage Control Ordinance, Chapter 14 of the Salt River Pima-Maricopa Indian Community Code of Ordinances by Ordinance Number: SRO-439-2014 on March 5, 2014.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs. I certify that the Community Council duly adopted this amendment to the Salt River Pima-Maricopa Indian Alcohol Beverage Control Ordinance, Chapter 14 of the Salt River Pima-Maricopa Indian Community Code of Ordinances on March 5, 2014.

Dated: February 24, 2015.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

The amendment to the Salt River Pima-Maricopa Indian Alcohol Beverage Control Ordinance, Chapter 14 of the Salt River Pima-Maricopa Indian Community Code of Ordinances reads as follows:

Section 14-5(b) of the Community Code of Ordinances shall be amended to include a clarifying provision at 14-5(b)(9) at the end of that subsection, which shall be enacted:

Sec. 14-5(b)(9)

(9) To conduct a state and federal criminal history check pursuant to Arizona Revised Statute 41-1750 and Public Law 92-544 on all applicants for a license under this Chapter; and that all applicants must submit a full set of fingerprints to the Office who shall submit the fingerprints to the Arizona Department of Public Safety, who may then exchange the fingerprint data with the Federal Bureau of Investigation.

[FR Doc. 2015-05206 Filed 3-5-15; 8:45 am]

BILLING CODE 4310-4J-P

DEPARTMENT OF THE INTERIOR**Bureau of Land Management**

[LLCAD08000.L12200000.DS0000.
15XL1109AF.LXSSB0010000]

Notice of Availability of the Draft Supplemental Environmental Impact Statement and Draft Plan Amendment to the California Desert Conservation Area Plan in the West Mojave Planning Area, Inyo, Kern, Los Angeles and San Bernardino Counties, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) has prepared a Draft Land Use Plan Amendment and Draft Supplemental Environmental Impact Statement (SEIS) for the West Mojave Route Network Project (WMRNP) for the West Mojave (WEMO) Planning Area of the California Desert Conservation Area (CDCA) and by this notice is announcing the opening of the comment period.

DATES: To ensure that comments will be considered, the BLM must receive written comments on the Draft Land Use Plan Amendment/Draft Supplemental EIS within 90 days following the date the Environmental Protection Agency publishes its notice of the Draft Land Use Plan Amendment/Draft SEIS in the *Federal Register*. The BLM will announce future meetings or hearings and any other public participation activities at least 15 days in advance through public notices, media releases, and/or mailings.

ADDRESSES: You may submit comments related to the WMRNP by any of the following methods:

- *Web site:* http://www.blm.gov/ca/st/en/fo/cdd/west_mojave_wemo.html.
- *Email:* cawemopa@blm.gov.
- *Fax:* 951-697-5299; Attn: WMRNP Plan Amendment.

- *Mail:* Bureau of Land Management, California Desert District, Attn: WMRNP Plan Amendment, 22835 Calle San Juan de Los Lagos, Moreno Valley, CA 92553

Copies of the WMRNP Draft Plan Amendment and Draft Supplemental EIS are available in the California Desert District Office at the above address; the Ridgecrest Field Office, 300 S. Richmond Rd., Ridgecrest, CA 93555; and the Barstow Field Office, 2601 Barstow Road, Barstow CA 92311. Copies are also available online at the above address.

FOR FURTHER INFORMATION CONTACT: Edy Seehafer, WMRNP Manager, telephone 760-252-6021; address 2601 Barstow Road, Barstow, CA 92311; email eseehafer@blm.gov. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The West Mojave Route Network Project (WMRNP) will adopt transportation and travel strategy and designate routes on public lands in the WEMO Planning Area. The WEMO Planning Area covers 9.4 million acres of the CDCA in the western portion of the Mojave Desert in southern California, including parts of San Bernardino, Los Angeles, Kern, and Inyo Counties. The WMRNP applies to the 3.1 million acres of public lands within the WEMO Planning Area. In March, 2006, the BLM signed the Record of Decision (ROD) for the WEMO Plan/Amendment to the CDCA Plan. In January 2011, the U.S. District Court for the Northern District of California partially remanded the 2006 WEMO Plan Amendment ROD to the BLM and directed the BLM to amend the CDCA Plan for travel management and reconsider route designation throughout the WEMO Planning Area, as well as other specified issues in the 2006 WEMO Plan (Center for Biological Diversity v. US Bureau of Land Management Order Re: Remedy [N.D. Cal. Jan 28, 2011]). The Court's decision identified issues with (1) the invalidation of the "decision tree" instrument used to evaluate and designate routes, (2) the authorization of OHV routes that were not in existence in 1980, which was inconsistent with the governing land use plan, (3) the lack of a reasonable range of alternatives to the proposed action, including an inadequate discussion of the No Action alternative, and (4) the inadequate analysis of impacts from the route network and the grazing program to specific resource values, including soils, cultural resources, certain biological resources, and air quality.

On September 13, 2011, the BLM issued a Notice of Intent (amended May 13, 2013), inviting comments on the proposed scope and content of the WMRNP. The WMRNP includes a land-use plan amendment to the California Desert Conservation Area (CDCA) Plan for Livestock Grazing, Recreation, and Motor Vehicle Access Elements for the

WEMO Planning Area, an associated travel management framework, and activity-plan level route designations and implementation strategies. The lands covered in the WMRNP are those that are within livestock grazing allotments or designated as "Limited" to designated routes for motorized access. Areas "Closed" to motorized access are not proposed for change in this plan amendment, and are not within the scope of the planning effort.

The 9.4 million-acre WEMO Planning Area includes several large Department of Defense facilities covering almost 3 million acres, a portion of one National Park, 3 million acres of private lands, and approximately 100,000 acres of State lands, including Red Rock Canyon State Park. The planning area is also adjacent to three other National Parks/Preserves and four National Forests. Much of the planning area is managed as part of the BLM's National Landscape Conservation System, including 18 wilderness areas, three wilderness study areas and portions of the Pacific Crest Trail and the Old Spanish National Historic Trail. The planning area also includes 41 Areas of Critical Environmental Concern (ACECs), seven National Register Archaeological or Historic Districts, and four Critical Habitat Units for the federally-listed desert tortoise. Four of the ACECs were established as Desert Wildlife Management Areas (DWMAs), covering most of the desert tortoise critical habitat units, for the express purpose of conservation of desert tortoise.

The planning area also includes eight OHV Open Areas covering 271,661 acres. No changes are proposed to these OHV Open Areas or their boundaries; however, the OHV Open Areas provide major points of ingress to and egress from adjacent areas "Limited" to designated routes access public lands.

The BLM used a public scoping process to determine relevant issues, impacts, and possible alternatives that could influence the scope of the environmental analysis, and to help guide the agency from plan level decision-making to route designation in order to comply with the court order.

The public raised the following transportation and travel management concerns:

- The need for a good inventory and accurate information related to the existing environment;
- documentation and use of the regulatory criteria for route minimization;
- mitigation for loss of access;
- sensitive resource protection;

- maintenance of access for various types of recreational, scientific and other uses;

- access to private lands;
- trespass;
- regional connectivity;
- improving GIS and on-the-ground information for the public; and
- other implementation strategies such as signing, monitoring and law enforcement.

In addition, a substantial number of comments indicated issues and needs associated with specific routes and route areas in the WEMO transportation system, and included recommendations on the designation of specific routes. A few comments were also received on grazing issues and the scope of the supplemental grazing program analysis.

In response to court concerns and on-the-ground changes since 2006, NEPA considerations focused on cumulative effects of the transportation system alternatives to resource values, particularly air quality, soils, cultural resources, certain biological resources, and certain sensitive species, cumulative effects of grazing, and potential cumulative loss of recreational access opportunities. In response to public input, access considerations focused on maintaining a viable transportation network, diverse recreational opportunities, providing access for specific users, (including rock-hounders, motorcyclists, scientific and educational activities, and non-motorized users), dealing with conflicts between users, and maintaining commercial access needs.

Plan amendments would address specific CDCA Plan inconsistencies with regulation and BLM policies in the WEMO Planning Area; including amending language that limits the route network to routes that existed in 1980 and travel management guidance for route designations. Changes are proposed to the existing land-use plan to address stopping, parking, and camping adjacent to routes in Limited Access Areas within the WEMO Planning Area, and to establish a regional minimization strategy for the travel route network. Changes are also proposed to the grazing program that would reallocate forage from livestock use to wildlife use and ecosystem function in desert tortoise habitat for inactive allotments or allotments that become vacant. In addition, the Draft considers plan level decisions modifying motorized use on four specific lakebeds, including Cuddeback Lake and competitive motorized use of routes. The Draft also considers various travel management implementation frameworks. Four alternatives are

evaluated, including a No Action alternative.

Finally, the Draft includes activity-level specific route designation alternatives, based on the 43CFR 8342.1 criteria and different thresholds for minimization or closure. The preferred alternative would designate approximately 10,300 miles of routes within the WEMO Planning Area as available for motorized use, approximately 130 miles of routes would be available for either non-motorized or non-mechanized use, and approximately 4,400 miles of routes would be closed.

The preferred alternative also includes a regional mitigation strategy that would limit the extent of off-route stopping and parking throughout the planning area to minimize impacts to undisturbed habitat, enhance watersheds, and protect adjacent sensitive resources. Other measures are based on proximity to sensitive resources, such as riparian systems, that would enhance these resources throughout the planning area.

The preferred alternative provides for a limited number of designated camping and staging areas to direct intensive use to manageable locations. Finally, the preferred alternative proposes an integrated, community-based implementation strategy that addresses outreach, compliance and enforcement strategy in which partnerships with adjacent communities, users, local Friends and other interest groups, national and State recreational and conservation coalitions, and other interested citizens are a central component.

Please note that public comments and information submitted including names, street addresses, and email addresses of persons who submit comments will be available for public review and disclosure at the above address during regular business hours (8 a.m. to 4 p.m.), Monday through Friday, except holidays.

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 to withhold your personal identifying information from public review, BLM cannot guarantee that we will be able to do so.

Authority: 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2.

Thomas Pogacnik,

Deputy State Director, Natural Resources.

[FR Doc. 2015–05127 Filed 3–5–15; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CACA 049397, LLCAD06000.

L51010000.ER0000.LVRWB09B2920.15X]

Notice of Intent To Prepare an Environmental Impact Statement for the Desert Quartzite Solar Project and a Possible Amendment to the California Desert Conservation Area Plan, Riverside County, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) Palm Springs/South Coast Field Office, Palm Springs, California, together with Riverside County, California, intend to prepare a joint Environmental Impact Statement (EIS) and Environmental Impact Report (EIR), which may include an amendment to the California Desert Conservation Area (CDCA) Plan, for the Desert Quartzite Solar Project (Project). By this notice, the BLM is announcing the beginning of the scoping process to solicit public comments and identify issues related to the EIS/EIR and Plan Amendment (PA).

DATES: This notice initiates the public scoping process for the EIS/EIR and PA. Comments on issues may be submitted in writing until April 6, 2015. The date(s) and location(s) of any scoping meetings will be announced at least 15 days in advance through local news media, newspapers and the BLM Web site at: <http://www.blm.gov/ca/st/en/fo/cdd.html>. In order to be included in the analysis, all comments must be received prior to the close of the 30-day scoping period or 15 days after the last public meeting, whichever is later. We will provide additional opportunities for public participation as appropriate.

ADDRESSES: You may submit comments on issues and planning criteria related to the Project by any of the following methods:

- email: blm_ca_desert_quartzite_solar_project@blm.gov.
- fax: (951) 697–5299.

• mail: ATTN: Cedric C. Perry, Project Manager, BLM California Desert District Office, 22835 Calle San Juan de Los Lagos, Moreno Valley, California 92553-9046

Documents pertinent to this project may be examined at the BLM California Desert District Office at the above address Monday through Friday 8:30 a.m. to 4:30 p.m.

FOR FURTHER INFORMATION CONTACT:

Cedric C. Perry; telephone—(951) 697-5388; address—BLM California Desert District Office, 22835 Calle San Juan de Los Lagos, Moreno Valley, CA 92553-9046; Email—blm_ca_desert_quartzite_solar_project@blm.gov.

Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-(800)-877-8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The applicant, Desert Quartzite Solar, LLC has requested a right-of-way (ROW) authorization to construct, operate, maintain and decommission a 300 MW alternating current (AC) solar photovoltaic energy-generating facility along with the necessary ancillary facilities including a project substation, access road, transmission lines, realignment of an existing route, operations and maintenance buildings, and lay down areas. The project is proposed on 4,845 acres of public land with the solar field occupying approximately 2,453 acres on lands within the Riverside East Solar Energy Zone (SEZ), southwest of Blythe, California.

This document provides notice that the BLM Palm Springs/South Coast Field Office and the County of Riverside California intend to jointly prepare an EIS/EIR, which may include a potential CDCA Plan Amendment, for the Project. It also announces the beginning of the scoping process for this effort and seeks public input on environmental issues and potential planning criteria relevant to the Project and any potential plan amendments. The purpose of the public scoping process is to guide the planning process and determine the relevant issues that will influence the scope of the environmental analysis, including alternatives and mitigation measures.

Preliminary issues for the environmental analysis and potential plan amendment have been identified by BLM; Federal, State, and local

agencies; and, other stakeholders. These issues include: Air quality and greenhouse gas emissions; biological resources, including special status species; cultural resources; geology and soils; hazards and hazardous materials; hydrology and water quality; land use; lands with wilderness characteristics; noise; recreation; traffic; visual resources; cumulative effects; areas with high potential for renewable energy development; and, identification of opportunities to apply mitigation hierarchy strategies for on-site, regional, and compensatory mitigation, and, appropriate to the size of the project, landscape-level conservation and management actions to achieve resource objectives.

You may submit comments on issues and planning criteria in writing to the BLM at any public scoping meeting, or by using one of the methods listed in the **ADDRESSES** section above. To be most helpful, you should submit comments by the close of the 30-day scoping period or within 15 days after the last public meeting, whichever is later.

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. The minutes and list of attendees for each scoping meeting will be available to the public and open for 30 days after the meeting to any participant who wishes to clarify the views he or she expressed.

The BLM withdrew public lands, including those where the proposed Project is located, in the State of California on July 5, 2013, under Public Land Order 7818 for a period of 20 years for future solar energy development, subject to valid existing rights, from location and entry under the United States mining laws. The lands are open to mineral and geothermal leasing, and mineral material sales.

The BLM will utilize and coordinate the NEPA scoping process to help fulfill the public involvement process under the National Historic Preservation Act (54 U.S.C. 306108) as provided in 36 CFR 800.2(d)(3). The information about historic and cultural resources within the area potentially affected by the proposed action will assist the BLM in identifying and evaluating impacts to such resources. The BLM will also consult with Indian tribes on a

government-to-government basis in accordance with Executive Order 13175 and other policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration. Federal, State, and local agencies, along with tribes and other stakeholders that may be interested in or affected by the proposed action that the BLM is evaluating, are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate in the development of the environmental analysis as a cooperating agency.

With respect to the potential land use plan amendment, the BLM will evaluate identified issues to be addressed in any potential plan amendment, and will place those issues into one of three categories:

1. Issues to be resolved in the plan amendment;
2. Issues to be resolved through policy or administrative action; or
3. Issues beyond the scope of this plan amendment.

The BLM will provide an explanation in the Draft EIS and PA as to why an issue was placed in category two or three. The public is also encouraged to help identify any management questions and concerns that should be addressed in the plan. The BLM will work collaboratively with interested parties to identify the management decisions that are best suited to local, regional, and national needs and concerns.

The BLM will use an interdisciplinary approach to develop the potential plan amendment in order to consider the variety of resource issues and concerns identified. Specialists with expertise in the following disciplines will be involved in the planning process: Rangeland management, minerals and geology, outdoor recreation, archaeology, paleontology, wildlife, lands and realty, hydrology, soils, sociology and economics.

Authority: 40 CFR 1501.7 and 43 CFR 1610.2.

Thomas Pogacnik,

Deputy State Director, Natural Resources.

[FR Doc. 2015-05290 Filed 3-5-15; 8:45 am]

BILLING CODE 4310-40-P

DEPARTMENT OF THE INTERIOR**Bureau of Indian Affairs**[15X/A11220000.224100/AAK4004800/
AX.480ADM100000]**Rate Adjustments for Indian Irrigation Projects****AGENCY:** Bureau of Indian Affairs, Interior.**ACTION:** Notice of rate adjustments.

SUMMARY: The Bureau of Indian Affairs (BIA) owns, or has an interest in, irrigation projects located on or associated with various Indian reservations throughout the United States. We are required to establish irrigation assessment rates to recover the costs to administer, operate, maintain,

and rehabilitate these projects. We are notifying you that we have adjusted the irrigation assessment rates at several of our irrigation projects and facilities to reflect current costs of administration, operation, maintenance, and rehabilitation.

DATES: *Effective Date:* The irrigation assessment rates shown in the tables as final are effective as of January 1, 2014.

FOR FURTHER INFORMATION CONTACT: For details about a particular BIA irrigation project or facility, please use the tables in the **SUPPLEMENTARY INFORMATION** section to contact the regional or local office where the project or facility is located.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rate Adjustment was

published in the **Federal Register** on January 22, 2014 (79 FR 3862) to propose adjustments to the irrigation assessment rates at several BIA irrigation projects. The public and interested parties were provided an opportunity to submit written comments during the 60-day period that ended March 24, 2014.

Did the BIA defer or change any proposed rate increases?

Yes. The proposed notice indicated that Proposed 2014 rate for Duck Valley and Fort Yuma Irrigation Projects was "To Be Determined." A final rate has been determined and is reflected in the Rate Table. The final rates established here differ from the proposed rates for the following Irrigation projects:

Project name	Rate category	Proposed 2014 rate	Final 2014 rate
Fort Hall Irrigation Project—Michaud	Basic—per acre	\$47.50	\$47.00
Fort Peck Irrigation Project	Basic—per acre	25.00	26.00
Wind River Irrigation Project—Units 2, 3 and 4	Basic—per acre	22.10	21.00
Wind River Irrigation Project—LeClair District	Basic—per acre	28.82	28.80
Wind River Irrigation Project—Riverton Valley Irrigation District	Basic—per acre	21.02	21.00
Pine River Irrigation Project	Basic—per acre	16.00	15.00

Did the BIA receive any comments on the proposed irrigation assessment rate adjustments?

Yes. Written comments were received from the San Carlos Irrigation and Drainage District (SCIDD), by letter dated October 31, 2013, to the Assistant Secretary—Indian Affairs, related to the proposed rate adjustment for FY 2015 for the San Carlos Irrigation Project. A letter from the Director, Bureau of Indian Affairs dated December 12, 2013, responded to SCIDD's letter.

What issues were of concern to the commenters?

Comments received relate specifically to one component of the San Carlos Irrigation Project proposed FY 2015 rate: The planned expenditure for repair of the Coolidge Dam Cylinder Gates.

The BIA's summary of SCIDD's issue and the BIA's response are provided below.

Comment: The recommended 2015 assessment of \$35 per acre and proposed budget of \$3.5 million include a planned expenditure of \$1.8 million, or \$18 per acre, for the repair of the Coolidge Dam Cylinder Gates. This

\$1,800,000 was collected in three \$500,000 previous payments in 2012, 2013, and 2014, and the 2015 budget proposes an additional collection of \$300,000. We now understand that this work will be funded through the BIA Safety of Dams Program.

Response: The governing documents of the San Carlos Irrigation Project required the operation and maintenance costs for the Project to be paid for by assessments on the lands in the Project. Accordingly, the Project has correctly assessed and collected funds for repair of the Coolidge Dam Cylinder Gates. The BIA Safety of Dams Program is funding an independent engineering review of the designs and cost estimates for the gate repair. The review will produce final engineering designs and drawings which the Project expects to use for the repair work. The Project has reiterated this point to SCIDD at recent water user meetings.

Does this notice affect me?

This notice affects you if you own or lease land within the assessable acreage of one of our irrigation projects or if you

have a carriage agreement with one of our irrigation projects.

Where can I get information on the regulatory and legal citations in this notice?

You can contact the appropriate office(s) stated in the tables for the irrigation project that serves you, or you can use the Internet site for the Government Publishing Office at www.gpo.gov.

What authorizes you to issue this notice?

Our authority to issue this notice is vested in the Secretary of the Interior by 5 U.S.C. 301 and the Act of August 14, 1914 (38 Stat. 583; 25 U.S.C. 385). The Secretary has in turn delegated this authority to the Assistant Secretary—Indian Affairs under Part 209, Chapter 8.1A, of the Department of the Interior's Departmental Manual.

Whom can I contact for further information?

The following tables are the regional and project/agency contacts for our irrigation facilities.

Project name	Project/Agency Contacts
Northwest Region Contacts	
Stanley Speaks, Regional Director, Bureau of Indian Affairs, Northwest Regional Office, 911 N.E. 11th Avenue, Portland, Oregon 97232-4169, Telephone: (503) 231-6702.	
Fort Hall Irrigation Project	Randy Thompson, Acting Superintendent, David Bollinger, Irrigation Project Manager, Fort Hall Agency, P.O. Box 220, Fort Hall, ID 83203-0220, Telephone: (208) 238-2301.
Wapato Irrigation Project	Edwin Lewis, Project Administrator, Wapato Irrigation Project, P.O. Box 220, Wapato, WA 98951-0220, Telephone: (509) 877-3155.
Rocky Mountain Region Contacts	
Darryl LaCounte, Acting Regional Director, Bureau of Indian Affairs, Rocky Mountain Regional Office, 316 North 26th Street, Billings, Montana 59101, Telephone: (406) 247-7943.	
Project Name	Agency/Project Contacts
Blackfeet Irrigation Project	Thedis Crow, Acting Superintendent, Greg Tatsey, Irrigation Project Manager, Box 880, Browning, MT 59417, Telephones: (406) 338-7544, Superintendent, (406) 338-7519, Irrigation Project Manager.
Crow Irrigation Project	Vianna Stewart, Superintendent, Kyle Varvel, Irrigation Project Manager, P.O. Box 69, Crow Agency, MT 59022, Telephones: (406) 638-2672, Superintendent, (406) 638-2863, Irrigation Project Manager.
Fort Belknap Irrigation Project	Susan Messerley, Acting Superintendent, Vacant, Irrigation Project Manager, (Project operations & management contracted to Tribes), R.R.1, Box 980, Harlem, MT 59526, Telephones: (406) 353-2901, Superintendent, (406) 353-8454, Irrigation Project Manager (Tribal Office).
Fort Peck Irrigation Project	Howard Beemer, Superintendent, Huber Wright, Acting Irrigation Project Manager, P.O. Box 637, Poplar, MT 59255, 602 6th Avenue North, Wolf Point, MT 59201, Telephones: (406) 768-5312, Superintendent, (406) 653-1752, Irrigation Project Manager.
Wind River Irrigation Project	Norma Gourneau, Superintendent Vacant, Irrigation Project Manager, P.O. Box 158, Fort Washakie, WY 82514, Telephones: (307) 332-7810, Superintendent (307) 332-2596, Irrigation Project Manager.
Southwest Region Contacts	
William T. Walker, Regional Director, Bureau of Indian Affairs, Southwest Regional Office, 1001 Indian School Road, Albuquerque, New Mexico 87104, Telephone: (505) 563-3100.	
Pine River Irrigation Project	Priscilla Bancroft, Acting Superintendent, Vickie Begay, Irrigation Project Manager, P.O. Box 315, Ignacio, CO 81137-0315, Telephones: (970) 563-4511, Superintendent, (970) 563-9484, Irrigation Project Manager
Western Region Contacts	
Bryan Bowker, Regional Director, Bureau of Indian Affairs, Western Regional Office, 2600 N. Central Ave., 4th Floor Mailroom, Phoenix, Arizona 85004, Telephone: (602) 379-6600.	
Project Name	Project/Agency Contacts
Colorado River Irrigation Project	Kellie Youngbear, Superintendent, Gary Colvin, Irrigation Project Manager, 12124 1st Avenue, Parker, AZ 85344, Telephone: (928) 669-7111.
Duck Valley Irrigation Project	Joseph McDade, Superintendent, (Project operations & management compacted by the Tribes), 2719 Argent Ave., Suite 4, Elko, NV 89801, Telephone: (775) 738-5165, (208) 759-3100 (Tribal Office).
Fort Yuma Irrigation Project	Irene Herder, Superintendent, 256 South Second Avenue, Suite D, Yuma, AZ 85364, Telephone: (928) 782-1202.
San Carlos Irrigation Project, Indian Works and Joint Works	Ferris Begay, Project Manager, Clarence Begay, Irrigation Manager, 13805 N. Arizona Boulevard, Coolidge, AZ 85228, Telephone: (520) 723-6223.

Project name	Project/Agency Contacts
Uintah Irrigation Project	Bart Stevens, Superintendent, P.O. Box 130, Fort Duchesne, UT 84026, Telephone: (435) 722-4300, Telephone: (435) 722-4341.
Walker River Irrigation Project	Marilyn Bitsillie, Acting Superintendent, 311 E. Washington Street, Carson City, NV 89701, Telephone: (775) 887-3500.

What irrigation assessments or charges are adjusted by this notice?

The rate table below contains the current rates for all irrigation projects

where we recover costs of administering, operating, maintaining, and rehabilitating them. The table also contains the final rates for the 2014

season and subsequent years where applicable. An asterisk immediately following the name of the project notes the irrigation projects where 2014 rates are different from the 2013 rates.

Northwest Region Rate Table			
Project Name	Rate Category	Final 2013 Rate	Final 2014 Rate
Fort Hall Irrigation Project	Basic per acre	\$47.00	\$47.00
	Minimum Charge per tract	\$32.50	\$32.50
Fort Hall Irrigation Project - Minor Units	Basic per acre	\$24.00	\$24.00
	Minimum Charge per tract	\$32.50	\$32.50
Fort Hall Irrigation Project – Michaud	Basic per acre	\$47.50	\$47.00
	Pressure per acre	\$65.50	\$65.00
	Minimum Charge per tract	\$32.50	\$32.50
Wapato Irrigation Project – Toppenish/Simcoe Units*	Minimum Charge for per bill	\$20.00	\$23.00
	Basic per acre	\$21.00	\$23.00
Wapato Irrigation Project - Ahtanum Units	Minimum Charge per bill	\$24.00	\$24.00
	Basic per acre	\$24.00	\$24.00
Wapato Irrigation Project - Satus Unit*	Minimum Charge for per bill	\$71.00	\$76.00
	“A” Basic per acre	\$71.00	\$76.00
	“B” Basic per acre	\$77.00	\$82.00
Wapato Irrigation Project - Additional Works	Minimum Charge per bill	\$71.00	\$71.00
	Basic per acre	\$71.00	\$71.00
Wapato Irrigation Project - Water Rental*	Minimum Charge	\$79.00	\$84.00
	Basic per acre	\$79.00	\$84.00

Rocky Mountain Region Rate Table			
Project Name	Rate Category	Final 2013 Rate	Final 2014 Rate
Blackfeet Irrigation Project	Basic-per acre	\$19.50	\$19.50
Crow Irrigation Project – Willow Creek O&M (includes Agency, Lodge Grass #1, Lodge Grass #2, Reno, Upper Little Horn, and Forty Mile Units)*	Basic-per acre	\$23.80	\$24.80
Crow Irrigation Project – All Others (includes Bighorn, Soap Creek, and Pryor Units)*	Basic-per acre	\$23.50	\$24.50
Crow Irrigation Two Leggins Drainage Unit*	Basic-per acre	\$14.00	\$14.50
Crow Irrigation Two Leggins Drainage District	Basic-per acre	\$2.00	\$2.00
Fort Belknap Irrigation Project	Basic-per acre	\$15.00	\$15.00
Fort Peck Irrigation Project	Basic-per acre	\$25.00	\$26.00
Wind River Irrigation Project – Units 2, 3 and 4*	Basic-per acre	\$21.00	\$21.00
Wind River Irrigation Project – LeClair District* (see Note#1)	Basic-per acre	\$30.84	\$28.80
Wind River Irrigation Project – Crow Heart Unit	Basic-per acre	\$14.00	\$14.00
Wind River Irrigation Project – A Canal Unit	Basic-per acre	\$14.00	\$14.00
Wind River Irrigation Project – Riverton Valley Irrigation District*	Basic-per acre	\$16.00	\$21.00

Southwest Region Rate Table			
Project Name	Rate Category	Final 2013 Rate	Final 2014 Rate
Pine River Irrigation Project*	Minimum Charge per tract	\$50.00	\$50.00
	Basic-per acre	\$15.00	\$15.00

Western Region Rate Table				
Project Name	Rate Category	Final 2013 Rate	Final 2014 Rate	Proposed 2015 Rate
Colorado River Irrigation Project	Basic per acre up to 5.75 acre-feet	\$54.00	\$54.00	To be determined
	Excess Water per acre-foot over 5.75 acre-feet	\$17.00	\$17.00	
Duck Valley Irrigation Project	Basic per acre	\$5.30	\$5.30	
Yuma Project, Indian Unit (See Note #2)	Basic per acre up to 5.0 acre-feet	\$86.00	\$91.00	
	Excess Water per acre-foot over 5.0 acre-feet	\$14.00	\$17.00	
	Basic per acre up to 5.0 acre-feet (Ranch 5)	\$86.00	\$91.00	
San Carlos Irrigation Project (Joint Works) (See Note #3)	Basic per acre	\$30.00	\$30.00	\$35.00
	Final 2013 – 2015 Construction Water Rate Schedule:			
		Off Project Construction	On Project Construction - Gravity Water	On Project Construction - Pump Water
	Administrative Fee	\$300.00	\$300.00	\$300.00
	Usage Fee	\$250.00 per month	No Fee	\$100.00 per acre-foot
	Excess Water Rate†	\$5 per 1000 gal	No charge	No charge
†The excess water rate applies to all water used in excess of 50,000 gallons in any one month.				
San Carlos Irrigation Project (Indian Works) (See Note#4)	Basic per acre	\$81.00	\$81.00	To be determined
Uintah Irrigation Project*	Basic per acre	\$16.00	\$18.00	
	Minimum Bill	\$25.00	\$25.00	
Walker River Irrigation Project	Indian per acre	\$28.00	\$28.00	
	non-Indian per acre	\$28.00	\$28.00	

* Notes irrigation projects where rates are proposed for adjustment.

Note #1—The Operation and Maintenance (O&M) rate varies yearly based upon the budget submitted by the LeClair District.

Note #2—The O&M rate for the Yuma Project, Indian Unit has two components. The first component is the O&M rate established by the Bureau of Reclamation (BOR), the owner and operator of the Project. The BOR rate for

2014 is \$89.50/acre. The second component is for the O&M rate established by BIA to cover administrative costs including billing and collections for the Project. The 2014

BIA rate remains unchanged at \$1.50/acre.

Note #3—The FY 2014 rate was established by final notice in the **Federal Register** on January 23, 2014 (79 FR 3862). The Construction Water Rate Schedule was established by final notice in the **Federal Register** on January 23, 2014 (79 FR 3862). The FY 2015 rate was proposed by notice in the **Federal Register** on January 22, 2014 (79 FR 3614). This notice establishes the final rate of \$35/acre for FY 2015.

Note #4—The 2014 O&M rate for the San Carlos Irrigation Project—Indian Works has three components. The first component is the O&M rate established by the San Carlos Irrigation Project—Indian Works, the owner and operator of the Project; this rate is proposed to be \$45 per acre. The second component is for the O&M rate established by the San Carlos Irrigation Project—Joint Works and is determined to be \$30.00 per acre. The third component is the O&M rate established by the San Carlos Irrigation Project Joint Control Board and is estimated to be \$6 per acre.

Consultation and Coordination With Tribal Governments (Executive Order 13175)

To fulfill its consultation responsibility to tribes and tribal organizations, BIA communicates, coordinates, and consults on a continuing basis with these entities on issues of water delivery, water availability, and costs of administration, operation, maintenance, and rehabilitation of projects that concern them. This is accomplished at the individual irrigation project by Project, Agency, and Regional representatives, as appropriate, in accordance with local protocol and procedures. This notice is one component of our overall coordination and consultation process to provide notice to, and request comments from, these entities when we adjust irrigation assessment rates.

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

The rate adjustments will have no adverse effects on energy supply, distribution, or use (including a shortfall in supply, price increases, and increase use of foreign supplies) should the proposed rate adjustments be implemented. This is a notice for rate adjustments at BIA-owned and operated irrigation projects, except for the Fort Yuma Irrigation Project. The Fort Yuma Irrigation Project is owned and operated by the Bureau of Reclamation with a

portion serving the Fort Yuma Reservation.

Regulatory Planning and Review (Executive Order 12866)

These rate adjustments are not a significant regulatory action and do not need to be reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

These rate adjustments are not a rule for the purposes of the Regulatory Flexibility Act because they establish “a rule of particular applicability relating to rates.” 5 U.S.C. 601(2).

Unfunded Mandates Reform Act of 1995

These rate adjustments do not impose an unfunded mandate on State, local, or tribal governments in the aggregate, or on the private sector, of more than \$130 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. Therefore, the Department is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*).

Takings (Executive Order 12630)

The Department has determined that these rate adjustments do not have significant “takings” implications. The rate adjustments do not deprive the public, state, or local governments of rights or property.

Federalism (Executive Order 13132)

The Department has determined that these rate adjustments do not have significant Federalism effects because they will not affect the States, the relationship between the national government and the States, or the distribution of power and responsibilities among various levels of government.

Civil Justice Reform (Executive Order 12988)

In issuing this rule, the Department has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988.

Paperwork Reduction Act of 1995

These rate adjustments do not affect the collections of information which have been approved by the Office of Information and Regulatory Affairs, Office of Management and Budget, under the Paperwork Reduction Act of

1995. The OMB Control Number is 1076–0141 and expires March 31, 2016.

National Environmental Policy Act

The Department has determined that these rate adjustments do not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370(d)).

Data Quality Act

In developing this notice, we did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106–554).

Dated: February 26, 2015.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2015–05265 Filed 3–5–15; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[MMAA 104000]

Outer Continental Shelf, Gulf of Mexico, Oil and Gas Lease Sales, Western Planning Area Lease Sales 246 and 248

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Notice of availability of the Final Supplemental Environmental Impact Statement.

SUMMARY: BOEM has prepared a Final Supplemental Environmental Impact Statement (EIS) for proposed Outer Continental Shelf (OCS) oil and gas Lease Sales 246 and 248, which are tentatively scheduled to be held in August 2015 and 2016, respectively, in the Gulf of Mexico (GOM) Western Planning Area (WPA) offshore the States of Texas and Louisiana. This Final Supplemental EIS updates the environmental and socioeconomic analyses for proposed WPA Lease Sales 246 and 248 evaluated in the *Gulf of Mexico OCS Oil and Gas Lease Sales: 2012–2017; Western Planning Area Lease Sales 229, 233, 238, 246, and 248; Central Planning Area Lease Sales 227, 231, 235, 241, and 247, Final Environmental Impact Statement* (2012–2017 WPA/CPA Multisale EIS; OCS EIS/EA BOEM 2012–019); *Gulf of Mexico OCS Oil and Gas Lease Sales: 2013–2014; Western Planning Area Lease Sale 233; Central Planning Area Lease Sale 231, Final Supplemental Environmental Impact Statement* (WPA 233/CPA 231 Supplemental EIS; OCS EIS/EA BOEM

2013–0118); and *Gulf of Mexico OCS Oil and Gas Lease Sales: 2014–2016; Western Planning Area Lease Sales 238, 246, and 248, Final Supplemental Environmental Impact Statement* (WPA 238/246/248 Supplemental EIS; OCS EIS/EA BOEM 2014–009). The 2012–2017 WPA/CPA Multisale EIS was completed in July 2012. The WPA 233/CPA 231 Supplemental EIS was completed in April 2013. The WPA 238/246/248 Supplemental EIS was completed in March 2014.

FOR FURTHER INFORMATION CONTACT: Mr. Gary D. Goeke, Bureau of Ocean Energy Management, Gulf of Mexico OCS Region, Office of Environment (GM 623E), 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, by telephone at 504–736–3233 or email at wpa246@boem.gov.

SUPPLEMENTARY INFORMATION: BOEM developed this Final Supplemental EIS for proposed WPA Lease Sales 246 and 248 to consider new information made available since completion of the 2012–2017 WPA/CPA Multisale EIS, WPA 233/CPA 231 Supplemental EIS, and WPA 238/246/248 Supplemental EIS, and to consider new information on the *Deepwater Horizon* explosion, oil spill, and response. This Final Supplemental EIS provides updates on the baseline conditions and potential environmental effects of oil and natural gas leasing, exploration, development, and production in the WPA. BOEM conducted an extensive search for new information in consideration of the *Deepwater Horizon* explosion, oil spill, and response, reviewing scientific journals and available scientific data and information from academic institutions and Federal, State, and local agencies; and interviewing personnel from academic institutions and Federal, State, and local agencies. BOEM has examined the potential impacts of routine activities, accidental events, and the proposed lease sales' incremental contribution to the cumulative impacts on environmental and socioeconomic resources. BOEM has also examined the potential impacts associated with a low-probability catastrophic event. The oil and gas resource estimates and scenario information for this Final Supplemental EIS are presented as a range that would encompass the oil and gas resources and activities estimated for a proposed WPA lease sale.

BOEM has printed and will be distributing a limited number of paper copies of the Final Supplemental EIS. In keeping with the Department of the Interior's mission of the protection of natural resources and to limit costs while ensuring availability of the

document to the public, BOEM will primarily distribute digital copies of the Final Supplemental EIS on compact discs. However, if you require a paper copy, BOEM will provide one upon request if copies are still available.

1. You may obtain a copy of the Final Supplemental EIS from the Bureau of Ocean Energy Management, Gulf of Mexico OCS Region, Public Information Office (GM 335A), 1201 Elmwood Park Boulevard, Room 250, New Orleans, Louisiana 70123–2394 (1–800–200–GULF).

2. You may download or view the Final Supplemental EIS on BOEM's Web site at <http://www.boem.gov/>.

Several libraries along the Gulf Coast have been sent copies of the Final Supplemental EIS. To find out which libraries have copies of the Final Supplemental EIS for review, you may contact BOEM's Public Information Office or visit BOEM's Web site at <http://www.boem.gov/>.

Authority: This Notice of Availability is published pursuant to the regulations (40 CFR part 1503) implementing the provisions of the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.* [1988]).

Dated: January 27, 2015.

Abigail Ross Hopper,

Director, Bureau of Ocean Energy Management.

[FR Doc. 2015–05037 Filed 3–5–15; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[BOEM–2014–0085; MMAA104000]

Outer Continental Shelf, 2017–2022 Oil and Gas Leasing Program

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Notice of additional public scoping meetings for the programmatic Environmental Impact Statement (EIS) on the 2017–2022 Oil and Gas Leasing Program.

SUMMARY: The Bureau of Ocean Energy Management is announcing three additional public scoping meetings for the EIS on the 2017–2022 Oil and Gas Leasing Program.

Additional Scoping Meetings

Kill Devil Hills, North Carolina

○ March 16, 2015; Ramada Plaza Nags Head Oceanfront, 1701 S. Virginia Dare Trail, Kill Devil Hills, North Carolina; 3:00–7:00 p.m.; free parking.

Atlantic City, New Jersey

○ March 18, 2015; Sheraton Atlantic City, 2 Convention Blvd., Atlantic City, New Jersey; 3:00–7:00 p.m.; validated participant parking at hotel.

Savannah, Georgia

○ March 24, 2015; Hyatt Regency Savannah, Two West Bay St., Savannah, Georgia; 3:00–7:00 p.m.; validated participant parking at hotel.

DATES: Comments should be submitted by March 30, 2015. Please see boemceaninfo.com/get-involved/comments/ or www.regulations.gov (search “BOEM–2014–0085”) for information on how to comment.

FOR FURTHER INFORMATION CONTACT: For information on the EIS, the submission of comments, or BOEM's policies associated with this Notice, please contact Mr. Geoffrey L. Wikel, Acting Chief, Division of Environmental Assessment, Office of Environmental Programs, Bureau of Ocean Energy Management (HM 3107), 381 Elden Street, Herndon, VA 20170–4817, telephone (703) 787–1283.

SUPPLEMENTARY INFORMATION: On January 29, 2015, BOEM published a Notice of Intent to prepare an EIS under the National Environmental Policy Act (NEPA), as amended (42 U.S.C. 4321 *et seq.*) to inform decisions that will be made during the preparation and implementation of the 2017–2022 Oil and Gas Leasing Program (2017–2022 Program) (80 FR 4939). The EIS will analyze the potential direct, indirect, and cumulative impacts of possible outer continental shelf oil and gas activities that could result from lease sales proposed under the 2017–2022 Program. The scope of the EIS will be based on the 2017–2022 Draft Proposed Program (DPP) after consideration of public input received during the scoping period for the EIS (for details, see the DPP at <http://www.boem.gov/Five-Year-Program/>). The January 29, 2015, announcement included a schedule of EIS public scoping meetings, providing dates and locations, and this Notice is adding three new meetings.

Authority: This Notice is published pursuant to the regulations (40 CFR 1501.7) implementing the provisions of NEPA.

Dated: March 2, 2015.

Abigail Ross Hopper,

Director, Bureau of Ocean Energy Management.

[FR Doc. 2015–05107 Filed 3–5–15; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-922]

Certain Devices Containing Non-Volatile Memory and Products Containing the Same; Commission's Determination Not To Review an Initial Determination Terminating the Investigation; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ") initial determination ("ID") (Order No. 12) granting a joint motion to terminate the investigation.

FOR FURTHER INFORMATION CONTACT:

Amanda Pitcher Fisherow, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205-2737. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on August 4, 2014, based on a complaint filed on behalf of Macronix International Co., Ltd. of Taiwan and Macronix America, Inc., of Milpitas, California. 79 FR 45221 (Aug. 4, 2014). The complaint alleged violations of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the sale for importation, importation, or sale within the United States after importation of certain devices containing non-volatile memory and products containing the same by reason of infringement of certain claims of U.S. Patent No. 5,998,826; U.S. Patent No. 6,031,757; U.S. Patent No. 8,341,324; and U.S. Patent No. 8,341,330. The notice of investigation named Spansion Inc. of

Sunnyvale, California; Spansion LLC of Sunnyvale, California; Spansion (Thailand) Ltd. of Nonthaburi, Thailand; Aerohive Networks, Inc. of Sunnyvale, California; Ciena Corporation of Hanover, Maryland; Delphi Automotive PLC of Kent, United Kingdom; Delphi Automotive Systems, LLC of Troy, Michigan; Polycorn, Inc. of San Jose, California; Ruckus Wireless, Inc. of Sunnyvale, California; ShoreTel Inc. of Sunnyvale, California; Tellabs, Inc. of Naperville, Illinois; Tellabs North America, Inc. of Naperville, Illinois; TiVo Inc. of San Jose, California; and Allied Telesis, Inc. of Bothell, Washington as respondents. The Office of Unfair Import Investigations ("OUII") was also named as a party to the investigation.

On January 29, 2015, the private parties filed a joint motion to terminate the investigation based on a settlement agreement. On January 30, 2015, OUII filed a response in support of the motion.

On February 6, 2015, the ALJ granted the joint motion to terminate. The ALJ found the parties included confidential and public versions of the settlement agreement and that the parties represented that there are no other agreements, written or oral, express or implied concerning the subject matter of the investigation. The ALJ also found that termination of the investigation is not contrary to the public interest. No petitions for review were filed.

The Commission has determined not to review the subject ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: March 2, 2015.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015-05119 Filed 3-5-15; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Youth CareerConnect Impact and Implementation Evaluation

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the information

collection request (ICR) proposal titled, "Youth CareerConnect Impact and Implementation Evaluation," to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before April 6, 2015.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201501-1291-002 (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202-693-4129 (this is not a toll-free number) or by email at DOL_PRA_PUBLIC@dol.gov.

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL-OASAM, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202-395-5806 (this is not a toll-free number); or by email: OIRA_submission@omb.eop.gov. Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: DOL_PRA_PUBLIC@dol.gov.

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202-693-4129 (this is not a toll-free number) or by email at DOL_PRA_PUBLIC@dol.gov.

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks PRA authority for the Youth CareerConnect (YCC) Impact and Implementation Evaluation information collection. In spring 2014, the DOL awarded 24 grants to implement the YCC program. The program is a high school based initiative aimed at improving students' college and career readiness in particular employment sectors. The programs are redesigning the high school experience through partnerships with colleges and employers to provide skill-developing and work-based learning opportunities

to help students prepare for jobs in high-demand occupations. The evaluation will address three main research areas: (1) The impact of the YCC programs on students' short-term outcomes, (2) individual YCC program implementation, and (3) whether and how YCC programs varied in effectiveness based on student and grantee characteristics. The impact study will employ a randomized controlled trial to estimate program effectiveness and will be carried out in a subset of YCC grantees. The implementation study will draw on data gathered from all YCC grantees. The American Competitiveness and Workforce Improvement Act authorizes this information collection. *See* 29 U.S.C. 2916a.

This proposed information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. For additional information, see the related notice published in the **Federal Register** on October 17, 2015 (79 FR 62467).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB ICR Reference Number 201501-1291-002. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated,

electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL-OASAM.

Title of Collection: Youth

CareerConnect Impact and Implementation Evaluation.

OMB ICR Reference Number: 201501-1291-002.

Affected Public: State, Local, and Tribal Governments and Individuals or Households.

Total Estimated Number of Annual Respondents: 2,691.

Total Estimated Number of Annual Responses: 4,246.

Total Estimated Annual Time Burden: 1,186 hours.

Total Estimated Annual Other Costs Burden: \$0.

Dated: March 2, 2015.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2015-05186 Filed 3-5-15; 8:45 am]

BILLING CODE 4510-23-P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Geosciences (1755).

Dates: April 8th, 2015, 8:30 a.m.–5:00 p.m.; April 9th, 2015, 8:30 a.m.–2:00 p.m.

Place: Stafford I, Room 1235, National Science Foundation, 4201 Wilson Blvd., Arlington, Virginia 22230.

Type of Meeting: Open.

Contact Person: Melissa Lane, National Science Foundation, Suite 705, 4201 Wilson Blvd., Arlington, Virginia 22230. Phone 703-292-8500.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice, recommendations, and oversight on support for geoscience research and education including atmospheric, geo-space, earth, ocean and polar sciences.

Agenda

Wednesday, April 8, 2015 (8:30 a.m.–5:00 p.m.)

Meeting with the NSF Director and CIO Directorate and NSF activities and plans
Update on Merit Review Pilots
Division Subcommittee Meetings

Thursday, April 9, 2015 (8:30 a.m.–2:00 p.m.)

Division Subcommittee Meetings, continued.
Briefings on NAS Decadal Survey of the Ocean and NRC Report on Climate Intervention

Action Items/Planning for Fall Meeting

Dated: March 3, 2015.

Suzanne Plimpton,

Acting, Committee Management Officer.

[FR Doc. 2015-05256 Filed 3-5-15; 8:45 am]

BILLING CODE 7555-01-P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for International Science and Engineering; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for International Science and Engineering (#25104).

Date & Time: March 26–27, 2015 8:00 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Stafford I, Suite 1235, Arlington, Virginia 22230.

To facilitate entry into the building, contact Diane Drew (ddrew@nsf.gov). Your request should be received on or prior to March 23, 2015.

Virtual attendance will be supported. For detailed instructions, visit the meeting Web site at http://www.nsf.gov/events/event_summ.jsp?preview=y&cntn_id=133123.

Type of Meeting: Open.

Contact Person: Kelsey Cook, National Science Foundation, 4201 Wilson Boulevard, Stafford II, Suite 1155, Arlington, Virginia 22230; 703-292-7490.

Purpose of Meeting: To provide advice, recommendations and counsel on major goals and policies pertaining to international programs and activities.

Agenda

Thursday, March 26, 2015, 8:00 a.m.—5:00 p.m.

Welcome and Opening Remarks—Minutes
Overview of International and Integrative Activities/International Science and Engineering (IIA/ISE)—Realignment Status

Public Access
Leadership Pillar of the Strategic Framework
ISE Strategic Directions
Discussion with NSF Assistant Directors
Meeting with France Córdova, NSF Director, and Richard Buckius, NSF Chief Operating Officer
Subcommittee Planning

Friday, March 27, 2015, 8:00 a.m.—5:00 p.m.

Subcommittee Planning
Overseas Offices
Update from the Committee on Equal Opportunities in Science and Engineering
Update from the Committee on Environmental Research and Education
Closing Remarks and Wrap Up

Dated: March 2, 2015.

Suzanne Plimpton,

Acting, Committee Management Officer.

[FR Doc. 2015-05255 Filed 3-5-15; 8:45 am]

BILLING CODE 7555-01-P

NATIONAL SCIENCE FOUNDATION

Federal-Commercial Spectrum Sharing Workshop: Models, Application, and Impacts of Incentives for Sharing

AGENCY: The National Coordination Office (NCO) for Networking and Information Technology Research and Development (NITRD).

ACTION: Notice.

SUMMARY: The Wireless Spectrum R&D Senior Steering Group (WSRD SSG) has been conducting a series of workshops on understanding the fundamental issues involved in Federal and Commercial Spectrum Sharing. The seventh workshop in this series will focus on incentives. This workshop titled, "Federal-Commercial Spectrum Sharing: Models, Applications, and Impacts of Incentives for Sharing", will be held on March 19, 2015, from 8:00 a.m. to 5:30 p.m., at the Stevens Institute of Technology, Hoboken, NJ. The workshop will be Webcast and the link will be made available at: [https://www.nitrd.gov/nitrdgroups/index.php?title=Wireless_Spectrum_Research_and_Development_\(WSRD\)#title](https://www.nitrd.gov/nitrdgroups/index.php?title=Wireless_Spectrum_Research_and_Development_(WSRD)#title). Information gathered from this workshop will be used by the WSRD SSG to develop recommendations for the White House Office of Science and Technology Policy (OSTP).

DATES: March 19, 2015.

Background: The WSRD SSG workshop series stems from the June 14, 2013 Presidential Memorandum, *Expanding America's Leadership in Wireless Innovation*, to make more wireless spectrum available for commercial use by encouraging shared access by commercial and federal users. One of the directives was to explore and recommend market-based or other approaches that would incentivize Federal and commercial users to cooperate in sharing spectrum. Different

groups have proposed a variety of budgetary and administrative incentives for Federal agencies. Proposals have included introduction of a spectrum currency and setting aside some portion of spectrum auction revenues to establish a spectrum efficiency or relocation fund. Internationally, the United Kingdom has explored charging spectrum usage fees to government agencies.

Rich and multidisciplinary research questions arise when considering incentives for bi-directional spectrum sharing. Sharing between government and commercial entities will require innovations in technology as well as in business, administrative, and market institutions and practices. Federal, public safety, and commercial users confront different constraints and strategic options, and can be expected to respond differently to opportunities and incentives. This workshop will discuss what research is needed to get a better understanding of these factors, including lessons learned, in order to identify incentives that will work.

Submitted by the National Science Foundation for the National Coordination Office (NCO) for Networking and Information Technology Research and Development (NITRD) on February 25, 2015.

FOR FURTHER INFORMATION CONTACT:

Wendy Wigen at 703-292-4873 or wigen@nitrd.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2015-04236 Filed 3-5-15; 8:45 am]

BILLING CODE 7555-01-P

NUCLEAR REGULATORY COMMISSION

Request for a License to Export Deuterium

Pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) 110.70 (b)

"Public Notice of Receipt of an Application," please take notice that the U.S. Nuclear Regulatory Commission (NRC) has received the following request for an export license. Copies of the request are available electronically through the Agencywide Documents Access and Management System and can be accessed through the Public Electronic Reading Room link <http://www.nrc.gov/reading-rm.html> at the NRC Homepage.

A request for a hearing or petition for leave to intervene may be filed within thirty days after publication of this notice in the **Federal Register** (FR). Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Office of Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

A request for a hearing or petition for leave to intervene may be filed with the NRC electronically in accordance with NRC's E-Filing rule promulgated in August 2007, 72 FR 49139; Aug. 28, 2007. Information about filing electronically is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. To ensure timely electronic filing, at least five days prior to the filing deadline, the petitioner/requestor should contact the Office of the Secretary by email at HEARINGDOCKET@NRC.GOV, or by calling (301) 415-1677, to request a digital ID certificate and allow for the creation of an electronic docket.

In addition to a request for hearing or petition for leave to intervene, written comments, in accordance with 10 CFR 110.81, should be submitted within thirty days after publication of this notice in the FR to Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Rulemaking and Adjudications.

The information concerning this export license application follows.

NRC EXPORT LICENSE APPLICATION

Description of Material

Name of applicant date of application date received application no. docket no.	Material type	Total quantity	End use	Recipient country
Concert Pharmaceuticals, Inc., February 12, 2015, February 20, 2015, XMAT434, 11006190.	Heavy water (D ₂ O).	~20,000.0 kgs	Non-nuclear end-use in active pharma- ceutical ingredient manufacturing.	Switzerland.

Dated this 26th day of February, 2015 at
Rockville, Maryland.

For the U.S. Nuclear Regulatory
Commission.

David L. Skeen,

*Deputy Director, Office of International
Programs.*

[FR Doc. 2015-05318 Filed 3-5-15; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2015-0001]

Sunshine Act Meeting Notice

DATES: March 9, 16, 23, 30, April 6, 13,
2015.

PLACE: Commissioners' Conference
Room, 11555 Rockville Pike, Rockville,
Maryland.

STATUS: Public and Closed.

Week of March 9, 2015

There are no meetings scheduled for
the week of March 9, 2015.

Week of March 16, 2015—Tentative

There are no meetings scheduled for
the week of March 16, 2015.

Week of March 23, 2015—Tentative

Thursday, March 26, 2015

9:30 a.m.—Briefing on Security Issues
(Closed—Ex. 1)

1:30 p.m.—Briefing on Security Issues
(Closed—Ex. 1)

Friday, March 27, 2015

9:30 a.m.—Briefing on Threat
Environment Assessment (Closed—
Ex. 1)

Week of March 30, 2015—Tentative

There are no meetings scheduled for
the week of March 30, 2015.

Week of April 6, 2015—Tentative

There are no meetings scheduled for
the week of April 6, 2015.

Week of April 13, 2015—Tentative

Tuesday, April 14, 2015

9:30 a.m.—Meeting with the Advisory
Committee on the Medical Uses of

Isotopes (Public Meeting) (Contact:
Nima Ashkeboussi, 301-415-5775)

This meeting will be webcast live at
the Web address—<http://www.nrc.gov/>.

Thursday, April 16, 2015

9:30 a.m.—Meeting with the
Organization of Agreement States and
the Conference of Radiation Control
Program Directors (Public Meeting)
Contact: Nima Ashkeboussi, 301-415-
5775)

This meeting will be webcast live at
the Web address—<http://www.nrc.gov/>.

* * * * *

The schedule for Commission
meetings is subject to change on short
notice. For more information or to verify
the status of meetings, contact Glenn
Ellmers at 301-415-0442 or via email at
Glenn.Ellmers@nrc.gov.

* * * * *

The NRC Commission Meeting
Schedule can be found on the Internet
at: [http://www.nrc.gov/public-involve/
public-meetings/schedule.html](http://www.nrc.gov/public-involve/public-meetings/schedule.html).

* * * * *

The NRC provides reasonable
accommodation to individuals with
disabilities where appropriate. If you
need a reasonable accommodation to
participate in these public meetings, or
need this meeting notice or the
transcript or other information from the
public meetings in another format (e.g.
braille, large print), please notify
Kimberly Meyer, NRC Disability
Program Manager, at 301-287-0727, by
videophone at 240-428-3217, or by
email at [Kimberly.Meyer-Chambers@
nrc.gov](mailto:Kimberly.Meyer-Chambers@nrc.gov). Determinations on requests for
reasonable accommodation will be
made on a case-by-case basis.

* * * * *

Members of the public may request to
receive this information electronically.
If you would like to be added to the
distribution, please contact the Nuclear
Regulatory Commission, Office of the
Secretary, Washington, DC 20555 (301-
415-1969), or email
Brenda.Akstulewicz@nrc.gov or
Patricia.Jimenez@nrc.gov.

Dated: March 4, 2015.

Glenn Ellmers,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2015-05382 Filed 3-4-15; 4:15 pm]

BILLING CODE 7590-01-P

PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Information Collection for OMB Review; Comment Request; Annual Financial and Actuarial Information Reporting

AGENCY: Pension Benefit Guaranty
Corporation.

ACTION: Notice; correction.

SUMMARY: The Pension Benefit Guaranty
Corporation (PBGC) published a
document in the **Federal Register** on
March 2, 2015, concerning a proposed
submission of an information collection
on Annual Financial and Actuarial
Information Reporting for OMB review.
The document contained an inadvertent
error in the subject heading.

FOR FURTHER INFORMATION CONTACT:

Grace Kraemer, Attorney, or Catherine
B. Klion, Assistant General Counsel,
Office of the General Counsel, Pension
Benefit Guaranty Corporation, 1200 K
Street NW., Washington, DC 20005-
4026; 202-326-4024. (TTY and TDD
users may call the Federal relay service
toll-free at 1-800-877-8339 and ask to
be connected to 202-326-4024.)

Correction

In the **Federal Register** of March 2,
2015, in 80 FR 11240, correct the subject
heading to read:

Proposed Submission of Information Collection for OMB Review; Comment Request; Annual Financial and Actuarial Information Reporting

Issued in Washington, DC, this 2nd day of
March, 2015.

Catherine B. Klion,

*Assistant General Counsel, Pension Benefit
Guaranty Corporation.*

[FR Doc. 2015-05126 Filed 3-5-15; 8:45 am]

BILLING CODE 7709-02-P

**OFFICE OF PERSONNEL
MANAGEMENT****Submission for Review: Certificate of
Medical Examination, 3206–0250**

AGENCY: U.S. Office of Personnel Management.

ACTION: Notice and Request for Comments.

SUMMARY: The U.S. Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on an extension without change of a currently approved collection, information collection request (ICR) 3206–0250, Certificate of Medical Examination. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection.

DATES: Comments are encouraged and will be accepted until April 6, 2015. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to Employee Services, U.S. Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415, Attention: Phil Spottswood or via electronic mail to employ@opm.gov.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting Hiring Policy, U.S. Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, Attention: Phil Spottswood or via electronic mail to employ@opm.gov.

SUPPLEMENTARY INFORMATION: The Optional Form (OF) 178, Certificate of Medical Examination, is used to collect medical information about individuals who are incumbents of positions which require physical fitness/agility testing and/or medical examinations, or who have been selected for such a position contingent upon meeting physical fitness/agility testing and medical examinations as a condition of employment. This information is needed to ensure fair and consistent treatment of employees and job applicants, to adjudicate the medically-based passover of a preference eligible, and to adjudicate claims of discrimination under the Americans with Disabilities Act (ADA).

As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection to:

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 submissions of responses.

A **Federal Register** notice opening a 60-day comment period on the extension was published on December 16, 2014, at 79 FR 74777. The comment period closed February 17, 2015. No comments were received.

Analysis

Agency: Employee Services, U.S. Office of Personnel Management.

Title: Certificate of Medical Examination.

OMB Number: 3206–0250.

Affected Public: Federal Government.

Number of Respondents: 45,000.

Estimated Time Per Respondent: 3 hours.

Total Burden Hours: 135,000 hours.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

[FR Doc. 2015–05276 Filed 3–5–15; 8:45 am]

BILLING CODE 6325–39–P

**SECURITIES AND EXCHANGE
COMMISSION**

[Release No. 34–74403; File No. SR–BATS–2015–15]

**Self-Regulatory Organizations; BATS
Exchange, Inc.; Notice of Filing and
Immediate Effectiveness of a Proposed
Rule Change To Amend Rule 11.22 To
Update the Names of Certain Market
Data Products**

March 2, 2015.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on February

18, 2015, BATS Exchange, Inc. (the “Exchange” or “BATS”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a “non-controversial” proposed rule change pursuant to section 19(b)(3)(A) of the Act³ and Rule 19b–4(f)(6)(iii) thereunder,⁴ which renders it 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**

The Exchange filed a proposal to amend Rule 11.22, Data Products, to update the names of certain products to align with recent changes made to the names of the same products in the Exchange's fee schedule.

The text of the proposed rule change is available at the Exchange's Web site at www.bats trading.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 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 11.22, Data Products, to update the names of certain products to align with recent changes made to the names of the same products in the Exchange's fee schedule. On February 3, 2015, the Exchange filed a proposed rule change with the Commission that, among other things, amended the Exchange's fee schedule to rename “BZX Exchange PITCH Feed” as the “BZX Depth”,

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)(6)(iii).

“BZX Exchange Top Feed” as “BZX Top”, “BZX Exchange Historical TOP” as “BZX Historical Top”, and “Historical PITCH” as “Historical Depth.”⁵ The Exchange now proposes to rename the following data products under Rule 11.22 to align with these changes: (i) “TCP PITCH” under subparagraph (a) would be renamed “TCP Depth”; (ii) “Multicast PITCH” under subparagraph (c) would be renamed “Multicast Depth”; and (iii) “TOP” under subparagraph (d) would be renamed “Top”. The Exchange does not propose to amend the content or any other aspect of these market data products.

2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act⁶ in general, and furthers the objectives of section 6(b)(5) of the Act⁷ in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange does not believe that this proposal will permit unfair discrimination among customers, brokers, or dealers because it will apply to all Users. The proposed rule change does not propose to amend the content or any other aspect of these market data products. Rather, it simply proposes to align the naming convention of the Exchange’s market data products across its rules and fee schedule, making the Exchange’s rules clearer and less confusing for investors. Therefore, the Exchange believes the proposed rule change removes impediments to and perfects the mechanism of a free and open market and a national market system, and, in general, protects investors and the public interest.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposal will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather avoid investor confusion by providing consistency amongst the naming

conventions used for the Exchange market data products.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

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 Act⁸ and subparagraph (f)(6) of Rule 19b–4 thereunder.⁹

A proposed rule change filed under Rule 19b–4(f)(6)¹⁰ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),¹¹ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so the Exchange may clarify its rules by making them consistent throughout by reflecting a change in naming conventions used for Exchange market data products. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to provide consistency within their rules and avoid potential investor confusion. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing with the Commission.¹²

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–BATS–2015–15 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.

All submissions should refer to File Number SR–BATS–2015–15. 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

⁸ 15 U.S.C. 78s(b)(3)(A)(iii).

⁹ 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires 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.

¹⁰ 17 CFR 240.19b–4(f)(6).

¹¹ 17 CFR 240.19b–4(f)(6)(iii).

¹² For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁵ See Securities Exchange Act Release No. 74285 (February 18, 2015) (SR–BATS–2015–11).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

should refer to File Number SR-BATS-2015-15 and should be submitted on or before March 27, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Brent J. Fields,
Secretary.

[FR Doc. 2015-05158 Filed 3-5-15; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-74400; File No. SR-ICEEU-2015-001]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to ICE Clear Europe Clearing Fees

March 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 February 19, 2015, ICE Clear Europe Limited (“ICE Clear Europe”) 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 ICE Clear Europe. ICE Clear Europe filed the proposal pursuant to Section 19(b)(3)(A)(ii) of the Act,³ and Rule 19b-4(f)(2)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

The text of the proposed rule change consists of certain rule changes that have been proposed by ICE Clear Europe. The principal purpose of the proposed changes is to specify the clearing and other fees to be charged by ICE Clear Europe in respect of the clearing of equity contracts traded on the LIFFE Administration and Management market which have transitioned to trading on ICE Futures Europe (“Migrating Contracts”).

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of and basis for 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. ICE Clear Europe has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is for ICE Clear Europe to adopt a new fee schedule in respect of the clearing of the Migrating Contracts following the transition of trading in such contracts to ICE Futures Europe. The new fee schedule specifies certain exchange and clearing fees, as well as certain assignment, delivery and other fees applicable to the Migrating Contracts. The new fee schedule will replace the fee schedule previously published by ICE Futures Europe in respect of equity contracts. The combined exchange and clearing fees under the new fee schedule are the same as those being charged prior to the transition of trading in such contracts to ICE Futures Europe.

2. Statutory Basis

ICE Clear Europe has determined that the clearing fees in the new schedule continue to be appropriate to charge Clearing Members in connection with the clearing of the Migrating Contracts by ICE Clear Europe. ICE Clear Europe notes in this regard that the fees are the same as those currently charged for such contracts. ICE Clear Europe believes that imposing such clearing fees is consistent with the requirements of Section 17A of the Act⁵ and the regulations thereunder applicable to it, and in particular continues to provide for the equitable allocation of reasonable dues, fees, and other charges among its Clearing Members, within the meaning of Section 17A(b)(3)(D) of the Act.⁶ ICE Clear Europe thus believes that the proposed rule change is consistent with the requirements of Section 17A of the

Act⁷ and regulations thereunder applicable to it.

B. Self-Regulatory Organization’s Statement on Burden on Competition

ICE Clear Europe does not believe the proposed rule change would have any impact, or impose any burden, on competition. The fees in the revised fee schedule are the same as those being charged prior to the transition in trading of the Migrating Contracts to ICE Futures Europe.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed changes to the rules have not been solicited or received. ICE Clear Europe will notify the Commission of any written comments received by ICE Clear Europe.

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)(ii) of the Act⁸ and Rule 19b-4(f)(2)⁹ thereunder because it establishes a fee or other charge imposed by ICE Clear Europe on its Clearing Members, within the meaning of Rule 19b-4(f)(2). Specifically, the proposed rule change will establish fees to be paid by Clearing Members to ICE Clear Europe with respect to the clearing of Migrating Contracts. 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 Number SR-ICEEU-2015-001 on the subject line.

⁷ 15 U.S.C. 78q-1.

⁸ 15 U.S.C. 78s(b)(3)(A)(ii).

⁹ 17 CFR 240.19b-4(f)(2).

¹³ 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)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

⁵ 15 U.S.C. 78q-1.

⁶ 15 U.S.C. 78q-1(b)(3)(D).

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-ICEEU-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 such filings also will be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's Web site at <https://www.theice.com/clear-europe/regulation>.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ICEEU-2015-001 and should be submitted on or before March 27, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Brent J. Fields,
Secretary.

[FR Doc. 2015-05156 Filed 3-5-15; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

In the Matter of Discovery Oil, Ltd., I/O Magic Corporation, Maydao Corporation, NX Global, Inc, and SensiVida Medical Technologies, Inc.; Order of Suspension of Trading

March 4, 2015.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Discovery Oil, Ltd. because it has not filed any periodic reports since the period ended September 30, 2010.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of I/O Magic Corporation because it has not filed any periodic reports since the period ended September 30, 2011.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Maydao Corporation because it has not filed any periodic reports since the period ended September 30, 2011.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of NX Global, Inc because it has not filed any periodic reports since the period ended October 31, 2011.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of SensiVida Medical Technologies, Inc. because it has not filed any periodic reports since the period ended May 31, 2011.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EST on March 4, 2015, through 11:59 p.m. EDT on March 17, 2015.

By the Commission.

Jill M. Peterson,
Assistant Secretary.

[FR Doc. 2015-05371 Filed 3-4-15; 4:15 pm]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-221, OMB Control No. 3235-0232]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549-2736.

Extension: Form 1-E, Regulation E

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the "Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information of the Office of Management and Budget for extension and approval.

Form 1-E (17 CFR 239.200) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) ("Securities Act") is the form that a small business investment company ("SBIC") or business development company ("BDC") uses to notify the Commission that it is claiming an exemption under Regulation E from registering its securities under the Securities Act. Rule 605 of Regulation E (17 CFR 230.605) under the Securities Act requires an SBIC or BDC claiming such an exemption to file an offering circular with the Commission that must also be provided to persons to whom an offer is made. Form 1-E requires an issuer to provide the names and addresses of the issuer, its affiliates, directors, officers, and counsel; a description of events which would make the exemption unavailable; the jurisdictions in which the issuer intends to offer the securities; information about unregistered securities issued or sold by the issuer within one year before filing the notification on Form 1-E; information as to whether the issuer is presently offering or contemplating offering any other securities; and exhibits, including copies of the rule 605 offering circular and any underwriting contracts.

The Commission uses the information provided in the notification on Form 1-E and the offering circular to determine whether an offering qualifies for the exemption under Regulation E. The Commission estimates that, each year, one issuer files one notification on Form 1-E, together with offering circulars,

¹⁰ 17 CFR 200.30-3(a)(12).

with the Commission.¹ Based on the Commission's experience with disclosure documents, we estimate that the burden from compliance with Form 1-E and the offering circular requires approximately 100 hours per filing. The annual burden hours for compliance with Form 1-E and the offering circular would be 100 hours (1 response x 100 hours per response). Estimates of the burden hours are made solely for the purposes of the PRA, and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules and forms.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information 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. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549; or send an email to: PRA_Mailbox@sec.gov.

Dated: March 2, 2015.

Brent J. Fields,
Secretary.

[FR Doc. 2015-05217 Filed 3-5-15; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

In the Matter of China Infrastructure Investment Corp., Order of Suspension of Trading

March 4, 2015.

It appears to the Securities and Exchange Commission ("Commission") that there is a lack of current and accurate information concerning the securities of China Infrastructure Investment Corp. ("CIIC") because, among other things, it: (1) Has not filed any periodic reports since the Form 10-

Q for the period ending September 30, 2011, filed on November 14, 2011; and (2) filed a Form 8-K on December 16, 2011, stating that the Chief Financial Officer ("CFO") whose signature appears on Forms 10-K and 10-K/A for the year ending June 30, 2011, and on Form 10-Q for the quarter ending September 30, 2011, had resigned from CIIC on September 21, 2011, and had not prepared, reviewed, signed or authorized these filings.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, *it is ordered*, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of CIIC is suspended for the period from 9:30 a.m. EST on March 4, 2015, through 11:59 p.m. EDT on March 17, 2015.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2015-05370 Filed 3-4-15; 4:15 pm]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-74411; File No. SR-FICC-2014-09]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change To Amend the Rules of the Government Securities Division and the Mortgage-Backed Securities Division Regarding the Default of Fixed Income Clearing Corporation

March 2, 2015.

I. Introduction

On November 12, 2014, the Fixed Income Clearing Corporation ("FICC") filed with the Securities and Exchange Commission ("Commission") proposed rule change SR-FICC-2014-09 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder.² The proposed rule change was published for comment in the **Federal Register** on December 2, 2014.³ On January 9, 2015, pursuant to Section 19(b)(2)(A)(ii) of the Act,⁴ FICC consented to an extension of the time for Commission action on the proposed

rule change to March 2, 2015. The Commission received no comment letters in response to the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description

FICC filed the proposed rule change to amend the clearing rules of the Government Securities Division ("GSD") and of the Mortgage-Backed Securities Division ("MBSD") concerning a default by FICC.⁵ The FICC Default Rules were added to GSD's and MBSD's rules in 2010 and 2012, respectively, to make explicit the close-out netting of obligations between FICC and its clearing members in the event that FICC becomes insolvent or defaults on its obligations to its clearing members.⁶ FICC represented that the FICC Default Rules provide clarity to clearing member firms in their application of balance sheet netting to their positions with FICC under U.S. GAAP.⁷ FICC further represented that the FICC Default Rules allow clearing members to comply with Basel Accord Standards relating to netting, and thereby enable clearing members to calculate their capital requirements on the basis of their net credit exposure.⁸

The existing FICC Default Rules cover three general types of default: Voluntary proceedings defaults; involuntary proceedings defaults; and non-insolvency related defaults. Under the existing FICC Default Rules, FICC states that it is considered in default with respect to voluntary proceedings defaults (i) immediately upon the dissolution of FICC, (ii) the voluntary institution of proceedings by FICC seeking a judgment of insolvency or bankruptcy or other similar relief, or (iii) the voluntary presentation by FICC of a petition for its winding up or liquidation.

Under the existing FICC Default Rules, FICC is considered in default

⁵ In 2010, the Commission approved a proposed rule change filed by FICC to add Rule 22B to the GSD rules ("GSD Default Rule"). See Securities Exchange Act Release No. 63038 (October 5, 2010), 75 FR 62899 (October 13, 2010) (File No. SR-FICC-2010-04). In 2012, the Commission approved a proposed rule change filed by FICC to add Rule 17A to the MBSD rules ("MBSD Default Rule", and together with the GSD Default Rule, "FICC Default Rules"). See Securities Exchange Act Release No. 66550 (March 9, 2012), 77 FR 15155 (March 14, 2012) (File No. SR-FICC-2008-01).

⁶ See Securities Exchange Act Release No. 63038 (October 5, 2010), 75 FR 62899 (October 13, 2010) (File No. SR-FICC-2010-04) and Securities Exchange Act Release No. 66550 (March 9, 2012), 77 FR 15155 (March 14, 2012) (File No. SR-FICC-2008-01).

⁷ See *Id.*

⁸ See *Id.*

¹ According to Commission records, one issuer filed two notifications on Form 1-E, together with offering circulars, during 2013 and 2014.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 73682 (November 25, 2014), 79 FR 71481 (December 2, 2014) (File No. SR-FICC-2014-09).

⁴ 15 U.S.C. 78s(b)(2)(A)(ii).

with respect to involuntary proceedings defaults on the 91st calendar day after the judgment of insolvency or bankruptcy or the entry of an order for relief (or similar order) for FICC's winding up or liquidation, or the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for all or substantially all of FICC's assets, where such judgment, order or appointment, as applicable, remains unstayed throughout the 90 calendar day grace period. FICC is considered in default with respect to non-insolvency related defaults on the 91st calendar day after it receives notice from a member of its failure to make an undisputed payment or delivery to such member that is required under the GSD Rules or the MBSD Rules, respectively, where such failure remains unremedied throughout the 90 calendar day grace period.

The existing FICC Default Rules exclude the following from the scope of what is considered a non-insolvency related default: (i) The failure on the part of FICC to satisfy obligations to members in wind-down, members in default, or members for whom FICC has ceased to act pursuant to either GSD Rule 22A or MBSD Rule 17, as applicable; (ii) the satisfaction of any payment or delivery obligation by FICC through alternate means as provided in GSD or MBSD rules, as applicable; (iii) the failure of the other division of FICC to satisfy a payment or delivery obligation to a clearing member; and (iv) the failure to satisfy any payment or delivery obligation required to be made to a clearing member that is solely the result of an operational, technological, or administrative error or impediment, provided that FICC possesses sufficient funds or assets to satisfy the obligation.

Additionally, according to FICC, the grace period can be extended beyond 90 calendar days under the existing FICC Default Rules in a non-insolvency related default situation where a payment or delivery deadline has been suspended under GSD Rule 42 or MBSD Rule 33, as applicable, in which case the 90 calendar day grace period would commence on the date FICC receives notice from a clearing member of its failure to make an undisputed payment or delivery on the later due date determined pursuant to the suspension.

Pursuant to this rule change, as approved, FICC is now amending its FICC Default Rules in order to more closely align such rules with those of its peer central counterparties and to facilitate the participation of market participants, including registered investment companies, in FICC's

services by providing members with further legal certainty regarding their rights with respect to a default by FICC. First, FICC is amending its FICC Default Rules to add the voluntary making by FICC of a general assignment for the benefit of creditors as an additional type of voluntary proceeding. Second, FICC is eliminating the 90 calendar day grace period for involuntary proceeding defaults. According to FICC, this change will result in FICC being considered in default immediately upon the judgment of insolvency or bankruptcy or the entry of an order for relief (or similar order) for FICC's winding-up or liquidation, or the appointment of a receiver, trustee or other similar official for FICC or substantially all of FICC's assets, provided that such receiver, trustee or other similar official is appointed pursuant to the federal securities laws, particularly Section 19(i) of the Act, or Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Third, FICC is reducing the grace period from 90 to 7 calendar days for non-insolvency related defaults. According to FICC, this change will result in it being in a non-insolvency related default on the 8th calendar day after it receives notice from a member of its failure to make an undisputed payment or delivery to such member that is required under the rules of GSD or MBSD, as applicable, provided that such failure has not been remedied during the 7 calendar days, and does not fall within the category of exclusions that are enumerated in clause (b)(i), sub-clauses (A), (B) and (C) of the GSD Default Rule or the MBSD Default Rule, as applicable.

Fourth, FICC is removing the provisions that provide for a potential extension of the grace period in a non-insolvency default situation where the deadline for a payment or delivery obligation of FICC has been suspended by FICC under either GSD Rule 42 or MBSD Rule 33, as applicable. As a result, the grace period will commence on the date FICC receives notice from a member of its failure to make an undisputed payment or delivery on the later due date determined pursuant to the suspension.

Fifth, FICC is removing the provisions that exclude from the scope of what can be considered a non-insolvency related default the failure to satisfy any payment or delivery obligation required to be made to a clearing member that is the result of an operational, technological, or administrative error or impediment.

Sixth, is adding language to the FICC Default Rules to clarify that no other provision within the rules of GSD or

MBSD, respectively, including FICC's authority under GSD Rule 42 and MBSD Rule 33, as applicable, can override the definition of what constitutes a default by FICC.

III. Discussion

Section 19(b)(2)(C) of the Act⁹ directs the Commission to approve a self-regulatory organization's proposed rule change if the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act¹⁰ requires, among other things, that the rules of a clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions.

After careful review, the Commission finds that FICC's rule change to amend the FICC Default Rules is consistent with Section 17A(b)(3)(F) of the Act¹¹ because the changes as proposed in FICC's filing should provide further legal certainty to FICC's clearing members regarding their close-out netting rights with respect to a default by FICC. In addition, FICC's rule changes should assist in addressing certain regulatory concerns of new market participants, including registered investment companies, which FICC believes will facilitate their participation in FICC's central counterparty services and thus facilitate the prompt and accurate clearance and settlement of securities transactions submitted by such market participants.

IV. Conclusion

On the basis of the foregoing, the Commission concludes that the proposal is consistent with the requirements of the Act, particularly the requirements of Section 17A of the Act,¹² and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹³ that the proposed rule change (File No. SR-FICC-2014-09) be and hereby is approved.¹⁴

⁹ 15 U.S.C. 78s(b)(2)(C).

¹⁰ 15 U.S.C. 78q-1(b)(3)(F).

¹¹ *Id.*

¹² 15 U.S.C. 78q-1.

¹³ 15 U.S.C. 78s(b)(2).

¹⁴ In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Brent J. Fields,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-74387; File No. SR-OCC-2014-813]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of No Objection to Advance Notice Filing, as Modified by Amendment No. 1, Concerning a Proposed Capital Plan for Raising Additional Capital That Would Support The Options Clearing Corporation's Function as a Systemically Important Financial Market Utility

February 26, 2015.

On December 29, 2014, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the advance notice File No. SR-OCC-2014-813 pursuant to Section 806(e)(1)(A) of the Payment, Clearing, and Settlement Supervision Act of 2010 ("Payment, Clearing and Settlement Supervision Act")¹ and Rule 19b-4(n)(1)(i) under the Securities Exchange Act of 1934 ("Act").² On January 14, 2015, OCC filed Amendment No. 1 to the advance notice.³ The advance notice was

published for comment in the **Federal Register** on February 9, 2015.⁴ The Commission received eight comment letters on OCC's proposal.⁵ This publication serves as a notice of no objection to proposal discussed in the advance notice.

I. Description of the Advance Notice

Pursuant to this advance notice, OCC is implementing a Capital Plan under which the Stockholder Exchanges will make an additional capital contribution and commit to replenishment capital ("Replenishment Capital") in circumstances discussed below, and will receive, among other things, the right to receive dividends from OCC. In addition to the additional capital contribution and Replenishment Capital, the main features of the Capital Plan include: (i) A policy establishing OCC's clearing fees at a level that would be sufficient to cover OCC's estimated

(ii) correct typographical errors, and (iii) update the Term Sheet included as an exhibit, which summarizes material features of the Capital Plan.

⁴ Securities Exchange Act Release No. 74202 (February 4, 2015), 80 FR 7056 (February 9, 2015) (SR-OCC-2014-813). In conjunction with this advance notice, OCC filed a corresponding proposed rule change seeking approval of changes to its By-Laws, Certificate of Incorporation and relevant agreements, including its Stockholders Agreement, necessary to implement the Capital Plan. This proposed rule change was published in the **Federal Register** on January 30, 2015. Securities Exchange Act Release No. 74136 (January 26, 2015), 80 FR 5171 (January 30, 2015) (SR-OCC-2015-02).

⁵ See Letter from Eric Swanson, General Counsel & Secretary, BATS Global Markets, Inc., (February 19, 2015) ("BATS Letter"); Letter from Tony McCormick, Chief Executive Officer, BOX Options Exchange, (February 19, 2015) ("BOX Letter"); Letter from Howard L. Kramer on behalf of Belvedere Trading, CTC Trading Group, IMC Financial Markets, Integral Derivatives, Susquehanna Investment Group, and Wolverine Trading, (February 20, 2015) ("MM Letter"); Letter from Ellen Greene, Managing Director, Financial Services Operations, SIFMA, (February 20, 2015) ("SIFMA Letter"); Letter from James E. Brown, General Counsel, OCC, (February 23, 2015) (responding to BATS Letter and BOX Letter) ("OCC Letter I"); Letter from James E. Brown, General Counsel, OCC, (February 23, 2015) (responding to MM Letter) ("OCC Letter II"); Letter from Barbara J. Comly, Executive Vice President, General Counsel & Corporate Secretary, Miami International Securities Exchange, LLC (February 24, 2015) ("MIAX Letter"); Letter from James E. Brown, General Counsel, OCC, (February 24, 2015) (responding to SIFMA Letter) ("OCC Letter III"). Since the proposal was filed as both an advance notice and proposed rule change, the Commission considered all comments received on the proposal, regardless of whether the comments were submitted to the proposed rule change or advance notice. In its assessment of the advance notice, the Commission assessed whether the issues raised by the commenters relate to the level or nature of risks presented to OCC by the Capital Plan. See comments on the advance notice (File No. SR-OCC-2014-813), <http://www.sec.gov/comments/sr-occ-2014-813/occ2014813.shtml> and comments on the proposed rule change (File No. SR-OCC-2015-02), <http://www.sec.gov/comments/sr-occ-2015-02/occ201502.shtml>.

operating expenses plus a "business risk buffer" as described below ("Fee Policy"), (ii) a policy establishing the amount of the annual refund to clearing members of OCC's fees ("Refund Policy"), and (iii) a policy for calculating the amount of dividends to be paid to the options exchanges owning equity in OCC ("Dividend Policy"). OCC stated that it intends to implement the Capital Plan on or about February 27, 2015, subject to all necessary regulatory approvals.⁶

OCC states in its proposal that it is implementing this Capital Plan, in part, to increase significantly OCC's capital in connection with its increased responsibilities as a systemically important financial market utility. OCC's proposal includes an infusion of substantial additional equity capital by the Stockholder Exchanges to be made prior to February 27, 2015, subject to regulatory approval, that when added to retained earnings accumulated by OCC in 2014 will significantly increase OCC's capital levels as compared to historical levels. Additionally, the proposed change includes the Replenishment Capital commitment, which will provide OCC with access to additional equity contributed by the Stockholder Exchanges should OCC's equity fall close to or below the amount that OCC determines to be appropriate to support its business and manage business risk.

A. Background

OCC is a clearing agency registered with the Commission and is also a derivatives clearing organization ("DCO") regulated in its capacity as such by the Commodity Futures Trading Commission ("CFTC"). OCC is a Delaware business corporation and is owned equally by the Stockholder Exchanges, five national securities exchanges for which OCC provides clearing services.⁷ In addition, OCC provides clearing services for seven other national securities exchanges that trade options ("Non-Stockholder Exchanges"). In its capacity as a DCO, OCC provides clearing services to four futures exchanges. OCC also has been designated systemically important by the Financial Stability Oversight Council pursuant to the Payment, Clearing and Settlement Supervision

⁶ OCC filed a proposed rule change seeking approval of changes to its By-Laws, Certificate of Incorporation and relevant agreements, including its Stockholders Agreement, necessary to implement the Capital Plan. See *supra* note 4.

⁷ The Stockholder Exchanges are: Chicago Board Options Exchange, Incorporated; International Securities Exchange, LLC; NASDAQ OMX PHLX LLC; NYSE MKT LLC; and NYSE Arca, Inc.

¹⁵ 17 CFR 200.30-3(a)(12).

¹ 12 U.S.C. 5465(e)(1)(A). The Financial Stability Oversight Council designated OCC a systemically important financial market utility on July 18, 2012. See Financial Stability Oversight Council 2012 Annual Report, Appendix A, <http://www.treasury.gov/initiatives/fsoc/Documents/2012%20Annual%20Report.pdf>. Therefore, OCC is required to comply with the Payment, Clearing and Settlement Supervision Act and file advance notices with the Commission.

² 17 CFR 240.19b-4(n)(1)(i). As the Commission noted in the notice of filing of the advance notice, as modified by Amendment No. 1, OCC stated that the purpose of this proposal is, in part, to facilitate compliance with proposed Commission rules and address Principle 15 of the Principles for Financial Market Infrastructures ("PMFIs"). The proposed Commission rules are pending. See Securities Exchange Act Release No. 71699 (March 12, 2014), 79 FR 29508 (May 22, 2014) (S7-03-14). Therefore, the Commission has evaluated this advance notice under the Payment, Clearing and Settlement Supervision Act and the rules currently in force thereunder. See Securities Exchange Act Release No. 74202 (February 4, 2015), 80 FR 7056 (February 9, 2015) (SR-OCC-2014-813) at note 3.

³ According to OCC, OCC filed Amendment No. 1 to: (i) Update OCC's plan for raising additional capital ("Capital Plan") in connection with negotiations between OCC and the options exchanges that own equity in OCC ("Stockholder Exchanges" or "stockholders") and that would contribute additional capital under the Capital Plan,

Act, and the Commission is OCC's "Supervisory Agency" under Section 803(8) of the Payment, Clearing and Settlement Supervision Act.⁸

According to OCC, it has devoted substantial efforts during the past year to: (1) Develop a 5-year forward looking model of expenses; (2) quantify maximum recovery and wind-down costs under OCC's recovery and wind-down plan; (3) assess and quantify OCC's operational and business risks; (4) model projected capital accumulation taking into account varying assumptions concerning business conditions, fee levels, buffer margin levels and refunds; and (5) develop an effective mechanism that provides OCC access to replenishment capital in the event of losses. Incorporating the results of those efforts, the Capital Plan is intended to provide OCC with the means to increase its stockholder equity.

B. OCC's Projected Capital Requirement

According to OCC, using the methods described in detail below, OCC will annually determine a target capital requirement consisting of (i) a baseline capital requirement equal to the greatest of (x) six months operating expenses for the following year, (y) the maximum cost of the recovery scenario from OCC's recovery and wind-down plan, and (z) the cost to OCC of winding down operations as set forth in the recovery and wind-down plan ("Baseline Capital Requirement"), plus (ii) a target capital buffer linked to plausible loss scenarios from operational risk, business risk and pension risk ("Target Capital Buffer") (collectively, "Target Capital Requirement"). OCC determined that the appropriate Target Capital Requirement is \$247 million, reflecting a Baseline Capital Requirement of \$117 million, which is equal to six months of projected operating expenses, plus a Target Capital Buffer of \$130 million. This Target Capital Buffer would provide a significant capital cushion to offset potential business losses.

According to OCC, it had total shareholders' equity of approximately \$25 million as of December 31, 2013,⁹ meaning that OCC proposes to add additional capital of \$222 million to meet its 2015 Target Capital Requirement. OCC determined that a viable plan for Replenishment Capital should provide for a replenishment capital amount which would give OCC

access to additional capital as needed up to a maximum of the Baseline Capital Requirement ("Replenishment Capital Amount").¹⁰ Therefore, OCC's Capital Plan will include the following in order to provide OCC in 2015 with ready access to approximately \$364 million in equity capital:

Baseline Capital Requirement	\$117,000,000
Target Capital Buffer	\$130,000,000
Target Capital Requirement Replenishment Capital Amount	\$117,000,000
Total OCC Capital Resources	\$364,000,000

C. Procedures Followed in Order To Determine Capital Requirement

According to OCC, various measures were used in determining the appropriate level of capital. An outside consultant conducted a "bottom-up" analysis of OCC's risks and quantified the appropriate amount of capital to be held against each risk. The analysis was comprehensive across risk types, including credit, market, pension, operation, and business risk. Based on internal operational risk scenarios and loss modeling at or above the 99% confidence level, OCC's operational risk was quantified at \$226 million and pension risk at \$21 million, resulting in the total Target Capital Requirement of \$247 million. Business risk was addressed by taking into consideration that OCC has the ability to fully offset potential revenue volatility and manage business risk to zero by adjusting the levels at which fees and refunds are set and by adopting a Business Risk Buffer of 25% when setting fees. Other risks, such as counterparty risk and on-balance sheet credit and market risk, were considered to be immaterial for purposes of requiring additional capital based on means available to OCC to address those risks that did not require use of OCC's capital. As discussed in more detail below in the context of OCC's Fee Policy, the Business Risk Buffer of 25% is achieved by setting OCC's fees at a level intended to achieve target annual revenue that will result in a 25% buffer for the year after paying all operating expenses.

Additionally, OCC determined that its maximum recovery costs would be \$100 million and projected wind-down costs would be \$73 million. OCC projected its expenses for 2015 will be \$234 million, so that six months projected expenses

are \$234 million/2 = \$117 million. The greater of recovery or wind-down costs and six months of operating expenses is therefore \$117 million, and OCC's Baseline Capital Requirement (minimum regulatory requirement) is therefore \$117 million. According to OCC, it then computed the appropriate amount of a Target Capital Buffer from operational risk, business risk, and pension risk, resulting in a determination that the current Target Capital Buffer should be \$130 million. Thus, the Target Capital Requirement is \$117 million + \$130 million = \$247 million.

D. Overview of, and Basis for, OCC's Proposal To Acquire Additional Equity Capital

According to OCC, in order to meet its Target Capital Requirement, and after consideration of alternatives, OCC's Board of Directors approved a proposal from OCC's Stockholder Exchanges pursuant to which OCC would meet its Target Capital Requirement of \$247 million in early 2015 as follows:

Shareholders' Equity as of 1/1/2014	\$25,000,000
Shareholders Equity Accumulated Through Retained Earnings ¹¹ ...	\$72,000,000
Additional Contribution from Stockholder Exchanges	\$150,000,000
Target Capital Requirement	\$247,000,000
Replenishment Capital Amount	\$117,000,000
Total OCC Capital Resources	\$364,000,000

The additional contribution of the Stockholder Exchanges will be made in respect of their Class B Common Stock on a *pro rata* basis. The Stockholder Exchanges will also commit to provide additional equity capital up to the Replenishment Capital Amount, which is currently \$117 million, in the event Replenishment Capital is needed. While the Replenishment Capital Amount will increase as the Baseline Capital Requirement increases, under OCC's proposal, it would be capped at a total of \$200 million, which could be outstanding at any point in time. OCC estimates that the Baseline Capital Requirement will not exceed this amount before 2022. When the limit is

⁸ 12 U.S.C. 5462(8).

⁹ See OCC 2013 Annual Report, Financial Statements, Statements of Financial Condition, available on OCC's Web site, http://optionsclearing.com/components/docs/about/annual-reports/occ_2013_annual_report.pdf.

¹⁰ The obligation to provide Replenishment Capital will be capped at \$200 million, which OCC projects will account for increases in its capital requirements for the foreseeable future.

¹¹ According to OCC, "the \$72 million is after giving effect to the approximately \$40 million refund" expected to be made for 2014. Securities Exchange Act Release No. 74202 (February 4, 2015), 80 FR 7056, 7058 at note 15 (February 9, 2015) (SR-OCC-2014-813).

being approached, OCC will revise the Capital Plan as needed to address future needs. In consideration for their capital contributions and replenishment commitments, the Stockholder Exchanges will receive dividends as described in the Dividend Policy discussed below for so long as they remain stockholders, and maintain their contributed capital and commitment to replenish capital up to the Replenishment Capital Amount, subject to the \$200 million cap.

E. Fee, Refund, and Dividend Policies

Upon reaching the Target Capital Requirement, the Capital Plan requires OCC to set its fees at a level that utilizes a Business Risk Buffer of 25%. The purpose of this Business Risk Buffer is to ensure that OCC accumulates sufficient capital to cover unexpected fluctuations in operating expenses, business capital needs, and regulatory capital requirements. Furthermore, the Capital Plan requires OCC to maintain Fee, Refund, and Dividend Policies, described in more detail below, which are designed to ensure that OCC's shareholders' equity remains well above the Baseline Capital Requirement.

The required Business Risk Buffer of 25% is below OCC's 10-year historical pre-refund average buffer of 31%. The target will remain 25% so long as OCC's shareholders' equity remains above the Target Capital Requirement amount. The reduction in buffer margin from OCC's 10-year average of 31% to 25% reflects OCC's commitment to operating as an industry utility and ensuring that market participants benefit as much as possible from OCC's operational efficiencies in the future. This reduction will permit OCC to charge lower fees to market participants rather than maximize refunds to clearing members and dividend distributions to Stockholder Exchanges. OCC will review its fee schedule on a quarterly basis to manage revenue as closely to this target as possible.¹² For example, if the Business Risk Buffer is materially above 25% after the first quarter of a particular year, OCC may decrease fees for the remainder of the year, and conversely if the Business Risk Buffer is materially below 25% at this time, OCC may increase fees for the remainder of the year.

The Capital Plan will allow OCC to refund approximately \$40 million from 2014 fees to clearing members in 2015 and to reduce fees in an amount to be

determined by OCC's Board of Directors, effective in the second quarter of 2015. OCC will announce new fee levels early in 2015 and will make such fees effective following notification to clearing members, making any necessary filings, and receiving any necessary approvals from the Commission. OCC will endeavor to provide clearing members with no less than 60-day notice in advance of the effectiveness of changes to fee levels, particularly those that result in increases to fee levels. No dividends will be declared until December 2015 and no dividends will be paid until 2016.

Changes to the Fee, Refund or Dividend Policies will require the affirmative vote of two-thirds of the directors then in office and approval of the shareholders of all of OCC's outstanding Class B Common Stock. The formulas for determining the amount of refunds and dividends under the Refund and Dividend Policies, respectively, which are described in more detail below, are based on, among other things, the current tax treatment of refunds as a deductible expense. The Refund and Dividend Policies will provide that in the event that refunds payable under the Refund Policy are not tax deductible, the policies would be amended to restore the relative economic benefits between the recipients of the refunds and the Stockholder Exchanges.

1. Fee Policy

Under the Fee Policy, in setting fees each year, OCC will calculate an annual revenue target based on a forward twelve months expense forecast divided by the difference between one and the Business Risk Buffer of 25% (*i.e.*, OCC will divide the expense forecast by .75). Establishing a Business Risk Buffer at 25% will allow OCC to manage the risk that fees may generate less revenue than expected due to lower-than-expected trading volume or other factors, or that expenses may be higher than projected. The Fee Policy also will include provisions from existing Article IX, Section 9, of OCC's By-Laws to effectively state that the fee schedule also may include additional amounts necessary to (i) maintain such reserves as are deemed reasonably necessary by OCC's Board of Directors to provide facilities for the conduct of OCC's business and to conduct development and capital planning activities in connection with OCC's services to the options exchanges, clearing members and the general public, and (ii) accumulate such additional surplus as the Board of Directors may deem

advisable to permit OCC to meet its obligations to clearing members and the general public. However, OCC states that these provisions will be used only in extraordinary circumstances and to the extent that the Board of Directors has determined that the required amount of such additional reserves or additional surplus will exceed the full amount that will be accumulated through the Business Risk Buffer (prior to payment of refunds or dividends) so OCC's fees will ordinarily be based on its projected operating expenses and the Business Risk Buffer of 25%.

Under the advance notice proposal, OCC will use the following formula to calculate its annual revenue target as follows:

Annual Revenue Target = Forward 12 Months Expense Forecast/(1-.25).

Because OCC's clearing fee schedules typically reflect different rates for different categories of transactions, fee projections will include projections as to relative volume in each such category. The clearing fee schedule will therefore be set to achieve a blended or average rate per contract sufficient, when multiplied by total projected contract volume, to achieve the Annual Revenue Target. Under extraordinary circumstances, OCC will add any amount determined to be necessary for additional reserves or surplus and divide the resulting number by the projected contract volume to determine the applicable average fee per cleared contract needed to achieve the additional amounts required. Consistent with past practice, OCC will notify its clearing members of the fees OCC determines it will apply for any particular period by describing the change in an information memorandum distributed to all clearing members. Consistent with past practice, OCC also will notify regulators of the fees it determines would apply for any particular period by filing an amendment to its schedule of fees as a proposed rule change for immediate effectiveness under Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(2) thereunder.

2. Refund Policy

Under the Refund Policy, except at a time when Replenishment Capital is outstanding as described below, OCC will declare a refund to clearing members in December of each year, beginning in 2015, in an amount equal to 50% of the excess, if any, of (i) the pre-tax income for the year prior to the refund over (ii) the sum of (x) the amount of pre-tax income after the refund necessary to produce after-tax income sufficient to maintain

¹² If OCC's fee schedule needs to be changed in order to achieve the 25% Business Risk Buffer, OCC would file a proposed rule change seeking approval of the revised fee schedule.

shareholders' equity at the Target Capital Requirement for the following year plus (y) the amount of pre-tax income after the refund necessary to fund any additional reserves or additional surplus not already included in the Target Capital Requirement. Such refund will be paid in the year following the declaration after the issuance of OCC's audited financial statements, provided that (i) the payment does not result in total shareholders' equity falling below the Target Capital Requirement, and (ii) such payment is otherwise permitted by applicable Delaware law and applicable federal laws and regulations. OCC will not be able to pay a refund on a particular date unless dividends were paid on the same date. If Replenishment Capital has been contributed and remains outstanding, OCC will not pay refunds until such time as the Target Capital Requirement is restored through the accumulation of retained earnings. Refunds in accordance with the Refund Policy will resume once the Target Capital Requirement is restored and all Replenishment Capital is repaid in full, provided that the restoration of the Target Capital Requirement and the repayment of Replenishment Capital occurred within 24 months of the issuance date of the Replenishment Capital. If within 24 months of the issuance date of any Replenishment Capital, such Replenishment Capital has not been repaid in full or shareholders' equity has not been restored to the Target Capital Requirement, OCC will no longer pay refunds to clearing members, even if the Target Capital Requirement is restored and all Replenishment Capital is repaid at a later date.

3. Dividend Policy

The Dividend Policy provides that, except at a time when Replenishment Capital is outstanding, OCC will declare a dividend on its Class B Common Stock in December of each year in an aggregate amount equal to the excess, if any, of (i) after-tax income for the year, after application of the Refund Policy (unless the Refund Policy has been eliminated, in which case the refunds shall be deemed to be \$0) over (ii) the sum of (A) the amount required to be retained in order to maintain total shareholders' equity at the Target Capital Requirement for the following year, plus (B) the amount of any additional reserves or additional surplus not already included in the Target Capital Requirement. Such dividend will be paid in the year following the declaration after the issuance of OCC's audited financial statements, provided that (i) the

payment does not result in total shareholders' equity falling below the Target Capital Requirement, and (ii) such payment is otherwise permitted by applicable Delaware law and applicable federal laws and regulations. If Replenishment Capital has been contributed and remains outstanding, OCC would not pay dividends until such time as the Target Capital Requirement is restored.

F. OCC's Status as an Industry Utility

According to OCC, OCC has always been operated on an "industry utility" model. The Stockholder Exchanges have contributed only minimal capital to OCC.¹³ OCC's By-Laws currently require that OCC set its clearing fees at a level that is designed to cover operating expenses and to maintain such reserves and accumulate such additional capital as are deemed reasonably necessary for OCC to meet its obligations to its clearing members and the public. Clearing fees that are collected in excess of these amounts are refunded annually on a *pro rata* basis to the clearing members that paid them. Under this model, OCC has never paid dividends to the Stockholder Exchanges, but has paid significant refunds to clearing members each year. OCC is aware that some portion of those refunds may not be passed through by the clearing members to their end user customers. Accordingly, OCC believes that by adopting an approach that pays dividends to the Stockholder Exchanges, which have invested a significant amount of additional capital (\$150 million), but that reduces the historical pre-refund average buffer of 31% by adopting a Business Risk Buffer of 25%, the approach outlined in its Capital Plan maintains, and perhaps better aligns with, an industry utility model.

According to OCC, given the very large increase in capital that OCC has determined to be appropriate and to meet the increased responsibilities imposed upon it as a systemically important financial market utility, OCC has decided that the best alternative available to it is to obtain a substantial further capital contribution from the Stockholder Exchanges. OCC believes that this cannot be accomplished without modification of the past practice of not providing dividends to stockholders. Accordingly, OCC is establishing a new Fee Policy, Refund

Policy, and Dividend Policy. Because of the Business Risk Buffer being set at 25%, the combination of the Fee, Refund and Dividend Policies will effectively cap the dividends to be paid to the Stockholder Exchanges at a level that OCC's Board of Directors (with the advice of outside financial experts) has determined results in a reasonable rate of return on contributed capital, particularly in comparison to the implied cost of capital to the clearing members and their customers of an alternative approach considered by the Board of Directors that would require the accumulation of retained earnings through higher fees and no refunds for several years. OCC will continue to refund a percentage of excess clearing fees to clearing members, thereby benefiting both clearing members and their customers.

OCC believes that the Capital Plan therefore effectively preserves OCC's industry utility model of providing its services in an efficient manner, while also enhancing the benefits to the end user customers by charging lower initial fees due to the decrease in the buffer margin from OCC's 10-year average of 31% to 25%. OCC states that it believes clearing members and customers will benefit from the proposed Capital Plan because the plan will allow OCC to continue to provide clearing services at low cost, including through a significant refund of 2014 fees, a reduction of fees beginning in 2015 and projected continuing refunds and lower fees for the foreseeable future.

According to OCC, it believes that Stockholder Exchanges will benefit from the dividend they receive and, perhaps more importantly, they will be assured that OCC is in a position to provide clearing services for their markets on an on-going basis within the same basic structure that has served these markets well since their inception and without the need to radically change the structure to address potential demands of outside equity investors. Non-Stockholder Exchanges also will benefit by continuing to receive OCC's clearing services for their products on the same basis as they presently do.¹⁴

OCC also believes that the Capital Plan will better align the interests of Stockholder Exchanges and clearing members with respect to expenses, because changes to the level of operating expenses directly affect the Target Capital Requirement. In short,

¹³ According to OCC, its common stock and paid in capital total \$2,659,999. See OCC 2013 Annual Report, Financial Statements, Statements of Financial Condition, available on OCC's Web site, http://optionsclearing.com/components/docs/about/annual-reports/occ_2013_annual_report.pdf.

¹⁴ According to OCC, Non-Stockholder Exchanges contribute capital by purchasing a promissory note in the principal amount of \$1,000,000. See Section 2 of Article VIII of OCC's By-Laws. The required Capital Contribution of Non-Stockholder exchanges will not change under the Capital Plan.

OCC believes that the present proposal represents a fair and reasonable balancing of the interests of the Stockholder Exchanges, the other exchanges for which OCC provides clearing services, clearing members, customers, and the general public while providing an immediate infusion of capital and a structure within which OCC can meet its obligations to the public as a systemically important financial market utility.

G. Replenishment Capital Plan

OCC is establishing a Replenishment Capital Plan whereby OCC's Stockholder Exchanges are obligated to provide on a *pro rata* basis a committed amount of Replenishment Capital should OCC's total shareholders' equity fall below the hard trigger, as described below.¹⁵ The aggregate committed amount for all five Stockholder Exchanges in the form of Replenishment Capital that could be outstanding at any time will be capped at the excess of (i) the lesser of (A) the Baseline Capital Requirement, which is currently \$117 million, at the time of the relevant funding, or (B) \$200 million, over (ii) amounts of outstanding Replenishment Capital ("Cap Formula"). The \$200 million figure in the Cap Formula takes into account projected growth in the Baseline Capital Requirement for the foreseeable future. The commitment to provide Replenishment Capital will not be limited by time, but rather only by the Cap Formula. Replenishment Capital will be called in whole or in part after the occurrence of a "hard trigger" event described below. If the Baseline Capital Requirement approaches or exceeds \$200 million, OCC's Board of Directors may consider, as part of its annual review of the Replenishment Capital Plan, alternative arrangements to obtain replenishment capital in excess of the \$200 million committed under the Replenishment Capital Plan. In addition, the Refund Policy and the Dividend Policy will provide that, in the absence of obtaining any such alternative arrangements, the amount of the difference will be subtracted from amounts that would otherwise be available for the payment of refunds and dividends.

Replenishment Capital contributed to OCC under the Replenishment Capital Plan will take the form of a new class of common stock ("Class C Common Stock") of OCC to be issued to the Stockholder Exchanges solely in exchange for Replenishment Capital contributions.

The Replenishment Capital Plan is a component of OCC's overall Capital Plan. In implementing the Replenishment Capital Plan, OCC's management would monitor OCC's levels of shareholders' equity to identify certain triggers, or reduced capital levels, that might require action. OCC has identified two key triggers—a soft trigger and a hard trigger—and proposes that OCC will take certain steps upon the occurrence of either. The "soft trigger" for re-evaluating OCC's capital will occur if OCC's shareholders' equity falls below the sum of (i) the Baseline Capital Requirement and (ii) 75% of the Target Capital Buffer. The soft trigger will be a warning sign that OCC's capital had fallen to a level that requires attention and responsive action to prevent it from falling to unacceptable levels. Upon a breach of the soft trigger, OCC's senior management and OCC's Board of Directors will review alternatives to increasing capital, and take appropriate action as necessary, including increasing fees or decreasing expenses, to restore shareholders' equity to the Target Capital Requirement.

The "hard trigger" for making a mandatory Replenishment Capital call will occur if shareholders' equity falls below 125% of the Baseline Capital Requirement ("Hard Trigger Threshold"). OCC considers that a breach of the Hard Trigger Threshold is a sign that significant corrective action, with a more immediate impact than increasing fees or decreasing expenses, should be taken to increase OCC's capital, either as part of a recovery plan or a wind-down plan for OCC's business. OCC's shareholders' equity will have to fall more than \$100,000,000 below the fully funded capital amount described above in order to breach the Hard Trigger Threshold. As a result, OCC views the breach of the Hard Trigger Threshold as unlikely and occurring only as a result of a significant, unexpected event. In the event of such a breach, OCC's Board of Directors must determine whether to attempt a recovery, a wind-down of OCC's operations, or a sale or similar transaction, subject in each case to any necessary stockholder consent.¹⁶ If the Board of Directors decides to wind-down OCC's operations, OCC will access the Replenishment Capital in an amount sufficient to fund the wind-down, as determined by the Board and

subject to the Cap Formula. If the Board of Directors decides to attempt a recovery of OCC's capital and business, OCC will access the Replenishment Capital in an amount sufficient to return shareholders' equity to an amount equal to \$20 million above the Hard Trigger Threshold, subject to the Cap Formula.

While Replenishment Capital is outstanding, no refunds or dividends will be paid and, if any Replenishment Capital remains outstanding for more than 24 months or the Target Capital Requirement is not restored during that period, changes to how OCC calculates refunds and dividends may be necessary (as described in more detail in OCC's Refund Policy and Dividend Policy). In addition, while Replenishment Capital is outstanding, OCC will first utilize the entire amount of available funds to repurchase, on a *pro rata* basis from each Stockholder Exchange, to the extent permitted by applicable Delaware and federal law and regulations, outstanding shares of Class C Common Stock as soon as practicable after completion of the financial statements following the end of each calendar quarter at a price equal to the original amount paid for such shares, plus an additional "gross up" amount to compensate the holders of the Class C Common Stock for taxes on dividend income (if any) that they may have to recognize as a result of such repurchase.¹⁷ For this purpose, "Available Funds" will equal, as of the end of any calendar quarter, the excess, if any, of (x) shareholders' equity over (y) the Minimum Replenishment Level. The "Minimum Replenishment Level" will mean \$20 million above the Hard Trigger Threshold, so that OCC's shareholders' equity will remain at or above the Minimum Replenishment Level after giving effect to the repurchase.

According to OCC, the capital base described above will permit OCC to hold at all times cash and other assets of high quality and sufficiently liquid to allow OCC to meet its current and projected operating expenses under a range of scenarios, including adverse market conditions. OCC expects it will hold at all times liquid net assets funded by equity sufficient to cover potential general business losses so that OCC can continue operations and services as a going concern if those losses materialize, which assets will always be greater than either (x) six months of the covered clearing agency's

¹⁵ The Replenishment Capital Plan is a component of the Capital Plan.

¹⁶ The requirement for stockholder consent would arise under OCC's Restated Certificate of Incorporation, which would provide that any decision to attempt a recovery would require separate approval by the stockholders, while a decision to wind-down would require separate approval by the stockholders.

¹⁷ According to OCC, based on current federal tax rates, if the full amount of the payment is classified as a dividend and the recipient is entitled to a dividends received deduction, this gross up is estimated to be approximately 12% of the payment.

current operating expenses, or (y) the amount determined by the Board of Directors to be sufficient to ensure a recovery or orderly wind-down of critical operations and services. These assets will be held in addition to resources held to cover participant defaults, among other risks.¹⁸

II. Summary of Comments Received

The Commission received five comment letters on OCC's proposal and three comment letters from OCC responding to the issues raised by the commenters.¹⁹ Three of the five commenters generally supported OCC's need to raise additional capital,²⁰ but all five commenters opposed how the Capital Plan raised the additional capital.²¹ After careful review of those comments, the Commission has determined that most of the issues raised by the commenters do not relate to the nature or level of risks presented by OCC.

One commenter, however, raised the issue that the Replenishment Capital Plan may create a misalignment of interests between the exchanges and clearing members, which could in turn create an imbalance in the management of certain risks.²² Specifically, this commenter stated that because no refunds are paid to clearing members while any portion of that Replenishment Capital remains outstanding and that refunds are discontinued permanently if the Replenishment Capital remains outstanding for two years, the plan effectively uses the fees to maximize and prioritize the dividends payable to the Stockholder Exchanges, which is at the expense of the clearing members.²³ Further, this commenter notes that the proposed amendments to OCC's By-Laws would allow the Stockholder Exchanges to manage the risk of their Replenishment Capital being required by determining whether retained earnings could be used to compensate for a loss or deficiency in the clearing fund, thereby also allowing the Stockholder Exchanges to determine to

fund clearing fund deficiencies through additional retained earnings rather than risk having to fund their required Replenishment Capital commitment.²⁴ As a result, this commenter believes that the Replenishment Capital Plan may create a misalignment of interests between the Stockholder Exchanges and clearing members, which could in turn create an imbalance in the management of certain risks.²⁵

OCC asserts in its response that these concerns regarding Replenishment Capital are misplaced.²⁶ OCC contends that its By-Laws provide that in lieu of charging a loss or deficiency proportionately to the clearing fund computed contributions of non-defaulting clearing members, OCC may, in its discretion, and subject to the unanimous approval of the holders of Class A Common Stock and Class B Common Stock, elect to charge such loss or deficiency in whole or in part to OCC's current earning or retained earnings.²⁷ Accordingly, OCC considers the net effect of its Replenishment Capital Plan to be simply a timing effect, with Replenishment Capital treated as an advance against the refunds to which Stockholder Exchanges otherwise would have been entitled.²⁸ OCC contends that it is neither the purpose nor the effect of the Replenishment Capital Plan to shift the potential loss from a clearing member default, which has always been mutualized, so long as OCC remains solvent.²⁹

III. Discussion and Commission Findings

Although the Payment, Clearing and Settlement Supervision Act does not specify a standard of review for an advance notice, its stated purpose is instructive.³⁰ The stated purpose is to mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for systemically-important financial market utilities and strengthening the liquidity of systemically important financial market utilities.³¹

Section 805(a)(2) of the Payment, Clearing and Settlement Supervision Act³² authorizes the Commission to prescribe risk management standards for the payment, clearing, and settlement activities of designated clearing entities

and financial institutions engaged in designated activities for which it is the supervisory agency or the appropriate financial regulator. Section 805(b) of the Payment, Clearing and Settlement Supervision Act³³ states that the objectives and principles for the risk management standards prescribed under Section 805(a) shall be to:

- Promote robust risk management;
- promote safety and soundness;
- reduce systemic risks; and
- support the stability of the broader financial system.

After carefully considering OCC's proposal, the comments received, and OCC's responses thereto, the Commission finds that OCC's Capital Plan is consistent with the objectives and principles described in Section 805(b) of the Payment, Clearing and Settlement Supervision Act.³⁴

While most of the issues raised by the commenters do not relate to the nature or level of risks presented by OCC, one commenter raised a specific concern with respect to OCC's Replenishment Capital Plan. The Commission, however, believes that OCC's Capital Plan, when considered in its totality, does not adversely change the nature or level of risks presented by OCC. Although this commenter alleged a potential misalignment of interests between the Stockholder Exchanges and clearing members when Replenishment Capital is outstanding, decisions made regarding the capitalization of OCC are made by the Board of Directors. OCC's By-Laws address the use of capital to cover clearing member defaults in lieu of using the clearing fund and address the power of the Board of Directors to make decisions in such circumstances. Further, the Board of Directors' obligations under corporate law will require the Board of Directors to revisit on a periodic basis material provisions of the Capital Plan in the future, including those related to decisions regarding Replenishment Capital, and to review any credible new capital proposals that may be brought forward by management or members of the Board of Directors from time to time. The Commission believes such processes create a reasonable expectation that the potential concerns described by the commenter can be controlled by OCC, and therefore the Commission agrees with OCC that the commenter's contentions regarding the purpose and use of the Replenishment Capital are misplaced.

The Capital Plan will provide OCC with an immediate injection of capital

¹⁸ OCC stated that these assets will be held in addition to resources held to cover participant defaults or other risks covered under certain credit risk standards and liquidity risk standards set forth in proposed Commission rules. See Securities Exchange Act Release No. 74202 (February 4, 2015), 80 FR 7056 (February 9, 2015) (SR-OCC-2014-813).

¹⁹ The Commission received one comment letter on the proposed rule change and advance notice (See SIFMA Letter) and four comment letters on the proposed rule change only (See BOX Letter; BATS Letter; MM Letter; and MIAAX Letter). See *supra* note 5.

²⁰ See BOX Letter; SIFMA Letter; and MM Letter.

²¹ See BOX Letter; SIFMA Letter; BATS Letter; MM Letter; and MIAAX Letter.

²² See SIFMA Letter.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ See OCC Letter III.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ See 12 U.S.C. 5461(b).

³¹ *Id.*

³² 12 U.S.C. 5464(a)(2).

³³ 12 U.S.C. 5464(b).

³⁴ *Id.*

and future committed capital to help ensure that it can continue to provide its clearing services if it suffers business losses as a result of a decline in revenues or otherwise. Given that OCC has been designated as a systemically important financial market utility, OCC's ability to provide its clearing services if it suffers business losses contributes to reducing systemic risks and supporting the stability of the broader financial system. In so doing, OCC's Capital Plan is consistent with the objectives of Section 805(b) of the Payment, Clearing and Settlement Supervision Act,³⁵ which are to promote robust risk management, promote safety and soundness, reduce systemic risks, and support the stability of the broader financial system.

IV. Conclusion

It is therefore noticed, pursuant to Section 806(e)(1)(I) of the Payment, Clearing and Settlement Supervision Act,³⁶ that the Commission *does not object* to advance notice proposal (File No. SR-OCC-2014-813) and that OCC is *authorized* to implement the proposal as of the date of this notice or the date of an order by the Commission approving a proposed rule change that reflects rule changes that are consistent with this advance notice proposal (File No. SR-OCC-2015-02), whichever is later.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2015-05117 Filed 3-5-15; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-74409; File No. SR-NYSEARCA-2015-11]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Specifying in Exchange Rules the Exchange's Use of Certain Data Feeds for Order Handling and Execution, Order Routing, and Regulatory Compliance

March 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 February 24, 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 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 specify in Exchange rules the Exchange's use of certain data feeds for order handling and execution, order routing, and regulatory compliance. 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

On June 5, 2014, in a speech entitled "Enhancing Our Market Equity Structure," Mary Jo White, Chair of the Securities and Exchange Commission ("SEC" or the "Commission") requested the equity exchanges to file with the Commission the data feeds used for purposes of (1) order handling and execution (e.g., with pegged or midpoint orders); (2) order routing, and (3) regulatory compliance, if applicable.⁴ Subsequent to the Chair's speech, the Division of Trading and Markets stated that it "believes there is a need for clarity regarding whether (1) the SIP data feeds, (2) proprietary data feeds, or (3) a combination thereof," are used for

these purposes and requested that proposed rule changes be filed that disclose such information.⁵ The stated goal of disclosing this information was to provide broker-dealers and investors with enhanced transparency to better assess the quality of an exchange's execution and routing services.

On July 18, 2014, in response to the above request, the Exchange filed a proposed rule change that clarified the Exchange's use of certain data feeds for order handling and execution, order routing, and regulatory compliance.⁶ As noted in that filing, the data feeds available for the purposes of order handling and execution, order routing, and regulatory compliance at the Exchange include the exclusive securities information processor ("SIP") data feeds⁷ or proprietary data feeds from individual market centers ("Direct Feed").

SEC staff has requested that the Exchange file a supplemental proposed rule change to specify in Exchange rules which data feeds the Exchange uses for the above-described purposes. Accordingly, the Exchange is filing this proposed rule change.

At the time of the July 2014 Data Feed Filing, the Exchange used only the SIP data feeds for BATS Y-Exchange, Inc., Chicago Stock Exchange, Inc., and NYSE MKT LLC and uses a combination of Direct Feeds and the SIP data feeds for the other exchanges trading NMS stocks, i.e., BATS Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., NASDAQ OMX BX LLC, NASDAQ OMX PHLX LLC, NASDAQ Stock Market LLC and New York Stock Exchange LLC.⁸ These data feeds are used by the Exchange to:

⁵ See Letter from James Burns, Deputy Director, Division of Trading and Markets, Securities and Exchange Commission, to Jeffrey C. Sprecher, Chief Executive Officer, Intercontinental Exchange, Inc., dated June 20, 2014.

⁶ See Securities Exchange Act Release No. 72708 (July 29, 2014), 79 FR 45572 (Aug. 5, 2014) (SR-NYSEArca-2014-82) ("July 2014 Data Feed Filing").

⁷ The SIP feeds are disseminated pursuant to effective joint-industry plans as required by Rule 603(b) of Regulation NMS. 17 CFR 242.603(b). The three joint-industry plans are: (1) The CTA Plan, which is operated by the Consolidated Tape Association and disseminates transaction information for securities with the primary listing market on exchanges other than NASDAQ Stock Market LLC ("Nasdaq"); (2) The CQ Plan, which disseminates consolidated quotation information for securities with their primary listing on exchanges other than Nasdaq; and (3) the Nasdaq UTP Plan, which disseminates consolidated transaction and quotation information for securities with their primary listing on Nasdaq.

⁸ The Exchange notes that because the FINRA Alternate Display Facility ("ADF") does not currently display any quotations, the Exchange does not need any data feeds to provide it with ADF quotes.

³⁵ 12 U.S.C. 5464(b).

³⁶ 12 U.S.C. 5465(e)(1)(I).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

⁴ See Mary Jo White, Chair, Securities and Exchange Commission, Speech at the Sandler, O'Neill & Partners, L.P. Global Exchange and Brokerage Conference (June 5, 2014) (available at www.sec.gov/News/Speech/Detail/Speech/1370542004312#.U5HI-fmwJiw).

- Determine protected quotations on markets other than the Exchange for purposes of compliance with Rule 611 and Rule 610(d), including identifying where to route ISOs, to calculate the protected best bid or offer (“PBBO”) or national best bid or offer (“NBBO”) for purposes of order types that are priced based on the PBBO or NBBO;⁹

- Route interest pursuant to NYSE Arca Equities Rule 7.37(d)(2);¹⁰ and

- Determine the national best bid (“NBB”) for purposes of complying with Rule 201 of Regulation SHO and NYSE Arca Equities Rule 7.16(f).¹¹

The Exchange notes that when it routes interest to a protected quotation, the Exchange adjusts the PBBO. In addition, when calculating the PBBO or NBBO, the Exchange aggregates odd-lot interest available on Direct Feeds at a

single price level into round lot quotations.

The Exchange proposes to add new Commentary .01 to NYSE Arca Equities Rule 7.37, which would state the following:

(a) The Exchange uses the following data feeds for the handling, execution, and routing of orders, as well as for regulatory compliance:

Market center	Primary source	Secondary source
BATS Exchange, Inc.	Direct Feed	SIP Data Feed.
BATS Y-Exchange, Inc.	Direct Feed	SIP Data Feed.
Chicago Stock Exchange, Inc.	SIP Data Feed	n/a.
EDGA Exchange, Inc.	Direct Feed	SIP Data Feed.
EDGX Exchange, Inc.	Direct Feed	SIP Data Feed.
NASDAQ OMX BX LLC	Direct Feed	SIP Data Feed.
NASDAQ OMX PHLX LLC	Direct Feed	SIP Data Feed.
NASDAQ Stock Market LLC	Direct Feed	SIP Data Feed.
New York Stock Exchange LLC	Direct Feed	SIP Data Feed.
NYSE MKT LLC	Direct Feed	SIP Data Feed.

As noted above, at the time of the July 2014 Data Feed Filing, the Exchange was using the SIP Data Feed for BATS Y-Exchange, Inc. and NYSE MKT LLC. The Exchange has since changed its data sources for those markets, and as reflected above, now uses the Direct Feed as the primary source for those markets.

The Exchange further proposes to specify in new Commentary .02 to Rule 7.37 that the Exchange receives data feeds directly from broker dealers for purposes of routing interest pursuant to NYSE Arca Equities Rule 7.37(d)(2).

2. Statutory Basis

The proposed rule change is consistent with section 6(b) of the Securities Exchange Act of 1934 (the “Act”),¹² in general, and furthers the objectives of section 6(b)(5),¹³ 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 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 Exchange believes that the proposed rule change removes impediments to and perfects the mechanism of a free and open market because it provides enhanced transparency to better assess the quality of an exchange’s execution and routing services.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is not designed to address any competitive issue but rather would provide the public and investors with information about which data feeds the Exchange uses for execution and routing decisions.

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.

Exchange and is not designated as a PNP Order, IOC, MPL Order, or Intermarket Sweep Order, it will be routed for execution.

¹¹ NYSE Arca Equities Rule 7.16(f) requires that Exchange systems not execute or display a short sale order with respect to a covered security at a price that is less than or equal to the current NBB if the price of that security decreases by 10% or more, as determined by the Exchange, from the security’s closing price on the Exchange at the end of regular trading hours on the prior day.

¹² 15 U.S.C. 78f(b).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act¹⁴ and Rule 19b-4(f)(6) thereunder.¹⁵

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act¹⁶ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)¹⁷ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. 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 stated that waiver of the operative delay will permit the Exchange to immediately provide the enhanced transparency in Exchange rules. The Commission believes the

¹³ 15 U.S.C. 78f(b)(5).

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the 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.

¹⁶ 17 CFR 240.19b-4(f)(6).

¹⁷ 17 CFR 240.19b-4(f)(6)(iii).

⁹ The NBBO is defined as the best bid and best offer of an NMS security. 17 CFR 242.600(b)(3). The Exchange notes that the NBBO may differ from the PBBO because the NBBO includes Manual Quotations, which are defined as any quotation other than an automated quotation. 17 CFR 242.600(b)(37). By contrast, a protected quotation is an automated quotation that is the best bid or offer of a national securities exchange. 17 CFR 242.60(b)(57)(iii).

¹⁰ NYSE Arca Equities Rule 7.37(d)(2) specifies that if an order has not been executed on the

waiver of the operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.¹⁸

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-NYSEARCA-2015-11 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-NYSEARCA-2015-11. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the

provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEARCA-2015-11 and should be submitted on or before March 27, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Brent J. Fields,

Secretary.

[FR Doc. 2015-05163 Filed 3-5-15; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549-2736.

Extension:

Form N-4; SEC File No. 270-282, OMB Control No. 3235-0318.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the "Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

The collection of information is entitled: "Form N-4 (17 CFR 239.17b) under the Securities Act of 1933 and (17 CFR 274.11c) under the Investment Company Act of 1940, registration statement of separate accounts organized as unit investment trust." Form N-4 is the form used by insurance company separate accounts organized as unit investment trusts that offer variable annuity contracts to register as investment companies under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*) and/or to register

their securities under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*). Section 5 of the Securities Act (15 U.S.C. 77e) requires the filing of a registration statement prior to the offer of securities to the public and that the registration statement be effective before any securities are sold, and Section 8 of the Investment Company Act (15 U.S.C. 80a-8) provides for the registration of investment companies. Pursuant to Form N-4, separate accounts organized as unit investment trusts that offer variable annuity contracts provide investors with a prospectus and a statement of additional information covering essential information about a separate account. Section 5(b) of the Securities Act requires that investors be provided with a prospectus containing the information required in a registration statement prior to or at the time of sale or delivery of securities.

The purpose of Form N-4 is to meet the filing and disclosure requirements of the Securities Act and the Investment Company Act and to enable filers to provide investors with information necessary to evaluate an investment in a security. The information required to be filed with the Commission permits verification of compliance with securities law requirements and assures the public availability and dissemination of the information.

The estimated annual number of filings on Form N-4 is 210 initial registration statements and 1,443 post-effective amendments. The estimated average number of portfolios per filing is one, both for initial registration statements and post-effective amendments on Form N-4. Accordingly, the estimated number of portfolios referenced in initial Form N-4 filings annually is 210 and the estimated number of portfolios referenced in post-effective amendment filings on Form N-4 annually is 1,443. The estimate of the annual hour burden for Form N-4 is approximately 278.5 hours per initial registration statement and 197.25 hours per post-effective amendment, for a total of 343,116.75 hours ((210 initial registration statements × 278.5 hours) + (1,443 post-effective amendments × 197.25 hours)).

The current estimated annual cost burden for preparing an initial Form N-4 filing is \$23,013 per portfolio and the current estimated annual cost burden for preparing a post-effective amendment filing on Form N-4 is \$21,813 per portfolio. The Commission estimates that, on an annual basis, 210 portfolios will be referenced in initial Form N-4 filings and 1,443 portfolios will be referenced in post-effective amendment filings on Form N-4. Thus,

¹⁸ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹⁹ 17 CFR 200.30-3(a)(12).

the estimated total annual cost burden allocated to Form N 4 would be \$36,308,889 ((210 × \$23,013) + (1,443 × \$21,813)).

Providing the information required by Form N-4 is mandatory. Responses will not be kept confidential. Estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms. 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 control number.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information 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. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Pamela Dyson, Acting Director/Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549; or send an email to: PRA_Mailbox@sec.gov.

Dated: March 2, 2015.

Brent J. Fields.

Secretary.

[FR Doc. 2015-05218 Filed 3-5-15; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-74399; File No. SR-ICC-2014-19]

Self-Regulatory Organizations; ICE Clear Credit LLC; Order Granting Approval of Proposed Rule Change To Formalize the ICC Operational Risk Management Framework

March 2, 2015.

I. Introduction

On November 18, 2014, ICE Clear Credit LLC ("ICC") filed with the Securities and Exchange Commission

("Commission") the proposed rule change SR-ICC-2014-19 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder.² The proposed rule change was published for comment in the **Federal Register** on December 2, 2014.³ The Commission received no comment letters regarding the proposed change. On January 16, 2015, the Commission extended the time period in which to either approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change to March 2, 2015.⁴ For the reasons discussed below, the Commission is granting approval of the proposed rule change.

II. Description of the Proposed Rule Change

ICC is proposing to update and formalize ICC's Operational Risk Management Framework. According to ICC, the Operational Risk Management Framework is designed to create a program of risk assessment and oversight to identify, monitor, and manage plausible sources of operational risk,⁵ and to timely manage and report operational performance measures. ICC further states that the operational risk program is designed to evaluate and mitigate operations risk presented to ICC by its partners, related entities, and vendors. According to ICC, the Operational Risk Management Framework is overseen by the ICC Board, ICC department heads and the Chief Compliance Officer, and internal audit performs reviews of the operational risk management processes.

Under the Operational Risk Management Framework, the Operational Risk Manager has the responsibility and authority to develop and enforce, in consultation with the ICC Board and appropriate members of senior management, the operational risk program, which applies to all ICC activities, groups, functions and locations. The Operational Risk Management Framework further provides that the Operational Risk Manager is the owner of the Operational Risk Management Framework

document, that the initial document and any material amendments require review and approval by the appropriate members of senior management and the ICC Board, and that the Operational Risk Manager reports to the Chief Compliance Officer who reports directly to the ICC Board.

There are several components to the ICC Operational Risk Management Framework. ICC states that the Operational Risk Management Framework establishes clearly defined operational performance objectives that serve as benchmarks to evaluate efficiency and effectiveness, promote confidence among management and participants, and evaluate operational performance against expectations. The Operational Risk Management Framework states ICC's goals of identifying, monitoring, and managing all plausible sources of operational risk and establishing clear policies and procedures to address presented risk scenarios. For example, the Operational Risk Management Framework incorporates ICC's risk assessment methodology to identify and evaluate potential operational risks in each of its major clearing processes, as well as procedures for recommending controls to mitigate risks identified in the risk assessment. The Operational Risk Management Framework also contains information regarding how ICC leverages certain shared infrastructures within the Intercontinental Exchange, Inc. family as part of its operational risk management program.

Additionally, the Operational Risk Management Framework details the Operational Risk Manager's responsibilities in terms of business continuity planning, vendor risk management, and the release of new products, processes, and initiatives. Under the Operational Risk Management Framework, the Operational Risk Manager is responsible for operational risk reporting, which includes reporting and addressing significant operational risk weaknesses or failures timely and appropriately (including escalation to the appropriate members of senior management and the ICC Audit Committee and the Board when necessary), and providing ongoing reporting to appropriate members of senior management and periodic reporting to the ICC Board and the ICC Audit Committee on the operational risk program and significant control matters.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 34-73684 (Nov. 25, 2014), 79 FR 71495 (Dec. 2, 2014) (SR-ICC-2014-19).

⁴ Securities Exchange Act Release No. 34-74082 (Jan. 16, 2015), 80 FR 3687 (Jan. 23, 2015) (SR-ICC-2014-19).

⁵ "Operational risk" is defined in the ICC Operational Risk Management Framework as the risk that deficiencies in information systems, internal processes, personnel, or disruptions from external events will result in the reduction, deterioration, or breakdown of services.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act⁶ directs the Commission to approve a proposed rule change of a self-regulatory organization if the Commission finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such self-regulatory organization. Section 17A(b)(3)(F) of the Act⁷ requires, among other things, that the rules of a clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible and, in general, to protect investors and the public interest. In addition, Rule 17Ad-22(d)(4)⁸ requires registered clearing agencies, among other things, to establish, implement, maintain, and enforce written policies and procedures reasonably designed to identify sources of operational risk and minimize them through the development and implementation of appropriate systems, controls, and procedures and have business continuity plans that allow for timely recovery of operations and fulfillment of a clearing agency's obligations.

The Commission finds that the proposed rule change is consistent with Section 17A of the Act⁹ and the rules thereunder applicable to ICC. ICC's Operational Risk Management Framework establishes clear policies and procedures to identify and evaluate potential operational risks in each of its major clearing processes, and to recommend controls to mitigate identified risks, each of which are reasonably designed to identify, monitor, and manage of all plausible sources of operational risk. Furthermore, the Operational Risk Management Framework establishes clearly defined operational performance objectives that are expected to serve as benchmarks for evaluating operational efficiency and effectiveness, and to evaluate operational performance measurements against such objectives, each of which are expected to enhance ICC's ability to mitigate operational risk. Finally, the Operational Risk Management Framework incorporates a business continuity plan that is

expected to allow for timely recovery of operations and fulfillment of ICC's obligations upon disruption. The Commission therefore believes that the proposed rule change is reasonably designed to identify sources of operational risk and minimize them through the development and implementation of appropriate systems, controls, and procedures and have business continuity plans that allow for timely recovery of operations and fulfillment of a clearing agency's obligations, consistent with the requirements of Rule 17Ad-22(d)(4).¹⁰ Accordingly, the Commission believes that the proposed rule change is designed to promote the prompt and accurate settlement of securities and derivatives transactions, consistent with Section 17A(b)(3)(F) of the Act.¹¹

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act¹² and the rules and regulations thereunder.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹³ that the proposed rule change (File No. SR-ICC-2014-19) be, and hereby is, approved.¹⁴

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Brent J. Fields,

Secretary.

[FR Doc. 2015-05155 Filed 3-5-15; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-74408; File No. SR-NYSEMKT-2015-11]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Specifying in Exchange Rules the Exchange's Use of Certain Data Feeds for Order Handling and Execution, Order Routing, and Regulatory Compliance

March 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 February 24, 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 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 specify in Exchange rules the Exchange's use of certain data feeds for order handling and execution, order routing, and regulatory compliance. 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.

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

¹⁰ 17 CFR 240.17Ad-22(d)(4).

¹¹ 15 U.S.C. 78q-1(b)(3)(F).

¹² 15 U.S.C. 78q-1.

¹³ 15 U.S.C. 78s(b)(2).

¹⁴ In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

¹⁵ 17 CFR 200.30-3(a)(12).

⁶ 15 U.S.C. 78s(b)(2)(C).

⁷ 15 U.S.C. 78q-1(b)(3)(F).

⁸ 17 CFR 240.17Ad-22(d)(4).

⁹ 15 U.S.C. 78q-1.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On June 5, 2014, in a speech entitled “Enhancing Our Market Equity Structure,” Mary Jo White, Chair of the Securities and Exchange Commission (“SEC” or the “Commission”) requested the equity exchanges to file with the Commission the data feeds used for purposes of (1) order handling and execution (e.g., with pegged or midpoint orders); (2) order routing, and (3) regulatory compliance, if applicable.⁴ Subsequent to the Chair’s speech, the Division of Trading and Markets stated that it “believes there is a need for clarity regarding whether (1) the SIP data feeds, (2) proprietary data feeds, or (3) a combination thereof,” are used for these purposes and requested that proposed rule changes be filed that disclose such information.⁵ The stated

goal of disclosing this information was to provide broker-dealers and investors with enhanced transparency to better assess the quality of an exchange’s execution and routing services.

On July 18, 2014, in response to the above request, the Exchange filed a proposed rule change that clarified the Exchange’s use of certain data feeds for order handling and execution, order routing, and regulatory compliance.⁶ As noted in that filing, the data feeds available for the purposes of order handling and execution, order routing, and regulatory compliance at the Exchange include the exclusive securities information processor (“SIP”) data feeds.⁷

SEC staff has requested that the Exchange file a supplemental proposed rule change to specify in Exchange rules which data feeds the Exchange uses for the above-described purposes. Accordingly, the Exchange is filing this proposed rule change.

As set forth in its July 2014 Data Feed Filing, the Exchange uses only the SIP data feeds to determine protected quotations on markets other than the Exchange⁸ for purposes of compliance with Rule 611 and Rule 610(d), including identifying where to route ISOs, to calculate the protected best bid or offer (“PBBO”) for purposes of order types that are priced based on the PBBO, and to determine the national best bid (“NBB”) ⁹ for purposes of compliance with Rule 201 of Regulation SHO and Rule 440B—Equities.¹⁰ The Exchange notes that when it routes interest to a protected quotation, the Exchange adjusts the PBBO.

The Exchange proposes to add new Supplementary Material .01 to Rule 19—Equities, which would state the following:

.01 The Exchange uses the following data feeds for the handling, execution, and routing of orders, as well as for regulatory compliance:

Market center	Primary source	Secondary source
BATS Exchange, Inc.	SIP Data Feed	n/a
BATS Y-Exchange, Inc.	SIP Data Feed	n/a
Chicago Stock Exchange, Inc.	SIP Data Feed	n/a
EDGA Exchange, Inc.	SIP Data Feed	n/a
EDGX Exchange, Inc.	SIP Data Feed	n/a
NASDAQ OMX BX LLC	SIP Data Feed	n/a
NASDAQ OMX PHLX LLC	SIP Data Feed	n/a
NASDAQ Stock Market LLC	SIP Data Feed	n/a
NYSE Arca Equities, Inc.	SIP Data Feed	n/a

The Exchange notes that it does not trade any securities listed on the New York Stock Exchange LLC.

2. Statutory Basis

The proposed rule change is consistent with section 6(b) of the Securities Exchange Act of 1934 (the “Act”),¹¹ in general, and furthers the objectives of section 6(b)(5),¹² 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 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 Exchange believes that the proposed rule change removes impediments to and perfects the

mechanism of a free and open market because it provides enhanced transparency to better assess the quality of an exchange’s execution and routing services.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance

⁴ See Mary Jo White, Chair, Securities and Exchange Commission, Speech at the Sandler, O'Neill & Partners, L.P. Global Exchange and Brokerage Conference (June 5, 2014) (available at www.sec.gov/News/Speech/Detail/Speech/1370542004312#.U5HI-fmwjiw).

⁵ See Letter from James Burns, Deputy Director, Division of Trading and Markets, Securities and Exchange Commission, to Jeffrey C. Sprecher, Chief Executive Officer, Intercontinental Exchange, Inc., dated June 20, 2014.

⁶ See Securities Exchange Act Release No. 72709 (July 29, 2014), 79 FR 45513 (Aug. 5, 2014) (SR-NYSEMKT-2014-62) (“July 2014 Data Feed Filing”).

⁷ The SIP feeds are disseminated pursuant to effective joint-industry plans as required by Rule 603(b) of Regulation NMS. 17 CFR 242.603(b). The

three joint-industry plans are: (1) The CTA Plan, which is operated by the Consolidated Tape Association and disseminates transaction information for securities with the primary listing market on exchanges other than NASDAQ Stock Market LLC (“Nasdaq”); (2) The CQ Plan, which disseminates consolidated quotation information for securities with their primary listing on exchanges other than Nasdaq; and (3) the Nasdaq UTP Plan, which disseminates consolidated transaction and quotation information for securities with their primary listing on Nasdaq.

⁸ The Exchange notes that because the FINRA Alternate Display Facility (“ADF”) does not currently display any quotations, the Exchange does not need any data feeds to provide it with ADF quotes.

⁹ The NBBO is defined as the best bid and best offer of an NMS security. 17 CFR 242.600(b)(3). The

Exchange notes that the NBBO may differ from the PBBO because the NBBO includes Manual Quotations, which are defined as any quotation other than an automated quotation. 17 CFR 242.600(b)(37). By contrast, a protected quotation is an automated quotation that is the best bid or offer of a national securities exchange. 17 CFR 242.60(b)(57)(iii).

¹⁰ Rule 440B(b)—Equities requires that Exchange systems not execute or display a short sale order with respect to a covered security at a price that is less than or equal to the current NBB if the price of that security decreases by 10% or more, as determined by the Exchange, from the security’s closing price on the Exchange at the end of regular trading hours on the prior day.

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(5).

of the purposes of the Act. The proposed change is not designed to address any competitive issue but rather would provide the public and investors with information about which data feeds the Exchange uses for execution and routing decisions.

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 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, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act¹³ and Rule 19b-4(f)(6) thereunder.¹⁴

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act¹⁵ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)¹⁶ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. 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 stated that waiver of the operative delay will permit the Exchange to immediately provide the enhanced transparency in Exchange rules. The Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.¹⁷

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the 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.

¹⁵ 17 CFR 240.19b-4(f)(6).

¹⁶ 17 CFR 240.19b-4(f)(6)(iii).

¹⁷ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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-NYSEMKT-2015-11 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-2015-11. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from

submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSEMKT-2015-11 and should be submitted on or before March 27, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Brent J. Fields,
Secretary.

[FR Doc. 2015-05162 Filed 3-5-15; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

In the Matter of Spriza, Inc.; Order of Suspension of Trading

March 4, 2015.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Spriza, Inc. because of questions regarding the accuracy of assertions by Spriza, Inc., including assertions regarding business relationships in a company press release dated February 6, 2015, a Form 8-K and in a video created by the company. Spriza, Inc. is a Nevada corporation with its principal place of business located in El Segundo, California.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period commencing at 9:30 a.m. EST, on March 4, 2015 and terminating at 11:59 p.m. EDT, on March 17, 2015.

By the Commission.

Jill M. Peterson,
Assistant Secretary.

[FR Doc. 2015-05373 Filed 3-4-15; 4:15 pm]

BILLING CODE 8011-01-P

¹⁸ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-74407; File No. SR-NYSEArca-2014-89]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 1, To List and Trade Shares of Eight PIMCO Exchange-Traded Funds

March 2, 2015.

On August 15, 2014, NYSE Arca, Inc. ("Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to list and trade shares of the following eight PIMCO exchange-traded funds, pursuant to NYSE Arca Equities Rule 8.600: PIMCO StocksPLUS® Absolute Return Exchange-Traded Fund, PIMCO Small Cap StocksPLUS® AR Strategy Exchange-Traded Fund, PIMCO Fundamental IndexPLUS® AR Exchange-Traded Fund, PIMCO Small Company Fundamental IndexPLUS® AR Strategy Exchange-Traded Fund, PIMCO EM Fundamental IndexPLUS® AR Strategy Exchange-Traded Fund, PIMCO International Fundamental IndexPLUS® AR Strategy Exchange-Traded Fund, PIMCO EM StocksPLUS® AR Strategy Exchange-Traded Fund, and PIMCO International StocksPLUS® AR Strategy Exchange-Traded Fund (Unhedged) (each a "Fund" and collectively, the "Funds"). The proposed rule change was published for comment in the **Federal Register** on September 3, 2014.³ On October 15, 2014, pursuant to section 19(b)(2) of the Act,⁴ the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁵ On December 1, 2014, the Commission instituted proceedings under section 19(b)(2)(B) of

the Act⁶ to determine whether to approve or disapprove the proposed rule change.⁷ On December 23, 2014, the Exchange filed Amendment No. 1 to the proposed rule change, which entirely replaced and superseded its proposal as originally filed.⁸ The Commission has not received any comments on the proposed rule change.

Section 19(b)(2) of the Act⁹ provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of the filing of the proposed rule change. The Commission may, however, extend the period for issuing an order approving or disapproving the proposed rule change by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the **Federal Register** on September 3, 2014,¹⁰ and the 180th day after publication of the notice of the filing of the proposed rule change in the **Federal Register** is March 2, 2015.

The Commission finds that it is appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time

to consider the proposed rule change, as modified by Amendment No. 1. Accordingly, the Commission, pursuant to section 19(b)(2) of the Act,¹¹ designates May 1, 2015 as the date by which the Commission shall either approve or disapprove the proposed rule change (File No. SR-NYSEArca-2014-89).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Brent J. Fields,
Secretary.

[FR Doc. 2015-05161 Filed 3-5-15; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-74405; File No. SR-NYSE-2015-08]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Price List

March 2, 2015.

Pursuant to section 19(b)(1)¹ of the Securities Exchange Act of 1934 ("Act")² and Rule 19b-4 thereunder,³ notice is hereby given that on February 26, 2015, New York Stock Exchange LLC ("NYSE" or "Exchange") 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 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 (1) revise credits applicable to certain Designated Market Maker transactions, and (2) revise the credits for Supplemental Liquidity Providers. The Exchange also proposes to amend its Price List to remove certain trading license fees that expire on February 27, 2015. The Exchange proposes to implement the fee change effective March 1, 2015. 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,

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 72937 (Aug. 27, 2014), 79 FR 52385.

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 73364, 79 FR 62988 (Oct. 21, 2014). The Commission designated a longer period within which to take action on the proposed rule change and designated December 2, 2014 as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

⁶ 16 U.S.C. 78s(b)(2)(B).

⁷ See Securities Exchange Act Release No. 73706, 79 FR 72223 (December 5, 2014) ("Order Instituting Proceedings"). In the Order Instituting Proceedings, the Commission noted that it was instituting proceedings to allow for additional analysis of the proposed rule change's consistency with the requirement of Section (6)(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest.

⁸ In Amendment No. 1, the Exchange: (1) Clarified the definition of Fixed Income Instruments; (2) clarified that the types of securities and instruments specified as permitted investments may be economically tied to foreign countries; (3) clarified that the types of securities specified as permitted investments may be denominated in foreign currencies; (4) clarified that the Funds may invest in OTC foreign currency options contracts; (5) eliminated the ability of the Funds to enter into any series of purchase and sale contracts; (6) modified the proposal to exclude from the Funds' permitted investments variable and floating rate securities and floaters and inverse floaters that are not Fixed Income Instruments; (7) modified the proposal to provide that a Fund may invest up to 20% of its total assets in (a) trade claims, (b) junior bank loans, (c) exchange-traded and OTC-traded structured products, and (d) privately placed and unregistered securities (except that no limit will apply to privately placed and unregistered securities that satisfy the listing requirements in the Exchange's Rule 5.2(f)(3), Commentary .02(a)(6)); and (8) clarified that each Fund may invest up to 20% of its total assets in senior bank loans.

⁹ 15 U.S.C. 78s(b)(2).

¹⁰ See *supra* note 3.

¹¹ 15 U.S.C. 78s(b)(2).

¹² 17 CFR 200.30-3(a)(57).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

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 (1) revise credits for certain Designated Market Makers ("DMMs") transactions, and (2) revise the credits for Supplemental Liquidity Providers ("SLPs"). The Exchange also proposes to amend its Price List to remove certain trading license fees that expire on February 27, 2015.

The Exchange proposes to implement these fee changes effective March 1, 2015.

Credits for Certain DMM Transactions

Currently, for securities with an ADV of less than 1 million per month in the previous month ("Less Active Securities"), DMMs receive all of the market data quote revenue (the "Quoting Share") received by the Exchange from the Consolidated Tape Association under the Revenue Allocation Formula of Regulation NMS (regardless of whether the stock price exceeds \$1.00) in any month in which the DMM quotes at the National Best Bid or Offer ("NBBO") in the applicable security at least 15% of the time (the "Less Active Securities Quoting Requirement").

The Exchange proposes to increase the DMM's quoting requirement at the NBBO to 20% in each applicable security in order for the DMM to receive 100% of the Quoting Share. The Exchange also proposes that if the DMM meets the Less Active Securities Quoting Requirement but quotes less than 20% of the time in an applicable month, the DMM would receive 50% of the Quoting Share. The Exchange also proposes to re-locate the text describing Quoting Share allocation to a stand-alone paragraph.

The current monthly rebate payable to DMMs for securities with an ADV of less than 250,000 shares during the billing month (regardless of whether the stock price exceeds \$1.00) in any month in which the DMM meets the Less Active Securities Quoting Requirement is \$200.

The Exchange proposes to introduce different rebate amounts depending on the ADV of the security and the DMM quoting percentage. In particular, for securities with an ADV of 100,000 up to 250,000 shares in the previous month, the Exchange proposes a monthly rebate of \$250 when the DMM quotes at the NBBO 20% of the time or more in an applicable security in any month in which the DMM meets the Less Active Securities Quoting Requirement. If the DMM quotes at the NBBO at least 15% and up to 20% of the time in an applicable month in an applicable security, the Exchange proposes a \$200 rebate.

For securities with an ADV of less than 100,000 shares in the previous month, the Exchange proposes a monthly rebate of \$175 when the DMM quotes at the NBBO 20% of the time or more in an applicable security in any month in which the DMM meets the Less Active Securities Quoting Requirement. If the DMM quotes at the NBBO at least 15% and up to 20% of the time in an applicable month in an applicable security, the Exchange proposes a \$125 rebate.

The Exchange proposes to specify that the ADV would be calculated based on the previous month in order to make the ADV calculation consistent with how ADV is calculated for Less Active Securities for purposes of the Quoting Share rebate.

No other changes to the DMM Tier or the corresponding credits would result from this proposed change.

Credits Applicable to SLPs

Currently, when adding liquidity to the NYSE in securities with a share price of \$1.00 or more, if an SLP (1) meets the 10% average or more quoting requirement in assigned securities pursuant to Rule 107B and (2) adds liquidity for assigned SLP securities in the aggregate⁴ of an ADV of more than

0.20% of NYSE CADV,⁵ the SLP is eligible for a per share credit of \$.0023. In the case of Non-Displayed Reserve Orders, the SLP credit is \$.0018 and in the case of MPL Orders, the credit is \$.0020.

Similarly, a SLP adding liquidity for assigned SLP securities in the aggregate of an ADV of more than 0.35% of NYSE CADV is eligible for a per share credit of \$.0026. In the case of Non-Displayed Reserve Orders, the credit is \$.0021 and in the case of MPL Orders, the credit is \$.0020.

Finally, a SLP adding liquidity for assigned SLP securities in the aggregate of an ADV of more than 0.55% of NYSE CADV is eligible for a per share credit of \$.0029. In the case of Non-Displayed Reserve Orders, the credit is \$.0024 and in the case of MPL Orders, the credit is \$.0020.

The Exchange proposes to lower the ADV percentage requirement for SLPs that are also DMMs and subject to Rule 107B(i)(2)(A)⁶ for the above-three described credits applicable to SLPs from 0.20% to 0.15%, 0.35% to 0.30%, and 0.55% to 0.50%, respectively. The Exchange does not propose to change the ADV percentage requirement of NYSE ADV for SLPs that are not subject to Rule 107B(i)(2)(A), which will remain at 0.20%, 0.35% and 0.55%, respectively.

For each of these three categories of SLP credits, the Exchange also proposes to increase the credit for securities with an ADV in the previous month of 500,000 shares or less per month ("Less Active SLP Securities") by \$.0005, as follows:

- For assigned SLP securities in the aggregate of an ADV of more than 0.20% of NYSE CADV or, if also a DMM and subject to Rule 107B(i)(2)(A), more than 0.15% of NYSE CADV, increase the credit from \$.0023 to \$.0028 and increase the credit for Non-Displayed Reserve Orders from \$.0018 to \$.0023. The credit applicable for MPL Orders would not change.

- for assigned SLP securities in the aggregate of an ADV of more than 0.35% of NYSE CADV or, if also a DMM and subject to Rule 107B(i)(2)(A), more than 0.30% of NYSE CADV, increase the credit from \$.0026 to \$.0031 and increase the credit for Non-Displayed Reserve Orders from \$.0021 to \$.0026. The credit applicable for MPL Orders would not change.

⁴ Under Rule 107B, an SLP can be either a proprietary trading unit of a member organization ("SLP-Prop") or a registered market maker at the Exchange ("SLMM"). For purposes of the 10% average or more quoting requirement in assigned securities pursuant to Rule 107B, quotes of an SLP-Prop and an SLMM of the same member organization are not aggregated. However, for purposes of adding liquidity for assigned SLP securities in the aggregate, shares of both an SLP-Prop and an SLMM of the same member organization are included.

⁵ NYSE CADV is defined in the Price List as the consolidated average daily volume of NYSE-listed securities.

⁶ Rule 107B(i)(2)(A) prohibits a DMM from acting as a SLP in the same securities in which it is a DMM.

- for assigned SLP securities in the aggregate of an ADV of more than 0.55% of NYSE CADV or, if also a DMM and subject to Rule 107B(i)(2)(A), more than 0.050% of NYSE ADV, increase the credit from \$.0029 to \$.0034 and increase the credit for Non-Displayed Reserve Orders from \$.0024 to \$.0029. The credit applicable for MPL Orders would not change.

No other changes to SLP Tier or the corresponding credits would result from this proposed change.

Trading License Fees

On December 23, 2014, the Exchange filed to amend its Price List related to fees for trading licenses to extend the fee schedule to February 27, 2015 and to implement new trading license fees effective March 1, 2015.⁷

In particular, for the period between January 2, 2015 and February 27, 2015, the Exchange retained an annual fee of \$40,000 per license for the first two trading licenses held by a member organization and \$25,000 for each additional trading license. The Exchange also retained a fee relief scheme whereby fees for trading licenses issued after July 1, 2013 were prorated for the portion of the calendar year that the trading license was outstanding but if a member organization was issued additional trading licenses between July 1, 2013 and February 27, 2015, and the total number of trading licenses held by the member during that time was greater than the total number of trading licenses held by the member organization on July 1, 2013, the member organization would not be charged a prorated fee for the period from July 3, 2013 to February 27, 2015 for those additional trading licenses above the number the member organization held on July 1, 2013.⁸

The Exchange's filing also proposed that, effective March 1, 2015, the Exchange would charge an annual fee of \$50,000 for the first license held by a member organization and \$15,000 for each additional license. The Exchange also proposed to eliminate the existing fee relief for additional licenses and delete the relevant text from current footnote 15 effective March 1, 2015.

The Exchange accordingly proposes to amend the Price List to reflect the elimination of the fees in effect through February 27, 2015 and the fee relief for additional licenses by deleting the text describing those fees and corresponding footnote 15 from the Price List. The

Exchange also proposes to delete the "A" from footnote 15A in the current Price List so that footnote 15A would become footnote 15 to the new annual fee and regulated only member annual administration fee effective March 1, 2015.

Finally, the Exchange proposes to amend current footnote 15A to the Price List (proposed footnote 15) to change the number of calendar days a trading license is charged a flat fee. Currently, footnote 15A provides that for a trading license in place for 15 calendar days or less in a calendar month, proration for that month is at a flat rate of \$100 per day with no tier pricing involved. For a trading license in place for 16 calendar days or more in a calendar month, proration for that month is computed based on the number of days as applied to the applicable annual fee for the trading license.

The Exchange proposes to lower the number of calendar days charged the flat rate of \$100 per day with no tier pricing from 15 to 10 and make a corresponding change from 16 to 11 calendar days for licenses that would be held beyond the period subject to the flat rate and that would be prorated based on the number of days as applied to the applicable annual fee for the trading license. The Exchange has determined this change is necessary once the fee for additional licenses becomes \$15,000 effective March 1, 2015 in order to avoid charging a fee to license holders at a flat rate (\$1500/\$100 per day for 15 calendar days) that would exceed the monthly cost of the license (\$1,250/\$15,000 divided by 12). The Exchange believes that lowering the calendar days during which license holders are charged the flat rate to 10 days (\$1,000/\$100 per day for 10 calendar days) would avoid this result and be more equitable for license holders.

The above proposed changes are not otherwise intended to address any other issues, and the Exchange is not aware of any problems that members and member organizations would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,⁹ in general, and furthers the objectives of sections 6(b)(4) and 6(b)(5) of the Act,¹⁰ in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its

facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed higher monthly credit of \$250 for each security that has a consolidated ADV of more than 100,000 and less than 250,000 shares during the month when the DMM quotes at the NBBO in the applicable security at least 20% of the time in the applicable month is reasonable because of the proposed higher quoting requirement associated with this increase in the credit. The Exchange also believes that it is reasonable to retain a \$200 credit for each security that has a consolidated ADV of more than 100,000 and less than 250,000 shares during the month when the DMM quotes at the NBBO in the applicable security at least 15% and up to 20% of the time in the applicable month as this is the rate currently charged and it would apply equally to all DMM firms. The Exchange believes that the proposal would increase the incentive to add liquidity across thinly-traded securities where there may be fewer liquidity providers.

The Exchange also believes that the proposed lower monthly credits of \$175 for each security that has a consolidated ADV 100,000 shares or less during the month when the DMM quotes at the NBBO in the applicable security at least 20% of the time in the applicable month is reasonable in light of lower trading volumes in the applicable securities relatively to those securities that have a consolidated ADV of more than 100,000 and less than 250,000 shares. The Exchange further believes it is reasonable to provide a lower rebate of \$125.00 for each security that has a consolidated ADV of 100,000 shares or less if the DMM does not meet the proposed 20% quoting requirement. Moreover, the requirement is equitable and not unfairly discriminatory because it would apply equally to all DMM firms.

Further, the Exchange believes that the proposed higher DMM quoting requirement at the NBBO of 20% in order to receive in each applicable security 100% of the Quoting Share is reasonable because the higher proposed requirement would improve quoting and increase adding liquidity across thinly-traded securities where there may be fewer liquidity providers. Under the proposal, DMMs that do not meet the proposed quoting requirement of 20% but still meet the Less Active Securities Quoting Requirement of 15% would still receive 50% of the Quoting Share. Moreover, the requirement is equitable and not unfairly discriminatory because it would apply equally to all DMM

⁷ See Securities Exchange Act Release No. 34-73996 (January 6, 2015), 80 FR 1534 (January 12, 2015) (SR-NYSE-2014-74).

⁸ See *id.*

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(4) and (5).

firms. The Exchange notes that the Quoting Share in Less Active Securities the DMMs receive is in addition to the DMM rebate for providing liquidity and the monthly rebate payable to DMMs for securities with an ADV of less than 250,000 shares during the billing month.

In addition, the Exchange believes that proposal to lower the ADV percentage requirement for SLPs that are also DMMs and subject to Rule 107B(i)(2)(A) is reasonable because the current ADV requirement is more difficult for such market participants to meet given that the pool of stocks they are allowed to trade is smaller. Pursuant to Rule 107B(i)(2)(A), a DMM unit may not act as an SLP in the same securities in which it is a DMM. Accordingly, a SLP that is also a DMM subject to Rule 107B(i)(2)(A) would not be eligible to be assigned securities in which the affiliated DMM is registered, thereby reducing the number of securities available to such an SLP to meet the adding liquidity requirement, which is expressed as a percentage of NYSE CADV. The Exchange further believes that the proposed lower ADV percentage for such SLPs is equitable and not unfairly discriminatory because it would be applied equally to all SLPs that are also DMMs subject to Rule 107B(i)(2)(A). SLPs that are not DMMs do not have the same restrictions on which securities they may be assigned as a SLP and would not be harmed by the proposal for those firms that are also DMMs.

Further, increasing the credit for SLP transactions providing liquidity in Less Active SLP Securities by \$0.0005 is reasonable because it will encourage greater liquidity and competition in such securities on the Exchange. The Exchange also believes that increasing the SLP credit is reasonable because it will increase the incentive to add liquidity across thinly traded securities where there may be fewer liquidity providers. Once again, the Exchange believes that the proposed higher credit is equitable and not unfairly discriminatory because it would apply equally to all SLPs.

Finally, amending the Price List to remove fees that are expiring on February 27, 2015 provides greater clarity and transparency to the Price List and avoids confusion as to what trading license fees would apply after that date. Further, amending the Price List to change the number of calendar days a trading license is charged a flat fee is reasonable because it would avoid charging a fee to license holders at a flat rate that would exceed the monthly cost of the license, which is scheduled to begin on March 1, 2015. This proposal

is equitable and not unfairly discriminatory because it would apply the unchanged flat rate equally to all license holders over the same number of days.

The Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with section 6(b)(8) of the Act,¹¹ the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposed change would contribute to the Exchange's market quality by promoting price discovery and ultimately increased competition. For the same reasons, the proposed change also would not impose any burden on competition among market participants. Pricing for executions at the opening would remain at the same relatively low levels and would continue to reflect the benefit that market participants receive through the ability to have their orders interact with other liquidity at the opening.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As a result of all of these considerations, the Exchange does not believe that the proposed changes will impair the ability of member organizations or competing order execution venues to maintain their competitive standing in the financial markets.

¹¹ 15 U.S.C. 78f(b)(8).

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

The foregoing rule change is effective upon filing pursuant to section 19(b)(3)(A)¹² of the Act and subparagraph (f)(2) of Rule 19b-4¹³ thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such 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 under section 19(b)(2)(B)¹⁴ of the Act 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-2015-08 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-2015-08. 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/>

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(2).

¹⁴ 15 U.S.C. 78s(b)(2)(B).

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-2015-08 and should be submitted on or before *March 27, 2015*.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Brent J. Fields,

Secretary.

[FR Doc. 2015-05159 Filed 3-5-15; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-74406; File No. SR-OCC-2014-21]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change in Order To Permit OCC To Adjust the Size of Its Clearing Fund on an Intra-Month Basis

March 2, 2015.

I. Introduction

On November 13, 2014, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") proposed rule change SR-OCC-2014-21 ("Proposed Rule Change") pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange

Act")¹ and Rule 19b-4 thereunder.² In the Proposed Rule Change, OCC proposes to amend its Rule 1001(a) to delete the requirement that OCC readjust the size of its clearing fund on a monthly basis.³ On December 2, 2014, the proposed rule change was published in the **Federal Register**.⁴ The Commission received no comments to the Proposed Rule Change.⁵ This order institutes proceedings under Section 19(b)(2)(B) of the Exchange Act⁶ to determine whether to approve or disapprove the Proposed Rule Change.

II. Description of the Proposed Rule Change

OCC proposed this Proposed Rule Change to permit OCC to collect additional financial resources from its clearing members by increasing the size of its clearing fund on an intra-month basis when OCC determines that such action should be taken to ensure the clearing fund has sufficient resources to protect OCC against potential losses under simulated default scenarios. Specifically, OCC's Proposed Rule Change proposes to amend Rule 1001(a) to delete the second sentence, which states, "[s]uch [clearing fund resizing calculations] shall be made on a daily basis, and the size of the Clearing Fund shall be readjusted monthly based upon the average of such daily calculations performed during the preceding month."⁷

A. Background

In emergency circumstances and subject to certain conditions, Article IX, Section 14, of OCC's By-Laws permit OCC's Board of Directors, Executive Chairman, or President to waive or suspend its by-laws, rules, policies and procedures, or any other rules issued by OCC, or extend the time fixed thereby for the doing of any act or acts for up to thirty calendar days. To extend such a waiver or suspension for more than thirty calendar days, OCC's by-laws

require it to submit a proposed rule change to the Commission seeking approval of such waiver.⁸ Upon submission of a rule filing, the waiver may continue in effect until the Commission approves or disapproves the proposed rule change.⁹

Although OCC monitors the sufficiency of its clearing fund on a daily basis, OCC Rule 1001(a) provides that it may only readjust the size of the clearing fund on a monthly basis. On October 15, 2014, in order to address certain unanticipated intra-month market volatility OCC's Executive Chairman, pursuant to emergency authority, temporarily waived the OCC Rule 1001(a) requirement that OCC readjust the size of its clearing fund on a monthly basis, allowing OCC to resize the clearing fund intra-month. OCC was concerned that its current financial resources might not meet the total financial resources required to cover the default of its largest participant family. The waiver permitted OCC to increase the size of the clearing fund for the remainder of October 2014, prior to the next monthly resizing scheduled for the first business day of November 2014. As a result of the emergency action, OCC's clearing fund for October 2014 was increased by \$1.8 billion to a total amount of \$5.8 billion.

B. Proposed Rule Change SR-OCC-2014-21

OCC submitted the Proposed Rule Change, which amends its Rule 1001(a) by deleting the provision that requires OCC to readjust the size of its clearing fund on a monthly basis, allowing OCC to continue to collect additional financial resources from its clearing membership by increasing the size of its clearing fund on an intra-month basis when OCC determines such action should be taken so that the clearing fund is sufficient to protect OCC against potential loss under simulated default scenarios.¹⁰ OCC stated that it took this action to respond to the potential risk under prevailing market conditions that the clearing fund could be underfunded, which could have affected OCC's ability to provide services in a safe and sound manner. As noted, OCC's waiver of the provisions of the second sentence of Rule 1001(a) is permitted to continue for

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 204.19b-4. On October 15, 2014, OCC also filed an emergency notice with the Commission to suspend the effectiveness of the second sentence of Rule 1001(a). See *infra* note 10 and accompanying discussion.

³ Exchange Act Release No. 73685 (November 25, 2014) 78 FR 71479 (December 2, 2014) (SR-OCC-2014-21).

⁴ *Id.*

⁵ On January 5, 2015, pursuant to Section 19(b)(2)(A)(ii)(II) of the Exchange Act, as amended, OCC consented to an extension until March 2, 2015, for the Commission to approve the proposed rule change, disapprove the Proposed Rule Change, or institute proceedings to determine whether to disapprove the Proposed Rule Change. 15 U.S.C. 78s(b)(2)(A)(ii)(II).

⁶ 15 U.S.C. 78s(b)(2)(B).

⁷ OCC Rule 1001(a).

⁸ See OCC By-Laws, Article IX, Section 14(c).

⁹ *Id.*

¹⁰ On October 15, 2014, OCC also filed an emergency notice with the Commission pursuant to Section 806(e)(2) of the Payment, Clearing, and Settlement Supervision Act of 2010 ("Clearing Supervision Act"). 12 U.S.C. 5465(e)(2). See Securities Exchange Act Release No. 73579 (November 12, 2014), 79 FR 68747 (November 18, 2014) (SR-OCC-2014-807).

¹⁵ 17 CFR 200.30-3(a)(12).

no more than thirty calendar days unless OCC submits a proposed rule change under Section 19 of the Exchange Act seeking approval of such waiver.¹¹ By filing this proposed rule change, OCC preserved the suspended effectiveness of the second sentence of Rule 1001(a) beyond thirty calendar days.

OCC stated in its filing that it believes that the proposed rule change is appropriate: (i) To permit OCC to resize the clearing fund more frequently than monthly; and (ii) to determine the clearing fund's size in an amount sufficient to protect OCC from loss by relying on a broader range of sound risk management practices than only the average daily calculations under Rule 1001(a) that are performed during the preceding calendar month. OCC stated that it would use this authority to adjust the size of its clearing fund on an intra-month basis only to increase the size of the Clearing Fund where appropriate, not to decrease the size of the Clearing Fund. In continued reliance on the emergency rule waiver and the emergency notice, OCC set the November 2014 clearing fund size at \$7.8 billion, which included an amount determined by OCC to be sufficient to protect OCC against loss under simulated default scenarios (*i.e.*, \$6 billion), plus a prudential margin of safety (the additional \$1.8 billion collected in October).¹²

C. Subsequent OCC Filings

On December 1, 2014, OCC filed an Advance Notice pursuant to Section 806(e)(1) of the Clearing Supervision Act and Exchange Act Rule 19b-4(n)(1)(i) and a corresponding proposed rule change, to establish procedures regarding the monthly resizing of the clearing fund and the addition of financial resources through intra-day margin calls and/or an intra-month increase of the clearing fund to ensure adequate financial resources.¹³ The monthly clearing fund sizing procedures set forth in the advance notice and proposed rule change are based on broader risk management practices and establish the procedures that OCC would use to determine the size of the clearing fund on a monthly basis. These filings, however, do not provide OCC

with authority to resize the clearing fund intra-month. Both filings are pending consideration by the Commission.¹⁴ By their terms, the proposals as identified in this advanced notice and proposed rule change will not take effect until all regulatory actions required with respect to the proposed rule change presently at issue are completed.

III. Proceedings To Determine Whether To Approve or Disapprove SR-OCC-2014-21 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act¹⁵ to determine whether the proposed rule change should be approved or disapproved. Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the Proposed Rule Change. As noted above, institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to comment on the Proposed Rule Change, and provide the Commission with arguments to support the Commission's analysis as to whether to approve or disapprove the Proposed Rule Change, as amended.

Pursuant to Section 19(b)(2)(B) of the Exchange Act,¹⁶ the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of, and input from commenters with respect to, the Proposed Rule Change's consistency with Section 17A of the Exchange Act, and in particular, Section 17A(b)(3)(F) of the Exchange Act, which requires, among other things, that the rules of a clearing agency must: (i) Assure the safeguarding of securities and funds which are in the custody or control of a clearing agency; and (ii) to protect investors and the public interest.¹⁷

Here, the Proposed Rule Change is proposing to eliminate the currently waived second sentence of Rule 1001(a), which would result in the elimination of the monthly resizing requirement. In the absence of an alternative, OCC's

rules are devoid of any timeframes within which OCC would be required to resize its clearing fund. OCC's clearing fund reinforces OCC's ability to protect against a clearing member's default, and as such, OCC's clearing fund size (and calculation thereof) would correlate directly with OCC's ability to protect the clearing agency and its members against default.¹⁸ Without a robust framework and specific requirements in OCC's rules to resize the clearing fund on an expressed and periodic basis, it is not apparent that OCC will have sufficient financial resources to manage the risks associated with the default of one or more clearing members. Furthermore, without such a provision in OCC's rules, clearing members may not be sufficiently prepared to fund OCC's clearing fund calls when such calls are made.

With only pending proposals before the Commission for determining the clearing fund's size,¹⁹ the Proposed Rule Change raises concerns about how OCC will safeguard securities and funds that are in its custody or control, as well as how the Proposed Rule Change will protect investors and the public interest in the absence of any clearing fund resizing requirements. Consequently, the Commission believes that significant questions remain as to whether the Proposed Rule Change is consistent with the requirements of the Exchange Act, particularly when considered in combination with OCC's other proposed rule changes and advance notices currently pending before the Commission. Section 19(b)(2)(B) of the Exchange Act provides that proceedings to determine whether to approve or disapprove a proposed rule change must be concluded within 180 days of the date of publication of notice of the filing of the Proposed Rule Change. The time for conclusion of the proceedings may be extended for up to an additional 60 days if the Commission finds good cause for such extension and publishes its reasons for so finding or if the self-regulatory organization consents to the extension.

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the concerns identified above, as well as any others they may have with the Proposed Rule Change. In particular, the Commission invites the written views of interested

¹¹ See *supra* note 8.

¹² See Information Memorandum #35507, dated October 31, 2014, <http://www.theocc.com/clearing/clearing-infomemos/infomemos1.jsp>.

¹³ See Exchange Release No. 74091 (January 20, 2015), 80 FR 4001 (January 26, 2015) (SR-OCC-2014-811, as modified by Amendment No. 1); Exchange Act Release No. 73853 (December 16, 2014), 79 FR 76417 (December 22, 2014) (SR-OCC-2014-22, as modified by Amendment No. 1).

¹⁴ On January 27, 2015, the Commission requested additional information regarding Advance Notice SR-OCC-2014-811, which tolled the review period pursuant to Section 806(e)(1) of the Clearing Supervision Act. 12 U.S.C. 5465(e)(1). OCC has also voluntarily extended the statutory review period for the review pursuant to Exchange Act Section 19(b)(2)(A)(ii)(II). 15 U.S.C. 78s(b)(2)(A)(ii)(II).

¹⁵ 15 U.S.C. 78s(b)(2)(B).

¹⁶ 15 U.S.C. 78s(b)(2)(B).

¹⁷ See 15 U.S.C. 78q-1(b)(3)(F).

¹⁸ See http://optionsclearing.com/components/docs/about/occ_financial_guarantee.pdf.

¹⁹ See *supra* note 13 and accompanying text.

persons concerning whether the proposed rule change is inconsistent with Section 17A of the Exchange Act or any other provision of the Exchange Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval which would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b-4, any request for an opportunity to make an oral presentation.²⁰

Interested persons are invited to submit written data, views, and arguments on or before March 27, 2015. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal on or before April 10, 2015. 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-OCC-2014-21 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-OCC-2014-21. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and

printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at http://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_14_21.pdf. 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-OCC-2014-21 and should be submitted on or before March 27, 2015. If comments are received, any rebuttal comments should be submitted on or before April 10, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²¹

Brent J. Fields,
Secretary.

[FR Doc. 2015-05160 Filed 3-5-15; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-74412; File No. SR-NYSE-2014-65]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Approving a Proposed Rule Change Amending Its Continued Listing Requirements, as Set Forth in Section 802.01E of the Exchange's Listed Company Manual, in Relation to the Late Filing of a Company's Annual or Quarterly Report With the Securities and Exchange Commission

March 2, 2015.

I. Introduction

On December 4, 2014, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend its continued listing requirements, set forth in section 802.01E of its Listed Company Manual, with respect to companies whose required annual or quarterly reports are late or defective. The proposed rule change was published for comment in

the **Federal Register** on December 17, 2014.³ On January 30, 2015, the Commission designated a longer period for Commission action on the proposed rule change, until March 17, 2015.⁴ The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to amend section 802.01E of its Listed Company Manual (the "Late Filer Rule") to: (i) Expand the rule to impose a maximum period within which a company must file a late quarterly report on Form 10-Q in order to maintain its listing, and (ii) clarify the Exchange's treatment of companies whose annual or quarterly reports are defective at the time of filing or become defective at some subsequent date.

Currently, the Late Filer Rule deems a listed company to be delinquent in filing its annual report on Forms 10-K, 20-F, 40-F or N-CSR with the Commission if it fails to submit the filing by the date such report was required to be filed by the applicable form, or if a Form 12b-25 was timely filed with the Commission, the extended filing due date for the annual report. During the six-month period from the date of such delinquency, the Exchange monitors the company and the status of the delinquent annual report, including through contact with the company, until the filing delinquency is cured. If the company fails to cure such delinquency within the initial six-month period, the Exchange may, in its sole discretion, allow the company's securities to be traded for up to an additional six-month period depending on the company's specific circumstances. The Exchange will commence suspension and delisting procedures in accordance with Section 804.00 of the Listed Company Manual if the Exchange determines that an additional trading period of up to six months is not appropriate, or if the Exchange determines that an additional trading period of up to six months is appropriate and the company fails to file its annual report by the end of the additional period.

A company is not currently subject to the compliance periods set forth in the Late Filer Rule in connection with a failure to timely file a quarterly report on Form 10-Q with the SEC.⁵ Moreover,

³ See Securities Exchange Act Release No. 73821 (December 11, 2014), 79 FR 75217 ("Notice").

⁴ See Securities Exchange Act Release No. 74184, 80 FR 6558 (February 5, 2015).

⁵ While a company is not currently subject to the compliance periods in the Late Filer Rule in connection with the failure to timely file a Form

²⁰ Section 19(b)(2) of the Exchange Act, as amended by the Securities Acts Amendments of 1975, Pub. L. 94-29, 89 Stat. 97 (1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing and Urban Affairs to Accompany S. 249, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

²¹ 17 CFR 200.30-3(a)(57).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

the Late Filer Rule currently does not explicitly detail the Exchange's treatment of companies whose annual or quarterly reports are defective. The Exchange has now proposed to amend its Late Filer Rule to add these elements.

Specifically, the Exchange has proposed to amend its Late Filer Rule to explicitly state that, for purposes of remaining listed on the Exchange, a company would incur a filing delinquency and be subject to the procedures set forth in the amended rule on the date on which any of the following occurs:

- The company fails to file its annual report or its quarterly report on Form 10-Q with the Commission by the date such report was required to be filed by the applicable form (or extended due date if a Form 12b-25 is timely filed with the Commission) (the "Filing Due Date," and the failure to file a report by the applicable Filing Due Date, a "Late Filing Delinquency");
- The company files its annual report without an audit report from its independent auditor for any or all of the periods included in such annual report (a "Required Audit Report" and the absence of a Required Audit Report, a "Required Audit Report Delinquency");
- The company's independent auditor withdraws a Required Audit Report or the company files a Form 8-K with the Commission pursuant to Item 4.02(b) thereof disclosing that it has been notified by its independent auditor that a Required Audit Report or completed interim review should no longer be relied upon (a "Required Audit Report Withdrawal Delinquency"); or
- The company files a Form 8-K with the Commission pursuant to Item 4.02(a) thereof to disclose that previously issued financial statements

10-Q, such companies are subject to the Exchange's late filer (or ".LF") indicator process. The .LF indicator is appended to the company's trading symbol as disseminated on the consolidated tape and to market data vendors, and the company's name is included on the late filer list on the Exchange's Web site. The .LF indicator and web posting commence five days after the due date or extended due date (if applicable) of the first late annual report or Form 10-Q (unless the company has submitted the required report within that five day period) and continue until the company becomes current again with respect to all required periodic reports. In addition, the Commission notes that a listed company is obligated to comply with the Exchange's listing agreement, which requires, among other things, that the company file all required periodic financial reports with the SEC, including quarterly or semi-annual reports (and annual reports), by the due dates established by the SEC, and which states that the Exchange may, consistent with applicable laws and SEC rules, suspend a listed company's securities and commence delisting proceedings upon failure of the company to comply with any one or more sections of the listing agreement.

should no longer be relied upon because of an error in such financial statements or, in the case of a foreign private issuer, makes a similar disclosure in a Form 6-K filed with the Commission or by other means (a "Non-Reliance Disclosure") and, in either case, the company does not refile all required corrected financial statements within 60 days of the issuance of the Non-Reliance Disclosure (an "Extended Non-Reliance Disclosure Event" and, together with a Late Filing Delinquency, a Required Audit Report Delinquency and a Required Audit Report Withdrawal Delinquency, a "Filing Delinquency") (for purposes of the cure periods described in the rule, an Extended Non-Reliance Disclosure Event would be deemed to have occurred on the date of original issuance of the Non-Reliance Disclosure); if the Exchange believes that a company is unlikely to refile all required corrected financial statements within 60 days after a Non-Reliance Disclosure or that the errors giving rise to such Non-Reliance Disclosure are particularly severe in nature, the Exchange may, in its sole discretion, determine earlier than 60 days that the applicable company has incurred a Filing Delinquency as a result of such Non-Reliance Disclosure.⁶

Additionally, under the proposed rule, the Exchange would deem a company to have incurred a Late Filing Delinquency if it submits an annual report or Form 10-Q to the Commission by the applicable Filing Due Date, but such filing fails to include an element required by the applicable form and the Exchange determines in its sole discretion that such deficiency is material in nature.⁷

⁶ See proposed section 802.01E of the Listed Company Manual ("Manual"). The proposed rule states that the annual report or Form 10-Q that gives rise to a Filing Delinquency shall be referred to therein as the "Delinquent Report." *Id.*

⁷ *Id.* The Exchange states that the following is a non-exclusive list of elements that would cause the Exchange to deem the company to have incurred a Late Filing Delinquency: The filing does not include required financial statements or a required audit opinion; a required financial statement audit opinion includes qualifying or disclaiming language or the auditor provides an adverse financial statement audit opinion; a required financial statement audit opinion is unsigned or undated; there is a discrepancy between the period end date for required financial statements and the date cited in the related audit report; the company's auditor has not conducted a SAS 100 review with respect to the company's Form 10-Q; required chief executive officer or chief financial officer certifications are missing; a Sarbanes-Oxley Act section 404 required internal control report or auditor certification is missing; the filing does not comply with the applicable SEC XBRL requirements; or the filing does not include signatures of officers or directors required by the applicable form. See Notice, 79 FR at 75218 n.6.

Upon the occurrence of a Filing Delinquency, the Exchange would promptly send written notification to a company of its procedures relating to late filings (the "Filing Delinquency Notification").⁸ As is the case under the current rule, within five days of the date of the Filing Delinquency Notification, the company would be required to contact the Exchange to discuss the status of the Delinquent Report and issue a press release disclosing the occurrence of the Filing Delinquency, the reason therefor, and (if known) the anticipated date such Filing Delinquency will be cured via the filing or refiling of the applicable report, as the case may be.⁹

During the six-month period from the date of the Filing Delinquency (the "Initial Cure Period"), the Exchange would monitor the company and the status of the Delinquent Report and any subsequent annual report or quarterly report on Form 10-Q the company fails to file by the applicable Filing Due Date (a "Subsequent Report"), through contact with the company, until the Filing Delinquency is cured.¹⁰ If the company fails to cure the Filing Delinquency within the Initial Cure Period, the Exchange may, in its sole discretion, allow the company's securities to be traded for up to an additional six-month period (the "Additional Cure Period") depending on the company's specific circumstances.¹¹ If the Exchange determines that an Additional Cure Period is not appropriate, suspension and delisting procedures would commence in accordance with the procedures set out in section 804.00 of the Manual.¹² A company would not be eligible to follow the procedures outlined in sections 802.02 and 802.03 with respect to this criterion.¹³ Notwithstanding the foregoing, however, under the proposed rule the

⁸ See proposed section 802.01E of the Manual. The Exchange states that it typically sends such notification within five business days. See Notice, 79 FR at 75218.

⁹ See proposed section 802.01E of the Manual. If the company has not issued the required press release within five days of the date of the Filing Delinquency Notification, the Exchange will issue a press release stating that the company has incurred a Filing Delinquency and providing a description thereof. *Id.*

¹⁰ *Id.* Under the proposed amended rule, a company that has an uncured Filing Delinquency would not incur an additional Filing Delinquency if it fails to file a Subsequent Report by the applicable Filing Due Date. However, in order for the company to cure its initial Filing Delinquency, no Subsequent Report may be delinquent or deficient on the date by which the initial Filing Delinquency is required to be cured. *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

Exchange may in its sole discretion decide: (i) Not to afford a company any Initial Cure Period or Additional Cure Period, as the case may be, at all; or (ii) at any time during the Initial Cure Period or Additional Cure Period, as the case may be, to truncate the Initial Cure Period or Additional Cure Period, as the case may be, and immediately commence suspension and delisting procedures if the company is subject to delisting pursuant to any other provision of the Manual, including if the Exchange believes, in its sole discretion, that continued listing and trading of a company's securities on the Exchange is inadvisable or unwarranted in accordance with sections 802.01A, 802.01B, 802.01C or 802.01D of the Manual.¹⁴

The Exchange may also commence suspension and delisting procedures if it believes, in its sole discretion, that it is advisable to do so based on an analysis of all relevant factors, including, but not limited to:

- Whether there are allegations of financial fraud or other illegality in relation to the company's financial reporting;
- The resignation or termination by the company of the company's independent auditor due to a disagreement;
- Any extended delay in appointing a new independent auditor after a prior auditor's resignation or termination;
- The resignation of members of the company's audit committee or other directors;
- The resignation or termination of the company's chief executive officer, chief financial officer or other key senior executives;
- Any evidence that it may be impossible for the company to cure its Filing Delinquency within the cure periods otherwise available under the Late Filer Rule; and
- Any past history of late filings.¹⁵

In determining whether an Additional Cure Period after the expiration of the Initial Cure Period is appropriate, the Exchange would, as is currently the case, consider the likelihood that the Delinquent Report and all Subsequent Reports can be filed or refiled, as applicable, during the Additional Cure Period, as well as the company's general financial status, based on information provided by a variety of sources, including the company, its audit committee, its outside auditors, the staff of the SEC and any other regulatory body.¹⁶ Further, the Exchange, as it

currently does, would strongly encourage companies to provide ongoing disclosure on the status of the Delinquent Report and any Subsequent Reports to the market through press releases, and would also take the frequency and detail of such information into account in determining whether an Additional Cure Period is appropriate.¹⁷

As proposed, if the Exchange determines that an Additional Cure Period is appropriate and the company fails to file the Delinquent Report and all Subsequent Reports by the end of such additional period, suspension and delisting procedures would commence immediately in accordance with the procedures set out in section 804.00.¹⁸ In no event would the Exchange continue to trade a company's securities if: (i) it has failed to cure its Filing Delinquency; and (ii) it is not current with all Subsequent Reports, on the date that is twelve months after its initial Filing Delinquency.¹⁹

The Exchange has proposed that its amended Late Filer Rule become operative on March 1, 2015.²⁰ Accordingly, the current provisions of section 802.01E of the Manual would be applicable to any listed company that fails to timely file an annual report (Forms 10-K, 20-F, 40-F or N-CSR) prior to March 1, 2015.²¹ On or after March 1, 2015, any listed company that fails to timely file an annual report, or quarterly report on Form 10-Q, would be subject to the amended provisions of Section 802.01E.²² Any listed company that is late as of March 1, 2015, in filing a Form 10-Q with a due date prior to that date would not be subject to the proposed amended rule with respect to that filing; however, any such company would be subject to the proposed amended rule with respect to any periodic report it does not file on a timely basis with a due date that is on or after March 1, 2015.²³

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations

thereunder applicable to a national securities exchange.²⁴ In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act,²⁵ which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission believes that the goal of ensuring that listed companies have filed accurate, up-to-date reports under the Act is of critical importance so that investors have reliable information upon which they can make informed investment decisions. For the same reason, it is also important that companies with stale or defective publicly filed financial information do not remain listed on a national securities exchange if such information is not brought up-to-date or the deficiency cured in a timely manner. The Commission previously stated its view that the NYSE should consider shortening the timeframes within which a company would be delisted for failing to file annual reports as well as extending such requirements to issuers that are late in filing their quarterly reports with the Commission.²⁶ The Commission believes that the proposed rule change, by including quarterly reports, should help to prevent an undue amount of time from passing without the company's annual or quarterly reports being provided to the marketplace.

The Commission also believes that the proposed changes to section 802.01E of the Manual should help to ensure that companies cannot continue to trade for extended periods of time without making their annual and interim reports publicly available.²⁷ In this regard, the

²⁴ In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

²⁵ 15 U.S.C. 78f(b)(5).

²⁶ See Securities Exchange Act Release No. 51777 (June 2, 2005), 70 FR 33573 (June 8, 2005).

²⁷ The Commission notes that, although section 802.01E does not specifically provide for late filer treatment if a foreign private issuer fails to provide quarterly or semi-annual financial information, violation of section 802.01D could result in a foreign private issuer becoming subject to delisting. Specifically, section 802.01D provides that a listed company could be subject to delisting under sections 802.02 and 802.03 for "failure of a company to make timely, adequate, and accurate disclosures of information to its shareholders and the investing public." The Commission believes

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.* See *supra* note 10.

²⁰ See Notice, 79 FR at 75219.

²¹ *Id.* Both prior to and after March 1, 2015, the Exchange's other continued listing standards would, of course, continue to apply, including the ability to suspend and delist if any other event or condition exists or occurs that makes further dealings or listing of the securities on the Exchange inadvisable or unwarranted.

²² *Id.*

²³ *Id.*

Commission notes that the proposed rule change should help reduce those situations in which investors continuously have outdated or stale financial information upon which to base their investment decisions. As is discussed above, a company that has an uncured Filing Delinquency would not be able to cure the Filing Delinquency until all subsequent annual or quarterly reports that are delinquent have been filed.²⁸ In other words, once it is a delinquent filer, a company can only become current in its filings if all of its annual and quarterly filings have been submitted to the SEC within 12 months of the first Filing Delinquency. Under the current rule by contrast, only annual reports trigger the suspension and delisting procedures of section 802.01E of the Manual. Furthermore, a listed company that demonstrates a history of delinquent filings could still be subject to delisting under the proposed rule change without the Exchange affording it any cure period at all (or at any time during an initial or additional cure period) as a result of the Exchange's ability to commence suspension and delisting procedures based on a company's "past history of late filings."²⁹ The Commission believes these provisions will enable the Exchange to delist those companies that have demonstrated a history of providing outdated or stale financial information to investors and help the Exchange address the situation where a company becomes current within 12 months and then a short while later, such as by the next Commission filing date, incurs another Filing Delinquency. In such a case, the Commission would be concerned that investors continue to rely on outdated information and do not have current financial information on a timely basis in which to make their trading and investment decisions. The Commission believes that the proposal is reasonably designed to further these goals of investor protection and therefore is consistent with the Act and section 6(b)(5) thereunder.

Additionally, by clearly stating that the Exchange's Late Filer Rule applies not only to companies that file late or defective annual reports but also broadening the delisting procedures to include listed companies that file late or defective quarterly reports, the Commission believes that the proposal should benefit the public interest and protect investors by helping to assure

that a larger segment of the financial information investors may rely upon when deciding whether to invest in a company listed on the Exchange is up-to-date and accurate. Further, by detailing what the Exchange considers to be a defective annual or quarterly report and how the Exchange treats listed companies whose filed reports suffer from a deficiency, the Commission believes that the proposed rule change promotes just and equitable principles of trade by providing additional transparency to listed companies as to what could cause them to become subject to the section 802.01E delisting procedures for a late or deficient filing. For example, as noted above, Exchange rules will be clear that a company that files an 8-K pursuant to Item 4.02(b) thereof and has a Required Audit Report Withdrawal Delinquency will be subject to the procedures in section 802.01E and can only be extended a maximum of 12 months to cure the delinquency. Moreover, and importantly, this additional transparency, as well as the more stringent requirements set forth in the amended rule, could encourage listed companies to take extra care to ensure that their filed reports are timely and accurate, which would protect investors and the public interest. To the extent this occurs, the Commission believes that the proposal also has the potential to enhance the reliability of reports filed by companies listed on the Exchange as well as investor confidence in such reports, which should help to perfect the mechanism of a free and open market.

The new rules also give the Exchange discretion in certain areas when a filing fails to include an element required by the applicable Commission form and the Exchange determines in its sole discretion that such deficiency is material in nature. The rule filing provided a non-exclusive list of elements that, if missing from a filing, would cause the Exchange to deem the company to have incurred a Filing Delinquency. The Exchange stated in its rule filing that, in making this determination, it would not be making any judgments as to the sufficiency of the filing in question for purposes of compliance with Commission rules, but rather only for purposes of compliance with Exchange rules. The Commission emphasizes that any determination by the Exchange that a missing element is not material for purposes of a Filing Delinquency has no effect on the company's compliance with Commission rules. The Commission further notes that while there is a

provision in the new rules concerning a listed company that files an 8-K or 6-K announcing a Non-Reliance Disclosure having 60 days to correct its financial statements, the proposal makes clear that the Filing Delinquency will date from the original announcement of the Non-Reliance Disclosure if it is not cured within 60 days. This will ensure that the period for curing a Non-Reliance Disclosure will not extend past the 12 month period given to listed companies that have had another type of Filing Delinquency.

Finally, the Commission notes that the time periods allowed to cure a Filing Delinquency are maximums for purposes of continued listing. The new provisions being adopted provide additional transparency to investors and the marketplace but also give the Exchange discretion to analyze the particular case and consider whether it is appropriate to commence suspension and delisting procedures immediately based on the particular facts, as well giving the Exchange discretion to grant an additional six month cure period, or shorten any time periods previously given. The new rules provide additional transparency by setting forth certain factors that may cause immediate delisting or shortened periods, such as resignation of a company's chief executive officer, financial officer or members of the audit committee; allegations of fraud or other illegality in relation to financial reporting; and past history of late filings. We expect the Exchange to carefully review each Filing Deficiency and ensure that the public interest is being served by continued trading. As noted above, the importance of timely and complete Commission filings to ensure that investors and the marketplace have accurate and up-to-date information about publicly traded companies is of extreme importance for confidence in our public markets.³⁰

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,³¹ that the proposed rule change (SR-NYSE-2014-65) be, and it hereby is, approved.

³⁰ As noted above, the Exchange strongly encourages companies to provide ongoing disclosure on the status of the Delinquent Report and any Subsequent Reports to the market through press releases, and would also take the frequency and detail of such information into account in determining whether an Additional Cure Period is appropriate. The Commission believes such disclosures are very important to the marketplace during the delinquency period.

³¹ 15 U.S.C. 78s(b)(2).

that failure by a listed company to make interim financial disclosures, on at least a semi-annual basis, would meet this definition.

²⁸ See *supra* note 10.

²⁹ See *supra* note 15 and accompanying text.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³²

Brent J. Fields,
Secretary.

[FR Doc. 2015-05191 Filed 3-5-15; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-31490]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

February 27, 2015.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of February 2015. A copy of each 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. An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 24, 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: Brent J. Fields, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus at (202) 551-6810, SEC, Division of Investment Management, Chief Counsel's Office, 100 F Street NE., Washington, DC 20549-8010.

Gottex Multi-Asset Endowment Fund—II [File No. 811-22412]; Gottex Multi-Asset Endowment Fund—I [File No. 811-22413]; Gottex Multi-Asset Endowment Master Fund [File No. 811-22415]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On February 2, 2015, each applicant made a final liquidating distribution to its shareholders, based on net asset value. Applicants have retained approximately \$144,877, \$80,148 and \$271,414, respectively, to pay shareholders their remaining balances and to pay applicants' remaining expenses. Expenses of \$2,300, \$2,300 and \$9,900, respectively, incurred in connection with the liquidations were paid by applicants.

Filing Date: The applications were filed on February 4, 2015.

Applicants' Address: One Boston Place, Ste. 2600, 201 Washington St., Boston, MA 02109.

Highland Special Situations Fund [File No. 811-21769]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant transferred its assets to Highland Opportunistic Credit Fund, a series of Highland Funds I, and on July 1, 2014, made a distribution to its shareholders, based on net asset value. Expenses of approximately \$312,224 incurred in connection with the reorganization were paid by the acquiring fund.

Filing Date: The application was filed on February 2, 2015.

Applicant's Address: 200 Crescent Court, Ste. 700, Dallas, TX 75201.

Invesco Municipal Income Opportunities Trust II [File No. 811-5793]; Invesco Municipal Income Opportunities Trust III [File No. 811-6052]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicants transferred their assets to Invesco Municipal Income Opportunities Trust, and on August 27, 2012, made distributions to their shareholders based on net asset value. Expenses of \$199,316, and \$183,131, respectively, incurred in connection with the reorganizations were paid by Invesco Advisers, Inc., applicants' investment adviser.

Filing Date: The applications were filed on February 4, 2015.

Applicants' Address: 1555 Peachtree St. NE., Ste. 1800, Atlanta, GA 30309.

Invesco Municipal Premium Income Trust [File No. 811-5688]; Invesco Van Kampen Trust for Value Municipals [File No. 811-6472]; Invesco Van Kampen Select Sector Municipal Trust [File No. 811-8000]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicants transferred their assets to Invesco Van Kampen Municipal Opportunity Trust (now known as Invesco Municipal Opportunity Trust), and on October 15, 2012, made distributions to their shareholders based on net asset value. Expenses of \$194,646, \$203,231, and \$203,911, respectively, incurred in connection with the reorganizations were paid by Invesco Advisers, Inc., applicants' investment adviser.

Filing Date: The applications were filed on February 4, 2015.

Applicants' Address: 1555 Peachtree St. NE., Ste. 1800, Atlanta, GA 30309.

Invesco Value Municipal Trust [File No. 811-6434]; Invesco Value Municipal Securities [File No. 811-7109]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicants transferred their assets to Invesco Value Municipal Income Trust, and on October 15, 2012, made distributions to their shareholders based on net asset value. Expenses of \$175,385 and \$152,464, respectively, incurred in connection with the reorganizations were paid by Invesco Advisers, Inc., applicants' investment adviser.

Filing Date: The applications were filed on February 4, 2015.

Applicants' Address: 1555 Peachtree St. NE., Ste. 1800, Atlanta, GA 30309.

Invesco Value Municipal Bond Trust [File No. 811-6053]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant transferred its assets to Invesco Value Municipal Income Trust, and on October 15, 2012, made a distribution to its shareholders based on net asset value. Expenses of \$148,082 incurred in connection with the reorganization were paid by applicant.

Filing Date: The application was filed on February 4, 2015.

³² 17 CFR 200.30-3(a)(12).

Applicant's Address: 1555 Peachtree St. NE., Ste. 1800, Atlanta, GA 30309.

Invesco New York Quality Municipal Securities [File No. 811-7562]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant transferred its assets to Invesco Van Kampen Trust for Investment Grade New York Municipals (now known as Invesco Trust for Investment Grade New York Municipals), and on August 27, 2012, made a distribution to its shareholders based on net asset value. Expenses of \$259,706, incurred in connection with the reorganization were paid by Invesco Advisers, Inc., applicant's investment adviser.

Filing Date: The application was filed on February 4, 2015.

Applicant's Address: 1555 Peachtree St. NE., Ste. 1800, Atlanta, GA 30309.

Invesco Quality Municipal Investment Trust [File No. 811-6346]; Invesco Quality Municipal Securities [File No. 811-7560]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicants transferred their assets to Invesco Quality Municipal Income Trust, and on October 15, 2012, made distributions to their shareholders based on net asset value. Expenses of \$197,200 and \$202,100, respectively, incurred in connection with the reorganizations were paid by Invesco Advisers, Inc., applicants' investment adviser.

Filing Date: The applications were filed on February 4, 2015.

Applicants' Address: 1555 Peachtree St. NE., Ste. 1800, Atlanta, GA 30309.

Invesco High Yield Investments Fund, Inc. [File No. 811-8044]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant transferred its assets to Invesco Van Kampen High Income Trust II (now known as Invesco High Income Trust II), and on August 27, 2012, made distributions to its shareholders based on net asset value. Expenses of \$275,566 incurred in connection with the reorganization were paid by Invesco Advisers, Inc., applicant's investment adviser.

Filing Date: The application was filed on February 4, 2015.

Applicant's Address: 1555 Peachtree St. NE., Ste. 1800, Atlanta, GA 30309.

Invesco California Municipal Securities [File No. 811-7111]; Invesco California Municipal Income Trust [File No. 811-7344]; Invesco California Quality Municipal Securities [File No. 811-7564]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicants transferred their assets to Invesco Van Kampen California Value Municipal Income Trust (now known as Invesco California Value Municipal Income Trust), and on August 27, 2012, made distributions to their shareholders based on net asset value. Expenses of \$179,549, \$192,823, and \$179,549, respectively, incurred in connection with the reorganizations were paid by Invesco Advisers, Inc., applicants' investment adviser.

Filing Date: The applications were filed on February 4, 2015.

Applicants' Address: 1555 Peachtree St. NE., Ste. 1800, Atlanta, GA 30309.

Invesco Van Kampen Ohio Quality Municipal Trust [File No. 811-6364]; Invesco Van Kampen Trust for Investment Grade New Jersey Municipals [File No. 811-6536]; Invesco Van Kampen Massachusetts Value Municipal Income Trust [File No. 811-7088]

Summary: Each applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicants transferred their assets to Invesco Van Kampen Municipal Trust (now known as Invesco Municipal Trust), and on October 15, 2012, made distributions to their shareholders based on net asset value. Expenses of \$188,271, \$186,904 and \$183,827, respectively, incurred in connection with the reorganizations were paid by Invesco Advisers, Inc., applicants' investment adviser.

Filing Date: The applications were filed on February 4, 2015.

Applicants' Address: 1555 Peachtree St. NE., Ste. 1800, Atlanta, GA 30309.

Munder Series Trust [File No. 811-21294]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant transferred its assets to corresponding series of The Victory Portfolios, and on October 31, 2014, made a distribution to its shareholders based on net asset value. Expenses of \$3,896,437 incurred in connection with the reorganization were paid by Munder Capital Management, applicant's investment adviser, and Victory Capital Management Inc.

Filing Dates: The application was filed on January 27, 2015.

Applicant's Address: Victory Capital Management Inc., 4900 Tiedeman Rd. 4th Floor, Brooklyn, OH 44144.

iShares MSCI Russia Capped ETF, Inc. [File No. 811-22421]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant transferred its assets to iShares MSCI Russia Capped ETF, a series of iShares, Inc., and on January 26, 2015, made a distribution to its shareholders based on net asset value. BlackRock Fund Advisors, applicant's investment adviser, paid the expenses incurred in connection with the reorganization.

Filing Date: The application was filed on January 26, 2015.

Applicant's Address: c/o State Street Bank and Trust Company, 1 Iron St., Boston, MA 02210.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jill M. Peterson,
Assistant Secretary.

[FR Doc. 2015-05216 Filed 3-5-15; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549-2736.

Extension:

Rule 30e-2. SEC File No. 270-437, OMB Control No. 3235-0494.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) ("Paperwork Reduction Act"), the Securities and Exchange Commission (the "Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget ("OMB") for extension and approval.

Rule 30e-2 (17 CFR 270.30e-2) under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*) ("Investment Company Act") requires registered unit investment trusts ("UITs") that invest substantially all of their assets in shares of a management investment company ("fund") to send their unitholders annual and semiannual reports containing financial information on the

underlying company. Specifically, rule 30e-2 requires that the report contain all the applicable information and financial statements or their equivalent, required by rule 30e-1 under the Investment Company Act (17 CFR 270.30e-1) to be included in reports of the underlying fund for the same fiscal period. Rule 30e-1 requires that the underlying fund's report contain, among other things, the information that is required to be included in such reports by the fund's registration statement form under the Investment Company Act. The purpose of this requirement is to apprise current shareholders of the operational and financial condition of the UIT. Absent the requirement to disclose all material information in reports, investors would be unable to obtain accurate information upon which to base investment decisions and consumer confidence in the securities industry might be adversely affected. Requiring the submission of these reports to the Commission permits us to verify compliance with securities law requirements.

Rule 30e-2, however, permits, under certain conditions, delivery of a single shareholder report to investors who share an address ("householding"). Specifically, rule 30e-2 permits householding of annual and semi-annual reports by UITs to satisfy the delivery requirements of rule 30e-2 if, in addition to the other conditions set forth in the rule, the UIT has obtained from each applicable investor written or implied consent to the householding of shareholder reports at such address. The rule requires UITs that wish to household shareholder reports with implied consent to send a notice to each applicable investor stating that the investors in the household will receive one report in the future unless the investors provide contrary instructions. In addition, at least once a year, UITs relying on the rule for householding must explain to investors who have provided written or implied consent how they can revoke their consent. The purpose of the notice and annual explanation requirements associated with the householding provisions of the rule is to ensure that investors who wish to receive individual copies of shareholder reports are able to do so.

The Commission estimates that the annual burden associated with rule 30e-2 is 121 hours per respondent, including an estimated 20 hours associated with the notice requirement for householding and an estimated 1 hour associated with the explanation of the right to revoke consent to householding. The Commission estimates that there are currently approximately 700 UITs.

Therefore, the Commission estimates that the total hour burden is approximately 84,700 hours. In addition to the burden hours, the Commission estimates that the annual cost of contracting for outside services associated with rule 30e-2 is \$20,000 per respondent, for a total annual cost of approximately \$14,000,000.

Estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even representative survey or study of the costs of Commission rules and forms. The collection of information under rule 30e-2 is mandatory. The information provided under rule 30e-2 will not be kept confidential. 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.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information 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. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549; or send an email to: PRA_Mailbox@sec.gov.

Dated: March 2, 2015.

Brent J. Fields,

Secretary.

[FR Doc. 2015-05219 Filed 3-5-15; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-74410; File No. SR-NYSE-2015-09]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Specifying in Exchange Rules the Exchange's Use of Certain Data Feeds for Order Handling and Execution, Order Routing, and Regulatory Compliance

March 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 February 24, 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 specify in Exchange rules the Exchange's use of certain data feeds for order handling and execution, order routing, and regulatory compliance. 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.

¹ 15 U.S.C.78s(b)(1).

² 15 U.S.C. 78a.

³ 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

On June 5, 2014, in a speech entitled "Enhancing Our Market Equity Structure," Mary Jo White, Chair of the Securities and Exchange Commission ("SEC" or the "Commission") requested the equity exchanges to file with the Commission the data feeds used for purposes of (1) order handling and execution (e.g., with pegged or midpoint orders); (2) order routing, and (3) regulatory compliance, if applicable.⁴ Subsequent to the Chair's speech, the Division of Trading and Markets stated that it "believes there is a need for clarity regarding whether (1) the SIP data feeds, (2) proprietary data feeds, or (3) a combination thereof," are used for these purposes and requested that proposed rule changes be filed that disclose such information.⁵ The stated

goal of disclosing this information was to provide broker-dealers and investors with enhanced transparency to better assess the quality of an exchange's execution and routing services.

On July 18, 2014, in response to the above request, the Exchange filed a proposed rule change that clarified the Exchange's use of certain data feeds for order handling and execution, order routing, and regulatory compliance.⁶ As noted in that filing, the data feeds available for the purposes of order handling and execution, order routing, and regulatory compliance at the Exchange include the exclusive securities information processor ("SIP") data feeds.⁷

SEC staff has requested that the Exchange file a supplemental proposed rule change to specify in Exchange rules which data feeds the Exchange uses for the above-described purposes. Accordingly, the Exchange is filing this proposed rule change.

As set forth in its July 2014 Data Feed Filing, the Exchange uses only the SIP data feeds to determine protected quotations on markets other than the Exchange⁸ for purposes of compliance with Rule 611 and Rule 610(d), including identifying where to route ISOs, to calculate the protected best bid or offer ("PBBO") for purposes of order types that are priced based on the PBBO, and to determine the national best bid ("NBB")⁹ for purposes of compliance with Rule 201 of Regulation SHO and Rule 440B.¹⁰ The Exchange notes that when it routes interest to a protected quotation, the Exchange adjusts the PBBO.

The Exchange proposes to add new Supplementary Material .01 to Rule 19, which would state the following:

.01 The Exchange uses the following data feeds for the handling, execution, and routing of orders, as well as for regulatory compliance:

Market center	Primary source	Secondary source
BATS Exchange, Inc.	SIP Data Feed	n/a
BATS Y-Exchange, Inc.	SIP Data Feed	n/a
Chicago Stock Exchange, Inc.	SIP Data Feed	n/a
EDGA Exchange, Inc.	SIP Data Feed	n/a
EDGX Exchange, Inc.	SIP Data Feed	n/a
NASDAQ OMX BX LLC	SIP Data Feed	n/a
NASDAQ OMX PHLX LLC	SIP Data Feed	n/a
NASDAQ Stock Market LLC	SIP Data Feed	n/a
NYSE Arca Equities, Inc.	SIP Data Feed	n/a

The Exchange notes that it does not trade any securities listed on the NYSE MKT LLC.

2. Statutory Basis

The proposed rule change is consistent with section 6(b) of the Securities Exchange Act of 1934 (the "Act"),¹¹ in general, and furthers the objectives of section 6(b)(5),¹² 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 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 Exchange believes that the proposed rule change removes impediments to and perfects the mechanism of a free and open market

because it provides enhanced transparency to better assess the quality of an exchange's execution and routing services.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is not designed to

⁴ See Mary Jo White, Chair, Securities and Exchange Commission, Speech at the Sandler, O'Neill & Partners, L.P. Global Exchange and Brokerage Conference (June 5, 2014) (available at www.sec.gov/News/Speech/Detail/Speech/1370542004312#.U5HI-fmwjiw).

⁵ See Letter from James Burns, Deputy Director, Division of Trading and Markets, Securities and Exchange Commission, to Jeffrey C. Sprecher, Chief Executive Officer, Intercontinental Exchange, Inc., dated June 20, 2014.

⁶ See Securities Exchange Act Release No. 72710 (July 29, 2014), 79 FR 45511 (Aug. 5, 2014) (SR-NYSE-2014-38) ("July 2014 Data Feed Filing").

⁷ The SIP feeds are disseminated pursuant to effective joint-industry plans as required by Rule 603(b) of Regulation NMS. 17 CFR 242.603(b). The three joint-industry plans are: (1) The CTA Plan,

which is operated by the Consolidated Tape Association and disseminates transaction information for securities with the primary listing market on exchanges other than NASDAQ Stock Market LLC ("Nasdaq"); (2) The CQ Plan, which disseminates consolidated quotation information for securities with their primary listing on exchanges other than Nasdaq; and (3) the Nasdaq UTP Plan, which disseminates consolidated transaction and quotation information for securities with their primary listing on Nasdaq.

⁸ The Exchange notes that because the FINRA Alternate Display Facility ("ADF") does not currently display any quotations, the Exchange does not need any data feeds to provide it with ADF quotes.

⁹ The NBBO is defined as the best bid and best offer of an NMS security. 17 CFR 242.600(b)(3). The

Exchange notes that the NBBO may differ from the PBBO because the NBBO includes Manual Quotations, which are defined as any quotation other than an automated quotation. 17 CFR 242.600(b)(37). By contrast, a protected quotation is an automated quotation that is the best bid or offer of a national securities exchange. 17 CFR 242.60(b)(57)(iii).

¹⁰ NYSE Rule 440B(b) requires that Exchange systems not execute or display a short sale order with respect to a covered security at a price that is less than or equal to the current NBB if the price of that security decreases by 10% or more, as determined by the Exchange, from the security's closing price on the Exchange at the end of regular trading hours on the prior day.

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(5).

address any competitive issue but rather would provide the public and investors with information about which data feeds the Exchange uses for execution and routing decisions.

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 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, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act¹³ and Rule 19b-4(f)(6) thereunder.¹⁴

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act¹⁵ normally does not become operative for 30 days after the date of its filing. However, Rule 19b-4(f)(6)(iii)¹⁶ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. 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 stated that waiver of the operative delay will permit the Exchange to immediately provide the enhanced transparency in Exchange rules. The Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.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 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-NYSE-2015-09 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-NYSE-2015-09. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of 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-NYSE-2015-09 and should be submitted on or before *March 27, 2015*.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Brent J. Fields,
Secretary.

[FR Doc. 2015-05164 Filed 3-5-15; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-74402; File No. SR-BYX-2015-12]

Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 11.22 To Update the Names of Certain Market Data Products

March 2, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 18, 2015, BATS Y-Exchange, Inc. (the "Exchange" or "BYX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(6)(iii) thereunder,⁴ which renders it 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

The Exchange filed a proposal to amend Rule 11.22, Data Products, to update the names of certain products to align with recent changes made to the names of the same products in the Exchange's fee schedule.

The text of the proposed rule change is available at the Exchange's Web site at www.batstrading.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

¹⁸ 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)(6)(iii).

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ 17 CFR 240.19b-4(f)(6). As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the 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.

¹⁵ 17 CFR 240.19b-4(f)(6).

¹⁶ 17 CFR 240.19b-4(f)(6)(iii).

¹⁷ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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 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 11.22, Data Products, to update the names of certain products to align with recent changes made to the names of the same products in the Exchange's fee schedule. On February 3, 2015, the Exchange filed a proposed rule change with the Commission that, among other things, amended the Exchange's fee schedule to rename "BZX Exchange PITCH Feed" as the "BZX Depth", "BZX Exchange Top Feed" as "BZX Top", "BZX Exchange Historical TOP" as "BZX Historical Top", and "Historical PITCH" as "Historical Depth." The Exchange now proposes to rename the following data products under Rule 11.22 to align with these changes: (i) "TCP PITCH" under subparagraph (a) would be renamed "TCP Depth"; (ii) "Multicast PITCH" under subparagraph (c) would be renamed "Multicast Depth"; and (iii) "TOP" under subparagraph (d) would be renamed "Top". The Exchange does not propose to amend the content or any other aspect of these market data products.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act⁵ in general, and furthers the objectives of Section 6(b)(5) of the Act⁶ in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the

public interest. The Exchange does not believe that this proposal will permit unfair discrimination among customers, brokers, or dealers because it will apply to all Users. The proposed rule change does not propose to amend the content or any other aspect of these market data products. Rather, it is simply proposes to align the naming convention of the Exchange's market data products across its rules and fee schedule, making the Exchange's rules clearer and less confusing for investors. Therefore, the Exchange believes the proposed rule change removes impediments to and perfects the mechanism of a free and open market and a national market system, and, in general, protects investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposal will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather avoid investor confusion by providing consistency amongst the naming conventions used for the Exchange market data products.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

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 Act⁷ and subparagraph (f)(6) of Rule 19b-4 thereunder.⁸

A proposed rule change filed under Rule 19b-4(f)(6)⁹ normally does not become operative prior to 30 days after

the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁰ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so the Exchange may clarify its rules by making them consistent throughout by reflecting a change in naming conventions used for Exchange market data products. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to provide consistency within their rules and avoid potential investor confusion. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing with the Commission.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-BYX-2015-12 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.

All submissions should refer to File Number SR-BYX-2015-12. This file number should be included on the subject line if email is used. To help the

⁷ 15 U.S.C. 78s(b)(3)(A)(iii).

⁸ 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.

⁹ 17 CFR 240.19b-4(f)(6).

¹⁰ 17 CFR 240.19b-4(f)(6)(iii).

¹¹ For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

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-BYX-2015-12 and should be submitted on or before March 27, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Brent J. Fields,
Secretary.

[FR Doc. 2015-05157 Filed 3-5-15; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

[License No. 07/07-0118]

Notice Seeking Exemption under Section 312 of the Small Business Investment Act, Conflicts of Interest, C3 Capital Partners III, L.P.

Notice is hereby given that C3 Capital Partners III, L.P., 1511 Baltimore Ave., Suite 500, Kansas, MO 64108, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the "Act"), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and 13 CFR 107.730, Financings which Constitute Conflicts of Interest, of the Small Business Administration ("SBA") Rules and Regulations. C3 Capital Partners III, L.P., provided a loan to Green Compass f/k/a Santa Clara

Waste Water Company and California Living Waters, Inc. ("Green Compass"), 2775 North Ventura Road, Suite 209, Oxnard, CA 93036. The financing was contemplated to provide capital that contributes to the growth and overall sound financing of Green Compass.

The financing is brought within the purview of § 107.730(a)(1) because C3 Capital Partners II, L.P., an Associate of C3 Capital Partners III, L.P., as defined in § 107.50, owns a ten percent or greater equity interest in Green Compass. Accordingly, Green Compass is considered an Associate of C3 Capital Partners III, L.P.

Notice is hereby given that any interested person may submit written comments on the transaction to the Associate Administrator, Office of Investment and Innovation, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416.

Dated: February 25, 2015.

Javier E. Saade,

Associate Administrator, Office of Investment and Innovation.

[FR Doc. 2015-05320 Filed 3-5-15; 8:45 am]

BILLING CODE P

DEPARTMENT OF STATE

[Public Notice 9060]

60-Day Notice of Proposed Information Collection: R/PPR Research Surveys

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 *May 5, 2015*.

ADDRESSES: 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-2015-0011" in the Search field. Then click the "Comment Now" button and complete the comment form.
- *Email:* MillerJL4@state.gov.
- *Regular Mail:* Send written comments to: Joshua Miller, U.S.

Department of State, 2200 C Street NW., Washington, DC 20037.

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 Joshua Miller, U.S. Department of State, 2200 C Street NW., Washington, DC 20037, who may be reached on 202-632-3251 or at MillerJL4@state.gov.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* R/PPR Research Surveys.
 - *OMB Control Number:* None.
 - *Type of Request:* New Collection.
 - *Originating Office:* Office of Policy Planning and Resources for the Undersecretary for Public Diplomacy and Public Affairs—R/PPR.
 - *Form Number:* SV-2015-0003.
 - *Respondents:* General populations of select foreign countries.
 - *Estimated Number of Respondents:* 100,000.
 - *Estimated Number of Responses:* 100,000.
 - *Average Time per Response:* 6 minutes.
 - *Total Estimated Burden Time:* 10,000 hours.
 - *Frequency:* Each country will be surveyed on occasion.
 - *Obligation to Respond:* Voluntary.
- 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

Department of State will be surveying the general populations of select foreign

¹² 17 CFR 200.30-3(a)(12).

countries. The data DoS collects will be used internally by DoS to determine how its missions can maximize the impact of their public diplomacy resources: DoS analysts will use the data to produce guidance on how budget, personnel, and other resources that drive USG communications to foreign publics can be used more efficiently and effectively. The U.S. Information and Educational Exchange Act of 1948, the State Department Basic Authorities Act of 1956 (in particular, 22 U.S.C. 2732), and the Mutual Educational and Cultural Exchange Act of 1961 give DoS the legal authority to engage in public diplomacy activities, including this data collection.

Methodology

Surveys will be administered by experienced in-country data collection subcontractors who will also clean and weight the data and then transfer the final data file to Department of State for analysis. Sampling strategies will vary by country/data collection subcontractor, but all surveys will employ a sampling and weighting strategy so that the surveys genuinely represent the general populations in terms of their geographic distribution and their demographic characteristics. For each country, the data should have an aggregate margin of error of no more than $\pm 5\%$ at a 95% level of confidence and should be free of any bias.

Dated: February 26, 2015.

Roxanne Cabral,

Director of Policy and Planning, R/PPR, U.S. Department of State.

[FR Doc. 2015-05235 Filed 3-5-15; 8:45 am]

BILLING CODE 4710-45-P

DEPARTMENT OF STATE

[Public Notice 9059]

Shipping Coordinating Committee Notice of Renewal of Charter

Summary: The Department of State has renewed the Charter for the Shipping Coordinating Committee (SHC) without significant substantive change. Through this Committee, the Department of State will continue to obtain the views and advice of the general public, industry, non-governmental organizations, and interested government agencies in the maritime and related fields, on issues related to maritime security, safety of life at sea, and protection of the marine environment considered by the International Maritime Organization (IMO), and other matters relating to international maritime shipping. The

Under Secretary for Management has determined the Committee is necessary and in the public interest.

The Committee follows the procedures prescribed by the Federal Advisory Committee Act (FACA). Meetings will be open to the public unless a determination is made in accordance with section 10(d) of the FACA and 5 U.S.C. 552b(c) that a meeting or portion of the meeting should be closed to the public. Notice of each meeting will be published in the **Federal Register** at least 15 days prior to the meeting, unless there are extraordinary circumstances that require shorter notice.

For further information, please contact: Commander Marc A. Zlomek, Executive Secretary, Shipping Coordinating Committee, U.S. Department of State, Office of Oceans Affairs, at zlomekma@state.gov or by telephone at 202-647-3946. A copy of the Committee charter may also be obtained by accessing the FACA database maintained by the General Services Administration: <http://fido.gov/facadatabase>.

Dated: February 26, 2015.

Marc A. Zlomek,

Executive Secretary, Shipping Coordinating Committee, Department of State.

[FR Doc. 2015-05225 Filed 3-5-15; 8:45 am]

BILLING CODE 4710-05-P

DEPARTMENT OF STATE

[Delegation of Authority No. 383]

Delegation to the Under Secretary of State for Civilian Security, Democracy, and Human Rights With Respect to Authority Under Section 620M(b) of the Foreign Assistance Act of 1961, as Amended (22 U.S.C. 2378d)

By virtue of the authority vested in the Secretary of State, including the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2151 *et seq.*) (the Act), Executive Order 12163 of September 29, 1979, as amended (44 FR 56673) (the Order), and Section 1 of the Department of State Basic Authorities Act, as amended (22 U.S.C. 2651a), and delegated to the Deputy Secretary pursuant to Delegation of Authority 245-1, I hereby delegate to the Under Secretary of State for Civilian Security, Democracy, and Human Rights, to the extent authorized by law, the function of making determinations and reports under Section 620M(b) of the Act (22 U.S.C. 2378d).

Any act, executive order, regulation or procedure subject to, or affected by, this delegation shall be deemed to be such

act, executive order, regulation or procedure as reenacted or amended from time to time.

Notwithstanding this delegation of authority, the Secretary, the Deputy Secretary, or the Deputy Secretary for Management and Resources may at any time exercise any authority or function delegated by this delegation of authority.

This delegation of authority shall be published in the **Federal Register**.

Dated: February 5, 2015.

Antony Blinken,

Deputy Secretary of State.

[FR Doc. 2015-05286 Filed 3-5-15; 8:45 am]

BILLING CODE 4710-18-P

DEPARTMENT OF STATE

[Public Notice 9057]

International Security Advisory Board (ISAB) Meeting Notice; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App section 10(a)(2), the Department of State announces a meeting of the International Security Advisory Board (ISAB) to take place on April 16, 2015, at the Department of State, Washington, DC.

Pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App section 10(d), and 5 U.S.C. 552b(c)(1), it has been determined that this Board meeting will be closed to the public because the Board will be reviewing and discussing matters properly classified in accordance with Executive Order 13526. The purpose of the ISAB is to provide the Department with a continuing source of independent advice on all aspects of arms control, disarmament, nonproliferation, political-military affairs, international security, and related aspects of public diplomacy. The agenda for this meeting will include classified discussions related to the Board's studies on current U.S. policy and issues regarding arms control, international security, nuclear proliferation, and diplomacy.

For more information, contact Christopher Herrick, Acting Executive Director of the International Security Advisory Board, U.S. Department of State, Washington, DC 20520, telephone: (202) 647-9683.

Dated: February 26, 2015.

Christopher Herrick,

Acting Executive Director, International Security Advisory Board, U.S. Department of State.

[FR Doc. 2015-05237 Filed 3-5-15; 8:45 am]

BILLING CODE 4710-27-P

DEPARTMENT OF STATE**[Delegation of Authority No. 382]****Delegation by the Secretary of State to the Under Secretary of State for Arms Control and International Security With Respect to Authority Under Section 1203 of the Fiscal Year 2014 National Defense Authorization Act**

By virtue of the authority vested in me as Secretary of State, including Section 1 of the State Department Basic Authorities Act and by the Fiscal Year 2014 National Defense Authorization Act, Public Law 113–66 (NDAA), I hereby delegate to the Under Secretary of State for Arms Control and International Security the authority to provide concurrence on Department of Defense security assistance activities pursuant to Section 1203 of the NDAA.

The duties, functions and responsibilities delegated may be re-delegated to the Assistant Secretary of State for Political-Military Affairs. Any act or other authority cited herein is considered to be such act or other authority as amended from time to time.

Notwithstanding this delegation of authority, the Secretary, the Deputy Secretary, or the Under Secretary for Political Affairs may exercise any authority or function delegated herein.

This delegation of authority shall be published in the **Federal Register**.

Dated: January 26, 2015.

John F. Kerry,
Secretary of State.

[FR Doc. 2015–05262 Filed 3–5–15; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE**[Public Notice 9054]****Culturally Significant Objects Imported for Exhibition Determinations: “Russian Modernism: Cross-Currents in German and Russian Art, 1907–1917” Exhibition**

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition “Russian Modernism: Cross-Currents in German

and Russian Art, 1907–1917,” imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owner or custodians. I also determine that the exhibition or display of the exhibit objects at the Neue Galerie, New York, New York, from on or about May 14, 2015, until on or about August 31, 2015, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including lists of the exhibit objects, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6467). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: February 27, 2015.

Kelly Keiderling,
Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State

[FR Doc. 2015–05271 Filed 3–5–15; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE**[Public Notice 9055]****Culturally Significant Objects Imported for Exhibition Determinations: “Drawing in Silver and Gold: Leonardo to Jasper Johns” Exhibition**

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition “**Drawing in Silver and Gold: Leonardo to Jasper Johns**,” imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the **National Gallery of Art**, Washington, DC, from on or about May 5, 2015, until on or about July 26, 2015,

and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including lists of the exhibit objects, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: section2459@state.gov). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Dated: February 27, 2015.

Kelly Keiderling,
Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2015–05274 Filed 3–5–15; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE**[Public Notice 9052]****Culturally Significant Objects Imported for Exhibition Determinations: “Art With Benefits: The Drigung Tradition”**

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition “**Art With Benefits: The Drigung Tradition**,” imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Rubin Museum of Art, New York, New York, from on or about April 24, 2015, until on or about September 7, 2015, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The

mailing address is U.S. Department of State, SA-5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522-0505.

Dated: February 25, 2015.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2015-05267 Filed 3-5-15; 8:45 am]

BILLING CODE 4710-05-P

DEPARTMENT OF STATE

[Public Notice 9053]

Culturally Significant Objects Imported for Exhibition Determinations: “Tête-a-Tête: Three Masterpieces From the Musée d’Orsay”

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236-3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition “Tête-a-Tête: Three Masterpieces from the Musée d’Orsay,” imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Norton Simon Museum of Art, Pasadena, California, from on or about March 26, 2015, until on or about June 22, 2015, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact the Office of the Legal Adviser, U.S. Department of State, SA-5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522-0505.

Dated: February 25, 2015.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2015-05269 Filed 3-5-15; 8:45 am]

BILLING CODE 4710-05-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-2015-09]

Petition for Exemption; Summary of Petition Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public’s awareness of, and participation in, this aspect of FAA’s regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number involved and must be received on or before March 26, 2015.

ADDRESSES: You may send comments identified by Docket Number FAA-2015-0232 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12-140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202-493-2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy: We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT’s complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Docket: To read background documents or comments received, go to

<http://www.regulations.gov> at any time or to the Docket Management Facility in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Mark Forseth, ANM-113, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98057-3356, phone 425-306-7134, email mark.forseth@faa.gov; or Sandra Long, ARM-200, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, phone (202) 493-5245, email sandra.long@faa.gov.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on February 26, 2015.

Brenda D. Courtney,

Acting Director, Office of Rulemaking.

Petition For Exemption

Docket No.: FAA-2015-0232.

Petitioner: Airbus SAS.

Section of 14 CFR Affected: 14 CFR 25.841(a)(2) and (3).

Description of Relief Sought: The petitioner seeks relief from the requirements regarding decompression events due to uncontained engine-rotor failure for Airbus Models A319-171n, A319-151n, A320-271n, A320-251n, A321-271n, and A321-251n, collectively referred to as the Model A320NEO family of aircraft.

[FR Doc. 2015-05332 Filed 3-5-15; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35903]

Eric Bickleman and Robert Lowe—Continuance in Control Exemption—Elizabethtown Industrial Railroad LLC

Eric Bickleman and Robert Lowe (collectively, applicants) have jointly filed a verified notice of exemption pursuant to 49 CFR 1180.2(d)(2) to continue in control of Elizabethtown Industrial Railroad LLC (EZR), upon EZR’s becoming a Class III rail carrier.

This transaction is related to a concurrently filed verified notice of exemption in *Elizabethtown Industrial Railroad—Operation Exemption—Rail Holdings, Inc.*, Docket No. FD 35902, in which EZR seeks Board approval to operate a 1.0-mile line of railroad, known as the Conewago Industrial Track, between the connection with the Norfolk Southern Railway Company’s

main line at milepost 1.0 in Conewago, and milepost 0.0 in West Donegal Township, in Lancaster County, Pa.

This transaction may be consummated on March 20, 2015 (the effective date of this notice).

Applicants currently control one Class III rail carrier, Clinton Terminal Railroad Company, which operates in the State of North Carolina.

Applicants certify that: (1) The rail lines to be operated by EZR do not connect with any other railroads operated by the carriers in the applicants' corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect the rail lines to be operated by EZR with any other railroad in applicants' corporate family; and (3) the transaction does not involve a Class I rail carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here because all of the carriers involved are Class III carriers.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed no later than March 13, 2015 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35903, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on John K. Fiorilla, Capehart & Scatchard, P.A., 8000 Midlantic Drive, Suite 300S, Mount Laurel, NJ 08054.

Board decisions and notices are available on our Web site at WWW.STB.DOT.GOV.

Decided: March 3, 2015.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Brendetta S. Jones,
Clearance Clerk.

[FR Doc. 2015-05208 Filed 3-5-15; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2014-0302]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemptions, request for comments.

SUMMARY: FMCSA announces receipt of applications from 27 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce.

DATES: Comments must be received on or before April 6, 2015. All comments will be investigated by FMCSA. The exemptions will be issued the day after the comment period closes.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA-2014-0302 using any of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- **Mail:** Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.
- **Hand Delivery:** West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- **Fax:** 1-202-493-2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to <http://www.regulations.gov> at any time or

Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: 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, fmcamedical@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. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

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." FMCSA can renew exemptions at the end of each 2-year period. The 27 individuals listed in this notice have each requested such an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

II. Qualifications of Applicants

Joel C. Bailey

Mr. Bailey, 60, has had a macular scar in his left eye since 2007. The visual acuity in his right eye is 20/25, and in his left eye, 20/60. Following an examination in 2014, his ophthalmologist stated, "He has

sufficient vision to perform driving tasks and operate a commercial vehicle with no restrictions." Mr. Bailey reported that he has driven tractor-trailer combinations for 19 years, accumulating 1.9 million miles. He holds a Class A CDL from Florida. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Mackfie Bradley, Jr.

Mr. Bradley, 47, has had macular scarring in his left eye since childhood. The visual acuity in his right eye is 20/40, and in his left eye, counting fingers. Following an examination in 2014, his optometrist stated, "In my medical opinion, Mr. Bradley has sufficient vision to safely operate a commercial vehicle." Mr. Bradley reported that he has driven straight trucks for 8 years, accumulating 2.4 million miles. He holds an operator's license from North Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Justin C. Bruchman

Mr. Bruchman, 31, has had a globe laceration with retinal detachment in his left eye since 2002. The visual acuity in his right eye is 20/20, and in his left eye, light perception. Following an examination in 2014, his optometrist stated, "Through my testing, the patient exhibits sufficient vision to operate a commercial vehicle." Mr. Bruchman reported that he has driven straight trucks for 10 years, accumulating 500,000 miles. He holds an operator's license from Wisconsin. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Bradley J. Compton

Mr. Compton, 52, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2014, his optometrist stated, "In my opinion, he has sufficient enough vision to perform the driving tasks required to operate a commercial vehicle." Mr. Compton reported that he has driven straight trucks for 38 years, accumulating 494,000 miles. He holds a Class A CDL from Idaho. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Anthony C. Curtis

Mr. Curtis, 71, has had enucleation due to cancerous choroid in his left eye since 1996. The visual acuity in his right eye is 20/25, and in his left eye,

no light perception. Following an examination in 2014, his optometrist stated, "In my opinion Mr. Curtis has sufficient stable vision with his right eye to perform the driving tasks [sic] required to operate a commercial vehicle." Mr. Curtis reported that he has driven tractor-trailer combinations for 35 years, accumulating 3.5 million miles. He holds a Class A CDL from Washington. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Douglas S. Dalling

Mr. Dalling, 46, has had Coats' Disease in his right eye since childhood. The visual acuity in his right eye is light perception, and in his left eye, 20/20. Following an examination in 2014, his ophthalmologist stated, "In my medical opinion, Mr. Dalling has sufficient vision in his left eye to perform the driving test required to operate a commercial vehicle." Mr. Dalling reported that he has driven straight trucks for 16 years, accumulating 576,000 miles. He holds a Class B CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Lloyd A. Dornbusch

Mr. Dornbusch, 68, has had macular degeneration in his left eye since 2002. The visual acuity in his right eye is 20/20, and in his left eye, 20/150. Following an examination in 2014, his optometrist stated, "I certify that in my opinion Mr. Dornbusch has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Dornbusch reported that he has driven tractor-trailer combinations for 48 years, accumulating 2.4 million miles. He holds a Class A CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Randall R. Drake

Mr. Drake, 53, has had alternating esotropia in his left eye since childhood. The visual acuity in his right eye is 20/30, and in his left eye, 20/200. Following an examination in 2014, his optometrist stated, "He has a stable decrease in vision with a vision of 20/30 in the right eye and 20/200 in the left eye. . . . He does have an ability to recognize traffic control signals and has not shown a noted decrease in his ability to operate a commercial vehicle." Mr. Drake reported that he has driven straight trucks for 38 years, accumulating 380,000 miles, tractor-

trailer combinations for 30 years, accumulating 300,000 miles, and buses for five years, accumulating 50,000 miles. He holds a Class C CDL from California. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Paul E. Emmons

Mr. Emmons, 62, has had optic nerve atrophy in his right eye since childhood. The visual acuity in his right eye is 20/400, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, "In my opinion he has sufficient vision to operate commercial vehicles." Mr. Emmons reported that he has driven straight trucks for 40 years, accumulating 1.2 million miles. He holds a Class B CDL from Rhode Island. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Thomas P. Fitzsimmons Jr.

Mr. Fitzsimmons, 51, has had esotropia and amblyopia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2014, his optometrist stated, "In summary, Mr. Fitzsimmons has sufficient vision to operate a commercial vehicle." Mr. Fitzsimmons reported that he has driven straight trucks for 18 years, accumulating 396,000 miles. He holds an operator's license from North Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Steve L. Frisby

Mr. Frisby, 56, has had a retinal detachment in his right eye since 2004. The visual acuity in his right eye is 20/400, and in his left eye, 20/25. Following an examination in 2014, his optometrist stated, "It is my opinion that Mr. Frisby has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Frisby reported that he has driven straight trucks for 35 years, accumulating 4.38 million miles, and tractor-trailer combinations for 35 years, accumulating 4.38 million miles. He holds a Class A CDL from California. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Daryl G. Gibson

Mr. Gibson, 45, has had a degenerated optic nerve in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, light

perception. Following an examination in 2014, his optometrist stated, "Vision is acceptable for driving a commercial vehicle." Mr. Gibson reported that he has driven straight trucks for 3 years, accumulating 6,000 miles, and tractor-trailer combinations for 17 years, accumulating 340,000 miles. He holds a Class A CDL from Florida. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV; he failed to yield to a traffic signal.

Mark J. Goodrich

Mr. Goodrich, 48, has had refractive amblyopia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/70. Following an examination in 2014, his optometrist stated, "Pt [sic] meets minimum standards of vision to safely drive a commercial vehicle." Mr. Goodrich reported that he has driven straight trucks for 31 years, accumulating 186,000 miles. He holds an operator's license from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Ramon L. Green

Mr. Green, 45, has retinal scarring in his left eye due to a traumatic incident in 2003. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2014, his optometrist stated, "I [sic] is my medical opinion that Mr. Green has sufficient visual acuity and visual field to operate a commercial vehicle." Mr. Green reported that he has driven straight trucks for 21 years, accumulating 1.89 million miles, and tractor-trailer combinations for 21 years, accumulating 2.63 million miles. He holds a Class A CDL from Louisiana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Carl E. Hess

Mr. Hess, 61, has had a full-thickness macular hole in his left eye since 2010. The visual acuity in his right eye is 20/30, and in his left eye, 20/50. Following an examination in 2014, his ophthalmologist stated, "US Department of Transportation Federal Vision Exemption Program . . . In my medical opinion, I do believe he has sufficient vision to perform the required driving tasks." Mr. Hess reported that he has driven straight trucks for 41 years, accumulating 307,500 miles, and tractor-trailer combinations for 13 years, accumulating 1.3 million miles. He holds a Class AM CDL from Pennsylvania. His driving record for the

last 3 years shows no crashes and no convictions for moving violations in a CMV.

Mark E. Jeans

Mr. Jeans, 35, has had Behcet's panuveities, primary open angle glaucoma, and a retinal detachment in his right eye since 2005. The visual acuity in his right eye is light perception, and in his left eye, 20/20. Following an examination in 2014, his ophthalmologist stated, "In our medical opinion, Mr. Jeans has sufficient vision to operate a commercial vehicle." Mr. Jeans reported that he has driven straight trucks for one year, accumulating 11,000 miles, and buses for 13 years, accumulating 2.15 million miles. He holds a Class B CDL from Oklahoma. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Chad Kauffman

Mr. Kauffman, 26, has enucleation in his right eye due to a traumatic incident during childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2015, his optometrist stated, "In my medical opinion I do believe he has adapted to monocular vision very well and does meet the requirements necessary to operate a commercial vehicle." Mr. Kauffman reported that he has driven straight trucks for 4 years, accumulating 4,000 miles. He holds an operator's license from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Scottie W. Lewis

Mr. Lewis, 42, has had band keratopathy and keratectomy in his right eye since childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, "Patient has normal 20/20 Vision with full visual field in his left eye sufficient to operate a commercial motor vehicle." Mr. Lewis reported that he has driven straight trucks for 23 years, accumulating 112,700 miles. He holds a Class A CDL from Georgia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

David S. Mayo

Mr. Mayo, 46, has had refractive amblyopia in his right eye since 2005. The visual acuity in his right eye is 20/200, and in his left eye, 20/25. Following an examination in 2015, his

optometrist stated, "pt [sic] reports that need testing done for commercial license . . . h/o [sic] refractive amblyopia OD since 2005 when pt [sic] was first seen here . . . Patient drivesDriving [sic] Difficulties: none . . . Fields: Full with no restrictions OU." Mr. Mayo reported that he has driven straight trucks for 10 years, accumulating one million miles, and tractor-trailer combinations for 10 years, accumulating one million miles. He holds a Class A CDL from Virginia. His driving record for the last 3 years shows one crash, to which he did not contribute and was not cited, and no convictions for moving violations in a CMV.

Ross E. McCleary

Mr. McCleary, 38, has optic nerve compression in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2014, his optometrist stated, "I certify that because of the stability of the visual condition, which has been long standing, he has sufficient vision to perform the driving task required to operate a commercial vehicle."

Mr. McCleary reported that he has driven straight trucks for 4 years, accumulating 100,000 miles. He holds a Class A CDL from Nebraska. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Alex D. McCrady

Mr. McCrady, 27, has complete loss of vision in his left eye due to a traumatic incident in 2004. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2014, his ophthalmologist stated, "I believe he has sufficient vision to perform the driving tasks required [sic] to operate a commercial vehicle." Mr. McCrady reported that he has driven straight trucks for six years, accumulating 300,000 miles, and tractor-trailer combinations for four months, accumulating 5,000 miles. He holds a Class AMC CDL from New Hampshire. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Stacy L. Michael

Mr. Michael, 48, has had amblyopia in his right eye since birth. The visual acuity in his right eye is 20/80, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, "In my medical opinion Stacy Michael has sufficient vision to perform the driving tasks required to operate a

commercial vehicle.” Mr. Michael reported that he has driven straight trucks for 27 years, accumulating 81,000 miles, and tractor-trailer combinations for 27 years, accumulating 189,000 miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Charles A. Morgan

Mr. Morgan, 75, has had a retinal vascular occlusion in his right eye since 2009. The visual acuity in his right eye is 20/100, and in his left eye, 20/25. Following an examination in 2014, his optometrist stated, “Mr. Morgan appears to have sufficient vision to perform the driving tasks required to operate a commercial vehicle.”

Mr. Morgan reported that he has driven buses for 50 years, accumulating 500,000 miles. He holds a Class B CDL from North Carolina. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Paul C. Swanson

Mr. Swanson, 56, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/150, and in his left eye, 20/25. Following an examination in 2014, his ophthalmologist stated, “Patient has sufficient vision to operate a commercial vehicle without restriction.” Mr. Swanson reported that he has driven straight trucks for 33 years, accumulating 1.05 million miles. He holds a Class B CDL from Illinois. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV; he exceeded the speed limit by 15 MPH.

Terrance W. Temple

Mr. Temple, 58, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/100, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, “In my opinion, he has sufficient vision to drive a commercial vehicle.” Mr. Temple reported that he has driven straight trucks for 40 years, accumulating 624,000 miles. He holds a Class B CDL from Ohio. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Rick A. Tucker

Mr. Tucker, 60, has had a retinal detachment in his left eye since 2001. The visual acuity in his right eye is 20/30, and in his left eye, 20/200. Following an examination in 2014, his

optometrist stated, “Mr. Tucker’s visual abilities are adequate to perform the driving tasks required to operate a commercial vehicle.” Mr. Tucker reported that he has driven straight trucks for 15 years, accumulating 750,000 miles, and tractor-trailer combinations for 15 years, accumulating 750,000 miles. He holds a Class A CDL from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Jason R. White

Mr. White, 32, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/50, and in his left eye, 20/20. Following an examination in 2014, his optometrist stated, “I found no reason to believe he does not have sufficient vision to perform the driving tasks required to operate a commercial vehicle.” Mr. White reported that he has driven straight trucks for 6.5 years, accumulating 243,750 miles. He holds an operator’s license from Ohio. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

III. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online 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 the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov> and put the docket number FMCSA–2014–0302 in the “Keyword” box, and click “Search”. When the new screen appears, click on “Comment Now!” button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. 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.

FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov> and insert the docket number FMCSA–2014–0302 in the “Keyword” box and click “Search.” Next, click “Open Docket Folder” button and choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Issued On: February 26, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015–05236 Filed 3–5–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0021]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 7 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective April 4, 2015. Comments must be received on or before April 6, 2015.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2013–0021], using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

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

- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to <http://www.regulations.gov>, including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to <http://www.regulations.gov> at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: 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 renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds “such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.” The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

II. Exemption Decision

This notice addresses 7 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 7 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Michael L. Bergman (KS)
Efrain Gonzalez (UT)
Shane Holum (OR)
Daryl W. Morris (MO)
Daniel E. Nestel (IN)
Thomas G. Normington (WY)
Thomas L. Terrell (IA)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist’s or optometrist’s report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver’s qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

III. Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 7 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (78 FR 10251; 78 FR 20379). Each of these 7 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver’s ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

IV. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2013–0021), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online 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 the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov> and put the docket number, “FMCSA–2013–0021” in the “Keyword” box, and click “Search.” When the new screen appears, click on “Comment Now!” button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. 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. FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov> and in the search box insert the docket number, "FMCSA-2013-0021" in the "Keyword" box and click "Search." Next, click "Open Docket Folder" button choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Dated: March 2, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015-05198 Filed 3-5-15; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Submission Deadline for Schedule Information for Los Angeles International Airport for the Summer 2015 Scheduling Season

AGENCY: Department of Transportation, Federal Aviation Administration (FAA).

ACTION: Notice of submission deadline.

SUMMARY: Los Angeles World Airports (LAWA) has planned runway resurfacing and Runway Safety Area (RSA) construction at Los Angeles International Airport (LAX) beginning in March of 2015 until mid-2018. During this timeframe, a runway will be either shortened or closed, which could increase delays throughout much of the period of construction. In response to the varying capacity changes and forecasted scheduled demand over the duration of the project, the FAA announces the designation of LAX as a Level 2 airport under International Air Transport Association (IATA) Worldwide Slot Guidelines effective

June 28, 2015. The focus hours are daily from 0600 through 2259 local time (1300-0559 UTC). The deadline for carriers to submit schedule information for the later part of the Summer 2015 scheduling season (June 28 through October 24, 2015) is March 20, 2015. The submission deadline for the Winter 2015 scheduling season will be May 21, 2015, which coincides with the IATA submission deadline. The FAA intends for the Level 2 designation to be temporary and does not anticipate this designation to extend beyond the completion date of construction.

DATES: Schedules must be submitted no later than March 20, 2015.

ADDRESSES: Schedules may be submitted by mail to the Slot Administration Office, AGC-200, Office of the Chief Counsel, 800 Independence Ave. SW., Washington, DC 20591; facsimile: 202-267-7277; or by email to: 7-AWA-slotadmin@faa.gov.

FOR FURTHER INFORMATION CONTACT:

Susan Pfingstler, System Operations Services, Air Traffic Organization, Federal Aviation Administration, 600 Independence Avenue SW., Washington, DC 20591; telephone number: 202-267-6462; email: susan.pfingstler@faa.gov.

SUPPLEMENTARY INFORMATION: IATA guidelines state that a Level 2 airport is one where there is the potential for congestion during some periods of the day, week or season, which can be resolved by schedule adjustments mutually agreed between airlines and the facilitator. The FAA has determined that LAX should be designated as Level 2 based on projected capacity reductions and operational delays that are anticipated during the upcoming periods of runway construction. This construction is expected to occur in phases from March 2015 through mid-2018. LAWA plans runway closures or shortened runway lengths for resurfacing, construction of runway safety areas, and other airfield projects for all four runways. LAWA's current proposal indicates that only one runway would be closed or shortened at a time. LAWA projects that Runway 7R/25L will be closed for 33 days in March/April 2015. Runway 6L/24R would close from late June to October 2015. Runway 6R/24L would be shortened beginning December 2015 for ten months. Runway 7L/25R would be shortened for four months beginning October 2016 followed by a four month closure until spring 2017. Runway 7R/25L would close in January 2018 for five months. Specific projects and dates will be determined and announced by LAWA.

LAWA, the FAA, and stakeholders meet regularly to review construction plans, identify ways to improve airport and airspace efficiency, and mitigate construction impacts whenever possible. These and other collaborative efforts will continue to improve and manage operations as efficiently as possible; however, runway capacity and surface operations will be impacted during construction. The specific operational and delay impacts have not been definitively determined for each construction phase and will depend on the final project details, available runways, taxiways, and other operational factors. Surface operations will become more complex during construction and affect taxi times, terminal/gate area operations, and aircraft staging. FAA Design Group VI Aircraft operations present additional challenges. LAX currently has more scheduled Group VI Aircraft operations than any other U.S. airport with more operations planned in summer 2015. Operational restrictions for Group VI Aircraft include additional aircraft separation, runway selection, and taxi constraints.

The FAA recognizes that many summer schedules have been completed or are approaching the final planning stages. The initial schedules published for August 2015 are slightly above the August 2014 schedules. While some carriers have reduced operations compared to last summer, other carriers have increased flights. The FAA modeled delays for the March to early April closure of Runway 7R/25L and the late June to October closure of Runway 6L/24R. Modeling suggests moderate delays for the March/April closure and more extensive delays during the peak July and August months. These projections are based on published schedules and historic unscheduled traffic and projected capacity during the 2015 closures. Capacity rates are expected to be reduced by approximately 25%, decreasing hourly arrivals and departures from about 138 to 104 in visual meteorological conditions. The FAA is continuing to look at potential ways to increase runway throughput during construction and improve operations given the constraints. The FAA, LAWA, operators, and other affected parties expect to improve their operational planning for future construction phases based on the experiences during the March/April closure.

The FAA considered whether it would be optimal to begin the Level 2 review during the Winter 2015 scheduling season. Winter schedules are in earlier stages of development and

present more opportunities for carriers to plan flights during less congested times. However, an earlier designation in summer rather than waiting until the next construction phase provides an opportunity for the FAA to facilitate modest positive schedule moves during peak demand season at LAX, discourage moves into peak periods that might increase congestion, and alert carriers thorough the IATA WSG process that there is a potential for congestion.

Schedule review under Level 2 alone will not resolve the congestion and delays resulting from demand that may exceed capacity. Rather, we expect that delays may be reduced as the FAA and carriers consider the potential impacts of new or retimed flights in peak periods. The success of Level 2 relies on voluntary cooperation by carriers to maintain a reasonable balance between capacity and demand. Carriers should recognize the operational constraints during construction and the potential for lengthy delays, carrier network impacts, flight cancellations, and consumer disruption if planned schedules significantly exceed capacity. The FAA does not expect to confirm, under the Level 2 process, new peak hour flights beyond those published as of the date of this notice.

Accordingly, effective June 28, 2015, the FAA designates LAX as a Level 2 airport daily between the hours of 0600 and 2259 local time (1300 and 0559 UTC) but carriers may submit schedule information for the full day, if preferred. Carriers should submit to the FAA schedule information for all planned operations no later than March 20, 2015. The FAA will reply to carrier schedule submissions within two weeks of the deadline. For future scheduling seasons, the FAA intends to follow the IATA WSG regular slot activity calendar. Runway capacity estimates for the Winter 2015 scheduling season are expected in the spring and will be reviewed during regular meetings with LAWA and stakeholders.

Carriers should submit schedule information in sufficient detail including, at a minimum, the carrier, flight number, scheduled time of arrival or departure, half-hour period, frequency, and effective dates. IATA standard schedule information format and data elements (Standard Schedules Information Manual, Chapter 6) may be submitted and would provide additional information that could be beneficial in assessing operational impacts.

LAX is designated by LAWA as Level 2 for flights at the Tom Bradley International Terminal (TBIT). This notice does not replace that process, which is done separately by LAWA

based on terminal constraints. Schedule submissions and discussions with LAWA will continue in addition to FAA's review for runway impacts as described in this notice. Carriers operating at TBIT may copy both LAWA and the FAA on schedule messages.

Finally, the FAA expects that the Level 2 designation will allow all interested parties an opportunity to address any imbalance between demand and capacity, and work cooperatively to reduce delays. The FAA supports the Level 2 process as a preferred and viable alternative to full slot coordination under Level 3 or other administrative actions to address congestion during the runway and RSA construction. Since LAX does not have a history of significant delays and capacity is generally sufficient to meet demand, the FAA anticipates continuing its Level 2 designation only for the planned construction period that is expected to end in 2018. However, the FAA will review the Level 2 designation, at a minimum, in advance of each scheduling season and consider further action as may be necessary if operational data indicates that congestion cannot be mitigated effectively under the Level 2 designation.

Issued in Washington, DC, on March 3, 2015.

Daniel E. Smiley,

Acting Vice President, System Operations Services.

[FR Doc. 2015-05207 Filed 3-5-15; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2000-7918; FMCSA-2002-12844; FMCSA-2004-19477; FMCSA-2005-20027; FMCSA-2010-0385; FMCSA-2010-0413]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 11 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these

exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective April 1, 2015. Comments must be received on or before April 6, 2015.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA-2000-7918; FMCSA-2002-12844; FMCSA-2004-19477; FMCSA-2005-20027; FMCSA-2010-0385; FMCSA-2010-0413], using any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

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

- Hand Delivery or Courier: West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

- Fax: 1-202-493-2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to <http://www.regulations.gov>, including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to <http://www.regulations.gov> at any time or Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: 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 renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds “such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.” The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

II. Exemption Decision

This notice addresses 11 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 11 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Michael L. Ballantyne (MO)
David F. Breuer (WI)
Joseph A. Dean (AR)
Kenneth L. Handy (IA)
Daniel L. Jacobs (AZ)
Jimmy C. Killian (NC)
Jose M. Limon-Alvarado (WA)
Joe L. Meredith, Jr. (VA)
John W. Montgomery (MA)
Robert A. Moss (MO)
Artis Suitt (NC)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a

copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

III. Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 11 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (65 FR 66286; 66 FR 13825; 67 FR 68719; 68 FR 2629; 68 FR 13360; 69 FR 64806; 70 FR 2701; 70 FR 2705; 70 FR 12265; 70 FR 16887; 72 FR 1056; 72 FR 11425; 72 FR 11426; 73 FR 76440; 74 FR 8302; 74 FR 8842; 75 FR 77942; 75 FR 80887; 76 FR 1493; 76 FR 5425; 76 FR 12215; 76 FR 12216; 76 FR 12408; 78 FR 10250; 78 FR 12822; 78 FR 14410). Each of these 11 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

IV. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA-2000-7918; FMCSA-2002-12844; FMCSA-2004-19477;

FMCSA-2005-20027; FMCSA-2010-0385; FMCSA-2010-0413), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online 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 the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov> and put the docket number, “FMCSA-2000-7918; FMCSA-2002-12844; FMCSA-2004-19477; FMCSA-2005-20027; FMCSA-2010-0385; FMCSA-2010-0413” in the “Keyword” box, and click “Search.” When the new screen appears, click on “Comment Now!” button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. 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. FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov> and in the search box insert the docket number, “FMCSA-2000-7918; FMCSA-2002-12844; FMCSA-2004-19477; FMCSA-2005-20027; FMCSA-2010-0385; FMCSA-2010-0413” in the “Keyword” box and click “Search.” Next, click “Open Docket Folder” button choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Issued on: March 2, 2015.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2015-05244 Filed 3-5-15; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION**Maritime Administration****[Docket No. MARAD 2015–0022]****Use of Foreign-Flag Anchor Handling Vessels in the Beaufort Sea or Chukchi Sea Adjacent to Alaska****AGENCY:** Maritime Administration, Department of Transportation.**ACTION:** Notice and request for comments.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration, is authorized to make determinations permitting the use of foreign-flag anchor handling vessels in certain cases (and for a limited period of time) if no U.S.-flag vessels are found to be suitable and reasonably available.

A request for such a determination regarding anchor handling vessels with a minimum ice class A3 has been received by the Maritime Administration. If the Maritime Administration determines that U.S.-flag vessels are not suitable and reasonably available for the proposed service, a determination will be granted allowing for the conditional use of these vessels, within a set time frame. Those interested in providing the names of suitable and available vessels for the proposed service should refer to the docket number, and identify the U.S.-flag vessels available.

DATES: Submit U.S.-flag anchor handling ice class A3 or above vessel nominations on or before April 6, 2015.

ADDRESSES: U.S.-flag vessel nominations should refer to docket number MARAD 2015–0022. Written nominations may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30 West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. You may also send documents electronically via the Internet at <http://www.regulations.gov>. To do so, search “MARAD 2015–0022” and follow the instructions for submitting comments.

All submissions will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document, and all documents entered into this docket, is available on the World Wide Web at <http://www.regulations.gov>, key search “MARAD 2015–0022.” All comments and documents received will be posted

without change to the docket, including any personal or business information provided. For additional information on the availability of submitted material, see the section entitled Privacy Act.

FOR FURTHER INFORMATION CONTACT: You may contact Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR–730 Room W21–304, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone 202–366–0760.

SUPPLEMENTARY INFORMATION: The Maritime Administration has received a request from a company seeking permission to charter a foreign-flag ice-classed A3 anchor handling vessel adjacent to the coast of Alaska. The foreign-flag anchor handling vessel (TOR VIKING II 9199622) would operate in the Beaufort Sea or Chukchi Sea adjacent to Alaska, under certain conditions, and for a limited period of time. Section 306 of Public Law 111–281 allows the use of foreign-flag vessels in this regard if the Maritime Administration determines that U.S.-flag vessels are not suitable or reasonably available.

The Maritime Administration is posting this notice in the **Federal Register** providing the public notice 30 days in advance of our intention to provide a determination allowing for the use of a foreign-flag vessel in this regard, if suitable and available U.S.-flag vessels are not otherwise identified. Our determination will be for a period of one calendar year from July 2015. Foreign-flag anchor handling vessels may not be employed for the setting, relocation or recovery of anchors or other mooring equipment of a mobile offshore drilling unit after December 31, 2017.

Privacy Act

Anyone is able to search the electronic form of all comments and supporting documentation received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT Privacy Act system of records notice for the Federal Docket Management System (FDMS) in the **Federal Register** published on January 17, 2008, (73 FR 3316) at <http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf>.

Authority: Section 306, Pub. L. 111–281 (Oct. 15, 2010).

By Order of the Maritime Administrator.

Dated: March 3, 2015.

Thomas M. Hudson, Jr.,

Assistant Secretary, Maritime Administration.

[FR Doc. 2015–05226 Filed 3–5–15; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION**Surface Transportation Board****[Docket No. FD 35902]****Elizabethtown Industrial Railroad LLC—Operation Exemption—Rail Holdings, Inc.**

Elizabethtown Industrial Railroad LLC (EZR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to operate a 1.0-mile line of railroad, known as the Conewago Industrial Track, between the connection with the Norfolk Southern Railway Company’s (NS) main line at milepost 1.0 in Conewago, and milepost 0.0 in West Donegal Township, in Lancaster County Pa., (the Line), pursuant to an operating agreement with Rail Holdings, Inc. (RH), the owner of the Line.¹

This transaction is related to a concurrently filed verified notice of exemption in *Eric Bickleman & Robert Lowe—Continuance in Control Exemption—Elizabethtown Industrial Railroad*, Docket No. FD 35903, in which Eric Bickleman and Robert Lowe seek Board approval to continue in control of Elizabethtown Industrial Railroad LLC under 49 CFR 1180.2(d)(2), upon EZR’s becoming a Class III rail carrier.

EZR states that it will provide common carrier freight service over the Line pursuant to an operating agreement it is negotiating with RH.² EZR states that the operating agreement between EZR and RH does not contain any provision or agreement which would limit future interchange of traffic with any third-party connecting carrier. EZR also states that it intends to interchange traffic with NS at Conewago.

EZR certifies that its projected annual revenues as a result of this transaction

¹ According to EZR, RH purchased the Line from Conewago Industrial Track, Inc. (Conewago) in September 2014. RH and Conewago, both are noncarriers.

² Once EZR enters into the agreement, it should submit the agreement into the record in this proceeding in order to provide sufficient information and documentation for the Board to determine whether the owner-lessor can exert undue control over the lessee-carrier’s operations. See *Anthony Macrie—Continuance in Control Exemption—N.J. Seashore Lines, Inc.*, FD 35296, slip op at 3 (STB served Aug. 31, 2010); *N. Shore R.R.—Acquis & Operation Exemption—PPL Susquehanna, LLC*, FD 35377, slip op. at 3 (STB served Apr. 26, 2011).

will not result in the creation a Class I or Class II rail carrier and will not exceed \$5 million.

The transaction may be consummated on or after March 20, 2015, the effective date of the exemption (30 days after the verified notice of exemption was filed).

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than March 13, 2015 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35902, must be filed with Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on John K. Fiorilla, Capehart & Scatchard, P.A., 8000 Midlantic Drive, Suite 300S, Mount Laurel, NJ 08054.

Board decisions and notices are available on our Web site at www.stb.dot.gov.

Decided: March 3, 2015.

By the Board, Rachel D. Campbell,
Director, Office of Proceedings.

Brendetta S. Jones,
Clearance Clerk.

[FR Doc. 2015-05212 Filed 3-5-15; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Contracting Initiative

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

ACTION: Notice.

SUMMARY: The DOT is announcing an initiative to permit, on an experimental basis, Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) recipients and subrecipients to utilize various contracting requirements that generally have been disallowed due to concerns about adverse impacts on competition. This initiative will be carried out as a pilot program for a period of 1 year (unless extended) under the FHWA and FTA's existing authorities. The purpose of this pilot program is to determine whether the use of such requirements "unduly limit competition," as provided in an August 23, 2013, opinion from the Department of Justice's Office of Legal Counsel (OLC). Should DOT

find that such restrictions do not unduly limit competition, DOT may provide further guidance regarding their use.

DATES: This pilot program is effective March 6, 2015.

FOR FURTHER INFORMATION CONTACT: For technical information: Mr. Michael Harkins, Deputy Assistant General Counsel for General Law, Office, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, 202-366-0590 (telephone), Michael.Harkins@dot.gov (email).

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may also be downloaded from the Office of the Federal Register's home page at http://www.archives.gov/federal_register and the Government Publishing Office's Web page at <http://www.gpoaccess.gov>.

Background

Interpretation of Competition Mandate

Traditionally, DOT has prohibited its recipients and subrecipients from using certain contracting provisions that do not directly relate to the bidder's performance of work in a competent and responsible manner. An example of such provisions includes local and other geographic-based labor hiring preferences. The DOT's position was reinforced by a 1986 opinion of the OLC, which concluded that 23 U.S.C. 112 ("section 112") obligated the Secretary of Transportation to withhold Federal funding from highway construction contracts that were subject to a New York City law imposing disadvantages on a class of responsible bidders, where the city failed to demonstrate that its departure from competitive bidding requirements was justified by considerations of cost-effectiveness. *See Compatibility of New York City Local Law 19 with Federal Highway Act Competitive Bidding Requirements*, 10 Op. O.L.C. 101 (1986).

However, in August 2013, at DOT's request, the OLC provided DOT with a memorandum opinion, clarifying its 1986 opinion on section 112. *See Competitive Bidding Requirements Under the Federal-Aid Highway Program*, 23 U.S.C. 112, (Aug. 23, 2013) ("2013 opinion"). The 2013 opinion is available at <http://www.justice.gov/olc/opinions>. The 2013 opinion clarifies that section 112 does not compel the DOT's position with respect to contracting requirements that do not directly relate to the bidder's performance of work, but rather provides the Secretary with discretion to permit other types of state or local

requirements as long as they do not "unduly limit competition."¹

The 2013 opinion explains that competition would not be unduly limited by "[a] state or local requirement that has only an incidental effect on the pool of potential bidders or that imposes reasonable requirements related to the performance of the necessary work. . . ." 2013 opinion at 2. In contrast, "a requirement that has more than an incidental effect on the pool of potential bidders and does not relate to the work's performance would unduly limit competition unless it promotes the efficient and effective use of federal funds." *Id.* at 2-3. In assessing whether a requirement does promote the efficient and effective use of federal funds, the agency "may take into account whether the requirement promotes such efficiency in connection with the letting of a particular contract and also whether it more generally furthers the efficient and effective use of federal funds in the long run or protects the integrity of the competitive bidding process itself." *Id.* at 3. So long as a state or local requirement serves these purposes, "the Administrator may reasonably determine, consistent with section 112, that the requirement does not unduly limit competition, even if it may have the effect of reducing the number of eligible bidders for a particular contract." *Id.*

Thus, DOT retains discretion under the statute to evaluate whether a particular State or local law or policy that has more than an incidental effect on the pool of potential bidders is nonetheless compatible with section 112(b)(1)'s competitive bidding requirement. The process used to evaluate whether state and local requirements satisfy section 112 also is a matter of agency discretion. *Id.* at 17-18 ("It is for FHWA and DOT to determine the regulatory approach the agency should take in exercising this discretion and in evaluating whether certain state and local requirements are consistent with [section 112's] statutory mandates. . . .").

Experimental Authority

In 1988, a Transportation Research Board (TRB) task force, comprised of representatives from all segments of the highway industry, was formed to evaluate Innovative Contracting Practices. This TRB task force requested

¹ While the 2013 opinion was specific to section 112, which only applies to highway projects, it also is relevant in interpreting and implementing FTA's statutory mandate under 49 U.S.C. 5325(a) that broadly requires full and open competition in the award of contracts utilizing financial assistance from the FTA.

that the FHWA establish a project to evaluate and validate certain findings of the task force regarding innovative contracting practices, which are documented in Transportation Research Circular Number 386, titled, "Innovative Contracting Practices," dated December 1991. In response, the FHWA initiated Special Experimental Project No. 14 (SEP-14) pursuant to the authority granted to the Secretary, which now is codified at 23 U.S.C. 502. The SEP-14 program strives to identify, evaluate, and document innovative contracting practices that have the potential to reduce the life cycle cost of projects, while at the same time, maintain product quality. Under SEP-14, the FHWA has the flexibility to experiment with innovative approaches to contracting.

The innovative practices originally approved for evaluation under SEP-14 were: Cost-plus-time bidding, lane rental, design-build contracting, and warranty clauses. Forty-one States have used at least one of the innovative practices under SEP-14. Based on their collective experiences, FHWA decided that cost-plus-time bidding, lane rental, and warranty clauses were techniques suitable for use as non-experimental, operational practices and in 1995 these were made regular Federal-aid procedures. Design-build contracting in the Federal-aid highway program was conducted under SEP-14 until Congress modified section 112 in section 1307 of the Transportation Equity Act for the 21st Century to permanently authorize the use of this contracting method. Additionally, the construction manager/general contractor method of contracting in the Federal-aid highway program was originally conducted under SEP-14 until Congress modified section 112 in section 1303 of the Moving Ahead for Progress in the 21st Century Act to permanently authorize the use of this contracting method. The SEP-14 program continues to be used to test and evaluate experimental contracting practices.

Also, the FTA has authority under 49 U.S.C. 5312 to carry out research, development, demonstration, and deployment projects that will improve public transportation. Additionally, 49 U.S.C. 5314 authorizes FTA to carry out activities that will assist recipients of assistance to administer funds received under Chapter 53 in compliance with Federal law, including the development of voluntary and consensus-based standards and best practices by the public transportation industry, including standards and best practices for procurement.

Pilot Program

The DOT is interested in permitting State and local recipients of Federal financial assistance to utilize contracting requirements that traditionally have been prohibited on the basis that they would restrict competition by not directly relating to the bidder's performance of work. Thus, DOT is establishing a pilot program under the existing authorities of the FHWA and FTA grant programs. The objective of this pilot program is to enable DOT to determine which requirements may be used consistently with the 2013 OLC opinion by promoting efficiency in connection with the letting of a particular contract, furthering the efficient and effective use of federal funds in the long run, or protecting the integrity of the competitive bidding process.

In particular, with respect to procurements for which FHWA or FTA funds will be used, recipients and subrecipients may request those agencies to permit the use of a particular contracting requirement that otherwise may be found to be inconsistent with the general requirement for full and open competition. DOT is particularly interested in contracts for which recipients and subrecipients wish to utilize a local or other geographic labor hiring preferences, economic-based labor hiring preferences (*i.e.*, low-income workers), and labor hiring preferences for veterans² because, in the DOT's view, such requirements can promote Ladders of Opportunity by ensuring that disadvantaged workers in the communities in which the projects are located benefit from the economic opportunities such projects present. DOT, however, will not approve projects for which recipients wish to alter the requirements of the Disadvantaged Business Enterprise Program.

This pilot program will be carried out for a period of 1 year from the date of publication of this notice. As such, DOT is only interested in contracts that will be advertised during this time frame. For any such contracts, the DOT will monitor and evaluate whether contracting requirements that traditionally have been prohibited on the basis that they would restrict competition by not directly relating to the bidder's performance of work have an undue restriction on competition. While DOT's current plan is to conduct this pilot program for 1 year, DOT

² See also 23 U.S.C. 114(d), which requires recipients, to the extent practicable, to encourage contractors to make a best faith effort to hire veterans on Federal-aid highway projects.

reserves the right to extend this time period at its discretion.

FHWA

For contracts to be funded by FHWA, State and local recipients and subrecipients must request prior approval from the FHWA to use a specific contracting requirement under SEP-14. In order to receive SEP-14 approval, States and local recipients and subrecipients would follow the normal process that includes submitting work plans to the appropriate FHWA division office. For more information on the SEP-14 process, please see: http://www.fhwa.dot.gov/programadmin/contracts/sep_a.cfm.

In developing requests to FHWA to use contracting requirements under SEP-14, recipients and subrecipients should address, at a minimum, the following points:

(1) Describe the project, including the amount of FHWA funding involved in the as well as the estimated total project cost.

(2) Describe the contracting requirement that may otherwise be found to be inconsistent with the general requirement for full and open competition.

(3) Describe how they will evaluate the effects of relevant contracting requirements on competitive bidding. In doing so, the recipient or subrecipient should, at a minimum, provide comparisons of bids received for the projects utilizing the relevant contract requirements to other projects of similar size and scope and in the same geographic area not utilizing such requirements. If a reduction in the pool of bidders is evident, explain the potential offsetting benefits resulting from the use of the requirement.

(1) Describe and quantify how the relevant contracting requirement would lead to increases in the effectiveness and efficiency of Federal funds for the project.

(2) Describe and quantify how the experimental contracting technique would protect the integrity of the competitive bidding process either in connection with the particular contract or when considered over the long term for that agency's program.

For contracts involving the use of local and other geographic labor hiring preferences, economic-based labor hiring preferences, and/or labor hiring preferences for veterans, FHWA may approve, at the request of the recipient or subrecipient, the use of such requirements for a specific contract, a specific group of, or on a more general programmatic basis. The use of other contracting requirements may be

approved by FHWA after coordination with the DOT Office of General Counsel.

FTA

For contracts to be funded by FTA (including federal financial assistance under any FTA formula or discretionary program), State and local recipients and subrecipients must request prior approval from the FTA to use a specific contracting requirement pursuant to FTA's research and assistance authorities discussed above. In making such requests, recipients and subrecipients must submit an application to their FTA Regional Office. In their application, recipients should address, at a minimum, the following points:

(1) Describe the contracting opportunity, including the schedule for the type of project and type of asset being constructed and the amount of FTA funding involved in the project as well as the estimated total project cost.

(2) Describe the contracting requirement that may otherwise be found to be inconsistent with the general requirement for full and open competition.

(3) Describe how they will evaluate the effects of relevant contracting requirements on competitive bidding. In doing so, the recipient and subrecipient should, at a minimum, provide comparisons of bids received for the projects utilizing the relevant contract requirements to other projects of similar size and scope and in the same geographic area not utilizing such requirements. If a reduction in the pool of bidders is evident, explain the potential offsetting benefits resulting from the use of the requirement.

(4) Describe how the relevant contracting requirement would lead to increases in the effectiveness and efficiency of Federal funds for the project.

(5) Describe and quantify how the experimental contracting technique would protect the integrity of the competitive bidding process either in connection with the particular contract or when considered over the long term for that agency's program.

An evaluation committee comprised of FTA staff will evaluate applications for inclusion in the pilot program. The evaluation committee reserves the right to evaluate applications it receives and to seek clarification from any proposer about any statement that is made in an application. FTA also may request additional documentation or information to be considered during the evaluation process. The evaluation committee will provide a recommendation to the FTA

Administrator regarding each application. The FTA Administrator will provide a final written determination to each applicant, on a rolling basis, regarding whether an application has been accepted into the pilot program.

For projects involving the use of local and other geographic labor hiring preferences, economic-based labor hiring preferences, and/or labor hiring preferences for veterans, FTA may approve, at the request of the recipient or subrecipient, the use of such requirements for a specific contract, a specific group of, or on a more general programmatic basis. The use of other contracting requirements may be approved by FTA after coordination with the DOT Office of General Counsel.

With respect to in-state or local geographic labor hiring preferences, please note that Section 418 of the Consolidated and further Continuing Appropriations Act, 2015, Public Law 113-235 (FY 2015 Appropriations Act), prohibits FTA from using FY 2015 funds to implement, administer, or enforce 49 CFR 18.36(c)(2), for construction hiring. Section 18.36(c)(2) prohibits the use of statutorily or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals.³ Accordingly, for construction contracts awarded or advertised in FY 2015, FTA recipients may use in-state or local geographic preferences for construction labor hiring. Additional guidance on FTA's implementation of Section 418 may be found on FTA's Web site at www.fta.dot.gov.

As a result of the enactment of Section 418, recipients and subrecipients do not need to submit applications for participation in the pilot program for the use of in-state or local geographic labor hiring preferences for contracts awarded or advertised on or before September 30, 2015. In other words, prior FTA approval is not required to use such requirements, and FTA recipients and subrecipients may impose such requirements for their contracts at their discretion. Such projects will receive automatic admission into the pilot program. However, in order to assess the effect of such preferences on

³ Effective December 26, 2014, 49 CFR part 18 will apply only to grants obligated on or before December 25, 2014. Grants obligated on or after December 26, 2014 will be subject to 2 CFR part 200. This provision (18.36(c)(2)) has been recodified at 2 CFR 200.319(b) and is substantively the same as 18.36(c)(2). Although Congress did not address the change in codification in section 418, FTA intends to apply section 418 to grants obligated on or after December 26, 2014 and subject to 2 CFR 200.319(b).

competition, recipients and subrecipients that plan to utilize in-state or local geographic labor hiring preferences must notify their FTA Regional Office prior to advertising contracts that use such preferences. For in-state or local geographic hiring preferences proposed for inclusion in contracts advertised after September 30, 2015, recipients and subrecipients must request prior approval from the FTA to utilize such hiring preferences through the above-described process unless provisions similar to section 418 are included in a new appropriations or re-authorization act. Requests to use requirements other than in-state or local geographic preferences for construction hiring, including requirements involving the procurement of rolling stock, must request prior FTA approval as described above.

Issued in Washington, DC, on February 24, 2015.

Anthony R. Foxx,
Secretary of Transportation.

[FR Doc. 2015-05204 Filed 3-5-15; 8:45 am]

BILLING CODE 4910-9X-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2015-0013]

National Emergency Medical Services Advisory Council (NEMSAC); Notice of Federal Advisory Committee Meeting

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation (DOT)

ACTION: Meeting Notice—National Emergency Medical Services Advisory Council.

SUMMARY: The NHTSA announces a meeting of NEMSAC to be held in the Metropolitan Washington, DC, area. This notice announces the date, time, and location of the meeting, which will be open to the public, as well as opportunities for public input to the NEMSAC. The purpose of NEMSAC, a nationally recognized council of emergency medical services representatives and consumers, is to advise and consult with the U.S. Department of Transportation (DOT) and the Federal Interagency Committee on EMS (FICEMS) on matters relating to emergency medical services (EMS). Pre-registration is required to attend.

DATES: This open meeting will be held on March 31, 2015, from 1 p.m. to 5:00 p.m. EDT, and on April 1, 2015 from, 9 a.m. to 12 p.m. EDT. A public comment

period will take place on March 31, 2015, at approximately 4:30 p.m. EDT and April 1, 2015, at approximately 10 a.m. EDT. Written comments from the public must be received no later than March 26, 2015.

ADDRESSES: The meeting will be held at DOT Headquarters Building at 1200 New Jersey Avenue SE., Washington, DC 20590 in the Conference Center on the ground floor of the West building.

FOR FURTHER INFORMATION CONTACT: Drew Dawson, Director, U.S. Department of Transportation, Office of Emergency Medical Services, 1200 New Jersey Avenue SE., NTI-140, Washington, DC 20590; telephone 202-366-9966; email Drew.Dawson@dot.gov.

Required Registration and Access Information: This meeting will be open to the public, however pre-registration is required to comply with security procedures. Government issued photo identification must be provided to enter the DOT Building and it is suggested that visitors arrive 20–30 minutes early in order to facilitate entry. Members of the public wishing to attend must register online at <http://events.signup4.com/NEMSACMarch2015> no later than March 26, 2015. Please be aware that visitors to DOT are subject to search and must pass through a magnetometer. Weapons of any kind are strictly forbidden in the building unless authorized through the performance of the official duties of your employment (i.e. law enforcement officer).

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, Public Law 92-463, as amended (5 U.S.C. App.). The NEMSAC is authorized under Section 31108 of the Moving Ahead with Progress in the 21st Century Act of 2012.

Tentative Agenda of National EMS Advisory Council Meeting

The tentative agenda includes the following:

Tuesday, March 31, 2015 (1 p.m. to 5 p.m. EDT)

- (1) Opening Remarks by Council Chair and Administration Officials
- (2) Disclosure of Conflicts of Interests by Members
- (3) Reports of liaisons from the Departments of Transportation, Homeland Security, and Health & Human Services
- (4) Presentation and discussion from the Office of National Drug Control Policy on the use of naloxone in emergency medical services systems
- (5) Presentation, Discussion and Possible Adoption of Reports and

Recommendations from the following NEMSAC Workgroups:

- a. NEMSAC Annual Report 2014–2015
- b. NEMSAC Process Improvement
- c. NEMSAC New-member Orientation
- (6) Other Business of the Council
- (7) General Public Comment Period (approximately 4:30 p.m. EDT)

Wednesday, April 1, 2015 (9 a.m. to 12 p.m. EDT)

- (1) Unfinished Business/Continued Discussion from Previous Day
- (2) Public Comment Period (approximately 10 a.m. EDT)
- (3) Adoption of NEMSAC Work Products
- (4) Next Steps and Adjourn

A final agenda as well as meeting materials will be available to the public online through www.EMS.gov on or before March 24, 2015.

Public Comment: Members of the public are encouraged to comment directly to the NEMSAC. There are two public comment opportunities as indicated above. In order to allow as many people as possible to speak, speakers are requested to limit their remarks to 5 minutes. Written comments from members of the public will be distributed to NEMSAC members at the meeting and should reach the NHTSA Office of EMS no later than September 5, 2014. Written comments may be submitted by either one of the following methods: (1) By email: nemsac@dot.gov or (2) by fax: (202) 366-7149.

Dated: March 3, 2015.

Jeffrey P. Michael,

Associate Administrator for Research and Program Development.

[FR Doc. 2015-05281 Filed 3-5-15; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the Rocky Mountain Metropolitan Airport, Broomfield, Colorado

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of request to release airport property.

SUMMARY: The FAA proposes to rule and invite public comment on the release of land at the Rocky Mountain Metropolitan Airport under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21), now 49 U.S.C. 47107(h)(2).

DATES: Comments must be received on or before April 6, 2015.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Mr. John P. Bauer, Manager, Federal Aviation Administration, Northwest Mountain Region, Airports Division, Denver Airports District Office, 26805 E. 68th Avenue, Suite 224, Denver, Colorado 80249-6361.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Ms. Aubrey L. McGonigle, Airport Administration Manager, Rocky Mountain Metropolitan Airport, Broomfield, Colorado, at the following address: Ms. Aubrey L. McGonigle, Airport Administration Manager, Rocky Mountain Metropolitan Airport, 11755 Airport Way, Broomfield, Colorado 80021.

FOR FURTHER INFORMATION CONTACT: Mr. Marc Miller, Colorado Engineer/Compliance Specialist, Federal Aviation Administration, Northwest Mountain Region, Denver Airports District Office, 26805 E. 68th Avenue, Suite 224, Denver, Colorado 80249-6361.

The request to release property may be reviewed, by appointment, in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release property at the Rocky Mountain Metropolitan Airport under the provisions of the AIR 21 (49 U.S.C. 47107(h)(2)).

On December 30, 2014, the FAA determined that the request to release property at the Rocky Mountain Metropolitan Airport submitted by Jefferson County meets the procedural requirements of the Federal Aviation Administration. The FAA may approve the request, in whole or in part, no later than April 6, 2015.

The following is a brief overview of the request: Jefferson County is proposing the release from the terms, conditions, reservations, and restrictions on a 449 acre parcel of property acquired by Jefferson County on June 2, 1959. This property was transferred to the Jefferson County Airport Authority in April of 1966. With the dissolution of the Airport Authority in 1998, this property ownership was then transferred back to Jefferson County, as the airport sponsor, January 11, 1999. Elevation constraints of this parcel compared to the Runway environment makes it unusable for airport development. The property is currently undeveloped vacant land. The expected future use of the property is for non-aviation development associated with the Verve Innovation Park, as well

as the realignment of Simms Street to allow for more aviation development to the east. The proceeds for the disposal of the property will be at fair market value and the sponsor will utilize the revenue to reinvest into future airport development.

Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon appointment and request, inspect the application, notice and other documents germane to the application in person at the Rocky Mountain Metropolitan Airport.

Issued in Denver, Colorado, on February 25, 2015.

John P. Bauer,

Manager, Denver Airports District Office.

[FR Doc. 2015-05109 Filed 3-5-15; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Comment Request; Recordkeeping Requirements for Securities Transactions

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning its information collection titled, "Recordkeeping Requirements for Securities Transactions."

DATES: You should submit comments by May 5, 2015.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the

Comptroller of the Currency, Attention: 1557-0142, 400 7th Street SW., Suite 3E-218, Mail Stop 9W-11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465-4326 or by electronic mail to regs.comments@occ.treas.gov. You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649-6700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments. All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT:

Mary H. Gottlieb, OCC Clearance Officer, (202) 649-5490, for persons who are deaf or hard of hearing, TTY, (202) 649-5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Suite 3E-218, Mail Stop 9W-11, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC is proposing to extend OMB approval of the following information collection:

Title: Recordkeeping Requirements for Securities Transactions—12 CFR parts 12 and 151.

OMB Number: 1557-0142.

Description: The information collection requirements in 12 CFR parts 12 and 151 are required to ensure that national banks and Federal savings associations comply with securities laws and to improve the protections afforded to persons who purchase and sell securities through these financial institutions. Parts 12 and 151 establish recordkeeping and confirmation requirements applicable to certain securities transactions effected by national banks or Federal savings associations for customers. The transaction confirmation information required by these regulations ensures that customers receive a record of each securities transaction and that financial institutions and the OCC have the records necessary to monitor compliance with securities laws and regulations. The OCC uses the required information in the course of its examinations to evaluate, among other things, an institution's compliance with

the antifraud provisions of the Federal securities laws.

The information collection requirements contained in 12 CFR parts 12 and 151 are as follows:

- 12 CFR 12.3 requires a national bank effecting securities transactions for customers to maintain records for at least three years. The records required by this section must clearly and accurately reflect the information required and provide an adequate basis for the audit of the information.

- 12 CFR 151.50 requires a Federal savings association effecting securities transactions for customers to maintain records for at least three years. 12 CFR 151.60 provides that the records required by 12 CFR 151.50 must clearly and accurately reflect the information required and provide an adequate basis for audit of the information.

- 12 CFR 12.4 requires a national bank to give or send to the customer a written notification of the transaction or a copy of the registered broker/dealer confirmation relating to the transaction at or before completion of the securities transaction and establishes minimum disclosures needed for a customer's securities transactions.

- 12 CFR 151.70, 151.80 and 151.90 establish the minimum disclosures required for a Federal savings association's confirmation of a customer's securities transactions.

- 12 CFR 151.90 requires a Federal savings association to provide its customers with a written notice of each securities transaction, which it must give or send to the customer at or before the completion of the securities transaction.

- 12 CFR 12.5(a), (b), (c), and (e) describe notification procedures that a national bank may elect to use, as an alternative to complying with § 12.4, to notify customers of transactions in which the bank does not exercise investment discretion, trust transactions, agency transactions, and certain periodic plan transactions.

- 12 CFR 151.100 describes notification procedures that a Federal savings association may use, as an alternative to complying with 12 CFR 151.70, 151.80 or 151.90, for an account in which the savings association does not exercise investment discretion, trust transactions, agency transactions, certain periodic plan transactions, collective investment fund transactions, and money market funds.

- 12 CFR 12.7(a)(1) through (a)(3) require national banks to maintain and adhere to policies and procedures that assign responsibility for supervision of employees who perform securities trading functions, provide for the fair

and equitable allocation of securities and prices to accounts, and provide for crossing of buy and sell orders on a fair and equitable basis.

- 12 CFR 151.140 requires Federal savings associations to adopt written policies and procedures dealing with the functions involved in effecting securities transactions on behalf of customers. These policies and procedures must assign responsibility for the supervision of employees who perform securities trading functions, provide for the fair and equitable allocation of securities prices to accounts, and provide for crossing of buy and sell orders on a fair and equitable basis.

- 12 CFR 12.7(a)(4) requires certain national bank officers and employees involved in the securities trading process to report to the bank all personal transactions in securities made by them or on their behalf in which they have a beneficial interest.

- 12 CFR 151.150 requires certain Federal savings association officers and employees to report personal transactions they make or that are made on their behalf in which they have a beneficial interest.

- 12 CFR 12.8 requires a national bank seeking a waiver of one or more of the requirements of §§ 12.2 through 12.7 to file a written request for waiver with the OCC.

Type of Review: Regular.

Affected Public: Individuals; Businesses or other for-profit.

Estimated Number of Respondents: 399.

Estimated Frequency of Response: On occasion.

Estimated Total Annual Burden: 2,315 hours.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: March 2, 2015.

Stuart E. Feldstein,

Director, Legislative and Regulatory Activities Division.

[FR Doc. 2015-05154 Filed 3-5-15; 8:45 am]

BILLING CODE 4810-33-P

DEPARTMENT OF VETERANS AFFAIRS

Notice of Intent To Grant an Exclusive License

AGENCY: Office of Research and Development, Department of Veterans Affairs.

ACTION: Notice of Intent.

SUMMARY: Notice is hereby given that the Department of Veterans Affairs, Office of Research and Development, intends to grant to Rubicon Biotechnology, LLC, 26212 Dimension Dr. Suite 260, Lake Forest, CA 92630, USA, an exclusive license to practice the following: U.S. Patent Application Serial No. 13/815,829 ("ANTIBODY-MEDIATED TRANSDUCTION OF HEAT SHOCK PROTEINS INTO LIVING CELLS"), filed March 15, 2013, which claimed the priority of U.S. Serial No. 61/618,594, filed March 30, 2012. Copies of the published patent applications may be obtained from the U.S. Patent and Trademark Office at www.uspto.gov.

DATES: Comments must be received 15 days from the date of this published Notice.

ADDRESSES: Written comments may be submitted through www.regulations.gov; by mail or hand-delivery to the Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC, 20420; or by fax to (202) 273-9026. Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Call (202) 461-4902 for an appointment (this is not a toll-free number). In addition, during the comment period, comments may be viewed online through the Federal Docket Management System at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Dr. Lee A. Sylvers, Technology Transfer Specialist, Office of Research and Development (10P9TT), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC, 20420, (202) 443-5646 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: It is in the public interest to so license these inventions, as Rubicon Biotechnology, LLC submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Chief of Staff, approved this document on March 2, 2015 for publication.

Approved: March 3, 2015.

Michael Shores,

Regulation Policy and Management, Office of General Counsel.

[FR Doc. 2015-05209 Filed 3-5-15; 8:45 am]

BILLING CODE 8320-01-P



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Part II

Environmental Protection Agency

40 CFR Parts 50, 51, 52, et al.

Implementation of the 2008 National Ambient Air Quality Standards for
Ozone: State Implementation Plan Requirements; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 50, 51, 52, 70, and 71

[EPA-HQ-OAR-2010-0885; FRL-9917-29-OAR]

RIN 2060-AR34

Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is establishing a final rule for implementing the 2008 ozone national ambient air quality standards (NAAQS) (the “2008 ozone NAAQS”) that were promulgated on March 12, 2008. This final rule addresses a range of nonattainment area state implementation plan (SIP) requirements for the 2008 ozone NAAQS, including requirements pertaining to attainment demonstrations, reasonable further progress (RFP), reasonably available control technology (RACT), reasonably available control measures (RACM), major new source review (NSR), emission inventories, and the timing of SIP submissions and of compliance with emission control measures in the SIP. Other issues also addressed in this final rule are the revocation of the 1997 ozone NAAQS and anti-backsliding requirements that apply when the 1997 ozone NAAQS are revoked. If the primary or secondary ozone NAAQS are revised in the future, the EPA expects that this rule will help facilitate implementation of any new standards.

DATES: This final rule is effective on April 6, 2015.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2011-0885. All documents in the docket are listed in <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, *i.e.*, 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 in <http://www.regulations.gov> or in hard copy at the EPA Docket Center, Room Number 3334 in the EPA William Jefferson Clinton West Building, located at 1301

Constitution Avenue NW., Washington, DC 20004. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

FOR FURTHER INFORMATION CONTACT: For further general information on this rulemaking, contact Dr. Karl Pepple, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, by phone at (206) 553-1778, or by email at pepple.karl@epa.gov; or Mr. Butch Stackhouse, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, phone number (919) 541-5208, or by email at stackhouse.butch@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

Entities potentially affected directly by this final rule include state, local and tribal governments. Entities potentially affected indirectly by this final rule include owners and operators of sources of emissions [volatile organic compounds (VOCs) and nitrogen oxides (NO_x)] that contribute to ground-level ozone formation.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this notice will be posted at <http://www.epa.gov/air/ozonepollution/actions.html#impl> under “recent actions.”

C. How is this notice organized?

The information presented in this notice is organized as follows:

I. General Information

- A. Does this action apply to me?
- B. Where can I get a copy of this document and other related information?
- C. How is this notice organized?

II. Background

III. What are the SIP requirements for the 2008 ozone NAAQS?

- A. What are the applicable deadlines for nonattainment areas under the 2008 ozone NAAQS?
- B. What are the requirements for modeling and attainment demonstration SIPs?
- C. What are the RFP requirements for the 2008 ozone NAAQS?
- D. How do RACT and RACM requirements apply for 2008 ozone NAAQS nonattainment areas?
- E. Does the 2008 ozone NAAQS result in any new vehicle I/M programs?
- F. How does transportation conformity apply to the 2008 ozone NAAQS?

G. What requirements for general conformity apply to the 2008 ozone NAAQS?

H. What are the requirements for contingency measures in the event of failure to meet a milestone or to attain?

I. How do the NSR requirements apply for the 2008 ozone NAAQS?

J. What are the emission inventory and emission statement requirements?

K. What are the ambient monitoring requirements?

L. How can an area qualify for a 1-year attainment deadline extension?

M. How will the EPA identify whether a potential rural transport area is adjacent to an urban area?

N. What are the special requirements for multi-state nonattainment areas?

O. How will the EPA address interstate and international ozone transport?

P. How will the CAA section 182(f) NO_x provisions be handled?

Q. Emissions Reduction Benefits of Energy Efficiency/Renewable Energy Policies and Programs, Land Use Planning and Travel Efficiency

R. Efforts to Encourage a Multi-pollutant Approach When Developing 2008 Ozone SIPs

S. What are the requirements for the Ozone Transport Region (OTR)?

T. Are there any additional requirements related to enforcement and compliance?

U. What are the requirements for addressing emergency episodes?

V. How does the “Clean Data Policy” apply to the 2008 ozone NAAQS?

W. How does this final rule apply to tribes?

X. What collaborative program has the EPA implemented for the 2008 ozone NAAQS?

IV. What are the anti-backsliding requirements for the revoked 1997 ozone NAAQS?

A. What is the effective date of the revocation of the 1997 ozone NAAQS?

B. What are the applicable requirements for anti-backsliding purposes following the revocation of the 1997 ozone NAAQS?

C. Application of Transition Requirements to Nonattainment and Attainment Areas

D. Satisfaction of Anti-backsliding Requirements for an Area

E. How will the EPA’s determination of attainment (“Clean Data”) regulation apply for purposes of the anti-backsliding requirements?

F. What is the relationship between implementation of the 2008 ozone NAAQS and the CAA title V permits program?

V. Environmental Justice Considerations

VI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

B. Paperwork Reduction Act

C. Regulatory Flexibility Act

D. Unfunded Mandates Reform Act

E. Executive Order 13132: Federalism

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
 H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
 I. National Technology Transfer and Advancement Act
 J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
 K. Congressional Review Act
 L. Determination Under CAA Section 307(d)
 M. Judicial Review
 Appendix A to Preamble—Glossary of Terms and Acronyms
 Appendix B to Preamble—List of Areas Nonattainment for the 2008 Ozone NAAQS in Addition to a Prior Ozone NAAQS
 Statutory Authority
 List of Subjects

II. Background

On March 12, 2008,¹ the EPA announced revisions to the primary and secondary NAAQS for ozone to a level of 0.075 parts per million (ppm) (annual fourth-highest daily maximum 8-hour concentration, averaged over 3 years).² Since the 2008 primary and secondary NAAQS for ozone are identical, for convenience, we refer to both as “the 2008 ozone NAAQS” or “the 2008 ozone standards.” The 2008 ozone NAAQS retains the same general form and averaging time as the 0.08 ppm NAAQS set in 1997, but is set at a more stringent level.

When the EPA revises a NAAQS for a particular criteria pollutant, it considers the extent to which existing EPA regulations and guidance are sufficient to implement the standard and whether any revisions or updates to those regulations and guidance would be helpful or appropriate in facilitating the implementation of the revised standard by states, tribes, and local agencies. The Clean Air Act (CAA or Act) does not require that the EPA promulgate new implementing regulations every time that a NAAQS is revised. Likewise, the CAA does not require the issuance of additional implementing regulations or guidance by the EPA before a revised NAAQS becomes effective. The plain language of the CAA and existing EPA regulations may be sufficient in many cases to enable the EPA and the states to begin working together to implement a revised NAAQS. However, where the nature of

revisions to a NAAQS indicate that additional regulations or guidance (or revisions to existing regulations or guidance) may be helpful, the EPA endeavors to provide those regulations and guidance to facilitate preparation of SIPs. It is important to note, however, that the existing EPA regulations in 40 CFR part 51 applicable to SIPs generally and to particular pollutants continue to apply even without such updates. This rule revises existing regulations and guidance as appropriate to aid in the implementation of the 2008 ozone NAAQS.

Promulgation of a NAAQS triggers a requirement for the EPA to designate areas as nonattainment, attainment, or unclassifiable, and to classify the areas at the time of designation. The EPA has already completed area designations and associated classifications for the 2008 NAAQS, and they were effective July 20, 2012 (May 21, 2012; 77 FR 30088). The EPA also issued a Classifications Rule at the same time which established air quality thresholds for each nonattainment classification (May 21, 2012; 77 FR 30160).

The EPA also undertook notice and comment rulemaking on the CAA nonattainment area provisions as they apply to the 2008 ozone NAAQS and appropriate rules to implement those provisions, which is complete with this final rule. The public comment period on the June 6, 2013, notice of proposed rulemaking (NPRM) (78 FR 34178) for the SIP Requirements Rule ran from June 6, 2013, to September 4, 2013. The EPA received 54 comment submissions on the NPRM. The preamble to this final rule discusses the comments received and how they were considered by the EPA in general terms. The Response to Comments document provides more detailed responses to the comments received. The public comments received on the NPRM and the EPA’s Response to Comment document are posted in the docket at www.regulations.gov (Docket ID No. EPA–HQ–OAR–2011–0885).

We are taking multiple actions in this rule pertaining to submittal deadlines and specific CAA requirements for the content of SIPs for the 2008 ozone NAAQS. As a general matter, this final rule follows the same basic principles and approach that the EPA applied to interpreting the CAA’s part D, subpart 2 ozone nonattainment area requirements in the EPA’s development of the implementation rules for the 1997 ozone NAAQS.³ Additionally, we are revoking the 1997 ozone NAAQS for all purposes

and establishing anti-backsliding requirements for areas that remain designated nonattainment for the revoked NAAQS.

Regarding the format of the following sections of this preamble, on topics where we proposed an action, we include detailed information about what we proposed, what we are finalizing and our rationale, as well as responses to significant comments. With topics where we did not propose any action, we provide guidance on that topic in the preamble. For a comprehensive look at all comments received and responses to those comments, please refer to the Response to Comment document in the docket.

III. What are the SIP requirements for the 2008 ozone NAAQS?

A. What are the applicable deadlines for nonattainment areas under the 2008 ozone NAAQS?

1. What is the deadline for submitting nonattainment area SIP revisions for the 2008 ozone NAAQS?

a. Summary of the Proposal

For purposes of the 2008 ozone NAAQS, the EPA proposed two alternatives regarding the deadlines for submitting the various elements of an ozone nonattainment area SIP, including emission inventories, RACT SIPs and emission statement SIPs, Ozone Transport Region (OTR) RACT, 15 percent rate-of-progress (ROP) plans and Moderate area attainment demonstrations, and the 3 percent per year RFP plans and attainment demonstrations for Serious and higher areas. The two proposed alternatives for SIP due dates were (1) the period of time provided by CAA section 182, and (2) a state’s choice of either submitting all elements in accordance with the timeframe provided by CAA section 182 or submitting all elements under a consolidated approach, no later than 30 months after the effective date of designation. The consolidated SIP approach would provide more time for some SIPs, and less time for others.

The EPA also proposed a timeframe, for Serious and higher areas, of 4 years for states to develop their attainment demonstrations and 3 percent per year RFP plans. This was a proposed change from the approach used in the implementation of the 1997 ozone NAAQS, but is consistent with the timeframe allowed under CAA section 182.

Additionally, the EPA requested comment on its proposal to align the due date of the vehicle inspection and maintenance (I/M) program SIP with the

¹ See 73 FR 16436.

² For a detailed explanation of the calculation of the 3-year 8-hour average, see 40 CFR part 50, Appendix I.

³ See the Phase 1 (69 FR 23951, April 30, 2004) and Phase 2 (70 FR 71612, November 29, 2005) Rules.

due date of the attainment demonstration SIP so that both are due at the same time. This was similarly a proposed change from the current I/M SIP deadline for ozone nonattainment areas (1 year after the effective date of designation and classification under a revised ozone standard).

We proposed that states with areas initially classified as Severe or Extreme for the 2008 ozone NAAQS would be required to submit a CAA section 185 SIP no later than 10 years after the effective date of designation and classification for the 2008 ozone NAAQS.

Finally, the EPA proposed that all SIP due date timeframes would run from the effective date of nonattainment designations for the 2008 ozone NAAQS.

b. Final Action

We are finalizing the approach that the SIP elements listed in the proposal are due based on the timeframes provided in CAA section 182. That is, states with areas designated nonattainment have 2 years from the effective date of nonattainment designation⁴ to submit emission inventories (required by CAA section 182(a)(1)), RACT SIPs (CAA section 182(b)(2)) and emission statement SIPs⁵ (CAA section 182(a)(3)(B)); 3 years to submit 15 percent ROP plans (CAA section 182(b)(1)) and Moderate area attainment demonstrations (CAA section 182(b)(1)); and 4 years to submit 3 percent per year⁶ RFP plans (CAA section 182(c)(2)) and attainment demonstrations (CAA section 182(c)(2)) for Serious and higher areas. This approach conforms to the manner in which the 1997 ozone NAAQS was implemented, with the exception of the 4th year provided to areas classified Serious and higher to develop attainment demonstration SIPs for the 2008 ozone NAAQS. Additionally, we note that OTR states that owe SIPs due to CAA section 184 must meet the same SIP due dates listed previously.

The EPA is also finalizing the alignment of the vehicle I/M program SIP due date with the due date for the attainment demonstration SIP for the area. This will be achieved by revising 40 CFR 51.372(b)(2) of the vehicle I/M rule⁷ to replace the current 1-year deadline for vehicle I/M program SIP

submissions with a deadline of no later than the due date for submitting the area's attainment demonstration SIP.

The EPA is also finalizing the due date of the CAA section 185 penalty fee program SIPs from areas initially classified as Severe or Extreme for the 2008 ozone NAAQS as 10 years from the effective date of designations. For areas that are reclassified to Severe or Extreme after the original 2008 designations and classifications, the EPA will establish an appropriate fee program SIP submission deadline as part of the reclassification action.

We note that in the proposed SIP Requirements Rule, the EPA did not include a specific due date for nonattainment NSR SIPs for the 2008 ozone NAAQS. This final rule includes a due date of 3 years from the effective date of designation for states with nonattainment areas for the 2008 ozone NAAQS to submit their nonattainment NSR SIPs as a logical outgrowth of the proposed rule and the comments submitted. Additional discussion of this due date and our rationale for that date are provided in the following *Comments and Responses* section, which discusses NSR requirements in greater detail.

As proposed, the EPA is finalizing that these various SIP due dates are established based on the effective date of designations for the 2008 ozone NAAQS. For areas initially designated nonattainment, this effective date was July 20, 2012.⁸

c. Rationale

After considering comments questioning the legal supportability of the consolidated approach, the EPA has concluded that we do not have a sufficient statutory basis to provide this flexibility.⁹ Therefore, the EPA is finalizing the approach that the various SIP elements are due based on the timeframes provided in CAA section 182.

When implementing the 1997 ozone NAAQS, the EPA provided areas classified as Serious and higher only 3 years to develop and submit attainment demonstration SIPs. The EPA is now providing the maximum of 4 years to develop and submit these SIPs, consistent with the CAA. The policy reasons that existed at the time the Phase 2 rule was developed (*i.e.*, the need for timing consistency between subpart 1 and subpart 2 areas within the

same region, the timing of the large-scale interstate transport modeling underway at the time, and the option of coordinated planning with the similarly timed PM_{2.5} SIPs) are not generally circumstances faced currently by the Serious and higher areas. Thus, the EPA concludes that it is not appropriate to shorten the time period allowed by the Act to submit these SIPs.

Regarding the alignment of due dates for attainment demonstration SIPs and vehicle I/M program SIPs, the EPA believes this allows the best use of state resources. Areas need to determine together the total amount of emissions reductions needed for attainment and the amount of emissions reductions to achieve from different sectors and strategies (including vehicle I/M), before designing a vehicle I/M program capable of achieving the necessary reductions to demonstrate attainment. Requiring submittal of a vehicle I/M program in advance of an attainment demonstration for the current or future ozone standard could result in significant unnecessary work on modeling and SIP revisions if revisions to the vehicle I/M program are later deemed necessary to integrate with the overall attainment strategy.

Although no new vehicle I/M programs are required under the initial designations and classifications for the 2008 ozone NAAQS, this change will apply to any current Marginal areas that may be required to adopt vehicle I/M as a result of missing an attainment deadline and being reclassified to a higher nonattainment classification in the future.

We believe the submittal date for the CAA section 185 penalty fee program SIPs is consistent with section 182(d)(3) of the CAA, which provided slightly more than 10 years for submission of the fee program SIP revision for areas designated as nonattainment and classified as Severe or Extreme by operation of law in 1990 for the 1-hour ozone NAAQS.

The EPA has historically based the due date of the SIPs discussed previously from the effective date of designations and sees no reason to depart from that practice here.

d. Comments and Responses

Comment: Several commenters supported the idea of a consolidated SIP submittal, but thought that the 30 months provided in the proposal for the consolidated submittal was not sufficient to entice any states to take advantage of the option. Many commenters expressed a concern that the EPA did not have a sufficiently firm legal basis to allow states to delay any of the required SIP submissions beyond

⁴ The effective date of designations was July 20, 2012. See 77 FR 30088.

⁵ See section III.J.2 of this rule for additional information on emission statements.

⁶ Typically submitted in 3-year increments, thus as 9 percent RFP plans that produce average reductions of 3 percent per year.

⁷ See 71 FR 17705, April 7, 2006.

⁸ See 77 FR 30088, May 21, 2012; and 77 FR 34221, June 11, 2012.

⁹ The EPA believes that the recent ruling by the D.C. Circuit Court on the Classifications Rule (77 FR 30160, May 21, 2012) impacts the level of flexibility EPA is able to provide regarding SIP due dates. See *NRDC v. EPA* (D.C. Cir. No. 12–1321, Dec 23, 2014).

the timeframes provided in the statute, nor to require early submittal of any SIPs.

Response: The EPA proposed the consolidated approach in an attempt to provide flexibility and a potential burden reduction option to states. After considering the comments questioning the legal supportability of this approach, we concluded that at this time we do not have a sufficient basis to support this flexibility. Thus, we are not finalizing the consolidated approach.

Comment: One commenter disagreed with the EPA's proposal that the SIP submittal due dates in subpart 2 should run from the effective date of designations. The commenter believed that the SIP due dates must run from the date the designations are signed.

Response: We disagree with the commenter that the CAA mandates the SIP submittal due dates in subpart 2 must run from the date the designations are signed instead of the effective date of designations. The EPA believes that its historic practice of establishing SIP due dates that run from the effective dates of designations, as it did for the 1997 ozone NAAQS, is appropriate and legally supportable. Therefore, we are not deviating from this practice.

Comment: Two commenters supported the EPA's proposal to align the vehicle I/M program SIP and attainment SIP deadlines, while two other commenters stated that any change to the vehicle I/M program SIP deadline needs to be consistent with the deadlines prescribed in the CAA and not delay implementation of required I/M programs.

Response: The EPA's decision to align the I/M SIP submittal deadline with the deadline for submitting the attainment demonstration will not impact the emission reductions achieved through the vehicle I/M program requirement because we are not changing the deadline by which affected areas must begin testing and repairing vehicles. Further, the EPA believes that it must, of necessity, provide a reasonable interpretation of the CAA's vehicle I/M program SIP submission deadline because the Act's basic vehicle I/M program SIP submission requirement of "immediately upon enactment" of the CAA is impossible to meet. Lastly, given the degree to which the overall attainment demonstration will rely on emission reductions derived from vehicle I/M, it is reasonable and cost-effective to allow states to coordinate these two planning requirements.

Comment: One commenter noted that the proposal was silent about the due date of the nonattainment NSR SIP. The commenter stated that the EPA should

clearly establish the associated due dates for nonattainment NSR SIP submittals.

Response: The commenter is correct that the discussion of SIP submittal deadlines in the proposed SIP Requirements Rule did not include the date on which states must submit for the EPA's approval the required nonattainment NSR SIP applicable to the 2008 ozone NAAQS. This final rule includes a deadline of 3 years from the date of designation for states to submit their nonattainment NSR program SIPs for the 2008 ozone NAAQS. This date is consistent with the submittal date that the EPA provided states to develop an approvable nonattainment NSR program for the 1997 ozone NAAQS in the Phase 2 Rule, and is consistent with CAA section 172(b), which states that the EPA shall establish a date no later than 3 years from the date of the nonattainment designation.¹⁰ Consequently, the EPA does not believe it has discretion to set a date longer than 3 years, and also concludes that states may need up to 3 years to develop and submit any necessary SIPs.

In the Phase 2 Rule, we indicated that the 3-year SIP deadline facilitates coordination of NSR program changes with the submission of the attainment plan, which was also due within 3 years. We recognize that CAA section 182(a)(2)(C)(i), under the heading "Corrections to the State implementation plans—Permit programs" contains a requirement for states to submit NSR SIP revisions to meet the requirements of CAA sections 172(c)(5) and 173 within 2 years after the date of enactment of the 1990 CAA Amendments. As explained in our Phase 2 rulemaking, we believe the submission of NSR SIPs due on November 15, 1992, fulfilled this CAA requirement.¹¹ Accordingly, we do not believe that the 2-year deadline contained in CAA section 182(a)(2)(C)(i) applies to subsequent NSR SIPs for revised ozone standards, including the nonattainment NSR SIPs for implementing the 8-hour ozone NAAQS. In addition, we note that while CAA section 182 specifies the offset ratios or major source thresholds to be included in the revised NSR SIP, it is silent as to the SIP submission deadline (see, e.g., CAA section 182(a)(4), CAA section 182(b)(5) and CAA section 182(c)). Given this gap in CAA section 182, we believe it is reasonable to look to CAA section 172(b) in establishing a deadline for submission of the

nonattainment NSR SIP. While the EPA did not propose a date on which states must submit for the agency's approval the required nonattainment NSR SIP, stakeholders could have anticipated that we would continue our prior practice unless we proposed to take a different course. In this rule, we are continuing our prior practice, as reflected in the Phase 2 rule for the 1997 ozone NAAQS, of including a deadline of 3 years from the date of designation for states to submit their nonattainment NSR program SIPs.

2. What are the attainment dates for the 2008 ozone NAAQS?

a. Background

For purposes of the 2008 ozone NAAQS, the EPA proposed two options for establishing the maximum attainment dates for areas in each nonattainment classification in its separate Classifications Rule issued on May 21, 2012.¹² Under the first option, the attainment dates would be the precise number of years specified in Table 1 with such time period running from the effective date of designation. Under the second option, the attainment dates would be December 31 of the year that is the specified number of years in Table 1 after designation. The first option was the same approach we took for the 1997 NAAQS, where we would interpret "year" in the subpart 2 classification table to mean consecutive 365-day periods,¹³ and we would substitute "after the effective date of designation" for the "after November 15, 1990" language in the subpart 2 classification table. Under this approach the attainment deadline would fall a precise number of years after the effective date of designation. Specifically, the initial area designations for the 2008 ozone NAAQS became effective on July 20, 2012, and the attainment dates would run from July 20, 2012, such that the 3-year attainment deadline for Marginal areas would be July 20, 2015.

For the second option, which the EPA promulgated in the final May 2012 Classifications Rule (77 FR 30160), the attainment date would be specified as a certain number of years from the end of the calendar year in which an area's nonattainment designation is effective. In other words, since the effective date of designations for the 2008 ozone NAAQS is July 20, 2012, the 3-year

¹² See the proposal (77 FR 8197; February 14, 2012) and the final (77 FR 30160; May 21, 2012) Classifications Rule for the 2008 ozone NAAQS.

¹³ Except in the case of a leap year, where the year would be a rolling 366 day period.

¹⁰ See 70 FR 71612 at 71672 and 71683 (November 29, 2005).

¹¹ *Ibid.*

attainment deadline for Marginal areas would be December 31, 2015.

The end of calendar year attainment date in the May 2012 Classifications Rule was challenged in *NRDC v. EPA* (D.C. Cir. No. 12–1321). On December 23, 2014, the U.S. Court of Appeals for the District of Columbia Circuit issued an opinion holding that the EPA's decision to run the attainment periods from the end of the calendar year in which areas were designated was unreasonable. While recognizing that there is a "gap" in the statute since the CAA runs the attainment periods from the date of enactment of the CAA Amendments of 1990, the Court concluded that nothing in the statute or congressional intent authorized the EPA to establish the attainment dates for designated ozone nonattainment areas as December 31st of the relevant calendar years, but rather that such deadlines are more appropriately calculated as annual periods running from the date of designation and classification as the EPA had done in past ozone implementation rules.

b. Action on Attainment Dates

To provide clarity to states after the DC Circuit court decision, the EPA is modifying 40 CFR 51.1103 consistent with that decision to establish attainment dates that run from the effective date of designation, *i.e.*, July 20, 2012.¹⁴ This is the same approach the EPA used in past ozone implementation rules and the approach the court indicated was consistent with Congressional intent.¹⁵ The maximum

¹⁴ We are finalizing this approach without additional notice-and-comment. As noted, we took comment in the original proposal on two approaches: The option we promulgated and which the court rejected, and the option we are promulgating here. Moreover, the court decision strongly indicates that the approach we are promulgating here is the only approach that is consistent with Congressional intent. In light of the need for certainty for the states and regulated parties, the fact that we previously solicited comment on the approach we are adopting here, and the limited discretion the court believes EPA has been provided under the Act, we believe additional comment is unnecessary and contrary to the public interest.

¹⁵ We note that during the comment period on the May 2012 rule establishing the attainment dates, a few commenters claimed that the attainment period should run from the time the designations actions were signed by the Administrator rather than the effective date of designation. In the final May 2012 rule, we responded to this comment explaining why we believed the arguments the commenters raised were not supported by the statute. Regardless we note that whether the attainment date runs from the date of signature or the effective date of designation, the attainment year will be the same, as an attainment showing is based on the most recent three full years of ozone data available. Thus, for example, under either approach, the relevant years for demonstrating attainment for a Marginal area will be 2012–2014 and for a Moderate area, 2015–2017.

attainment dates for nonattainment areas in each classification under the 2008 NAAQS based on the July 20, 2012, effective date are as follows: Marginal—3 years from effective date of designation; Moderate—6 years from effective date of designation; Serious—9 years from effective date of designation; Severe—15 years (or 17 years) from effective date of designation; and Extreme—20 years from effective date of designation. In addition to being consistent with the court decision, this outcome was supported by several commenters on the EPA's February 2012 proposed Classifications Rule (77 FR 8197, February 14, 2012). These supporting commenters believed this outcome to be a plain reading of the CAA, and less likely to result in further delays in implementing controls in nonattainment areas (*see* 77 FR 30160 at 30166, May 21, 2012).

B. What are the requirements for modeling and attainment demonstration SIPs?

1. Marginal Areas

Under CAA section 182(a), Marginal areas have up to 3 years from the effective date of designation to attain the NAAQS, and are not required to submit an attainment demonstration SIP. The EPA offers assistance to states as they consider the most appropriate course of action for Marginal areas that may be at risk of failing to meet the NAAQS within the applicable 3 year timeframe. States can choose to adopt additional controls for such areas or they can seek a voluntary reclassification to a higher classification category. The EPA believes that voluntary reclassification for areas that are not likely to attain by their attainment date is an appropriate action that will facilitate focus on developing the attainment plans required of Moderate and above areas.

2. Moderate Areas

a. Summary of the Proposal

The EPA proposed to continue to require states with an area classified as Moderate to submit an attainment demonstration,¹⁶ due no later than 3

¹⁶ An attainment demonstration consists of: (1) Technical analyses, such as base year and future year modeling of emissions which identifies sources and quantifies emissions from those sources that are contributing to nonattainment; (2) analyses of future year emissions reductions and air quality improvement resulting from existing (*i.e.*, already-adopted or "on the books") national, regional and local programs, and potential new local measures needed for attainment, including RACM and RACT for the area; (3) a list of adopted measures (including RACT) with schedules for implementation and other means and techniques necessary and appropriate for demonstrating attainment as expeditiously as practicable but no

years from the effective date of an area's designation, based on photochemical modeling or another equivalent analytical method that is determined to be at least as effective as that which is required under the Act for Serious and above areas and multi-state nonattainment areas.¹⁷ This is the same approach used in the implementation rules for the 1997 ozone NAAQS. 40 CFR 51.908(c).

b. Final Action and Rationale

The EPA is finalizing requirements for Moderate areas as proposed. The EPA continues to believe the requirements for Moderate areas are reasonable, primarily because photochemical modeling is generally available and reasonable to employ. However, this requirement also explicitly allows for alternative analytical methods to be substituted for or used to supplement a photochemical modeling-based assessment of an emissions control strategy. Any alternative analysis should be based on technically credible methods and provide for the timely submittal of the attainment demonstration and implementation of SIP controls. States should review the EPA modeling guidance¹⁸ and consult their appropriate EPA Regional Office before proceeding with alternative analyses.

c. Comments and Responses

Comment: Some commenters believed that the EPA exceeds its authority to require states with Moderate nonattainment areas to use photochemical modeling and thus, undermines states' discretionary options allowed under the statute.

Response: The EPA disagrees with the commenters and believes that we have the authority to require states to use appropriate modeling to predict the effect of emissions on air quality of any NAAQS as we did for the 1997 ozone NAAQS. CAA section 182(c)(2)(A) contains specific requirements for states to use photochemical modeling or another similarly effective equivalent modeling method in their SIPs for

later than the outside attainment date for the area's classification; and (4) a RACM analysis to determine whether any additional RACM measures could advance attainment by 1 year.

¹⁷ State plans for single nonattainment areas that include more than one state (multi-state nonattainment areas) are also required to have photochemical modeling (*see* CAA section 182(j)(1)(B)).

¹⁸ The modeling guidance can be found in the EPA's "Guidance on the Use of Models and Other Analyses for Demonstrating Attainment of Air Quality Goals for Ozone, PM_{2.5}, and Regional Haze," at the following Web site: <http://www.epa.gov/scram001/guidance/guide/final-03-pm-rh-guidance.pdf>.

Serious and above nonattainment areas. Additionally, CAA section 182(b)(1)(A)(i) requires RFP plans for Moderate areas to provide for such specific annual reductions in emissions of VOC and NO_x as necessary to attain the NAAQS by the applicable attainment date. The EPA has interpreted this as a requirement for Moderate areas to submit an attainment demonstration. Since photochemical modeling is the most scientifically rigorous technique to determine NO_x and/or VOC emissions reductions needed to show attainment of the NAAQS and is readily available, we are requiring photochemical modeling (or a similarly effective equivalent modeling method) for all attainment demonstrations (including Moderate areas). The authority for this requirement for Moderate areas is derived from CAA section 110(a)(2)(k), which gives the Administrator the authority to require air quality modeling for the purpose of predicting the effect on ambient air quality of emissions of any air pollutant for which there is an established NAAQS.

Comment: One commenter stated that allowing up to 3 years to submit an attainment demonstration is not sufficient time to allow for the emissions inventory development and modeling required for an attainment demonstration. The commenter wanted the EPA to allow "the original four year timeline" to submit attainment demonstrations.

Response: CAA Section 182 contains two attainment demonstration submittal dates that depend on an area's classification. For Moderate areas, CAA section 182(b)(1)(A) requires a plan within 3 years of the designation date. For Serious and above areas, CAA section 182(c)(2) requires a plan within 4 years of the designation date. In the Phase 2 Rule, 70 FR 71612, at 71639, the EPA required all attainment demonstrations to be submitted within 3 years of designation. However, for this rule, the EPA proposed to allow the original CAA deadlines of up to 3 years for Moderate areas and up to 4 years for Serious areas, 78 FR 34178, at 34183. While the EPA agrees that the development of emissions inventories and modeling for attainment demonstrations can be a lengthy process, the statute does not allow for more than 3 years for a Moderate area attainment demonstration. However, since the statute does allow up to 4 years to submit a Serious (and above) area attainment demonstration, in this rule we are allowing the maximum amount of time provided by the statute for such areas. Therefore, the EPA is

finalizing the attainment demonstration submittal dates as proposed; up to 3 years from the effective date of designation for Moderate areas and up to 4 years from the effective date of designation for Serious and above areas.

Comment: One commenter stated that there are now a number of rural areas in the country with wintertime ozone attainment issues, and recommended that the EPA exempt rural wintertime ozone nonattainment areas from this requirement because a wintertime photochemical grid model or proven alternative analytical method has not been developed. The commenter argued that it is the EPA's responsibility to develop and test models that can be used consistently across the nation.

Response: The EPA recognizes that the causes of rural wintertime ozone exceedances are different than typical summer exceedances. However, the CAA does not distinguish between summer and winter ozone areas. Areas with wintertime violations are designated as nonattainment based on the same classification thresholds as all other nonattainment areas. They therefore must meet all of the appropriate CAA requirements for their particular nonattainment classification. Nonattainment areas classified as Moderate and above, even those that may experience wintertime ozone problems, are required to submit an attainment demonstration. However, there is flexibility in determining analytical methods to be used in developing the demonstration. The EPA will consider the nature of the ozone problem in reviewing available models and potential alternative methods for demonstrating attainment. There is also ongoing research that has successfully identified enhancements in modeling science which have improved photochemical model performance in wintertime ozone situations. Some of these science updates may be available for states to use in their attainment demonstrations by the time modeling is needed for areas with wintertime ozone problems.

3. Serious and Above Areas

For Serious and higher-classified areas, CAA section 182(c)(2)(A) states that attainment demonstrations must be submitted within 4 years of the designation date and be based on photochemical grid modeling or an equivalent effective method. We continue to believe that photochemical modeling is the most technically credible method of estimating future year ozone concentrations based on projected VOC and NO_x precursor emissions. Therefore, consistent with

the CAA and previous implementation rules, states with areas classified as Serious and higher are required to submit attainment demonstrations within 4 years of the effective date of designation, based on photochemical modeling or an alternative analytical method determined by the Administrator to be at least as effective.

4. What guidance is there for using models to demonstrate attainment?

The procedures for modeling ozone as part of an attainment demonstration are well developed and described in the EPA's "Guidance on the Use of Models and Other Analyses for Demonstrating Attainment of Air Quality Goals for Ozone, PM_{2.5}, and Regional Haze."¹⁹ This guidance document, as it currently exists, can be used by states for purposes of developing attainment demonstration SIPs for the 2008 ozone NAAQS.

Commenters requested that the EPA update its modeling guidance pertinent to ozone and that it be made available in advance of SIP submission deadlines. The EPA agrees with this comment and is therefore currently updating the modeling guidance, and we intend to issue the updated guidance prior to the attainment demonstration SIP deadlines.

5. Capturing High Emissions Days in Inventories

In the proposed SIP Requirements Rule, the EPA did not propose changes to modeling requirements for modeling high emissions days. The current modeling guidance addresses, among many other considerations, episode selection and accounting for variability in emissions and meteorology.

The EPA recognizes that there are time periods with relatively higher NO_x emissions from electric utilities during high energy demand periods, *i.e.*, High Electricity Demand Days (HEDD). Since NO_x emissions from electric power generation are a significant contributor to the total NO_x emissions for many ozone nonattainment areas, states that experience these situations should ensure that these emissions are included in photochemical modeling of episode days on which the HEDD situations occurs. In order to properly account for HEDD emissions in the modeling, careful attention should be paid to the temporalization of emissions to the specific day and hour of the day when these emissions occur. We note that the

¹⁹ The modeling guidance can be found at the following Web site: <http://www.epa.gov/scram001/guidance/guide/final-03-pm-rh-guidance.pdf>.

EPA's current modeling guidance²⁰ already addresses episode selection and development of accurate emissions input information during peak ozone periods. Some commenters urged the EPA to update the current modeling guidance. The EPA is in the process of updating the current modeling guidance and intends to more specifically address modeling of HEDD in that guidance.

The EPA did not propose changes in this rule to the emission inventory requirements for capturing high emissions days but received many comments on the rule requirements that should have been directed to EPA guidance documents under development for ozone emission inventories (*see* section III.J of this preamble). They will be considered when these guidance documents are reviewed. The EPA does address the comments referring to the emission inventory guidance in the Response to Comments document for this rule. The comments do not directly impact the outcome of this rule. The EPA responses are provided for completeness and to provide these commenters with more information regarding the EPA's intentions for guidance development related to HEDD emissions.

6. Modeled Attainment Test

The EPA's attainment demonstration modeling guidance addresses the modeled attainment test for ozone, which uses a combination of ambient ozone data and modeled ozone concentrations to estimate future year air quality. The attainment test is applied at each monitor location within or near a designated nonattainment area. Models are used in a relative sense to estimate the response of measured air quality to anticipated future changes in emissions. Future air quality is estimated by adjusting recent monitored values by the modeled relative response to projected future changes in emissions.²¹ The EPA additionally

recommends application of an attainment test to be performed in unmonitored areas. The recommended attainment test methodology for unmonitored areas has been used in 8-hour ozone SIPs developed for the 1997 ozone NAAQS. To make it easier for states to apply the attainment tests, both the monitor-based test and the unmonitored area test have been incorporated in a software package called the "Modeled Attainment Test Software" (MATS). The MATS is available for no charge at: http://www.epa.gov/scram001/modelingapps_mats.htm.

7. What future year(s) should be modeled in attainment demonstrations?

a. Summary of the Proposal

The EPA proposed that for the 2008 ozone NAAQS, control measures relied upon to demonstrate attainment should be implemented by the beginning of the last full ozone season prior to the area's attainment date. Accordingly, the future year attainment modeling should not extend beyond that time period.

b. Final Action and Rationale

The EPA is finalizing this action as proposed. The EPA stated in the proposal that the future modeling year should be selected such that all emissions control measures relied on for attainment will have been implemented by that year. This same approach was used for the 1997 ozone NAAQS and we continue to believe it is an appropriate approach for modeling of control measures. To demonstrate attainment, the modeling results for the nonattainment area must predict that emissions reductions implemented by the beginning of the last full ozone season preceding the attainment date will result in ozone concentrations that meet the level of the standard.²²

of the Exceptional Events Rule, but remain in the data set used to calculate official design values. Air agencies may not have flagged these data as being potentially influenced by exceptional events, or may have flagged these data but not submitted the required documentation. Air agencies sometimes do not closely examine potential event-influenced data that do not affect attainment/nonattainment decisions. However, the influence of potential event-influenced data may affect future year projections that are part of the modeled attainment demonstration. If potential exceptional event-influenced data from the historical record are likely to affect the outcome of the modeled attainment demonstration, we encourage air agencies to consult with their EPA regional office to determine how best to handle this situation.

²² Note that for purposes of the 2008 ozone NAAQS, a determination of attainment (or failure to attain), which the EPA is required to make after the attainment date has passed, is based on the most recent 3 complete years of ambient data prior to the area's attainment date. Attainment date extensions are only available if the 4th maximum 8-hour

Because an area must attain "as expeditiously as practicable," additional considerations are necessary before a future attainment date can be established. For example, although the latest attainment date under the CAA for a Moderate area designated in 2012 would be 6 years after the effective date of designation, July 20, 2018, under the Classifications Rule, *see* NRDC v. EPA, the state would need to conduct an analysis of reasonably available control measures (RACM) (CAA section 172(c)(1)) to determine if it can advance the area's attainment date by at least a year.²³ Results of the RACM analysis may indicate attainment can be achieved earlier through implementation of reasonably available control measures prior to July 20 of an earlier year. For instance, if emission reductions sufficient to demonstrate attainment are implemented prior to July, 2016, then in this example the attainment year and the future projection year should be 2016. The proposal for this rulemaking also stated²⁴ that, in determining the attainment date that is as expeditious as practicable, the state should consider impacts on the nonattainment area of intrastate transport of pollution from sources within its jurisdiction, and potential reasonable measures to reduce emissions from those sources.

We strongly recommend that the state discuss the selection of the future year(s) to model with the appropriate EPA Regional Office as part of the modeling protocol development process.

c. Comments and Responses

Comment: Many commenters supported the EPA's proposal; however, one commenter believed that it should not matter when the control measure is implemented if the demonstration shows attainment by the attainment date. The commenter provided a specific example of when a large point source plans to shut down in the middle of an ozone season.

Response: The EPA continues to believe that modeling the emission reductions implemented by the beginning of the last full ozone season preceding the final year of the statutory attainment date is reasonable. The effect on attainment of the NAAQS of emissions reductions that may occur sometime after the start of an ozone season is necessarily uncertain, and

average ozone concentration in the attainment year is below the level of the standard.

²³ See section III.D.2 of this proposal for a discussion of RACM analysis requirements.

²⁴ See 78 FR 34178 at p. 34191 (June 6, 2013).

²⁰ <http://www.epa.gov/scram001/guidance/guide/final-03-pm-rh-guidance.pdf>.

²¹ The EPA recommends using ambient design values that are consistent with the official design values as calculated according to 40 CFR part 50 Appendix N (PM_{2.5} NAAQS) and Appendix P (8-hour ozone NAAQS). This includes flagging and removing event-influenced data that meet the requirements set forth in the Exceptional Events Rule (40 CFR 50.14). In general, air agencies flag data that they believe may qualify for removal as an exceptional event and are then responsible for developing and providing documentation to the EPA to support these requests for exclusion. EPA Regional Offices review exceptional events claims and decide whether to concur with each individual claim. Once the EPA concurs with an air agency's request, the event-influenced data are officially noted and removed from the data set used to calculate official design values. In some cases, historical ambient data may meet the requirements

cannot be reliably counted on to ensure modeled attainment in that year. Information about source shutdowns or other emissions reductions that are not accounted for in the modeling can be used as part of a weight of evidence demonstration (*i.e.*, qualitative adjustment based on reductions from additional measures) if necessary to demonstrate timely attainment.

Comment: One commenter supported the proposal to allow modeling of up to the last year of the statutory attainment date, but disagreed with the RACM requirement to evaluate if attainment can be advanced. The commenter disagreed with anything that would require the demonstration of attainment to be earlier than is required by statute.

Response: The EPA disagrees with the commenter. A demonstration of attainment would not be required earlier than is required by statute. The statute provides maximum dates by which attainment must be achieved, but in all cases the statute requires that attainment must be achieved as expeditiously as practicable but no later than the maximum date. Therefore, a RACM analysis to examine whether the attainment date can be advanced is required by the statute as part of all attainment demonstrations. Note that a RACM analysis is not required for Marginal nonattainment areas since an attainment demonstration is not required for those areas.

8. Multi-State Nonattainment Areas

Under CAA section 182(j), each state located in a portion of a multi-state ozone nonattainment area is required to use photochemical grid modeling (or any other analytic method determined by the Administrator to be at least as effective) and to take all reasonable steps to coordinate, substantively and procedurally, the development, submittal and implementation of SIPs applicable to the various states within the nonattainment area. The EPA interprets CAA section 182(j) to require coordination on all aspects of nonattainment SIPs, including the development of an attainment demonstration. The EPA did not propose any changes to this longstanding policy, and we did not receive adverse comments on this item.

C. What are the RFP requirements for the 2008 ozone NAAQS?

1. Overview of RFP Requirements

Areas that are designated nonattainment for ozone must achieve RFP toward attainment of the ozone NAAQS. Part D of the CAA contains three separate provisions regarding RFP.

Under CAA subpart 1, section 172(c)(2) contains a general requirement that nonattainment SIPs must provide for reasonable further progress; RFP is defined in CAA section 171(1) as “such annual incremental reductions in emissions” as required by CAA part D or as required by the Administrator for ensuring attainment of the NAAQS. CAA sections 182(b)(1) and 182(c)(2)(B) under subpart 2 contain specific percent reduction targets for ozone nonattainment areas classified as Moderate and above and Serious and above, respectively. For Moderate and above areas, CAA section 182(b)(1) requires a 15 percent reduction in VOC emissions from the baseline anthropogenic emissions within 6 years after November 15, 1990. We often refer to this RFP requirement as rate-of-progress (ROP). For Serious and above areas, CAA section 182(c)(2)(B) requires an additional 3 percent per year reduction in VOC emissions, averaged over consecutive 3-year periods, starting within 6 years after November 15, 1990 and until the attainment date. CAA section 182(c)(2)(B) allows NO_x reductions to be substituted for VOC reductions under certain conditions to meet this RFP requirement. Note that the 15 percent requirement must be met by the end of the 6-year period regardless of when the nonattainment area attains the NAAQS. The 3 percent per year RFP requirement for Serious and above areas applies each year until the attainment date.

The EPA previously interpreted the requirements of subpart 2 as they would apply to areas for the 1997 ozone NAAQS, and we proposed to follow essentially the same interpretation with regard to the 2008 ozone NAAQS. With respect to RFP requirements, we interpret the 15 percent VOC emission reduction requirement in CAA section 182(b)(1) such that an area that has already met the 15 percent requirement for VOC under either the 1-hour ozone NAAQS or the 1997 ozone NAAQS (for the first 6 years after the RFP baseline year for the prior ozone NAAQS) would not have to fulfill that requirement again. Instead, such areas would be treated like areas covered under CAA section 172(c)(2) if they are classified as Moderate for the 2008 ozone NAAQS, and would need to meet the RFP requirements under CAA section 182(c)(2)(B) if they are classified as Serious or above for the 2008 ozone NAAQS.²⁵ For the purposes of the 2008

ozone NAAQS, the EPA is interpreting CAA section 172(c)(2) to require such Moderate areas to obtain 15 percent ozone precursor emission reductions over the first 6 years after the baseline year for the 2008 ozone NAAQS, and is interpreting CAA section 182(c)(2)(B) to require such Serious and above areas to obtain 18 percent ozone precursor emission reductions in that 6 year period. Under the CAA section 172(c)(2) and CAA section 182(c)(2)(B) RFP requirements, NO_x emission reductions could be substituted for VOC reductions.

With the intent of providing direction and/or flexibility to states in satisfying RFP requirements, we proposed a number of provisions to address issues relevant to implementing RFP under the 2008 ozone NAAQS: (1) Allowing states the option of selecting either the EPA’s recommended baseline year or an alternate baseline year, if justifiable and appropriate; (2) restricting emission reduction measures that can be used to fulfill the RFP requirements; (3) fulfilling ROP/RFP requirements with emission reductions from sources located outside the nonattainment area; (4) removing RFP creditability determination requirements for certain pre-1990 control measures that currently achieve *de minimis* reductions; (5) requiring 15 percent VOC reductions from the nonattainment area emissions inventory baseline during a 6-year period after designation; (6) providing that areas that had previously met the 15 percent requirement for the 1-hour or 1997 ozone NAAQS would be subject to the RFP requirement of CAA section 172(c)(2) (if classified as Moderate) or 182(c)(2)(B) (if classified as Serious or above) and consistent with those provisions could substitute NO_x for VOC; and (7) satisfying ROP/RFP requirements when a 2008 NAAQS nonattainment area is comprised of portions that have an EPA-approved RFP plan for a previous NAAQS. Through this rulemaking, the EPA is finalizing actions that address the aforementioned issues.

2. What baseline year may states use for the emission inventory for the RFP requirement?

a. Summary of Proposal

The baseline year inventory for RFP is used as the starting point from which creditable reductions are determined to meet RFP requirements. For the 2008 ozone NAAQS, the EPA proposed that states should use as the baseline year for

²⁵ Similar interpretations were made for the 1997 ozone NAAQS in the Phase 2 Ozone Implementation Rule, (70 FR 71615, November 29,

2005) and were upheld in *NRDC v. EPA*, 571 F.3d 1245 (D.C. Cir. 2009).

RFP the calendar year for the most recently available triennial emission inventory at the time ROP/RFP plans are developed. As discussed in section III.C.3 of the proposal, ROP plans for areas designated nonattainment in 2012 would be due in 2015, and we proposed the baseline year would be 2011 for these areas. We explained that this approach was analogous to the approach provided for RFP in the CAA. 78 FR 34178, at 34190 (June 6, 2013). The CAA required a 1990 baseline for the 15 percent ROP requirement which lined up with the 1996 attainment date for Moderate areas under the 1-hour NAAQS. For the 2008 ozone NAAQS, initial area designations were effective in 2012 and the 6-year RFP period from a baseline of 2011 (*i.e.*, January 1, 2012–December 31, 2017) would line up reasonably well with the Moderate attainment date of 2018.

However, we also proposed that states have the option of selecting an appropriate and justifiable alternate year as a baseline year for RFP. In the proposal, we proposed that if states choose a pre-2011 baseline year, the 6-year period for achieving the 15 percent reduction starts in January of the year following the selected baseline year. When a year prior to 2011 is chosen as the baseline year, the 6-year period thus concludes more than 1 year prior to the start of the attainment year for the area. In this situation, the EPA proposed that the area is responsible for an additional 3 percent emissions reduction each year after the initial 6-year period has concluded up to the beginning of the attainment year.

The EPA also proposed that for a multi-state nonattainment area, all states associated with the nonattainment area must consult and agree on the same year to use as the baseline year for RFP.

b. Final Action and Rationale

For the 2008 ozone NAAQS, the EPA is providing that states should use as the baseline year for RFP, the calendar year for the most recently available triennial emission inventory at the time ROP/RFP plans are developed, which in the case of areas designated nonattainment in 2012 translates to 2011. We finalized this same interpretation for purposes of implementing the 1997 ozone NAAQS. 40 CFR 51.910(d). We are also allowing an alternate year to be used. In determining the appropriate alternate years, the EPA recognizes that some states may have initiated certain control strategies between the year the standard was finalized (2008) and the most recently available triennial emission inventory year (2011), and that it would be appropriate to recognize these

investments in implementing early reductions to achieve improved air quality. We also believe that allowing alternate baseline years prior to 2008 (*e.g.*, 1990 and 2007) would not be appropriate because we believe that it is necessary for RFP credit for attainment planning to be tied as directly as possible to promulgation of the 2008 ozone NAAQS. Emission reduction measures adopted into the SIP prior to promulgation of the 2008 NAAQS are certainly helpful for improving air quality, and consequently may lower the nonattainment classification of an area and the baseline inventory. However, they are not readily tied to attainment planning for the specific standard and associated nonattainment designation that did not yet exist when the measures were adopted, and therefore are not appropriate to be credited for fulfilling nonattainment area RFP requirements for the 2008 ozone NAAQS. We also recognize that since we designated most areas on April 30, 2012, with an effective date 60 days after publication in the **Federal Register**, that 2012 (the designation year) is an appropriate alternative baseline year consistent with the subpart 2 structure. With these considerations, the EPA is finalizing that states may use an alternate year (*i.e.*, other than 2011) between the years of 2008 to 2012 that the state justifies as appropriate. We are also finalizing as proposed that states selecting a pre-2011 alternate baseline year must achieve 3 percent emission reductions each year after the initial 6-year period has concluded up to the beginning of the attainment year. For example, if 2009 is chosen as a baseline year for a Moderate area that has an attainment date of July 20, 2018, the 15 percent reductions cover the period from January 1, 2010, to December 31, 2015. The state would need to generate an additional 3 percent emissions reduction per year for the area for the years 2016 and 2017.

We are also finalizing that for a multi-state nonattainment area, all states associated with the nonattainment area must consult and agree on the same year to use as the baseline year for RFP.

c. Comments and Responses

Comment: We received mixed comments regarding the appropriate baseline year for RFP. Some commenters believed that 2011 would be the most suitable year to use as a baseline year for ROP/RFP plans and others urged the EPA to allow states the option of justifying an alternative baseline year, including 2012, 2008, 2007 and 1990. One commenter argued that the CAA does not provide

flexibility in allowing a choice of baseline year for RFP and that the EPA must set the baseline year as 2012.

Response: While 2011 may be the most suitable year for many areas, we believe it is appropriate to provide some flexibility to choose an alternate year that falls between the year the NAAQS was established (2008) and the year of designation (2012 for the initial area designations). The EPA disagrees with the comment suggesting that the CAA does not provide the flexibility to allow states to choose the appropriate baseline year and that the EPA must set the baseline year as 2012. While the CAA does identify a specific year to use as the baseline for purposes of the 1-hour NAAQS that was in place when the CAA Amendments of 1990 were enacted, we believe use of that year (1990) as the baseline would produce absurd results if used for a revised NAAQS that is being implemented more than 20 years later. Thus, the EPA has discretion in determining how to interpret this provision of the statute for purposes of implementing the 2008 ozone NAAQS. Nothing in the statute explicitly or implicitly suggests that all areas must use the same baseline year. The purpose of the RFP requirement is to ensure areas achieve percentage reductions in emissions that will help an area attain the NAAQS and to not delay emission reductions until close to the attainment date. Thus, we believe a baseline year that is reasonably close to the designation date and within the implementation timeframe of the revised NAAQS will ensure that the goal of the RFP provisions is met. We note also, that regardless of the baseline year selected, the final regulations provide that areas must continue to achieve annual percentage reductions up to the attainment year. This will further ensure that the purpose of the RFP provisions is fulfilled. We do not believe it is reasonable to select as a baseline year for RFP purposes a year that predates both the revisions to the NAAQS in 2008 and the nonattainment designations in 2012.

Comment: One commenter noted that the EPA's proposal would require areas selecting a pre-2011 baseline, to achieve 3 percent emission reduction each year after the initial 6-year period has concluded up to the beginning of the attainment year. The commenter urged the EPA to apply the same requirement to Moderate areas selecting 2011 as a baseline year and require an additional 3 percent emissions reduction for the final year before the attainment deadline. Comments varied on our proposal for areas to achieve 3 percent emission reductions when selecting a

pre-2011 baseline year. Commenters generally supported the alternate baseline year proposal, however, opposing commenters stated the proposed 3 percent reduction requirement seemed to penalize states selecting a pre-2011 baseline year.

Response: The first commenter correctly identifies that the EPA's selection of the 2011 baseline year creates a gap period of up to 12 months between the end of the 6 year ROP period and the latest attainment date for Moderate areas. The final rule specifies that RFP for this 1-year gap period is whatever additional emissions reductions are needed to achieve the goal of attainment. We believe that requiring Moderate areas using 2011 as a base year to obtain an additional 3 percent per year during the 2018 attainment year where doing so is not necessary to attainment would be more than Congress intended to require through the RFP requirements under Part D of Subchapter 1 of the CAA Amendments of 1990. However, because a pre-2011 baseline would be voluntarily selected by a state and would create a larger gap period before the attainment date than a 2011 baseline (as much as 2 to 4 years), we believe the language "whatever additional emissions reductions are needed for attainment" is not specific enough to ensure annual incremental progress through the latest attainment date. Therefore, we are finalizing as proposed an additional 3 percent per year as a reasonable RFP reduction requirement for a state that chooses to take advantage of the regulatory flexibility this regulation offers by selecting a pre-2011 baseline. CAA section 171(1) defines reasonable further progress under Subpart D to include such annual reductions as "may reasonable be required by the Administrator for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date." Consistent with that, if a state chooses to use an earlier baseline year, its total RFP emission reduction obligation should be to ensure that additional reductions averaging 3 percent per year for each year beyond the first 6 years until the year before the attainment year are provided for in the RFP plan. However, the EPA continues to believe the 2011 NEI reporting year is the preferred baseline year for RFP planning purposes.

Comment: Comments were mixed in relation to the proposal that states associated with multi-state nonattainment areas must consult and agree on the same alternate year to use as the baseline year for RFP.

Commenters generally agreed with our proposal, however, several commenters indicated that RFP demonstrations are state specific and do not necessarily rely on a regional inventory.

Response: The EPA believes that the CAA requires that RFP be demonstrated for a nonattainment area as a whole. Thus, in order to effectively analyze RFP reductions and ensure that the entire nonattainment area achieves the RFP requirements, it is critical that the same baseline be used for all portions of the area. We note that CAA section 182(j), requires that states in a multi-state nonattainment area take all reasonable steps to coordinate their plan.

3. Can emission reductions from sources located outside the nonattainment area boundary apply toward ROP and RFP?

a. Summary of Proposal

The EPA proposed that for the 2008 ozone NAAQS states may not take credit for VOC or NO_x reductions occurring outside the nonattainment area for purposes of meeting the 15 percent ROP requirement and 3 percent RFP requirements of CAA sections 172(c)(2), 182(b)(1) and (c)(2)(B). In the preamble to the proposal, the EPA noted that it would be sound policy to allow areas to use reductions coming from outside the area to meet ROP/RFP requirements, but concluded that in light of the reasoning used in *Natural Resources Defense Council (NRDC) v. EPA*, 571 F.3d 1245 (D.C. 2009), and the language of the CAA, there is no legal basis for states to credit emissions reductions from sources outside the nonattainment area for satisfying ROP/RFP requirements. In the proposed rule, we also stated that if the EPA received comment providing a clear legal justification for allowing areas to take credit in their RFP plan for reductions outside the nonattainment area, we would consider adopting that approach in the final rule.

b. Final Action and Rationale

The EPA is finalizing the interpretation that states may not take credit for VOC or NO_x reductions occurring from sources outside the nonattainment area for purposes of meeting the 15 percent ROP and 3 percent RFP requirements of CAA sections 172(c)(2), 182(b)(1) and (c)(2)(B). This approach means that ROP credit for meeting the 15 percent VOC requirement for Moderate and above ozone nonattainment areas in CAA section 182(b)(1), and the additional 3 percent per year RFP requirement for Serious and above ozone nonattainment areas in CAA section 182(c)(2)(B), or for

meeting the RFP requirement of CAA section 172(c)(2) for Moderate areas that met the 15 percent requirement for a previous NAAQS, can come only from emission reductions from sources located within the nonattainment area.

The ROP/RFP requirements in CAA sections 182(b)(1)(A)(i) and 182(c)(2)(B) require that nonattainment SIPs provide for emission reductions from "baseline emissions." CAA section 182(b)(1)(B) defines baseline emissions as "the total amount of actual VOC or NO_x emissions from all anthropogenic sources in the area." (emphasis added) The ROP/RFP language in 182(b)(1)(B) and 182(c)(2)(B) is almost identical to the language in the CAA's RACT provision that the D.C. Circuit Court has interpreted as requiring emission reductions to come from within the nonattainment area and not "from sources outside the nonattainment area." *NRDC v. EPA*, 571 F.3d 1245, 1256 (D.C. Cir. 2009). Accordingly, for reasons explained more fully in the proposal, 78 FR 34178, at 34191 (June 6, 2013), the EPA has concluded that there is no legal basis allowing states to credit reductions achieved at sources outside the nonattainment area toward meeting ROP/RFP requirements.

c. Comments and Responses

Comment: Several commenters suggested that the EPA allow credit toward meeting ROP/RFP for emission reductions from an area larger than the nonattainment area but related to or affecting it, such as the same airshed or an air quality control region or a "transport couple area." These comments emphasized the close connection between air quality within the nonattainment area and emissions from outside that area and argued that controlling emissions from an area outside a nonattainment area may be a very effective way to improve air quality within the nonattainment area. They argued that statutory references to "the area" do not necessarily refer only to the "nonattainment area." A commenter suggested that CAA section 107(c) provides the EPA the authority to allow outside-the-area reduction credits for satisfying RFP requirements. Other commenters note that CAA section 182(b)(1)(B), viewed in isolation, does not directly refer to sources in the nonattainment area, but rather to "sources in the area," and that *NRDC v. EPA* addresses sources in the nonattainment area only for purposes of meeting RACT nonattainment SIP requirements under CAA section 172(c)(1). Other commenters took the opposite view, arguing that the EPA had no legal basis for allowing states to use

out of area reductions to meet RFP requirements.

Response: As explained more fully in the Response to Comments document in the docket, to some extent, the comments in support of allowing out-of-area credits were either policy arguments or suggestions about how best to implement a program allowing such credits. The EPA agrees that some of these are good policy arguments, but does not see a legal basis to allow this approach. While some commenters did provide legal arguments, upon examination the EPA does not believe they overcome the restrictions in the combined language of CAA section 182(b)(1)(B) with CAA sections 182(b)(1)(A)(i) and 182(c)(2)(B), and the reasoning in *NRDC v. EPA* concerning reductions within the nonattainment area. (See the Response to Comments document, located in the docket, for detailed responses to all of the arguments presented and explaining why the EPA believes the statutory provisions taken as a whole clearly support the interpretation that these RFP reductions must occur within the nonattainment area).

4. Restrictions on Emission Reduction Measures That Can Fulfill the ROP/RFP Requirement

a. Summary of Proposal

The EPA proposed that, except as specifically provided in CAA section 182(b)(1)(D) of the CAA, all SIP-approved or federally promulgated emissions reductions that occur after the baseline emissions inventory year are creditable for purposes of the ROP/RFP requirements, provided that the reductions meet the standard requirements for creditability. That is, to receive SIP credit, the reductions must be enforceable, quantifiable, permanent and surplus.

b. Final Action and Rationale

We are finalizing, as proposed, that all SIP-approved or federally promulgated emissions reductions that occur after the baseline emissions inventory year from sources located in the nonattainment area are creditable for purposes of the ROP/RFP requirements, provided the reductions meet the standard requirements for creditability and are not prohibited by section 182(b)(1)(D) of the CAA.

For the reasons provided in the preamble to the proposed rule, 78 FR 34178, at 34187 (June 6, 2013), the EPA believes it is appropriate to credit emissions reductions that actually occur during the relevant ROP/RFP period and after the baseline year. We promulgated

a regulatory provision adopting this same interpretation for purposes of implementing the 1997 ozone NAAQS. 40 CFR 51.910(a)(2). No significant comments were received.

5. How should states account for non-creditable reductions when determining compliance with the ROP/RFP emission reduction requirements?

a. Summary of Proposal

CAA Section 182(b)(1)(D) specifies four categories of control measures that are not creditable toward the 15 percent ROP requirement under CAA section 182(b)(1)(A): (i) Measures related to motor vehicle exhaust or evaporative emissions promulgated by January 1, 1990; (ii) regulations concerning Reid vapor pressure (RVP) promulgated by November 15, 1990; (iii) measures to correct previous RACT requirements; and (iv) measures required to correct I/M programs. As noted in the proposal, with the exception of the first category, reductions from these measures were achieved many years ago, so the question of creditability is moot for RFP credits for the 2008 ozone NAAQS. Citing an assessment that at this point in history the ongoing emissions reductions from pre-1990 control measures in the first category are *de minimis* the EPA proposed that states would no longer need to perform the complicated calculations for these control measures to ensure that they are not credited toward the 15 percent ROP requirements under CAA section 182(b)(1)(D). (See 78 FR 34178 at 34189)

b. Final Action and Rationale

Consistent with the proposal, the EPA is finalizing the approach that eliminates any obligation for states to continue to perform emissions reduction calculations for the pre-1990 control measures listed under CAA section 182(b)(1)(D)(i).

The CAA section 182(b)(1)(D)(i) provides that motor vehicle emission reductions resulting from measures promulgated “by January 1, 1990,” (which can only come from pre-1990 vehicles), are “not creditable.” The EPA is aware that making the calculations necessary to ensure a state does not take credit for these measures would be “a very resource intensive process requiring multiple modeling runs and extensive staff time,” as we stated in the proposal for this rulemaking.²⁶ Furthermore, the EPA recognizes that emissions from pre-1990 vehicles are a very small and diminishing part of the total emissions inventory for any RFP-related year associated with

implementation of the 2008 ozone NAAQS (which under the final implementation rules could start, at earliest, in 2008). This final action will relieve states of the burden of doing the calculations “based on the *de minimis* nature” of the potential credits.²⁷

c. Comments and Responses

Comment: A majority of commenters supported removing the calculations requirement. However, one commenter argued that the EPA cannot remove the calculation requirement because the provision in 182(b)(1)(D) that certain emission reductions are “not creditable” toward RFP reductions “is the sort of extraordinarily rigid statutory provision that does not allow for *de minimis* exceptions.” The commenter further asserts that the EPA has not demonstrated that the non-creditable reductions will always be *de minimis* because the EPA failed to review the impact of this exception on any specific nonattainment areas, relying instead on national modeling from which the EPA has claimed that local results may vary.

Response: The EPA thanks the commenters that support this approach. The EPA disagrees, however, with the commenter who argued that the EPA cannot relieve states of this burden based on the *de minimis* impact of the measures.

CAA section 182(b)(1)(C) established a general rule *allowing* credit toward RFP requirements for emission reductions under a SIP that would occur within the 6 years following November 1990. CAA section 182(b)(1)(D) established four narrow exceptions to that general rule, three of which are currently entirely moot because they have already occurred and are not ongoing reductions for future RFP purposes. The comment concerns the motor vehicle emission reduction measures imposed on pre-1990 motor vehicles. The EPA has concluded that these reductions are ever diminishing as each year the motor vehicle fleet continues to replace older vehicles with new vehicles. The EPA estimates that by 2017 the control measures that apply to the pre-1990 portion of the nationwide vehicle fleet would account for only between 0.2 and 0.6 percent of total on-road VOC or NO_x emissions, or between about 0.1 and 0.3 percent of total VOC or NO_x emissions inventories. Because calculating those emissions reductions would be very resource intensive, the EPA proposed not to require states to calculate them based on the *de minimis* nature of the reductions. Courts recognize that agencies generally have

²⁶ See 78 FR 34178, at 34190 (June 6, 2013).

²⁷ *Ibid.*

discretion to overlook circumstances that in context can fairly be considered *de minimis* such as requirements whose literal application would mandate pointless expenditures “when the burdens of regulation yield a gain of trivial or no value.”²⁸ The EPA does not believe that the creditability exemption in 182(b)(1)(D)(i) is so “extraordinarily rigid” as to preclude a *de minimis* exception.

The comment also claims that the EPA has not demonstrated that these circumstances are *de minimis*. Without disputing the EPA’s conclusions as to either the share of the emissions inventory or the resource burdens of the calculations, the comment nevertheless claims that “local results may vary,” and the EPA must assess reductions in “specific nonattainment areas.” The comment does not identify any area where, or any evidence that, the impact of the credits anywhere would be more than *de minimis*. Moreover, the EPA implicitly accounted for local variations when it concluded in the proposal that reductions associated with pre-1990 vehicles “everywhere” will be “a very small fraction of the total on-road VOC emissions inventory by 2017.”

6. What are the RFP plan requirements for 2008 ozone nonattainment areas for which no portion of the area has previously been required to meet the 15 percent ROP requirement for VOC in section 182(b)(1) of the CAA?

a. Summary of Proposal

We proposed that newly designated 2008 nonattainment areas,²⁹ namely 2008 ozone nonattainment areas for which a state has never adopted and implemented a SIP providing for the CAA section 182(b) 15 percent VOC emission reductions, will be subject to the 15 percent ROP requirement in CAA section 182(b)(1).

We also proposed that for any 2008 ozone nonattainment area, a state could meet the 15 percent ROP requirement in whole or in part with NO_x reductions in lieu of VOC reductions if that state could demonstrate that the area had in fact achieved a 15 percent reduction in VOC emissions within 6 years from a 1990 baseline.

We also proposed that if we did not finalize the proposal to allow any area to substitute NO_x reductions for VOC reductions where a state can demonstrate that the area achieved a 15

percent reduction in VOC emissions from a 1990 baseline, then we would allow such substitution only for new 2008 nonattainment areas located in the OTR that would be subject to the 15 percent ROP requirement for the first time.

b. Final Action and Rationale

We are finalizing that the ROP plan for a 2008 nonattainment area that has not previously adopted and implemented a SIP providing for a 15 percent reduction in VOC emissions consistent with CAA section 182(b)(1) must provide for a 15 percent reduction in VOC emissions from the area’s baseline emissions in the 6 years following the baseline emissions inventory year. This is consistent with the CAA section 182(b)(1) requirement and the prior approach for the 1997 ozone NAAQS. 40 CFR 51.910(a)(1)(i). The EPA is not finalizing either of the additional approaches that would have allowed areas to meet the 15 percent ROP requirement in whole or in part with NO_x reductions in lieu of VOC reductions. After reviewing all comments submitted the EPA does not believe that it has the authority under the CAA to allow NO_x substitution for VOC emissions reductions for the 15 percent ROP requirement in any area that has not previously met the 15 percent reduction requirement, including an area in the OTR.

c. Comments and Responses

Comment: Several commenters raised objections to the EPA’s proposal that would allow only areas in the OTR to meet the RFP requirements by allowing NO_x substitutions. The commenters argued that it would be better to allow all areas to take advantage of this alternative.

Response: Although attainment areas in the OTR were not required to adopt 15 percent RFP plans under section 184 of the CAA, we discussed certain VOC reduction measures in the proposal. We expected that the VOC reductions from those measures would account for a significant portion of the 15 percent requirement for areas designated nonattainment. We reasoned that since attainment areas in the OTR are required to adopt and implement many of the same measures applied in nonattainment areas such areas should be treated as having met the 15 percent VOC reduction requirement if they can demonstrate that they did, in fact, achieve a 15 percent reduction in VOC emissions during the relevant time period, even though they of course would not have submitted a 15 percent plan as they were not subject to the 15

percent requirement at that time. The EPA has reconsidered its proposal and now believes it does not have authority under the CAA to allow NO_x substitution for VOC emissions reductions for the 15 percent ROP in any area, including an area located in the OTR, unless the area has previously submitted, adopted and implemented a SIP providing for a 15 percent VOC reduction in emissions from the area’s baseline emissions. These emissions reductions would have to have been produced in the 6 years following the baseline emissions inventory year consistent with the requirement in CAA section 182(b)(1) and the prior approach for the 1997 ozone NAAQS. 40 CFR 51.910(a)(1)(i).

Comment: One commenter supported the proposed alternative that would allow areas to substitute NO_x for VOC, in part or in whole, in the 15 percent ROP plans because the scientific understanding of the relative roles of VOC and NO_x control has improved. However, numerous commenters stated their understanding that new nonattainment areas become subject to CAA section 182(b)(1) and are therefore subject to the 15 percent VOC-only ROP emission reduction requirement which does not provide for any NO_x substitution.

Response: The EPA agrees that the current understanding of the role of NO_x reductions in reducing ozone would suggest that, in some areas, it would be relatively more efficient to focus attainment planning efforts on achieving reductions in NO_x rather than VOC emissions. However, for new nonattainment areas, CAA section 182(b)(1) expressly requires the 15 percent ROP plans to reduce emissions of VOC. It does not provide discretion to meet these requirements by reducing emissions of other pollutants. Where Congress intended to allow such a substitution, it specifically provided so, such as in CAA section 182(c)(2)(C) which allows NO_x to be substituted for VOC in the 3 percent annual RFP plans for Serious and above areas. Absent a showing of absurd results which the record for this action does not support, the EPA does not believe it has discretion to allow NO_x substitution in this case.

²⁸ See *Alabama Power Co. v. Costle*, 636 F.2d 323, 360 (D.C. Cir. 1979).

²⁹ Hereafter in the discussion of RFP requirements within this section, when we use the term “2008 nonattainment area” we mean “nonattainment area classified as Moderate or higher under the 2008 ozone NAAQS.”

7. What are the ROP/RFP plan requirements for 2008 ozone NAAQS nonattainment areas that consist entirely of one or more areas that fulfilled the 15 percent ROP plan requirement for VOC for a former ozone NAAQS?

a. Summary of Proposal

We proposed that any 2008 nonattainment area which consists entirely of a nonattainment area, or portions of nonattainment areas, for which we previously approved an RFP plan as meeting the 15 percent ROP plan requirement for VOC in section 182(b)(1) of the CAA would not need to submit such an ROP SIP. Such a 2008 nonattainment area could consist of one or more 1-hour nonattainment areas, one or more nonattainment areas under the 1997 ozone NAAQS, or a combination of nonattainment areas for either the 1-hour or 1997 ozone NAAQS.³⁰ Consistent with our approach for the 1997 ozone NAAQS, we proposed to interpret the CAA's RFP provisions to mean that a 2008 nonattainment area that had already achieved a 15 percent reduction in VOC emissions per an approved 182(b)(1) ROP SIP, would instead be subject to the RFP requirement of CAA section 172(c)(2) (which the EPA has interpreted to represent 15 percent emissions reductions over the first 6-year period) if classified as Moderate, or the 3 percent per year requirement of CAA section 182(c)(2)(B), if classified as Serious or above, and under those requirements could substitute NO_x emission reductions for VOC emission reductions.

b. Final Action and Rationale

We are finalizing as proposed, such that 2008 nonattainment areas that have previously met the CAA requirement for a 15 percent ROP VOC reduction plan for the entire area are not required to fulfill that requirement again. This is consistent with the approach we used for the 1997 NAAQS, and the D.C. Circuit Court's decision in *NRDC v. EPA*.³¹ In that case, concerning the EPA's same interpretation for implementing the 1997 ozone NAAQS, the Court held that CAA section

182(b)(1) is ambiguous under these circumstances and that it was reasonable for the EPA to interpret it not to require areas that had already met the 15 percent VOC emission reduction requirement to obtain another 15 percent reduction in VOC emissions. Instead, for purposes of the 1997 ozone NAAQS and for purposes of the 2008 ozone NAAQS, the EPA interprets the RFP requirement of CAA section 172(c)(2) to require an area classified as Moderate to achieve an average 3 percent annual reduction in VOC and/or NO_x emissions for the first 6 years following the baseline year, and the RFP requirement in CAA section 182(c)(2)(B) to require the same thing for areas classified as Serious or higher. Under these circumstances, RFP requirements may be satisfied with reductions in either NO_x or VOC emissions. As explained in the proposal, we believe there are two policy reasons for interpreting this ambiguous provision in this manner. First, both our understanding of the effects of reductions of VOC and NO_x on ambient ozone levels and the technical tools to help predict what combinations of reductions of ozone precursors will be most effective for ozone reduction in any area have improved. Since the purpose of the RFP provisions in CAA sections 172 and 182 is to foster the achievement of reasonable further progress toward attainment, we believe that it makes the most sense to allow states to credit toward the RFP requirement those reductions that an area most needs to reach attainment. Second, as explained more fully in the proposal, the mix of emissions across the country and in specific areas is very different than it was in 1990 because of various measures and developments that have substantially reduced the anthropogenic VOC emissions inventory such that additional area-specific VOC reductions will be increasingly difficult to achieve.

c. Comments and Responses

Comment: Numerous commenters agreed with the EPA's proposal that 2008 nonattainment areas that have already met the CAA requirement for a 15 percent VOC reduction plan are not required to fulfill that VOC requirement again. Two commenters generally supported the EPA's approach but argued for reducing the showing a state must make or giving states more latitude in determining how to treat new nonattainment areas. However, one commenter stated that although the Court in *NRDC v. EPA*, 571 F.3d 1245 (D.C. Cir. 2009), held that the EPA could permissibly read the statute as requiring

SIPs to provide for the 15 percent VOC reduction only once, the Court did not address the question of whether mere EPA approval of a prior 15 percent ROP SIP would satisfy the 15 percent requirement for a subsequent NAAQS, or whether the area would have to show it actually achieved the 15 percent VOC reduction within the 6 years required by the statute. The commenter stated that to be creditable, the 15 percent reduction must have actually occurred within 6 years of November 15, 1990, due to implementation of measures required under the SIP, rules promulgated by the EPA, or title V permits. Accordingly, the commenter believed the EPA cannot treat previously approved ROP plans as satisfying the 15 percent ROP requirement unless the state also shows that the required VOC reductions were actually achieved as required by CAA section 182(b)(1)(C).

Response: The EPA thanks the commenters for their supporting comments. The EPA disagrees, however, that states must demonstrate that they achieved the 15 percent reduction within 6 years of the baseline for a previous NAAQS. We have consistently maintained that if an area has already met the requirement to submit for approval and to implement a plan for reducing VOC emissions by 15 percent within 6 years of the baseline year for either the 1-hour or the 1997 ozone NAAQS, then the area should not be required to meet that requirement a second time for the 2008 ozone NAAQS but instead will be subject to the other applicable RFP provisions of the CAA.

8. What are the RFP plan requirements for 2008 ozone NAAQS nonattainment areas that include portions consisting of all or a piece of one or more nonattainment areas for a previous NAAQS that fulfilled the 15 percent ROP plan requirement for VOC for that previous NAAQS and portions that have never been subject to or have never submitted the 15 percent ROP plan for VOC for a previous NAAQS?

a. Summary of Proposal

For those areas that include all or part of a nonattainment area under a former ozone NAAQS that fulfilled the 15 percent ROP plan requirement for VOC and all or part of an area that was not subject to or did not meet the 15 percent requirement for a former ozone NAAQS, we proposed that a state may choose between two approaches for addressing the 15 percent ROP requirement. First, the state could choose to treat the entire area as an area that never met the 15 percent requirement and submit a new

³⁰ The following nonattainment areas were nonattainment for both the 1-hour and the 1997 ozone NAAQS, and remained the same size under the 2008 ozone NAAQS compared to the 1997 ozone NAAQS: Baltimore, MD; Los Angeles-San Bernardino Counties (West Mojave Desert), CA; Los Angeles-South Coast Air Basin, CA; Riverside County (Coachella Valley), CA; Sacramento Metro, CA; San Joaquin Valley, CA; and Ventura County, CA.

³¹ See *NRDC v. EPA*, 571 F.3d 1245 (D.C. Cir. 2009).

15 percent plan for the entire area. Second, the state could choose to treat the 2008 nonattainment area as divided into two portions: The non-ROP plan portion and the former ROP plan portion. For the non-ROP plan portion of the 2008 nonattainment area, the plan would establish a separate 15 percent ROP VOC reduction requirement under CAA section 182(b)(1) of subpart 2. However, VOC emissions reductions to meet the 15 percent requirement could come from across the entire 2008 nonattainment area, provided that the former ROP plan portion of the area also has a VOC reduction target as part of its ROP plan for the 2008 ozone NAAQS. If the 2008 ozone NAAQS ROP plan for the former ROP plan nonattainment area relies solely on NO_x reductions, then the portion of the nonattainment area never before subject to nonattainment requirements is still responsible for the full 15 percent VOC reductions. We also stated in the proposal that for the former RFP plan portion of the 2008 nonattainment area, the RFP requirements in CAA section 172(c)(2) will apply to Moderate nonattainment areas and the RFP requirements of CAA section 182(c)(2) apply to areas classified as Serious and above. These areas may both substitute NO_x for the VOC reductions in the manner specified in CAA section 182(c)(2)(C).

b. Final Action and Rationale

We are finalizing the two proposed approaches that a state may choose between for addressing the 15 percent ROP requirement where a portion of the area submitted and implemented a 15 percent ROP plan for a previous ozone NAAQS and a portion did not. First, the state may choose to treat the entire area as an area that never met the 15 percent ROP VOC reduction requirement in CAA section 182(b)(1). Second, the state may choose to treat the 2008 nonattainment area as divided into two portions: The non-ROP plan portion and the former ROP plan portion. For the non-ROP plan portion of the 2008 nonattainment area, the plan would establish a separate 15 percent VOC reduction requirement under CAA section 182(b)(1) of subpart 2. However, divergent from our proposal that would have allowed creditable VOC reductions to come from across the entire 2008 nonattainment area, the final rule requires that VOC emission reductions to satisfy the CAA section 182(b)(1) 15 percent requirement must come entirely from within the non-ROP plan area.

For the former ROP plan portion of the 2008 nonattainment area, the RFP requirements in CAA section 172(c)(2) apply if the 2008 nonattainment area is

classified as Moderate. CAA section 182(c)(2)(B) RFP requirements apply if the 2008 ozone NAAQS nonattainment area is classified as Serious or higher.

The EPA believes that nonattainment areas with a previously approved 15 percent plan developed to satisfy previous ozone NAAQS standards are not required to adopt a second 15 percent VOC ROP plan under CAA section 182(b)(1) for purposes of the 2008 ozone NAAQS. The EPA believes that if a portion of the nonattainment area was not subject to an approved 15 percent plan for previous ozone standards, then CAA section 182(b)(1) applies to that portion of the 2008 nonattainment area. We are offering two options, as described previously, and states can select the appropriate option to meet the RFP requirements. However, due to significant comments received regarding the source of reductions to satisfy the 15 percent requirement for the non-ROP portion of the area, we are requiring that VOC emissions reductions to meet the 15 percent requirement must come from within the boundaries of the non-ROP plan portion rather than from across the entire nonattainment area as we proposed. Additionally, the ROP plan for the 2008 ozone NAAQS for the new non-ROP plan portion must provide for 15 percent VOC reductions.

c. Comments and Responses

Comment: One commenter opposed both of the EPA's proposed options, believing that they are not permissible under the CAA because a prior ROP plan for just part of a 2008 nonattainment area cannot be deemed to satisfy the ROP plan requirement—that “area” is different from the area encompassed by the prior ROP plan. The commenter argued that the prior ROP plan could not have provided the 15 percent baseline emissions reduction in an “area” that was not even defined at the time of the prior ROP plan. The commenter also argued that the statute does not allow the EPA to divide up “the area” into multiple sub-areas with separate ROP plans or requirements. The commenter also argued that it would be illegal and arbitrary to allow a sub-area to claim credit for emission reductions from outside the sub-area without having to also add emissions from outside the sub-area to its baseline. The commenter stated that unless the EPA is proposing to require that the non-former ROP sub-area assure a net 15 percent cut from new baseline emissions for the entire 2008 nonattainment area, it cannot allow the sub-area to claim credit for reductions outside the sub-area. The commenter

believed that for sub-areas within the nonattainment area, each with its own 15 percent reduction obligation, that the required VOC emission reductions must come from inside each sub-area respectively.

Response: The EPA recognizes that a prior ROP plan would not necessarily encompass the newly designated portion of a 2008 nonattainment area and that the newly designated portion may not have previously been covered by an approved 15 percent ROP VOC plan. In light of this comment, the EPA has reconsidered the proposal and now believes that if a portion or portions of a nonattainment area for the 2008 ozone NAAQS was/were not subject to an approved 15 percent ROP VOC-only plan for either the 1-hour or the 1997 ozone NAAQS, then CAA section 182(b)(1) requirements apply to that new portion of the 2008 NAAQS nonattainment area.

The EPA disagrees with the commenter's assertion that the statute does not allow areas to be divided into former ROP plan areas and new non-ROP areas. Consistent with the reasoning in the Phase 2 Rule, upheld in *NRDC v. EPA*, we believe that an area, or a sub-area that has never met the 15 percent requirement must do so, but that an area (or sub-area) that has previously met the requirement need not be subjected to it for a second time. Based on similar reasoning, we have reconsidered our proposal that would have allowed emission reductions from across the entire nonattainment area to be creditable toward achieving the 15 percent ROP VOC reductions for the non-ROP portion(s) of the area. We now believe it is important to recognize that VOC emissions reductions to meet the 15 percent ROP VOC reduction requirement must come from within the boundaries of the non-ROP plan portion. Accordingly, the ROP plan for the 2008 ozone NAAQS for the new non-ROP plan portion must demonstrate achievement of 15 percent VOC reductions from that sub-area's baseline.

9. Alternative Approaches to Achieving RFP

a. Summary of Proposal

We requested comment on two alternative approaches to achieve RFP: (1) An air quality-based approach that would measure RFP in terms of ambient air quality improvements tied to an area's percent emission reduction; and, (2) an approach that would adjust (or “weight”) the amount of RFP credit given for reductions of individual species (or similar groups) of VOC based

on their ozone forming potential (*i.e.*, photochemical reactivity).

For each of these alternative approaches, the EPA sought comment on the usefulness and practicality of the approach, and specifically on whether there is an adequate legal basis under the CAA to approve SIPs that would employ it.

b. Final Action and Rationale

The EPA is not taking final action on these alternative approaches. The EPA may further consider such alternatives in the future. The EPA believes that more time is needed to better understand the scientific and legal issues involved in allowing and implementing these approaches. In the meantime, use of these approaches may be considered on a case-by-case basis. If states wish to pursue either of these approaches, then we encourage them to work closely on developing such an approach with their respective EPA Regional Offices. If a state submits an alternative approach to achieving RFP, then the EPA will address the submittal in a separate notice and comment rulemaking action.

c. Comments and Responses

Comment: Some commenters, while supporting the approaches, believed that the EPA must provide more information on how both the VOC-weighted approach and the air quality-based approach would be implemented, a stronger legal justification for allowing these alternatives, and more scientific support for practical implementation. There were commenters that supported the air quality-based approach. One commenter stated that the air quality alternative would better reflect the air quality progress being made in areas adjacent to an upwind nonattainment area, whereby the downwind areas must rely on large upwind emission reductions to attain the ozone standard. The commenter also argued that states should have the opportunity to demonstrate that such an approach is equivalent to or better than an emission reduction target and believes it would qualify as an equivalent planning procedure under CAA section 172(c)(8) and should be included in the final rule. The commenter indicated a similar approach was included in the implementation rules that govern SIP development for the PM_{2.5} NAAQS (40 CFR 51.1009(g) and (h)). Other commenters pointed out that the VOC-weighted reactivity method has already been adopted in other national, state and local ozone regulations, such as the current national aerosol coatings rule and a highly-reactive VOC emissions

cap-and-trade program and these may serve as legal and administrative precedents for other reactivity-based standards. Commenters also cautioned the EPA that such approaches should not be mandated, and must be left to the state's discretion.

There were commenters that did not support these alternative approaches, stating that the CAA clearly requires a percentage reduction from baseline emissions for purposes of RFP.

Response: The EPA appreciates the comments it has received on these alternative approaches. As noted above, the EPA believes more time is needed to better understand the scientific and legal issues involved before finalizing any alternative approaches to achieving RFP. We encourage states interested in an alternative approach to work closely with their respective EPA Regional Offices, who may consider these approaches on a case-by-case basis. Any such actions would be addressed through separate notice and comment rulemaking including analysis of appropriate legal and technical justifications.

D. How do RACT and RACM requirements apply for 2008 ozone NAAQS nonattainment areas?

1. Reasonably Available Control Technology

a. Summary of the Proposal

The EPA indicated in the proposal that RACT SIPs must contain adopted RACT regulations, certifications where appropriate that existing provisions are RACT,³² and/or negative declarations that there are no sources in the nonattainment area covered by a specific CTG source category. The EPA also indicated that states must provide notice and opportunity for public comment on their RACT submission even where the state determines it is appropriate to certify that the existing provisions remain RACT or where the state submits a negative declaration. States must also submit appropriate supporting information for their RACT

submission as described in the Phase 2 Rule. *See* 70 FR 71652.

The EPA proposed a number of items regarding RACT submittals. First, the EPA proposed that states should use current EPA guidance [including existing control techniques guidelines (CTGs) and alternative control techniques (ACTs)] and any other information available in making RACT determinations.³³ The EPA recognized in the proposal that existing CTGs and ACTs for many source categories have not been revised in a number of years. However, in many cases, more recent technical information is available in other forms. The EPA proposed that as part of their RACT SIP submission, states should provide adequate documentation that they have considered control technology that is economically and technologically feasible. The analysis of economic and technological feasibility should be based on information that is current as of the time of development of the RACT SIP for the 2008 ozone NAAQS. Additionally, the EPA noted that states should consider information submitted as part of the public comment period associated with the RACT SIP.

The EPA proposed that in some cases, states may conclude that sources already addressed by RACT determinations for the 1-hour and/or 1997 ozone NAAQS may not need to implement additional controls to meet the 2008 ozone NAAQS RACT requirement.

The EPA proposed to follow the EPA's existing policy with respect to "area wide average emission rates." This policy recognizes that states may demonstrate as part of their NO_x RACT SIP submittal that the weighted average NO_x emission rate from all sources in the nonattainment area subject to RACT meets NO_x RACT requirements.

The EPA proposed that as part of their RACT submissions, states have the option of conducting a technical analysis for a nonattainment area considering the emissions controls required by a regional cap-and-trade program, and demonstrating that compliance by certain sources participating in the cap-and-trade program results in actual emission reductions in the particular nonattainment area that are equal to or greater than the emission reductions that would result if RACT were applied to an individual source or source category within the nonattainment area.

³² The EPA has defined RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (December 9, 1976 memorandum from Roger Strelow, Assistant Administrator for Air and Waste Management, to Regional Administrators, "Guidance for Determining Acceptability of SIP Regulations in Non-Attainment Areas" and also in 44 FR 53762; September 17, 1979). Availability and feasibility may differ across sources in the same category (June 9, 1985, memorandum from John Calcagni, Chief, Economic Analysis Branch, to G.T. Helms, "Criteria for Determining RACT in Region IV.")

³³ The EPA's CTGs and ACTs are located at <http://www.epa.gov/air/ozonepollution/SIPToolkit/ctgs.html>.

The EPA provided legal reasoning for this approach.

The EPA proposed to follow its current policy that for VOC sources subject to MACT standards, states would be allowed to streamline their RACT analysis by including a discussion of the MACT controls and considerations relevant to VOC RACT. Historically, in many cases, states have been able to rely on MACT standards for purposes of showing that a source has met VOC RACT.

The EPA also noted that a state has discretion to require beyond-RACT reductions from any source, and has an obligation to demonstrate attainment as expeditiously as practicable. Thus, states may require VOC and NO_x reductions that are “beyond RACT” if such reductions are needed in order to provide for timely attainment of the ozone NAAQS.

The EPA solicited comment on modifying existing guidance to provide additional flexibility in implementing the CAA section 182(b)(2) RACT requirements. In particular, the EPA solicited comments on whether it would be appropriate for states, as part of their RACT determinations regarding what is “reasonable,” to consider the effect (or lack thereof) of VOC emission reductions on reductions in ozone concentrations when assessing economic feasibility. The EPA solicited comments on this approach because in some nonattainment areas, additional reductions of anthropogenic VOC emissions have been scientifically demonstrated to have a limited impact on reducing ozone concentrations.

The EPA took comments on the following: (1) Whether state RACT determinations could take into consideration, in the evaluation of what is economically feasible, the potential air quality benefit (or lack thereof) of further VOC controls; (2) the specific circumstances and limitations to which an air quality benefit factor would apply; (3) specific examples of where modeling has demonstrated that anthropogenic VOC reductions have “negligible effect,” (commenters were also asked to provide a defensible threshold for defining “ineffective,” and define a test for concluding that the effect of additional VOC reductions would be “negligible.”); (4) input regarding whether this flexibility should be provided on an individual source basis, or also on a source category basis; (5) that any approaches suggested by commenters should also address how public health and welfare will be impacted; and (6) an explanation as to the specific legal basis for supporting the suggested approach.

Finally, the EPA proposed a specific deadline by which RACT measures are to be implemented for the 2008 ozone NAAQS, which is consistent with the timeline specified in CAA section 182(b)(2). For the 2008 ozone NAAQS, we proposed that areas must implement RACT measures as expeditiously as practicable, but no later than January 1 of the 5th year after the effective date of a nonattainment designation. Nonattainment designations for all areas of the country were effective July 20, 2012. RACT measures for areas classified Moderate or above and all areas of the OTC would be required to be implemented by January 1, 2017. This would allow a comparable amount of time for sources to meet RACT requirements as originally anticipated under the 1990 CAA Amendments, consistent with the Moderate area attainment date of July 20, 2018.

b. Final Action and Rationale

The EPA is finalizing the approach where states should refer to the existing CTGs and ACTs for purposes of meeting their RACT requirements, as well as all relevant information (including recent technical information and information received during the public comment period) that is available at the time that they are developing their RACT SIPs for the 2008 ozone NAAQS. We believe that there is sufficient information available to states to inform their RACT determinations.

The EPA is finalizing the approach allowing in some cases for states to conclude that sources already addressed by RACT determinations for the 1-hour and/or 1997 ozone NAAQS do not need to implement additional controls to meet the 2008 ozone NAAQS RACT requirement. We believe that, in some cases, a new RACT determination under the 2008 standard would result in the same or similar control technology as the initial RACT determination under the 1-hour or 1997 standard because the fundamental control techniques, as described in the CTGs and ACTs, are still applicable.³⁴ In cases where controls were applied due to the 1-hour or 1997 NAAQS ozone RACT requirement, we expect that any incremental emissions reductions from application of a second round of RACT controls may be small and, therefore, the cost for advancing that small additional increment of reduction may not be reasonable. In contrast, a RACT analysis for uncontrolled sources would

be much more likely to find that new RACT-level controls are economically and technically feasible.

The EPA is finalizing the proposed approach with respect to “area wide average emission rates.” This approach is consistent with the EPA’s existing policy.

The EPA is finalizing the proposed approach, where states have the option of conducting a technical analysis for a nonattainment area considering the emissions controls required by a regional cap-and-trade program, and demonstrating that compliance by certain sources participating in the cap-and-trade program results in actual emission reductions in the particular nonattainment area that are equal to or greater than the emission reductions that would result if RACT were applied to an individual source or source category within the nonattainment area. This approach is consistent with the Court’s reasoning in *NRDC v. EPA* regarding the NO_x SIP Call. Additionally, we note that in August 2013, the Court granted EPA’s request for voluntary vacatur of the CAIR–RACT presumption for the 1997 ozone NAAQS. The approach we are finalizing is not inconsistent with the vacatur decision.

The EPA is finalizing the proposed approach for VOC sources subject to MACT standards, such that states would be allowed to streamline their RACT analysis by including an assessment of the MACT controls and how they relate to VOC RACT considerations. This approach is consistent with the EPA’s current policy.

The EPA is finalizing the proposed approach to provide states with the discretion to require beyond-RACT reductions from any source, and that states have an obligation to demonstrate attainment as expeditiously as practicable. We believe it may be necessary in some cases for states to achieve “beyond RACT” reductions in order to demonstrate attainment as expeditiously as practicable.

The EPA is not modifying existing guidance for meeting the 182(b)(2) RACT requirements for the 2008 ozone NAAQS through this action. There is scientific information available that indicates that in some locations ozone formation is NO_x-limited, and changes in anthropogenic VOC emissions will have little effect on ozone concentrations. However, the EPA is not prepared at this time to establish a specific definition of “negligible effect,” and believes that legal support for modifying the existing RACT guidance needs to be further explored. States, therefore, will continue to conduct

³⁴ See existing guidance in RACT Questions and Answers 2006 (May 18, 2006, Note from William Harnett to Regional Air Division Directors), Questions 17 and 18, regarding RACT certifications.

RACT determinations as they historically have. Additionally, we do not anticipate that any current NO_x-limited nonattainment areas will immediately need to develop substantive new VOC RACT SIP submissions. Therefore, we do not expect that retaining the current RACT guidance will have any near-term impact on states or VOC sources in current NO_x-limited nonattainment areas. However, the EPA received potentially useful information from commenters regarding the definition of “negligible effect,” which we will consider in the future as we further assess whether to modify the existing RACT guidance.

The EPA is finalizing the proposed approach that areas must implement RACT measures as expeditiously as practicable, but no later than January 1 of the 5th year after the effective date of a nonattainment designation. For the nonattainment designations that were effective July 20, 2012, RACT measures (for areas where they are required) must be implemented by January 1, 2017. This allows a comparable amount of time for sources to meet RACT requirements as originally anticipated under the 1990 CAA Amendments, and ensures that RACT measures are required to be in place no later than the last ozone season prior to the Moderate area attainment date of July 20, 2018.

c. Comments and Responses

Comment: Several commenters supported the proposed approach that in some cases, states may conclude that sources already addressed by RACT determinations for the 1-hour and/or 1997 ozone NAAQS may not need to implement additional controls to meet the 2008 ozone NAAQS RACT requirement. Several other commenters generally did not support this conclusion. One commenter requested clarification regarding situations where a state may conclude that existing RACT controls meet RACT for the 2008 ozone NAAQS.

Response: The EPA generally agrees with the supporting comments. The EPA disagrees with the comments opposing the proposed approach. In areas previously subject to the RACT requirement under the 1-hour and/or 1997 ozone NAAQS, states have previously addressed the RACT requirement with respect to these NAAQS. We believe that, in some cases, a new RACT determination under the 2008 standard would result in the same or similar control technology as the initial RACT determination under the 1-hour or 1997 standard because the fundamental control techniques, as

described in the CTGs and ACTs, are still applicable.

We appreciate the commenter's request for more information regarding the specific situations where this approach may be reasonable. In cases where controls were applied due to the 1-hour or 1997 ozone NAAQS RACT requirement, the incremental emissions reductions from application of updated RACT controls may be small and, therefore, the cost for advancing that small additional increment of reduction may not be reasonable. In contrast, a RACT analysis for uncontrolled or partially controlled sources would be more likely to find that updated RACT-level controls under the 2008 ozone NAAQS are economically and technically feasible.

In portions of 2008 nonattainment areas where control technologies for major sources or source categories were previously reviewed and controls applied to meet the RACT requirement under the 1-hour or the 1997 ozone NAAQS, states should review and, if appropriate, accept the initial RACT analysis as meeting the RACT requirements for the 2008 ozone NAAQS. Absent data or public comments indicating that the previous RACT determination is no longer appropriate, the state need not adopt additional SIP controls to meet the new RACT requirement for these sources. In such cases, the state's SIP revision submitted after notice and comment should contain a certification, with appropriate supporting information (including consideration of new data), indicating that these sources are already subject to SIP-approved requirements that still meet the RACT obligation. There are cases where the initial RACT analysis under the 1-hour standard or the 1997 standard for a specific source or source category concluded that no additional controls were necessary. In such cases, a new RACT determination is needed to consider whether more cost effective control measures have become available for sources that were not previously regulated. A re-analysis may determine that controls are now economically and technically feasible and are necessary to meet the RACT requirement. Please refer to the Response to Comments document for additional detail on this topic.

Comment: A commenter expressed the concern that a nonattainment area-wide weighted NO_x averaging demonstration would exempt EGUs used primarily on high electricity demand days from NO_x control. The commenter also expressed that the exemption of HEDD EGUs from NO_x control does not reduce NO_x emissions

when and where such reductions are necessary to attain the ozone NAAQS. Another commenter asserted that the EPA's definition of RACT plainly requires each individual source to apply control technology to achieve the lowest emission limitation that each particular source is capable of meeting considering technology and economic feasibility. The commenter argued that substitution of area-wide averaging for source-specific RACT does not meet the language of section 182(b)(2) of the Act, which requires SIPs for Moderate and above areas to require implementation of RACT “with respect to . . . [a]ll VOC sources in the area covered by any CTG issued before November 15, 1990,” and “[a]ll other major stationary sources of VOCs that are located in the area.” 42 U.S.C. 7511a(b)(2). The commenter argued that the EPA is supplanting these statutory directives with an area-wide averaging program that allows some sources to avoid installing RACT controls.

Response: The EPA's existing policy recognizes that states can meet NO_x RACT requirements by submitting as part of their NO_x RACT SIP submittal a demonstration that the weighted average NO_x emission rate from sources in the nonattainment area subject to RACT achieves RACT-level reductions. We note, however, that this policy does not include an exemption for HEDD EGUs from NO_x control.

Additionally, the EPA disagrees with the comment that “area-wide averaging is not a legally permissible method for complying with” RACT and that RACT requires reductions from “each and every source” in an area. The EPA believes that the statute, as interpreted by the court in *NRDC v. EPA*, provides a state with the option of demonstrating that its program achieves RACT level reductions by showing emission reductions greater than or equal to reductions that would be achieved through a source-specific application of RACT in the nonattainment area. *NRDC v. EPA* interprets the CAA as requiring that each nonattainment area must achieve “RACT-level reductions,” which is to say the reductions that would be achieved “if RACT-level controls were installed in the area.” 571 F.3d at 1258. In sum, nothing in the CAA or in *NRDC v. EPA* requires that “each and every” source in the area employ RACT or achieve RACT-level reductions. Consistent with previous guidance, the EPA continues to believe that RACT can be met on average by a group of sources within a nonattainment area rather than at each individual source. Therefore, states can show that SIP provisions for these sources meet

the ozone RACT requirement using the averaging approach.

Comment: Several commenters expressed general support for the proposed policy that would allow states to demonstrate that compliance with a regional trading program by affected sources within a nonattainment area will satisfy RACT requirements for those sources. Several commenters additionally expressed that it may be appropriate for states to rely on a cap-and-trade program that is limited to a nonattainment area for purposes of meeting RACT for sources located in the nonattainment area.

Other commenters did not support the proposed approach. A few of these commenters expressed concerns that by providing states with an option to rely on trading programs, the EPA is allowing for sources to turn off their controls in upwind states. Commenters additionally suggested that RACT should apply on an individual basis to every affected stationary source in a nonattainment area. Commenters implied that the EPA should specifically require controls to be operational at all times at these sources.

Response: The EPA appreciates, and generally agrees with, the supporting comments pertaining to the proposed policy allowing states to rely on a regional cap-and-trade program to comply with RACT if they provide an appropriate technical demonstration. The EPA also agrees that states may rely on a cap-and-trade program that is limited to a nonattainment area for purposes of meeting RACT for sources located in the nonattainment area. The EPA disagrees, however, with those commenters that say that states should not have the option to demonstrate that compliance with a regional trading program by sources in a nonattainment area achieves RACT-level reductions within the nonattainment area. In *NRDC v. EPA*, the Court noted that a determination that RACT was satisfied by compliance with a regional trading program might be permissible for an area if accompanied by a technical analysis demonstrating that the program in fact “results in greater emissions reductions in a nonattainment area than would be achieved if RACT-level controls were installed in that area.”³⁵ In other words, the Court rejected the notion that a regional trading program intended to eliminate interstate transport of emissions consistent with CAA section 110(a)(2)(D)(i) could automatically constitute the RACT-level of control required by CAA section 172(c)(1), but held open the possibility

that an analysis could be conducted to determine whether such a program would result in the same, or higher level of emissions reductions in individual nonattainment areas.

The EPA additionally disagrees with any implication by the commenters that the proposal should address whether controls are required to be operational at all times at sources in the nonattainment area. The EPA’s NO_x RACT guidance (Nitrogen Oxides Supplement to the General Preamble, 57 FR 55625; November 25, 1992) includes a policy where states may develop RACT programs that are based on “area wide average emission rates.” Additional guidance on area-wide RACT provisions is provided by the EPA’s January 2001 economic incentive program guidance titled, “Improving Air Quality with Economic Incentive Programs.” Thus, the EPA’s existing policy recognizes that states may demonstrate as part of their NO_x RACT SIP submittal that the weighted average NO_x emission rate from a group of sources in the nonattainment area subject to RACT meets NO_x RACT requirements.

Comment: The EPA received several supporting and opposing comments regarding whether the EPA should modify the RACT guidance to allow for states to consider the ozone air quality benefits of reductions in VOC emissions for purposes of RACT determinations. Supporting comments provided examples where photochemical modeling appears to show that in some areas VOC reductions have a limited effect on reductions in ozone concentrations. These commenters also provided information that may be useful in evaluating the potential definition of “negligible effect.” Several commenters also provided potential legal justifications for modifying the RACT guidance in this respect.

Response: The EPA recognizes that modification of the existing guidance on determining RACT could add flexibility that would be beneficial to the efficiency of ozone controls in some states. In addition, it appears that there is available science suggesting that ozone formation in some areas is NO_x-limited, such that changes in anthropogenic VOC emissions will have little effect on ozone concentrations. However, the EPA does not believe that the legal arguments provided by the commenters are sufficient to address potential statutory restrictions. The main legal argument presented by commenters in support of flexibility is that the EPA has “discretion” to determine what constitutes “reasonably” available control

technology. However, the EPA may not have sufficient discretion to support this modification of the existing RACT guidance. CAA section 182(b)(2) provides that SIPs must “require the implementation of reasonably available control technology” with respect to “VOC sources.” It does not clearly authorize consideration of whether technology that is “reasonably available” is also reasonably effective with respect to improving air quality or reducing ozone formation, and it does not specify criteria for discerning a level of air quality improvement below which available technology does not need to be implemented.

Comment: Some opposing comments raised equity concerns with modifying the RACT guidance, while other comments raised legal concerns. Several commenters stated the EPA has issued NO_x waivers in the past under CAA section 182(f) and the proposed approach would appear to establish a VOC waiver scheme, which the commenters do not support and is not expressly provided by the statute. Several commenters stated that the CAA requires RACT on all major sources of VOC in nonattainment areas and the commenters do not believe that the EPA has the authority to eliminate this requirement. One commenter also stated that not only has Congress made clear that CAA section 182(b)(2)’s mandates for VOC RACT are not limited by any sort of air quality benefit test, but the plain meaning of “economic feasibility” does not have anything to do with air quality benefits, citing several cases.

Response: Given these concerns about whether the CAA authorizes such an approach, and as is discussed above, the EPA is not at this time revising our long-standing RACT determination guidance. However, the EPA may continue to explore this option and potential legal support for it in the future.

Comment: The EPA received one supporting comment regarding the proposed approach that for VOC sources subject to MACT standards, states would be allowed to streamline their RACT analysis by including a discussion of the MACT controls and considerations relevant to VOC RACT. The EPA received one additional comment suggesting that, before requiring states to apply NO_x RACT to all combustion sources, the EPA should study certain MACT rules and specifically recommend the SIP credit for federal MACT measures in SIP planning.

Response: The EPA thanks the commenter for their support. Regarding the issue of whether to specifically recommend the SIP credit for federal

³⁵ 571 F.3d at 1258.

MACT measures in SIP planning, the EPA is not planning at this time to develop specific recommendations for SIP credit for Federal MACT measures. Additionally, the commenter seems to imply that the EPA should not require compliance with RACT until such a study is completed. The EPA disagrees with the commenter. Regardless of whether or not the EPA conducts such a study, the RACT requirements remain requirements that must be met under the CAA, whether through reliance on MACT or otherwise.

Comment: One commenter expressed concern that the EPA's proposed requirement to have RACT in place by January 1, 2017, may not provide enough time for implementation. The commenter noted that if the EPA needs to develop additional CTGs for the current ozone NAAQS, states may not have ample time to develop regulations that provide sufficient time for sources to implement RACT for sources covered by additional CTGs.

Response: The EPA disagrees with the commenter that a requirement for RACT to be in place by January 1, 2017, for areas designated nonattainment effective July 20, 2012, (and all areas of the OTR), does not allow enough time for implementation. The EPA believes that the January 1, 2017, date allows a sufficient amount of time for states to make RACT determinations and for sources to meet RACT requirements on the time-table originally anticipated under the 1990 CAA Amendments, and ensures that RACT measures are required to be in place throughout the last ozone season prior to the Moderate area attainment date of July 20, 2018.

Given the comment received, we wish to provide further clarification regarding the RACT implementation deadline. The EPA notes that the requirement to develop a RACT SIP applies only to nonattainment areas that are classified as Moderate or above (*i.e.*, Serious, Severe, or Extreme). Therefore, for such areas that were designated effective July 20, 2012, RACT SIPs are due within 2 years of the effective date of designation, by July 20, 2014. Sources subject to RACT in those areas would then need to implement RACT by January 1, 2017.³⁶ If an area is reclassified from Marginal to Moderate at some later date, then that area would become subject to a new RACT requirement, and the EPA would set new SIP submission and RACT

compliance dates on a reasonable schedule that the Administrator will establish in the applicable notice and comment rulemaking reclassifying the area. For areas newly redesignated to nonattainment, the RACT SIP is due 2 years from the effective date of designation, and the implementation deadline is January 1st of the 5th year after the effective date of designation.

Additionally, the January 1, 2017, RACT implementation deadline, would not automatically apply to sources covered by future CTGs. If a new CTG is developed, all current Moderate or above areas would be required to revise their SIPs for the sources covered by the CTG within the period set forth by the EPA in issuing the CTG document (*see* section 182(b)(2) of the CAA), which would occur through notice and comment rulemaking. This will give sources lead time to comply with the new requirement.

Comment: With regard to the EPA's proposed requirement to have RACT in place by January 1, 2017, one commenter asserted that it was not Congress's intention to require another round of RACT revisions in the short period of time between ozone NAAQS revisions. The commenter claims the short period of time would not allow a facility to recoup the investment in the original pollution control before the requirement to reconsider if the next round RACT determinations requires newer controls. The commenter also believes that it would be burdensome for states to adopt new RACT SIPs and resubmit them for EPA approval.

Response: The EPA disagrees with the commenter that Congress did not realize the implication that the 5-year NAAQS review cycle would potentially require new RACT determinations each time a NAAQS is revised. The EPA has offered flexibilities in applying the RACT requirements for areas that have previously met requirements for the 1-hour or the 1997 8-hour ozone NAAQS.

2. Reasonably Available Control Measures (RACM)

a. Summary of the Proposal

The EPA proposed to continue to apply to the 2008 ozone NAAQS, existing RACM guidance that interprets the RACM provision to require a demonstration that the state has adopted all reasonable measures (including RACT) to meet RFP requirements and to demonstrate attainment as expeditiously as practicable and thus that no additional measures that are reasonably available will advance the attainment date or contribute to RFP for the

area.^{37 38 39} The EPA also proposed that although states should consider all available measures, including those being implemented in other areas, a state must adopt measures for an area only if those measures are economically and technologically feasible and will advance the attainment date or are necessary for RFP.

b. Final Action and Rationale

The EPA is finalizing the proposed approach of continuing to apply existing RACM guidance to the 2008 ozone NAAQS, such that we interpret the RACM provision to require a demonstration that the state has adopted all reasonable measures (including RACT) to meet RFP requirements and to demonstrate attainment as expeditiously as practicable and thus that no additional measures that are reasonably available will advance the attainment date or contribute to RFP for the area. Additionally the EPA is finalizing the interpretation of the CAA requirements that states should consider all available measures, including those being implemented in other areas, and that a state must adopt measures for an area only if those measures are economically and technologically feasible and will advance the attainment date or are necessary for RFP. This interpretation has been upheld by several courts. *See, e.g., Sierra Club v. EPA*, et al., 294 F.3d 155 (D.C. Circuit, 2002).

Significant tracts of land under federal management may also be included in nonattainment area boundaries. The role of fire in these areas should be assessed and emissions budgets developed in concert with those federal land management agencies. Where appropriate, states may consider developing plans for addressing wildland fuels in collaboration with land managers and owners. Information is available from the Department of the Interior (DOI) and USDA Forest Service on smoke management programs and

³⁷ "State Implementation Plans; General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas" 44 FR 20372 at 20375 (April 4, 1979). "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990; Proposed Rule." 57 FR 13498 at 13560 (April 16, 1992).

³⁸ "Guidance on the Reasonably Available Control Measures (RACM) Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas." John S. Seitz, Director, Office of Air Quality Planning and Standards. November 30, 1999. <http://www.epa.gov/ttn/oarpg/t1/memoranda/revracm.pdf>.

³⁹ Memorandum of December 14, 2000, from John S. Seitz, Director, Office of Air Quality Planning and Standards, re: "Additional Submission on RACM from States with Severe One-Hour Ozone Nonattainment Area SIPs." http://www.epa.gov/ttn/caaa/t1/memoranda/121400_racmmemfin.pdf.

³⁶ We note that the RACT compliance date does not change relative to the RACT SIP submission. This compliance date is fixed, such that if a state submits a RACT SIP past the deadline, then sources would still have to comply with the RACT requirements by January 1, 2017.

basic smoke management practices and may be considered as potential mitigation measures to lessen the impacts of wildfires.⁴⁰

Wildfire emissions are a component of background ozone⁴¹ and can significantly contribute to periodic high ozone levels.⁴² Besides their effect on air quality, wildfires pose a direct threat to public safety—a threat that can be mitigated through management of wildland vegetation. Attempts to suppress wildfires have resulted in unintended consequences, including increased risks to both humans and ecosystems.⁴³ The use of wildland prescribed fire can influence the occurrence, behavior and effects of catastrophic wildfires which may help manage the contribution of wildfires to background ozone levels and periodic peak ozone events. Additionally prescribed fires can have benefits to those plant and animal species that depend upon natural fires for propagation, habitat restoration, and reproduction, as well as myriad ecosystem functions (e.g., carbon sequestration). The EPA understands the importance of prescribed fire which mimics a natural process necessary to manage and maintain fire-adapted ecosystems and climate change adaptation, while reducing risk of uncontrolled emissions from catastrophic wildfires, and is committed to working with federal land managers, tribes, and states to effectively manage prescribed fire use to reduce the impact of wildfire related emissions on ozone.

If wildfire impacts are significant, contributing to exceedances of the standard, states should consider RACM for this source. Fires play an important ecological role across the globe, benefiting those plant and animal species that depend upon natural fires for propagation, habitat restoration, and reproduction. Fires are one tool that can be used to reduce fuel load, unnatural

understory, and tree density, helping to reduce the risk of catastrophic wildfires. Some wildfires and the use of prescribed fire can influence the occurrence of catastrophic wildfires which may reduce the probability of fire-induced ozone impacts and subsequent public health effects. RACM for wildfire may include addressing the wildland fuels through fuels management, including the use of prescribed fire and possibly allowing some wildfire to occur naturally, in systems that are ecologically fire dependent. Where appropriate, states, land managers and land owners may consider developing plans to ensure that fuel accumulations are addressed and fuel management efforts are not delayed. RACM for prescribed fires should also be considered. Information is available from DOI and the USDA Forest Service on the ecological role of fire, smoke management programs and basic smoke management practices, and fuels management strategies, and may be considered when determining RACM for prescribed fires. RACM must be determined for each area on a case-by-case basis.

c. Comments and Responses

Comment: One commenter suggested amending RACM guidance to follow the same common-sense approach proposed for RACT; i.e., if studies show that reducing anthropogenic VOC emissions in an area has little effect on ground-level ozone concentrations, RACM analyses should not be required for that pollutant.

Response: We note that existing EPA guidance already provides some assistance to states with identifying the type of measures that might be considered for RACM (See General Preamble, 57 FR 13549, April 16, 1992). If a state demonstrates that implementation of VOC emission reduction measures will not contribute to an area's reasonable further progress or to attainment, then additional control of VOC emissions does not need to be further considered for RACM purposes. Thus, the EPA concludes that it need not amend RACM guidance to address this comment.

E. Does the 2008 ozone NAAQS result in any new vehicle I/M programs?

Based on current designations and classifications for the 2008 ozone NAAQS, no new vehicle I/M programs are currently required. In the proposal for this rulemaking, the EPA provided information on potential ways a state could design and implement an I/M program, either because it was required to implement a program due to a future

reclassification for the 2008 ozone NAAQS, as a result of a nonattainment designation and classification under a future standard, or because an area decided to implement an I/M program even though it was not otherwise required. That discussion is not repeated here; therefore, please refer to the proposal (78 FR 34194–34196). Although the EPA is finalizing its proposal to revise the I/M SIP due date to align it with other SIP due dates (see section III.A of this preamble), no other changes are being made to the EPA's existing regulations and guidance on vehicle I/M programs.

F. How does transportation conformity apply to the 2008 ozone NAAQS?

1. What is transportation conformity?

Transportation conformity is required under CAA section 176(c) to ensure that transportation plans, transportation improvement programs (TIPs) and federally supported highway and transit projects are consistent with (“conform to”) the purpose of the SIP. Conformity to the purpose of the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the relevant NAAQS or interim reductions and milestones. Transportation conformity applies to areas that are designated nonattainment, and to those former nonattainment areas that have been redesignated to attainment since 1990 and have a CAA section 175A maintenance plan (“maintenance areas”) for transportation-related criteria pollutants: carbon monoxide, ozone, nitrogen dioxide and particulate matter.

The EPA's Transportation Conformity Rule (40 CFR 51.390 and part 93, subpart A) establishes the criteria and procedures for determining whether transportation activities conform to the SIP. The EPA first promulgated the Transportation Conformity Rule on November 24, 1993 (58 FR 62188), and subsequently published several amendments. For example, the EPA published a final rule on July 1, 2004 (69 FR 40004) that provided transportation conformity procedures for state and local agencies under the 1997 ozone NAAQS, among other things. Parties involved in implementing transportation conformity include state and local transportation and air quality agencies, metropolitan planning organizations (MPOs) and the U.S. Department of Transportation (the DOT) (40 CFR 93.102). For further information on transportation conformity rulemakings, policy guidance and outreach materials, see the

⁴⁰ USDA Forest Service and Natural Resources Conservation Service, Basic Smoke Management Practices Tech Note, October 2011, http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1046311.pdf.

⁴¹ Jaffe, DA; Wigder, NL. (2012). Ozone production from wildfires: A critical review. *Atmos Environ* 51: 1–10. <http://dx.doi.org/10.1016/j.atmosenv.2011.11.063>.

⁴² Emery, C; Jung, J; Downey, N; Johnson, J; Jimenez, M; Yarwood, G; Morris, R. (2012). Regional and global modeling estimates of policy relevant background ozone over the United States. *Atmos Environ* 47:206–217. <http://dx.doi.org/10.1016/j.atmosenv.2011.11.012>.

⁴³ Indeed, “Fire policy that focuses on [wildfire] suppression only, delays the inevitable, promising more dangerous and destructive future . . . fires.” Stephens, SL; Agee, JK; Fule, PZ; North, MP; Romme, WH; Swetnam, TW. (2013). Managing Forests and Fire in Changing Climates. *Science* 342:41–42.

EPA's Web site at <http://www.epa.gov/otaq/stateresources/transconf/index.htm>.

2. When would transportation conformity apply to areas designated nonattainment for the 2008 ozone NAAQS?

Transportation conformity for the 2008 ozone NAAQS applied 1 year after the effective date of nonattainment designations for the NAAQS. CAA section 176(c)(6) and 40 CFR 93.102(d) provide a 1-year grace period from the effective date of an initial designation of nonattainment before transportation conformity applies in the area for a particular pollutant and standard. For areas designated nonattainment effective July 20, 2012, the 1-year grace period ended on July 20, 2013. For any area subsequently redesignated to nonattainment (from unclassifiable or attainment), the 1-year grace period runs from the effective date of the redesignation. The grace period requirements differ depending on whether the nonattainment area is a metropolitan area or an isolated rural area.

In metropolitan areas, which are defined as urbanized areas that have a population greater than 50,000 and a designated MPO responsible for transportation planning per 23 U.S.C. 134, within 1 year after the effective date of the nonattainment designation, the area's MPO and the DOT must make a conformity determination with regard to the area's transportation plan and TIP for the 2008 ozone NAAQS under the transportation conformity regulations (40 CFR 93.139 and part 93, subpart A). The conformity requirements for "donut areas,"⁴⁴ including the application of the 1-year conformity grace period, are generally the same as those for metropolitan areas. If, at the end of the grace period, the MPO and the DOT have not made a transportation plan and TIP conformity determination for the relevant pollutant and standard, the area would be in a conformity "lapse." During a conformity lapse, only certain projects can receive additional federal funding or approvals to proceed. The practical impact of a conformity lapse will vary from area to area.

Isolated rural nonattainment areas are areas that do not contain or are not part of an MPO (40 CFR 93.101). Conformity requirements for isolated rural nonattainment areas can be found at 40 CFR 93.109(g). An isolated rural area

would be required to make a conformity determination only at the point when a new transportation project needs funding or approval. This point may occur significantly after the 1-year grace period has ended. See the EPA's July 1, 2004, final rule for further background on how the EPA has implemented this conformity grace period for the 1997 ozone NAAQS in metropolitan, donut and isolated rural areas (69 FR 40008–40014).⁴⁵

3. Does transportation conformity apply for the 1997 ozone NAAQS once that NAAQS is revoked?

The CAA only requires transportation conformity in areas that are designated nonattainment or maintenance for a given pollutant and standard. Therefore, transportation conformity would no longer apply for purposes of the 1997 ozone NAAQS as of the time that standard (and thus an area's designation for that standard) is revoked. Accordingly, existing 1997 ozone NAAQS nonattainment and maintenance areas, regardless of their designation for the 2008 ozone NAAQS, would no longer be required to demonstrate transportation conformity for the 1997 ozone NAAQS after the 1997 ozone NAAQS is revoked. The D.C. Circuit ruled that the EPA violated the CAA when it partially revoked the 1997 ozone NAAQS for transportation conformity purposes only in the Classifications Rule for the 2008 ozone NAAQS (*NRDC v. EPA*, D.C. Cir. No. 12–1321, December 23, 2014). The partial revocation had been in effect since July 20, 2013, 1 year after the effective date of designations for the 2008 ozone NAAQS. (77 FR 30160). The D.C. Circuit Court of Appeals vacated this aspect of the Classifications Rule but said nothing to suggest that the EPA could not revoke the standard for all purposes, as it is doing today. See *South Coast*, (upholding revocation of standard so long as anti-backsliding measures are introduced). Under our current Transportation Conformity Rule, the latest approved or adequate emission budgets for a previous ozone NAAQS (i.e., the 1997 or the 1-hour ozone NAAQS) would continue to be used in conformity determinations for the 2008 ozone NAAQS until emission budgets are established and found adequate or are approved for the 2008 ozone NAAQS. (77 FR 14981–2).

⁴⁵ Also, see the EPA's transportation conformity Web site for more information, including EPA's "Transportation Conformity Guidance for 2008 Ozone NAAQS Nonattainment Areas" at: <http://www.epa.gov/otaq/stateresources/transconf/2008naqs.htm>.

4. What impact will the implementation of the 2008 ozone NAAQS have on a state's Transportation Conformity SIP?

States with previously approved Transportation Conformity SIPs should not need to revise those SIPs, unless they need to do so to ensure that existing state regulations apply in areas newly designated nonattainment for the 2008 ozone NAAQS. However, if this is the first time that transportation conformity will apply in a state, such a state is required to submit a SIP revision within 12 months of the effective date of the nonattainment designation that covers the three specific transportation conformity requirements that are delineated in CAA section 176(c)(4)(E). These specific requirements are consultation procedures and written commitments to control or mitigation measures associated with conformity determinations for transportation plans, TIPs or projects. 40 CFR 93.139. Additional information and guidance can be found in EPA's "Guidance for Developing Transportation Conformity State Implementation Plans" (<http://www.epa.gov/otaq/stateresources/transconf/policy/420b09001.pdf>).

G. What requirements for general conformity apply to the 2008 ozone NAAQS??

1. Summary of the Proposal

The EPA did not propose to make revisions to the General Conformity Regulations.⁴⁶ However, we did recommend that as areas develop their SIPs for the 2008 ozone NAAQS, state and local air quality agencies work with federal agencies with major facilities that are subject to the General Conformity Regulations to establish an emissions budget for those facilities in order to facilitate future conformity determinations. Significant tracts of land under federal management may also be included in nonattainment area boundaries. The role of fire in these areas should be assessed and emissions budgets developed in concert with those federal land management agencies. Where appropriate, states may consider developing plans for addressing wildland fuels in collaboration with land managers and owners. Information is available from DOI and USDA Forest Service on the ecological role of fire, smoke management programs and basic

⁴⁶ Information on what federal actions are covered and how to demonstrate conformity are found in 40 CFR part 93 subpart B. On March 24, 2010, former Administrator Lisa P. Jackson signed the General Conformity Final Rule "Revisions to the General Conformity Regulations," which was published April 5, 2010 (75 FR 17254–17279). More information on the general conformity program is available at <http://www.epa.gov/air/genconform/>.

⁴⁴ For the purposes of transportation conformity, a "donut" area is the geographic area outside a metropolitan planning area boundary, but inside a designated nonattainment or maintenance area boundary that includes an MPO (40 CFR 93.101).

smoke management practices, and fuels management strategies (including prescribed fire), and may be considered as potential mitigation measures to lessen the impacts of wildfires.⁴⁷ We also stated in the proposal that for the ozone precursors VOC and NO_x, the existing *de minimis* emission levels contained in 40 CFR 93.153(b)(1) will continue to apply to the 2008 ozone NAAQS. We also stated in the proposal that general conformity for the 2008 ozone NAAQS would apply 1 year after the effective date of nonattainment designations for that NAAQS because section 176(c)(6) provides a 1-year grace period from the effective date of initial designations before general conformity determinations are required in areas newly designated nonattainment for a particular pollutant and standard. In such areas, we encourage states to consider in any baseline inventory used and/or submitted to include emissions expected from projects subject to general conformity, including emissions from wildland fire that may be reasonably expected in the area.

Since we proposed to revoke the 1997 ozone NAAQS at the time the final SIP Requirements Rule is published in the **Federal Register**, we stated in the proposal that general conformity requirements under the 1997 ozone NAAQS would end after the 2008 ozone NAAQS general conformity requirements begin.

2. Final Action and Rationale

The EPA is taking no action to revise General Conformity Regulations. For reasons explained in section IV of this rule, we are revoking the 1997 ozone NAAQS 30 days after publication of this final rule. Accordingly, the general conformity requirements for the 1997 ozone NAAQS will end when the NAAQS is revoked, and the general conformity requirements for the 2008 ozone NAAQS are applicable 1 year after the effective date of nonattainment designations for the 2008 NAAQS.⁴⁸ The EPA believes the existing General Conformity Regulations (40 CFR part 93) remain appropriate for the 2008 ozone NAAQS. States with approved general conformity SIPs should not need to revise their SIPs unless they need to do so to ensure they are consistent with the April 5, 2010, revisions to the general conformity regulations or to ensure the

existing regulations apply in the appropriate newly designated areas.

H. What are the requirements for contingency measures in the event of failure to meet a milestone or to attain?

1. Summary of Proposal

The EPA proposed that the contingency measures required for Moderate and above areas under CAA sections 172(c)(9) and 182(c)(9) must provide for the implementation of specific measures if the area fails to attain or to meet any applicable milestone. These measures must be submitted for approval into the SIP as adopted measures that would take effect without further rulemaking action by the state or the Administrator upon a determination that an area failed to attain or to meet the applicable milestone. Per the EPA guidance, contingency measures should represent 1-year's worth of progress, amounting to reductions of 3 percent of the baseline emissions inventory for the nonattainment area, which would be achieved while the state is revising its plans for the area.⁴⁹

Regarding the content of the contingency measures, the EPA's prior guidance specifies that some portion of the contingency measures must include VOC reductions. As explained in the proposal, this previous limitation is no longer necessary in all cases. In particular, Moderate and above areas that have completed the initial 15 percent VOC reduction required by CAA section 182(b)(1)(A)(i), can meet the contingency measures requirement based entirely on NO_x controls if that is what the state's analyses have demonstrated would be most effective in bringing the area into attainment. There would be no minimum VOC requirement. Also, the EPA proposed continuing its long-standing policy that allows promulgated federal measures to be used as contingency measures as long as they provide emission reductions in the relevant years in excess of those needed for attainment or RFP.⁵⁰

The EPA also proposed an implementation approach for Extreme nonattainment areas whereby plan provisions meeting the requirements of CAA section 182(e)(5) (referred to as the "black box"), including the requirements concerning contingency measures, therein, may satisfy the CAA section 172(c)(9) and 182(c)(9) contingency measure requirements for the area provided the state has already

adopted all reasonable candidate measures in the applicable SIP to satisfy RACM, RFP, and all other requirements necessary for attainment in the area.

2. Final Action and Rationale

The EPA is finalizing the proposed requirements that contingency measures must be submitted for approval into the SIP as required by the CAA and must provide for the implementation of specific measures without any further rulemaking action if the area fails to attain or meet any applicable milestone, with limited exceptions for Extreme nonattainment areas relying on plan provisions approved under CAA section 182(e)(5), as discussed below. Regarding content of the 1-year's worth of emissions covered by the contingency measures, the EPA is finalizing its proposal to allow the 3 percent emissions reductions of the contingency measures, to be based entirely on NO_x controls if the area has completed the initial 15 percent ROP VOC reduction required by CAA section 182(b)(1)(A)(i) and the state's analyses have demonstrated that NO_x substitution would be most effective in bringing the area into attainment.

The EPA will continue to allow the use of federal measures providing ongoing reductions into the future to be used meet contingency measure requirements for the 2008 ozone NAAQS, consistent with the EPA's longstanding policy. The EPA has previously approved the use of federal measures to meet contingency measure requirements in actions approving 1-hour and 8-hour ozone SIPs.

With respect to Extreme ozone nonattainment areas, CAA section 182(e)(5) allows the agency to exercise discretion in approving Extreme area attainment plans that rely, in part, on the future development of new control technologies or improvements of existing control technologies, where certain conditions are met. This discretion can be applied as long as the state has demonstrated that: All reasonably available control measures, including RACT, have been included in the plan; the area's RFP demonstration during the first 10 years after designation does not rely on anticipated future technologies; and the state has submitted enforceable commitments to timely develop and adopt contingency measures to be implemented if the anticipated future technologies do not achieve planned reductions. The EPA is finalizing its proposal to allow states to submit, for Extreme nonattainment areas, enforceable commitments to develop and adopt contingency measures meeting the requirements of

⁴⁷ USDA Forest Service and Natural Resources Conservation Service, Basic Smoke Management Practices Tech Note, October 2011, http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1046311.pdf.

⁴⁸ For areas designated in 2012, the effective date was July 20, 2013.

⁴⁹ See the April 16, 1992 General Preamble section III.A.3.c (57 FR 13498 at 13511).

⁵⁰ See *Louisiana Environmental Action Network (LEAN) v. EPA*, 382 F.3d 575 (D.C. 2004).

182(e)(5) to satisfy the requirements for both attainment contingency measures in CAA sections 172(c)(9) and 182(c)(9). These enforceable commitments must obligate the state to submit the required contingency measures to the EPA no later than three years before any applicable implementation date, in accordance with CAA section 182(e)(5).⁵¹ We note that this does not, however, relieve states from obligations to submit contingency plans as required by CAA sections 172(c)(9) and 182(c)(9) for periods in the first 10 years after designation.

3. Comments and Responses

Comment: Commenters urged the EPA to provide flexibility to states when adopting, subject to the EPA approval, contingency measures into the SIP that are ready for implementation should the area fail to either meet milestones or attain. Commenters requested that the EPA allow air quality improvement measurements to be taken into consideration for purposes of evaluating the level of emission reductions necessary to meet the contingency measure requirements when providing “approximately” 1 year’s worth of progress for contingency measures. Commenters indicated that a similar air quality improvements approach has been used in approving PM_{2.5} contingency measures.

Response: The EPA’s long-standing interpretation is that a 3 percent emissions reduction from the RFP baseline, rather than a specific ozone concentration improvement, is the minimum contingency measure adoption requirement under subpart 2. The EPA did not propose to alter this guidance. However, we note that if the contingency measures are ever triggered for an area, states may take air quality considerations into account in determining whether a subset of measures amounting to less than 3 percent emissions reduction are all that is necessary to be implemented to cure the identified failure.⁵² The implementation of PM_{2.5} NAAQS is governed by statutory and regulatory requirements that are separate from, and not identical to, ozone implementation and provide flexibility for states to

consider the degree of air quality improvement that may be needed in developing RFP plans and contingency measures.

Comment: Several commenters supported, and no commenters objected to using CAA section 182(e)(5) authority to approve contingency measure plans for Extreme nonattainment areas where the attainment plan is based on development of new or improved control measures.

Response: We appreciate the supportive comments. We recognize that all areas must meet the contingency plan requirements of CAA sections 172(c)(9) and 182(c)(9). We agree that CAA section 182(e)(5) provides the agency with discretion to approve an Extreme area attainment plan that relies, in part, on the future development of new control technologies or improvements of existing control technologies. This authority can be exercised as long as the state has demonstrated that: All reasonably available control measures, including RACT, have been included in the plan; the area’s RFP demonstration during the first 10 years after designation does not rely on anticipated future technologies; and the state has submitted enforceable commitments to timely develop and adopt contingency measures in the event that anticipated future technologies do not achieve planned reductions.

Comment: One commenter argued that an Extreme nonattainment area seeking to rely on the CAA section 182(e)(5) “black box” should be required to demonstrate that it has adopted all feasible controls, even if they do not advance attainment by a year and regardless of whether they constitute “reasonably available control measures,” and that the EPA should “change its interpretation of RACT and RACM, which currently allows areas to avoid adopting and implementing feasible measures.”

Response: The EPA believes that both its long-standing interpretation of RACM and its focus on whether control measures are “reasonably available” provide an appropriate framework for determining when to exercise the discretion provided by CAA section 182(e)(5). As noted in the proposal, the determination of whether a SIP contains all RACM requires an area-specific analysis establishing that there are no additional economically and technically feasible control measures (alone or cumulatively) that will advance the attainment date by 1 year. This requires close review of any measure that a commenter identifies as reasonably available for implementation in the area

in light of local circumstances, and of measures being implemented in other states. 78 FR 34187, at 34194 (June 6, 2013). This interpretation of RACM has been upheld in court (e.g., *Sierra Club v. EPA*, 294 F.3d 155, 162–163 (D.C. Cir. 2002)). Thus, the EPA believes that it is appropriate to require that an area seeking to rely on the anticipated development of new technology demonstrate that its plan includes all control measures that come within this definition of “reasonably available.” The EPA does not believe it is necessary for an area to demonstrate the use of measures that go beyond that definition in order to meet contingency measure requirements.

I. How do the NSR requirements apply for the 2008 ozone NAAQS?

1. Major NSR Requirements for the 2008 Ozone NAAQS

The NSR programs established in parts C and D of title I of the CAA contain specific requirements for the preconstruction review and permitting of new or modified major stationary sources of air pollutants. In attainment and unclassifiable areas, the requirements under part C apply for the prevention of significant deterioration (PSD) program. In nonattainment areas, the requirements under part D apply for the nonattainment NSR program. We commonly refer to the PSD and nonattainment NSR programs together as the “major NSR programs.”

The regulations for the major NSR programs are contained in 40 CFR 51.166 and 52.21 for PSD, and 51.165, 52.24 and part 51, Appendix S for nonattainment NSR.⁵³ Among other things, in unclassifiable and attainment areas, the PSD program requires a new major source, or a major modification to an existing major source, to obtain a permit that satisfies PSD requirements, including the application of best available control technology (BACT) for “each pollutant subject to regulation under [the CAA],” conducting an air quality impact analysis, and complying with requirements related to the protection of Class I areas.

As part of the required air quality impact analyses, section 165(a)(3) of the CAA provides that the owner or operator of a proposed facility must, among other things, demonstrate that “emissions from construction or operation of such facility will not cause,

⁵¹ For example, where a state intends to rely on CAA section 182(e)(5) commitments to satisfy the CAA section 182(c)(9) contingency measure requirement for an RFP milestone in year 2022, the commitments must obligate the state to submit adopted contingency measures to the EPA no later than 2019. (i.e., 3 years before RFP contingency measures for 2022 would be implemented).

⁵² See “Guidance for Growth Factors, Projections, and Control Strategies for the 15 Percent Rate-of-Progress Plans,” U.S. EPA, March 1993, page 83 (EPA-452/R-93/002).

⁵³ As appropriate, certain nonattainment NSR requirements under 40 CFR 51.165 or Appendix S can also apply to sources and modifications located in areas that are designated attainment or unclassifiable in the Ozone Transport Region. See, e.g., CAA 184(b)(2), 40 CFR 52.24(k).

or contribute to, air pollution in excess of any . . . national ambient air quality standard in any air control region.” The EPA has generally interpreted this statutory requirement, and the corresponding regulations implementing EPA’s federal PSD permitting program at 40 CFR 52.21(k) and establishing minimum requirements for PSD programs approved into SIPs at 40 CFR 51.166(k), to include a demonstration for any NAAQS that is in effect at the time a final permit decision is issued.⁵⁴ See, e.g., 73 FR 28321, 28324, 28340 (May 16, 2008); 78 FR 3253 (Jan. 15, 2013); Memorandum from Stephen D. Page, Director, Office of Air Quality Planning & Standards, entitled “Applicability of the Federal Prevention of Significant Deterioration Permit Requirements to New and Revised National Ambient Air Quality Standards,” to the EPA Regional Air Division Directors and Deputies (April 1, 2010).

In the proposal, the EPA indicated that, since the May 27, 2008, effective date of the 2008 ozone NAAQS, permit applications for new major stationary sources and major modifications have been subject to the PSD program requirements for ozone under two sets of circumstances: (1) Prior to the designation of areas for the 2008 ozone NAAQS, sources locating in areas designated attainment or unclassifiable for the 1997 ozone NAAQS; and (2) on and after the July 20, 2012, effective date of area designations for the 2008 ozone NAAQS, sources locating in areas designated as attainment or unclassifiable for both the 1997 and 2008 ozone NAAQS. If, however, an area was designated attainment or unclassifiable for the 2008 ozone NAAQS on and after July 20, 2012, but was designated nonattainment for the 1997 ozone NAAQS, consistent with the PSD regulations at 40 CFR 51.166(i)(2) and 52.21(i)(2), the nonattainment designation would require application of nonattainment NSR for permits issued to new and modified sources locating in that area that trigger major NSR requirements for ozone until the revocation of the 1997 ozone NAAQS is effective. In this rulemaking, the EPA is revoking the 1997 ozone NAAQS for all purposes. Accordingly, as explained in section IV.A of this preamble, as of 30 days after the publication of this rule in

the **Federal Register**, the area designations for the 1997 ozone NAAQS will no longer be considered current designations; thus, all areas designated attainment for the 2008 ozone NAAQS will be subject to PSD requirements. In the proposal, the EPA explained that this result was based on its interpretation of the PSD regulations at 40 CFR 51.166(i)(2) and 52.21(i)(2), but recognized that those provisions did not expressly say that a nonattainment designation for a revoked standard does not trigger the exemption from PSD requirements contained in those provisions. 78 FR 34216–17. Accordingly, the EPA requested comment on whether amendment of 40 CFR 51.166(i)(2) and 52.21(i)(2) is necessary to achieve that outcome and on how such an amendment, if any, should be worded. After additional consideration, we believe there is a need for us to amend these provisions to further clarify the application of the exemption they contain. Therefore, the EPA is amending its PSD regulations at 40 CFR 51.166(i)(2) and 52.21(i)(2) as a logical outgrowth of the proposal and the submitted comments to clarify that historical designations for a revoked NAAQS should not be considered in determining whether PSD requirements apply for that pollutant once the revocation becomes effective in an area.

For any area that is designated nonattainment for the 2008 ozone NAAQS, the historical designations and classifications resulting from the revoked 1997 ozone NAAQS will continue to serve to identify nonattainment NSR anti-backsliding requirements (*i.e.*, major source thresholds and emissions offset ratios) that need to be taken into account in issuing nonattainment NSR permits to major stationary sources and major modifications.⁵⁵ As indicated previously, the designations and classifications for the revoked standard should not be regarded as current designations and classifications once the revocation takes effect. For example, in implementing the emissions offset requirements for nonattainment NSR, offset ratios based on the classification for the revoked standard, to the extent more stringent than the ratios for the

2008 ozone NAAQS classification, must be used for anti-backsliding purposes. However, for purposes of determining whether a prospective offset can be obtained from a nonattainment area other than the one in which a new or modified source would be located, the requirements under section 173(c)(1) of the CAA must be satisfied. CAA section 173(c)(1) requires, in part, that the nonattainment area from which the offset is obtained must have “an equal or higher nonattainment classification than the area in which the [new or modified] source is located. . . .” After the revocation takes effect, the historical classification for the revoked NAAQS, to the extent that it is lower than the classification in the nonattainment area where a new or modified source would be located, would not preclude obtaining the offset from that area, so long as (1) the current classification for the ozone NAAQS for that area is equal to or higher than the current classification of the nonattainment area where the new or modified source is locating and (2) the other requirements under section 173(c)(1) of the CAA are satisfied.

Some states may have already in their SIP a nonattainment NSR program consistent with part D of the CAA that can be applied to new nonattainment areas. In such situations, permitting authorities should have begun applying the nonattainment NSR requirements in permitting actions for new and modified major sources that trigger major source permitting requirements for ozone in new nonattainment areas starting from the effective date of the 2008 ozone designations (July 20, 2012).

For a newly designated (or redesignated) nonattainment area for the 2008 ozone NAAQS in a state with a SIP that specifically lists the areas in which nonattainment NSR requirements under part D apply, or in a state that currently has no approved nonattainment NSR program, there will be an interim period between the July 20, 2012, designation date and the date when the EPA approves the state’s amended SIP, which must be revised to adequately address the nonattainment NSR requirements for the 2008 ozone NAAQS contained in this final rule. In the proposal, we explained that during this interim period, nonattainment NSR requirements for the 2008 NAAQS are governed by the EPA’s Emission Offset Interpretative Ruling codified in Appendix S to 40 CFR part 51. Among other things, in general, Appendix S requires new or modified major sources in nonattainment areas to meet the lowest achievable emission rate (LAER) and obtain sufficient offsetting

⁵⁴ The EPA received comments relating to statements in the proposal about its discretion to grandfather permit applications in appropriate circumstances. Since this NAAQS has been in effect since 2008, the EPA is not adding a grandfathering provision in this final rule and those comments are discussed further in the Response to Comments document.

⁵⁵ In this final rule, the anti-backsliding requirements for nonattainment NSR are codified in 40 CFR 51.1105, and are described in Section IV.B of this preamble. The nonattainment NSR regulations at 40 CFR 51.165 have been amended in this final rule to add new paragraph (a)(12), which references those anti-backsliding requirements. Also, as proposed, a new section VII has been added to Appendix S to set forth the anti-backsliding requirements that must be followed when states issue nonattainment NSR permits under that Ruling.

emissions reductions to assure that the new or modified major sources will not interfere with the area's progress toward attainment. In addition, a new section VII of Appendix S has been added as part of this final rule to set forth the anti-backsliding requirements that must be addressed in order to issue a nonattainment NSR permit under Appendix S. That language for section VII is being finalized with only minor modifications to what was proposed. Readers should refer to 40 CFR part 51, Appendix S for a better understanding of the Appendix S permitting requirements.

In the proposal, the EPA explained that the time period for the NSR waiver provision contained in section VI of Appendix S, enabling permitting authorities in specified circumstances to issue nonattainment NSR permits that do not require LAER or emissions offsets as are otherwise required under section IV of appendix S, was limited by the court's ruling in *NRDC v. EPA*, 571 F.3d 1245 (D.C. Cir. 2009). The court's ruling was the result of a petition filed in response to the EPA's Phase 2 Rule for the 1997 ozone NAAQS in which the EPA revised 40 CFR 52.24(k). The revision to paragraph (k) eliminated language stating that if a nonattainment area did not have an approved nonattainment NSR program within 18 months after designation, Appendix S would no longer apply and a construction ban would apply instead. 70 FR 71612 (November 29, 2005). The effect of the revision was to extend the applicability of Appendix S, including the section VI waiver provision, to cover the full period from the date of designation to the date on which the EPA approved the nonattainment NSR SIP for a new NAAQS.

In *NRDC v. EPA* (571 F.3d 1245 (D.C. Cir. 2009)), the court vacated "the elimination of the 18-month time limit for NSR waivers under Appendix S" on the grounds that it violated section 172(e) of the CAA (571 F.3d at 1276). As a result of the court's vacatur of the extension of the 18-month time limit for section VI of Appendix S, no section VI waivers may be granted beyond 18 months from the date of designation for any NAAQS.

Several commenters requested that the EPA clarify how the court's decision affects the implementation of Appendix S as an interim nonattainment NSR program. While most commenters understood that the vacatur applied only to the removal of the 18-month deadline for the section VI waiver, one commenter seemed to interpret the vacatur to apply to appendix S in its entirety.

To clarify, there is now a distinction between the length of time during which waivers may be granted under section VI of Appendix S and the length of time the remainder of Appendix S applies as an interim nonattainment NSR program. No section VI waivers may be granted beyond 18 months from the date of designation. The remainder of Appendix S, however, is not subject to an 18-month time limitation. It will remain as the basis for air agencies to issue nonattainment NSR permits in new ozone nonattainment areas until the EPA approves a state's nonattainment NSR program for the 2008 ozone NAAQS under the SIP for the area. Specifically, section IV of Appendix S contains preconstruction requirements for proposed sources and modifications, which reflect the requirements contained in part D of the CAA for ozone nonattainment areas. The requirements in section IV should be met consistent with the anti-backsliding requirements contained in new section VII of Appendix S.

2. Offset Requirements and Policy

To satisfy requirements under section 173 of the Act, new and modified major sources in nonattainment areas must secure emissions reductions (*i.e.*, "offsets") to compensate for a proposed emissions increase. Offsets are generated by emissions reductions that meet specific creditability criteria set forth by the SIP consistent with EPA regulations. *See*, 40 CFR 51.165(a)(3)(ii)(A)–(J) and part 51 Appendix S section IV.C.⁵⁶ One commenter suggested that nonattainment NSR major source construction and major modification offsets should be available outside the nonattainment area (from attainment areas) due to the possibility that new sources would develop in attainment areas in close proximity to the boundary of the ozone nonattainment area with subsequent impact on the nonattainment area. Further, the commenter seemed to suggest that emissions reductions from these close proximity sources should also be allowed to be used as offsets within the adjacent nonattainment area. The commenter's suggestion fails to address the statutory requirements for offsets and, more specifically, does not confront the statutory provisions restricting where offsets can be obtained from. In accordance with the

requirements under section 173(c)(1) of the CAA, emissions offsets must be obtained from the same nonattainment area, except that the state may allow a source to obtain offsets from another nonattainment area if (1) that area has an equal or higher nonattainment classification than the nonattainment area in which the source requiring the offsets is located, and (2) emissions from that other area contribute to a violation of the NAAQS in the nonattainment area in which the source requiring the offsets is located. Accordingly, the EPA does not intend to revise the existing requirements as to where emissions offsets may be obtained to allow use of offsets from attainment areas.

3. Facilitating New Source Growth in Nonattainment Areas

a. Offset Banks

States can help facilitate continued economic development in a nonattainment area by establishing offset banks or registries. Such banks or registries can help new or modified major stationary source owners meet offset requirements by streamlining identification and access to available emissions reductions. Some states have established offset banks to help ensure a consistent method for generating and transferring NO_x and VOC offsets.⁵⁷ Offsets in these areas are generated by emissions reductions that meet specific creditability criteria set forth by the SIP consistent with EPA regulations. *See* existing 40 CFR 51.165(a)(3)(ii)(A)–(J) and part 51 Appendix S section IV.C.

b. Interprecursor Offset Substitution

In the proposal, the EPA recognized that states could establish interprecursor⁵⁸ offset substitution provisions, which would create additional flexibility in meeting offset requirements by allowing NO_x emissions reductions to satisfy VOC offset requirements and vice versa. *See* 78 FR at 34201. The EPA received no adverse comments on whether to allow such interprecursor trading for ozone and no comment suggested that such trading is not or should not be allowed for ozone. In fact, all comments addressing the EPA's statements in the proposal concerning interprecursor trades for ozone for nonattainment NSR permitting were in support of allowing NO_x emissions reductions to satisfy VOC offset requirements and vice versa.

⁵⁶ *See also*, the EPA's "Improving Air Quality with Economic Incentive Programs" document at <http://www.epa.gov/region07/air/nsr/nsrmemos/eipfin.pdf>. For additional memoranda and guidance documents, *see* <http://www.epa.gov/region7/air/nsr/nsrindex.htm>.

⁵⁷ *See*, for example, emission reduction credit banking programs in Ohio (OAC Chapter 3745–1111) and California (H&SC Section 40709).

⁵⁸ For purposes of this rulemaking, we are using the terms interprecursor and interpollutant interchangeably.

Although there were no adverse comments relating to the EPA's ability to allow interprecursor trading for ozone, the EPA recognizes that the current language of 40 CFR 51.165(a)(11) and part 51 Appendix S IV.G.5 could be read to limit interprecursor trading to PM_{2.5}, and thus to preclude this kind of interprecursor trading for ozone precursors (NO_x and VOC). However, the EPA has issued previous guidance that clearly allows for such interprecursor trading for ozone precursors.⁵⁹ While the EPA did not specifically propose to amend the nonattainment NSR regulations to address interprecursor trading for ozone, the proposal indicated the EPA's intent to continue to allow states to establish provisions that allow for such interprecursor trading for ozone precursors.

As noted previously, the EPA received no adverse comments on the interprecursor aspect of the proposal. Commenters did, however, indicate support for ensuring in the final rulemaking that interpollutant trading would continue to be allowed, and one commenter indicated support for measures similar to what was authorized in the final 2008 PM_{2.5} NAAQS implementation rule, *see* 73 FR 28321, which revised the regulations and Appendix S to allow for interprecursor trading for PM_{2.5} precursors.

Accordingly, the EPA is taking action in this final rulemaking to amend the regulatory text in both 40 CFR 51.165 and Appendix S as a logical outgrowth of the proposal and the submitted comments to ensure that the offset provisions of both rules are consistent with our proposal and our ongoing position to allow such trades for the ozone precursors (VOC and NO_x). *See* revised 40 CFR 51.165(a)(11) and part 51 Appendix S IV.G.5. These changes in the regulatory text are intended to clarify that interprecursor trading continues to be an option for the ozone precursors VOC and NO_x, as long as such trades are consistent with existing policy and legal requirements; these revisions are not intended to change the underlying requirements for such trades. Please refer to the Response to Comments document in the docket for this rulemaking for more detailed

information and responses to comments with respect to interprecursor trading concerns.

c. Economic Development Zones (EDZs)

Section 173(a)(1)(B) of the CAA authorizes the Administrator, in consultation with the Secretary of Housing and Urban Development (HUD), to identify areas within nonattainment areas as "zone[s] to which economic development should be targeted." Under this section, new or modified major stationary sources that locate in such a zone are relieved of the NSR requirement to obtain emission offsets if (1) the relevant SIP includes an NSR nonattainment program that has established emission levels for new and modified major sources in the zone ("growth allowance"), and (2) the emissions from new or modified stationary sources in the zone will not cause or contribute to emission levels that exceed such growth allowance. CAA section 172(c)(4) of the CAA requires that the growth allowance be consistent with the achievement of reasonable further progress, and that it will not interfere with attainment of the applicable NAAQS by the applicable attainment date for the nonattainment area. The EPA is willing to work with HUD and states to identify potential areas that could be identified as EDZs.

4. Deadline for Submitting Nonattainment NSR Program SIPs for 2008 Ozone NAAQS

As explained in section III.A of this preamble, several commenters noted that the EPA's proposed rulemaking did not address the SIP submittal deadline for the nonattainment NSR program for the 2008 ozone NAAQS. As explained in section III.A, the final rule includes a deadline of 3 years from the effective date of designation for states to submit their nonattainment NSR program SIPs for the 2008 ozone NAAQS. The rationale for this deadline appears in section III.A of this preamble.

J. What are the emission inventory and emission statement requirements?

1. Emission Inventory Requirements

a. Summary of the Proposal

We proposed that states should rely on their 3-year cycle inventory as described by the Air Emissions Reporting Requirements (AERR) to meet 182(a)(3)(A) periodic inventory obligations and that the emissions reporting requirements of the AERR be applied to determine all of the data elements required for such inventories (*see, e.g.,* Tables 2A, 2B, 2C and 2D of 40 CFR part 51, subpart A, Appendix

A). We also proposed to follow our existing guidance, titled "Public Hearing Requirements for 1990 Base-Year Emissions Inventories for Ozone and Carbon Monoxide Nonattainment Areas" in implementing certain SIP adoption and submission procedures for the emissions inventory requirements under CAA sections 182(a)(1) and 182(a)(3)(A) for purposes of the 2008 ozone NAAQS.

b. Final Action and Rationale

We are generally finalizing as proposed, although in light of comments received we made small changes to address reporting of ozone season day and partial county emissions not currently addressed in the AERR, as explained below. CAA section 182(a)(3)(A) requires that states submit periodic emission inventories no later than the end of each 3-year period after submission of the base year inventory for the nonattainment area. This requirement applies to Marginal and above ozone nonattainment areas. Thus, states must submit this periodic inventory no later than the end of each 3-year period after submission of the base year inventory for the nonattainment area. The periodic inventory required by this final rule must include ozone season day emissions of VOC and NO_x for point, nonpoint and mobile sources (on-road and non-road) and fire-related event emissions. On December 4, 2008, the EPA promulgated the AERR rule (40 CFR 51, subpart A). The AERR requires states to submit comprehensive statewide 3-year cycle annual emission inventories (2008, 2011, 2014, *etc.*) for a number of pollutants (*see* list provided at 40 CFR 51.15(a)) regardless of an area's attainment status. During the submission of the 3-year cycle inventories in accordance with the AERR, states may also submit ozone season day emissions to meet the periodic inventory requirement of this rule. If the periodic inventory required by this rule is not included in the AERR submission, then it must be submitted to the EPA through other mechanisms in coordination with the Regional Office. Emission inventory elements submitted per the AERR that are relied on in the SIP also need to be adopted through the SIP submittal requirements per 40 CFR 51.100 *et seq.*

We are finalizing the requirement that states use the reporting requirements of the AERR to determine the data elements required for such inventories, while including an additional requirement to report ozone season day emissions, as defined in this final rule, rather than the AERR requirement for

⁵⁹ "Improving Air Quality with Economic Incentive Programs" document at <http://www.epa.gov/region07/air/nsr/nsrmemos/eipfin.pdf>. In this document, the EPA stated: "[o]zone interprecursor trading can be used to meet NSR offset requirements, regardless of whether the NSR offset emission reductions are generated through an EIP." *Id.* at 244. For additional memoranda and guidance documents, *see* <http://www.epa.gov/region7/air/nsr/nsrindex.htm>.

annual emissions for both the base year inventory for the nonattainment area and the periodic inventory. Additionally, the EPA has included within 40 CFR 51.1100(bb) and (cc) of this final rule definitions pertaining to base year inventory and the ozone season day emissions, in response to several significant comments as explained in section III.J.1.c of this rule. Accordingly, a base year inventory for the nonattainment area is due no later than 2 years after the effective date of designations, and the emissions included in this inventory must be ozone season day emissions as defined in CAA section 51.1100(cc) of this rule. A periodic inventory must be submitted on intervals no later than the end of each 3-year period after submission of the base year inventory for the nonattainment area.

The EPA has concluded that ozone season day emissions are the most appropriate temporal basis for developing the emissions to be included in this inventory, rather than summer day emissions as required by past implementation rules or the AERR. The EPA believes that summer day emissions required previously are an insufficient nomenclature, since in some areas nonattainment may be due to ozone exceedances in months other than summer months (e.g., wintertime), and necessitate focusing planning efforts on emissions occurring during the most relevant time period. Other than changing the name to be more inclusive, the definition of the emissions to be included is essentially the same as the previous definition. Ozone season day emissions means an average day's emissions for a typical ozone season work weekday as defined in CAA section 51.1100(cc). The state will select, subject to EPA approval, the particular month(s) in the ozone season and the day(s) in the work week to be represented. The selection of days should be coordinated with the conditions assumed in the development of RFP plans and/or emissions budgets for transportation conformity to allow comparability of daily emissions estimates. The days should represent the conditions that contribute to high ozone that led to a nonattainment designation.

For all inventories submitted to the EPA for this rule, states must use the reporting requirements of the AERR to determine which sources are reported as point sources as well as the detail (*i.e.*, data elements) required for such inventories, with the exception of the emissions values. The emissions values must be ozone season day emissions rather than the AERR requirement for

annual emissions for both the base year inventory for the nonattainment area and the periodic inventory.

Inventories of partial-county nonattainment areas must match the spatial extent of the nonattainment area to include only emissions within the nonattainment area. The EPA acknowledges the challenges associated with partial county inventories and has prepared an updated draft of the emissions inventory guidance (*see below*) to provide additional information for air agencies to use in preparing partial county emissions. The base year inventory for the nonattainment area is used as the baseline for RFP plans to achieve emissions reductions within the nonattainment area. As explained more fully in section III.C of this preamble, the EPA has determined that emissions reductions in areas outside the nonattainment area cannot be included in the area's RFP demonstration. Thus, the EPA has concluded that for nonattainment areas with partial county boundaries, all inventories must be developed to reflect the partial county boundaries. This requirement partly supersedes the requirement to use the AERR data elements, such that for nonpoint and mobile sources, the county field required by the AERR should be replaced by a separate identifier to indicate the partial county nonattainment area. Because of this partial difference in requirements, periodic inventories for partial county nonattainment areas cannot be reported to the EPA as part of a state's AERR/NEI triennial inventory submission. Instead, states must make available the inventory data to the EPA as electronic files in some other electronic media, such as FTP, zip drives, or DVDs.

For all inventories that are used in developing RFP plans or attainment demonstrations, mobile source emissions should be estimated using the latest emissions models, data and planning assumptions available at the time the SIP is developed. The latest approved models should be used to estimate emissions from on-road and non-road sources, in combination with the latest available estimates of vehicle miles traveled (VMT), vehicle population, and/or equipment activity. States are advised to check the EPA Web pages for the currently approved mobile source models and to consult with the EPA Office of Transportation and Air Quality and their Regional Office to determine the versions of models to use for their SIPs for the 2008 ozone NAAQS. For on-road mobile emissions in states other than California, the current approved version of MOVES, as

well as links to the **Federal Register** Notice approving that version, and links to guidance documents with much more detail on when and how MOVES should be used can be found at: <http://www.epa.gov/otaq/models/moves/index.htm>. For California, consult with the EPA Region 9 Office for the information on the latest approved version of the EMFAC (Emissions FACTors) model. Emissions from non-road equipment should be estimated with the latest official version of the EPA's NONROAD model, and other appropriate methods for estimating emissions from sources not covered by these models. Links to **Federal Register** notices and policy guidance memos on the latest approved versions of MOVES and NONROAD can be found at <http://www.epa.gov/otaq/models.htm>.

Additional information is available to states for all emissions sources and quality assurance in the form of guidance. States should consult the latest version of the guidance document "Emission Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations," EPA-454/R-05-001 (latest final November 2005; revised draft April 2014) and any subsequent updates to that guidance that the EPA makes available (which can be found at <http://www.epa.gov/ttn/chief/eidocs/eiguid/index.html>). States should submit inventories that are appropriate for each nonattainment area and consistent with the EPA's guidance.

As indicated previously, some inventories submitted to meet the requirements of CAA sections 182(a)(1) and 182(a)(3)(A) may be used in the development of RFP plans and/or attainment demonstrations. The EPA expects that the base year inventory for the nonattainment area will serve as the RFP plan baseline. As such, the EPA requires the methodologies used to develop these inventories to be clearly documented and the inventories themselves to be subject to public participation requirements and formal approval/disapproval by the EPA.⁶⁰

⁶⁰ In comparison, the AERR emissions data are submitted by the states to the EPA, electronically via the Emission Inventory System to the National Emissions Inventory (NEI), and public review is not required for NEI purposes. The states submit data to the NEI inventory 12 months after the NEI inventory year (*i.e.*, calendar year 2011 NEI inventory data were to be submitted by December 31, 2012). The NEI process provides for the states to review the data as collected by the EPA before the EPA officially publishes the data. Under the current process, the EPA intends to publish the data 6 months after the AERR data are required to be submitted to the EPA.

The EPA is not finalizing the proposed approach, where we advised that states could follow our existing September 29, 1992, guidance, titled, "Public Hearing Requirements for 1990 Base-Year Emissions Inventories for Ozone and Carbon Monoxide Nonattainment Areas" in implementing certain SIP adoption and submission procedures for the emissions inventory requirements under CAA sections 182(a)(1) and 182(a)(3)(A) for purposes of the 2008 ozone NAAQS. In that guidance, the EPA indicated it could provide states with a time-limited "*de minimis*" deferral of the CAA's state public hearing requirement for the emissions inventory SIP revision required to be submitted for each nonattainment area within 2 years of the date of designation. The EPA continues to believe that there are valid policy reasons to provide such a deferral since the inventories alone do not have significant regulatory context without the accompanying area-specific RFP plans or attainment plans, which are not required to be submitted until the 3rd year after designations at the earliest. However, as a general matter the CAA clearly requires that SIP submittals, including emissions inventories (see CAA sections 182(a)(1) and 182(a)(3)(A)), must meet the requirements of CAA section 110(a)(2), which includes the requirement that the state provide reasonable notice and public hearing for SIP submittals. As there is nothing in these CAA provisions that provides for waiver or delay of the public notification and hearing requirements specified in CAA section 110(a) *de minimis* or otherwise, we no longer believe it is appropriate to advise states to follow the 1992 guidance. We instead remind states that the EPA's implementing regulations at 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans) provide flexibility for states to streamline SIP-related public notification and hearing procedures (for example, only holding a public hearing if one is requested, per 40 CFR 51.102), and we encourage states to take advantage of those provisions in meeting the emissions inventory requirements under CAA sections 182(a)(1) and 182(a)(3)(A).

c. Comments and Responses

Commenters provided a variety of comments on issues relating to emissions inventories. A full accounting of those comments and the EPA's detailed responses are further explained in the Response to Comments document contained in the docket. Significant comments were made that resulted in

small changes from the proposed rule. In particular, commenters noted that the proposed rule failed to clearly indicate the need for seasonal or summer day emissions values in the required inventories and for use in the RFP plan. Different commenters suggested different terms, time periods, and emissions bases to use in the inventories and plans, including summer day, typical summer day, high ozone season day, and maximum daily. These comments and others noted the discrepancy with this rule and proposed changes to the AERR, in that seasonal emissions were not expressly required by either the proposed ozone requirements rule or the proposed AERR changes. As a result of these comments, the EPA has included the requirement in this rule as a logical outgrowth for ozone season day emissions, as defined in this final rule, to be used in emission inventories submitted for ozone SIPs. One commenter noted that partial county areas are not expressly addressed in the emissions inventory requirements and pointed out that it will be burdensome for states to create partial county inventories. The EPA addresses partial county emissions in this final rule by specifically defining the emissions to be included as "within the boundaries of the nonattainment area" and clarifies in this preamble that such partial county estimates are still needed to comply with the CAA requirements for inventories and RFP plans.

2. Source Emission Statements

States must develop emission reporting programs, called emission statement programs, for VOC and NO_x sources in accordance with CAA section 182(a)(3)(B). The required state program and associated regulation defines how states obtain emissions data directly from facilities and report it to the EPA. States should coordinate their emission statement regulations with the requirements laid out in this rule, which includes coordination with requirements of the AERR.

The EPA published guidance on source emission statements in a July 1992 memorandum titled, "Guidance on the Implementation of an Emission Statement Program." A memorandum titled, "Emission Statement Requirements Under 8-hour Ozone NAAQS Implementation," dated March 14, 2006, clarified that the source emission statement requirement under the CAA was applicable to all areas designated nonattainment for the 1997 ozone NAAQS and classified as Marginal or higher under subpart 2, part D, title I of the CAA. This requirement

similarly applies to all areas designated nonattainment for the 2008 ozone NAAQS. Most areas that need an emission statement program already have one in place due to a nonattainment designation for an earlier ozone NAAQS. If an area has a previously approved emission statement rule in force for the 1997 ozone NAAQS or the 1-hour ozone NAAQS that covers all portions of the nonattainment area for the 2008 ozone NAAQS, such rule should be sufficient for purposes of the emissions statement requirement for the 2008 ozone NAAQS. The state should review the existing rule to ensure it is adequate and, if it is, may rely on it to meet the emission statement requirement for the 2008 ozone NAAQS. In cases when an existing emission statement requirement is still adequate to meet the requirements of this rule, states can provide the rationale for that determination to the EPA in a written statement in the SIP to meet this requirement. States should identify the various requirements and how each is met by the existing emission statement program. In cases when an emission statement requirement is modified for any reason, states must provide the revisions to the emission statement as part of their SIP.

K. What are the ambient monitoring requirements?

The EPA's ambient monitoring requirements are contained in 40 CFR part 58. Monitoring rule amendments published on October 17, 2006, (71 FR 61236) established minimum ozone monitoring requirements based on population and levels of ozone in an area to better prioritize monitoring resources. The minimum monitoring requirements are contained in Table D-2 of Appendix D to part 58. The Photochemical Assessment Monitoring Station (PAMS) program, required by CAA section 182(c)(1), collects enhanced ambient air measurements in ozone nonattainment areas classified as Serious, Severe, or Extreme. The monitoring rule amendments published on October 17, 2006, reduced the minimum PAMS requirements. The revisions were intended to require the retention of the minimum common PAMS network elements necessary to meet the objectives of every PAMS program, while freeing up resources for states to tailor other features of their own PAMS networks to suit their specific data needs. This final rule makes no changes to these existing requirements.

L. How can an area qualify for a 1-year attainment deadline extension?

1. Summary of the Proposal

Section 181(a)(5) of the CAA addresses the conditions under which an area may be eligible for a 1-year extension of its attainment date. Because that statutory provision was written for an exceedance-based standard, such as the 1-hour ozone NAAQS, the EPA established through the Phase 1 Rule (40 CFR 51.907) an interpretation that would apply to a concentration-based standard, such as the 1997 ozone NAAQS.⁶¹ We proposed the same approach as set forth in 40 CFR 51.907 for purposes of the 2008 ozone NAAQS, which like the 1997 ozone NAAQS is a concentration-based standard.

2. Final Action

The EPA is finalizing the proposed approach. An area that fails to attain the 2008 ozone NAAQS by its attainment date would be eligible for the first 1-year extension if, for the attainment year, the area's 4th highest daily maximum 8-hour average is at or below the level of the standard. The area would be eligible for the second 1-year extension if the area's 4th highest daily maximum 8-hour value, averaged over both the original attainment year and the first extension year, is at or below the level of the standard. Thus, to be eligible for the first 1-year extension, the 4th highest daily maximum 8-hour value for an area would need to be at or below 0.075 ppm. The area would be eligible for the second extension if the area's 4th highest daily maximum 8-hour value, averaged over both the original attainment year and the first extension year, is less than or equal to 0.075 ppm.

3. Rationale

This approach is the same approach used for implementing the 1997 ozone NAAQS. The EPA believes this approach makes sense for the 2008 ozone NAAQS as well.

4. Comments and Responses

The EPA received no adverse comments on the proposed action.

⁶¹ The exceedance based standard basically allowed the NAAQS level to be exceeded an average of only once a year over a 3-year period. (This is a generalization of how attainment is determined; the actual method considers other factors such as completeness of the data.) See 40 CFR, appendix H. In contrast, the concentration based standard allows the level of the 8-hour ozone NAAQS to be "exceeded" more than once a year on average because the form (concentration-based) of that NAAQS is determined by averaging the 4th highest reading for each year over a 3-year period.

M. How will the EPA identify whether a potential rural transport nonattainment area is adjacent to an urban area?

1. Summary of Proposal

The CAA Amendments of 1990 contained section 182(h) that provides a "rural transport" determination for ozone nonattainment areas that are rural in nature and can demonstrate that sources in the area do not make a significant contribution to ozone concentrations measured in the area or in other areas. These areas are subject to Marginal nonattainment area requirements, regardless of the area's classification under CAA section 181(a). This distinction was created for rural nonattainment areas whose ozone problem is the result of ozone and/or precursors transport into the area that is so overwhelming that the contribution of local emissions to ozone concentrations above the level of the NAAQS is relatively minor and that emissions within the area do not significantly contribute to ozone measured in other areas.

One qualifying consideration for a rural transport area determination is the lack of adjacency of the candidate nonattainment area's boundary to potentially nearby urban areas. In general, we would expect a rural nonattainment area that has few or insignificant sources of ozone precursors, yet has a monitor indicating a violation of the NAAQS, to encompass a relatively small geographic area due to the relative lack of emissions sources.⁶² The rural transport area criteria in CAA section 182(h) restrict rural transport areas to those nonattainment areas that do not include and are not adjacent to any part of a "Metropolitan Statistical Area" (MSA) or "Consolidated Metropolitan Statistical Area" (CMSA) as defined by the U.S. Bureau of the Census. In 2000, OMB issued new standards⁶³ for defining statistical areas to replace the pre-existing MSA and CMSA definitions (65 FR 82228; December 27, 2000). Under the 2000

⁶² Nonattainment area boundaries are determined by the Administrator during the area designations process governed by CAA section 107(d), and must encompass the area that does not meet the NAAQS as well as any nearby area that contributes to poor air quality in the area that does not meet the NAAQS. While the lack of emissions sources in a rural transport nonattainment area foreshadows a relatively small area boundary, it may also signal special challenges in complying with certain nonattainment area requirements, including conformity for federal projects and new source emissions offsets. States may wish to consider these challenges in making nonattainment boundary recommendations to the EPA for rural areas during the designations process.

⁶³ See <http://www.census.gov/population/www/metroareas/metrodef.html>.

standards, MSAs are defined as having a central county or counties with an urbanized area of at least 50,000 people, plus adjacent outlying counties having a high degree of economic integration with the central county, as measured through worker commuting ties. Multiple counties are included in a MSA if at least 25 percent of employed residents in the central county commute to work in one or more adjacent counties. The term CMSA was retired in 2003 with the introduction of Core Based Statistical Area concepts. We proposed to interpret the references to both MSA and CMSA in CAA section 182(h) to refer to the new Census Bureau definition for the term MSA.

2. Final Action and Rationale

We are finalizing, as proposed, the interpretation of the references to both MSA and CMSA in CAA section 182(h) to refer to OMB's current definition of MSA. Accordingly, to qualify as a rural transport nonattainment area, the nonattainment area's boundary could not include or be adjacent to a current OMB-defined MSA. Under this approach, any nonattainment area associated with a Census-defined micropolitan area (areas with central county or counties containing an urban cluster of 10,000–49,999 people plus adjacent counties having a high degree of economic and social integration as measured through worker commuting) or an area too sparsely populated to be included in a census-defined statistical area, may be able to qualify as a rural transport nonattainment area.⁶⁴ An area seeking to be classified as a rural transport nonattainment area would also need to meet the other criteria specified in CAA section 182(h).

The EPA believes this interpretation of CAA section 182(h) is consistent with the original scope of CAA section 182(h) as promulgated in 1990 and provides maximum flexibility for areas to qualify for this determination where appropriate. We did not receive any adverse comments on our proposed interpretation.

N. What are the special requirements for multi-state nonattainment areas?

Each state within a multi-state ozone nonattainment area is responsible for meeting all the requirements relevant to that area. CAA section 182(j)(1)(A) requires that states should "take all reasonable steps to coordinate substantively and procedurally" on SIP development. States should coordinate

⁶⁴ During the designations process for the 2008 ozone NAAQS, the EPA did not identify any nonattainment areas as rural transport areas.

on topics such as determining the appropriate modeling domain, baseline year, projection years and meteorological episodes. In addition, they should coordinate modeling efforts and, as required by CAA section 182(j)(1)(B), the attainment demonstration must be based on photochemical grid modeling or another method determined by the EPA to be at least as effective.

CAA section 182(j)(2) recognizes that in certain instances, one or more states within a multi-state nonattainment area may not submit an attainment plan by the required date, thus interfering with the ability of the area as a whole to demonstrate attainment. In such case, CAA section 182(j) provides that even though the area as a whole would not be able to demonstrate attainment, the sanction provisions of CAA section 179 shall not apply in the portion of the nonattainment area located in a state that submitted all other provisions of an attainment plan and demonstrated that it could have demonstrated attainment but for the failure of the other state to cooperate. The EPA did not propose any changes to its prior interpretations of these sections of the CAA (*See* 70 FR 71612), and no comments were received on these provisions. Therefore, these interpretations will continue to apply for purposes of the 2008 ozone NAAQS.

O. How will the EPA address interstate and international ozone transport?

1. Interstate Transport

The EPA recognizes that many states are affected by transported ozone and ozone precursors from upwind states, and that transported pollution may contribute significantly to air pollution that exceeds the NAAQS in those states. The CAA establishes states' responsibilities to address interstate transport through two provisions. First, CAA section 110(a)(2)(D)(i) obligates states to include provisions in their infrastructure SIPs to prohibit any source or other type of emissions activity in one state from contributing significantly to nonattainment, or interfering with maintenance, of the NAAQS in another state, from interfering with required provisions preventing significant deterioration of air quality or from interfering with measures to protect visibility in another state. Second, CAA section 126 directs states to include provisions to establish a notification process in their infrastructure SIPs through which downwind jurisdictions can be alerted to specific sources of transported pollution. The EPA issued its "Guidance on Infrastructure State

Implementation Plan Elements Under the Clean Air Act Sections 110(a)(1) and 110(a)(2)," on September 13, 2013,⁶⁵ on the required elements of the CAA section 110 infrastructure SIP submittal for the 2008 ozone NAAQS. This guidance does not, however, address the requirements of CAA section 110(a)(2)(D)(i). The proposal for this rulemaking, and this final rule, also do not address these requirements relating to transport. The EPA will address the transport requirements in a separate action.

Where interstate transported emissions contribute to an exceedance or violation and come from prescribed fire, wildfires or other natural sources, air agencies may be able to use the provisions in the EPA's Exceptional Events Rule (40 CFR 50.14) to request exclusion of affected data. Once EPA concurs with an air agency's request, the event-influenced data are officially noted and removed from the data set used to calculate official design values.

Because of previously expressed stakeholder feedback regarding implementation of the Exceptional Events Rule and specific stakeholder concerns regarding the analyses that can be used to support ozone-related exceptional event demonstrations, the EPA intends to propose revisions to the Exceptional Events Rule in a future notice and comment rulemaking effort and will solicit public comment at that time. Additionally, the EPA intends to develop guidance to address implementing the Exceptional Events Rule criteria for wildfires that could affect ambient ozone concentrations. Depending on the nature and scope of interstate emission events affecting downward air quality, the EPA may be able to assist states in developing approvable exceptional events demonstrations.

2. International Transport

Most ozone air quality problems in the United States are due primarily to emission sources within the United States. However, domestic ozone air quality can also be affected by sources of emissions located across United States borders in Canada and Mexico, and from other continents. These contributions to U.S. ozone concentrations from sources outside of the United States can affect to varying degrees the ability of some areas to attain and maintain the 2008 ozone NAAQS. The EPA will continue to work with our domestic and international partners to better understand the extent

and implications of transboundary flows of air pollutants and, where possible, to mitigate their impact on U.S. domestic air quality.

a. Summary of the Proposal

Section 179B of the CAA allows the EPA to approve an attainment demonstration for a nonattainment area if: (1) The attainment demonstration meets all other applicable requirements of the CAA; and (2) the submitting state can satisfactorily demonstrate that "but for emissions emanating from outside of the United States," the area would attain and maintain the ozone standard. The EPA proposed that this could include consideration of any emissions from North American or intercontinental sources.

b. Final Action and Rationale

The EPA is finalizing this action as proposed. The EPA believes that the best approach for addressing the potential impacts of international transport on nonattainment is for states to work with the relevant EPA Regional Office on a case-by-case basis to determine the most appropriate information and analytical methods for each area's unique situation. We will work with states that are developing plans pursuant to CAA section 179B, and ensure the states have the benefit of the EPA's developing understanding of international transport of ozone and its precursors.

Although monitored data cannot be excluded for a determination of whether an area has attained a NAAQS based solely on the fact the data are affected by emissions from outside the U.S., such data may be excluded from consideration if they were significantly influenced by exceptional events as described in CAA section 319(b). Where international transport meets the criteria and procedural requirements contained in the EPA's Exceptional Events Rule (40 CFR 50.14), it may be addressed by that rule.⁶⁶ Depending on the nature and scope of international emission events affecting air quality in the U.S., the EPA may be able to assist states in developing approvable exceptional events demonstrations.

c. Comments and Responses

Comment: One commenter supported the EPA's interpretation of CAA section 179B to include consideration of any emissions from any non-United States source and requested confirmation that the EPA's interpretation may be applied to areas other than those adjoining

⁶⁵ *See* <http://www.epa.gov/oar/urbanair/sipstatus/infrastructure.html>.

⁶⁶ "Treatment of Data Influenced by Exceptional Events; Final Rule" (72 FR 13560, March 22, 2007).

international borders. The commenter believed that CAA section 179B does not limit this option to areas, regardless of classification and believed that the EPA did not provide an explanation for why it proposed limiting the availability of a determination under CAA section 179B for Marginal classified areas.

Response: The EPA appreciates the commenter's support. The EPA has interpreted the Act such that CAA section 179B allows the EPA to approve an attainment demonstration if the state can satisfactorily demonstrate that "but for emissions emanating from outside of the United States," the area would attain and maintain the ozone standard. The EPA has historically evaluated these demonstrations on a case-by-case basis, based on the individual circumstances. The EPA does not believe this provision is restricted to areas adjoining international borders. Also, in the proposal the EPA indicated that for areas classified as Moderate and above, the modeling and other elements of the attainment demonstration must show timely attainment of the NAAQS but for the emissions from outside of the U.S. However, if a Marginal area (which is not otherwise required to submit an attainment demonstration) were to submit to the EPA a demonstration that they could attain the standard but for international emissions, the EPA would be able to evaluate that demonstration similarly to demonstrations submitted by higher classified areas.

P. How will the CAA section 182(f) NO_x provisions be handled?

1. Summary of the Proposal

We proposed, consistent with the approach taken in the Phase 2 Rule for the 1997 ozone NAAQS and the 2005 updated guidance, that a previously granted NO_x exemption (or waiver) under the 1-hour or 1997 ozone NAAQS would not automatically apply for purposes of implementing the 2008 ozone NAAQS.

2. Final Action and Rationale

We are finalizing this approach as proposed. A state with a previously approved NO_x waiver for the 1-hour or 1997 ozone NAAQS would need to submit a new request for an exemption that is supported by analyses specific to the 2008 ozone NAAQS. The new request should consider any relevant information developed after the 1-hour or 1997 8-hour ozone NAAQS waivers were granted.

The EPA believes that while it may be appropriate in certain circumstances to grant NO_x waivers, these waivers should be based upon applications and

analyses specifically focused on the circumstances relevant for attainment of the 2008 ozone NAAQS, rather than a previous ozone NAAQS, since the standards for granting a waiver relate to attainment of the relevant NAAQS.

As states evaluate whether to seek a NO_x waiver, the EPA encourages them to include consideration of air quality effects that may extend beyond the designated nonattainment area. A petition requesting a NO_x exemption for the 2008 ozone NAAQS must contain adequate documentation that the provisions of CAA section 182(f), some of which relate to attainment impacts in other areas, are met. The January 14, 2005 memo⁶⁷ provides guidance on appropriate documentation for a waiver request for application to the 8-hour ozone program. The EPA believes this guidance is sufficient to cover the 2008 ozone NAAQS.

3. Comments and Responses

Comment: One commenter stated that the EPA should avoid granting NO_x exemptions for nonattainment areas that use NO_x controls from other programs to demonstrate attainment and/or to address other provisions of the CAA.

Response: In order to request a NO_x exemption, a state must submit a petition specific to the 2008 ozone NAAQS. This petition must specifically address the provisions of CAA section 182(f). The EPA will grant NO_x exemptions only through notice-and-comment rulemaking where the public will have an opportunity to address whether the petition complies with the provisions of CAA section 182(f). In granting waivers, the EPA will take into consideration existing NO_x controls in an area.

Q. Emissions Reduction Benefits of Energy Efficiency/Renewable Energy Policies and Programs, Land Use Planning and Travel Efficiency

1. Energy Efficiency/Renewable Energy Policies and Programs

Energy efficiency and renewable energy (EE/RE) policies and programs are adopted by federal, state and local governments to lower energy demand through the use of more energy efficient equipment, technologies and practices and to transition to cleaner energy. These policies help reduce electricity generation from fossil-fueled sources, which, in turn, can result in lower

emissions of NO_x (as well as other criteria pollutants, hazardous air pollutants and greenhouse gases). Energy efficiency policies offer cost savings benefits, and can be a cost-effective strategy to help achieve air quality goals. The EPA encourages state adoption of these policies and programs to benefit nonattainment areas and to reduce the impact of ozone transport on downwind areas.

In July 2012, the EPA released the "Roadmap for Incorporating Energy Efficiency/Renewable Energy Policies and Programs into State and Tribal Implementation Plans (SIPs/TIPs)"⁶⁸ to clarify guidance on the incorporation of EE/RE measures in SIPs/TIPs. The Roadmap is a "living" document that will be updated periodically as new information becomes available. The Roadmap describes four pathways that states can use for considering air pollution reductions from EE/RE policies and programs in SIPs and TIPs. Valid EE/RE policies and programs that meet the applicable requirements of CAA section 182(c)(9) can also be used as contingency measures.

In addition to the Roadmap, the EPA is providing training and technical assistance to state, tribal and local agencies, as well as tools for quantifying the emissions impacts of EE/RE policies and programs (*i.e.*, the AVoided Emissions genERation Tool, AVERT),⁶⁹ and energy savings information for state-level EE policies and programs.⁷⁰ The EPA is also working with states to develop examples that illustrate how reductions from specific EE/RE policies and programs could be quantified and considered in SIPs.

2. Land Use Planning

States may also wish to consider strategies that foster more efficient urban and regional development patterns as a long-term air pollution control measure. Resources include the HUD DOT EPA Sustainable Communities Partnership, as well as the policy and technical guidance documents on land use available on the EPA's Office of Transportation and Air Quality Web site.⁷¹ These documents provide communities with the information they need to better understand the link between air quality, transportation and land use activities, and how certain land use activities have the potential to help local areas achieve and maintain healthy air quality. The

⁶⁷ Memorandum dated January 14, 2005, "Guidance on Limiting Nitrogen Oxides (NO_x) Requirements Related to 8-Hour Ozone Implementation" from Stephen D. Page, Director, Office of Air Quality Planning and Standards, to Air Directors, Regions I-X.

⁶⁸ See <http://www.epa.gov/airquality/eere.html>.

⁶⁹ See <http://epa.gov/avert/>.

⁷⁰ See <http://www.epa.gov/statelocalclimate/state/topics/energy-efficiency.html>.

⁷¹ See http://www.epa.gov/otaq/stateresources/policy/pag_transp.htm.

documents also include methods to help communities account for the air quality benefits of their local land use activities in their air quality plans. If wildfire impacts are significant in a particular area, air agencies and communities may be able to lessen the impacts of wildfires by working collaboratively with land managers and land owners to employ various mitigation measures including taking steps to minimize fuel loading in areas vulnerable to fire. The EPA will provide additional guidance as needed, and will continue to work with states on incorporating these types of programs into their SIPs.

3. Travel Efficiency

Areas may also consider incorporating travel efficiency strategies, such as new or expanded mass transit options, commuter strategies, system operations (e.g., eco-driving, ramp metering), pricing (e.g., parking taxes, congestion pricing, intercity tolls), speed limit restrictions and multimodal freight strategies in their SIPs. In March of 2011, the EPA released two documents that we believe will prove to be useful to states that want to evaluate emissions reductions that may be available from travel efficiency strategies. The first document is titled, "Potential Changes in Emissions Due To Improvements in Travel Efficiency." This report provides information on the effectiveness of travel efficiency measures for reducing emissions of NO_x, VOC and PM_{2.5} at the national scale. The second document is titled, "Transportation Control Measures: An Information Document for Developing and Implementing Emission Reduction Programs." This document provides information on transportation control measures that have been implemented across the country for a variety of purposes, including reducing emissions related to criteria pollutants. These documents are available on the EPA's Office of Transportation and Air Quality Web site.⁷²

R. Efforts To Encourage a Multi-Pollutant Approach When Developing 2008 Ozone SIPs

1. Summary of the Proposal

The EPA stated in the proposal that from a planning and resource perspective, we believe it can be efficient for states to develop integrated control strategies that address multiple pollutants rather than separate strategies for each pollutant or NAAQS individually. The EPA also provided states with recommendations and considerations to take into account

when developing a comprehensive approach. The EPA requested comment on what incentives or assistance we might be able to provide to encourage states to integrate their planning activities.

2. Final Action and Rationale

From a planning and resource perspective, the EPA continues to believe that multi-pollutant control strategy planning can be efficient for states. An integrated air quality control strategy that reduces multiple pollutants can help ensure that reductions are efficiently achieved and produce the greatest overall air quality benefits. However, multi-pollutant approaches are not required as part of this rule.

States may also find it desirable to assess the impact of ozone, PM_{2.5} and/or regional haze control strategies on toxic air pollutants regulated under the CAA or under state air toxics initiatives. Given the relationships that exist between toxic air pollutants and the formation of ozone and PM_{2.5}, states and sources may find that controls can be selected to meet goals for ozone and/or PM_{2.5} attainment as well as those of specific toxic air pollutant programs.

We recommend that states and tribes wishing to take a comprehensive approach consider the following activities:

- Choose or develop models for use in the attainment demonstration that can assess the air quality and ecosystem impacts of measures to reduce ozone precursors, secondary fine particles, pollutants that contribute to regional haze and, where appropriate, toxic air pollutants and other related pollutants that can impact ecosystems.
- Conduct an integrated assessment of the impact controls have on ambient levels of ozone, PM_{2.5}, regional haze and, where applicable, toxic air pollutants, greenhouse gases, ecosystem protection and environmental justice considerations.
- Use common data bases and analytical tools, where possible.

3. Comments and Responses

Comment: Several commenters supported the use of a multi-pollutant approach. One commenter encouraged the EPA to allow states to take credit for programs that may not yet have been fully implemented. Another commenter noted the constraints in the CAA, which focuses on a pollutant-by-pollutant approach, and another commenter stated that they prefer a single pollutant approach.

Response: The EPA supports multi-pollutant planning, where possible. Regarding the comment encouraging the

EPA to allow states to take credit for programs that may not yet have been fully implemented, please see Section III.B in the preamble for details regarding the EPA's final policy on this subject.

The EPA also supports considering the co-benefits of emissions reductions on multiple pollutants. We acknowledge that there are CAA constraints that may limit the incentive for multi-pollutant planning, and clarify that single-pollutant planning is acceptable under the Act.

S. What are the requirements for the OTR?

The EPA proposed to adopt for the 2008 ozone NAAQS the same requirements applicable to the OTR that were codified in 40 CFR 51.916 for the 1997 ozone NAAQS, except that the submission date for OTR RACT SIPs required under CAA section 182(b)(2) would be the same as provided under the RACT section of this regulation for nonattainment areas. (See Section III.A of this preamble for additional information on SIP submittal timeframes.) We are finalizing adoption of the requirements as proposed along with the OTR RACT SIP submittal due date.

T. Are there any additional requirements related to enforcement and compliance?

The EPA did not propose any specific regulatory provisions related to compliance and enforcement. CAA section 172(c)(6) requires nonattainment SIPs to "include enforceable emission limitations, and such other control measures, means or techniques . . . as well as schedules and timetables for compliance, as may be necessary or appropriate to provide for attainment . . ." The EPA's current guidance, "Guidance on Preparing Enforceable Regulations and Compliance Programs for the 15 Percent Rate-of-Progress Plans (EPA-452/R-93-005, June 1993)" is still relevant to rules adopted for SIPs under the 2008 ozone NAAQS and should be consulted for purposes of developing appropriate enforceable nonattainment plan provisions under CAA section 172(c)(6). The EPA did not solicit comment on this section and thus, none were received.

U. What are the requirements for addressing emergency episodes?

1. Summary of the Proposal

The EPA proposed that the existing requirements for emergency episodes (40 CFR part 51, subpart H) would also apply to the 2008 ozone NAAQS.

⁷² See http://www.epa.gov/otaq/stateresources/policy/pag_transp.htm.

2. Final Action and Rationale

The EPA did not receive any adverse comments on the proposal. The EPA is finalizing the requirements for emergency episodes as proposed. The EPA believes the existing requirements for emergency episodes (40 CFR part 51, subpart H) remain appropriate for the 2008 ozone NAAQS and/or any current ozone NAAQS. If wildfire is a potential contributor to these episodes, the EPA urges implementing state and local agencies to coordinate with the land management agencies, as appropriate, in developing plans and appropriate public communications regarding public safety and reducing exposure.

V. How does the "Clean Data Policy" apply to the 2008 ozone NAAQS?

1. Summary of the Proposal

The EPA proposed to apply the same approach with respect to the Clean Data Policy for the 2008 ozone NAAQS as it applied in the Phase 1 Rule for the 1997 ozone NAAQS. That is, a determination of attainment would suspend the obligation to submit attainment planning SIP elements for the 2008 ozone NAAQS. Such a determination would suspend the obligation to submit any attainment-related SIP elements not yet approved in the SIP, for so long as the area continues to attain the 2008 ozone NAAQS.

2. Final Action

The EPA is finalizing this action as proposed. The EPA is replacing 40 CFR 51.918 with 40 CFR 51.1118 to consolidate in one regulation a comprehensive provision applicable to determinations of attainment for the current and former ozone NAAQS. Thus, 40 CFR 51.1118 will apply to a determination of attainment that is made with respect to any revoked or current ozone NAAQS—the 1-hour, the 1997 or the 2008 ozone NAAQS.

3. Rationale

The EPA continues to believe that it is appropriate for an area that has met an ozone NAAQS to suspend further attainment planning efforts for that ozone NAAQS. The new 40 CFR 51.1118 sets forth the regulatory consequences of an EPA determination, made after notice-and-comment rulemaking, that an area designated nonattainment for an ozone standard has air quality attaining that standard. Upon such a determination by the EPA, the requirements for the area to submit an attainment demonstration, associated reasonably available control measures, RFP plans, contingency measures and other attainment-related planning

requirements for that NAAQS, shall be suspended until such time as the area is redesignated to attainment, at which time the requirements no longer apply, or until the EPA determines that the area has again violated that ozone NAAQS, in which case the requirements are again applicable.

4. Comments and Responses

Comment: Several commenters supported the continued use of the Clean Data Policy. One of these commenters requested that the EPA expeditiously redesignate areas using its CAA section 107(d)(3) authority for states that have submitted "clean data" certification and redesignation/maintenance SIPs.

Response: As stated in the policy, the requirements for an attainment demonstration, RFP and contingency measures are designed to bring an area into attainment. Once this goal has been achieved, we believe the statute no longer requires submission of plans designed to bring the area into attainment and thus it is appropriate to suspend the obligation that states submit plans to meet that goal, so long as the area continues to attain the relevant standard. The EPA Regional Offices will act on redesignating areas based on any CAA section 175A submittals that were received in as expeditious a manner as possible.

W. How does this final rule apply to tribes?

As we mentioned in the proposal, tribes are generally not required to submit tribal implementation plans (TIPs).⁷³ However, should a tribe choose to develop a TIP, this final rule is intended to serve as a guide for addressing key implementation issues for their area of Indian country. This rule will likely be especially useful to those tribes whose areas of Indian country were designated as separate nonattainment areas from surrounding state areas.

⁷³ On January 17, 2014, the United States Court of Appeals for the District of Columbia Circuit issued a decision vacating the EPA's 2011 rule titled "Review of New Sources and Modifications in Indian Country" (76 FR 38748) with respect to non-reservation areas of Indian country (See, *Oklahoma Department of Environmental Quality v. EPA*, 740 F.3d 185 (D.C. Cir. 2014)). Under the court's reasoning, with respect to CAA SIPs, a state has primary regulatory jurisdiction in non-reservation areas of Indian country (i.e., Indian allotments located outside of reservations and dependent Indian communities) within its geographic boundaries unless the EPA or a tribe has demonstrated that a tribe has jurisdiction over a particular area of non-reservation Indian country within the state.

X. What collaborative program has the EPA implemented for the 2008 ozone NAAQS?

The EPA stands ready to assist states in implementing the 2008 ozone NAAQS. The Ozone Advance program, which began in April 2012, is an opportunity for 2008 ozone NAAQS attainment areas to work collaboratively with EPA to improve local air quality. Information on the Ozone Advance program for the 2008 ozone NAAQS is provided in a separate guidance document that is available at <http://www.epa.gov/ozonepamadvance>.

IV. What are the anti-backsliding requirements for the revoked 1997 ozone NAAQS?

A. What is the effective date of the revocation of the 1997 ozone NAAQS?

1. Summary of the Proposal

The EPA proposed to exercise its authority to revoke the 1997 ozone NAAQS for all purposes upon the publication of the final SIP Requirements Rule in the **Federal Register**.⁷⁴ The EPA also proposed that anti-backsliding provisions would apply to an area in accordance with its designation and, as applicable, its classification, for the 1997 (and, if applicable, 1-hour) ozone NAAQS at the time of revocation of the 1997 ozone NAAQS. The following sections discuss in detail the applicable anti-backsliding requirements and how they apply to areas with various designations and classifications for the 2008 and the soon to be revoked 1997 and the already revoked 1-hour ozone NAAQS.⁷⁵

2. Final Action

The EPA is revoking the 1997 ozone NAAQS for all purposes upon the effective date of this final rule, which will be 30 days after publication of this rule in the **Federal Register**. When the 1997 ozone NAAQS is revoked, the anti-backsliding requirements for that NAAQS, as detailed in this final rulemaking, become applicable. The

⁷⁴ The EPA's Classifications Rule for the 2008 ozone NAAQS also provided that the 1997 ozone NAAQS would be revoked 1 year after the effective date of initial area designations for the 2008 ozone NAAQS for purposes of transportation conformity. The D.C. Circuit held that the EPA lacked authority for such a partial revocation, but did not question its authority to revoke a standard in total. *NRDC v. EPA* (D.C. Cir. No. 12-1321, Dec 23, 2014). Today's revocation of the standard is for all purposes, including transportation conformity.

⁷⁵ The 1-hour ozone NAAQS was revoked in the Phase 1 Rule. See 69 FR 23951, April 30, 2004. The D.C. Circuit upheld EPA's authority to revoke that standard so long as it introduces adequate anti-backsliding measures. *South Coast Air Quality Management Dist. v. EPA*, 472 F.3d 882, 899 (D.C. Cir. 2007).

extent of continued implementation efforts for a revoked standard derives from administration of anti-backsliding requirements for the revoked standard. After the revocation of the 1997 ozone NAAQS, the EPA will no longer be able to take action to reclassify or to redesignate areas for that standard.

After revocation of the 1997 standard, the designations (and the classifications associated with those designations) for that standard are no longer in effect, and the sole designations that remain in effect are those for the 2008 ozone NAAQS. However, the EPA is retaining the listing of the designated areas for the revoked 1997 ozone NAAQS in 40 CFR part 81, for the sole purpose of identifying the anti-backsliding requirements that may apply to the areas at the time of revocation. Accordingly, such references to historical designations for the revoked standard should not be viewed as current designations under CAA section 107(d).

3. Rationale

This approach of establishing anti-backsliding requirements is consistent with the EPA's practice in the transition from the 1-hour to the 1997 ozone NAAQS. It is not logical to attach to an area any anti-backsliding requirements for the revoked 1997 NAAQS until that NAAQS is revoked because up until revocation, implementation of the 1997 NAAQS is still adequately governed by the relevant CAA and regulatory provisions, and the EPA can still take actions to redesignate or reclassify areas for that standard.^{76 77} In fact, the status of many areas with respect to designation and classification for the 1997 ozone NAAQS has already changed since promulgation of the 2008 ozone NAAQS. Thus, the EPA concludes that it is reasonable to establish the date of revocation of the 1997 ozone NAAQS as the time for anti-backsliding requirements for that NAAQS to take effect, which is consistent with past practice under the Phase 1 Rule.

The EPA believes it is appropriate to revoke rather than retain the 1997 ozone NAAQS for all purposes.⁷⁸ This final

action ensures that only one ozone NAAQS—the more protective 2008 ozone NAAQS—directly applies, rather than having two standards apply concurrently. In revoking any standard, the EPA provides adequate anti-backsliding requirements.

We believe that revoking the 1997 ozone NAAQS is appropriate for all purposes. The EPA believes that the permanent retention of two standards, differing only in the ozone concentrations they allow, creates unnecessary complexity and is not necessary to provide for attainment of the more stringent NAAQS. The EPA's reason for establishing the new standards of 0.075 ppm as requisite to protect public health and welfare was its conclusion that the old standard of 0.08 ppm was not adequate. Revoking (with appropriate anti-backsliding measures) rather than retaining that 1997 ozone NAAQS will facilitate a more seamless transition to demonstrating compliance with the more health and welfare protective 2008 ozone NAAQS, and will ensure the most efficient use of state and local resources in working toward attainment of that standard. Moreover, we believe that by requiring adequate anti-backsliding measures we will ensure continued momentum in states' efforts toward achieving cleaner air.

4. Comments and Responses

Comment: One commenter recognized the EPA's authority to revoke the 1997 ozone NAAQS, but opposed the revocation because attainment of the 1997 NAAQS would advance progress toward the 2008 standard and ensures that such progress would be made sooner rather than later. The commenter indicated that the EPA's proposal to revoke the 1997 ozone NAAQS would waive key requirements for Extreme nonattainment areas under the 1997 standard before the deadline comes due. The commenter also stated that the EPA must explain the specific problems caused by retaining the 1997 (and 1-hour) ozone NAAQS and tailor the solutions to address those specific problems, citing several rulings that the commenter believed that the EPA must provide a rational basis for their action.

Response: The anti-backsliding approach that the EPA proposed retains all applicable control requirements for the 1997 ozone NAAQS, while enabling areas, where possible, to focus planning efforts on meeting the more protective

2008 ozone NAAQS. We believe the strong anti-backsliding provisions in 40 CFR 51.1105 will ensure that controls already adopted to attain the previous NAAQS continue to be implemented until an area attains the 2008 ozone NAAQS, and will also ensure that there will be no delay in attaining the 1997 ozone NAAQS. Since it is impossible to attain the 2008 ozone NAAQS without also attaining the 1997 ozone NAAQS, retaining the 1997 ozone NAAQS would be largely superfluous from a health protection standpoint.

The EPA agrees with the commenter that the adopted revocation approach means that the 1997 NAAQS would be revoked before the statutory maximum attainment date for areas classified as Severe and Extreme for the 1997 ozone NAAQS. We believe that Congress understood this possibility when it amended the CAA in 1990 to require the EPA to review each NAAQS every 5 years. Similarly, Congress also recognized that areas with more significant ozone problems would need more time to attain the standard, and gave these areas more time to attain the standard, with timeframes for attainment largely beyond the 5-year timeframe required for review of the NAAQS. The EPA does not agree with the commenter's characterization of revoking the NAAQS, while retaining a retinue of anti-backsliding requirements, as creating perpetual extensions for attaining old standards. The commenter's argument ignores the fact that the old standard has been supplanted by a more protective standard, and that the EPA's anti-backsliding requirements, combined with the CAA's new obligations to achieve the more stringent 2008 ozone NAAQS as expeditiously as practicable, effectively fulfill the function of the prior attainment date. In addition the EPA notes that the attainment demonstration for the prior standard is retained as an anti-backsliding measure.

The EPA believes that integrating prior requirements with new goals facilitates coherent, effective and timely planning and controls, and minimizes the separate potentially duplicative submittal of requirements left over from obsolete standards. In this time of diminished resources, the states and the EPA need to move forward efficiently without being overburdened by unnecessary paperwork requirements arising from former standards that can detract from efficient movement towards more stringent standards.

For these reasons, and consistent with the anti-backsliding regime previously endorsed by the D.C. Circuit, *South Coast Air Quality Management Dist. v.*

⁷⁶ Although 40 CFR 51.905(a) specified that the anti-backsliding requirements "attached" at the time of designation for the 1997 ozone NAAQS, areas were still able to redesignate to attainment for the 1-hour ozone NAAQS up to the date of revocation of that standard.

⁷⁷ See, for example, the redesignations to 1-hour attainment for Phoenix (June 14, 2005, 70 FR 34362) and Atlanta (June 15, 2005, 70 FR 34660) which occurred right up until the June 15, 2005 effective date of revocation of the 1-hour ozone NAAQS.

⁷⁸ When the EPA revises a NAAQS, the prior NAAQS is not automatically revoked. Accordingly,

both the 1997 ozone NAAQS and the more stringent 2008 ozone NAAQS are active standards unless and until the EPA takes action to revoke the previous 1997 ozone NAAQS, subject to appropriate anti-backsliding requirements.

EPA, 472 F.3d 882 for the transition from the 1-hour to the 1997 ozone NAAQS, the EPA believes that the revocation and associated anti-backsliding measures for the 2008 ozone NAAQS provide the appropriate way to move toward attaining the more protective standards in a timely and effective manner, while ensuring that progress made under previous ozone NAAQS is not lost. For additional details, please refer to the Response to Comments document.

Comment: A number of commenters in favor of revocation of the 1997 ozone NAAQS suggested alternate dates for revocation. Several commenters wanted an earlier date for revocation, such as the promulgation date of the 2008 ozone NAAQS or the effective date of designations for the 2008 ozone NAAQS. One of these commenters questioned whether the revocation would occur on the date of publication of the rule in the **Federal Register** or on the effective date of the rule.

Response: We disagree with commenters that recommended that the EPA revoke the 1997 ozone NAAQS at an earlier date. We believe that revoking the 1997 ozone NAAQS prior to the establishment of clear anti-backsliding requirements would create a gap in air quality protection and that *South Coast v. EPA*, 472 F.3d 882 indicates that backstops to prevent relaxation of measures implemented for a previous NAAQS must be in place before the EPA can revoke that NAAQS. The EPA, upon considering the comment on the effective date of revocation, clarifies here that the 1997 ozone NAAQS will be revoked on the rule's effective date as set forth in the **Federal Register**. That is, the 1997 ozone NAAQS will be revoked 30 days after publication of the final rule in the **Federal Register**.

B. What are the applicable requirements for anti-backsliding purposes following the revocation of the 1997 ozone NAAQS?

1. Summary of the Proposal

The EPA proposal stated that subpart AA, 40 CFR 51.1100 *et seq.*, would provide comprehensive anti-backsliding requirements for transition to the 2008 ozone NAAQS. The EPA proposed that, upon revocation of the 1997 ozone NAAQS, subpart X, 40 CFR 51.900 *et seq.*, would be effectively replaced by the proposed subpart AA.

In proposed subpart AA, 40 CFR 51.1100(o) specified the list of "applicable requirements" that would apply as anti-backsliding requirements for the transition from the 1997 ozone NAAQS to the 2008 ozone NAAQS. The

EPA proposed as "applicable requirements" the requirements that were previously listed in 40 CFR 51.900(f) (except for Stage II vapor recovery),⁷⁹ as well as the addition of three anti-backsliding requirements that were included as a result of the *South Coast v. EPA*⁸⁰ decision: Nonattainment NSR thresholds and offset ratios, nonattainment contingency measures for failure to attain by the applicable deadline or to meet RFP milestones, and CAA section 185 fee program requirements. Since the *South Coast v. EPA* decision, the EPA has been including these three requirements as anti-backsliding requirements for the 1-hour ozone NAAQS for the purpose of discharging its obligations to effectuate anti-backsliding for that standard. The proposed action would formally list them with the other applicable requirements.

The applicable requirements discussed previously apply to areas that are designated nonattainment for the 2008 ozone NAAQS and remain nonattainment for a previous ozone NAAQS on the date the 1997 ozone NAAQS is revoked. For areas designated attainment for the 2008 ozone NAAQS but nonattainment for the 1997 ozone NAAQS, the EPA proposed that after the 1997 ozone NAAQS is revoked, these areas would not be required to retain in their SIPs nonattainment NSR programs for ozone. Instead, such areas would be required to implement PSD requirements for ozone. The EPA's determination that after revocation of the 1997 ozone NAAQS nonattainment NSR requirements do not apply to areas designated attainment for the 2008 ozone NAAQS is consistent with the *Greenbaum v. EPA* decision.⁸¹

Based on requirements in the Phase 1 rule for the 1997 ozone NAAQS, as modified in light of *South Coast v. EPA*, the definition of applicable requirements proposed in 40 CFR 51.1100(o) included the following: (1) RACT; (2) Vehicle I/M programs; (3) Major source applicability cut-offs for

purposes of RACT; (4) ROP and/or RFP reductions; (5) the Clean fuels fleet program under section 183(c)(4) of the CAA; (6) Clean fuels for boilers under section 182(e)(3) of the CAA; (7) Transportation control measures during heavy traffic hours as provided under section 182(e)(4) of the CAA; (8) Enhanced (ambient) monitoring under section 182(c)(1) of the CAA; (9) Transportation controls under section 182(c)(5) of the CAA; (10) Vehicle miles traveled provisions under section 182(d)(1)(A) of the CAA; (11) NO_x requirements under section 182(f) of the CAA; (12) Attainment demonstrations; (13) Nonattainment contingency measures; (14) Nonattainment NSR requirements; and (15) CAA section 185 enforcement requirements for Severe and Extreme nonattainment areas for failure to attain.

As part of the proposal, the EPA indicated that upon revocation of the 1997 ozone NAAQS, the designations for that NAAQS would have no further effect except as references for anti-backsliding purposes. References to the designations for the revoked standard in 40 CFR part 81 would be retained solely for anti-backsliding purposes for areas designated nonattainment for the 2008 ozone NAAQS, and should not be viewed as current nonattainment designations under CAA § 107 within the meaning of 40 CFR 51.166(i)(2) and 52.21(i)(2) and, therefore, would not trigger the exemption from PSD requirements otherwise resulting from those provisions. The proposal also requested comment as to whether or not an amendment to 40 CFR 51.166(i)(2) and 52.21(i)(2) would be appropriate to make it clear that a nonattainment designation for a revoked NAAQS, once the revocation becomes effective in an area, would not trigger the PSD exemption in those provisions and would not prevent application of PSD requirements for that pollutant and how to word such an amendment. Alternatively, the EPA sought comment as to whether it would be sufficient for the EPA to articulate the interpretation of these provisions as described earlier in this paragraph.

2. Final Action

The EPA is finalizing the anti-backsliding requirements as proposed, including amendments to 51.166(i)(2) and 52.21(i)(2) which address classifications for revoked NAAQS. The amended subpart AA addresses anti-backsliding requirements for both the previously revoked 1-hour ozone NAAQS and the 1997 ozone NAAQS in a consolidated and streamlined fashion. Areas designated nonattainment for the

⁷⁹ Under CAA section 202(a)(6), the EPA found that onboard refueling vapor recovery (ORVR) systems are in widespread use in the motor vehicle fleet and waived the CAA section 182(b)(3) Stage II vapor recovery requirement for Serious and higher ozone nonattainment areas on May 16, 2012 (77 FR 28772). Thus, in the proposal, the section 182(b)(3) Stage II requirement is omitted from the list of applicable requirements in 40 CFR 51.1100(o).

⁸⁰ *South Coast Air Quality Management District v. EPA*, 472 F.3d at 899.

⁸¹ *Greenbaum v. EPA*, 370 F.3d 527, 536 (6th Cir. 2004). "It would make little sense for [nonattainment NSR] to be included in the post-attainment SIP, as the Clean Air Act . . . explicitly states that attainment area SIPs must include a PSD program."

2008 ozone NAAQS and also designated nonattainment for the 1997 ozone NAAQS⁸² at the time of revocation of the 1997 ozone NAAQS will be subject to 40 CFR 51.1100(o). As proposed, areas designated attainment for the 2008 ozone NAAQS and nonattainment for the 1997 ozone NAAQS when the 1997 ozone NAAQS is revoked will become subject to PSD requirements rather than nonattainment NSR requirements once the revocation is effective.

Also as proposed, three items are being added to the list of applicable requirements: Nonattainment contingency measures, nonattainment NSR requirements (clarified to refer to major source thresholds and offset ratios), and CAA section 185 requirements for Severe and Extreme areas. As proposed, Stage II vapor recovery is not being included in the list of applicable requirements for the reasons described above.

Based on feedback received during the comment period, the EPA is specifically including two additional items in the list of applicable requirements: RACM and CAA section 182(e)(5) contingency measures. These provisions were implicitly included in the attainment demonstration but are listed separately for clarification. As such, the complete list of applicable requirements in 40 CFR 51.1100(o) is: (1) RACT; (2) Vehicle I/M programs; (3) Major source applicability cut-offs for purposes of RACT; (4) ROP and/or RFP reductions; (5) the Clean fuels fleet program under section 183(c)(4) of the CAA; (6) Clean fuels for boilers under section 182(e)(3) of the CAA; (7) Transportation control measures during heavy traffic hours as provided under section 182(e)(4) of the CAA; (8) Enhanced (ambient) monitoring under section 182(c)(1) of the CAA; (9) Transportation controls under section 182(c)(5) of the CAA; (10) Vehicle miles traveled provisions under section 182(d)(1)(A) of the CAA; (11) NO_x requirements under section 182(f) of the CAA; (12) Attainment demonstrations; (13) Nonattainment contingency measures; (14) Nonattainment NSR major source thresholds and offset ratios;⁸³ (15) CAA section 185 requirements for Severe and Extreme areas for failure to attain; (16) RACM;

and (17) Contingency measures for SIPs invoking section 182(e)(5) of the CAA.

3. Rationale

As detailed in the proposal,⁸⁴ the EPA already treats nonattainment contingency measures, nonattainment NSR major source thresholds and offset ratios, and CAA section 185 requirements for Severe and Extreme areas as being included in the list of applicable requirements that apply to areas for anti-backsliding purposes under the revoked 1-hour NAAQS, consistent with the *South Coast v. EPA* decision. Their explicit inclusion in this list is to formalize their place in the list of applicable requirements. Similarly, Stage II vapor recovery is not included in this list due to the May 16, 2012 determination⁸⁵ that the requirement is waived, and that an area currently implementing a Stage II control program can, under certain circumstances, remove it from the SIP. These changes to the list of applicable requirements reflect policies already being implemented by the EPA.

Similarly, areas designated attainment for the 2008 ozone NAAQS and nonattainment for the 1997 ozone NAAQS when the 1997 ozone NAAQS is revoked will become subject to PSD rather than nonattainment NSR once the revocation takes effect. An area that is attainment for the 2008 ozone NAAQS is attaining the most current and health protective ozone standard. The EPA believes that Congress did not intend to hold such an area to the requirements for an old standard when the area has met a newer, more stringent standard of the same form. Such areas will implement PSD for the 2008 ozone NAAQS once the revocation of the 1997 ozone NAAQS takes effect, notwithstanding any remaining references to nonattainment designations for the 1997 ozone NAAQS in 40 CFR part 81. The references to the designations for the revoked standard in 40 CFR part 81 are retained solely for anti-backsliding purposes for areas designated nonattainment for the 2008 ozone NAAQS. Accordingly, such references to historical nonattainment designations for the revoked standard should not be viewed as current nonattainment designations under CAA § 107 within the meaning of 40 CFR 51.166(i)(2) and 52.21(i)(2) and, therefore, do not trigger the exemption from PSD requirements otherwise resulting from those provisions.

Upon reviewing comments, the EPA decided that sufficient arguments were

provided to append two additional items to the list of applicable requirements in 51.1100(o). Those two items are RACM and 182(e)(5) contingency measures. The EPA views this as a clarification, rather than as an addition of control elements. Attainment demonstration SIPs are already listed as an applicable requirement. RACM is an integral part of an approvable attainment demonstration. Similarly, contingency measures will become a required element of 51.1100(o) consistent with the *South Coast v. EPA* decision. Adding contingency measures associated with CAA section 182(e)(5) to the list is a clarification, rather than an imposition of an additional requirement.

4. Comments and Responses

Comment: A commenter pointed out that, with regard to applicable requirements, federal measures and locally implemented measures are held to two separate standards. The commenter used the example of Stage II vapor recovery. The EPA removed Stage II vapor recovery from the list of applicable requirements. However, locally implemented control measures included in a SIP for a previous NAAQS must be retained in perpetuity.

Response: The EPA disagrees with the commenter. SIP-approved control measures, whether federal programs or locally implemented measures, may not be modified unless the modification meets the requirements of CAA section 110(l) and, if applicable, CAA section 193. For purposes of anti-backsliding, Stage II control programs are no longer mandatory because the EPA has determined under the statutory provisions of CAA section 202(a)(6) that another federal program, onboard refueling vapor recovery (ORVR) technology, is in widespread use, rendering Stage II controls largely redundant. However, in an area where a Stage II control program is already adopted into the SIP, it cannot be removed from the SIP unless the conditions of CAA sections 110(l) and 193 are met. Therefore, it is subject to the same treatment as any locally implemented SIP-adopted control measure.

Comment: A commenter stated that no planning requirements from the 1997 ozone NAAQS should apply once that NAAQS is revoked. The commenter based this on two arguments. First, CAA section 172(e) applies to control requirements and not state planning requirements. Second, the commenter argued that the decision in *South Coast v. EPA* has limited applicability because

⁸² Note that some areas designated as nonattainment for the 1997 NAAQS might also retain anti-backsliding requirements for the already revoked 1-hour ozone NAAQS.

⁸³ It should be noted that replacement of nonattainment NSR SIP provisions with PSD upon successful redesignation to attainment does not relieve sources of their obligations under previously established permit conditions.

⁸⁴ See 78 FR 34178, June 6, 2013.

⁸⁵ See 77 FR 28772.

the court was faced with two ozone standards that differed in form and level, and in this situation the two standards are of the same form.

Response: The EPA agrees that the transition from the 1997 ozone NAAQS to the 2008 ozone NAAQS calls for a re-evaluation of the provisions necessary to protect against backsliding and ensure continued progress toward achieving healthy air quality. However, we do not agree that *South Coast v. EPA* has limited application to informing appropriate anti-backsliding requirements for a revoked 1997 NAAQS simply because the 2008 NAAQS has the same form as the 1997 NAAQS. With only one exception, the seventeen “applicable requirements” that will be listed in new 40 CFR 51.1100(o) are all control requirements, consistent with *South Coast v. EPA*. To the extent that any of these control requirements have not been implemented in a 1997 nonattainment area by the time the 1997 NAAQS is revoked, consistent with *South Coast v. EPA* the state must ensure these controls are adopted into the SIP and implemented, if applicable. The one applicable requirement that involves both planning and control elements is the attainment demonstration requirement.⁸⁶ Since the attainment demonstration is part of the basis for establishing that the RACM requirement (a control requirement consistent with *South Coast*) is satisfied, the EPA believes it is appropriate to retain this as an applicable anti-backsliding requirement to ensure timely progress toward attainment of the 1997 NAAQS, especially for areas classified in the highest classifications where the statutory attainment dates for the 1997 NAAQS extend well into the future (e.g., 2019 for Severe and 2024 for Extreme areas). The EPA encourages states to synchronize their planning and emissions control efforts for attainment of the 2008 ozone NAAQS with any unfulfilled anti-backsliding requirements associated with the revoked 1997 ozone NAAQS. As a reminder, a Clean Data Determination for the 1997 ozone NAAQS can suspend the associated attainment demonstration requirement for as long as the area continues to attain the 1997 NAAQS.

Comment: A commenter pointed out that there are several control measures that continue to apply to areas after a standard is revoked. The commenter

argued that, for consistency, the EPA should include these items in the list of applicable requirements. For example, RACT is listed as an applicable requirement, but not RACM. The commenter argued that RACM should be listed as an applicable requirement. Similarly, transportation conformity, “other control measures” as necessary for attainment under CAA section 172(c)(6), and contingency measures for CAA section 182(e)(5) measures should be retained as applicable requirements, according to the commenter.

Response: The EPA agrees in part with the commenter, that it is appropriate to list both RACM and CAA section 182(e)(5) contingency measures as “applicable requirements” in the final rule in 40 CFR 51.1100(o). RACM is a component of the attainment demonstration and is a requirement of the CAA. The EPA reviews each SIP submission from a state to ensure that sufficient information is provided for the EPA to determine whether the state has adopted all RACM necessary for attainment as expeditiously as practicable and provided for implementation of those measures as expeditiously as practicable. For areas remaining in nonattainment for the 1997 ozone NAAQS and designated nonattainment for the 2008 ozone NAAQS, the EPA does not believe that revocation of the NAAQS should halt or delay the planned implementation of control measures. These measures, while adopted pursuant to the 1997 ozone NAAQS, will also assist the areas in attaining the 2008 ozone NAAQS.

Similarly, for Extreme areas relying on CAA section 182(e)(5), the EPA agrees that the contingency measures required for that program should be held to the same requirements as contingency measures for sections 172(c) and 182(c) of the CAA. Thus the EPA is adding 182(e)(5) contingency measures to the list of applicable requirements in 51.1100(o).

However, the EPA does not agree with the commenter that conformity needs to be retained as an applicable requirement. Transportation and general conformity are retained as requirements for all areas designated nonattainment for the 2008 ozone NAAQS. For areas designated attainment for the 2008 ozone NAAQS, these areas are meeting the most stringent, health-protective NAAQS and thus have no remaining conformity requirements because they are designated attainment for the 2008 ozone NAAQS and the designations for the 1997 ozone NAAQS which trigger conformity requirements are revoked. Transportation and general conformity apply only in areas designated as

nonattainment or redesignated to attainment with an approved CAA section 175A maintenance plan. (CAA section 176(c)(5)). Upon the effective date of the revocation of the 1997 ozone NAAQS the only relevant designation for ozone for conformity purposes will be an area’s designation for the 2008 ozone NAAQS.⁸⁷ Areas that are designated attainment for the 2008 ozone NAAQS are not subject to transportation or general conformity requirements regardless of their designation for the 1997 ozone NAAQS at the time of revocation of that NAAQS. (CAA section 176(c)(5)). Similarly, “other control measures” necessary for attainment are already covered by the attainment demonstration, and cannot be removed without satisfying CAA section 110(l).

Comment: A commenter disagreed with what it described as the EPA’s proposal to allow areas that were designated nonattainment for the 1997 ozone NAAQS or the 1-hour NAAQS before those standards were revoked to terminate any nonattainment NSR or 185 fee requirements once the 1997 ozone NAAQS is revoked and the area has been designated or redesignated attainment for the 2008 ozone NAAQS or a redesignation substitute has been approved for the revoked standard. The commenter argues that allowing such an area to remove nonattainment NSR or 185 fee requirements from the SIP is contrary to the *NRDC v. EPA* (2011) ruling.

Response: The court ruled in *NRDC v. EPA* that it would be improper for the EPA to relieve an area that has not attained a standard from requirements imposed for failure to attain that standard. The EPA’s “redesignation substitute” proposal does not do that. It relieves areas that demonstrate that they are in fact attaining a standard from obligations arising from failure to attain that standard as well as all anti-backsliding requirements applicable for any prior revoked standard without the need for a formal redesignation. Nothing in the 2011 *NRDC v. EPA* decision forecloses that approach. The EPA also rejects any suggestion that an area would remain subject to NSR or 185 fees after it is designated as an attainment area and any prior standards for which it was designated nonattainment have been revoked. Areas cannot be redesignated to attainment for ozone

⁸⁶ An attainment demonstration includes technical analyses of base year emissions and future year emissions, including the impact of RACM and RACT; a list of adopted control measures with schedules for implementation; and a RACM analysis.

⁸⁷ The EPA revoked the 1997 ozone NAAQS for transportation conformity on May 21, 2012. (77 FR 30160) The revocation of the 1997 ozone NAAQS for transportation conformity purposes was effective on July 20, 2013. In this final rule, the EPA is revoking the 1997 ozone NAAQS for all remaining purposes.

unless they have attained all current standards and met all anti-backsliding requirements applicable for prior revoked standards. Moreover, nonattainment NSR is not a requirement in attainment areas and 185 by its own terms does not apply to an area that has been designated “an attainment area for ozone.”

C. Application of Transition Requirements to Nonattainment and Attainment Areas

This section discusses how the transition requirements apply to various types of areas. The general principle is to apply transition requirements depending on how the area is designated—attainment or nonattainment—for the 2008 ozone NAAQS, while taking into account the area’s status with respect to prior standards.⁸⁸ In the subsequent sections, for purposes of determining an area’s transition requirements, we first look to the area’s designation and classification for the 2008 ozone NAAQS. We then determine the area’s designation and classification status for the 1997 ozone NAAQS as of the effective date the 1997 ozone NAAQS is revoked. Finally, where appropriate, we determine whether anti-backsliding requirements for the 1-hour ozone NAAQS apply in the area and, if so, we determine the area’s designation and classification status for the 1-hour ozone NAAQS as of the date the 1-hour NAAQS was revoked.⁸⁹ Appendix B of this rule contains a list of areas subject to anti-backsliding requirements.

1. Requirements for Areas Designated Attainment for the 2008 Ozone NAAQS and Maintenance for the 1997 Ozone NAAQS

a. Summary of the Proposal

For this category, the EPA proposed that an area’s approved CAA section 175A maintenance plan for the revoked 1997 ozone NAAQS satisfies both its obligations for maintenance under section 110(a)(1) for the 2008 ozone NAAQS and its obligation to submit a second approvable maintenance plan under CAA section 175A for the revoked 1997 ozone NAAQS.

⁸⁸ One area, the Uintah Basin, UT, was designated as “unclassifiable,” and for purposes here would be treated like an area designated “attainment.”

⁸⁹ If the nonattainment area was initially designated attainment for the 1997 ozone NAAQS or was redesignated to attainment (“Maintenance”) for the 1997 ozone NAAQS prior to the date of revocation of the 1997 NAAQS, then the area has already fulfilled any applicable 1-hour anti-backsliding requirements. For ease of reference, we refer to these areas as “Maintenance” areas.

b. Final Action

The EPA is finalizing this as proposed. For areas designated attainment for the 2008 ozone NAAQS and maintenance for the 1997 ozone NAAQS (as of the date of revocation of the 1997 ozone NAAQS), the area’s approved CAA section 175A maintenance plan for the revoked 1997 ozone NAAQS satisfies both its obligations for maintenance under CAA section 110(a)(1) for the 2008 ozone NAAQS and its obligation to submit a second approvable maintenance plan under CAA section 175A for the revoked 1997 ozone NAAQS.

c. Rationale

All areas in this category were already subject to a CAA section 175A maintenance plan for the revoked 1997 ozone NAAQS, and have been both redesignated to attainment for the 1997 ozone NAAQS (as well as any other revoked ozone NAAQS) and designated attainment for the more stringent 2008 ozone NAAQS. The approved CAA section 175A maintenance plan for the 1997 ozone NAAQS satisfied the anti-backsliding requirements of these areas for the prior 1-hour NAAQS. Any further 110(a)(1) maintenance plan requirement under the 2008 ozone NAAQS would be unnecessarily burdensome. No revision to the CAA section 175A maintenance plans for these areas can be approved unless it complies with the anti-backsliding checks in CAA sections 110(l) and 193. The EPA believes that there is no justification for additional maintenance plan demonstration burdens to be imposed on these areas solely because at one time they were designated nonattainment under the revoked 1997 ozone NAAQS. This approach recognizes and reflects that these areas were redesignated to attainment for the 1997 ozone NAAQS prior to its revocation, and have been designated attainment for the 2008 ozone NAAQS.

d. Comments and Responses

Comment: One commenter opposed this action for several reasons. First, the commenter stated that the EPA cannot dispense with the statutory responsibility of areas by excusing compliance with CAA section 110(a)(1). Second, the commenter believes that demonstrating long-term compliance via an approved 175A maintenance plan for the 1997 ozone NAAQS is not sufficient to demonstrate continued compliance with the 2008 ozone NAAQS. The commenter maintained that even with an approved 175A plan for the 1997 ozone NAAQS, emissions can continue

to increase. There is nothing in the approved 175A plan that will be activated should the area start to violate the 2008 ozone NAAQS.

Response: The EPA disagrees with the commenter. The EPA is not ignoring the maintenance provision of CAA section 110(a)(1), but rather evaluating what is sufficient to address that provision under the circumstances of transition to a new more stringent NAAQS for an area designated attainment for that more stringent NAAQS. With the control measures included in their SIPs and in approved CAA section 175A maintenance plans, those areas have already achieved sufficient emissions reductions to bring them into attainment for both the 1997 ozone NAAQS and the more stringent 2008 ozone NAAQS. These SIP control measures cannot be weakened without satisfying CAA section 110(l) and in some cases also CAA section 193, which effectively serve as anti-backsliding provisions. The EPA is not relieving areas designated attainment of the requirement under CAA section 110(a)(1) to maintain the more stringent 2008 ozone NAAQS, but rather, the EPA is allowing the approved PSD plan for the 2008 ozone NAAQS to suffice as a maintenance showing for these areas. These are areas that already have many controls in place, including approved CAA section 175A maintenance plans ensuring that the areas can maintain the level of the prior standard.

While these approved CAA section 175A maintenance plans were established for maintenance of the 1997 ozone NAAQS, and accordingly help prevent backsliding for that revoked NAAQS, they also provide a foundation for maintenance of the 2008 ozone NAAQS, which, in combination with other active requirements for the 2008 ozone NAAQS, contribute to maintenance of the new standard. The emissions reductions for one NAAQS build upon the emissions reductions from previous NAAQS. The EPA concludes that no additional measures beyond the prior CAA section 175A maintenance plans and the PSD plans for the 2008 standard should be necessary to provide for maintenance in these areas. The EPA will work with states as necessary to address any future air quality concerns and maintenance needs for these areas.

2. Areas Designated Attainment for the 2008 Ozone NAAQS and Nonattainment for the 1997 Ozone NAAQS

a. Summary of the Proposal

The EPA proposed two approaches for this category. The EPA proposed as its

preferred approach for areas designated attainment for the 2008 ozone NAAQS and nonattainment for the 1997 ozone NAAQS (as of revocation of the 1997 ozone NAAQS) that the state not be required to adopt any outstanding applicable requirements for the area for the revoked 1997 standard. This approach was similar to the approach followed in the Phase 1 Rule. The EPA also proposed, in a departure from the Phase 1 Rule, that the approved PSD SIPs for these areas satisfy the obligation to submit an approvable maintenance plan for the 2008 ozone NAAQS under CAA section 110(a)(1).

The second, and less preferred, alternative proposed by the EPA for these areas was that the state be required to demonstrate maintenance for the 2008 ozone NAAQS via a "maintenance showing." This maintenance showing would be due 3 years after the effective date of designations for the 2008 ozone NAAQS and would be in a form other than a formal SIP revision. The maintenance showing would contain a demonstration of continued maintenance of the 2008 ozone NAAQS in the area for 10 years from the effective date of the area's designation as attainment for the 2008 ozone NAAQS. The EPA committed to providing guidance regarding the specific elements of the maintenance showing if this route were chosen.

b. Final Action

The EPA is finalizing the preferred option: For areas designated attainment for the 2008 ozone NAAQS and nonattainment for the 1997 ozone NAAQS (as of revocation of the 1997 ozone NAAQS) states are not required to adopt any outstanding applicable requirements for the revoked 1997 standard. Approved PSD SIPs for these areas satisfy the obligation to submit an approvable maintenance plan for the 2008 ozone NAAQS under CAA section 110(a)(1).

c. Rationale

Areas designated attainment for the 2008 ozone NAAQS and nonattainment for the 1997 ozone NAAQS (as of revocation of the 1997 ozone NAAQS) have already attained the most stringent existing standard, notwithstanding any existing nonattainment designation. These areas thus have developed nonattainment SIPs that in combination with federal measures and emissions controls in upwind areas have produced sufficient emissions reductions to achieve air quality that attained both the 1997 ozone NAAQS and resulted in an attainment designation for the more protective 2008 ozone NAAQS. They

remain subject to the 1997 nonattainment area requirements already approved into the SIP, which can be revised only upon a showing that such revision complies with the anti-backsliding checks in CAA sections 110(l) and 193. Given the succession of NAAQS of increasing stringency that has occurred, the EPA believes that the burden of developing an approvable 110(a)(1) maintenance plan for the 2008 ozone NAAQS would outweigh any compensating benefit for an area that is already attaining that NAAQS and that is subject to prior nonattainment requirements which are already incorporated into the SIP and have been sufficient to bring the area into attainment of both the 1997 and 2008 standards.

d. Comments and Responses

Comment: A commenter believed that the EPA should adopt the alternative approach. The commenter stated that an inequity arises from the fact that areas designated maintenance for the 1997 ozone NAAQS prior to revocation of the NAAQS have contingency measures that are activated should the area begin to re-violate the 1997 ozone NAAQS. These areas designated attainment for the 2008 ozone NAAQS and nonattainment for the 1997 ozone NAAQS would not be subject to any maintenance plans or contingency measures. Implementing the alternative approach would address this inequity.

Response: The EPA disagrees with the commenter. The control measures implemented by these areas and included in their SIPs have already produced sufficient emissions reductions to achieve air quality that not only attained the 1997 ozone NAAQS, but also resulted in an attainment designation for the more stringent 2008 ozone NAAQS. These control measures cannot be modified or removed without a demonstration satisfying CAA section 110(l) and in some cases both CAA sections 110(l) and 193. These demonstrations must address not only the 1997 ozone NAAQS but also the 2008 ozone NAAQS as well as any future NAAQS.

Comment: One commenter believed both proposed approaches violate the plain language of the CAA by not requiring the area to submit a CAA section 175A maintenance plan, and thus opposed both options. A second commenter believed that the EPA should continue to require formal 10-year maintenance plan submittals for the 1997 ozone NAAQS from these areas in an attempt to guarantee that controls are not relaxed, thus impacting downwind areas.

Response: We believe that an approved PSD SIP, in conjunction with the other already-existing statutory and regulatory provisions that govern implementation of ozone standards, and the historical safeguards in place for the area adopted for prior NAAQS, are generally sufficient to prevent backsliding, and to satisfy the requirement for maintenance under CAA section 110(a)(1). The control measures implemented by these areas and included in their SIPs have already produced sufficient emissions reductions to achieve air quality that attained the 1997 ozone NAAQS, and resulted in an attainment designation for the more stringent 2008 ozone NAAQS. These control measures cannot be modified or removed without a CAA section 110(l) showing and in some cases both a CAA section 110(l) and a CAA section 193 showing. Areas designated attainment for the 2008 standard remain subject to the attainment and maintenance requirements of that standard. These include continued implementation of the control measures that brought the area into attainment. For these areas, and for any area designated attainment for the 2008 NAAQS, the CAA's general NAAQS air quality management framework and associated regulatory provisions continue to apply, and serve as the foundation for handling any potential future issues with maintaining the 2008 NAAQS.

3. Areas Designated Nonattainment for the 2008 Ozone NAAQS and Maintenance for the 1997 Ozone NAAQS

a. Summary of the Proposal

The EPA proposed that for these areas, the area's approved CAA section 175A maintenance plan for the revoked 1997 ozone NAAQS would satisfy the obligation to submit a second approvable maintenance plan under CAA section 175A for the revoked 1997 ozone NAAQS.

b. Final Action

The EPA is finalizing this as proposed.

c. Rationale

All areas in this group are already subject to an approved CAA section 175A maintenance plan for the revoked 1997 ozone NAAQS and have been redesignated to attainment for the 1997 ozone NAAQS. As explained elsewhere, the approval of the redesignation request and of the CAA section 175A maintenance plan for the 1997 ozone NAAQS required the EPA to determine that any anti-backsliding requirements

of these areas for the 1997 standard, as well as any requirements that might be applicable for the 1-hour standard, have been met. Thus the EPA's approvals of the redesignation request and the maintenance plan for the 1997 standard signify not only that all applicable requirements for the 1997 ozone NAAQS have been met, but also that all applicable anti-backsliding measures for the 1-hour standard have been adopted and approved into the SIP. No revision to the CAA section 175A maintenance plans for these areas can be approved unless it complies with the anti-backsliding checks in CAA sections 110(l) and 193.

These areas are also designated nonattainment for the more stringent 2008 ozone NAAQS and therefore are subject to nonattainment NSR and other nonattainment requirements for their classification under the more stringent 2008 ozone NAAQS. Thus, the EPA believes that there is no justification for a second CAA section 175A maintenance plan to be imposed on these areas solely because at one time they were designated nonattainment under a revoked ozone NAAQS.

d. Comments and Responses

Comment: A commenter that supported the EPA's approach indicated that the proposed regulatory text for areas designated nonattainment for the 2008 ozone NAAQS and maintenance for the 1997 ozone NAAQS, located in 40 CFR 51.1105(a)(2), should be modified in line with text in 40 CFR 51.1105(a)(4) to allow maintenance plans to be modified consistent with CAA sections 110(l) and 193.

Response: The EPA agrees that the text regarding areas designated maintenance for the 1997 ozone NAAQS should be modified. The regulatory text has been adjusted to reflect that maintenance plans can be modified pursuant to CAA sections 110(l) and 193.

Comment: One commenter indicated that a second 10-year 175A maintenance plan was needed by these areas. The commenter maintained that the EPA's proposed approach does not demonstrate continued maintenance. The commenter stated that an area designated nonattainment for the 2008 ozone NAAQS should prepare a second maintenance plan to assure maintenance and set conformity budgets. Another commenter opposed the proposal because the CAA clearly requires two 10-year maintenance plans. The fact that the area is designated nonattainment under the 2008 ozone NAAQS is no guarantee that there will be no increase in ozone violations. The

commenter suggested that the EPA review the record for areas violating a NAAQS for which it had been redesignated to attainment with an approved maintenance plan. Waiving the requirements of a second 10-year maintenance plan as described in CAA section 175A(b) without support is arbitrary and undermines the protections of the Act.

Response: The EPA recognizes that the approved 175A maintenance plan for the 1997 ozone NAAQS can only be modified via a CAA section 110(l) and, where appropriate, a CAA section 193 showing. These analyses would have to demonstrate that any revisions to the maintenance plan would not interfere with the ability to demonstrate timely attainment for the new standard. The removal of the requirement for the second 10-year plan for maintenance of a revoked, less stringent standard that the areas previously attained allows states to focus planning and control efforts on attaining and maintaining the more stringent and currently applicable 2008 ozone NAAQS in these areas, for the already attained 1997 ozone NAAQS. The areas will remain subject to the MVEBs established in the approved 175A maintenance plan until such time that MVEBs for the more stringent 2008 ozone NAAQS are submitted and are found adequate or are approved, which must be used for transportation conformity determinations under the 2008 ozone NAAQS pursuant to the conformity regulations.

4. 2008 Nonattainment Areas Also Designated Nonattainment for a Prior Revoked Ozone NAAQS

a. Summary of the Proposal

The EPA proposed that areas designated nonattainment for the 2008 ozone NAAQS and also designated nonattainment for the 1997 ozone NAAQS as of the revocation of the 1997 NAAQS⁹⁰ will be subject to applicable anti-backsliding requirements for the applicable prior NAAQS as set forth in 51.1100(o), as well as the pertinent requirements for the current 2008 ozone NAAQS. In addition, if a state seeks to revise any measure already approved

⁹⁰ We do not include in these groups any areas that were redesignated to attainment for the 1997 ozone NAAQS prior to revocation of that NAAQS. In order to be redesignated for the 1997 ozone NAAQS, the area had to satisfy all applicable anti-backsliding requirements for the 1-hour ozone NAAQS. Any 1997 ozone NAAQS nonattainment area that was designated nonattainment for the 1-hour ozone NAAQS at time of revocation of the 1-hour NAAQS had to meet applicable 1-hour ozone NAAQS anti-backsliding requirements in order to be redesignated to attainment for the 1997 ozone NAAQS.

into its SIP for any prior standard, the revision must comply with the anti-backsliding checks in CAA sections 110(l) and 193.

b. Final Action

The EPA is finalizing this as proposed. In an area designated nonattainment for the 2008 ozone NAAQS and nonattainment for the 1997 ozone NAAQS at the time of revocation of the 1997 ozone NAAQS the state will be obligated to implement the applicable requirements set forth in 51.1100(o) for the 1997 ozone NAAQS. This could include, as applicable, anti-backsliding requirements associated with the revoked 1-hour NAAQS if the area was also designated nonattainment for the 1-hour ozone NAAQS when that NAAQS was revoked. Nonattainment NSR applies in these areas in accordance with their highest nonattainment classification under any ozone standard for which they are (or were at the time of revocation) designated nonattainment. Also, if these areas are classified Severe or Extreme at the time of revocation for a prior standard, the requirements of CAA section 185 in relation to that prior standard continue to apply.

c. Rationale

The EPA believes that the application of anti-backsliding principles is very clear cut for this category of areas. These areas remain subject to the applicable requirements for the 2008 ozone NAAQS, as well as for any of the revoked ozone NAAQS for which the areas remained nonattainment, until the requirements are satisfied or suspended as detailed in sections IV.D and IV.E. The EPA received no adverse comments on this approach.

D. Satisfaction of Anti-Backsliding Requirements for an Area

1. Summary of the Proposal

The EPA proposed two acceptable procedures through which a state may demonstrate that it is no longer required to adopt any additional applicable requirements for an area which have not already been approved into the SIP for a revoked ozone NAAQS. Both procedures allow a state to remove or revise the nonattainment NSR provisions in the SIP and, upon a showing of consistency with the anti-backsliding checks in CAA sections 110(l) and 193 (if applicable), shift requirements which are contained in the active portion of the SIP to the

contingency measures portion of the SIP.⁹¹

The first of the proposed procedures is formal redesignation of the area to attainment for the 2008 ozone NAAQS. For areas subject to anti-backsliding requirements for revoked standards, approval of a request for redesignation to attainment for the 2008 ozone NAAQS signifies that the state has satisfied its obligations to adopt anti-backsliding requirements for the revoked standards. This is an extension of the approach that the EPA adopted in the Phase 1 Rule. The EPA proposed that once the area is redesignated and the requirement(s) for nonattainment NSR for the 2008 ozone NAAQS and for any prior ozone NAAQS cease to apply, the state may request that the corresponding nonattainment NSR requirements be removed from the SIP rather than be retained as a maintenance plan contingency measure.⁹² The state would instead implement the PSD program.

The second of the proposed procedures for satisfying anti-backsliding requirements was a new separate route referred to as a "redesignation substitute" for a revoked standard. This redesignation substitute showing would serve as a successor to redesignation to attainment, for which the area would have been eligible were it not for revocation. The showing is based on the CAA's criteria for redesignation to attainment [CAA section 107(d)(3)(E)]. States would have to demonstrate that the area has attained the relevant standard and met all of the requirements for redesignation. After notice-and-comment rulemaking on this showing, the EPA approval of the showing would have the same effect on the area's nonattainment anti-backsliding obligations as would a redesignation to attainment for the revoked standard. The EPA did not propose to require states to go through formal SIP submission procedures to submit a request for approval of a redesignation substitute because it is not a redesignation. The EPA proposed that such an area would no longer be subject to any remaining applicable anti-backsliding requirements and the

nonattainment NSR requirements associated with the revoked NAAQS for which the area completed a redesignation substitute would be lifted, leaving the remaining NSR requirements to be determined by the highest remaining classification the area is subject to, whether for the 2008 ozone NAAQS or another revoked NAAQS for which the EPA had not approved a redesignation showing.

2. Final Action

The EPA is finalizing both routes as acceptable ways to address anti-backsliding requirements. That is, states can choose either to submit a request to redesignate to attainment for the most current NAAQS with an approved 175A maintenance plan that addresses the current and revoked NAAQS, or to submit a redesignation substitute request for a revoked NAAQS. Under both of these procedures, a state seeking to revise its SIP to remove anti-backsliding measures from the active portion of its SIP must demonstrate, pursuant to CAA section 110(l), that such revision would not interfere with attainment or maintenance of any applicable NAAQS, or any other requirement of the CAA.⁹³

3. Rationale

The first of the procedures, formal redesignation of the area to attainment for the 2008 ozone NAAQS, is an extension of the approach that the EPA adopted in the Phase 1 Rule. Redesignation to attainment for the 2008 ozone NAAQS would allow a state to terminate and remove from the active portion of its SIP any applicable anti-backsliding requirements, including nonattainment NSR requirements associated with its classifications under the 2008 ozone NAAQS, or under the 1997 or 1-hour ozone NAAQS, except for areas in the OTR. The area would instead need, at a minimum, to implement the PSD program. This approach is consistent with the EPA's longstanding interpretation of nonattainment NSR requirements for areas that are redesignated to attainment.⁹⁴ Redesignation to attainment would also terminate any obligations to implement CAA section 185 fee programs in a Severe or Extreme area for the 2008 or prior revoked 1997

or 1-hour ozone NAAQS pursuant to the express terms of CAA section 185.

Approval of a redesignation to attainment for the 2008 ozone NAAQS signifies that the state has satisfied its obligations to adopt anti-backsliding requirements for the current and revoked standards for that area. This same approach was used in the Phase 1 Rule in requiring redesignations for the 1997 ozone NAAQS to address anti-backsliding requirements for the revoked 1-hour standard. Approval of the CAA section 175A maintenance plan for the 2008 ozone NAAQS assures that the area's SIP includes the provisions necessary for maintenance of the 2008 ozone NAAQS, which is the most stringent of the NAAQS. Therefore, upon redesignation to attainment and approval of its plan for maintenance of the 2008 ozone NAAQS, an area will have satisfied its obligations to adopt anti-backsliding requirements. All of the anti-backsliding measures that have been approved into the SIP must continue to be implemented unless or until the state can show that such implementation is not necessary for maintenance, consistent with CAA sections 110(l) and 193 if applicable.⁹⁵

Experience has shown the EPA that a second mechanism for areas to address the requirements imposed by anti-backsliding requirements is also appropriate. After revocation of the 1997 ozone NAAQS, areas that attain and meet requirements for the revoked 1997 or 1-hour ozone NAAQS would be disadvantaged relative to areas that were redesignated to attainment for those standards prior to their revocation. Absent this second mechanism, areas that would otherwise have qualified for redesignation to attainment for the 1997 or 1-hour ozone NAAQS, were it not for revocation of those NAAQS, would need to continue implementing potentially outdated and onerous requirements for a NAAQS they have attained until they also qualify for redesignation to attainment for the more stringent 2008 ozone NAAQS. The EPA believes that, under any view of anti-backsliding for a revoked standard, it should not mean imposing requirements greater than those that would apply if the standard had not been revoked.

The EPA has no mechanism for formally redesignating areas for a

⁹¹ Nonattainment NSR is not required to be retained in the SIP as a contingency measure. In areas designated attainment, the PSD permitting program applies rather than nonattainment NSR. Replacement or removal of an area's NSR SIP provisions does not relieve sources in the area of their obligations under previously established permit conditions.

⁹² States in the OTR may not use this flexibility because the CAA requires all areas of the OTR including attainment areas to implement, at a minimum, the nonattainment NSR requirements prescribed for Moderate areas.

⁹³ Likewise, to the extent that a SIP revision seeking to remove anti-backsliding measures modifies control requirements subject to CAA section 193, the revision would also have to satisfy the requirements of that provision.

⁹⁴ See 40 CFR 51.905(a)(3), the comparable provision for transition from the 1-hour NAAQS to the 1997 ozone NAAQS, which allows states with such areas to request that the 1-hour nonattainment NSR provisions be removed from the SIP.

⁹⁵ This showing may be submitted to the EPA at the same time as the maintenance plan, and may be approved by the EPA in a single action. Subject to this process, anti-backsliding requirements contained in the SIP could be shifted to the contingency measures portion of a CAA section 175A maintenance plan, or, in limited circumstances (such as nonattainment NSR) removed from the SIP.

revoked standard. However, by establishing the redesignation substitute, the EPA is providing a pathway for states to demonstrate and for the EPA to acknowledge that they have satisfied the applicable requirements for the revoked 1-hour or 1997 ozone NAAQS by submitting a showing that functions as a substitute for redesignation to attainment for that revoked standard, and ensures that the substance of the redesignation requirements are met. For a revoked standard, this second mechanism will serve as a successor to redesignation to attainment, for which the area would have been eligible were it not for revocation.

The EPA believes this is an acceptable approach because it is based on the CAA's criteria for redesignation to attainment [CAA section 107(d)(3)(E)]. A showing would include: Attainment of the relevant revoked 1-hour or 1997 ozone NAAQS; a showing that attainment was due to permanent and enforceable emissions reductions; and a demonstration that the area can continue to maintain the standard over the next 10 years. Redesignation criteria in CAA section 107(d)(3)(E)(ii) and (v) would be met by the existing approved SIP, under which the area has attained the revoked standard, in the context of (and reinforced by) the requirements for the new 2008 ozone NAAQS. The EPA will conduct notice-and-comment rulemaking on the state's showings. We believe a notice-and-comment process fulfills the function of redesignation to attainment for the purpose of satisfying anti-backsliding requirements for a revoked standard.

The EPA believes that requiring more elaborate administrative procedures for purposes of approving a state's request for a redesignation substitute for a revoked NAAQS (for example, requiring states to use the formal SIP adoption process) would needlessly impose burdens because the area will remain subject to all the formal requirements for redesignation to attainment for the 2008 ozone NAAQS. Development of SIP revisions takes time and imposes administrative costs on states, industry and the public. As in the case of a redesignation to attainment for the 2008 ozone NAAQS, at the time of submitting a redesignation substitute request or at any time thereafter, a state may request to revise its SIP so as to cease implementing a specific nonattainment SIP requirement. However, this request could not be granted, and the SIP revised, until the EPA approves the redesignation substitute and a demonstration that the SIP revision meets the requirements of CAA section

110(l). The EPA is not providing this mechanism for the purpose of allowing states to relax or avoid air quality management measures that are needed for attainment and maintenance of the 2008 ozone NAAQS. The showings required, the provisions of CAA section 110(l), and the fact that the area remains subject to CAA requirements for the more stringent 2008 ozone NAAQS, assure that is not the case. It is, however, important to relieve states of requirements that are no longer necessary, or that can be replaced by other forms of protection that might better meet the local needs and circumstances of an area.

The EPA is providing in the redesignation substitute option a mechanism that demands more than a determination of attainment of the prior NAAQS, and calls for a showing that addresses redesignation criteria for that NAAQS. Moreover, the process under this option occurs while the state remains subject to ongoing requirements to meet the new more stringent standard in that area. In this context, this final action is clearly sufficient for its limited anti-backsliding purpose—it recognizes and supports the state's progress in having attained the prior standard in that area due to permanent and enforceable emissions reductions, and reinforces continued attainment by calling for a demonstration that the area can maintain the revoked standard.

4. Comments and Responses

Comment: Several commenters requested that the EPA preserve the statutory mechanism as described in 42 U.S.C 7407(d)(3) that would allow the EPA to redesignate areas for a revoked NAAQS.

Response: After the revocation of a standard, the EPA believes that it can no longer take action to reclassify or to redesignate areas for that standard. Revocation of the standard removes both classifications and designations for the revoked standard. The EPA believes the two mechanisms provided in the final rule accomplish the goals of 42 U.S.C 7407(d)(3) [CAA section 107(d)(3)] in a manner consistent with anti-backsliding principles and appropriate for the circumstance where a more stringent NAAQS with the same form and averaging time exists and is being actively implemented.

Comment: A commenter argued that redesignation to attainment for the 2008 ozone NAAQS is not sufficient to turn off anti-backsliding obligations triggered under the revoked 1-hour or the 1997 ozone NAAQS.

Response: The EPA disagrees with the commenter. When the EPA approves a

redesignation request for the current 2008 ozone NAAQS, we assess whether the area is in attainment for the current and previous NAAQS. The maintenance plan submitted by the state demonstrates that the area being considered for redesignation will continue for the next 10 years to attain the standard that is requisite to protect public health, and that attainment is due to permanent and enforceable emissions reductions. A redesignation to attainment signifies that the area has met the requirements of the 2008, as well as any revoked, NAAQS. CAA section 185 specifically indicates redesignation "as an attainment area for ozone" as a basis for terminating fee requirements. Also, redesignation to attainment historically has terminated nonattainment NSR requirements, which are not required to be kept in the SIP as contingency measures. See *Greenbaum v. EPA* (370 F.3d at 536). Moreover, redesignation for the current standard was the unchallenged basis for demonstrating satisfaction of anti-backsliding requirements in the EPA's previous Phase 1 anti-backsliding regime (69 FR 23951). We believe the application of the same principle when transitioning from the 1997 to the 2008 ozone NAAQS is an even better fit: It is impossible to attain the 2008 ozone NAAQS without first achieving air quality that would attain the 1997 ozone NAAQS due to the identical form of the two standards.

Comment: A number of commenters supported the concept of the redesignation substitute, but requested that a more streamlined process be developed. Several commenters suggested that a clean data determination would be sufficient to terminate anti-backsliding requirements for a revoked NAAQS.

Response: The EPA recognizes that a clean data determination alone is less burdensome for states than a CAA section 107(d)(3) redesignation or a redesignation substitute. A clean data determination only suspends planning requirements associated with the NAAQS for which the determination was granted. However, we believe that the redesignation and redesignation substitute mechanisms represent the minimum set of requirements sufficient to demonstrate satisfaction of anti-backsliding requirements under the EPA's application of the principles of CAA section 172(e). These mechanisms provide a way for states to demonstrate that they have attained these standards, they have met all the requirements for redesignations, and no longer need any anti-backsliding requirements beyond those already approved in their SIPs.

Comment: Two commenters asked the EPA to reconsider the use of CAA section 172(e). One of these commenters asked that the use of 172(e) be applied to all applicable requirements required of areas subject to anti-backsliding allowing them to substitute measures at least as stringent as the controls listed. The other commenter believed no application of 172(e) is justified, even to CAA section 185 fees where the EPA has historically applied this principle.

Response: CAA section 172(e), which addresses relaxations of a NAAQS, requires protections for areas that have not attained a NAAQS prior to a relaxation, by requiring controls that are “not less stringent” than the controls applicable in nonattainment areas prior to any such relaxation. The EPA applied these principles in developing previous guidance on satisfying the anti-backsliding approach for CAA section 185 requirements. As stated in previous EPA guidance, we interpret the principles of 172(e) as authorizing, but not requiring, the Administrator to approve on a case-by-case basis “not less stringent” alternatives to the applicable CAA section 185 fee program requirements associated with a revoked ozone NAAQS.⁹⁶ The NRDC challenged this guidance in 2010. Although the court vacated the 2010 guidance memorandum on procedural grounds, it did not prohibit alternative programs, stating that “neither the statute nor our case law obviously precludes that alternative.” See *NRDC v. EPA*, 643 F.3d 332 (D.C. Cir. July 2011). We believe the application of CAA section 172(e) principles to applicable CAA section 185 anti-backsliding requirements is an appropriate and reasonable use of the Administrator’s discretion to approve “not less stringent” controls. However, we did not propose and do not intend at this time to promulgate regulatory language to apply principles of CAA section 172(e) to other anti-backsliding requirements.

E. How will the EPA’s determination of attainment (“Clean Data”) regulation apply for purposes of the anti-backsliding requirements?

1. Summary of the Proposal

The EPA proposed to apply the same approach with respect to determinations of attainment for the 2008 ozone NAAQS as applied under the 1997 ozone NAAQS under 40 CFR 51.918. Under 40 CFR 51.918, an EPA determination that an area attained the

1997 ozone NAAQS suspended the obligation to submit any attainment-related SIP planning elements for the 1997 ozone NAAQS not yet approved in the SIP, for so long as the area continued to be in attainment of that NAAQS.⁹⁷ In order to reflect the ongoing status of the Clean Data Policy and to consolidate in one regulation a comprehensive provision applicable to determinations of attainment for all current and former ozone NAAQS, the EPA proposed to replace 40 CFR 51.918 with proposed 40 CFR 51.1118 after revocation of the 1997 ozone NAAQS.

2. Final Action

The EPA is finalizing its proposed approach to implementing the Clean Data Policy with respect to the 2008 ozone NAAQS and all prior ozone NAAQS. Under the EPA’s Clean Data Regulation, a determination of attainment suspends the obligation to submit certain attainment-related planning requirements for the associated NAAQS for an area as long as the area continues to attain that standard.⁹⁸ For those areas that have already incorporated measures into their approved SIPs that satisfy the nonattainment requirements for that standard, CAA section 110(l) functions as an anti-backsliding check to require continued implementation of such measures unless revised in accordance with its provisions.

The planning elements that may be suspended under 40 CFR 51.1118 are the same as those suspended under existing 40 CFR 51.918: RFP requirements, attainment demonstrations, RACM, contingency measures and other state planning requirements related to attainment of the relevant standard. For a Severe or Extreme area, a CAA section 185 fee program is expressly linked by the statute itself to an attainment plan; therefore suspension of the obligation to submit the attainment plan also necessarily suspends the obligation to submit the fee program which is part of

the attainment plan (provided that the EPA has not already determined that the area failed to attain by its attainment deadline and thus triggered the obligation to implement a fee program). The EPA notes that a determination of attainment would not, however, suspend obligations to submit non-planning requirements such as nonattainment NSR, subpart 2 RACT or emission inventories under CAA section 182(a)(1).

3. Rationale

40 CFR 51.1118 applies essentially the same language as 40 CFR 51.918. Upon revocation of the 1997 ozone NAAQS, this section would be applicable to determinations of attainment for all ozone NAAQS: The 2008, 1997 and the already revoked 1-hour ozone NAAQS. With the finalization of 51.1118, the EPA’s long-standing Clean Data Policy, which has been upheld by the D.C. Circuit and all other courts that have considered it, is embodied in a regulation applicable for the purpose of all existing and prior ozone NAAQS. The EPA believes that continuation of this approach makes the most sense for implementing the 2008 ozone NAAQS.

4. Comments and Responses

Comment: Two commenters indicated that a determination that an area has “clean data” for the more-stringent 2008 ozone NAAQS should be sufficient to lift anti-backsliding requirements for the 1997 and the 1-hour ozone NAAQS.

Response: A clean data determination only suspends specific planning requirements, not mandatory control requirements, which could include, as applicable, anti-backsliding requirements associated with revoked NAAQS. As explained previously, the EPA believes that an approved redesignation to attainment or a redesignation substitute is necessary to lift anti-backsliding requirements. 40 CFR 51.1118 clarifies that a clean data determination for a specific standard only affects attainment-related planning requirements for that standard.

Comment: A commenter requested that the EPA clarify language in the proposed 40 CFR 51.1118 to indicate more specifically which NAAQS must be attained to suspend planning requirements.

Response: The EPA will revise the language in 40 CFR 51.1118 to make it clear that a clean data determination for the 2008 NAAQS acts to suspend planning requirements associated with the 2008 and less stringent 1997 ozone NAAQS, which have an identical form.

⁹⁶ Memo from Stephen D. Page to Regional Air Division Directors, Jan. 5, 2010, “Guidance on Developing Fee Programs Required by Clean Air Act Section 185 for the 1-Hour Ozone NAAQS.”

⁹⁷ The EPA initially issued the Clean Data Policy in 1995, “Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard.” Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995. For purposes of the 1997 ozone NAAQS, we codified that policy at 40 CFR 51.918. This codified policy was upheld by the D.C. Circuit in *NRDC v. EPA*, 571 F.3d 1245 (D.C. 2009).

⁹⁸ Depending on the area’s classification for the 1997 ozone NAAQS and the SIP elements already approved, the area may still have outstanding non-planning 1997 anti-backsliding submission requirements that are not suspended by 51.918 (e.g., emissions inventories, nonattainment NSR, Subpart 2 RACT requirements).

F. What is the relationship between implementation of the 2008 ozone NAAQS and the CAA title V permits program?

1. Summary of the Proposal

We proposed, and solicited comment on, two alternative approaches for implementing the title V permit program for sources in areas designated nonattainment for the 2008 ozone NAAQS and subject to anti-backsliding requirements for a prior ozone NAAQS. The EPA co-proposed two approaches to interpreting title V applicability requirements following revocation of the 1997 ozone NAAQS: (1) Major source thresholds for title V should be the same as the major source thresholds applicable for purposes of other requirements such as RACT and NSR; and (2) major source thresholds for title V depend solely on the area's classification for the 2008 ozone NAAQS. The EPA specifically solicited comments on whether title V should (or should not) be considered a "control" within the meaning of CAA section 172(e) in light of the fact that title V generally does not impose new substantive air quality control requirements but is intended to assure compliance with all such existing requirements.

2. Final Action

We are finalizing the first option and the associated proposed revisions to parts 70 and 71. Following revocation of the 1997 ozone NAAQS, major source thresholds for title V will be the same as the major source⁹⁹ thresholds applicable for purposes of other requirements, such as RACT and NSR (*i.e.*, the major source threshold associated with the more stringent of the area's classification for the 2008, 1997 and/or 1-hour ozone NAAQS will be the applicable threshold for title V purposes, to the extent that anti-backsliding requirements for the 1997

and/or 1-hour ozone NAAQS apply in the area).¹⁰⁰

3. Rationale

The EPA received a wide range of comments on the question of whether the major source thresholds for title V permitting should be considered a "control" for purposes of the anti-backsliding requirements of CAA section 172(e). The EPA recognizes that many of these comments raise valid perspectives. It is true that title V generally does not impose new substantive pollution control requirements on sources, and thus ordinarily the EPA would not describe title V permitting itself as a "control." At the same time, the EPA does believe that one of the underlying purposes of title V is to assure compliance with the pollution control requirements applicable to a source. Thus, it may well be true that title V provides air quality benefits, and should be considered a "control" under the broad, functional analysis used by the court in the *South Coast v. EPA* decision. The EPA believes it is unnecessary to resolve this precise question at this time, because the EPA believes that regardless of whether title V should be considered a "control" for purposes of CAA section 172(e), it fulfills the purposes and requirements of the Act for title V permitting thresholds to be the same as the permitting thresholds for underlying applicable requirements, particularly NSR which was considered a control by the *South Coast* court.

Title V and NSR have long shared a common approach to the definition of major source.^{101 102} The EPA concurs with the commenters, such as Texas and New York, who believe that we should maintain clarity and uniformity in major

source threshold determinations for both NSR and title V.

In addition, the EPA notes that, under CAA section 502, sources are required to operate in accordance with the terms of a title V permit if, *inter alia*, the source is a major source *or* the source is required to have a permit under part D of Title I. Thus, even if a source is not a major source for purposes of title V, it is still required to get a title V permit if it is required to have a permit under part D of title I. This provides additional support to the EPA's conclusion that the major source permitting threshold for NSR and RACT should be the same as for title V because otherwise, a source that is not a "major source" for purposes of title V might not understand it is still covered by the applicability provisions of parts 70 and 71, if it is required to have a permit under part D of title I.

Maintaining consistency between the NSR and title V thresholds in this regard will promote compliance with CAA requirements by providing a simpler permitting regime, ensuring that sources subject to major source NSR understand they are also subject to title V, and enabling permitting authorities to identify sources that are potentially subject to major source NSR. The EPA believes a contrary approach would introduce not only complexity, but anomalies, into the permitting program that would be contrary to the purposes and requirements of the Act. To promote effective program implementation and ensure consistency with the CAA, this final rule will amend the relevant provisions of parts 70 and 71 related to application of title V thresholds.

4. Comments and Responses

Comment: Several commenters supported the first option, which sets major source title V thresholds equal to those applied for RACT and NSR. One of these commenters supported the first option with the minor conforming amendments to the definition of major source in 40 CFR 70.2 and 71.2 as detailed on page 34225 of the proposal. Commenters stated that this approach would provide applicants with clarity and uniformity regarding applicable major source thresholds, and that this approach maintains the consistency which will ultimately simplify permitting and enforcement. A commenter indicated that option 1 is supported by the fact that these thresholds emanate from the same provisions of the CAA (part D of title I), therefore, the intent of the CAA was to keep the thresholds the same. Several commenters noted that the first approach is consistent with past

⁹⁹ One of the ways a source can become subject to title V is as a "major source." See CAA section 502(a); 40 CFR 70.3; 71.3. Furthermore, the definition of "major source" for purposes of title V includes, but is not limited to, a "major stationary source as defined . . . in part D" of title I. See CAA section 501(2)(B) and 502(a); 40 CFR 70.2; 71.2. Thus, changes in an area's classification (*e.g.*, from "Serious" to "Severe") by changing the emissions threshold for being deemed a major source (*e.g.*, from 100 tpy to 50 tpy of a relevant pollutant) can result in changes in title V applicability for a source. (The EPA notes that sources can become subject to title V permitting for other reasons, and nothing in this discussion is intended to suggest that changes in an area's classification would affect those other provisions of title V. Accordingly, sources subject to title V under other provisions would remain subject to title V for those independent reasons.)

¹⁰⁰ It should be noted that, pursuant to CAA section 503(a), a source is subject to a permit program on the later of the date that it becomes a major source and the effective date of a permit program applicable to the source. Thus, if a permitting authority with an approved title V program lacks any authority to permit certain sources that are major sources subject to title V as a result of ozone precursor emissions and an area classification for ozone that has a major source threshold lower than 100 tpy (*e.g.*, "Serious") then there is no title V permit program "applicable to the source" and those sources have no obligation to apply for a title V permit until after such time as a permit program becomes applicable to them. The EPA will work with states to ensure that all approved title V programs are adequate under the CAA.

¹⁰¹ The EPA recognizes that there are statutory and regulatory differences between title V and NSR, but for purposes of the discussion we are focusing on the commonalities.

¹⁰² See, *e.g.*, Memorandum from Lydia N. Wegman, Deputy Director, Office of Air Quality Planning and Standards, U.S. EPA, "Definition of Regulated Air Pollutant for Purposes of Title V" (April 26, 1993).

precedent and compelled by the Act's anti-backsliding requirements as well as court precedent.

Response: As discussed previously, the EPA agrees with these commenters that the major source threshold for title V should be the same as the major source threshold for NSR and RACT, and the EPA is finalizing the proposed revisions to parts 70 and 71 to make that clear.

Comment: Several commenters supported the second approach, in which the major source thresholds for title V permitting are based solely on an area's classification for the 2008 ozone NAAQS. Commenters cited a number of reasons for this, including: This approach would provide relief to small operators, and that this approach makes good sense in a time of resource constraints. Several commenters questioned the utility of setting title V levels based on a revoked NAAQS. Several commenters also commented that EPA's understanding of the impacts of the *South Coast v. EPA* decision is not correct. These commenters agreed that the classifications of revoked NAAQS can impact the NSR level, but disagreed with the EPA that the title V levels are controlled by anything other than the current 2008 ozone NAAQS.

Response: The EPA recognizes that the approach being adopted does not solely rely on the area's current classification for purposes of determining major source thresholds for title V. The EPA believes there is ambiguity in the intersection between title V and part D as to whether title V should apply the major source threshold of the area's current classification, or the area's classification for purposes of NSR and other underlying applicable requirements, when that threshold would be lower. As discussed previously, the EPA believes that it is appropriate under the CAA, and consistent with the EPA's longstanding approach to these programs, for a source which is considered to be "major" for purposes of NSR to also be considered "major" for purposes of title V. For the reasons stated previously, the EPA believes maintaining consistency in the major source applicability of the two programs in the context of today's rulemaking is the best approach to promote consistency and compliance with the purposes and requirements of the CAA. Additional information can be found in the Response to Comments document.

Comment: The EPA received a wide range of comments on the question of whether the major source thresholds for title V permitting should be considered a "control" for purposes of the anti-

backsliding requirements of CAA section 172(e). Several commenters believed that title V should be considered as a control within the meaning of CAA section 172(e). One commenter stated that title V permits represent "controls" for purposes of the Act's anti-backsliding requirements and, as such, the EPA should abide by *South Coast v. EPA* and use the same major source thresholds for administering the title V permit program as the agency proposes to for the NSR and RACT programs. The commenter stated that title V permits serve as independently enforceable compliance assurance mechanisms that constrain emissions by sources and accordingly should be seen as control measures. Since title V permits collect multiple control requirements in one document, there is no reason for the agency to depart from *South Coast v. EPA* and treat title V permitting classifications differently than, for example, NSR permitting.

A number of commenters stated that the title V program is not a control in and of itself. One commenter stated that the EPA has consistently stated that title V is a separate program when compared to the requirements of title I. Several commenters stated that the history of title V rulemaking is clear on this point, indicating that the EPA has stated repeatedly that no substantive controls are imposed simply by having a title V permit. Title V should not be considered a "control" in light of the fact that title V is not intended to impose new substantive air quality control requirements but is instead intended to assure compliance with all existing applicable requirements.

Response: The EPA believes it is unnecessary to resolve this precise question at this time, because the EPA believes that regardless of whether title V should be considered a "control" for purposes of CAA section 172(e), it fulfills the purposes and requirements of the CAA for title V permitting thresholds to be the same as the permitting thresholds for underlying applicable requirements, particularly NSR. Thus, the EPA is taking final action adopting the interpretation that major source definitions should be the same for both programs.

V. Environmental Justice Considerations

The CAA requires that states with areas designated as nonattainment submit to the Administrator the appropriate SIP revisions and implement specified control measures by certain dates applicable to the area's classification. By addressing the planning and implementation

requirements for all areas designated nonattainment under the 2008 ozone NAAQS, this action protects all those residing, working, attending school, or otherwise present in those areas regardless of minority or economic status.

VI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is a significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review. This action raises novel policy issues. Any changes made in response to OMB recommendations have been documented in the docket.

B. Paperwork Reduction Act (PRA)

The information collection activities in this final rule have been submitted for approval to the Office of Management and Budget under the PRA. The Information Collection Request (ICR) document that the EPA prepared has been assigned the EPA ICR number 2347.02 and OMB Reference number 2060-0695. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

The EPA is finalizing this 2008 ozone NAAQS SIP Requirements Rule so that states will know what CAA requirements apply to their nonattainment areas when the states develop their SIPs for attaining and maintaining the NAAQS. The intended effect of the SIP Requirements Rule is to provide certainty to states regarding their planning obligations such that states may begin SIP development. For purposes of analysis of the estimated paperwork burden, the EPA assumed 46 nonattainment areas,¹⁰³ some of which must prepare an attainment demonstration as well as submit an RFP and RACT SIP. The attainment demonstration requirement would appear in 40 CFR 51.1108 which implements CAA subsections 172(c)(1), 182(b)(1)(A) and 182(c)(2)(B). The RFP SIP submission requirement would appear in 40 CFR 51.1110, and the RACT SIP submission requirement would appear in 40 CFR 51.1112, which implements CAA subsections 172(c)(1) 182(b)(2), (c), (d) and (e).

States should already have information from any emission

¹⁰³ May 21, 2012, 77 FR 30088.

sources, as facilities should have provided this information to meet 1-hour and 1997 ozone NAAQS SIP requirements, operating permits and/or emissions reporting requirements. Such information does not generally reveal the details of production processes. But, to the extent it may, confidential business information for the affected facilities is protected. Specifically, submissions of emissions and control efficiency information that is confidential, proprietary and trade secret is protected from disclosure under the requirements of subsections 503(e) and 114(c) of the CAA.

The annual burden for this information collection averaged over the first 3 years of this ICR is estimated to be a total of 120,000 labor hours per year at an annual labor cost of \$2.4 million (present value) over the 3-year period or approximately \$91,000 per state for the 26 state air agency respondents, including the District of Columbia. The Information Collection Request Supporting Statement for the 2008 8-hour Ozone National Ambient Air Quality Standard Implementation Rule EPA ICR #2347.02 in the docket provides the details for the 26 state air agencies that are required to provide the 58 SIP revisions for the 46 areas designated nonattainment for the 2008 ozone standard. The average annual reporting burden is 690 hours per response, with approximately 2 responses per state for 58 state responses from the state air agencies. There are no capital or operating and maintenance costs associated with the proposed rule requirements. Burden is defined at 5 CFR 1320.3(b).

Respondents/affected entities: States with 46 nonattainment areas.

Respondent's obligation to respond: Mandatory (CAA, sections 172 and 182).

Estimated number of respondents: 26 state respondents.

Frequency of response: Once.

Total estimated burden: 40,000 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: \$2.4 million (per year), includes \$0 annualized capital or operation & maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the

approved information collection activities contained in this final rule.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. Entities potentially affected directly by this rule include state, local and tribal governments and none of these governments are small governments. Other types of small entities are not directly subject to the requirements of this rule because this action only addresses how a SIP will provide for adequate attainment and maintenance of the NAAQS and meet the obligations of the CAA. Although some states may ultimately decide to impose economic impacts on small entities, that is not required by this rule and would only occur at the discretion of the state.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action implements mandates specifically and explicitly set forth in the CAA without the exercise of any policy discretion by the EPA.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. It would not have a substantial direct effect on one or more Indian tribes, since no tribe has to develop a TIP under these regulatory revisions. Furthermore, these regulation revisions do not affect the relationship or distribution of power and responsibilities between the federal government and Indian tribes. The CAA and the Tribal Air Rule establish the relationship of the federal government and tribes in developing plans to attain the NAAQS, and these revisions to the regulations do nothing to modify that relationship. Thus, Executive Order 13175 does not apply to this action.

Although Executive Order 13175 does not apply to this action, the EPA met with tribal officials in developing the proposal. Meeting summaries are contained in the docket for this rulemaking.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This action is not a “significant energy action” because it is not likely to have a significant adverse effect on the supply, distribution or use of energy. This final rule addresses the substantive requirements for states with nonattainment areas to develop planning SIPs and attain the NAAQS.

I. National Technology Transfer and Advancement Act (NTTA)

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations because it does not affect the level of protection provided to human health or the environment.

The final revisions to the regulations address the substantive requirements for SIPs to attain the NAAQS, which are designed to protect all segments of the general populations. As such, they do not adversely affect the health or safety of minority or low-income populations and are designed to protect and enhance the health and safety of these and other populations. The EPA encourages states to consider any potential impacts on these populations in developing SIPs to attain the NAAQS.

K. Congressional Review Act (CRA)

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).

L. Determination Under Section 307(d)

Pursuant to CAA section 307(d)(1)(V), the Administrator determines that this action is subject to the provisions of CAA section 307(d). Section 307(d) establishes procedural requirements specific to rulemaking under the CAA. CAA section 307(d)(1)(V) provides that the provisions of CAA section 307(d) apply to “such other actions as the Administrator may determine.”

M. Judicial Review

Section 307(b)(1) of the CAA indicates which Federal Courts of Appeal have venue for petitions of review of final agency actions by the EPA under the CAA. This section provides, in part, that petitions for review must be filed in the U.S. Court of Appeals for the District of Columbia Circuit (i) when the agency action consists of “nationally applicable regulations promulgated, or final actions taken, by the Administrator” or (ii) when such action is locally or regionally applicable, if “such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.”

This rule implementing the 2008 ozone NAAQS is “nationally applicable” within the meaning of CAA section 307(b)(1). First, the rulemaking addresses a NAAQS that applies to all states and territories in the U.S. Second, the rulemaking addresses issues relevant to specific existing SIP provisions in states across the U.S. that are located in each of the 10 EPA Regions, numerous federal circuits and multiple time zones. Third, the rulemaking addresses a common core of knowledge and analysis involved in formulating the decision and a common interpretation of the requirements of the CAA being applied to SIPs in states across the country. Fourth, the rulemaking, by addressing issues relevant to appropriate SIP provisions in one state, may have precedential impacts upon the SIPs of other states nationwide. Courts have found similar

rulemaking actions to be of nationwide scope and effect.¹⁰⁴

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the District of Columbia Circuit by May 4, 2015. Any such judicial review is limited to only those objections that are raised with reasonable specificity in timely comments. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. Under section 307(b)(2) of the Act, the requirements of this final action may not be challenged later in civil or criminal proceedings brought by us to enforce these requirements.

Appendix A to Preamble Glossary of Terms and Acronyms

ACT Alternative Control Techniques (document)
 AERR Air Emissions Reporting Requirements Rule
 BACT Best Available Control Technology
 CAA Clean Air Act
 CAAAC Clean Air Act Advisory Committee
 CAIR Clean Air Interstate Rule
 CERR Consolidated Emissions Reporting Rule
 CFR Code of Federal Regulations
 CO Carbon Monoxide
 CSAPR Cross-State Air Pollution Rule
 CTG Control Technique Guideline
 DOT Department of Transportation
 DV Design Value
 EMFAC Emissions FACTors (a mobile emissions model)
 EO Executive Order
 ESRP Emissions Statement Reporting Program
 EGU Electricity Generating Unit
 EPA Environmental Protection Agency
 FIP Federal Implementation Plan
 GDF Gasoline dispensing facilities
 HEDD High Electric Demand Day
 ICR Information Collection Requirement
 I/M Inspection and Maintenance (*i.e.*, smog check)
 km Kilometers
 LAER Lowest Achievable Emission Rate
 MACT Maximum Achievable Control Technology
 MCR Mid-course Review
 MPO Metropolitan Planning Organization
 NAAQS National Ambient Air Quality Standards

¹⁰⁴ See, e.g., *State of Texas, et al. v. EPA*, 2011 U.S. App. LEXIS 5654 (5th Cir. 2011) (finding SIP call to 13 states to be of nationwide scope and effect and thus transferring the case to the U.S. Court of Appeals for the D.C. Circuit in accordance with CAA section 307(b)(1)).

NOx Nitrogen Oxides
 NPRM Notice of Proposed Rulemaking
 NSR New Source Review
 NTTAA National Technology Transfer and Advancement Act of 1995
 OMB Office of Management and Budget
 ORVR Onboard refueling vapor recovery
 OTR Ozone Transport Region
 PM Particulate Matter
 PM_{2.5} Fine Particulate Matter
 ppb Parts per Billion
 ppm Parts per Million
 PSD Prevention of Significant Deterioration
 RACM Reasonably Available Control Measures
 RACT Reasonably Available Control Technology
 RFA Regulatory Flexibility Act
 RFG Reformulated Gasoline
 RFP Reasonable Further Progress
 ROP Rate-of-Progress
 RPO Regional Planning Organization
 SBA Small Business Administration
 SIP State Implementation Plan
 TAR Tribal Authority Rule
 TAS Treatment in the Same Manner as a State (“Treatment as State”)
 TIP Tribal Implementation Plan; also Transportation Improvement Program (depending on context)
 tpd Tons Per Day
 tpy Tons Per Year
 TSP Total Suspended Particulate
 UMRA Unfunded Mandates Reform Act of 1995
 VCS Voluntary Consensus Standards
 VOC Volatile Organic Compound

Appendix B—List of Areas Nonattainment for the 2008 Ozone NAAQS in Addition to a Prior Ozone NAAQS as of April 6, 2015

This table lists the areas that were designated nonattainment for the 2008 ozone NAAQS effective July 20, 2012 that were also nonattainment for a prior ozone NAAQS (1997 NAAQS and/or 1-hour NAAQS) as of the date the prior NAAQS was revoked. The table also indicates the attainment-related status of each area with respect to each of the ozone standards, which is relevant to understanding which obligations associated with the standards applies to each area, as detailed in this final rule. Clean Data Determination means the area received a determination from the EPA that suspends the obligation to submit to the EPA certain planning requirements associated with a standard. Attainment Deadline Determination means the EPA determined that the area attained a standard by the applicable attainment date. No Action means the EPA did not determine that the area qualified for either a Clean Data Determination or a determination of attainment by the applicable attainment date. The term “n/a” means not applicable for this area because the area was not nonattainment for the 1-hour ozone NAAQS at the time the 1-hour NAAQS was revoked (June 15, 2005).

2008 Nonattainment area name	2008 8-hour ozone classification	1997 8-hour ozone classification	1997 8-hour ozone attainment determination	1-hour ozone classification	1-hour ozone attainment determination
Baltimore Area, MD	Moderate	Serious	No Action	Severe-15	Clean Data Determination.
Calaveras County, CA ¹	Marginal	Moderate	Clean Data Determination, Attainment Deadline Determination.	n/a	n/a.
Chico Area, CA	Marginal	Marginal	Clean Data Determination, Attainment Deadline Determination.	n/a	n/a.
Dallas-Fort Worth Area, TX ¹	Moderate	Serious	No Action	Serious	Clean Data Determination.
Denver-Boulder-Greeley-Ft. Collins-Loveland Area, CO.	Marginal	Marginal	No Action	n/a	n/a.
Dukes County, MA ¹	Marginal	Moderate	Clean Data Determination, Attainment Deadline Determination.	Serious	Clean Data Determination, Attainment Deadline Determination.
Greater Connecticut Area, CT.	Marginal	Moderate	Clean Data Determination, Attainment Deadline Determination.	Serious	Clean Data Determination.
Houston-Galveston-Brazoria Area, TX.	Marginal	Severe-15	No Action	Severe-17	No Action.
Imperial County Area, CA ..	Marginal	Moderate	Clean Data Determination	n/a	n/a.
Jamestown Area, NY	Marginal	Moderate	Clean Data Determination ²	n/a	n/a.
Kern County (Eastern Kern) Area, CA.	Marginal	Moderate	Clean Data Determination, Attainment Deadline Determination.	n/a	n/a.
Los Angeles and San Bernardino Counties (W Mojave Desert) Area, CA.	Severe-15	Severe-15	No Action	Severe-17	No Action.
Los Angeles-South Coast Air Basin Area, CA.	Extreme	Extreme	No Action	Extreme	No Action.
Mariposa County, CA ¹	Marginal	Moderate	Clean Data Determination, Attainment Deadline Determination.	n/a	n/a.
Morongo Areas of Indian Country (Morongo Band of Mission Indians) ³ .	Serious	Severe-17	No Action	Severe-17	No Action.
Nevada County (Western part) Area, CA.	Marginal	Moderate	Clean Data Determination, Attainment Deadline Determination.	n/a	n/a.
New York-N. New Jersey-Long Island Area, NY-NJ-CT.	Marginal	Moderate	Clean Data Determination, Attainment Deadline Determination.	Severe-17	Clean Data Determination.
Pechanga Areas of Indian Country (Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation) ⁴ .	Moderate	Severe-17	No Action	Extreme	No Action.
Philadelphia-Wilmington-Atlantic City Area, PA-NJ-MD-DE ¹ .	Marginal	Moderate	Clean Data Determination, Attainment Deadline Determination.	Severe-15	Clean Data Determination, Attainment Deadline Determination.
Pittsburgh-Beaver Valley Area, PA.	Marginal	Moderate	Clean Data Determination ²	n/a	n/a.
Riverside County (Coachella Valley) Area (1-hr Southeast Desert), CA.	Severe-15	Severe-15	No Action	Severe-17	No Action.
Sacramento Metro Area, CA.	Severe-15	Severe-15	No Action	Severe-15	Clean Data Determination.
San Francisco Bay Area, CA.	Marginal	Marginal	No Action	Other	Clean Data Determination, Attainment Deadline Determination.
San Joaquin Valley Area, CA.	Extreme	Extreme	No Action	Extreme	No Action.
Seaford, DE ⁵	Marginal	Moderate	Clean Data Determination, Attainment Deadline Determination.	Marginal	Clean Data Determination, Attainment Deadline Determination.
Sheboygan County, WI	Marginal	Moderate	Clean Data Determination	n/a	n/a.
Ventura County (part) Area, CA.	Serious	Serious	Clean Data Determination	Severe-15	Clean Data Determination, Attainment Deadline Determination.

2008 Nonattainment area name	2008 8-hour ozone classification	1997 8-hour ozone classification	1997 8-hour ozone attainment determination	1-hour ozone classification	1-hour ozone attainment determination
Washington Area, DC-MD-VA.	Marginal	Moderate	Clean Data Determination, Attainment Deadline Determination.	Severe-15	Clean Data Determination, Attainment Deadline Determination.

¹ 2008 ozone NAAQS nonattainment area boundary differs from 1997 and (where applicable) 1-hr ozone NAAQS nonattainment area boundary.

² Former subpart 1 areas with Determinations of Attainment prior to subpart 2 classification on May 14, 2012 (77 FR 28424). An Attainment Deadline Determination for these areas for the 1997 ozone NAAQS attainment dates is pending with the EPA.

³ Part of Los Angeles-South Coast Air Basin Area, CA (South Coast) for 1997 and 1-hr ozone nonattainment area boundaries. The EPA published a correction of the classification for the 1997 ozone and 1-hr ozone NAAQS on September 23, 2013 (78 FR 58189).

⁴ Part of Los Angeles-South Coast Air Basin Area, CA (South Coast) for 1997 and 1-hr ozone nonattainment area boundaries. The EPA published a correction of the classification for the 1997 ozone NAAQS on May 5, 2010 (75 FR 24409).

⁵ Part of the Philadelphia-Wilmington-Atlantic City Area, PA, NJ, MD, DE for 1997 ozone nonattainment area boundary, and part of the Sussex County, DE ozone nonattainment area boundary for the 1-hour ozone NAAQS.

Statutory Authority

The statutory authority for this action is provided by sections 109; 110; 172; 181 through 185B; 301(a)(1) and 501(2)(B) of the CAA, as amended (42 U.S.C. 7409; 42 U.S.C. 7410; 42 U.S.C. 7502; 42 U.S.C. 7511–7511f; 42 U.S.C. 7601(a)(1); 42 U.S.C. 7661(2)(B)).

List of Subjects

40 CFR Part 50

Environmental protection, Air pollution control, Carbon monoxide, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

40 CFR Part 51

Air pollution control, Intergovernmental relations, Ozone, Particulate matter, Transportation, Volatile organic compounds.

40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Particulate matter.

40 CFR Part 70

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen oxides, Operating permits, Ozone, Particulate matter, Reporting and record keeping requirements, Volatile organic compounds.

40 CFR Part 71

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Nitrogen oxides, Operating permits, Ozone, Particulate matter, Reporting and record keeping requirements, Volatile organic compounds.

Dated: February 13, 2015.

Gina McCarthy,
Administrator.

For the reasons stated in the preamble, Title 40, Chapter I of the Code

of Federal Regulations is amended as follows:

PART 50—NATIONAL PRIMARY AND SECONDARY AMBIENT AIR QUALITY STANDARDS

■ 1. The authority citation for part 50 continues to read as follows:

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

■ 2. In § 50.10, revise paragraph (c) to read as follows:

§ 50.10 National 8-hour primary and secondary ambient air quality standards for ozone.

* * * * *

(c) Until the effective date of the final Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements Rule (final SIP Requirements Rule) to be codified at 40 CFR 51.1100 *et seq.*, the 1997 ozone NAAQS set forth in this section will continue in effect, notwithstanding the promulgation of the 2008 ozone NAAQS under § 50.15. The 1997 ozone NAAQS set forth in this section will no longer apply upon the effective date of the final SIP Requirements Rule. For purposes of the anti-backsliding requirements of § 51.1105, § 51.165 and Appendix S to part 51, the area designations and classifications with respect to the revoked 1997 ozone NAAQS are codified in 40 CFR part 81.

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

■ 3. The authority citation for part 51 continues to read as follows:

Authority: 23 U.S.C. 101; 42 U.S.C. 7401–7671q.

Subpart X—Provisions for Implementation of 8-Hour Ozone National Ambient Air Quality Standards

■ 4. Add § 51.919 to read as follows:

§ 51.919 Applicability.

As of April 6, 2015, the provisions of subpart AA shall replace the provisions of subpart X, §§ 51.900 to 51.918, which will cease to apply, with the exception of the attainment date extension provisions of § 51.907 for the anti-backsliding purposes of § 51.1105(d)(2).

Subpart AA—Provisions for Implementation of the 2008 Ozone National Ambient Air Quality Standards

■ 5. In § 51.1100, add paragraphs (o) through (cc) to read as follows:

§ 51.1100 Definitions.

* * * * *

(o) *Applicable requirements* for an area for anti-backsliding purposes means the following requirements, to the extent such requirements apply to the area pursuant to its classification under CAA section 181(a)(1) for the 1-hour NAAQS or 40 CFR 51.902 for the 1997 ozone NAAQS at the time of revocation of the 1997 ozone NAAQS:

(1) Reasonably available control technology (RACT) under CAA sections 172(c)(1) and 182(b)(2).

(2) Vehicle inspection and maintenance programs (I/M) under CAA sections 182(b)(4) and 182(c)(3).

(3) Major source applicability thresholds for purposes of RACT under CAA sections 172(c)(2), 182(b), 182(c), 182(d), and 182(e).

(4) Reductions to achieve Reasonable Further Progress (RFP) under CAA sections 172(c)(2), 182(b)(1)(A), and 182(c)(2)(B).

(5) Clean fuels fleet program under CAA section 183(c)(4).

(6) Clean fuels for boilers under CAA section 182(e)(3).

(7) Transportation Control Measures (TCMs) during heavy traffic hours as specified under CAA section 182(e)(4).

(8) Enhanced (ambient) monitoring under CAA section 182(c)(1).

(9) Transportation controls under CAA section 182(c)(5).

(10) Vehicle miles traveled provisions of CAA section 182(d)(1).

(11) NO_x requirements under CAA section 182(f).

(12) Attainment demonstration requirements under CAA sections 172(c)(4), 182(b)(1)(A), and 182(c)(2).

(13) Nonattainment contingency measures required under CAA sections 172(c)(9) and 182(c)(9) for failure to attain the 1-hour or 1997 ozone NAAQS by the applicable attainment date or to make reasonable further progress toward attainment of the 1-hour or 1997 ozone NAAQS.

(14) Nonattainment NSR major source thresholds and offset ratios under CAA sections 172(a)(5) and 182(a)(2).

(15) Penalty fee program requirements for Severe and Extreme Areas under CAA section 185.

(16) Contingency measures associated with areas utilizing CAA section 182(e)(5).

(17) Reasonably available control measures (RACM) requirements under CAA section 172(c)(1).

(p) *CSAPR* means the Cross State Air Pollution Rule codified at 40 CFR 52.38 and part 97.

(q) *CAIR* means the Clean Air Interstate Rule codified at 40 CFR 51.123, 52.35 and part 95.

(r) *NO_x SIP Call* means the rules codified at 40 CFR 51.121 and 51.122.

(s) *Ozone transport region* (OTR) means the area established by CAA section 184(a) or any other area established by the Administrator pursuant to CAA section 176A for purposes of ozone.

(t) *Reasonable further progress* (RFP) means both the emissions reductions required under CAA section 172(c)(2) which EPA interprets to be an average 3 percent per year emissions reductions of either VOC or NO_x and CAA sections 182(c)(2)(B) and (c)(2)(C) and the 15 percent reductions over the first six years of the plan and the following three percent per year average under § 51.1110.

(u) *Rate-of-progress* (ROP) means the 15 percent progress reductions in VOC emissions over the first 6 years required under CAA section 182(b)(1).

(v) *Revocation of the 1-hour NAAQS* means the time at which the 1-hour NAAQS no longer apply to an area pursuant to 40 CFR 50.9(b).

(w) *Revocation of the 1997 ozone NAAQS* means the time at which the 1997 8-hour NAAQS no longer apply to an area pursuant to 40 CFR 50.10(c).

(x) *Subpart 1* means subpart 1 of part D of title I of the CAA.

(y) *Subpart 2* means subpart 2 of part D of title I of the CAA.

(z) *I/M* refers to the inspection and maintenance programs for in-use vehicles required under the 1990 CAA Amendments and defined by subpart S of 40 CFR part 51.

(aa) An area “*Designated nonattainment for the 1-hour ozone NAAQS*” means, for purposes of 40 CFR 51.1105, an area that is subject to applicable 1-hour ozone NAAQS anti-backsliding requirements at the time of revocation of the 1997 ozone NAAQS.

(bb) *Base year inventory* for the nonattainment area means a comprehensive, accurate, current inventory of actual emissions from sources of VOC and NO_x emitted within the boundaries of the nonattainment area as required by CAA section 182(a)(1).

(cc) *Ozone season day emissions* means an average day's emissions for a typical ozone season work weekday. The state shall select, subject to EPA approval, the particular month(s) in the ozone season and the day(s) in the work week to be represented, considering the conditions assumed in the development of RFP plans and/or emissions budgets for transportation conformity.

■ 6. In § 51.1103, revise the section heading and Table 1 in paragraph (a) to read as follows:

§ 51.1103 Application of classification and attainment date provisions in CAA section 181 to areas subject to § 51.1102.

(a) * * *

TABLE 1—CLASSIFICATIONS AND ATTAINMENT DATES FOR 2008 8-HOUR OZONE NAAQS (0.075 PPM) FOR AREAS SUBJECT TO CFR SECTION 51.1102

Area class		8-hour design value (ppm ozone)	Primary standard attainment date (years after the effective date of designation for 2008 primary NAAQS)
Marginal	from	0.076	3
	up to*	0.086	
Moderate	from	0.086	6
	up to*	0.100	
Serious	from	0.100	9
	up to*	0.113	
Severe-15	from	0.113	15
	up to*	0.119	
Severe-17	from	0.119	17
	up to*	0.175	
Extreme	equal to or above	0.175	20

* But not including

* * * * *

■ 7. Add §§ 51.1104 through 51.1119 to read as follows:

* * * * *

51.1104 [Reserved]

51.1105 Transition from the 1997 ozone NAAQS to the 2008 ozone NAAQS and anti-backsliding.

51.1106 Redesignation to nonattainment following initial designations.

51.1107 Determining eligibility for 1-year attainment date extensions for the 2008 ozone NAAQS under CAA section 181(a)(5).

51.1108 Modeling and attainment demonstration requirements.

51.1109 [Reserved].

51.1110 Requirements for reasonable further progress (RFP).

51.1111 [Reserved].

51.1112 Requirements for reasonably available control technology (RACT) and reasonably available control measures (RACM).

51.1113 Section 182(f) NO_x exemption provisions.

51.1114 New source review requirements.

51.1115 Emissions inventory requirements.

51.1116 Requirements for an Ozone Transport Region.

51.1117 Fee programs for Severe and Extreme nonattainment areas that fail to attain.

51.1118 Suspension of SIP planning requirements in nonattainment areas that have air quality data that meet an ozone NAAQS.

51.1119 Applicability.

* * * * *

§ 51.1104 [Reserved]

§ 51.1105 Transition from the 1997 ozone NAAQS to the 2008 ozone NAAQS and anti-backsliding.

(a) *Requirements that continue to apply after revocation of the 1997 ozone NAAQS*—(1) *2008 ozone NAAQS nonattainment and 1997 ozone NAAQS nonattainment.* The following requirements apply to an area designated nonattainment for the 2008 ozone NAAQS and also designated nonattainment for the 1997 ozone NAAQS, or nonattainment for both the 1997 and 1-hour ozone NAAQS, at the time of revocation of the respective ozone NAAQS: The area remains subject to the obligation to adopt and implement the applicable requirements of § 51.1100(o), for any ozone NAAQS

for which it was designated nonattainment at the time of revocation, in accordance with its classification for that NAAQS at the time of that revocation, except as provided in paragraph (b) of this section.

(2) *2008 ozone NAAQS nonattainment and 1997 ozone NAAQS maintenance.* For an area designated nonattainment for the 2008 ozone NAAQS that was redesignated to attainment for the 1997 ozone NAAQS prior to April 6, 2015 (hereinafter a “maintenance area”) the SIP, including the maintenance plan, is considered to satisfy the applicable requirements of 40 CFR 51.1100(o) for the revoked NAAQS. The measures in the SIP and maintenance plan shall continue to be implemented in accordance with the terms in the SIP. Any measures associated with applicable requirements that were shifted to contingency measures prior to April 6, 2015 may remain in that form. After April 6, 2015, and to the extent consistent with any SIP for the 2008 ozone NAAQS and with CAA sections 110(l) and 193, the state may request that obligations under the applicable requirements of § 51.1100(o) be shifted to the SIP’s list of maintenance plan contingency measures for the area.

(3) *2008 ozone NAAQS attainment and 1997 ozone NAAQS nonattainment.* For an area designated attainment for the 2008 ozone NAAQS, and designated nonattainment for the 1997 ozone NAAQS as of April 6, 2015 or for both the 1997 and the 1-hour ozone NAAQS as of the respective dates of their revocations, the area is no longer subject to nonattainment NSR and the state may at any time request that the nonattainment NSR provisions applicable to the area be removed from the SIP. The state may request, consistent with CAA sections 110(l) and 193, that SIP measures adopted to satisfy other applicable requirements of § 51.1100(o) be shifted to the SIP’s list of maintenance plan contingency measures for the area. The area’s approved PSD SIP shall be considered to satisfy the state’s obligations with respect to the area’s maintenance of the 2008 ozone NAAQS pursuant to CAA section 110(a)(1).

(4) *2008 ozone NAAQS attainment and 1997 ozone NAAQS maintenance.* An area designated attainment for the 2008 ozone NAAQS with an approved CAA section 175A maintenance plan for the 1997 ozone NAAQS is considered to satisfy the applicable requirements of 40 CFR 51.1100(o) through implementation of the SIP and maintenance plan provisions for the area. After April 6, 2015, and to the extent consistent with

CAA sections 110(l) and 193, the state may request that obligations under the applicable requirements of 40 CFR 51.1100(o) be shifted to the list of maintenance plan contingency measures for the area. For an area that is initially designated attainment for the 2008 ozone NAAQS and which has been redesignated to attainment for the 1997 ozone NAAQS with an approved CAA section 175A maintenance plan and an approved PSD SIP, the area’s approved maintenance plan and the state’s approved PSD SIP for the area are considered to satisfy the state’s obligations with respect to the area’s maintenance of the 2008 ozone NAAQS pursuant to CAA section 110(a)(1).

(b) *Effect of Redesignation or Redesignation Substitute.* (1) An area remains subject to the anti-backsliding obligations for a revoked NAAQS under paragraphs (a)(1) and (2) of this section until either EPA approves a redesignation to attainment for the area for the 2008 ozone NAAQS; or EPA approves a demonstration for the area in a redesignation substitute procedure for a revoked NAAQS. Under this redesignation substitute procedure for a revoked NAAQS, and for this limited anti-backsliding purpose, the demonstration must show that the area has attained that revoked NAAQS due to permanent and enforceable emission reductions and that the area will maintain that revoked NAAQS for 10 years from the date of EPA’s approval of this showing.

(2) If EPA, after notice-and-comment rulemaking, approves a redesignation to attainment, the state may request that provisions for nonattainment NSR be removed from the SIP, and that other anti-backsliding obligations be shifted to contingency measures provided that such action is consistent with CAA sections 110(l) and 193. If EPA, after notice and comment rulemaking, approves a redesignation substitute for a revoked NAAQS, the state may request that provisions for nonattainment NSR for that revoked NAAQS be removed, and that other anti-backsliding obligations for that revoked NAAQS be shifted to contingency measures provided that such action is consistent with CAA sections 110(l) and 193.

(c) *Portions of an area designated nonattainment or attainment for the 2008 ozone NAAQS that remain subject to the obligations identified in paragraph (a) of this section.* Only that portion of the designated nonattainment or attainment area for the 2008 ozone NAAQS that was required to adopt the applicable requirements in § 51.1100(o) for purposes of the 1-hour or 1997 ozone NAAQS is subject to the obligations

identified in paragraph (a) of this section. Subpart C of 40 CFR part 81 identifies the areas designated nonattainment and associated area boundaries for the 1997 ozone NAAQS at the time of revocation. Areas that are designated nonattainment for the 1997 ozone NAAQS at the time of designation for the 2008 ozone NAAQS may be redesignated to attainment prior to the effective date of revocation of that ozone NAAQS.

(d) *Obligations under the 1997 ozone NAAQS that no longer apply after revocation of the 1997 ozone NAAQS—*

(1) *Second 10-year Maintenance plans.* As of April 6, 2015, an area with an approved 1997 ozone NAAQS maintenance plan under CAA section 175A is not required to submit a second 10-year maintenance plan for the 1997 ozone NAAQS 8 years after approval of the initial 1997 ozone NAAQS maintenance plan.

(2) *Determinations of failure to attain the 1997 and/or 1-hour NAAQS.* (i) As of April 6, 2015, the EPA is no longer obligated to determine pursuant to CAA section 181(b)(2) or section 179(c) whether an area attained the 1997 ozone NAAQS by that area's attainment date for the 1997 ozone NAAQS.

(ii) As of April 6, 2015, the EPA is no longer obligated to reclassify an area to a higher classification for the 1997 ozone NAAQS based upon a determination that the area failed to attain the 1997 ozone NAAQS by the area's attainment date for the 1997 ozone NAAQS.

(iii) For the revoked 1-hour and 1997 ozone NAAQS, the EPA is required to determine whether an area attained the 1-hour or 1997 ozone NAAQS by the area's attainment date solely for anti-backsliding purposes to address an applicable requirement for nonattainment contingency measures and CAA section 185 fee programs. In making such a determination, the EPA may consider and apply the provisions of CAA section 181(a)(5) and former 40 CFR 51.907 in interpreting whether a 1-year extension of the attainment date is applicable under CAA section 172(a)(2)(C).

(e) *Continued applicability of the FIP and SIP requirements pertaining to interstate transport under CAA section 110(a)(2)(D)(i) and (ii) after revocation of the 1997 ozone NAAQS.* All control requirements associated with a FIP or approved SIP in effect for an area as of April 6, 2015, such as the NO_x SIP Call, the CAIR, or the CSAPR shall continue to apply after revocation of the 1997 ozone NAAQS. Control requirements approved into the SIP pursuant to obligations arising from CAA section

110(a)(2)(D)(i) and (ii), including 40 CFR 51.121, 51.122, 51.123 and 51.124, may be modified by the state only if the requirements of §§ 51.121, 51.122, 51.123 and 51.124, including statewide NO_x emission budgets continue to be in effect. Any such modification must meet the requirements of CAA section 110(l).

(f) *New source review.* An area designated nonattainment for the 2008 ozone NAAQS and designated nonattainment for the 1997 ozone NAAQS on April 6, 2015 remains subject to the obligation to adopt and implement the major source threshold and offset requirements for nonattainment NSR that apply or applied to the area pursuant to CAA sections 172(c)(5), 173 and 182 based on the highest of: (i) The area's classification under CAA section 181(a)(1) for the 1-hour NAAQS as of the effective date of revocation of the 1-hour ozone NAAQS; (ii) the area's classification under 40 CFR 51.903 for the 1997 ozone NAAQS as of the date a permit is issued or as of April 6, 2015, whichever is earlier; and (iii) the area's classification under § 51.1103 for the 2008 ozone NAAQS. Upon removal of nonattainment NSR obligations for a revoked NAAQS under § 51.1105(b), the state remains subject to the obligation to adopt and implement the major source threshold and offset requirements for nonattainment NSR that apply or applied to the area for the remaining applicable NAAQS consistent with this paragraph.

§ 51.1106 Redesignation to nonattainment following initial designations.

For any area that is initially designated attainment for the 2008 ozone NAAQS and that is subsequently redesignated to nonattainment for the 2008 ozone NAAQS, any absolute, fixed date applicable in connection with the requirements of this part other than an attainment date is extended by a period of time equal to the length of time between the effective date of the initial designation for the 2008 ozone NAAQS and the effective date of redesignation, except as otherwise provided in this subpart. The maximum attainment date for a redesignated area would be based on the area's classification, consistent with Table 1 in § 51.1103.

§ 51.1107 Determining eligibility for 1-year attainment date extensions for the 2008 ozone NAAQS under CAA section 181(a)(5).

(a) A nonattainment area will meet the requirement of CAA section 181(a)(5)(B) pertaining to 1-year extensions of the attainment date if:

(1) For the first 1-year extension, the area's 4th highest daily maximum 8

hour average in the attainment year is 0.075 ppm or less.

(2) For the second 1-year extension, the area's 4th highest daily maximum 8 hour value, averaged over both the original attainment year and the first extension year, is 0.075 ppm or less.

(b) For purposes of paragraph (a) of this section, the area's 4th highest daily maximum 8 hour average for a year shall be from the monitor with the highest 4th highest daily maximum 8 hour average for that year of all the monitors that represent that area.

§ 51.1108 Modeling and attainment demonstration requirements.

(a) An area classified as Moderate under § 51.1103(a) shall be subject to the attainment demonstration requirement applicable for that classification under CAA section 182(b), and such demonstration is due no later than 36 months after the effective date of the area's designation for the 2008 ozone NAAQS.

(b) An area classified as Serious or higher under § 51.1103(a) shall be subject to the attainment demonstration requirement applicable for that classification under CAA section 182(c), and such demonstration is due no later than 48 months after the effective date of the area's designation for the 2008 ozone NAAQS.

(c) *Attainment demonstration criteria.* An attainment demonstration due pursuant to paragraph (a) or (b) of this section must meet the requirements of § 51.112; the adequacy of an attainment demonstration shall be demonstrated by means of a photochemical grid model or any other analytical method determined by the Administrator, in the Administrator's discretion, to be at least as effective.

(d) *Implementation of control measures.* For each nonattainment area, the state must provide for implementation of all control measures needed for attainment no later than the beginning of the attainment year ozone season.

§ 51.1109 [Reserved]

§ 51.1110 Requirements for reasonable further progress (RFP).

(a) *RFP for nonattainment areas classified pursuant to § 51.1103.* The RFP requirements specified in CAA section 182 for that area's classification shall apply.

(1) *Submission deadline.* For each area classified as Moderate or higher pursuant to § 51.1103, the state shall submit a SIP revision no later than 36 months after the effective date of designation as nonattainment for the 2008 ozone NAAQS that provides for

RFP as described in paragraphs (a)(2) through (4) of this section.

(2) *RFP requirements for areas with an approved 1-hour or 1997 ozone NAAQS 15 percent VOC ROP plan.* An area classified as Moderate or higher that has the same boundaries as an area, or is entirely composed of several areas or portions of areas, for which EPA fully approved a 15 percent plan for the 1-hour or 1997 ozone NAAQS is considered to have met the requirements of CAA section 182(b)(1) for the 2008 ozone NAAQS and instead:

(i) If classified as Moderate or higher, the area is subject to the RFP requirements under CAA section 172(c)(2) and shall submit a SIP revision that:

(A) Provides for a 15 percent emission reduction from the baseline year within 6 years after the baseline year;

(B) Provides for an additional emissions reduction of 3 percent per year from the end of the first 6 years up to the beginning of the attainment year if a baseline year earlier than 2011 is used; and

(C) Relies on either NO_x or VOC emissions reductions (or a combination) to meet the requirements of paragraphs (a)(2)(i)(A) and (B) of this section. Use of NO_x emissions reductions must meet the criteria in CAA section 182(c)(2)(C).

(ii) If classified as Serious or higher, the area is also subject to RFP under CAA section 182(c)(2)(B) and shall submit a SIP revision no later than 48 months after the effective date of designation providing for an average emissions reduction of 3 percent per year:

(A) For all remaining 3-year periods after the first 6-year period until the year of the area's attainment date; and

(B) That relies on either NO_x or VOC emissions reductions (or a combination) to meet the requirements of paragraphs (a)(2)(ii)(A) and (B) of this section. Use of NO_x emissions reductions must meet the criteria in CAA section 182(c)(2)(C).

(3) *RFP requirements for areas for which an approved 15 percent VOC ROP plan for the 1-hour or 1997 ozone NAAQS exists for only a portion of the area.* An area that contains one or more portions for which EPA fully approved a 15 percent VOC ROP plan for the 1-hour or 1997 ozone NAAQS (as well as areas for which EPA has not fully approved a 15 percent plan for either the 1-hour or 1997 ozone NAAQS) shall meet the requirements of either paragraph (a)(3)(i) or (ii) of this section.

(i) The state shall not distinguish between the portion of the area with a previously approved 15 percent ROP plan and the portion of the area without such a plan, and shall meet the

requirements of (a)(4) of this section for the entire nonattainment area.

(ii) The state shall treat the area as two parts, each with a separate RFP target as follows:

(A) For the portion of the area without an approved 15 percent VOC ROP plan for the 1-hour or 1997 ozone NAAQS, the state shall submit a SIP revision as required under paragraph (a)(4) of this section.

(B) For the portion of the area with an approved 15 percent VOC ROP plan for the 1-hour or 1997 ozone NAAQS, the state shall submit a SIP as required under paragraph (a)(2) of this section.

(4) *ROP Requirements for areas without an approved 1-hour or 1997 ozone NAAQS 15 percent VOC ROP plan.* (i) For each area, the state shall submit a SIP revision consistent with CAA section 182(b)(1). The 6-year period referenced in CAA section 182(b)(1) shall begin January 1 of the year following the year used for the baseline emissions inventory.

(ii) For Moderate areas, the plan must provide for an additional 3 percent per year reduction from the end of the first 6 years up to the beginning of the attainment year if a baseline year from 2008 to 2010 is used.

(iii) For each area classified as Serious or higher, the state shall submit a SIP revision consistent with CAA section 182(c)(2)(B). The final increment of progress must be achieved no later than the attainment date for the area.

(5) *Creditability of emission control measures for RFP plans.* Except as specifically provided in CAA section 182(b)(1)(C) and (D), CAA section 182(c)(2)(B), and 40 CFR 51.1110(a)(6), all emission reductions from SIP-approved or federally promulgated measures that occur after the baseline emissions inventory year are creditable for purposes of the RFP requirements in this section, provided the reductions meet the requirements for creditability, including the need to be enforceable, permanent, quantifiable, and surplus.

(6) *Creditability of out-of-area emissions reductions.* For each area classified as Moderate or higher pursuant to § 51.1103, in addition to the restrictions on the creditability of emission control measures listed in § 51.1110(a)(5), creditable emission reductions for fixed percentage reduction RFP must be obtained from sources within the nonattainment area.

(7) *Calculation of non-creditable emissions reductions.* The following four categories of control measures listed in CAA section 182(b)(1)(D) are no longer required to be calculated for exclusion in RFP analyses because the Administrator has determined that due

to the passage of time the effect of these exclusions would be *de minimis*:

(i) Measures related to motor vehicle exhaust or evaporative emissions promulgated by January 1, 1990;

(ii) Regulations concerning Reid vapor pressure promulgated by November 15, 1990;

(iii) Measures to correct previous RACT requirements; and

(iv) Measures required to correct previous I/M programs.

(b) *Baseline emissions inventory for RFP plans.* For the RFP plans required under this section, at the time of designation for the 2008 ozone NAAQS the baseline emissions inventory shall be the emissions inventory for the most recent calendar year for which a complete triennial inventory is required to be submitted to EPA under the provisions of subpart A of this part. States may use an alternative baseline emissions inventory provided the state demonstrates why it is appropriate to use the alternative baseline year, and provided that the year selected is between the years 2008 to 2012. All states associated with a multi-state nonattainment area must consult and agree on a single alternative baseline year. The emissions values included in the inventory required by this section shall be actual ozone season day emissions as defined by § 51.1100(cc).

§ 51.1111 [Reserved]

§ 51.1112 Requirements for reasonably available control technology (RACT) and reasonably available control measures (RACM).

(a) *RACT requirement for areas classified pursuant to § 51.1103.* (1) For each nonattainment area classified Moderate or higher, the state shall submit a SIP revision that meets the VOC and NO_x RACT requirements in CAA sections 182(b)(2) and 182(f).

(2) The state shall submit the RACT SIP for each area no later than 24 months after the effective date of designation for the 2008 ozone NAAQS.

(3) The state shall provide for implementation of RACT as expeditiously as practicable but no later than January 1 of the 5th year after the effective date of designation for the 2008 ozone NAAQS.

(b) *Determination of major stationary sources for applicability of RACT provisions.* The amount of VOC and NO_x emissions are to be considered separately for purposes of determining whether a source is a major stationary source as defined in CAA section 302.

(c) *Reasonably Available Control Measures (RACM) requirement.* For each nonattainment area required to submit an attainment demonstration under

§ 51.1108(a) and (b), the state shall submit with the attainment demonstration a SIP revision demonstrating that it has adopted all RACM necessary to demonstrate attainment as expeditiously as practicable and to meet any RFP requirements.

§ 51.1113 Section 182(f) NO_x exemption provisions.

(a) A person or a state may petition the Administrator for an exemption from NO_x obligations under CAA section 182(f) for any area designated nonattainment for the 2008 ozone NAAQS and for any area in a CAA section 184 ozone transport region.

(b) The petition must contain adequate documentation that the criteria in CAA section 182(f) are met.

(c) A CAA section 182(f) NO_x exemption granted for the 1-hour or 1997 ozone NAAQS does not relieve the area from any NO_x obligations under CAA section 182(f) for the 2008 ozone NAAQS.

§ 51.1114 New source review requirements.

The requirements for nonattainment NSR for the ozone NAAQS are located in § 51.165. For each nonattainment area, the state shall submit a nonattainment NSR plan or plan revision for the 2008 ozone NAAQS no later than 36 months after the effective date of the area's designation for the 2008 ozone NAAQS.

§ 51.1115 Emissions inventory requirements.

(a) For each nonattainment area, the state shall submit a base year inventory as defined by § 51.1100(bb) to meet the emissions inventory requirement of CAA section 182(a)(1). This inventory shall be submitted no later than 24 months after the effective date of designation. The inventory year shall be selected consistent with the baseline year for the RFP plan as required by § 51.1110(b).

(b) For each nonattainment area, the state shall submit a periodic emission inventory of emissions sources in the area to meet the requirement in CAA section 182(a)(3)(A). With the exception of the inventory year and timing of submittal, this inventory shall be consistent with the requirements of paragraph (a) of this section. Each periodic inventory shall be submitted no later than the end of each 3-year period after the required submission of the base year inventory for the nonattainment area. This requirement shall apply until the area is redesignated to attainment.

(c) The emissions values included in the inventories required by paragraphs (a) and (b) of this section shall be actual ozone season day emissions as defined by § 51.1100(cc).

(d) The state shall report emissions from point sources according to the point source emissions thresholds of the Air Emissions Reporting Requirements (AERR), 40 CFR part 51, subpart A.

(e) The data elements in the emissions inventory shall be consistent with the detail required by 40 CFR part 51, subpart A. Since only emissions within the boundaries of the nonattainment area shall be included as defined by § 51.1100(cc), this requirement shall apply to the emissions inventories required in this section instead of any total county requirements contained in 40 CFR part 51, subpart A.

§ 51.1116 Requirements for an Ozone Transport Region.

(a) *In general.* CAA sections 176A and 184 apply for purposes of the 2008 ozone NAAQS.

(b) *RACT requirements for certain portions of an Ozone Transport Region.*

(1) The state shall submit a SIP revision that meets the RACT requirements of CAA section 184(b)(2) for all portions of the state located in an ozone transport region.

(2) The state shall submit the RACT revision no later than 24 months after designation for the 2008 ozone NAAQS and shall provide for implementation of RACT as expeditiously as practicable but no later than January 1 of the 5th year after designation for the 2008 ozone NAAQS.

§ 51.1117 Fee programs for Severe and Extreme nonattainment areas that fail to attain.

For each area classified as Severe or Extreme for the 2008 ozone NAAQS, the state shall submit a SIP revision within 10 years of the effective date of designation that meets the requirements of CAA section 185.

§ 51.1118 Suspension of SIP planning requirements in nonattainment areas that have air quality data that meet an ozone NAAQS.

Upon a determination by EPA that an area designated nonattainment for the 2008 ozone NAAQS, or for any prior ozone NAAQS, has attained the relevant standard, the requirements for such area to submit attainment demonstrations and associated reasonably available control measures, reasonable further progress plans, contingency measures for failure to attain or make reasonable progress and other planning SIPs related to attainment of the 2008 ozone NAAQS, or for any prior NAAQS for

which the determination has been made, shall be suspended until such time as: The area is redesignated to attainment for that NAAQS or a redesignation substitute is approved as appropriate, at which time the requirements no longer apply; or EPA determines that the area has violated that NAAQS, at which time the area is again required to submit such plans.

§ 51.1119 Applicability.

As of revocation of the 1997 ozone NAAQS on April 6, 2015, as set forth in § 50.10(c), the provisions of subpart AA shall replace the provisions of subpart X, §§ 51.900 to 51.918, which cease to apply except for § 51.907 for the anti-backsliding purposes of § 51.1105(c)(2). See subpart X § 51.919.

■ 8. In Appendix S to part 51, revise section IV.G.5 and add section VII to read as follows:

Appendix S to Part 51—Emission Offset Interpretative Ruling

* * * * *

IV. * * *

G. * * *

5. *Interpollutant offsetting.* In meeting the emissions offset requirements of paragraph IV.A, Condition 3 of this Ruling, the emissions offsets obtained shall be for the same regulated NSR pollutant unless interpollutant offsetting is permitted for a particular pollutant as specified in this paragraph IV.G.5.

(i) The offset requirements of paragraph IV.A, Condition 3 of this Ruling for emissions of the ozone precursors NO_x and VOC may be satisfied by offsetting reductions of emissions of either of those precursors, if all other requirements for such offsets are also satisfied.

(ii) The offset requirements of paragraph IV.A, Condition 3 of this Ruling for direct PM_{2.5} emissions or emissions of precursors of PM_{2.5} may be satisfied by offsetting reductions of direct PM_{2.5} emissions or emissions of any PM_{2.5} precursor identified under paragraph II.A.31 (iii) of this Ruling if such offsets comply with an interprecursor trading hierarchy and ratio approved by the Administrator.

* * * * *

VII. Anti-Backsliding Measures for Revoked Ozone NAAQS

Nonattainment area new source review obligations for prior ozone NAAQS.

A. Except as provided in paragraph VII.B of this Ruling, an area designated nonattainment for the 2008 ozone NAAQS and designated nonattainment for the 1997 ozone NAAQS on April 6, 2015 remains subject to the obligation to adopt and implement the major source threshold and offset ratio requirements for nonattainment NSR that apply or applied to the area pursuant to sections 172(c)(5), 173 and 182 of the Act based on the highest of: (i) The area's classification under section 181(a)(1) of the Act for the 1-hour ozone NAAQS as of

the effective date of revocation of that NAAQS; (ii) the area's classification under § 51.903 for the 1997 ozone NAAQS as of the date a permit is issued or as of April 6, 2015, whichever is earlier; and (iii) the area's classification under § 51.1103 for the 2008 ozone NAAQS.

B.1. An area remains subject to the obligations for a revoked NAAQS under paragraph (a) until either (i) the area is redesignated to attainment for the 2008 ozone NAAQS; or (ii) the EPA approves a demonstration for the area in a redesignation substitute procedure for a revoked NAAQS per the provisions of § 51.1105(b). Under this redesignation substitute procedure for a revoked NAAQS, and for this limited anti-backsliding purpose, the demonstration must show that the area has attained that revoked NAAQS due to permanent and enforceable emission reductions and that the area will maintain that revoked NAAQS for 10 years from the date of EPA's approval of this showing.

2. Effect of redesignation to attainment for 2008 ozone NAAQS or approval of a redesignation substitute for a revoked ozone NAAQS. After redesignation to attainment for the 2008 ozone NAAQS, the state may request that provisions for nonattainment NSR be removed from the SIP. After EPA approval of a redesignation substitute for a revoked NAAQS under the provisions of § 51.1105(b), the state may request that provisions for nonattainment NSR for that revoked NAAQS be removed from the SIP. Upon removal of nonattainment NSR provisions for a revoked NAAQS, the state remains subject to the obligation to adopt and implement the major source threshold and offset ratio requirements for nonattainment NSR that apply or applied to the area for the remaining applicable NAAQS consistent with paragraph VII.A of this Ruling.

■ 9. In § 51.165, revise paragraph (a)(11) and add paragraph (a)(12) to read as follows:

§ 51.165 Permit requirements.

(a) * * *

(11) The plan shall require that in meeting the emissions offset requirements of paragraph (a)(3) of this section, the emissions offsets obtained shall be for the same regulated NSR pollutant unless interprecursor offsetting is permitted for a particular pollutant as specified in this paragraph.

(i) The plan may allow the offset requirement in paragraph (a)(3) of this section for emissions of the ozone precursors NO_x and VOC to be satisfied by offsetting reductions in emissions of either of those precursors, if all other requirements for such offsets are also satisfied.

(ii) The plan may allow the offset requirements in paragraph (a)(3) of this section for direct PM_{2.5} emissions or emissions of precursors of PM_{2.5} to be satisfied by offsetting reductions in direct PM_{2.5} emissions or emissions of any PM_{2.5} precursor identified under

paragraph (a)(1)(xxxvii)(C) of this section if such offsets comply with the interprecursor trading hierarchy and ratio established in the approved plan for a particular nonattainment area.

(12) The plan shall require that in any area designated nonattainment for the 2008 ozone NAAQS and designated nonattainment for the 1997 ozone NAAQS on April 6, 2015 the requirements of this section applicable to major stationary sources and major modifications of ozone shall include the anti-backsliding requirements contained at § 51.1105.

* * * * *

■ 10. In § 51.166, revise paragraph (i)(2) to read as follows:

§ 51.166 Prevention of significant deterioration of air quality.

* * * * *

(i) * * *

(2) The plan may provide that requirements equivalent to those contained in paragraphs (j) through (r) of this section do not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is located in an area designated as nonattainment under section 107 of the Act. Nonattainment designations for revoked NAAQS, as contained in part 81 of this chapter, shall not be viewed as current designations under section 107 of the Act for purposes of determining the applicability of requirements equivalent to those contained in paragraphs (j) through (r) of this section to a major stationary source or major modification after the revocation of that NAAQS is effective.

* * * * *

■ 11. In § 51.372, revise paragraph (b)(2) to read as follows:

§ 51.372 State Implementation Plan submissions.

* * * * *

(b) * * *

(2) A SIP revision required as a result of a change in an area's designation or classification under a NAAQS for ozone, including all necessary legal authority and the items specified in paragraphs (a)(1) through (8) of this section, shall be submitted no later than the deadline for submitting the area's attainment SIP for the NAAQS in question.

* * * * *

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

■ 13. In § 52.21, revise paragraph (i)(2) to read as follows:

* * * * *

(i). * * *

(2) The requirements of paragraphs (j) through (r) of this section shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant, the source or modification is located in an area designated as nonattainment under section 107 of the Act. Nonattainment designations for revoked NAAQS, as contained in 40 CFR part 81, shall not be viewed as current designations under section 107 of the Act for purposes of determining the applicability of paragraphs (j) through (r) of this section to a major stationary source or major modification after the revocation of that NAAQS is effective.

* * * * *

PART 70—STATE OPERATING PERMIT PROGRAMS

■ 14. The authority citation for part 70 continues to read as follows:

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

■ 15. In § 70.2, under the definition of “Major source,” revise paragraphs (3)(i), (3)(iii)(A), and (3)(iv) to read as follows:

§ 70.2 Definitions.

* * * * *

Major source * * *

(3) * * *

(i) For ozone nonattainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified or treated as classified as “Marginal” or “Moderate,” 50 tpy or more in areas classified or treated as classified as “Serious,” 25 tpy or more in areas classified or treated as classified as “Severe,” and 10 tpy or more in areas classified or treated as classified as “Extreme”; except that the references in this paragraph to 100, 50, 25 and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the Administrator has made a finding, under section 182(f)(1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;

* * * * *

(iii) * * *

(A) That are classified or treated as classified as “Serious,” and

* * * * *

(iv) For particulate matter (PM-10) nonattainment areas classified or treated as classified as “Serious,” sources with the potential to emit 70 tpy or more of PM-10.

* * * * *

PART 71—FEDERAL OPERATING PERMIT PROGRAMS

■ 16. The authority citation for part 71 continues to read as follows:

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

■ 17. In § 71.2, under the definition of “*Major source*,” revise paragraphs (3)(i), (3)(iii)(A), and (3)(iv) to read as follows:

§ 71.2 Definitions.

* * * * *

Major source * * *

(3) * * *

(i) For ozone nonattainment areas, sources with the potential to emit 100 tpy or more of volatile organic compounds or oxides of nitrogen in areas classified or treated as classified as “Marginal” or “Moderate,” 50 tpy or more in areas classified or treated as classified as “Serious,” 25 tpy or more in areas classified or treated as classified as “Severe,” and 10 tpy or more in areas classified or treated as classified as “Extreme”; except that the references in this paragraph to 100, 50, 25 and 10 tpy of nitrogen oxides shall not apply with respect to any source for which the

Administrator has made a finding, under section 182(f)(1) or (2) of the Act, that requirements under section 182(f) of the Act do not apply;

* * * * *

(iii) * * *

(A) That are classified or treated as classified as “Serious,” and

* * * * *

(iv) For particulate matter (PM-10) nonattainment areas classified or treated as classified as “Serious,” sources with the potential to emit 70 tpy or more of PM-10.

* * * * *

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