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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206—AM38

Prevailing Rate Systems; Abolishment of Cumberland, ME, as a Nonappropriated Fund Federal Wage System Wage Area

AGENCY: U.S. Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The U.S. Office of Personnel Management is issuing a final rule to abolish the Cumberland, Maine, nonappropriated fund (NAF) Federal Wage System (FWS) wage area and redefine Cumberland, Kennebec, and Penobscot Counties, ME, to the York, ME, NAF wage area. Aroostook, Hancock, Knox, Sagadahoc, and Washington Counties, ME, will no longer be defined. These changes are necessary because the closure of the Naval Air Station Brunswick left the Cumberland wage area without an activity having the capability to conduct a local wage survey.

DATES: *Effective date:* This regulation is effective on November 14, 2011. *Applicability date:* This regulation applies on the first day of the first applicable pay period beginning on or after July 25, 2011.

FOR FURTHER INFORMATION CONTACT: Madeline Gonzalez, (202) 606–2838; email *pay-leave-policy@opm.gov;* or FAX: (202) 606–4264.

SUPPLEMENTARY INFORMATION: On June 2, 2011, the U.S. Office of Personnel Management (OPM) issued an interim rule (76 FR 31785) to abolish the Cumberland, Maine, nonappropriated fund (NAF) Federal Wage System (FWS) wage area and redefine Cumberland, Kennebec, and Penobscot Counties, ME, to the York, ME, NAF wage area. The Federal Prevailing Rate Advisory Committee, the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, reviewed and recommended these changes by consensus. The interim rule had a 30-day comment period, during which OPM received no comments.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

U.S. Office of Personnel Management.

John Berry,

Director.

Accordingly, under the authority of 5 U.S.C. 5343, the interim rule published on June 2, 2011, amending 5 CFR part 532 (76 FR 31785) is adopted as final with no changes.

[FR Doc. 2011–29349 Filed 11–10–11; 8:45 am]

BILLING CODE 6325–39–P

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AM37

Prevailing Rate Systems; Redefinition of the Northern Mississippi and Memphis, TN, Appropriated Fund Federal Wage System Wage Areas

AGENCY: U.S. Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The U.S. Office of Personnel Management is issuing a final rule to redefine the geographic boundaries of the Northern Mississippi and Memphis, Tennessee, appropriated fund Federal Wage System (FWS) wage areas. The final rule redefines Panola County, MS, from the Northern Mississippi wage area to the Memphis wage area. This change is based on a consensus recommendation of the Federal Prevailing Rate Advisory Committee (FPRAC) to best match Panola County to a nearby FWS survey area. FPRAC did not recommend other changes for the Northern Mississippi and Memphis FWS wage areas at this time.

DATES: This regulation is effective on December 14, 2011.

FOR FURTHER INFORMATION CONTACT: Madeline Gonzalez, (202) 606–2838; email *pay-leave-policy@opm.gov*; or FAX: (202) 606–4264.

SUPPLEMENTARY INFORMATION: On June 2, 2011, the U.S. Office of Personnel Management (OPM) issued a proposed rule (76 FR 31885) to redefine Panola County, MS, from the Northern Mississippi wage area to the Memphis, TN, wage area. The proposed rule had a 30-day comment period during which OPM received no comments.

The Federal Prevailing Rate Advisory Committee (FPRAC), the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, recommended this change by consensus. FPRAC recommended no other changes in the geographic definitions of the Northern Mississippi and Memphis wage areas.

CFR Correction

In addition, this final rule corrects the name of the Southern Colorado wage area in Appendix C to subpart B of part 532—Appropriated Fund Wage and Survey Areas, which was incorrectly entered as Southwestern Colorado in a final rule issued on July 22, 2011 (76 FR 43803).

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

U.S. Office of Personnel Management.

John Berry,

Director.

Accordingly, the U.S. Office of Personnel Management amends 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

■ 1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

Appendix C to Subpart B of Part 532—Appropriated Fund Wage and Survey Areas

■ 2. Appendix C to subpart B is amended as follows:

■ a. By removing, under the State of Colorado, ''Southwestern Colorado'' and adding in its place ''Southern Colorado.''

■ b. By revising the wage area listings for the Northern Mississippi and Memphis, TN, wage areas to read as follows:

* * * * *

MISSISSIPPI

* * * * *

Northern Mississippi

Survey Area

Mississippi:
- Clay
- Grenada
- Lee
- Leflore
- Lowndes
- Monroe
- Oktibbeha

Area of Application. Survey area plus:

Mississippi:
- Alcorn
- Bolivar
- Calhoun
- Carroll
- Chickasaw
- Choctaw
- Coahoma
- Itawamba
- Lafayette (Does not include the Holly Springs National Forest portion)
- Montgomery
- Noxubee
- Pontotoc (Does not include the Holly Springs National Forest portion)
- Prentiss
- Quitman
- Sunflower
- Tallahatchie
- Tishomingo
- Union (Does not include the Holly Springs National Forest portion)
- Washington
- Webster
- Winston
- Yalobusha

* * * * *

TENNESSEE

* * * *

Memphis

Survey Area

Arkansas:
- Crittenden
- Mississippi

Mississippi:
- De Soto

Tennessee:
- Shelby
- Tipton

Area of Application. Survey area plus:

Arkansas:
- Craighead
- Cross
- Lee
- Poinsett
- St. Francis

Mississippi:
- Benton
- Lafayette (Holly Springs National Forest portion only)
- Marshall
- Panola
- Pontotoc (Holly Springs National Forest portion only)
- Tate
- Tippah
- Tunica
- Union (Holly Springs National Forest portion only)

Missouri:
- Dunklin
- Pemiscot

Tennessee:
- Carroll
- Chester
- Crockett
- Dyer
- Fayette
- Gibson
- Hardeman
- Hardin
- Haywood
- Lake
- Lauderdale
- Madison
- McNairy
- Obion

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[FR Doc. 2011–29277 Filed 11–10–11; 8:45 am]

BILLING CODE 6325–39–P

FEDERAL ELECTION COMMISSION

5 CFR Chapter XXXVII

11 CFR Parts 7 and 201

[Notice 2011–16]

RIN 3209–AA15

Standards of Conduct

AGENCY: Federal Election Commission.

ACTION: Final rules.

SUMMARY: The Federal Election Commission (''Commission'' or ''FEC''), with the concurrence of the Office of Government Ethics (''OGE''), is revising the Commission's ''Standards of Conduct,'' which are the FEC rules that govern the conduct of Commissioners and Commission employees. The new rules update the Commission's regulations to reflect statutory changes enacted after the Standards of Conduct were originally promulgated in 1986, and to conform them to regulations issued by OGE and the Office of Personnel Management (''OPM''). In addition to the revisions to the FEC's Standards of Conduct, the Commission, with OGE's concurrence, is issuing regulations that supplement the Standards of Ethical Conduct for Employees of the Executive Branch issued by OGE. These supplemental regulations address outside employment of Commissioners and Commission employees. The new rules are unchanged from the rules presented in the Notice of Proposed Rulemaking.

DATES: *Effective Date:* December 14, 2011.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Knop, Assistant General Counsel, or Mr. Anthony T. Buckley, Attorney, 999 E Street NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION:

I. Background

The Ethics Reform Act of 1989 [1] includes restrictions on gifts, travel, outside activities, and outside employment. *See* Public Law No. 101–194, tit. III and VI, 103 Stat. 1716 (1989). It authorizes the Office of Government Ethics (''OGE'') to implement regulations concerning the conduct of executive branch employees. *See* 5 U.S.C. 7351(c). OGE issued a final rule setting forth uniform standards of ethical conduct and an interim final rule on financial disclosure in 1992, followed by a final rule on financial interests in 1996. These rules apply to all executive branch departments and agencies of the Federal Government and their employees. These three executive branch-wide regulations, as corrected and amended, are codified at 5 CFR parts 2634, 2635, and 2640.[2] The Federal Election Campaign Act of 1971, as amended, 2 U.S.C. 431 *et seq.* (''the Act''), in part, restricts the activities of members of the Federal Election Commission and the Commission's

[1] Public Law 101–194, 103 Stat. 1716 (1989).

[2] Shortly before Congress passed the Ethics Reform Act of 1989, the President issued Executive Order 12674, which sets forth basic principles of ethical conduct for Federal employees and requires OGE to promulgate ''regulations that establish a single, comprehensive, and clear set of executive-branch standards of conduct.'' E.O. 12674, 54 FR 15159, 15160 (Apr. 12, 1989). This Executive Order was later modified. E.O. 12731, 55 FR 42547 (Oct. 17, 1990). OGE's regulations also implement Executive Order 12674, as modified by Executive Order 12731.

employees. *See* 2 U.S.C. 437c(a)(3) and 437g(a)(12)(A).

The OGE Standards of Ethical Conduct regulations supersede any standards of conduct regulations previously issued by Federal agencies and therefore supersede, with some exceptions, the Commission's former regulations in 11 CFR part 7. Although agencies may still issue regulations to supplement OGE's Standards of Ethical Conduct in order to accommodate specific agency needs, any such regulations must be issued in accordance with OGE's rules, and must be submitted to OGE for prior approval. *See* 5 CFR 2635.105(a) and (b). Agencies may, however, retain any regulations based on their own separate statutory authority or that address different, non-ethics matters.

OGE's Standards of Ethical Conduct regulations address gifts from outside sources, gifts between employees, conflicting financial interests, impartiality in performing official duties, pursuit of other employment, misuse of position, and outside employment and activities. *See* 5 CFR part 2635.

In addition to OGE's Standards of Ethical Conduct regulations, Commission employees are subject to certain rules issued by the Office of Personnel Management (''OPM'') concerning employee responsibilities and conduct. *See* 5 CFR part 735. These rules address restrictions on certain gambling activities, conduct prejudicial to the government, and unauthorized examination training for individuals preparing to take civil and Foreign Service examinations. *See* 5 CFR part 735.

The Commission and OGE have determined that the following supplemental regulations are necessary and appropriate in view of the FEC's programs and operations and to fulfill the purposes of the OGE standards. These supplemental regulations are being issued in new chapter XXXVII of title 5 of the Code of Federal Regulations. In addition, the FEC is revising its regulations at 11 CFR part 7 to conform to the OGE and OPM regulations, without compromising the Commission's independence in its core mission of administering Federal campaign finance laws.

On May 17, 2010, the Commission and OGE jointly published a Notice of Proposed Rulemaking in the **Federal Register**. *See* Notice of Proposed Rulemaking on Standards of Conduct, 75 FR 27456 (May 17, 2010) (''NPRM''). The comment period closed on June 16, 2010. Two comments were received in response to the proposed rules.[3] The Internal Revenue Service submitted a comment stating that it did not find any conflict between the Internal Revenue Code or Treasury Regulations and the proposed rules. One other commenter submitted comments addressing certain aspects of the proposed regulations. These comments are addressed in the discussion below.

Transmittal of Final Rules to Congress

Under the Administrative Procedure Act, 5 U.S.C. 553(d), and the Congressional Review of Agency Rulemaking Act, 5 U.S.C. 801(a)(1), agencies must submit final rules to the Speaker of the House of Representatives and the President of the Senate, and publish them in the **Federal Register** at least thirty calendar days before they take effect. The final rules that follow were transmitted to Congress on November 4, 2011.

II. Statement of Basis and Purpose

The Commission, with the concurrence of OGE, is amending the rules that govern the conduct of members of the Commission (''Commissioners'') and Commission employees by adding supplemental regulations in a new chapter XXXVII of 5 CFR, consisting of part 4701, and by revising the Commission's Standards of Conduct in 11 CFR part 7.

FEC Supplemental Regulations in 5 CFR Part 4701

5 CFR 4701.101—Scope

New section 4701.101 sets forth the authority for the supplemental regulations, which includes 2 U.S.C. 437c(a)(3), 5 U.S.C. 7301, and 5 U.S.C. App. (Ethics in Government Act of 1978). Section 4701.101(a) indicates that the regulations in 5 CFR part 4701 apply to both Commissioners and employees of the Commission. The rules at 5 CFR 4701.101(b) list some of the other regulations in title 5 and 11 CFR part 7 that govern the ethical conduct of Commissioners and employees. No public comments were received on this section.

5 CFR 4701.102—Prior approval for certain outside employment and activities

OGE's Standards of Ethical Conduct regulations supersede the Commission's former regulation at 11 CFR 7.9(f) concerning prior approval for outside employment and activities. OGE's regulations prohibit an employee from engaging in outside employment or any other outside activity that conflicts with their official duties. 5 CFR 2635.802. A Federal agency shall, by supplemental regulation, require employees or any category of employees to obtain prior approval before engaging in specific types of outside activities, including outside employment, if that agency determines that a prior approval requirement is necessary or desirable for the purpose of administering the agency's ethics program. 5 CFR 2635.803.

The Commission has determined that an approval requirement for outside employment or activities is necessary, desirable and appropriate to the administration of its ethics program because the approval requirement has been effective in ensuring that the outside employment and activities of its employees conform to all applicable laws and regulations. Therefore, the Commission, with the concurrence of OGE, is renewing its requirement for prior approval of certain outside employment and activities by issuing this supplemental regulation at 5 CFR 4701.102 in accordance with 5 CFR 2635.803.

Section 4701.102 differs significantly from former 11 CFR 7.9(f). The major difference is in the far narrower scope of the outside employment and activities covered by the new regulation. Former 11 CFR 7.9(f) required Commission employees to obtain prior approval for *all* outside employment and activities. The term ''outside employment or other outside activity'' was defined broadly at former 11 CFR 7.2(h) to include ''any work, service or other activity performed by an employee.'' In contrast, 5 CFR 4701.102 requires prior approval from the Designated Agency Ethics Official (''DAEO'') only for outside activities that are related to the employee's official duties or that involve the application of the same specialized skills or the same educational background as used in the performance of the employee's official duties. This new rule, which draws on portions of prior approval regulations adopted by several other Federal agencies with OGE concurrence, is narrowly tailored to address agency concerns, while reducing the administrative burdens placed on employees. *See, e.g.,* 5 CFR 3801.106 (Department of Justice), 5 CFR 4501.103 (OPM), 5 CFR 6301.102 (Department of Education), and 5 CFR 8601.102 (Federal Retirement Thrift Investment Board).

New 5 CFR 4701.102(a) sets out the definitions of the terms used in 5 CFR

[3] Copies of submitted comments are available on the Commission's Web site. Go to *http://sers.nictusa.com/fosers/* and search for REG number 2003–01.

4701.102(b). The definitions of ''active participant,'' ''employee,'' and ''related to the employee's official duties'' refer back to the definitions of these terms used in the general standards of conduct regulations issued by OGE.

Section 4701.102(a)(2) follows the definition of ''employee'' in OGE's regulation at 5 CFR 2635.102(h), which includes ''any officer or employee of an agency.'' This definition includes Commissioners. However, section 4701.102(b) excludes Commissioners from its procedures. Section 437c(a)(3) of the Act itself restricts outside activities of Commissioners. *See* 2 U.S.C. 437c(a)(3).[4] As discussed below, regulations implementing Section 437c(a)(3) were located in former 11 CFR 7.9, and are being moved to 11 CFR 7.6 as part of this rulemaking.

Section 4701.102(a)(3) defines ''outside employment'' to mean any form of non-Federal employment, business relationship or activity involving the provision of personal services, with or without compensation. The definition provides a non-exhaustive list of services such as serving as a lawyer, officer, director, trustee, agent, consultant, contractor, general partner, teacher, speaker, writer, or any other services provided by an individual. This definition of ''outside employment'' is similar to those adopted by other Federal agencies and covers a broad range of outside employment and activities in which a Commission employee may seek to engage. *See, e.g.,* 5 CFR 3801.106 (Department of Justice) and 5 CFR 5701.101 (Federal Trade Commission). Notably, this definition of ''outside employment'' includes unpaid activity which may not conform to the usual understanding of ''employment.''

Section 4701.102(b) states that a Commission employee other than a special Government employee[5] must obtain prior, written approval from the DAEO before engaging in outside employment or activities where the services provided are related to the employee's official duties or involve the application of the same specialized skills or the same educational background as used in the performance of the employee's official duties. Accordingly, Commission employees are required to obtain prior, written approval only when they seek to engage in outside employment or activities that are related, in one of those respects, to their official duties. For example, a Commission attorney wishing to engage in weekend employment as a salesperson for a retail organization need not seek prior approval because such employment would not be related to his or her official duties or involve the application of the same specialized skills or educational background as used in his or her position at the Commission. In contrast, a Commission attorney wishing to represent a relative in a lawsuit filed against a private party in State court *would* need to seek prior approval because such representation would involve the application of the same specialized skill or same educational background as used in his or her position with the Commission.

One comment argued that the prior approval requirement would be overbroad in that approval would be required for many activities that obviously do not conflict with Federal employment or law. Consequently, according to the comment, the requirement may deter employees from participating in community activities or cause a greater administrative burden in having to process so many requests. This comment also faulted the rule for not specifying how the employer will determine if an outside activity involves the same specialized skills or educational background. The comment suggested that the requirement should be eliminated.

The Commission disagrees with the comment because the scope of activities in the revised rules for which prior approval is required is considerably narrower than the scope of activities in the former regulations, which required prior approval for *any* potential outside employment. Thus, there will likely be fewer requests for the DAEO to handle. Further, the requirement to seek prior approval is not intended to prevent Commission employees from engaging in outside activities; rather, it is merely intended to help employees avoid potential conflicts with their jobs at the Commission.[6]

Finally, the Commission has determined that the ''same specialized skills and educational background'' standard is well suited for reviewing outside activities. The previous standard, in which all outside activities were reviewed, was overly broad and unduly burdensome. On the other hand, although the regulation also requires employees to seek approval for outside activities that ''relate to their official duties,'' limiting the preapproval requirement to those activities would be too narrow. Such a limitation would exclude from the review and prior approval process activities that have little or nothing to do with an employee's work, but may nevertheless result in criminal or administrative violations due to the employee's employment status. For instance, attorney employees may not represent persons before Federal courts or other Federal agencies. *See* 18 U.S.C. 203 and 205 (prohibiting representation by Federal employees in matters involving the United States or District of Columbia). Similarly, Audit staff may not communicate with the Internal Revenue Service on behalf of persons being audited. *See* 18 U.S.C. 203. The Commission has determined that requiring prior approval for those activities that use the same specialized skills or educational background is the least burdensome standard for employees and the Commission that still ensures that employees receive the guidance they need to avoid potential conflicts with their jobs at the Commission.

Section 4701.102(c) establishes the procedure for the submission of approval requests to the DAEO. It requires that the request be submitted through all of the employee's supervisors. For purposes of this section, the Staff Director, the General Counsel, the Inspector General, the Chief Financial Officer, a Commissioner, or the Commission, respectively, are considered the final level of supervision for their subordinates. A request needs to provide certain information, including the identity of the person, group, or organization for which the employee intends to provide services.

One comment expressed concern that the new regulations would require employees to obtain the approval of all supervisors before commencing outside employment. However, section 4701.102(c) requires only that employees *submit* their requests

[4] Section 437c(a)(3) states that Commissioners ''shall not engage in any other business, vocation, or employment.''

[5] ''Special Government employee'' is defined at 5 CFR 2635.102(l). Special Government employees are temporary or part-time employees hired to provide expertise about the industry in which they work. Such special Government employees are expected to have outside employment, and it is unnecessary to require them to seek prior approval for such outside employment.

[6] To this end, for example, the Commission's Office of the General Counsel has developed a Policy on Pro Bono Legal Activities. This Policy states, in part, that ''it is the policy of the Office of General Counsel to encourage and support efforts by its employees to provide pro bono legal services within their communities that are consistent with applicable federal statutes and regulations governing conflicts of interest and outside activities.'' The Policy also provides for pre-approval of certain non-representational pro bono services, such as providing advice at walk-in legal clinics or assisting individuals with filling out governmental forms, which employees may engage in without prior approval (after notifying the Commission's ethics officer and their supervisor).

through all of their supervisors. The only person with the authority to approve or disapprove the request is the DAEO. *See* 5 CFR 4701.102(b). The purpose of having the employee submit the request through his or her supervisory chain is to alert these supervisors to the request so that they can provide the DAEO with relevant information, where necessary, about the employee's present job duties and likely future assignments. Such additional information is sometimes necessary for the DAEO to make an accurate determination about the request pursuant to section 4701.102(d), and to provide appropriate guidance to the employee for the purpose of avoiding potential conflicts with his or her job duties at the Commission.

Section 4701.102(d) sets forth the standard for the DAEO's approval of an employee's request regarding outside employment or activity, which was not in former 11 CFR 7.9(f). Approval will be granted only upon a determination that the outside employment or activity is not expected to involve conduct prohibited by statute or Federal regulations. In making this determination, the regulations to be considered include those at 5 CFR part 2635. Therefore, the approval will depend on whether the outside employment or activity: (1) Would create conflicting financial interests, (2) would result in a lack of impartiality in performing official duties or the misuse of Government position, and (3) would otherwise comply with 5 CFR part 2635. The Commission also intends to develop appropriate internal procedural guidelines, consistent with the regulations adopted here, to address the processing of requests for prior approval of outside employment or activities by agency employees.

The comment also objected to the use of the phrase ''expected to,'' arguing that it is too broad and subjective, failing to specify an exact standard. The comment further proposed the standard that ''approval shall be granted only upon a determination that the outside employment does not involve conduct prohibited by statute or Federal regulation including 5 CFR part 2635'' as an alternative.

The language the Commission is adopting is an appropriate standard, having been adopted by numerous other Federal departments and agencies. *See, e.g.,* 5 CFR 3801.106(b)(3) (Department of Justice), 5 CFR 4501.103(c) (OPM), and 5 CFR 8601.102(b) (Federal Thrift Retirement Investment Board). Moreover, the phrase ''expected to'' is not intended to introduce any element of subjectivity or uncertainty. It merely recognizes that the activity for which approval is sought has yet to take place, and that a determination by the DAEO will be made based on the information as provided by the employee, not on information that is not provided, or on subsequent changes to the scope of an activity that occur after the employee enters into it. *Cf.* 5 CFR 2635.107(b) (employee must make full disclosure of all relevant circumstances in order to invoke protection from disciplinary action based on good faith reliance on advice of agency ethics official). Indeed, 5 CFR part 2635, in part, employs the ''expected to'' standard. *See* 5 CFR 2635.802(b), Example 2.[7]

FEC Standards of Conduct in 11 CFR Part 7

The Act authorizes the Commission to promulgate regulations addressing certain conduct of its members and its employees. Pursuant to this authority, the Commission is promulgating the following rules in 11 CFR part 7: (1) 11 CFR 7.1 (purpose and applicability), (2) 7.2 (definitions), (3) 7.3 (interpretation and advisory service), (4) 7.4 (reporting suspected violations), (5) 7.5 (corrective actions), (6) 7.6 (outside employment and activities of Commissioners), (7) 7.7 (prohibition against making complaints and investigations public), and (8) 7.8 (ex parte communications in enforcement actions). Details of these provisions are discussed below.

Many of the Commission's former regulations in 11 CFR part 7 have been supplanted by OGE's regulations. These regulations include: (1) Portions of former 11 CFR 7.1 (purpose and applicability), former 11 CFR 7.3 (notification to employees and special Commission employees), former 11 CFR 7.7 (prohibited conduct—general), former 11 CFR 7.8 (gifts, entertainment, and favors), portions of former 11 CFR 7.9 (outside employment or activities), former 11 CFR 7.10 (financial interests), former 11 CFR 7.12 (membership in associations), former 11 CFR 7.13 (use of Government property), former 11 CFR 7.16 (miscellaneous statutory provisions), and former 11 CFR 7.17–7.21 (comprising Subpart C, which addressed special Commission employees). Accordingly, the Commission is removing the supplanted regulations from the Commission's Standards of Conduct in 11 CFR part 7.

The Commission's regulation at former 11 CFR 7.11 concerning political activity by Commissioners and Commission employees was supplanted by the Hatch Act Reform Amendments of 1993. *See* Public Law 103–94, 107 Stat. 1001 (1993). Therefore, the Commission is removing former section 7.11. *See* discussion below.

The Commission's regulations at former 11 CFR part 7, subpart D (composed of sections 7.22–7.33), addressed post-employment conflicts of interest and procedures for administrative enforcement proceedings. The statutory authorization for these regulations has been removed. *See* 18 U.S.C. 216(j). Therefore, the Commission is removing 11 CFR part 7, subpart D. *See* discussion below.

The regulations that the Commission is retaining and revising are redesignated. The following chart lists the removals, revisions, and redesignations for 11 CFR part 7.

Former 11 CFR section	Action	Redesignated 11 CFR section	Supplanted by 5 CFR section
7.1(a)	Removed as supplanted		2635.101.
7.1(b)[8] & (c)	Removed as supplanted		2635.102(h).
7.1(b)[9]	Revised	7.1(a) and (b)	
7.2	Revised	7.2	
7.3	Removed as supplanted		2638.701–2638.706.
7.4	Revised and redesignated	7.3	
7.5	Revised and redesignated	7.4	
7.6	Revised and redesignated	7.5	
7.7	Removed as supplanted		2635.101.
7.8	Removed as supplanted		2635.201–2635.205.[10]
7.9(a)	Revised and redesignated	7.6	

[7] The Commission also notes that it received a request from the union that represents some agency employees seeking to bargain over certain aspects of the prior approval regulation at 5 CFR 4701.102.

Former 11 CFR section	Action	Redesignated 11 CFR section	Supplanted by 5 CFR section
7.9(b)–(f)	Removed as supplanted		2635.801–2635.809[11]
7.10	Removed as supplanted		2635.401–2635.403.[12]
7.11	Removed as supplanted		Hatch Act Amendments.
7.12	Removed as supplanted		2635.402.[13]
7.13	Removed as supplanted		2635.704.
7.14	Revised and redesignated	7.7	
7.15	Revised and redesignated	7.8	
7.16	Removed as supplanted		2635.901–2635.902.
7.17–7.21	Removed as supplanted		2635.102(h).[14]
7.22–7.33	Removed as supplanted		18 U.S.C. 207.

A. 11 CFR 7.1—Scope

Section 7.1(a) states that the regulations in 11 CFR part 7 apply to all members and employees of the Commission. Section 7.1(b) lists the other regulations in title 5 of the Code of Federal Regulations, including new 5 CFR part 4701, that now govern the ethical conduct of Commissioners and employees. Former 11 CFR 7.1(b), which stated that the regulations in 11 CFR part 7 apply to all employees and ''special Commission employees,'' is being removed. As explained below, 11 CFR 7.2(d) includes ''special Government employees'' in the definition of ''employee.'' Although the Commission's former regulations used the term ''special Commission employee,'' the revised regulation uses the term ''special Government employee'' as defined at 5 CFR 2635.102(l) in order to better conform to OGE terminology. Because revised 11 CFR 7.1(a) states that the regulations in 11 CFR part 7 apply to all Commission employees, which includes special Government employees, former paragraph (b) is no longer necessary and is being removed. Former 11 CFR 7.1(c), which stated that the regulations in 11 CFR part 7 must be construed in accordance with any applicable laws, regulations, and the Commission's Labor-Management Agreement is being removed because it is unnecessary. No public comments were received on this section.

B. 11 CFR 7.2—Definitions

Section 7.2 continues to set forth the definitions used in 11 CFR part 7. The definition of ''Commission'' in 11 CFR 7.2(a) remains unchanged. The definition of ''Commissioner'' in 11 CFR 7.2(b) is being revised slightly. Whereas former paragraph (b) of 11 CFR 7.2 defined ''Commissioner,'' in part, as ''a *voting* member of the Federal Election Commission,'' revised 11 CFR 7.2(b) deletes the word ''voting'' from the definition. The word ''voting'' is not necessary because the Commission no longer includes non-voting members.[15] This definition includes a Commissioner who holds his or her position by virtue of a recess appointment.

The definition of ''conflict of interest'' in former section 7.2(c) is being removed. Instead, the Commission relies on OGE regulations and regulatory definitions regarding conflicts of interest, except for the provisions in 11 CFR 7.6 governing outside employment and activities of Commissioners. *See, e.g.,* 5 CFR 2635.801–2635.809. Because section 7.6 does not use the term ''conflict of interest,'' a definition of that phrase specific to 11 CFR part 7 is no longer needed.

The terms ''Designated Agency Ethics Officer'' and ''Ethics Officer'' in former 11 CFR 7.2(d) are being replaced with the term ''Designated Agency Ethics Official'' in section 7.2(c) and throughout part 7. *See* 11 CFR 7.3, 7.4, and 7.5. These changes make the Commission's regulations consistent with OGE's regulations at 5 CFR 2638.104. Section 7.2(c) also includes a provision from former 11 CFR 7.4 stating that the Commission's General Counsel serves as the Designated Agency Ethics Official.

In revised 11 CFR 7.2(d), the definition of ''employee'' is being moved from former 11 CFR 7.2(e) and is being amended to include a ''special Government employee as defined in 18 U.S.C. 202(a).'' OGE regulations at 5 CFR 2635.102(h) include ''special Government employee'' within the general definition of ''employee,'' thus subjecting special Government employees to the same Standards of Conduct as other employees, with certain limitations. Revised section 7.2(d) operates similarly.

Section 7.2(e) defines ''*ex parte* communication'' for the purposes of 11 CFR part 7. This definition is based on the definition of ''*ex parte* communication'' at 11 CFR 201.2(a) applicable to non-enforcement situations.[16] Like that definition, section 7.2(e) defines ''*ex parte* communication'' as any written or oral communication by any person outside the agency to any Commissioner or any member of any Commissioner's staff, but not to any other Commission employee, that imparts information or argument regarding prospective Commission enforcement action or potential action concerning any pending enforcement matter. Like Commission regulations at 11 CFR 111.22 and part 201, the definition in section 7.2(e) is limited to Commissioners and their staff members because the Commissioners are empowered to make decisions on enforcement matters, and their staff members are their confidential assistants on these matters. The Commission notes that ''matter'' as used in the revised rule includes enforcement Matters Under Review, Administrative Fines, and Alternative Dispute Resolution cases (''ADR''). *See also* discussion of 11 CFR 7.8 below.

Section 7.2(f) defines the term ''Inspector General.'' The definitions of

[8] Part of former 11 CFR 7.1(b) included special Government employees. *See also* 11 CFR 7.2(d).

[9] Part of former 11 CFR 7.1(b) explained that 11 CFR part 7 applies to Commission members and employees.

[10] *See also* 5 CFR 2635.301–2635.304.

[11] *See also* 5 CFR part 4701.

[12] *See also* 5 CFR 2635.501–2635.503 and 2635.703.

[13] *See also* 5 CFR 2635.502, 2635.704–2635.705, and discussion below.

[14] *See also* 11 CFR 7.2(d) (including special Government employees).

[15] Prior to 1993, the Secretary of the Senate and the Clerk of the House of Representatives served as non-voting ''ex-officio'' members of the Commission. These positions were, however, found to be in violation of the Constitution's separation of powers doctrine in *FEC* v. *NRA Political Victory Fund,* 6 F.3d 821 (DC Cir. 1993), *cert. dismissed for want of jurisdiction,* 513 U.S. 88 (Dec. 6, 1994).

[16] The treatment of *ex parte* communications in enforcement matters is addressed in 11 CFR 111.22. The treatment of *ex parte* communications in audits, rulemakings, advisory opinions, public funding cases, and litigation matters is covered by 11 CFR part 201.

''former employee,'' ''official responsibility,'' ''person,'' and ''special Commission employee'' at former 11 CFR 7.2(f), (g), (i), and (j), respectively, are being removed from section 7.2 as these definitions are no longer necessary. In addition, paragraph (h) of former 11 CFR 7.2 defining ''outside employment or other outside activity'' is being removed. Because the Commission is replacing much of former 11 CFR 7.9 (outside employment or activities by Commission employees) with a supplemental regulation at 5 CFR 4701.102, paragraph (h) of former 11 CFR 7.2 defining ''outside employment or other outside activity'' is now superfluous.

No public comments were received on this section.

C. 11 CFR 7.3—Interpretation and Guidance

Section 11 CFR 7.3 is a revised version of former 11 CFR 7.4, which addressed the provision of interpretation and guidance to Commissioners and employees. Specifically, under section 7.3(a), Commissioners and employees may seek interpretation and guidance related to 5 CFR parts 735, 2634, 2635, 2640, and 4701 from the DAEO. Paragraph (b) clarifies that the DAEO, a Commissioner, or an employee may request an opinion from the Director of OGE concerning interpretations of 5 CFR parts 2634, 2635, or 2640. No public comments were received on this section.

D. 11 CFR 7.4—Reporting Suspected violations

Section 7.4, which is a revised version of former 11 CFR 7.5, addresses the reporting of suspected violations of the FEC's Standards of Conduct and OGE's Standards of Ethical Conduct. Section 7.4 requires the reporting of suspected violations of 5 CFR parts 735, 2634, 2635, 2640, and 4701, and 11 CFR part 7 to the DAEO, the Inspector General, or other appropriate law enforcement authorities. No public comments were received on this section.

E. 11 CFR 7.5—Corrective Action

Section 7.5 informs employees that a violation of the FEC's Standards of Conduct or OGE's Standards of Ethical Conduct may be cause for appropriate corrective action, disciplinary action, or adverse action, in addition to any penalty prescribed by law, including criminal penalties. This section is based on former section 7.6(a). Procedures for taking corrective, disciplinary, and adverse actions are set forth in other authority. Accordingly, the procedures in former section 7.6(b) and (c) are no longer necessary and are being deleted. No public comments were received on this section.

F. 11 CFR 7.6—Outside Employment and Activities by Commissioners

Section 7.6 addresses outside employment and activities of Commissioners.[17] FECA provides authority for additional restrictions on Commissioners' outside employment and activities. *See* 2 U.S.C. 437c(a)(3).

Section 7.6, which retains the approach of the former rule at 11 CFR 7.9(a), states that no Commissioner may devote a substantial portion of his or her time to any other business, vocation, or employment. This regulation retains the former rule's allowance of a ninety-day period for a Commissioner, following the start of Commission service, to limit such activity.

As noted in the 1986 Explanation and Justification for the prior rule on Commissioners' outside activities, the use of the words ''substantial portion'' of a Commissioner's time to trigger the regulation's prohibitions is based on the legislative history of 2 U.S.C. 437c(a)(3). *See* Explanation and Justification for Final Rules on Standards of Conduct for Agency Employees, 51 FR 34440, 34442 (Sept. 29, 1986). The Conference Report that accompanied the 1976 amendments to FECA discusses 2 U.S.C. 437c(a)(3): ''[T]he conferees agree that the requirement is intended to apply to members who devote a substantial portion of their time to such business, vocation, or employment activities.'' H.R. Rep. No. 94–1057, at 34 (1976) (Conf. Rep.), *reprinted in* Legislative History of Federal Election Campaign Act Amendments of 1976, at 1028 (1977). This rule continues this interpretation. No public comments were received on this section.

G. 11 CFR 7.7—Prohibition Against Making Complaints and Investigations Public

Pursuant to section 111.21 of the Commission's rules, which implements section 437g(a)(12)(A) of the Act, and with the exception of Commission actions described in section 111.20, ''no complaint filed with the Commission, nor any notification sent by the Commission, nor any investigation conducted by the Commission, nor any findings made by the Commission shall be made public by the Commission or by any person or entity without the written consent of the respondent with respect to whom the complaint was filed, the notification sent, the investigation conducted, or the finding made.'' 11 CFR 111.21(a); 2 U.S.C. 437g(a)(12)(A). Section 7.7 derives its authority from 2 U.S.C. 437g(a)(12)(A). This rule follows former 11 CFR 7.14. The Commission is making one non-substantive change by removing the phrase ''are warned that they'' from paragraph 7.7(a). The language is unnecessary because the text of the paragraph itself serves as a warning.

No public comments were received on this section.

H. 11 CFR 7.8—Ex Parte Communications in Enforcement Actions

Section 7.8, which is a revised version of former 11 CFR 7.15, addresses *ex parte* communications made in the context of enforcement actions. In particular, section 7.8 prohibits the making or consideration of *ex parte* communications by Commissioners and any member of a Commissioner's staff, except as otherwise required by law.[18] Former 11 CFR 7.15 applied to Commissioners and ''employees involved in the decisional process.'' The revisions to this section were made to conform 11 CFR 7.8 to the *ex parte* rules in 11 CFR 111.22 and part 201. *See also* discussion of 11 CFR 7.2(e), above. Section 7.8 also contains nonsubstantive revisions from paragraphs (a), (c), and (d) of former section 7.15. For clarity, the Commission has added new paragraph (e) of section 7.8, which references the provisions of 11 CFR 111.22 governing *ex parte* communications made in connection with Commission enforcement actions, and 11 CFR part 201, governing *ex parte* communications made in connection with public funding, audits, litigation, rulemakings, and advisory opinions. Paragraph 7.8(e) is intended to assist the reader in locating additional rules regarding *ex parte* communications in enforcement actions, audits, litigation, rulemakings, and advisory opinions.

No public comments were received on this section.

[17] Outside activities of all FEC employees are addressed in OGE's Standards of Ethical Conduct at 5 CFR 2635.801–2635.809, which, when the standards became effective in February 1993, superseded the Commission's former regulations at 11 CFR 7.9(b)–(f). Commissioners are subject to additional limitations on outside activities as described in 11 CFR 7.6 and 2 U.S.C. 437c(a)(3).

[18] Please note that this includes shared staff as described in Commission Directive 64. Directive 64 can be found here: *http://www.fec.gov/directives/directive_64.pdf.*

I. Removal of 11 CFR 7.11—Political and Organization Activity

The Hatch Act Reform Amendments of 1993 [19] lifted many of the restrictions imposed by the original Hatch Act on most Federal employees with regard to participation in political campaigns. However, Congress specifically addressed the FEC in the Hatch Act Amendments and left all of the original Hatch Act's restrictions in place for employees of the Commission, other than Commissioners. *See* 5 U.S.C. 7323(b)(1) and (2). In contrast to the Commissioners, Commission employees may not give a political contribution to a Member of Congress, an employee of the Executive Branch (other than the President or Vice President), or an officer of a uniformed service. 5 U.S.C. 7323(b)(1). Additionally, Commission employees may not ''take an active part in political management or political campaigns.'' 5 U.S.C. 7323(b)(2)(A).

The Hatch Act, as amended, prohibits certain political activities by Commissioners such as (1) Using official authority or influence to interfere with an election, (2) knowingly soliciting or discouraging political activity by anyone subject to a Commission audit or investigation, (3) soliciting or receiving political contributions (except in certain, narrowly limited circumstances), or (4) being a candidate for public office in a partisan election. 5 U.S.C. 7323(a).

OPM has authority to issue regulations regarding the Hatch Act Amendments, and the Office of Special Counsel (''OSC'') interprets and enforces those regulations. *See* 5 U.S.C. 1103(a)(5), 1212, 1216(a)(1) and 7325. No provision in the Hatch Act Amendments empowers any agency other than OPM to issue regulations pursuant to the Hatch Act Amendments, and no provision in FECA directly refers to the Hatch Act Amendments or previous Hatch Act restrictions. OPM has issued a regulation expressly prescribing the extent to which the political activities of employees may be limited beyond the restrictions in the Hatch Act Amendments. *See* 5 CFR 734.104. This OPM regulation states: ''No further proscriptions or restrictions may be imposed upon employees covered under this regulation except: (a) Employees who are appointed by the President by and with the advice and consent of the Senate; (b) Employees who are appointed by the President; (c) Non-career senior executive service members; (d) Schedule C employees, 5 CFR 213.3301, 213.3302; and (e) Any other employees who serve at the pleasure of the President.'' 5 CFR 734.104.

The Commission requested and received an advisory opinion from the OSC as to the scope of the Commission's authority to interpret the Hatch Act Amendments regarding Commissioners and Commission employees.[20] The specific question asked was whether the Commission may adopt a regulation that would forbid a Commissioner or a Commission employee from publicly supporting, working for, or contributing to a candidate, political party, or political committee subject to the jurisdiction of the FEC, even if, in the case of public support, the activity is not done in concert with the candidate, political party, or political committee. In its opinion, the OSC noted the OPM regulations cited above and stated with respect to employees that ''the FEC cannot further restrict the political activity of its regular employees by forbidding them from publicly supporting or contributing to a candidate, political party, or political committee subject to the jurisdiction of the Commission.'' U.S. Office of Special Counsel Advisory Opinion, OSC File No. AD–03–0095, at 2 (Aug. 29, 2003). The OSC opinion also noted with respect to Commissioners that ''the FEC has no authority to adopt regulations that would forbid a Commissioner from publicly supporting, working for, or contributing to a candidate, political party, or political committee subject to the jurisdiction of the FEC.'' *Id.* at 2–3. Thus, the OSC concluded that ''the FEC may not adopt regulations that would limit the political activity of FEC employees or Commissioners beyond the restrictions set forth in the Hatch Act.'' [21] *Id.* at 3.

Accordingly, former section 7.11 is being removed because it is inconsistent with the Hatch Act Amendments.

J. Removal of 11 CFR 7.12—Membership in Associations

The Commission is removing former 11 CFR 7.12, which addressed employee and Commissioner membership in associations. In 1991, OGE issued a Notice of Proposed Rulemaking that included proposed regulations concerning participation in professional associations. *See* Notice of Proposed Rulemaking on Standards of Ethical Conduct for Employees of the Executive Branch, 56 FR 33778 (July 23, 1991). OGE decided, however, to reserve action in its final rule on this topic as a result of the overwhelming response to its request for comments. *See* Explanation and Justification for Final Rule on Standards of Ethical Conduct for Employees of the Executive Branch, 57 FR 35006 (Aug. 7, 1992). Consistent with the OGE decision to reserve action on membership in associations in its final rule, the Commission concludes that ethical concerns regarding membership in nongovernmental associations or organizations are properly addressed under the more general standards in 5 CFR part 2635. *See* 57 FR at 35035. Among those general provisions that are applicable are 5 CFR 2635.402 (concerning disqualifying financial interests), 5 CFR 2635.502 (concerning personal and business relationships), and 5 CFR 2635.704 and 2635.705 (concerning use of government property and official time).

K. Removal of 11 CFR Part 7, Subpart D (Post Employment Conflict of Interest: Procedure for Administrative Enforcement Proceedings)

Former 11 CFR part 7, subpart D, concerned administrative procedures to be followed for investigations of post-employment conflict-of-interest violations by individuals who have left Commission employment. Subpart D was based on a prior version of 18 U.S.C. 207 and 5 CFR parts 2637 and 2641. At the time that subpart D was adopted, 18 U.S.C. 207(j) authorized agency proceedings against individuals who violated that section and required that ''departments and agencies shall, in consultation with the Director of the Office of Government Ethics, establish procedures to carry out this subsection.''

Subsequently, however, 18 U.S.C. 207(j) was amended and the language authorizing administrative procedures and providing the authority to promulgate regulations establishing procedures was removed and replaced with language providing exceptions to the restrictions on post-employment conflicts of interest.[22] The Commission has no pending post-employment situations concerning employees who left service before the repeal of former 18 U.S.C. 207(j). Accordingly, the Commission is removing former 11 CFR part 7, subpart D in its entirety. Please

[19] Public Law 103–94, 107 Stat. 1001 (1993) (''Hatch Act Amendments'').

[20] A copy of the Office of Special Counsel's opinion is available on the Commission's Web site. Go to *http://sers.nictusa.com/fosers/and* search for REG number 2003–01.

[21] Under 5 U.S.C. 1212, the advisory opinion authority of the OSC is limited to matters related to the Hatch Act. Therefore, the conclusions of the opinion are also limited to interpretations of the Hatch Act and OPM regulations. They do not apply to any separate statutory authority under FECA.

[22] *See* Pub. L. No. 101–189, Div. A, Title VIII, Part B, sec. 814(d)(2), 103 Stat. 1352, 1499 (1989) (National Defense Authorization Act for Fiscal Years 1990 and 1991).

note that former employees remain subject to Department of Justice criminal prosecution under 18 U.S.C. 207 for post-employment conflict of interest violations. *See* 18 U.S.C. 216.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)

The Commission certifies that the attached final rules will not have a significant economic impact on a substantial number of small entities. The basis of this certification is that this rulemaking affects only the appointed members of the Federal Election Commission and its employees. The members of the Commission and its employees are individuals, and are not small entities under 5 U.S.C. 601.

List of Subjects

5 CFR Part 4701

Conflict of interests, Government employees, Outside activities.

11 CFR Part 7

Administrative practice and procedure, Conflict of interests, Government employees, Political activities (government employees).

11 CFR Part 201

Ex parte communications.

For the reasons set out in the preamble, title 5 of the Code of Federal Regulations is amended as follows, and chapter I of title 11 of the Code of Federal Regulations is further amended as follows:

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

■ 1. Chapter XXXVII, consisting of part 4701, is added to title 5 of the Code of Federal Regulations to read as follows:

CHAPTER XXXVII—FEDERAL ELECTION COMMISSION

PART 4701—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE FEDERAL ELECTION COMMISSION

Sec.
4701.101 Scope.
4701.102 Prior approval for certain outside employment.

Authority: 2 U.S.C. 437c(a)(3); 5 U.S.C. 7301; 5 U.S.C. app. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR p. 215 (1989 Comp.), as modified by E.O. 12731, 55 FR 42547, 3 CFR p. 306 (1990 Comp.); 5 CFR 2635.105 and 2635.803.

§ 4701.101 Scope.

(a) In accordance with 5 CFR 2635.105, the regulations in this part set forth standards of conduct that apply to members and other employees of the Federal Election Commission (''Commission'').

(b) In addition, members and other employees of the Commission are subject to the following regulations:

(1) 5 CFR part 735 (Employee Responsibilities and Conduct);

(2) 5 CFR part 2634 (Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture);

(3) 5 CFR part 2635 (Standards of Ethical Conduct for Employees of the Executive Branch); and

(4) 11 CFR part 7 (Standards of Conduct for Members and Employees of the Federal Election Commission).

§ 4701.102 Prior approval for certain outside employment.

(a) *Definitions.* For purposes of this section:

(1) *Active participant* has the meaning set forth in 5 CFR 2635.502(b)(1)(v).

(2) *Employee* has the meaning set forth in 5 CFR 2635.102(h).

(3) Definition of *outside employment.* For purposes of this section, *outside employment* means any form of non-Federal employment, business relationship or activity involving the provision of personal services, whether or not for compensation. It includes, but is not limited to, services as an officer, director, agent, advisor, attorney, consultant, contractor, general partner, trustee, teacher, speaker, writer, or any other services provided by an individual. It includes writing when done under an arrangement with another person for production or publication of the written product. The definition does not include participation in the activities of a nonprofit charitable, religious, professional, social, fraternal, educational, recreational, public service or civic organization, unless:

(i) The activity provides compensation other than reimbursement of expenses;

(ii) The activities of the non-Federal organization are devoted substantially to matters relating to the employee's official duties as defined in 5 CFR 2635.807(a)(2)(i)(B) through (E) and the employee will serve as officer or director of the non-Federal organization; or

(iii) The activities will involve the provision of consultative or professional services. Consultative services means the provision of personal services, including the rendering of advice or consultation, which requires advanced knowledge in a field of science or learning customarily acquired by a course of specialized instruction and study in an institution of higher education, hospital, or similar facility. Professional services means the provision of personal services, including the rendering of advice or consultation, which involves application of the skills of a profession as defined in 5 CFR 2636.305(b)(1) or involves a fiduciary relationship as defined in 5 CFR 2636.305(b)(2).

(4) *Related to the employee's official duties* means that the outside employment meets one or more of the tests described in 5 CFR 2635.807(a)(2)(i)(B) through (E). Outside employment related to the employee's official duties includes:

(i) Outside employment that an employee has been invited to participate in because of his or her official position rather than his or her expertise in the subject matter;

(ii) Outside employment in which an employee has been asked to participate by a person that has interests that may be substantially affected by the performance or nonperformance of the employee's official duties;

(iii) Outside employment that conveys information derived from nonpublic information gained during the course of government employment; and

(iv) Outside employment that deals in significant part with any matter to which the employee is or has been officially assigned in the last year, or any ongoing or announced Commission policy, program, or operation.

(b) *Prior approval requirement.* An employee of the Commission, including a member of a Commissioner's staff, but not a member of the Commission or a special Government employee, shall obtain written approval from the Designated Agency Ethics Official before engaging in outside employment where the services provided:

(1) Are related to the employee's official duties; or

(2) Involve the application of the same specialized skills or the same educational background as used in the performance of the employee's official duties.

(c) *Submission of requests for approval.* (1) The request for approval shall be sent through all of the employee's supervisors and shall state the name of the person, group, or organization for whom the outside employment is to be performed; the type of outside employment to be performed; and the proposed hours of, and approximate dates of, the outside employment.

(2) Upon a significant change in the nature or scope of the outside employment or in the employee's official position, the employee shall submit a revised request for approval.

(d) *Standard for approval.* Approval shall be granted only upon a determination that the outside employment is not expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635.

TITLE 11—FEDERAL ELECTIONS

CHAPTER I—FEDERAL ELECTION COMMISSION

■ 2. Part 7 is revised to read as follows:

PART 7—STANDARDS OF CONDUCT

Sec.
7.1 Scope.
7.2 Definitions.
7.3 Interpretation and guidance.
7.4 Reporting suspected violations.
7.5 Corrective action.
7.6 Outside employment and activities by Commissioners.
7.7 Prohibition against making complaints and investigations public.
7.8 Ex parte communications in enforcement actions.

Authority: 2 U.S.C. 437c, 437d, and 438; 5 U.S.C. 7321 *et seq.* and app. 3.

§ 7.1 Scope.

(a) The regulations in this part apply to members and employees of the Federal Election Commission (''Commission'').

(b) In addition, members and employees of the Commission are subject to the following regulations:

(1) 5 CFR part 735 (Employee Responsibilities and Conduct);

(2) 5 CFR part 2634 (Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture);

(3) 5 CFR part 2635 (Standards of Ethical Conduct for Employees of the Executive Branch); and

(4) 5 CFR part 4701 (Supplemental Standards of Ethical Conduct for Employees of the Federal Election Commission).

§ 7.2 Definitions.

As used in this part:

(a) *Commission* means the Federal Election Commission, 999 E Street NW., Washington, DC 20463.

(b) *Commissioner* means a member of the Federal Election Commission, in accordance with 2 U.S.C. 437c.

(c) *Designated Agency Ethics Official* means the employee designated by the Commission to administer the provisions of the Ethics in Government Act of 1978 (5 U.S.C. appendix), as amended, and includes a designee of the Designated Agency Ethics Official. The General Counsel serves as the Commission's Designated Agency Ethics Official.

(d) *Employee* means an employee of the Federal Election Commission and includes a special Government employee as defined in 18 U.S.C. 202(a).

(e) *Ex parte communication* means any written or oral communication by any person outside the agency to any Commissioner or any member of any Commissioner's staff, but not to any other Commission employee, that imparts information or argument regarding prospective Commission action or potential action concerning any pending enforcement matter.

(f) *Inspector General* means the individual appointed by the Commission to administer the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. appendix), and includes any designee of the Inspector General.

§ 7.3 Interpretation and guidance.

(a) A Commissioner or employee seeking advice and guidance on matters covered by this part or 5 CFR parts 735, 2634, 2635, 2640, or 4701 may consult with the Designated Agency Ethics Official. The Designated Agency Ethics Official should be consulted before undertaking any action that might violate this part or 5 CFR parts 735, 2634, 2635, 2640, or 4701 governing the conduct of Commissioners or employees.

(b) The Designated Agency Ethics Official, a Commissioner, or an employee may request an opinion from the Director of the Office of Government Ethics regarding an interpretation of 5 CFR parts 2634, 2635, or 2640.

§ 7.4 Reporting suspected violations.

Commissioners and employees shall disclose immediately any suspected violation of a statute or of a rule set forth in this part or of a rule set forth in 5 CFR parts 735, 2634, 2635, 2640, or 4701 to the Designated Agency Ethics Official, the Office of Inspector General, or other appropriate law enforcement authorities.

§ 7.5 Corrective action.

A violation of this part or 5 CFR parts 735, 2634, 2635, 2640, or 4701 by an employee may be cause for appropriate corrective, disciplinary, or adverse action in addition to any penalty prescribed by law.

§ 7.6 Outside employment and activities by Commissioners.

No member of the Commission may devote a substantial portion of his or her time to any other business, vocation, or employment. Any individual who is engaging substantially in any other business, vocation, or employment at the time such individual begins to serve as a member of the Commission will appropriately limit such activity no later than 90 days after beginning to serve as such a member.

§ 7.7 Prohibition against making complaints and investigations public.

(a) Commission employees are subject to criminal penalties if they discuss or otherwise make public any matters pertaining to a complaint or investigation under 2 U.S.C. 437g, without the written permission of the person complained against or being investigated. Such communications are prohibited by 2 U.S.C. 437g(a)(12)(A).

(b) Section 437g(a)(12)(B) of title 2 of the United States Code provides as follows: ''Any member or employee of the Commission, or any other person, who violates the provisions of [2 U.S.C. 437g(a)(12)(A)] shall be fined not more than $2,000. Any such member, employee, or other person who knowingly and willfully violates the provisions of [2 U.S.C. 437g(a)(12)(A)] shall be fined not more than $5,000.''

§ 7.8 Ex parte communications in enforcement actions.

In order to avoid the possibility of prejudice, real or apparent, to the public interest in enforcement actions pending before the Commission pursuant to 2 U.S.C. 437g:

(a) Except to the extent required for the disposition of enforcement matters as required by law (as, for example, during the normal course of an investigation or a conciliation effort), no Commissioner or member of any Commissioner's staff shall make or entertain any *ex parte* communications.

(b) The prohibition of this section shall apply from the time a complaint is filed with the Commission pursuant to 2 U.S.C. 437g(a)(1) or from the time that the Commission determines on the basis of information ascertained in the normal course of its supervisory responsibilities that it has reason to believe that a violation has occurred or may occur pursuant to 2 U.S.C. 437g(a)(2), and such prohibition shall remain in force until the Commission has concluded all action with respect to the enforcement matter in question.

(c) Any written communication prohibited by paragraph (a) of this section shall be delivered to the General Counsel, who shall place the communication in the case file.

(d) A Commissioner or member of any Commissioner's staff involved in handling enforcement actions who receives an offer to make an oral communication or any communication concerning any enforcement action pending before the Commission as described in paragraph (a) of this section, shall decline to listen to such

communication. If unsuccessful in preventing the communication, the Commissioner or employee shall advise the person making the communication that he or she will not consider the communication and shall prepare a statement setting forth the substance and circumstances of the communication. Within 48 hours of receipt of the communication, the Commissioner or any member of any Commissioner's staff shall prepare a statement setting forth the substance and circumstances of the communication and shall deliver the statement to the General Counsel for placing in the file in the manner set forth in paragraph (c) of this section.

(e) Additional rules governing *ex parte* communications made in connection with Commission enforcement actions are found at 11 CFR 111.22. Rules governing *ex parte* communications made in connection with public funding, Commission audits, litigation, rulemakings, and advisory opinions are found at 11 CFR part 201.

PART 201—EX PARTE COMMUNICATIONS

■ 3. The authority citation for Part 201 continues to read as follows:

Authority: 2 U.S.C. 437d(a)(8), 2 U.S.C. 438(a)(8), 5 U.S.C. 553(e).

■ 4. Section 201.1 is amended by removing the citation ''7.15'' and adding in its place the citation ''7.8.''

On behalf of the Commission.

Dated: October 21, 2011.

Cynthia L. Bauerly,

Chair, Federal Election Commission.

Dated: October 31, 2011.

Don W. Fox,

Acting Director, Office of Government Ethics.

[FR Doc. 2011–29090 Filed 11–10–11; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2011–0008]

RIN 3150–AI91

List of Approved Spent Fuel Storage Casks: MAGNASTOR ® System, Revision 2

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC or the Commission) is amending its spent fuel storage regulations by revising the NAC International, Inc. (NAC) MAGNASTOR ® System listing within the ''List of Approved Spent Fuel Storage Casks'' to include Amendment No. 2 to Certificate of Compliance (CoC) Number 1031. Amendment No. 2 will revise: Technical Specification (TS) 3.3.2 to reduce the transportable storage canister removable surface contamination limits; TS 4.1.1 to add various boron-10 areal densities for use with Pressurized Water Reactor and Boiling Water Reactor baskets and to replace the fuel tube orthogonal pitch with the minimum fuel tube outer diagonal dimension; Table 2.1–2, ''ASME Code Alternatives for MAGNASTOR ® components,'' of the Final Safety Analysis Report to correct the code reference; and Appendices A and B of the TSs to make editorial corrections.

DATES: The final rule is effective January 30, 2012, unless significant adverse comments are received by December 14, 2011. A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. If the rule is withdrawn, timely notice will be published in the **Federal Register**.

ADDRESSES: You can access publicly available documents related to this document using the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2011–0008. Address questions about NRC dockets to Carol Gallagher, telephone: (301) 492–3668; email: *Carol.Gallagher@nrc.gov*.
- *NRC's Public Document Room (PDR):* The public may examine and have copied, for a fee, publicly available documents at the NRC's PDR, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. Copies may also be obtained from the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available electronically in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html*. From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR Reference staff at 1–(800) 397–4209, (301) 415–4737, or by email to *pdr.resource@nrc.gov.* An electronic copy of the proposed CoC, TSs, and preliminary safety evaluation report (SER) can be found under ADAMS Package Accession Number ML103300181. The ADAMS Accession Number for the NAC application, dated March 22, 2010, is ML112630346.

FOR FURTHER INFORMATION CONTACT: Gregory Trussell, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: (301) 415–6445, email: *Gregory.Trussell@nrc.gov.*

SUPPLEMENTARY INFORMATION:

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 ''[t]he 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 Title 10 of the Code of Federal Regulations (10 CFR) part 72, 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 subsequently issued a final rule on November 21, 2008 (73 FR 70587), that approved the MAGNASTOR ® cask design and added it to the list of NRC-approved cask designs in 10 CFR 72.214 as Certificate of Compliance (CoC) No. 1031.

Discussion

On March 22, 2010, and as supplemented on March 30, March 31, June 8, July 1, November 10, and November 19, 2010, and April 22 and May 17, 2011, NAC, the holder of CoC No. 1031, submitted an application to the NRC that requested an amendment to CoC No. 1031. Specifically, NAC requested changes to revise: TS 3.3.2 to reduce the transportable storage canister removable surface contamination limits; TS 4.1.1 to add various boron-10 areal densities for use with Pressurized Water Reactor and Boiling Water Reactor baskets and to replace the fuel tube orthogonal pitch with the minimum fuel tube outer diagonal dimension; Table 2.1–2, ''ASME Code Alternatives for MAGNASTOR® components,'' of the Final Safety Analysis Report to correct the code reference; and Appendices A and B of the TSs to make editorial corrections.

As documented in the SER, the NRC staff performed a detailed safety evaluation of the proposed CoC amendment request and found that an acceptable safety margin is maintained. In addition, the NRC staff has determined that there continues to be reasonable assurance that public health and safety will be adequately protected.

This direct final rule revises the MAGNASTOR® System listing in 10 CFR 72.214 by adding Amendment No. 2 to CoC No. 1031. The amendment consists of the changes previously described, as set forth in the revised CoC and TSs. The revised TSs are identified in the SER.

The amended MAGNASTOR® System cask design, when used under the conditions specified in the CoC, the TSs, and NRC regulations, will meet the requirements of 10 CFR part 72; thus, adequate protection of public health and safety will continue to be ensured. When this direct final rule becomes effective, persons who hold a general license under 10 CFR 72.210 may load spent nuclear fuel into MAGNASTOR® System casks that meet the criteria of Amendment No. 2 to CoC No. 1031 under 10 CFR 72.212.

Discussion of Amendments by Section

Section 72.214 List of approved spent fuel storage casks.

Certificate No. 1031 is revised by adding the effective date of Amendment Number 2.

Procedural Background

This rule is limited to the changes contained in Amendment No. 2 to CoC No. 1031 and does not include other aspects of the MAGNASTOR® System. The NRC is using the ''direct final rule procedure'' to issue this amendment because it represents a limited and routine change to an existing CoC that is expected to be noncontroversial. Adequate protection of public health and safety continues to be ensured. The amendment to the rule will become effective on January 30, 2012. However, if the NRC receives significant adverse comments on this direct final rule by December 14, 2011, then the NRC will publish a document that withdraws this action and will subsequently address the comments received in a final rule as a response to the companion proposed rule published elsewhere in this issue of the **Federal Register**. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC staff to make a change (other than editorial) to the rule, CoC, or TSs.

For detailed instructions on filing comments, please see the companion proposed rule published elsewhere in this issue of the **Federal Register**.

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 direct final rule, the NRC will revise the MAGNASTOR® System cask design listed in § 72.214 (List of Approved Spent Fuel Storage Casks). This action does not constitute the establishment of a standard that contains generally applicable requirements.

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 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.

Plain Language

The Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31883), directed that the Government's documents be in clear and accessible language. The NRC requests comments on this direct final rule specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the contact listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

Finding of No Significant Environmental Impact: Availability

Under the National Environmental Policy Act of 1969, as amended, and the NRC regulations in subpart A of 10 CFR part 51, 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 prepared an environmental assessment and, on the basis of this environmental assessment, has made a finding of no significant impact. This rule will amend the CoC for the MAGNASTOR® System cask 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. The CoC amendment will revise TS

3.3.2 to reduce the transportable storage canister removable surface contamination limits; TS 4.1.1 to add various boron-10 areal densities for use with Pressurized Water Reactor and Boiling Water Reactor baskets and to replace the fuel tube orthogonal pitch with the minimum fuel tube outer diagonal dimension; Table 2.1–2, ''ASME Code Alternatives for MAGNASTOR® components,'' of the Final Safety Analysis Report to correct the code reference; and Appendices A and B of the TSs to make editorial correction changes.

The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC PDR, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. Single copies of the environmental assessment and finding of no significant impact are available from Gregory Trussell, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: (301) 415–6445, email: *Gregory.Trussell@nrc.gov.*

Paperwork Reduction Act Statement

This rule does not contain any information collection requirements and, therefore, is not subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget (OMB), Approval Number 3150–0132.

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 currently valid OMB control number.

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. On November 21, 2008 (73 FR 70587), the NRC issued an amendment to 10 CFR part 72 that approved the MAGNASTOR® System cask design by adding it to the list of NRC-approved cask designs in 10 CFR 72.214. On March 22, 2010, and as supplemented on March 30, March 31, June 8, July 1, November 10, and November 19, 2010, and April 22 and May 17, 2011, NAC, the holder of CoC No. 1031, submitted an application to the NRC to revise: TS 3.3.2 to reduce the transportable storage canister removable surface contamination limits; TS 4.1.1 to add various boron-10 areal densities for use with Pressurized Water Reactor and Boiling Water Reactor baskets and to replace the fuel tube orthogonal pitch with the minimum fuel tube outer diagonal dimension; Table 2.1–2, ''ASME Code Alternatives for MAGNASTOR® components,'' of the Final Safety Analysis Report to correct the code reference; and Appendices A and B of the TSs to make editorial corrections.

The alternative to this action is to withhold approval of Amendment No. 2 and to require any 10 CFR part 72 general licensee seeking to load spent nuclear fuel into MAGNASTOR® System casks under the changes described in Amendment No. 2 to request an exemption from the requirements of 10 CFR 72.212 and 72.214. Under this alternative, each interested 10 CFR part 72 licensee would have to prepare, and the NRC would have to review, a separate exemption request, thereby increasing the administrative burden upon the NRC and the costs to each licensee.

Approval of the direct final rule is consistent with previous NRC actions. Further, as documented in the SER and the environmental assessment, the direct final rule will have no adverse effect on public health and safety or the environment. This direct 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 direct 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 thus, this action is recommended.

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 direct final rule affects only nuclear power plant licensees and NAC International, Inc. 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).

Backfit Analysis

The NRC has determined that the backfit rule (10 CFR 72.62) does not apply to this direct final rule because this amendment does not involve any provisions that would impose backfits as defined in 10 CFR chapter 1. Therefore, a backfit analysis is not required.

Congressional Review Act

Under the Congressional Review Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

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; the Nuclear Waste Policy Act of 1982, 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: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); sec.

1704, 112 Stat. 2750 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. 109–58, 119 Stat. 549 (2005).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

■ 2. In § 72.214, Certificate of Compliance 1031 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1031.

Initial Certificate Effective Date: February 4, 2009.

Amendment Number 1 Effective Date: August 30, 2010.

Amendment Number 2 Effective Date: January 30, 2012.

SAR Submitted by: NAC International, Inc.

SAR Title: Final Safety Analysis Report for the MAGNASTOR® System.

Docket Number: 72–1031.

Certificate Expiration Date: February 4, 2029.

Model Number: MAGNASTOR.

* * * * *

Dated at Rockville, Maryland, this 27th day of October 2011.

For the Nuclear Regulatory Commission.

Michael F. Weber,

Acting Executive Director for Operations.

[FR Doc. 2011–29341 Filed 11–10–11; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–1159; Directorate Identifier 2011–NE–34–AD; Amendment 39–16864; AD 2011–23–13]

RIN 2120–AA64

Airworthiness Directives; Honeywell International Inc. Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for Honeywell International Inc. LTS101–600A–2, –3, –3A, and LTS101–700D–2 turboshaft engines with certain power turbine governors (PTG) model AL–AB1, installed, that are marked with compliance symbol N or P, or with no compliance symbol, on the PTG identification plate. This AD requires initial and repetitive replacements of the affected PTGs. This AD was prompted by reports of two accidents where the engines suddenly lost power and the helicopters had to make emergency autorotation landings, leading to substantial damage to the helicopters. We are issuing this AD to prevent loss of engine power, leading to emergency autorotation landing and damage to the helicopter.

DATES: This AD is effective November 29, 2011.

We must receive comments on this AD by December 29, 2011.

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 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* 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 AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Robert Baitoo, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Blvd., Lakewood, CA 90712; phone: (562) 627–5245; fax: (562) 627–5210; email: *robert.baitoo@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We received reports of two accidents where the engines suddenly lost power and the helicopters had to make emergency autorotation landings. Investigation revealed that PTG spool bearings, part number (P/N) 2523973 Revision N and P/N 2523973 Revision P, could fail prematurely. PTGs with these affected spool bearings require repetitive replacements before the spool bearings wear out prematurely. This condition, if not corrected, could result in sudden engine power loss, the helicopter making an emergency autorotation landing, and substantial damage to the helicopter.

FAA's Determination

We are issuing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

AD Requirements

This AD requires initial and repetitive replacements of PTGs model AL–AB1, P/N 4–301–289–03, 4–301–289–05, 4–301–289–09, 4–301–101–16, and 4–301–101–18, that are marked with compliance symbol N or P, or with no compliance symbol, on the PTG identification plate.

Interim Action

We consider this AD interim action. If final action is later identified, we might consider further rulemaking then.

FAA's Justification and Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because of the premature failure of the affected PTGs. Therefore, we find that notice and opportunity for prior public comment are impracticable and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number FAA–2011–1159 and Directorate Identifier 2011–NE–34–AD at the beginning of your comments. We

specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of 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 AD.

Costs of Compliance

We estimate that this AD will affect 83 Honeywell International Inc. LTS101–600A–2, –3, –3A, and LTS101–700D–2 turboshaft engines, installed on helicopters of U.S. registry. We also estimate that it will take about 3 work-hours to replace a PTG on each engine. Required parts would cost about $3,500 per engine. The average labor rate is $85 per work-hour. Based on these figures, we estimate the total cost of this AD for one PTG replacement to U.S. operators, to be $311,665.

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

This AD will not have federalism implications under Executive Order 13132. This AD will 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 that this AD:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under 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.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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):

2011–23–13 Honeywell International Inc.: Amendment 39–16864; Docket No. FAA–2011–1159; Directorate Identifier 2011–NE–34–AD.

(a) Effective Date

This AD is effective November 29, 2011.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Honeywell International Inc. LTS101–600A–2, –3, –3A, and LTS101–700D–2 turboshaft engines with a power turbine governor (PTG) model AL–AB1, part number 4–301–289–03, 4–301–289–05, 4–301–289–09, 4–301–101–16, or 4–301–101–18, installed, that is marked with compliance symbol N or P, or with no compliance symbol, on the PTG identification plate.

(d) Unsafe Condition

This AD was prompted by reports of two accidents where the engines suddenly lost power and the helicopters had to make emergency autorotation landings, leading to substantial damage to the helicopters. We are issuing this AD to prevent loss of engine power, leading to emergency autorotation landing and damage to the helicopter.

(e) Compliance

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

(f) PTGs Marked With Compliance Symbol N, or With No Compliance Symbol

(g) For PTGs that are marked with compliance symbol N, or with no compliance symbol, on the PTG identification plate:

(1) If the PTG has more than 150 operating hours time-since-new (TSN), time-since-overhaul (TSO), or time-since-replacement (TSR), on the effective date of this AD, replace it with a PTG that is eligible for installation, within the next 50 operating hours.

(2) If the PTG has 150 or fewer operating hours TSN, TSO, or TSR, on the effective date of this AD, replace it with a PTG that is eligible for installation, before accumulating 200 total operating hours.

(3) Thereafter, replace it with a PTG that is eligible for installation, within every 200 operating hours TSN, TSO, or TSR.

(h) PTGs Marked With Compliance Symbol P

(i) For PTGs that are marked with compliance symbol P, on the PTG identification plate:

(1) Replace it with a PTG that is eligible for installation, before accumulating 900 operating hours.

(2) Thereafter, replace it with a PTG that is eligible for installation within every 900 operating hours TSN, TSO, or TSR.

(j) Alternative Methods of Compliance (AMOCs)

The Manager, Los Angeles Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

(k) Related Information

(1) For more information about this AD, contact Robert Baitoo, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Blvd., Lakewood, CA 90712; phone: (562) 627–5245; fax: (562) 627–5210; email: *robert.baitoo@faa.gov.*

(2) Honeywell International Inc. Service Bulletin No. LTS101–73–20–A0268, dated August 23, 2011, also pertains to this AD.

(3) For service information identified in this AD, contact Honeywell International Inc., P.O. Box 52181, Phoenix, AZ 85072–2181, phone: (800) 601–3099; Web site: *http://portal.honeywell.com/wps/portal/aero.*

(l) Material Incorporated by Reference

None.

Issued in Burlington, Massachusetts, on November 4, 2011.

Peter A. White,

Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2011–29229 Filed 11–10–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–1109; Directorate Identifier 2011–NE–33–AD; Amendment 39–16863; AD 2011–23–12]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc RB211–524G2–19; –524G2–T–19; –524G3–19; –524G3–T–19; 524H2–19; –524H2–T–19; –524H–36; and –524H–T–36 Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for the products listed above. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

Several instances of fan blade cracking have been reported. The results of the subsequent technical investigation concluded that the cracking was caused by fan blade flutter at certain engine settings during prolonged ground running.

This condition, if not corrected, could affect the integrity of the fan blades, leading to cracking of multiple fan blades and could possibly result in engine failure and release of uncontained high energy debris.

We are issuing this AD to prevent fan blade flutter, which could result in an uncontained engine failure and damage to the airplane.

DATES: This AD becomes effective November 29, 2011.

We must receive comments on this AD by December 14, 2011.

The Director of the Federal Register approved the incorporation by reference of Rolls-Royce plc Alert Service Bulletin No. RB.211–73–AG054, Revision 2, dated June 29, 2011, listed in the AD as of November 29, 2011.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is the same as the Mail address provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Alan Strom, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; telephone: (781) 238–7143; fax: (781) 238–7199; email: *alan.strom@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2011–0175, dated September 8, 2011 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

Several instances of fan blade cracking have been reported. The results of the subsequent technical investigation concluded that the cracking was caused by fan blade flutter at certain engine settings during prolonged ground running.

This condition, if not corrected, could affect the integrity of the fan blades, leading to cracking of multiple fan blades and could possibly result in engine failure and release of uncontained high energy debris.

To address this potential unsafe condition, Rolls-Royce has developed modified full-authority fuel controller software in order to ensure that the engine cannot experience prolonged running on ground at engine settings that would potentially jeopardize the integrity of the fan blades.

You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Rolls-Royce plc has issued Rolls-Royce plc Alert Service Bulletin No. RB.211–73–AG054, Revision 2, dated June 29, 2011. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This AD

This product has been approved by the aviation authority of the United Kingdom and is approved for operation in the United States. Pursuant to our bilateral agreement with the United Kingdom, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

FAA's Determination of the Effective Date

Since no domestic operators use this product, notice and opportunity for public comment before issuing this AD are unnecessary. Therefore, we are adopting this regulation immediately.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2011–1109; Directorate Identifier 2011–NE–33–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of 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 with FAA personnel concerning this AD. Using the search function of the Web site, anyone can find and read the comments in any of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

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 AD will not have federalism implications under Executive Order 13132. This AD will 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 AD:

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); and

3. 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.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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 AD:

2011–23–12 Rolls-Royce plc: Amendment 39–16863; Docket No. FAA–2011–1109; Directorate Identifier 2011–NE–33–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective November 29, 2011.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Rolls-Royce plc RB211–524G2–19; –524G2–T–19; –524G3–19; 524G3–T–19; 524H2–19; –524H2–T–19; –524H–36; and –524H–T–36 turbofan engines.

Reason

(d) This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

Several instances of fan blade cracking have been reported. The results of the subsequent technical investigation concluded that the cracking was caused by fan blade flutter at certain engine settings during prolonged ground running.

This condition, if not corrected, could affect the integrity of the fan blades, leading to cracking of multiple fan blades and could possibly result in engine failure and release of uncontained high energy debris.

We are issuing this AD to prevent fan blade flutter, which could result in an uncontained engine failure and damage to the airplane.

Actions and Compliance

(e) Unless already done, do the following actions.

(1) Within 40 months after the effective date of this AD, modify the engine by installing a full-authority fuel controller (FAFC) featuring software at Issue 17, in accordance with Accomplishment Instructions paragraphs 3.A. through 3.B. of Rolls-Royce plc Alert Service Bulletin (ASB) No. RB.211–73–AG054, Revision 2, dated June 29, 2011.

(2) Engines which have been modified before the effective date of this AD, in accordance with previous revisions of ASB No. RB.211–73–AG054 are compliant with the requirement of paragraph (e)(1) of this AD.

(3) From the effective date of this AD, do not install an FAFC on an engine if the FAFC incorporates software prior to Issue 17.

FAA AD Differences

(f) None.

Alternative Methods of Compliance (AMOCs)

(g) The Manager, Engine Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19.

Related Information

(h) Refer to European Aviation Safety Agency AD 2011–0175, dated September 8, 2011, for related information.

(i) Contact Alan Strom, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; telephone: (781) 238–7143; fax: (781) 238–7199; email: *alan.strom@faa.gov,* for more information about this AD.

Material Incorporated by Reference

(j) You must use Rolls-Royce plc Alert Service Bulletin No. RB.211–73–AG054, Revision 2, dated June 29, 2011, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, England, DE248BJ; phone: 011–44–1332–242424; fax: 011–44–1332–245418 or email from *http://www.rolls-royce.com/contact/civil_team.jsp,* or download the publication from *https://www.aeromanager.com.*

(3) You may review copies at the FAA, New England Region, 12 New England Executive Park, Burlington, MA; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.* For information on the availability of this material at the FAA, call (781) 238–7125.

Issued in Burlington, Massachusetts, on November 2, 2011.

Peter A. White,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2011–29208 Filed 11–10–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 738, 740 and 748

[Docket No. 110818514–1531–01]

RIN 0694–AF33

Exports and Reexports to the Principality of Liechtenstein

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Industry and Security (BIS) publishes this final rule to amend certain requirements in the Export Administration Regulations (EAR) that apply to the Principality of Liechtenstein (Liechtenstein). In this final rule, BIS aligns license requirements and licensing policy under the EAR for Liechtenstein with those for Switzerland. As a result, for purposes of the EAR, Liechtenstein will be treated the same as Switzerland.

By virtue of a Customs Union Treaty with Switzerland, Liechtenstein has

adopted the export controls implemented under Swiss law, including controls equivalent to those prescribed under multilateral regimes, and has authorized Switzerland to administer and enforce export controls within Liechtenstein's territory. As a result of this arrangement, Liechtenstein and Switzerland serve as one territory for customs and export purposes. Having recently been made aware of the full scope of this arrangement and its consequences on export controls, BIS has determined that it is appropriate to codify the treatment of Liechtenstein and Switzerland as one territory for purposes of the EAR. This treatment of Liechtenstein is consistent with the effort of the United States to streamline licensing requirements where export controls prescribed by the multilateral regimes are implemented.

DATES: This rule is effective November 14, 2011.

FOR FURTHER INFORMATION CONTACT: Sheila Quarterman, Regulatory Policy Division, Office of Exporter Services, Bureau of Industry and Security, U.S. Department of Commerce at (202) 482–2440 or by email *Sheila.Quarterman@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

By virtue of a Customs Union Treaty with Switzerland, Liechtenstein has adopted the export controls implemented under Swiss law, and has authorized Switzerland to administer and enforce export controls within Liechtenstein's territory. The Bureau of Industry and Security (BIS) recognizes that this arrangement results in the implementation of export controls in Liechtenstein that are equivalent to those in Switzerland, and in accordance with the multilateral export control regimes. By virtue of the Customs Union Treaty of 1923 between Switzerland and Liechtenstein (Customs Union Treaty),[1] Liechtenstein is a part of the ''Swiss customs territory'' and Switzerland acts on behalf of Liechtenstein regarding issues of trade in goods. The Customs Union Treaty empowers Switzerland to conclude and incur undertakings that apply automatically and directly to Liechtenstein. As a result of this arrangement, Swiss export control law applies equally to exporters from Switzerland and Liechtenstein. Further, Switzerland is responsible for administering export controls and enforcing export controls in Liechtenstein. Consequently, in this final rule, BIS aligns its treatment of Liechtenstein with that of Switzerland, resulting in the treatment of Liechtenstein and Switzerland as one territory for purposes of the Export Administration Regulations (EAR). Therefore, license requirements and licensing policy under the EAR for Liechtenstein are effectively the same as those for Switzerland. This treatment of Liechtenstein is consistent with the effort of the United States to streamline licensing requirements where export controls prescribed by the multilateral regimes are implemented.

Specific Amendments to the EAR That Align Liechtenstein With Switzerland for Purposes of Licensing Requirements

In this rule, BIS amends the EAR by adding a sentence to paragraph (b) (Countries) of Section 738.3 (Commerce Country Chart Structure) that states that Liechtenstein, which serves as one territory with Switzerland for customs and export purposes, will be accorded the same licensing treatment as Switzerland under the EAR.

In addition and consistent with the purpose of this rule, BIS amends the EAR by adding a footnote for ''Liechtenstein'' on the Commerce Country Chart in Supplement No. 1 to Part 738 that states, ''Refer to Switzerland for licensing requirements for Liechtenstein under the EAR.''; and by removing the ''X'' in chemical and biological weapons column 2, nuclear nonproliferation column 1, national security column 2, and regional stability column 2. BIS also amends the EAR by removing Liechtenstein from the group of Computer Tier 1 Destinations in paragraph (c)(1) of Section 740.7 (License Exception Computers (APP)); Country Group B in Supplement No. 1 to Part 740; the group of countries for which an Import Certificate or End-User Statement may be required in paragraph (b)(2) of Section 748.9 (Support Documents for License Applications); and the Authorities Administering Import Certificate/Delivery Verification and End-User Statement Systems in Foreign Countries in Supplement No. 4 to part 748. Finally, in this rule, BIS removes and reserves paragraph (g), which expressly permitted reexports between Liechtenstein and Switzerland, in License Exception Additional Permissive Reexports (APR).

Since August 21, 2001, the Export Administration Act (the Act) has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp., p. 783 (2002)), as extended most recently by the Notice of August 12, 2011, 76 FR 50661 (August 16, 2011), has continued the EAR in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a ''significant regulatory action'' although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget (OMB).

2. Notwithstanding any other provisions of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid OMB Control Number. This rule involves two collections of information subject to the PRA. This collection has been approved by OMB under control number 0694–0088, ''Multi-Purpose Application,'' which carries a burden hour estimate of 43.8 minutes to prepare and submit form BIS–748. The other collection has been approved by OMB under control number 0694–0106, ''Reporting and Recordkeeping Requirements under the Wassenaar Arrangement,'' and carries a burden hour estimate of 21 minutes for a manual or electronic submission. Total burden hours associated with the PRA and OMB control numbers 0694–0088 and 0694–0106 are not expected to increase as a result of this rule.

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

4. Pursuant to 5 U.S.C. 553(a)(1), the provisions of the Administrative Procedure Act requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military or

[1] Customs Union Treaty of 29 March 1923 between the Principality of Liechtenstein and Switzerland, 21 League of Nations Treaty Series 233 (1924).

foreign affairs function of the United States. (*See* 5 U.S.C. 553(a)(1)). Immediate implementation of these amendments furthers United States policies and goals toward allies and cooperating and like-minded countries with regard to export controls and reduces the burden on exporters in relation to licensing obligations. This rule will positively impact regional stability by promoting greater responsibility in the transfer of dual-use goods, technologies, thus preventing destabilizing effects. This action also reconciles any inconsistencies in the treatment of Liechtenstein in light of its Treaty and export control arrangement with Switzerland and therefore is consistent with the effort of the United States to streamline licensing requirements where export controls prescribed by the multilateral regimes are implemented. Failure to immediately implement this rule would result in an unnecessary licensing burden on businesses, especially small businesses. Thus, in light of the United States' understanding of how export controls are administered in Liechtenstein, the United States seeks to assist businesses and prevent confusion by immediately removing licensing requirements that are unnecessary in light of the fact the international regime requirements are otherwise being met. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are not applicable. Therefore, this regulation is issued in final form. In addition, the Department finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness for the reasons provided above. Accordingly, this regulation is made effective immediately upon publication.

List of Subjects

15 CFR Part 738

Exports.

15 CFR Part 740

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

15 CFR Part 748

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

Accordingly, parts 738, 740 and 748 of the Export Administration Regulations (15 CFR parts 730 through 774) are amended as follows:

PART 738—[AMENDED]

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

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 12, 2011, 76 FR 50661 (August 16, 2011).

■ 2. Amend § 738.3 by revising paragraph (b) to read as follows:

§ 738.3 Commerce Country Chart structure.

* * * * *

(b) *Countries.* The first column of the Country Chart lists countries in alphabetical order. There are a number of destinations that are not listed in the Country Chart contained in Supplement No. 1 to part 738. If your destination is not listed on the Country Chart and such destination is a territory, possession, dependency or department of a country included on the Country Chart, the EAR accords your destination the same licensing treatment as the country of which it is a territory, possession, dependency or department. For example, if your destination is the Cayman Islands, a dependent territory of the United Kingdom, refer to the United Kingdom on the Country Chart for licensing requirements. In addition, if your destination is Liechtenstein, which serves as one territory with Switzerland for purposes of the EAR, refer to Switzerland on the Country Chart for licensing requirements.

* * * * *

■ 3. Amend Supplement No. 1 to part 738 by

■ a. Revising the entry for ''Liechtenstein'' to read as set forth below; and

■ c. Adding footnote 5 to read as set forth below.

SUPPLEMENT NO. 1 TO PART 738—COMMERCE COUNTRY CHART

[Reason for control]

Countries	Chemical & biological weapons			Nuclear nonproliferation		National security		Missile tech	Regional stability		Firearms convention	Crime control			Anti-terrorism	
	CB 1	CB 2	CB 3	NP 1	NP 2	NS 1	NS 2	MT 1	RS 1	RS 2	EC 1	CC 1	CC 2	CC 3	AT 1	AT 2
Liechtenstein [5]	X					X		X	X			X		X		
	*		*		*		*		*		*		*			

[5] Refer to Switzerland for licensing requirements for Liechtenstein under the EAR.

PART 740—[AMENDED]

■ 4. The authority citation for Part 740 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 7201 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 12, 2011, 76 FR 50661 (August 16, 2011).

§ 740.7 [Amended]

■ 5. Amend § 740.7 by removing ''Liechtenstein,'' from the group of countries in paragraph (c)(1).

§ 740.16 [Amended]

■ 6. Amend § 740.16 by removing and reserving paragraph (g).

Supplement No. 1 to Part 740 [Amended]

■ 7. Amend Country Group B of Supplement No. 1 to Part 740 by removing ''Liechtenstein''.

PART 748—[AMENDED]

■ 8. The authority citation for Part 748 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 12, 2011, 76 FR 50661 (August 16, 2011).

§ 748.9 [Amended]

■ 9. Amend § 748.9 by removing ''Liechtenstein'' from the group of countries listed in alphabetical order in paragraph (b)(2).

Supplement No. 4 to Part 748 [Amended]

■ 10. Amend Supplement No. 4 to Part 748 by removing the entire entry for ''Liechtenstein''.

Dated: November 7, 2011.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

[FR Doc. 2011–29357 Filed 11–10–11; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 26 and 301

[TD 9556]

RIN 1545–BG89

Generation-Skipping Transfers (GST) Section 6011 Regulations and Amendments to the Section 6112 Regulations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations that provide rules relating to the disclosure of listed transactions and transactions of interest with respect to the generation-skipping transfer tax under section 6011 of the Internal Revenue Code (Code), conforming amendments under sections 6111 and 6112, and rules relating to the preparation and maintenance of lists with respect to reportable transactions under section 6112. The regulations affect taxpayers participating in listed transactions and transactions of interest and material advisors to such transactions. The final regulations also contain rules under section 6112 that affect material advisors to reportable transactions. These regulations provide guidance regarding the length of time a material advisor has to prepare the list that must be maintained after the list maintenance requirement first arises with respect to a reportable transaction. These regulations also clarify guidance regarding designation agreements.

DATES: These regulations are effective November 14, 2011.

FOR FURTHER INFORMATION CONTACT: Charles D. Wien, (202) 622–3070 (not a toll-free number).

Background

This document contains final regulations that amend 26 CFR part 26 to provide rules for purposes of the generation-skipping transfer tax that require the disclosure of listed transactions and transactions of interest by certain taxpayers on their Federal tax returns under section 6011. This document also contains final regulations that modify and clarify some of the rules under 26 CFR part 301 relating to the disclosure obligations of material advisors under section 6111 and the list maintenance requirements of material advisors with respect to reportable transactions under section 6112.

On July 31, 2007, the IRS and Treasury Department issued final regulations under section 6011 (TD 9350; 72 FR 43146), 6111 (TD 9351; 72 FR 43157) and 6112 (TD 9352; 72 FR 43154) (the July 2007 regulations) that were published in the **Federal Register** on August 3, 2007. In the July 2007 regulations, the IRS and Treasury Department amended 26 CFR parts 20, 25, 31, 53, 54, and 56 to provide that certain taxpayers would be required to disclose transactions of interest, in addition to listed transactions, on their Federal tax returns under section 6011. On September 10, 2009, the IRS and Treasury Department issued a notice of proposed rulemaking under sections 6011, 6111, and 6112 (REG–136563–07) (the September 2009 proposed regulations). The September 2009 proposed regulations were published in the **Federal Register** (74 FR 46705) on September 11, 2009.

In response to the September 2009 proposed regulations, the IRS and Treasury Department received two written public comments. A public hearing was not requested. After consideration of the comments received, the IRS and Treasury Department are adopting the proposed regulations without change.

Explanation of Comments

Two commentators expressed concern that if the IRS and Treasury Department designate a transaction involving gift, estate, or generation-skipping transfer taxes as a listed transaction or transaction of interest, that a corporate fiduciary, merely by acting as an executor or trustee with respect to an estate or trust that is incidental to the transaction, would be treated as a material advisor under section 6112 and the regulations thereunder. One of the commentators proposed that the September 2009 proposed regulations and existing final regulations under sections 6011, 6111, and 6112 be amended to require public comment before a transaction involving Chapters 11, 12, and 13 of the Code can be designated as a listed transaction or transaction of interest.

The IRS and Treasury Department believe that in the situation described by the commentators the existing regulations under sections 6111 and 6112 properly address which parties are material advisors, and transactions involving gift, estate, or generation-skipping transfer taxes should not be treated differently than other transactions. A fiduciary will not be treated as a material advisor merely by acting as an executor or trustee with respect to an estate or trust that is incidental to a transaction. A fiduciary will be treated as a material advisor only if the fiduciary provides material aid, assistance or advice as described in § 301.6111–3(b)(2), the fiduciary directly or indirectly derives gross income in excess of the threshold amount as described in § 301.6111–3(b)(3), and the transaction is entered into by the taxpayer.

In addition, the regulations are not amended to require advance notice before designating a transaction as a transaction of interest or as a listed transaction as suggested by a commentator. In appropriate circumstances, the IRS and Treasury Department may choose to publish advance notice of a transaction of interest and request comments in certain circumstances. The IRS and Treasury Department will determine whether to provide advance notice and a request for comments on a transaction by transaction basis. Accordingly, the proposed regulations will be adopted without change.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that most of the material advisors affected by these regulations are not small entities and for those material advisors that are small entities most of the information is already required under the current regulations. Any additional recordkeeping burdens on material advisors that result from this regulation are insubstantial. Also, the collection of information referenced in these regulations has been approved under OMB control number 1545–1686. The clarification and new information required by these final regulations add little or no new burden to those existing

requirements. Therefore, 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, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Charles D. Wien, Office of the Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 26

Estate taxes, Reporting and recordkeeping requirements.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 26 and 301 are amended as follows:

PART 26—GENERATION-SKIPPING TRANSFER TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1986

■ **Paragraph 1.** The authority citation for part 26 is amended to read in part as follows:

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

Section 26.6011–4 also issued under 26 U.S.C. 6011 * * *

■ **Par. 2.** Section 26.6011–4 is added to read as follows:

§ 26.6011–4 Requirement of statement disclosing participation in certain transactions by taxpayers.

(a) *In general.* If a transaction is identified as a *listed transaction* or a *transaction of interest* as defined in § 1.6011–4 of this chapter by the Commissioner in published guidance, and the listed transaction or transaction of interest involves a tax on generation-skipping transfers under chapter 13 of subtitle B of the Internal Revenue Code, the transaction must be disclosed in the manner stated in such published guidance.

(b) *Effective/applicability date.* This section applies to listed transactions and transactions of interest entered into on or after November 14, 2011.

PART 301—PROCEDURE AND ADMINISTRATION

■ **Par. 3.** The authority citation for part 301 continues to read in part as follows:

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

■ **Par. 4.** Section 301.6111–3 is amended as follows:

■ a. Paragraphs (b)(2)(i)(A) and (b)(3)(i)(B) are amended by adding the language ''26.6011–4,'' after each occurrence of ''25.6011–4,''.

■ b. Paragraphs (c)(2) and (c)(13) are amended by adding the language ''26.6011–4,'' after ''25.6011–4,''.

■ c. Paragraph (i)(1) is revised.

The revision reads as follows:

§ 301.6111–3 Disclosure of reportable transactions.

* * * * *

(i) *Effective/applicability date*—(1) *In general.* This section applies to transactions with respect to which a material advisor makes a tax statement on or after August 3, 2007. However, this section applies to transactions of interest entered into on or after November 2, 2006, with respect to which a material advisor makes a tax statement under this section on or after November 2, 2006. Paragraphs (b)(2)(i)(A), (b)(3)(i)(B), (c)(2), and (c)(13) of this section apply to transactions with respect to which a material advisor makes a tax statement under this section after November 14, 2011. Paragraph (h) of this section applies to ruling requests received on or after November 2, 2006. Otherwise, the rules that apply on or before November 14, 2011 are contained in this section in effect prior to November 14, 2011 (see 26 CFR part 301 revised as of April 1, 2011).

* * * * *

■ **Par. 5.** Section 301.6112–1 is amended as follows:

■ 1. Paragraph (b)(1) is revised.

■ 2. Paragraphs (c)(3) and (c)(12) are amended by adding the language ''26.6011–4,'' after ''25.6011–4,''.

■ 3. Paragraphs (f) and (g) are revised.

The revisions read as follows:

§ 301.6112–1 Material advisors of reportable transactions must keep lists of advisees, etc.

* * * * *

(b) * * *

(1) *In general.* A separate list must be prepared and maintained for each reportable transaction. However, one list must be maintained for substantially similar transactions. A material advisor will have 30 calendar days from the date the list maintenance requirement first arises (see § 301.6111–3(b)(4) and paragraph (a) of this section) with respect to a reportable transaction to prepare the list that must be maintained under this section with respect to that transaction. The Commissioner in his discretion also may provide in published guidance designating a transaction as a reportable transaction a list preparation time period greater than 30 calendar days. If a list is requested under this section during the list preparation time period, the request for the list will be treated as having been made on the day after the list preparation time period ends. A list must be maintained in a form that enables the IRS to determine without undue delay or difficulty the information required in paragraph (b)(3) of this section. The Commissioner in his discretion may provide in published guidance a form or method for maintaining or furnishing the list.

* * * * *

(f) *Designation agreements.* If more than one material advisor is required to maintain a list of persons for a reportable transaction, in accordance with paragraph (b) of this section, the material advisors may designate by written agreement a single material advisor (the designated material advisor) to maintain the list or a portion of the list. A designation agreement does not relieve material advisors from their obligation to maintain a list in accordance with paragraph (b) of this section or to furnish their list to the IRS in accordance with paragraph (e)(1) of this section, but a designation agreement may allow one material advisor to maintain a list on behalf of the other material advisors who are a party to the designation agreement. A material advisor is not relieved from the requirement of this section because a material advisor is unable to obtain the list from any designated material advisor, any designated material advisor did not maintain a list, or the list maintained by any designated material advisor is not complete. The existence of a designation agreement does not affect the ability of the IRS to request a list from any party to the designation agreement. The IRS may request a list from any party to the designation agreement, and the party receiving the request must furnish their list to the IRS in accordance with paragraph (e)(1) of this section, regardless of whether their list was maintained by another party pursuant to the terms of a designation agreement.

(g) *Effective/applicability date.* In general, this section applies to transactions with respect to which a material advisor makes a tax statement under § 301.6111–3 on or after August 3,

2007. However, this section applies to transactions of interest entered into on or after November 2, 2006, with respect to which a material advisor makes a tax statement under § 301.6111–3 on or after November 2, 2006. Paragraphs (b)(1), (c)(3), (c)(12), and (f) of this section apply to transactions with respect to which a material advisor makes a tax statement under § 301.6111–3 after *November 14, 2011.* Otherwise, the rules that apply on or before November 14, 2011 are contained in this section in effect prior to November 14, 2011 (see 26 CFR part 301 revised as of April 1, 2011).

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

Approved: November 4, 2011.

Emily S. McMahon,

Assistant Secretary of the Treasury, Tax Policy.

[FR Doc. 2011–29313 Filed 11–10–11; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100, 117, and 165

[USCG–2011–0874]

Quarterly Listings; Safety Zones, Security Zones, Special Local Regulations, Drawbridge Operation Regulations and Regulated Navigation Areas

AGENCY: Coast Guard, DHS.

ACTION: Notice of expired temporary rules issued.

SUMMARY: This document provides required notice of substantive rules issued by the Coast Guard and temporarily effective between March 2010 and July 2011, that expired before they could be published in the **Federal Register**. This notice lists temporary safety zones, security zones, special local regulations, drawbridge operation regulations and regulated navigation areas, all of limited duration and for which timely publication in the **Federal Register** was not possible.

DATES: This document lists temporary Coast Guard rules between March 1, 2010 and July 23, 2011 that became effective and were terminated before they could be published in the **Federal Register**.

ADDRESSES: The Docket Management Facility maintains the public docket for this notice. Documents indicated in this notice will be available for inspection or copying at the 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 between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: For questions on this notice contact Yeoman First Class Marcus Hyde, Office of Regulations and Administrative Law, telephone (202) 372–3862. For questions on viewing, or on submitting material to the docket, contact Ms. Angie Ames, Docket Operations, telephone (202) 366–5115.

SUPPLEMENTARY INFORMATION: Coast Guard District Commanders and Captains of the Port (COTP) must be immediately responsive to the safety and security needs within their jurisdiction; therefore, District Commanders and COTPs have been delegated the authority to issue certain local regulations. *Safety zones* may be established for safety or environmental purposes. A safety zone may be stationary and described by fixed limits or it may be described as a zone around a vessel in motion. *Security zones* limit access to prevent injury or damage to vessels, ports, or waterfront facilities and may also describe a zone around a vessel in motion. *Special local regulations* are issued to enhance the safety of participants and spectators at regattas and other marine events. *Drawbridge operation regulations* authorize changes to drawbridge schedules to accommodate bridge repairs, seasonal vessel traffic, and local public events. *Regulated Navigation Areas* are water areas within a defined boundary for which regulations for vessels navigating within the area have been established by the regional Coast Guard District Commander.

Timely publication of these rules in the **Federal Register** is often precluded when a rule responds to an emergency, or when an event occurs without sufficient advance notice. The affected public is, however, informed of these rules through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is provided by Coast Guard patrol vessels enforcing the restrictions imposed by the rule. Because **Federal Register** publication was not possible before the beginning of the effective period, mariners were personally notified of the contents of these safety zones, security zones, special local regulations, regulated navigation areas or drawbridge operation regulations by Coast Guard officials on-scene prior to any enforcement action. However, the Coast Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To meet this obligation without imposing undue expense on the public, the Coast Guard periodically publishes a list of these temporary safety zones, security zones, special local regulations, regulated navigation areas and drawbridge operation regulations. Permanent rules are not included in this list because they are published in their entirety in the **Federal Register**. Temporary rules are also published in their entirety if sufficient time is available to do so before they are placed in effect or terminated. The temporary rules listed in this notice have been exempted from review under Executive Order 12666, Regulatory Planning and Review, because of their emergency nature, or limited scope and temporary effectiveness.

The following unpublished rules were placed in effect temporarily during the period between March 2010 and July 2011 unless otherwise indicated.

Dated: November 2, 2011.

K.A. Sinniger,

Chief, Office of Regulations and Administrative Law.

1ST–2ND QUARTER 2011 LISTING

Docket No.	Location	Type	Effective date
USCG–2009–1007	Quillayute River	Safety Zone (Part 165)	3/1/2010
USCG–2010–0424	Memphis, TN	Special Local Regulation (Part 100)	4/16/2011
USCG–2010–0563	Washington, DC	Safety Zone (Part 165)	6/19/2011
USCG–2010–0564	Philadelphia, PA	Security Zone (Part 165)	11/14/2010
USCG–2010–0565	Norfolk, VA	Safety Zone (Part 165)	5/3/2011
USCG–2010–0828	Biloxi, MS	Safety Zone (Part 165)	3/17/2011
USCG–2010–0829	Pascagoula, MS	Safety Zone (Part 165)	2/6/2011
USCG–2010–0939	Vancouver, WA	Safety Zone (Part 165)	1/27/2011

1ST–2ND QUARTER 2011 LISTING—Continued

Docket No.	Location	Type	Effective date
USCG–2010–0940	Seattle, WA	Safety Zone (Part 165)	4/19/2011
USCG–2010–0941	Wauna, OR	Safety Zone (Part 165)	4/23/2011
USCG–2010–0942	Tacoma, WA	Safety Zone (Part 165)	4/26/2011
USCG–2010–0943	Seattle, WA	Safety Zone (Part 165)	7/7/2011
USCG–2010–0987	St. Petersburg, FL	Safety Zone (Part 165)	11/20/2010
USCG–2010–0992	Saugus, MA	Safety Zone (Part 165)	5/21/2011
USCG–2010–1000	Port Everglades, FL	Security Zone (Part 165)	11/13/2010
USCG–2010–1031	Miami, FL	Security Zone (Part 165)	12/30/2010
USCG–2010–1037	Lake Havasu City, AZ	Safety Zone (Part 165)	4/30/2011
USCG–2010–1048	Tennessee River	Safety Zone (Part 165)	11/26/2010
USCG–2010–1049	Marco Island, FL	Safety Zone (Part 165)	11/20/2010
USCG–2010–1068	Wilmington, DE	Safety Zone (Part 165)	11/23/2010
USCG–2010–1069	St. Petersburg, FL	Safety Zone (Part 165)	11/31/10
USCG–2010–1075	Clearwater, FL	Safety Zone (Part 165)	12/30/2010
USCG–2010–1092	San Diego, FL	Safety Zone (Part 165)	2/12/2011
USCG–2010–1095	Madeira Beach, FL	Safety Zone (Part 165)	3/16/2011
USCG–2010–1131	Port Valdez, AK	Safety Zone (Part 165)	12/31/2010
USCG–2011–0007	Lake Havasu City, AZ	Safety Zone (Part 165)	3/19/2011
USCG–2011–0011	Baltimore, MD	Security Zone (Part 165)	1/13/2011
USCG–2011–0019	Lower Mississippi River	Safety Zone (Part 165)	1/9/2011
USCG–2011–0020	Parker, Arizona	Safety Zone (Part 165)	4/15/2011
USCG–2011–0021	Parker, Arizona	Safety Zone (Part 165)	4/30/2011
USCG–2011–0022	Oceanside, CA	Safety Zone (Part 165)	4/2/2011
USCG–2011–0027	Cambridge, MD	Security Zone (Part 165)	1/20/2011
USCG–2011–0028	Washington, DC	Security Zone (Part 165)	1/25/2011
USCG–2011–0032	San Diego, CA	Security Zone (Part 165)	2/8/2011
USCG–2011–0045	Willamette Rivers	Security Zone (Part 165)	1/28/2011
USCG–2011–0059	Parker, AZ	Special Local Regulation (Part 100)	3/12/2011
USCG–2011–0060	San Diego, CA	Security Zone (Part 165)	2/6/2011
USCG–2011–0061	Gulfport, MS	Safety Zone (Part 165)	5/19/2011
USCG–2011–0069	San Diego, CA	Security Zone (Part 165)	2/12/2011
USCG–2011–0072	Key Largo, FL	Security Zone (Part 165)	2/17/2011
USCG–2011–0073	Fort Lauderdale, FL	Safety Zone (Part 165)	4/9/2011
USCG–2011–0077	Matlacha, FL	Safety Zone (Part 165)	3/8/2011
USCG–2011–0078	San Diego, CA	Safety Zone (Part 165)	2/12/2011
USCG–2011–0089	Vicksburg, MS	Special Local Regulation (Part 100)	4/16/2011
USCG–2011–0092	Baltimore County, MD	Security Zone (Part 165)	2/14/2011
USCG–2011–0102	St. Petersburg, FL	Safety Zone (Part 165)	3/24/2011
USCG–2011–0108	Baltimore, MD	Safety Zone (Part 165)	3/3/2011
USCG–2011–0110	Trainer, PA	Safety Zone (Part 165)	2/18/2011
USCG–2011–0125	Sillery Bay, MD	Regulated Navigation Area (Part 165)	7/23/2011
USCG–2011–0128	Kingston, NY	Safety Zone (Part 165)	3/5/2011
USCG–2011–0133	Miami Beach, FL	Security Zone (Part 165)	3/4/2011
USCG–2011–0134	Miami Beach, FL	Security Zone (Part 165)	3/4/2011
USCG–2011–0135	Tuscaloosa, AL	Safety Zone (Part 165)	4/9/2011
USCG–2011–0148	Kemah, TX	Safety Zone (Part 165)	4/3/2011
USCG–2011–0148	Greenwich, CT	Safety Zone (Part 165)	6/25/2011
USCG–2011–0152	Tennessee River	Safety Zone (Part 165)	3/7/2011
USCG–2011–0153	Lake Havasu City, AZ	Safety Zone (Part 165)	4/7/2011
USCG–2011–0155	Tampa, FL	Safety Zone (Part 165)	4/12/2011
USCG–2011–0161	Port Everglades, FL	Security Zone (Part 165)	4/25/2011
USCG–2011–0181	San Diego, CA	Special Local Regulation (Part 100)	4/2/2011
USCG–2011–0185	San Diego, CA	Safety Zone (Part 165)	4/16/2011
USCG–2011–0191	Chicago, IL	Safety Zone (Part 165)	6/30/2011
USCG–2011–0192	Hampton, VA	Security Zone (Part 165)	3/18/2011
USCG–2011–0209	Randalls Island, NY	Security Zone (Part 165)	3/29/2011
USCG–2011–0210	Lake Havasu City, AZ	Safety Zone (Part 165)	4/29/2011
USCG–2011–0213	Erie Basin, NY	Safety Zone (Part 165)	6/11/2011
USCG–2011–0217	Knoxville, TN	Special Local Regulation (Part 100)	5/15/2011
USCG–2011–0218	Williamsburg, VA	Security Zone (Part 165)	4/4/2011
USCG–2011–0220	Romeoville, IL	Safety Zone (Part 165)	3/28/2011
USCG–2011–0236	Guam	Safety Zone (Part 165)	4/27/2001
USCG–2011–0242	New London, CT	Security Zone (Part 165)	5/18/2011
USCG–2011–0248	Oahu, HI	Safety Zone (Part 165)	4/4/2011
USCG–2011–0259	Miami, FL	Safety Zone (Part 165)	4/9/2011
USCG–2011–0269	Mobile, AL	Safety Zone (Part 165)	4/15/2011
USCG–2011–0271	Wilmington, DE	Safety Zone (Part 165)	4/12/2011
USCG–2011–0273	Lake Michigan	Safety and Security Zone (Part 165)	4/14/2011
USCG–2011–0274	Chicago, IL	Security Zone (Part 165)	4/13/2011
USCG–2011–0275	Chattanooga, TN	Special Local Regulation (Part 100)	6/11/2011
USCG–2011–0280	Neches River, TX	Safety Zone (Part 165)	4/28/2011
USCG–2011–0282	Lake Michigan	Safety and Security Zone (Part 165)	4/27/2011

1ST–2ND QUARTER 2011 LISTING—Continued

Docket No.	Location	Type	Effective date
USCG–2011–0283	Chicago, IL	Security Zone (Part 165)	4/13/2011
USCG–2011–0290	Mississippi River	Safety Zone (Part 165)	4/16/2011
USCG–2011–0293	Cameron, LA	Safety Zone (Part 165)	4/15/2011
USCG–2011–0294	Anna Maria, FL	Safety Zone (Part 165)	5/14/2011
USCG–2011–0295	San Francisco, CA	Special Local Regulation (Part 100)	5/1/2011
USCG–2011–0296	Cameron, LA	Safety Zone (Part 165)	4/16/2011
USCG–2011–0307	Mobile, AL	Safety Zone (Part 165)	4/20/2011
USCG–2011–0309	San Diego, CA	Safety Zone (Part 165)	5/9/2011
USCG–2011–0320	Ohio River	Safety Zone (Part 165)	4/22/2011
USCG–2011–0323	Humboldt Bay, CA	Security Zone (Part 165)	5/15/2011
USCG–2011–0326	Clearwater, FL	Safety Zone (Part 165)	5/6/2011
USCG–2011–0329	Pittsburgh, PA	Special Local Regulation (Part 100)	5/21/2011
USCG–2011–0331	Gulfport, MS	Safety and Security Zone (Part 165)	5/21/2011
USCG–2011–0337	Lake Charles, LA	Safety Zone (Part 165)	4/26/2011
USCG–2011–0339	Port Savannah Zone, GA	Safety Zone (Part 165)	5/3/2011
USCG–2011–0339	Port Savannah Zone, GA	Safety Zone (Part 165)	5/3/2011
USCG–2011–0340	Cumberland River	Safety Zone (Part 165)	4/27/2011
USCG–2011–0343	Miami, FL	Security Zone (Part 165)	4/29/2011
USCG–2011–0344	St. Petersburg, FL	Safety Zone (Part 165)	5/21/2011
USCG–2011–0345	Bradenton, FL	Safety Zone (Part 165)	6/26/2011
USCG–2011–0346	Ft. Walton Beach, FL	Safety Zone (Part 165)	6/3/2011
USCG–2011–0349	Upper Mississippi River	Safety Zone (Part 165)	4/28/2011
USCG–2011–0361	Hudson River, New York	Special Local Regulation (Part 100)	7/4/2011
USCG–2011–0362	NY, New York	Safety Zone (Part 165)	7/4/2011
USCG–2011–0364	Guam	Safety Zone (Part 165)	5/17/2011
USCG–2011–0365	San Francisco, CA	Safety Zone (Part 165)	6/10/2011
USCG–2011–0376	Nevada, NV	Safety Zone (Part 165)	5/29/2011
USCG–2011–0376	Nevada, NV	Safety Zone (Part 165)	7/3/2011
USCG–2011–0379	Guam	Safety Zone (Part 165)	5/29/2011
USCG–2011–0380	Guam	Safety Zone (Part 165)	5/26/2011
USCG–2011–0381	Pittsburgh, PA	Safety Zone (Part 165)	5/13/2011
USCG–2011–0382	Wellsburg, WV	Safety Zone (Part 165)	7/4/2011
USCG–2011–0386	Lake Havasu City, AZ	Safety Zone (Part 165)	5/31/2011
USCG–2011–0388	LMR MM 844–849	Safety Zone (Part 165)	5/5/2011
USCG–2011–0411	Charleston, WV	Safety Zone (Part 165)	5/24/2011
USCG–2011–0418	San Diego, CA	Safety Zone (Part 165)	7/4/2011
USCG–2011–0419	Point Pleasant, NJ	Safety Zone (Part 165)	5/14/2011
USCG–2011–0421	Pittsburgh, PA	Security Zone (Part 165)	5/19/2011
USCG–2011–0446	Crescent City, CA	Safety Zone (Part 165)	7/4/2011
USCG–2011–0454	Glenbrook, NV	Safety Zone (Part 165)	7/4/2011
USCG–2011–0457	Point Pleasant, NJ	Safety Zone (Part 165)	5/21/2011
USCG–2011–0469	Portland, ME	Safety Zone (Part 165)	6/8/2011
USCG–2011–0472	Point Pleasant, NJ	Safety Zone (Part 165)	6/6/2011
USCG–2011–0476	Hampton Bays, NY	Security Zone (Part 165)	5/27/2011
USCG–2011–0477	Boston, MA	Safety Zone (Part 165)	6/7/2011
USCG–2011–0478	Manhattan, NY	Safety Zone (Part 165)	6/13/2011
USCG–2011–0479	Chattanooga, TN	Safety Zone (Part 165)	6/18/2011
USCG–2011–0480	Bronx, NY	Drawbridge Operation Regulation (Part 117).	6/20/2011
USCG–2011–0483	Hampton Bays, NY	Security Zone (Part 165)	5/30/2011
USCG–2011–0488	Washington, DC	Special Local Regulation (Part 100)	6/18/2011
USCG–2011–0506	Pittsburgh, PA	Safety Zone (Part 165)	6/12/2011
USCG–2011–0510	Toledo, OH	Security Zone (Part 165)	6/20/2011
USCG–2011–0514	Buffalo, NY	Safety Zone (Part 165)	6/11/2011
USCG–2011–0518	Erie, PA	Safety Zone (Part 165)	6/18/2011
USCG–2011–0519	Baltimore, MD	Safety Zone (Part 165)	6/18/2011
USCG–2011–0526	Lake of the Ozarks	Safety Zone (Part 165)	7/2/2011
USCG–2011–0527	Allegheny County, PA	Safety Zone (Part 165)	6/13/2011
USCG–2011–0531	Miami, FL	Security Zone (Part 165)	6/13/2011
USCG–2011–0535	Elgin, IL	Safety Zone (Part 165)	6/17/2011
USCG–2011–0541	Key West, FL	Safety Zone (Part 165)	6/10/2011
USCG–2011–0569	San Diego, CA	Safety Zone (Part 165)	7/4/2011
USCG–2011–0570	San Diego, CA	Safety Zone (Part 165)	7/4/2011
USCG–2011–0571	San Diego, CA	Safety Zone (Part 165)	7/4/2011
USCG–2011–0572	Ellison Bay, WI	Safety Zone (Part 165)	6/25/2011
USCG–2011–0580	Chicago, IL	Security Zone (Part 165)	6/17/2011
USCG–2011–0582	Kendall, NY	Safety Zone (Part 165)	7/2/2011
USCG–2011–0592	Atlantic City, NJ	Drawbridge Operation Regulation (Part 117).	7/4/2011
USCG–2011–0593	Augusta, GA	Safety Zone (Part 165)	7/2/2011
USCG–2011–0599	Oswego, NY	Safety Zone (Part 165)	7/3/2011
USCG–2011–0600	Hamlin, NY	Safety Zone (Part 165)	7/2/2011

1ST–2ND QUARTER 2011 LISTING—Continued

Docket No.	Location	Type	Effective date
USCG–2011–0602	Alexandria Bay, NY	Safety Zone (Part 165)	7/4/2011
USCG–2011–0603	Tonawanda, NY	Safety Zone (Part 165)	7/4/2011
USCG–2011–0604	Youngstown, NY	Safety Zone (Part 165)	7/3/2011
USCG–2011–0605	Buffalo, NY	Safety Zone (Part 165)	7/4/2011
USCG–2011–0606	Bay Village, OH	Safety Zone (Part 165)	7/4/2011
USCG–2011–0607	Cleveland, OH	Safety Zone (Part 165)	7/4/2011
USCG–2011–0610	Sackets Harbor, NY	Safety Zone (Part 165)	7/4/2011
USCG–2011–0611	Clayton, NY	Safety Zone (Part 165)	7/3/2011
USCG–2011–0612	Olcott, NY	Safety Zone (Part 165)	7/3/2011
USCG–2011–0613	Syracuse, NY	Safety Zone (Part 165)	7/1/2011
USCG–2011–0620	Lapointe, WI	Safety Zone (Part 165)	7/4/2011
USCG–2011–0621	Duluth, MN	Safety Zone (Part 165)	7/4/2011
USCG–2011–0622	Cornucopia, WI	Safety Zone (Part 165)	7/2/2011
USCG–2011–0623	Bayfield, WI	Safety Zone (Part 165)	7/4/2011
USCG–2011–0624	Upper Mississippi River	Security Zone (Part 165)	6/28/2011
USCG–2011–0634	Burlington, VT	Security Zone (Part 165)	6/30/2011
USCG–2011–0643	Mentor, OH	Safety Zone (Part 165)	7/3/2011
USCG–2011–0645	Mantoloking, NJ	Safety Zone (Part 165)	7/1/2011
USCG–2011–0647	Grosse Pointe Shores, MI	Safety Zone (Part 165)	7/8/2011
USCG–2011–0655	Lewes, DE	Safety Zone (Part 165)	7/1/2011
USCG–2011–0656	Sheffield Lake, OH	Safety Zone (Part 165)	7/15/2011
USCG–2011–0657	Baldwinsville, NY	Safety Zone (Part 165)	7/8/2011
USCG–2011–0661	Cape Vincent, NY	Safety Zone (Part 165)	7/9/2011
USCG–2011–0663	Atlantic City, NJ	Safety Zone (Part 165)	7/4/2011

[FR Doc. 2011–28887 Filed 11–10–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2011–1022]

Drawbridge Operation Regulations; Elizabeth River, Eastern Branch, Norfolk, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Fifth Coast Guard District, has issued a temporary deviation from the regulations governing the operation of the Norfolk Southern #5 Railroad Bridge, mile 1.1, Norfolk, VA. Under this temporary deviation, the drawbridge may remain in the closed position on specific dates and times to facilitate laying new rail.

DATES: This deviation is effective from 7 a.m. to 5 p.m. on November 30, 2011.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2011–1022 and are available online at *www.regulations.gov,* inserting USCG–2011–1022 in the ''Keyword'' box and then clicking ''Search''. They are also available for inspection or copying at the 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Jim Rousseau, Bridge Management Specialist, Fifth Coast Guard District; telephone (757) 398–6557. *Email—James.L.Rousseau2@uscg.mil.* If you have any questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION: The Norfolk Southern Corporation, who owns and operates this swing drawbridge, has requested a temporary deviation from the current operating regulations set out in 33 CFR 117.1007(a) to facilitate laying new rail.

Under the current operation schedule, the draw shall remain in the open position for navigation. The draw shall only be closed for train crossings or periodic maintenance. The Norfolk Southern #5 Bridge, at mile 1.1, across the Elizabeth River (Eastern Branch) in Norfolk, VA, has a vertical clearance in the closed position to vessels of 6 feet above mean high water.

To facilitate laying new rail, the drawbridge will be maintained in the closed-to-navigation position from 7 a.m. to 5 p.m. on November 30, 2011. The bridge normally operates in the open position with several vessels transiting a week. Coordination with waterway users has been completed.

The Coast Guard will inform the users of the waterway through our Local and Broadcast Notices to Mariners of the opening restrictions of the draw span to minimize transiting delays caused by the temporary deviation. There are no alternate routes available but vessels may pass before 7 a.m. and after 5 p.m. Mariners able to pass under the bridge in the closed position may do so at any time and the bridge is able to open for emergencies.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period.

This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: October 26, 2011.

Waverly W. Gregory, Jr.,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2011–29236 Filed 11–10–11; 8:45 am]

BILLING CODE 9910–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2011–0985]

Drawbridge Operation Regulation; Gulf Intracoastal Waterway, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Lapalco Boulevard bascule span drawbridge across the Harvey Canal Route, Gulf Intracoastal Waterway (GIWW), mile 2.8 at Harvey, Jefferson Parish, Louisiana. The deviation is necessary to allow for the cleaning and painting of bridge. This deviation allows the bridge to remain closed during the day Monday through Saturday for three months.

DATES: This deviation is effective from 6:30 a.m. on Monday, December 5, 2011 until 5:45 p.m. on Saturday, March 3, 2012.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2011–0985 and are available online by going to *http://www.regulations.gov,* inserting USCG–2011–0985 in the ''Keyword'' box and then clicking ''Search''. They are also available for inspection or copying at the 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email David Frank, Bridge Administration Branch; telephone (504) 671–2128, email *David.m.frank@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION: Jefferson Parish has requested a temporary deviation from the operating schedule for the Bascule Span Bridge across the Harvey Canal Route, Intracoastal Waterway, mile 2.8 at Harvey, Jefferson Parish, Louisiana. The bridge has a vertical clearance of 45 feet above mean high water in the closed-to-navigation position and unlimited in the open-to-navigation position; however, during the deviation time periods, the vertical clearance beneath the bridge will be reduced to 35 feet above mean high water.

In accordance with Title 33 CFR 117.451(a), the bridge currently opens on signal for the passage of vessels; except that, from 6:30 a.m. to 8:30 a.m. and from 3:45 p.m. to 5:45 p.m. Monday through Friday except holidays, the draw need not be opened for the passage of vessels. This deviation allows the bridge to remain closed to navigation from 6:30 a.m. until 5:45 p.m. Monday through Saturday from Monday, December 5, 2011 through Saturday, March 3, 2012. At all other times, the bridge will open on signal for the passage of vessels in accordance with Title 33 CFR 117.451(a). Additionally, from Saturday, December 20, 2011 through Tuesday, January 3, 2012, the contractor will not work and the bridge will operate in accordance with Title 33 CFR 117.451(a).

The closure is necessary in order to clean and repaint the steel surfaces of the bridge. This maintenance is essential for the continued operation of the bridge. Notices will be published in the Eighth Coast Guard District Local Notice to Mariners and will be broadcast via the Coast Guard Broadcast Notice to Mariners System.

Navigation on the waterway consists mainly of tugs with tows with some commercial fishing vessels and recreational craft. Coordination between the Coast Guard and the waterway users determined that there should not be any significant effects on these vessels. An alternate route is available via the GIWW (Algiers Alternate Route). The bridge can open during the maintenance for emergencies. Opening the bridge will take approximately 90 minutes to remove the tarps and equipment as required to open the bridge.

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

Dated: October 18, 2011.

David M. Frank,

Bridge Administrator.

[FR Doc. 2011–29238 Filed 11–10–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2011–0697]

RIN 1625–AA09

Drawbridge Operation Regulation; Isle of Wight (Sinepuxent) Bay, Ocean City, MD

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the regulation governing the operation of the US 50 Bridge over Isle of Wight (Sinepuxent) Bay, mile 0.5, at Ocean City, MD. This rule will add dates that the bridge is allowed to remain in the closed position to accommodate heavy volumes of vehicular traffic due to the annual July 4th fireworks show.

DATES: This rule is effective December 14, 2011.

ADDRESSES: Comments and related materials received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2011–0697 and are available online by going to *http://www.regulations.gov,* inserting USCG–2011–0697 in the ''Keyword'' box, and then clicking ''Search.'' This material is also available for inspection or copying at the 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lindsey Middleton, Coast Guard; *telephone* (757) 398–6629, *email Lindsey.R.Middleton@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, *telephone* (202) 366–9826.

Regulatory Information

On August 17, 2011, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulation; Isle of Wight (Sinepuxent) Bay, Ocean City, MD in the **Federal Register** (76 FR 50950). We have not received any comments on the proposed rule. No public meeting was requested, and none was held.

Basis and Purpose

The Maryland Department of Transportation has requested a change in the operation regulation of the US 50 Bridge across Isle of Wight (Sinepuxent) Bay, mile 0.5, at Ocean City, MD. The Ocean City July 4th fireworks show is an annual event and heavy volumes of vehicular traffic transit across the bridge to attend it. The Coast Guard will allow the above mentioned bridge to remain in the closed position from 9:30 p.m. until 10:30 p.m. on July 4th or on July 5th should inclement weather prevent the fireworks show event from taking place as planned. The exact date of the closure will be published locally in the Local Notice to Mariners and Broadcast Notice to Mariners.

The vertical clearance of the bascule bridge is 13 feet above mean high tide in the closed position and unlimited in

the open position. The current operating schedule for the bridge is set out in 33 CFR 117.559 which states that during this time of year from 9:25 a.m. to 9:55 p.m., the draw shall open at 25 and 55 minutes after the hour for a maximum of five minutes, except that on Saturdays, from 1 p.m. to 5 p.m., the draw shall open on the hour for all waiting vessels and shall remain in the open position until all waiting vessels pass.

There are no tender logs to report because the bridge has remained in the closed position for the 4th of July fireworks show for the past 10 years. The majority of vessels that transit under this bridge this time of year are recreational boats. Vessels that are able to transit under the bridge without an opening may do so at any time. The Atlantic Ocean is an alternate route for vessels unable to pass under the bridge in the closed position. The bridge will be able to open for emergencies.

Discussion of Comments and Changes

No comments were received on the proposed rule and no changes were made to the proposed rule.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

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

The changes are expected to have minimal impact on maritime traffic transiting the bridge. Mariners can plan their trips in accordance with the scheduled bridge openings to minimize delays. Mariners are familiar with this bridge closure because for the past 10 years the Coast Guard has allowed the bridge to remain in the closed position for the fireworks event.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which might be small entities: the owners or operators of vessels needing to transit through the bridge from 9:30 p.m. to 10:30 p.m. on July 4th or July 5th of every year. This action will not have a significant economic impact on a substantial number of small entities because the rule adds minimal restrictions to the movement of navigation and mariners who plan their transits in accordance with the scheduled bridge closure can minimize delay. This closure has occurred every year for the past 10 years; therefore, mariners should be familiar with planning their transits accordingly. Vessels that can safely transit under the bridge may do so at any time.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), in the NPRM we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of

Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

Environment

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

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

List of Subjects in 33 CFR Part 117

Bridges.

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

■ 2. In § 117.559, add new paragraph (c) to read as follows:

§ 117.559 Isle of Wight (Sinepuxent) Bay

* * * * *

(c) On July 4, the draw need not open from 9:30 p.m. until 10:30 p.m. to accommodate the annual July 4th fireworks show. Should inclement weather prevent the fireworks event from taking place as planned, the draw need not open from 9:30 p.m. until 10:30 p.m. on July 5th to accommodate the annual July 4th fireworks show.

Dated: November 1, 2011.

William D. Lee,

Rear Admiral, United States Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 2011–29237 Filed 11–10–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2011–0953]

Drawbridge Operation Regulations; Mystic River, CT

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Route 1 Bridge, mile 2.8, across the Mystic River, at Mystic, Connecticut. The deviation is necessary to facilitate a major bridge rehabilitation project. This deviation allows the bridge to remain in the closed position for four and a half months.

DATES: This deviation is effective from December 1, 2011 through April 15, 2012.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2011–0953 and are available online at *http://www.regulations.gov,* inserting USCG–2011–0953 in the ''Keyword'' and then clicking ''Search.'' They are also available for inspection or copying at the 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Ms. Judy Leung-Yee, Project Officer, First Coast Guard District, *judy.k.leung-yee@uscg.mil,* or *telephone* (212) 668–7165. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, *telephone* (202) 366–9826.

SUPPLEMENTARY INFORMATION: The Route 1 Bridge, across the Mystic River, mile 2.8, at Mystic, Connecticut, has a vertical clearance in the closed position of 4 feet at mean high water and 7 feet at mean low water. The drawbridge operation regulations are listed at 33 CFR 117.211(b).

The bridge rarely opens December through April except for testing.

The waterway users are recreational vessels of various sizes that do not operate during the winter months when this deviation will be in effect.

The owner of the bridge, Connecticut Department of Transportation, requested a temporary deviation from the regulations to facilitate a major bridge rehabilitation project.

During the bridge rehabilitation the bridge will be locked in the closed position and inoperable for any bridge openings.

The Coast Guard contacted the waterway users regarding the bridge closure and no objections were received.

Under this temporary deviation the Route 1 Bridge may remain in the closed position from December 1, 2011 through April 15, 2012.

Vessels that can pass under the bridge in the closed position may do so at any time.

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

Dated: October 18, 2011.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. 2011–29239 Filed 11–10–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2011–0986]

Drawbridge Operation Regulations; Doullut Canal, Mile 0.2, Plaquemines Parish, Empire, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the SR 11 Bridge over Doullut Canal, mile 0.2, Plaquemines Parish, Empire, LA. This deviation will allow the draw to remain in the closed-to-navigation position for the duration of the 2011 Orange King Festival Bicycle Race.

DATES: This deviation is effective on December 3, 2011 from 8 a.m. until noon.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2011–0986 and are available online by going to *http://www.regulations.gov,* inserting USCG–2011–0986 in the ''Keyword'' box and then clicking ''Search''. They are also available for inspection or copying at the 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Jim Wetherington; Bridge Administration Branch, Eighth Coast Guard District, *telephone* (504) 671–2128, *email james.r.wetherington@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, *telephone* (202) 366–9826.

SUPPLEMENTARY INFORMATION: The subject bridge is the SR 11 Swing Bridge across Doullut Canal at mile 0.2, in Empire, Plaquemines Parish, LA. The vertical clearance is 3.3 feet above mean high water. Presently, under 33 CFR 117.5, the draw of the SR 11 Swing Bridge across Doullut Canal at mile 0.2, in Empire, shall open on signal.

The owner requests the bridge be allowed to remain in the closed-to-navigation position for the purpose of the running of the 2011 Orange King Festival Bike Race. This deviation is effective December 3, 2011 from 8 a.m. until noon. Coordination will be through Public Notice and Local Notice to Mariners upon date of publication in the **Federal Register**. This bridge will open for emergencies. In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period.

This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: October 18, 2011.

David M. Frank,

Bridge Administrator.

[FR Doc. 2011–29241 Filed 11–10–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2011–0226]

Drawbridge Operation Regulation; Atlantic Intracoastal Waterway, Albemarle and Chesapeake Canal, Chesapeake, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Fifth Coast Guard District, has issued a temporary deviation from the regulations governing the operation of the S168 Bridge across the Atlantic Intracoastal Waterway, Albemarle and Chesapeake Canal, mile 12.0, at Chesapeake (Great Bridge), VA. This deviation is necessary to accommodate the annual Christmas parade event.

DATES: This deviation is effective from 4 p.m. on December 3, 2011 through 9 p.m. on December 4, 2011.

ADDRESSES: Documents mentioned in this preamble as being available in the docket USCG–2011–0226 and are available online by going to *http://www.regulations.gov*, inserting USCG–2011–0226 in the ''Keyword'' box, and then clicking ''Search''. This material is also available for inspection or copying at the 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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Waverly W. Gregory, Jr., Bridge Administrator, Fifth Coast Guard District; *telephone* (757) 398–6222, *email Waverly.W.Gregory@uscg.mil.* If you have questions on reviewing the docket, call Renee V. Wright, Program Manager, Docket Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION: The City of Chesapeake, who owns and operates the S168 Bridge across the Atlantic Intracoastal Waterway, Albemarle and Chesapeake Canal mile 12.0, at Chesapeake (Great Bridge), VA, has requested a temporary deviation from the current operating regulations set out in 33 CFR 117.997(g), to accommodate the annual Christmas parade event. Normally, the bridge opens on signal; except that, from 6 a.m. to 7 p.m., the draw need be opened only on the hour or, if the vessel cannot reach the draw exactly on the hour, the drawtender may delay the hourly opening up to ten minutes past the hour.

In the closed position to vessels, this lift-type drawbridge provides a vertical clearance of 8.5 feet, above mean high water.

The Chesapeake annual Christmas parade event is scheduled for December 3, 2011. Under this temporary deviation, the drawbridge will remain in the closed position to vessels requiring an opening from 4 p.m. to 6 p.m. and from 8 p.m. to 10 p.m. on December 3, 2011. And, operations on December 4, 2011 will take place as set out in 33 CFR 117.997(g). However, should weather preclude this event from taking place on December 3, 2011, the event will be re-scheduled to take place on December 4, 2011. In that case, the drawbridge will operate as normal on December 3, 2011 and the drawbridge will remain in the closed position to vessels requiring an opening from 3 p.m. to 5 p.m. and from 7 p.m. to 9 p.m. on December 4, 2011. At all other times during the effective period of this temporary deviation, the drawbridge will operate as outlined at 33 CFR 117.997(g).

Vessels may transit under the drawbridge while it is in the closed position. The Atlantic Intracoastal Waterway caters to a variety of vessels from tug and barge traffic to recreational vessels traveling from Florida to Maine. The Coast Guard will inform unexpected users of the waterway through our local and broadcast Notices to Mariners of the limited operating schedule for the drawbridge so that vessels can arrange their transits to minimize any impacts caused by the temporary deviation. The Atlantic Ocean is the alternate route for vessels and the bridge will be able to open in the event of an emergency.

In accordance with 33 CFR 117.35(e), the draw must return to its original operating schedule immediately at the end of the designated time period.

This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: October 19, 2011.

Waverly W. Gregory, Jr.

Bridge Program Manager, By direction of the Commander, Fifth Coast Guard District.

[FR Doc. 2011–29242 Filed 11–10–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–1048]

RIN 1625–AA87

West Oahu Offshore Security Zone

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone on the navigable waters of Oahu's western shore. This action is necessary to safeguard the President of the United States and his official party. Entry into the temporary security zone established by this rule is prohibited unless authorized by the Coast Guard Captain of the Port, Honolulu, or her designated representatives.

DATES: This rule is effective from 11 p.m. HST on November 13, 2011 through 9 a.m. HST on November 15, 2011.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2011–1048 and are available online by going to *http://www.regulations.gov,* inserting USCG–2011–1048 in the ''Keyword'' box, and then clicking ''Search.'' They are also available for inspection or copying at the 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, 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 rule, call or email LCDR Scott O. Whaley, U.S. Coast Guard; *telephone* (808) 522–8264 (ext. 352), *email Scott.O.Whaley@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, *telephone* (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule. Due to a change in the plans of the President of the United States, sufficient notice of the zone location could not be released in time to adequately complete a notice-and-comment rulemaking.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Because of a change in the plans of the President of the United States, there is insufficient time before the security zone must be in place to publish this temporary final rule and then delay its effective date for 30 days after publication.

Background and Purpose

From November 13, 2011, through November 15, 2011, the President of the United States and his official party will be visiting the Ko'olina Beach Resort in Honolulu, Hawaii. The resort is located adjacent to U.S. navigable waters in the Honolulu Captain of the Port Zone. Accordingly, the U.S. Coast Guard is establishing this security zone in order to maintain optimum security to ultimately protect the President and his official party from all possible threats associated with vessels and persons in the water. Entry of persons or vessels into these security zones will be prohibited unless authorized by the Captain of the Port (COTP) Honolulu.

Discussion of Temporary Final Rule

This temporary final rule will be effective from 11 p.m. HST on November 13, 2011 through 9 a.m. HST on November 15, 2011.

The security zone area is designated as the West Oahu Offshore Zone and covers all waters creating a box shape, encompassed by a line extending 1000 yards north along the coast from 21°20′16.00″ N, 158°07′34.77″ W; to 21°20′43.98″ N, 158°07′44.52″ W; then 1000 yards west to 21°20′36.10″ N, 158°08′15.18″ W; then 2000 yards south to 21°19′38.93″ N, 158°07′54.33″ W; then east to 21°19′1647.64″ N, 158°07′23.79″ W; then north along the shoreline back to the starting point. The West Oahu Offshore Zone does not include the entrance of Barbers Point Harbor Channel or the four lagoons adjacent to the Ko'olina Resort.

In accordance with the general regulations in 33 CFR part 165, subpart D, no person or vessel will be permitted to transit into or remain in the zone except for those authorized support vessels, aircraft and support personnel, or other personnel or vessels authorized by the Captain of the Port or the District Commander. Any Coast Guard commissioned, warrant, or petty officer, or other Captain of the Port representative permitted by law, may enforce the zone. Vessels, aircraft, or persons in violation of this rule will be subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

Vessels, aircraft, or persons in violation of this rule will be subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

Regulatory Analyses

We developed this temporary final rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. This conclusion is based on the limited duration of the zone and the limited geographic area affected by it.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule will have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule could affect the following entities, some of which might be small entities: the owners or operators of vessels for hire intending to transit or operate in the West Oahu Security Zone from November 13, 2011 to on November 15, 2011.

This security zone will not have a significant economic impact on a substantial number of small entities for the following reasons: the security zone

will be activated and thus subject to enforcement for a period of no longer than 2 days and will not affect vessels transiting or operating outside a box extending along the coast 1000 yards to the north of the northern most lagoon at the Ko'olina Resort, to 1000 yards south, along the coast, of Ko'olina's northern most lagoon to 1000 yards to seaward from both points and then connected with a straight line.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LCDR Scott O. Whaley at (808) 522–8264 ext. 352.

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

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This regulation establishes one security zone. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREA AND LIMITED ACCESS AREA

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

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

■ 2. Add § 165.T14–1048 to read as follows:

§ 165.T14–1048 West Oahu Offshore Security Zone.

(a) *Location.* The following area, from the surface of the water to the ocean floor, is a security zone: All waters encompassed by a line extending 1000 yards north along the coast from 21°20′16.00″ N, 158°07′34.77″ W; to 21°20′43.98″ N, 158°07′44.52″ W; then 1000 yards west to 21°20′36.10″ N, 158°08′15.18″ W; then 2000 yards south to 21°19′38.93″ N, 158°07′54.33″ W; then east to 21°19′1647.64″ N, 158°07′23.79″ W; then north along the shoreline back to the starting point. The West Oahu Offshore Zone does not include the entrance of Barbers Point Harbor Channel or the four lagoons adjacent to the Ko'olina Resort.

(b) *Enforcement period.* The security zone described in paragraph (a) of this section will be enforced from 11 p.m. HST on November 13, 2011, to 9 a.m. HST on November 15, 2011.

(c) *Definitions.* As used in this section, *designated representative* means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Honolulu to assist in enforcing the security zone described in paragraph (a) of this section.

(d) *Regulations.* The general security zone regulations found in 33 CFR part 165, subpart D, apply to the security zone created by this temporary section.

(1) All persons are required to comply with the general regulations governing security zone found in 33 CFR 165.33.

(2) Entry into or remaining in the security zone described in paragraph (a) of this section is prohibited unless authorized by the Coast Guard Captain of the Port Honolulu.

(3) Persons desiring to transit the security zone identified in paragraph (a) of this section may contact the Captain of the Port at Command Center telephone number (808) 842–2600 and (808) 842–2601, fax (808) 842–2624 or on VHF channel 16 (156.8 Mhz) to seek permission to transit the zone. If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port Honolulu or his designated representative and proceed at the minimum speed necessary to maintain a safe course while within the zone.

(e) *Enforcement personnel.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the zone by Federal, State, and local agencies.

Dated: November 4, 2011.

J.M. Nunan,

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

[FR Doc. 2011–29456 Filed 11–9–11; 4:15 pm]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. EPA–R02–OAR–2011–0499; FRL–9486–1]

Approval and Promulgation of Implementation Plans; Reasonably Available Control Technology for Oxides of Nitrogen for a Specific Source in the State of New Jersey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is announcing approval of a revision to the State Implementation Plan (SIP) for ozone submitted by the State of New Jersey. This SIP revision consists of a source-specific reasonably available control technology (RACT) determination for controlling oxides of nitrogen from the stationary reciprocating, diesel fuel fired, internal combustion engines operated by the Naval Weapons Station Earle located in Colts Neck, New Jersey. This action approves the source-specific RACT determination that was made by New Jersey in accordance with the provisions of its regulation to help meet the national ambient air quality standard for ozone. The intended effect of this rule is to approve source-specific emissions limitations required by the Clean Air Act.

DATES: *Effective Date:* This rule is effective on December 14, 2011.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R02–OAR–2011–0499. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (212) 637–4249.

FOR FURTHER INFORMATION CONTACT: Raymond K. Forde, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10278, (212) 637–3716.

SUPPLEMENTARY INFORMATION:

I. What action is EPA taking today?

EPA is approving New Jersey's revision to the ozone State Implementation Plan (SIP) submitted on May 14, 2009. This SIP revision relates to New Jersey's NO_X RACT determination for the Naval Weapons Station Earle (NWSE) facility located in Colts Neck, New Jersey, Monmouth County. The facility contains two stationary reciprocating, diesel fuel fired, internal combustion engines one existing and one new engine.

II. What comments were received and what is EPA's response?

EPA received one comment from the public. The commenter expressed support for EPA's proposed approval of the New Jersey SIP revision but was concerned about the length of time from the date EPA received the SIP revision request to the date of EPA's proposal to approve the SIP revision. EPA understands the commenter's concerns. However, due to the numerous SIP revisions that EPA receives, and the limited resources EPA has to act on all SIP revisions, EPA must process SIP revisions based on overall program priorities.

III. Conclusion

EPA has determined that New Jersey's SIP revision for the NO_X RACT determination for NWSE's engines is consistent with New Jersey's NO_X RACT regulation and EPA's guidance. EPA has determined that New Jersey's SIP revision will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act. Therefore, EPA is approving the NO_X emission limits identified in New Jersey's Conditions of Approval document for NWSE's engines. The conditions contained in the Conditions of Approval document currently specify emissions limits, work practice standards, testing, monitoring, and recordkeeping/reporting requirements. These conditions are consistent with the NO_X RACT requirements specified in Subchapter 19 of Chapter 27, Title 7 of the New Jersey

Administrative Code and conform to EPA NO_X RACT guidance.

More specifically, EPA approves the current Conditions of Approval document which includes the following, to limit the:

1. NO_X emissions rate from each engine to 11.3 g/bhp-hr,
2. Total NO_X emissions rate while combusting 100% distillate oil to 4.67 tons per year for both engines combined,
3. Combined hours of operation for both engines to less than 675 hours per year,
4. Operation of each engine to 75% load or less, and
5. Annual fuel usage to 20,047.50 gallons per year combined for both engines.

In addition, the Conditions of Approval specify the NO_X emissions limits, combustion process adjustments mentioned above, emission testing, monitoring, recordkeeping and reporting requirements, which States and sources will need to provide for through the Title V permitting process.

IV. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 13, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). Because this is a rule of particular applicability, EPA is not required to submit a rule report regarding this action under section 801.

List of Subjects in 40 CFR Part 52

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

Dated: October 19, 2011.

Judith A. Enck,

Regional Administrator, Region 2.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart FF—New Jersey

■ 2. Section 52.1570 is amended by adding new paragraph (c)(90) to read as follows:

§ 52.1570 Identification of plan.

* * * * *

(c) * * *

(90) Revision to the New Jersey State Implementation Plan (SIP) for ozone concerning the control of nitrogen oxides from Naval Weapons Station Earle dated May 14, 2009 and supplementary information dated May 21, 2009 submitted by the New Jersey State Department of Environmental Protection.

(i) Incorporation by reference:

(A) A letter from Mr. Frank Steitz, Chief, Bureau of Air Permits, New Jersey Department of Environmental Protection, addressed to Captain G.A. Maynard, Commanding Officer, Naval Weapons Station Earle titled ''Alternative Maximum Emission Rate (AEL) for Nitrogen Oxides (NO_X) Pursuant to N.J.A.C. 7:27–19.13 and

Significant Modification of Operating Permit,'' dated and approved May 21, 2009 including Attachment 1 ''Conditions of Approval Alternative Maximum Emission Rate For NO_X For Two (2) Detroit Diesel Distillate Oil Fuel Fired 2–Stroke Diesel Internal Combustion Engines, Naval Weapons Station Earle.''

[FR Doc. 2011–29174 Filed 11–10–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2010–0978; FRL–9489–9]

Approval and Promulgation of Implementation Plans; Texas; Revisions to the New Source Review (NSR) State Implementation Plan (SIP); Permit Renewals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving revisions to the applicable State Implementation Plan (SIP) for the State of Texas that relate to Permit Renewals. The portions of the SIP revisions that EPA is approving address the following requirements related to Permit Renewals: Notification of permit holder, permit renewal application, and review schedule. EPA finds that these changes to the Texas SIP comply with the Federal Clean Air Act (the Act or CAA) and EPA regulations and are consistent with EPA policies. EPA is taking this action under section 110 of the Act.

DATES: This rule is effective on December 14, 2011.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2010–0978. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. The file will be made available by appointment for public inspection in the Region 6 Freedom of Information Act Review Room between the hours of 8:30 am and 4:30 pm weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at (214) 665–7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittals are also available for public inspection at the State Air Agency listed below during official business hours by appointment: Texas Commission on Environmental Quality (TCEQ), Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley M. Spruiell, Air Permits Section (6PD–R), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, *telephone* (214) 665–7212; *fax number* (214) 665–6762; *email address spruiell.stanley@epa.gov.*

SUPPLEMENTARY INFORMATION:THROUGHOUT THIS DOCUMENT WHEREVER ANY REFERENCE TO ''WE,'' ''US,'' OR ''OUR'' IS USED, WE MEAN EPA.

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I. The State's Submittals

A. What is the background of the Texas Permit Renewals program?

In this action, EPA is approving revisions to the Texas regulations relating to renewal of preconstruction permits. The rules for Permit Renewals are currently approved in the Texas SIP under 30 TAC 116.310, 116.311, 116.312, 116.313, 116.314, and 116.315. EPA approved these rules on March 10, 2006 (71 FR 12285), and revisions on March 20, 2009 (74 FR 11851), and March 11, 2010 (75 FR 11464). The approved rules require each preconstruction permit to be renewed every ten years. Permit renewal is approved based upon a demonstration in the renewal application that the permitted facility will operate in accordance with all requirements and conditions of the existing permit, including representations in the application to construct, any subsequent amendments, any previously granted renewal, and the compliance history of the facility. Although preconstruction permits must remain in effect as long as the source operates and until voided under the approved implementation procedures, periodic renewal of preconstruction permits is neither required nor prohibited under the Act or Federal Regulations.

B. What changes did the State submit?

On December 15, 1995; July 22, 1998; and September 4, 2002; the State of Texas submitted revisions to the Texas SIP concerning Permit Renewals under Title 30 of the Texas Administrative Code (30 TAC), Chapter 116—Control of Air Pollution by Permits for New Construction or Modification, Subchapter D—Permit Renewals. The December 15, 1995, revisions to these provisions were superseded and rendered moot by revisions submitted to EPA on July 22, 1998, because the latter submittal repealed and replaced the earlier versions of the same provisions addressed in the December 15, 1995, submittal. Submitted revisions included changes to 30 TAC 116.310—Notification of Permit Holder, 30 TAC 116.311—Permit Renewal Application, 30 TAC 116.312—Public Notification and Comment Procedures, 30 TAC 116.313—Renewal Application Fees, 30 TAC 116.314—Review Schedule, and 30 TAC 116.315—Permit Renewal Submittal. In this final action, we are addressing submitted revisions to 30 TAC 116.310, 116.311, and 116.314.

Section 30 TAC 116.310—Notification of Permit Holder—is currently approved as adopted by Texas on August 16, 1993, approved March 10, 2006 (71 FR

12285). Today, we are approving revisions to Section 116.310 that were adopted by Texas on November 16, 1995 (submitted December 15, 1995) and June 17, 1998 (submitted July 22, 1998).

Section 30 TAC 116.311—Permit Renewal Application—is currently approved as adopted by Texas on April 6, 1994, approved March 10, 2006 (71 FR 12285). The requirements of subsection (c) were later removed from Section 116.311 and added to a new Section 116.315 and approved by EPA on March 11, 2010 (75 FR 11464). Today, we are approving other revisions adopted by Texas on November 16, 1995 (submitted December 15, 1995); June 17, 1998 (submitted July 22, 1998); and August 21, 2002 (submitted September 4, 2002). Today's action does not address severable revisions to 30 TAC 116.311(a)(2) submitted December 15, 1995; July 22, 1998; and September 4, 2002. This provision was revised to exclude changes under the severable provisions relating to Qualified Facilities. EPA is not taking action on Paragraph (a)(2) in this rulemaking. EPA will address the revisions to that provision in a separate action in connection with the separately submitted revisions to the Texas Qualified Facilities Program, submitted October 5, 2010.

Section 30 TAC 116.314—Review Schedule—is currently approved as adopted by Texas on August 16, 1993, approved March 10, 2006 (71 FR 12285). Today, we are approving revisions adopted by Texas on November 16, 1995 (submitted December 15, 1995) and June 17, 1998 (submitted July 22, 1998).

EPA proposed to approve these SIP revisions on June 6, 2011 (76 FR 32333). In that proposal, we requested public comments on the proposed action. The public comment period closed July 6, 2011. We received one comment letter from Baker Botts on behalf of the BCCA Appeal Group (BCCAAG) and the Texas Industry Project (TIP).

Additional information related to these SIP submittals is contained in the Technical Support Document (TSD), which is in the docket for this action.

The table below summarizes the changes that were submitted and are affected by this action. A summary of EPA's evaluation of each section and the basis for this final action is discussed in section III of this preamble. The TSD includes a detailed evaluation of the referenced SIP submittals.

Section	Title	Date submitted	Date adopted by the State	Comments
30 TAC 116.310	Notification of Permit Holder.	12/15/1995* 7/22/1998*	11/16/1995* 6/17/1998*	—Non-substantive changes to the section.
30 TAC 116.311	Permit Renewal Application.	12/15/1995* 7/22/1998*	11/16/1995* 6/17/1998*	—Removed paragraphs (a)(1), (a)(3), and (a)(4) and redesignated existing paragraphs (a)(2), (a)(5), and (a)(6) to paragraphs (a)(1)—(a)(3), respectively.
				—Added new paragraphs (a)(4) and (a)(5).
				—Added new subsection (b).
				—Revised and redesignated existing subsection (b) to new subsection (c).
		9/4/2002	8/21/2002	—Added new paragraph (a)(1) and redesignated existing paragraphs (a)(1)–(a)(5) to paragraphs (a)(2)–(a)(6), respectively.
30 TAC 116.314	Review Schedule	12/15/1995* 7/22/1998*	11/16/1995* 6/17/1998*	—Revised and reorganized subsection (a) into subsections (a) and (b).
				—Revised and redesignated existing subsections (b) and (c) to subsections (c) and (d), respectively.

* Because Texas repealed and resubmitted each section under Subchapter D in its 7/22/1998 submittal, our analysis includes 12/15/95 and 7/22/98 SIP submittal together.

II. What action is EPA taking?

We have evaluated the SIP submissions for consistency with the CAA, NSR regulations for new and modified sources in 40 CFR part 51, and the approved Texas SIP. We have also reviewed the rules for enforceability and legal sufficiency.

This action addresses revisions to 30 TAC 116.310, 116.311, and 116.314, submitted December 15, 1995, and July 22, 1998, and revisions to 30 TAC 116.311 submitted September 4, 2002. A technical analysis of the submittals for the sections relating to Notification of Permit Holder, Permit Renewal Application, and Review Schedule has found that these changes are consistent with the CAA, 40 CFR part 51 and EPA policies. Therefore, EPA approves the revisions to 30 TAC 116.310, 116 .311,[1] and 116.314 submitted on December 15, 1995; July 22, 1998; and September 4, 2002.

III. EPA's Evaluation

A. Section 30 TAC 116.310—Notification of Permit Holder

1. What is the background of 30 TAC 116.310?

The currently approved provisions for 30 TAC 116.310 were submitted to EPA on August 31, 1993. EPA approved the submitted revisions on March 10, 2006 (71 FR 12285). These revisions became effective on May 9, 2006.

[1] However, EPA is taking no action on submitted revisions to 30 TAC 116.311(a)(2). See discussion in section III.B.3.c of this preamble for further information on why we are taking no action on 30 TAC 116.311(a)(2).

2. What did Texas submit for 30 TAC 116.310?

Since EPA's last approval for this section, TCEQ has submitted two SIP revisions to EPA for the Notification of Permit Holder in 30 TAC 116.310 on December 15, 1995, and July 22, 1998. Today we are approving the revisions of the existing provisions of section 116.310. The revisions submitted to this section include updated references to the current agency name and update of a state statutory citation to the current citation.

3. What is EPA's evaluation of the submitted revisions to 30 TAC 116.310?

These submitted revisions are non-substantive and do not change the underlying requirements of the section as currently approved. We are

approving the revisions to 30 TAC 116.310 as submitted December 15, 1995, and July 22, 1998.

B. Section 30 TAC 116.311—Permit Renewal Application

1. What is the background of 30 TAC 116.311?

The currently approved provisions for 30 TAC 116.311 were submitted to EPA on August 31, 1993, and April 29, 1994. EPA approved the submitted revisions on March 10, 2006 (71 FR 12285). These revisions became effective on May 9, 2006.

2. What did Texas submit for 30 TAC 116.311?

Since EPA's last approval for this section, TCEQ has submitted three SIP revisions to EPA for the Permit Renewal Application section on December 15, 1995; July 22, 1998; and September 4, 2002. On March 11, 2010, we approved the recodification and revision of the existing provisions of Section 116.311(c) to a new Section 116.315—Permit Renewal Submittal. In this action, we are approving the remaining revisions as described below, except for the revisions to 30 TAC 116.311(a)(2). This includes the following revisions:

a. Revisions submitted December 15, 1995, and July 22, 1998.

These revisions include:

- Removal of Paragraphs (a)(1), (a)(3), and (a)(4), and the redesignation of existing Paragraphs (a)(2), (a)(5), and (a)(6) to Paragraphs (a)(1) through (a)(3), respectively;
- Addition of new Paragraphs (a)(4) and (a)(5);
- Addition of new Subsection (b); and
- Redesignation of existing Subsection (b) to Subsection (c) with non-substantive revisions.

b. Revisions submitted September 4, 2002.

These revisions include the addition of new Paragraph (a)(1) and redesignation of existing Paragraphs (a)(1) through (a)(4) to Paragraphs (a)(2) through (a)(5), respectively.

3. What is EPA's evaluation of the submitted revisions to 30 TAC 116.311?

a. The addition of new Paragraph (a)(1).

Texas submitted Paragraph (a)(1) on September 4, 2002. This paragraph ensures that upon renewal, ''dockside vessel emissions associated with the permitted facility will comply with all rules and regulations of the commission and with the intent of the TCAA, including protection of the health and property of the public and minimization of emissions to the extent possible, consistent with good air pollution practices.'' This revision is consistent with the provision in the SIP-approved 30 TAC 116.111(a)(2) as it relates to associated dockside vessel emissions. See 72 FR 49198 (August 28, 2007). The TCEQ obtained the authority to regulate dockside emissions under House Bill (HB) 3040, 77th Legislature, 2001 which amended the Texas Health and Safety Code (THSC), Texas Clean Air Act (TCAA), § 382.065 (Acts 2001, 77th Legislature, Chapter 1166, § 1). See page 2 of the TCEQ's evaluation of the revisions submitted September 4, 2002. The TCEQ further states:

> The commission determined that dockside vessels are facilities as defined in TCAA, § 382.003(6), and thus subject to the requirements of Chapter 116. These emissions will require best available control technology (BACT) review, maximum allowable emission limitations, monitoring, testing, recordkeeping, and ambient air impacts review. The emissions originating from a dockside vessel that are the result of functions performed by onshore facilities or using onshore equipment include: loading and unloading of liquid bulk materials, liquefied gaseous materials, and solid bulk materials; cleaning and degassing liquid vessel compartments; and abrasive blasting and painting.

See page 4 of the TCEQ's evaluation of the revisions submitted September 4, 2002.

Finally, concerning the revision to 30 TAC 116.311, the TCEQ states:

> The adopted amendment to § 116.311, Permit Renewal Application, requires that owners or operators submit information that demonstrates that dockside emissions comply with all commission rules and regulations and the intent of the TCAA, including protection of the health and property of the public and the minimization of emissions to the extent practicable, consistent with good air pollution control practices. Existing dockside emissions will be reviewed for off-property effects considering magnitude, frequency, and duration.

See page 4 of the TCEQ's evaluation of the revisions submitted September 4, 2002. The addition of new paragraph (a)(1) ensures that permits to construct and permit renewals that pre-date TCEQ's rule change to regulate dockside emissions at 30 TAC 116.111(a)(2) are required at renewal to ensure all dockside emissions comply with the statute and regulations. We are approving the addition of Paragraph (a)(1), submitted September 4, 2002.

b. The removal of existing Paragraph (a)(1).

This paragraph provides that upon renewal the emissions from the facility will comply with all applicable specifications and requirements in the Texas Air Control Board (TACB)[2] rules and the Texas Clean Air Act (TCAA). Texas submitted the removal of existing Paragraph (a)(1) on December 15, 1995, and July 22, 1998. This provision is redundant because the SIP already contains the substantive requirement at 30 TAC 116.115(b)(2)(H)(ii) requiring that ''[i]f more than one state or federal regulation or permit condition are applicable, the most stringent limit or condition shall govern and be the standard by which compliance shall be demonstrated.'' The SIP also provides TCEQ with the authority to re-evaluate a source's ability to comply with the statute and regulations at renewal, as provided in the existing SIP rule at 30 TAC 116.311(b), and which is recodified to 30 TAC 116.311(c). Because the removal of this paragraph is merely the removal of a redundant requirement, it is not a relaxation of the SIP. Therefore, approval of this revision will not interfere with attainment and reasonable further progress or any other applicable federal requirement, as required by section 110(l) of the CAA. Accordingly, we are approving the removal of existing Paragraph (a)(1), submitted December 15, 1995, and July 22, 1998.

c. Revisions to Paragraph (a)(2).

As currently approved, Paragraph (a)(2) provides that upon renewal, a facility continues to operate in accordance with all requirements and conditions of the existing permit, including representations in the application for permit to construct and subsequent amendments, and any previously granted renewal. This paragraph was revised and redesignated to Paragraph (a)(1) in the December 15, 1995, and July 22, 1998, SIP submittals. This paragraph was again redesignated to Paragraph (a)(2) in the September 4, 2002, SIP submittal. The revisions submitted December 15, 1995, and July 22, 1998, as redesignated in the September 4, 2002, SIP submittal, were revised to add a provision that excludes changes otherwise authorized for a Qualified Facility. The submitted revisions to paragraph (a)(2) are related to severable provisions that relate to Qualified Facilities that we disapproved on April 14, 2010 (75 FR 19468) and to the separately submitted revisions to the Qualified Facilities Program on October 5, 2010. We are taking no action on the severable submitted revision to Paragraph (a)(2) relating to Qualified Facilities, and we will address these revisions in a separate action on the submitted revisions to the Qualified Facilities Program. The approved SIP will retain currently approved

[2] The TACB is a predecessor agency to the TCEQ.

paragraph (a)(2) as adopted by Texas on April 4, 1994 (submitted April 29, 1994), and approved March 10, 2006.

Accordingly, consistent with our proposal, we will take no action on the submitted revisions to 30 TAC 116.311(a)(2). The approved SIP will retain the currently approved provisions of 30 TAC 116.311(a)(2) as adopted by Texas on April 6, 1994, and approved by EPA on March 10, 2006, 71 FR 12285.

d. The removal of existing Paragraph (a)(3).

This paragraph required that upon renewal the facility will continue to have appropriate means to measure the emission of significant air contaminants as determined necessary by the Executive Director. Texas submitted the removal of Paragraph (a)(3) on December 15, 1995, and July 22, 1998. In its December 15, 1995, submittal Texas stated:

> Existing § 116.311(a)(3) also duplicates a requirement applicable to the original permit application. An applicant for a permit to construct must demonstrate that a facility will have provisions for measuring the emissions of significant air contaminants, including the installation of sampling ports and sampling platforms. When necessary, such requirements are written as conditions of the permit. The renewal review will determine whether a facility is in compliance with any sampling requirements in its permit. * * * [A]n owner/operator could not remove sampling ports or platforms in violation of permit conditions.
>
> Further, 30 TAC § 101.9 provides independent authority for the TNRCC to require sampling ports and platforms when necessary. The existing § 116.311(a)(3) was redundant and unnecessary.

See the December 15, 1995, SIP submittal at page 5 of the Section entitled ''Evaluation of Testimony.'' This provision is redundant because the SIP already contains the substantive requirement in the rules at 30 TAC 101.9 and 30 TAC 116.111(a)(2)(B). These two SIP rules require the following:

> Any person, at the request of the Texas Natural Resource Conservation Commission (TNRCC or Commission), shall provide in connection with each flue a power source near the point of testing in addition to such sampling and testing facilities and sampling ports, including safe and easy access thereto, exclusive of instruments and sensing devices, as may be necessary for the Commission to determine the nature and quality of emissions which are or may be discharged as a result of source operations. Evidence and data based on these samples and calculations may be used to substantiate violations of the Act, rules, and regulations. Agents of the Commission shall be permitted to sample the stacks during operating hours.

30 TAC 101.9.

> (B) Measurement of emissions. The proposed facility will have provisions for measuring the emission of significant air contaminants as determined by the executive director. This may include the installation of sampling ports on exhaust stacks and construction of sampling platforms in accordance with guidelines in the ''Texas Natural Resource Conservation Commission (TNRCC) Sampling Procedures Manual.''

30 TAC 116.111(a)(2)(B).

Because the removal of this paragraph is merely the removal of a redundant requirement, it is not a relaxation of the SIP. Therefore, approval of this revision will not interfere with attainment and reasonable further progress or any other applicable federal requirement, as required by section 110(l) of the CAA. Accordingly, we are approving the removal of existing Paragraph (a)(3), submitted December 15, 1995, and July 22, 1998.

e. The removal of existing Paragraph (a)(4).

This paragraph required that upon renewal the facility will continue to use the control technology determined by the Executive Director to be economically reasonable and technically practicable considering the age of the facility and the impact of its emissions on the surrounding area. Texas submitted the removal of Paragraph (a)(4) on December 15, 1995, and July 22, 1998. This provision is redundant because the SIP already provides for this substantive requirement at 30 TAC 116.311(a)(2) and 30 TAC 116.111(a)(2)(C). Section 30 TAC 116.311(a)(2) provides that upon renewal, the facility is being operated in accordance with all requirements and conditions of the existing permit, including representations in the application for permits to construct and subsequent amendments, and any previously granted renewal. Therefore, the SIP-approved requirements 30 TAC 116.311(a)(2) require that upon renewal, a facility will continue to meet the requirements of 30 TAC 116.111(a)(2)(C). This SIP rule requires that a proposed facility will utilize Best Available Control Technology (BACT), with consideration given to technical practicability and economic reasonableness of reducing or eliminating the emissions from the facility. Because the removal of Paragraph (a)(4) is merely the removal of a redundant requirement, it is not a relaxation of the SIP. Therefore, approval of the removal of 30 TAC 116.311(a)(4) will not interfere with attainment and reasonable further progress or any other applicable federal requirement, as required by section 110(l) of the CAA.

The removal of Paragraph (a)(4) also removes a provision that allows director discretion relating to the control technology that could be utilized at a facility following renewal. Further, the TCEQ maintains the authority to impose, as a condition of renewal, additional requirements that it determines to be economically reasonable and technically practicable considering the age of the facility and the impact of its emissions on the surrounding area, as provided in the submitted revisions related to 30 TAC 116.311(b) (which is evaluated in section III.B.3.i of this preamble). Accordingly, we are approving the removal of existing Paragraph (a)(4), submitted December 15, 1995, and July 22, 1998.

f. Revisions to currently submitted Paragraphs (a)(3) and (a)(4).

These paragraphs are currently approved as Paragraphs (a)(5) and (a)(6). These paragraphs require that upon renewal, the facility must continue to meet the applicable requirements of the New Source Performance Standards (required under section 111 of the Act and 40 CFR part 60) and the National Emission Standards for Hazardous Air Pollutants (required under section 112 of the Act and 40 CFR part 61). These paragraphs were redesignated to Paragraphs (a)(2) and (a)(3) with non-substantive changes in revisions submitted December 15, 1995, and July 22, 1998, and were again redesignated to Paragraphs (a)(3) and (a)(4) in a revision submitted September 4, 2002, with no substantive changes. The changes to these provisions are non-substantive revisions to the existing SIP. Accordingly, we are approving the redesignations and non-substantive changes to these paragraphs as submitted December 15, 1995; July 22, 1998; and September 4, 2002.

g. Addition of new Paragraph (a)(5).

This paragraph was submitted as Paragraph (a)(4) on July 22, 1998, and then redesignated to Paragraph (a)(5), as submitted September 4, 2002. This paragraph requires that upon renewal, the facility must continue to meet the applicable requirements of the maximum achievable control technology standard as listed under 40 CFR part 63, promulgated by EPA under the authority of section 112 of the CAA, or as listed under 30 TAC Chapter 113, Subchapter C of this title (relating to National Emissions Standards for Hazardous Air Pollutants for Source Categories) (FCAA § 112, 40 CFR part 63). This paragraph ensures that upon renewal the facility continues to meet the requirements of the current SIP at 30 TAC 116.111(a)(2)(F), which requires

permitted facilities to comply with the requirements of 40 CFR part 63. Accordingly, we are approving the addition of Paragraph (a)(5) as submitted December 15, 1995; July 22, 1998; and September 4, 2002.

h. Addition of new Subsection (b).

Texas submitted Subsection (b) on December 15, 1995, and July 22, 1998. This section provides that in addition to the requirements in Subsection (a) of this section, if the TCEQ determines it necessary to avoid a condition of air pollution or to ensure compliance with otherwise applicable federal or state air quality control requirements, then: (1) The applicant may be required to submit additional information regarding the emissions from the facility and their impacts on the surrounding area; and (2) the TCEQ shall impose as a condition for renewal those requirements the Executive Director determines to be economically reasonable and technically practicable considering the age of the facility and the impact of its emissions on the surrounding area. This new subsection provides the Executive Director of the TCEQ with authority to require additional information and to require additional requirements above and beyond the requirements stipulated in Subsection (a) whenever the Executive Director deems such additional measures are necessary. EPA has already approved Subsection (a) (as adopted by the State on April 6, 1994) as meeting the requirements of the Act and 40 CFR part 51. Because the requirements in Subsection (b) are *in addition to* the requirements in Subsection (a) of this section, and because EPA has approved Subsection (a), Subsection (b) can only be used to impose *additional measures* when the Executive Director deems them necessary. Subsection (b) *does not authorize* the Executive Director to use the permit renewal process to relax terms and conditions of the existing permit. Such relaxations of the existing permit must be authorized through the SIP-approved procedures for changing a permit under 30 TAC Chapter 116, Subchapter B—New Source Review Permits.[3] Further, the addition of subsection (b) provides a mechanism to ensure that upon renewal, the permit continues to meet the approved SIP requirements at 30 TAC 116.111(a)(2)(A)(1) which requires the initial permit must ''comply with all rules and regulations of the commission and with the intent of the TCAA, including protection of the health and property of the public.'' The addition of Subsection (b) provides TCEQ with a mechanism to impose additional requirements at renewal when TCEQ deems it necessary to address changes in air quality or changes to applicable federal and state requirements that may occur after issuance of the initial permit. We therefore find that the submitted revision to add Subsection (b) to 30 TAC 116.311 meets section 110(a)(2)(C) of the Act and 40 CFR part 51; and does not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act. Accordingly, we are approving the addition of the new Subsection (b) to the SIP.

i. Revisions to Subsection (c).

This provision is currently approved as Subsection (b). This subsection requires that upon renewal, the facility shall continue to meet the requirements under the undesignated heading in Subchapter B relating to Compliance History. This provision was redesignated to Subsection (c) with revisions, submitted December 15, 1995, and July 22, 1998. The submitted revisions include changing the citations to refer to the Compliance History provisions to refer to the SIP-approved requirement under 30 TAC 116.120 through 116.126 under Subchapter B, Division 2—Compliance History. The changes also include clarifications that failure to demonstrate compliance with the Compliance History requirements shall result in the renewal not being granted. It further changes the rule to provide that if a contested case hearing has not been requested, the Executive Director, not the staff, must notify the applicant of intent to recommend denial of an application for permit renewal if the TCEQ finds that violations of the compliance history constitute a recurring pattern of egregious conduct which demonstrates a consistent disregard for the regulatory process, including failure to make a timely and substantial attempt to correct the violations. We find that the submitted revision meets section 110(a)(2)(C) of the Act and 40 CFR part 51. Accordingly, we are approving the redesignation of Subsection (b) to Subsection (c) and the revisions thereto as submitted December 15, 1995, and July 22, 1998.

C. Section 30 TAC 116.314—Review Schedule

1. What is the background of 30 TAC 116.314?

The currently approved provisions for 30 TAC 116.314 were submitted to EPA on August 31, 1993. EPA approved the submitted revisions on March 10, 2006 (71 FR 12285). These revisions became effective on May 9, 2006.

2. What did Texas submit for 30 TAC 116.314?

Since EPA's last approval for this section, TCEQ has submitted two SIP revisions to EPA for this section on December 15, 1995, and July 22, 1998. In this action, we are approving the revisions of the existing provisions of section 116.314. The revisions submitted to this section include the following:

- Reorganization of Subsection (a) into Subsections (a) and (b) and redesignation of existing Subsections (b) and (c) to Subsections (c) and (d).
- Non-substantive revisions to the reorganized Subsections (a) and (b).
- Revisions to Subsection (c) as recodified.
- Non-substantive revisions to Subsection (d) as recodified.

3. What is EPA's evaluation of the submitted revisions to 30 TAC 116.314?

The revisions to 30 TAC 116.314 are evaluated and addressed as described below:

a. Revisions to Subsections (a) and (b).

The revisions submitted December 15, 1995, and July 22, 1998, revised and reorganized Subsection (a) into Subsections (a) and (b). These revisions include clarifying amendments which streamline and reorganize the requirements of Subsections (a) and (b). The submitted changes are non-substantive. Accordingly, we are approving Subsections (a) and (b) as submitted December 15, 1995, and July 22, 1998.

b. Revisions to Subsection (c).

These provisions are currently approved as Subsection (b). As approved, this subsection provides that in the event that the permit holder fails to satisfy the requirements for corrective action by the deadline specified in the report filed by the TCEQ, the applicant shall be required to show cause in a contested case proceeding why the permit should not expire. The proceeding will be pursuant to the requirements of the Administrative Procedure and Texas Register Act, Article 6252–13a, V.T.C.S. This subsection was recodified to Subsection

[3] Also see the SIP approved rule at 30 TAC 116.315(c) which provides that a renewal application may be submitted at the same time as an amendment application to modify an existing facility as long as it is submitted no more than three years before the permit's expiration date and the amendment is subject to public notice requirements.

(c) in the revisions submitted December 15, 1995, and July 22, 1998. The submitted revisions update the agency name and the statutory citation relating to contested case hearings and referred to the contested case hearing provisions in 30 TAC Chapters 1, 55, and 80. The submitted revision to 30 TAC 116.314(c) includes specific cross-references to 30 TAC Chapters 1, 55, and 80, which relate to Purpose of Rules, General Provisions; Request for Contested Case Hearings; Public Comment; and Contested Case Hearings. In contrast, the current SIP refers to the Contested Case Hearing Process without cross references to specific rules relating to Contested Case Hearings. Although the revision provides references to the specific rules relating to Contested Case Hearings, the revision *does not* make substantive changes to the requirements of the existing SIP. Texas's use of the Contested Hearing Process in this context in both the current SIP and the submitted revisions is to inform the permit applicant of the availability of the contested case hearing but does not incorporate the specific requirements of Chapters 1, 55, and 80 into the SIP. Further, the submitted revision to 30 TAC 116.314(c) meets the requirements of section 110(a)(2)(C) of the Act and 40 CFR part 51, does not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act. Accordingly, we are approving the revisions to Subsection (c) as submitted December 15, 1995, and July 22, 1998.

d. Revisions to Subsection (d).

These provisions are currently approved as Subsection (c) and relate to the effective date of the existing permit. This subsection was revised and recodified to Subsection (d) in revisions submitted December 15, 1995, and July 22, 1998. These revisions include clarifying amendments which streamline the requirements relating to Permit Renewals. The submitted changes are non-substantive. Accordingly, we are approving the revision to Subsection (d) as submitted December 15, 1995, and July 22, 1998.

IV. Response to Comments

EPA received one comment letter submitted jointly by the BCCA Appeal Group (BCCA) and Texas Industry Project (TIP).

The commenters agreed with EPA's proposed approval of 30 TAC 116.310, 116.311, and 116.314 because approval of these provisions will enhance the Texas SIP.

We appreciate the commenters' support for our approval of these Texas Permit Renewals provisions.

The commenters asked EPA to fully approve all of the revisions to 30 TAC 116.311 on the basis that deferral would be inappropriate in light of the SIP approvability of Section 116.311 as a whole and EPA's commitment to act on the revisions to it by October 31, 2011.[4] The commenters contend that the language at issue in section 116.311(a)(2) addresses only a requirement for the contents of a permit renewal application, and it does not independently bring the Qualified Facilities Program into the SIP. Further, the commenters assert that requiring applicants to show satisfaction of state requirements that are not yet SIP-approved does not render the provision unapprovable. So, rather than deferring action on section 116.311(a)(2) to coincide with a longer schedule for action on the revised Qualified Facilities Program, the commenters suggest that EPA should act now to approve section 116.311(a)(2).

EPA disagrees with the commenters that the revisions to 116.311(a)(2) are approvable at this time. The language of the revisions exempts renewal applicants from complying with requirements of the existing SIP-approved permit if the source is authorized as a Qualified Facility. On April 14, 2010, EPA disapproved the Qualified Facilities Program (75 FR 19468). On October 5, 2010, Texas submitted revisions to the Qualified Facilities Program in an effort to address EPA's concerns noted in our disapproval action. However, EPA has not had the opportunity to review and take action on these revisions yet, so the Qualified Facilities Program is not a part of the approved SIP at this time. We disagree with the commenters' contention that allowing applicants to show satisfaction of state requirements that are not yet SIP-approved, in lieu of compliance with SIP-approved requirements, renders the provision approvable. The submitted revisions to 30 TAC 116.311(a)(2) exempt sources from compliance with permit terms and conditions on the basis that the source has state-only authorization under the non-federally approved Qualified Facilities Program. At this time, EPA is taking no action on the submitted revision to 30 TAC 116.311(a)(2). We will take action on the revision to 30 TAC 116.311(a)(2) when we take action on the October 5, 2010, submitted revisions to the Qualified Facilities Program.

Finally, commenters urge EPA to act on the proposed SIP approval on the basis that prompt SIP approvals improve regulatory transparency and certainty. Commenters state that divergence between the requirements of state law and the SIP can cause confusion over the applicable requirements and increase the costs of compliance.

We agree that action on SIP submittals increases certainty for the regulated community because final action by EPA clarifies whether rules submitted by a state for inclusion in the SIP are sufficient to meet federal requirements and are federally enforceable. However, we note that approvability of an individual SIP submittal turns on whether the submittal complies with the CAA and applicable federal regulations. EPA must evaluate each SIP submittal on its own merits and determine what action to take under CAA section 110(k).

V. Final Action

Today, EPA is approving the following revisions to the Texas SIP:

- Revisions to 30 TAC 116.310—Notification of Permit Holder—submitted December 15, 1995, and July 22, 1998.
- Revisions to 30 TAC 116.311—Permit Renewal Application—submitted December 15, 1995; July 22, 1998; and September 4, 2002; as follows:
  - Addition of new Paragraph (a)(1);
  - Removal of existing Paragraphs (a)(1), (a)(3), and (a)(4);
  - Revisions to and redesignation of existing Paragraphs (a)(5) and (a)(6) to Paragraphs (a)(3) and (a)(4), respectively;
  - Addition of new Paragraph (a)(5);
  - Addition of new Subsection (b); and
  - Revisions to and redesignation of existing Subsection (b) to Subsection (c).
- Revisions to 30 TAC 116.314—Review Schedule—submitted December 15, 1995, and July 22, 1998, as follows:
  - Revisions to and reorganization of existing Subsection (a) to Subsections (a) and (b); and
  - Revisions to and redesignation of existing Subsections (b) and (c) to Subsections (c) and (d), respectively.

Much of this SIP revision re-organizes and makes non-substantive changes to the Texas renewals program. This revision also revises the SIP by adding a requirement to ensure that permits that pre-date TCEQ's rule change to regulate dockside emissions are required at renewal to ensure all

[4] *See* Consent Decree, *BCCA Appeal Group* v. *EPA,* No. 3–08CV1491–G (N.D. Tex). This Consent Decree has been amended to extend the deadline for action on 116.311(a)(2) to the date when EPA takes final action on the Qualified Facilities submittal dated October 5, 2010.

dockside emissions comply with the statute and regulations. The revision also removed the following three requirements from the renewals process: (1) Upon renewal the emissions from the facility will comply with all applicable specifications and requirements in the Texas Air Control Board (TACB) rules and the Texas Clean Air Act (TCAA); (2) upon renewal the facility will continue to have appropriate means to measure the emission of significant air contaminants as determined necessary by the Executive Director; and (3) upon renewal the facility will continue to use the control technology determined by the Executive Director to be economically reasonable and technically practicable considering the age of the facility and the impact of its emissions on the surrounding area. The removal of these provisions is approvable because these requirements are provided elsewhere in the Texas SIP; and therefore, their deletion will not interfere with attainment and reasonable further progress of the NAAQS or any other applicable requirement, as required by section 110(l) of the CAA.

Final action on these revisions on or before October 31, 2011, will meet EPA's obligation on the Permit Renewals component of the May 21, 2009, Consent Decree between EPA and the Business Coalition for Clean Air Appeal Group, Texas Association of Business, and Texas Oil and Gas Association.

EPA will address the severable revisions to 30 TAC 116.311(a)(2) submitted December 15, 1995; July 22, 1998; and September 4, 2002, in a separate action. While we are processing our separate action on the revisions to Paragraph (a)(2), we are retaining the currently approved provisions of paragraph (a)(2) in the SIP as adopted by Texas on April 6, 1994, approved March 10, 2006 (71 FR 12285).

VI. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 13, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: October 31, 2011.

Al Armendariz,

Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart SS—Texas

■ 2. The table in § 52.2270(c) entitled ''EPA Approved Regulations in the Texas SIP'' is amended under Chapter 116, Subchapter D, by revising the entries for Sections 116.310, 116.311, and 116.314, to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/subject	State approval/ submittal date	EPA approval date	Explanation
* * * * * * * * *				
Chapter 116—Control of Air Pollution by Permits for New Construction and Modifications				
* * * * * * * * *				
Subchapter D—Permit Renewals				
Section 116.310	Notification of Permit Holder.	6/17/1998	11/14/2011, [Insert FR page number where document begins].	
Section 116.311	Permit Renewal Application.	8/21/2002	11/14/2011, [Insert FR page number where document begins].	—Paragraph (a)(2) is in the SIP as adopted by the State on 4/6/1994, and approved by EPA on 3/10/2006, 71 FR 12285. —Paragraph 116.311(a)(6) is not in the SIP.
* * * * * * * * *				
Section 116.314	Review Schedule ..	6/17/1998	11/14/2011, [Insert FR page number where document begins].	
* * * * * * * * *				

[FR Doc. 2011–29179 Filed 11–10–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2009–0839; FRL–9489–6]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Redesignation of the Indianapolis Area to Attainment of the 1997 Annual Standard for Fine Particulate Matter

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to the receipt of adverse comments, EPA is withdrawing the September 27, 2011 (76 FR 59512), direct final rule approving Indiana's request to redesignate the Indianapolis, Indiana nonattainment area (Hamilton, Hendricks, Johnson, Marion, and Morgan Counties) to attainment for the 1997 annual National Ambient Air Quality Standard for fine particulate matter ($PM_{2.5}$). In the direct final rule, EPA stated that if adverse comments were received by October 27, 2011, the rule would be withdrawn and not take effect. EPA has received adverse comments from three commenters and, therefore, is withdrawing the direct final rule. EPA will address the comments in a subsequent final action based upon the proposed action, also published on September 27, 2011 (76 FR 59599). EPA will not institute a second comment period on this action.

DATES: The direct final rule published at 76 FR 59512 on September 27, 2011, is withdrawn as of November 14, 2011.

FOR FURTHER INFORMATION CONTACT: Kathleen D'Agostino, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–1767, *dagostino.kathleen@epa.gov.*

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

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

Dated: November 2, 2011.

Susan Hedman,

Regional Administrator, Region 5.

PART 52—[AMENDED]

Accordingly, the amendment to 40 CFR 52.776 published in the **Federal Register** on September 27, 2011 (76 FR 59512) on page 59526 is withdrawn as of November 14, 2011.

PART 81—[AMENDED]

Accordingly, the amendment to 40 CFR 81.315 published in the **Federal Register** on September 27, 2011 (76 FR 59512) on page 59526 is withdrawn as of November 14, 2011.

[FR Doc. 2011–29177 Filed 11–10–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

Methyl Mercaptan; Toxic Chemicals Release Reporting; Community Right-to-Know; Stay of Reporting Requirements

CFR Correction

In Title 40 of the Code of Federal Regulations, Parts 300 to 399, revised as of July 1, 2011, on page 496, in § 372.65, under the editorial note, an effective date note is added to read as follows:

Effective Date Note: At 59 FR 43050, Aug. 22, 1994, in § 372.65, in paragraph (a), the methyl mercaptan entry and in paragraph (b), the entry for CAS No. 74–93–1 were stayed indefinitely.

[FR Doc. 2011–29381 Filed 11–10–11; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 110606318–1655–02]

RIN 0648–BA68

Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Amendment 13 to the Coastal Pelagic Species Fishery Management Plan; Annual Catch Limits

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement Amendment 13 to the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). This final rule implements parts of Amendment 13 to the CPS FMP, which is intended to ensure the FMP is consistent with advisory guidelines published in Federal regulations. Amendment 13 revised the framework process in place to set and adjust fishery specifications and management measures and modified this framework to include new specification reference points such as annual catch limit (ACL).

DATES: Effective December 14, 2011.

ADDRESSES: Copies of the CPS FMP as Amended through Amendment 13 and the Environmental Assessment/Regulatory Impact Review for Amendment 13, are available from Rodney R. McInnis, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802, or Donald O. McIssac, Executive Director, Pacific Fishery Management Council, 7700 NE. Ambassador Place, Suite 200, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Joshua B. Lindsay, Sustainable Fisheries Division, NMFS, at (562) 980–4034 or Mike Burner, Pacific Fishery Management Council, at (503) 820–2280.

SUPPLEMENTARY INFORMATION: The CPS fishery in the U.S. exclusive economic zone (EEZ) off the West Coast is managed under the CPS FMP, which was developed by the Pacific Fishery Management Council (Council) pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Species managed under the CPS FMP include Pacific sardine, Pacific mackerel, jack mackerel, northern anchovy, market squid and krill. The CPS FMP was approved by the Secretary of Commerce and was implemented by regulations that can be found at 50 CFR part 660, subpart I.

The MSA was amended in 2007 to include new requirements for ACLs and accountability measures (AMs) and other provisions regarding preventing and ending overfishing and rebuilding fisheries. On February 17, 2009, NMFS revised its guidelines implementing MSA National Standard 1 (January 16, 2009; 74 FR 3178) in response to these changes in the MSA. The revised guidelines explain NOAA's interpretation of the new statutory requirements for specifying ACLs at such levels that overfishing does not occur and that measures be taken to ensure accountability with these limits. The purpose of Amendment 13 is to amend the CPS FMP to comply with certain provisions in those revised advisory guidelines and to comply with the new requirement to establish a process for setting ACLs and AMs. Specifically, Amendment 13 revised the framework process to set and adjust fishery specification and management measures, and established a framework for specifying new reference points such as ACLs and AMs, as well as other provisions for preventing overfishing such as the potential setting of annual catch targets (ACTs).

Additionally, Amendment 13 amended the FMP to better account for scientific and management uncertainty and to prevent overfishing through the following measures:

- Modify the existing harvest control rules for actively managed species (Pacific sardine and Pacific mackerel) to include a buffer or reduction in acceptable biological catch (ABC) relative to overfishing limit (OFL) to account for scientific uncertainty. This buffer will be recommended during the annual management cycle through a combination of scientific advice from the Scientific and Statistical Committee (SSC) and a policy determination of the Council.
- Maintain the default harvest control rules for monitored stocks (jack mackerel, northern anchovy and market squid) but modified as necessary to specify the new management reference points. ACLs would likely be specified for multiple years until such time as the species becomes actively managed or new scientific information becomes available. The current buffer of a 75-percent reduction in the ABC control rule (ABC equals 25 percent of OFL/MSY) will remain in use until recommended for modification by the SSC and by the Council through the annual harvest and management specification process and approved by NMFS.
- Add a mechanism for the use of sector-specific ACLs, ACTs and AMs. Although not a change to the FMP, the Council reaffirmed that all management unit species (MUS) currently in the FMP, including those species categorized as monitored species and prohibited harvest species (krill) are ''in the fishery'' and will remain as MUS. Amendment 13 also adds Pacific herring (*Clupea pallasii pallasii*) and jacksmelt (*Atherinopsis californiensis*) to the FMP as ecosystem component (EC) species. Although the incidental catch of these species within CPS fisheries is extremely small, the intent of this action is to continue to specifically monitor the catches of these species and report catch estimates in the annual Stock Assessment and Fishery Evaluation report along with other incidental catch. In addition to the current ecological considerations in the FMP, the amendment also specifies that the Council will include ecological considerations when reviewing and/or adopting status determination criteria (SDCs), ACLs, and ACTs.

No substantive changes have been made to this rule from the proposed rule stage and no changes have been made to the regulatory text from the proposed rule.

On June 28, 2011 NMFS published a proposed rule for Amendment 13 soliciting public comments (76 FR 124). NMFS received two letters regarding the proposed rule to implement Amendment 13, including a letter of ''no comment'' submitted by U.S. Department of the Interior and one from two non-governmental organizations (NGO) that is addressed below.

Comment 1: The majority of the points raised in the NGO comment related more to the CPS FMP as whole as opposed to specific changes being made by Amendment 13, and will not be addressed here. However, NMFS found the comments valuable and will consider them for future management planning, and will respond directly to the commenters about their concerns regarding matters outside the scope of this rulemaking. With regard to Amendment 13 and/or its implementing regulations the comment stated that revised ABC control rules for the actively managed stocks (Pacific sardine and Pacific mackerel) failed to properly articulate or provide an adequate buffer for scientific uncertainty with respect to OFL levels. Also with regard to the framework measures in Amendment 13 the comment stated that new framework for determining overfishing and the

formula for calculating OFL for actively managed species allows CPS to be harvest at levels higher than previously allowed and provides for less precautionary management than under the old framework. Specific to the regulations implementing Amendment 13, the comment also stated that the revised definition of a ''harvest guideline'' is not clear with respect to how it compares to an ACT. The comment also stated that an Environment Impact Statement (EIS) should have been prepared instead of an Environmental Assessment, that a wider range of alternatives should have been analyzed, and that proper scoping or a process for providing public comment did not occur.

Response: NMFS believes the revised framework for ABC that uses a P*, or probability of overfishing determination, provides for an appropriate way to incorporate scientific uncertainty in the OFL to buffer against overfishing (i.e., exceeding the OFL). The ABC will be recommended to NMFS by the Council based on its preferred level of risk aversion. The ABC is based on a percentage reduction of the OFL as determined by an SSC determination on scientific uncertainty and a risk policy determined by the Council. In cases where scientific uncertainty (σ) associated with estimating an OFL is quantified by the SSC, the percentage reduction that defines the scientific uncertainty buffer and the ABC can be determined by translating the estimated σ to a range of probability of overfishing (P*) values. The Council then selects a level of risk aversion by choosing an appropriate P* value. Each P* value is then matched to its corresponding BUFFER fraction that is applied to the OFL according to the ABC control rule.

Under Amendment 13 overfishing will be determined for the finfish stocks based on new OFL formulas and not based on the existing ABC or harvest guideline (HG) formulas. Based on the guidance in the revised NS 1 guidelines the harvest levels that resulted from the existing ABC/HG formulas were more analogous to ACL or ACT type levels as opposed to OFL levels. Within the new Amendment 13 framework, OFLs correspond with MSY levels which are in concert with the relationship between OFL, ABC and ACL described in the guidelines. Additionally, the maximum allowable catch levels (ACLs and associated ACTs), will still be set based on the same conservative formulas and principles that exist in the CPS FMP. These levels will be considered in conjunction with ABC control rules to prevent overfishing.

With regard to the definitions of ''harvest guideline'' and ACT, the CPS FMP previously used the setting of harvest guidelines (HGs) in a similar way as to how ACTs are defined, as a management target. Because ACTs are an optional reference point and HGs were already in the FMP, NMFS decided to maintain the term HG for consistency purposes while recognizing that HGs will be used with the same objective as ACTs, to prevent the ACL from being exceeded.

Regarding the comments about the National Environmental Policy Act (NEPA) analysis for Amendment 13, the EA showed that the implementation and adoption of Amendment 13 will not significantly adversely impact the quality of the human environment. Therefore an EIS is not necessary to comply with NEPA for this action. With regard to the range of alternatives, NMFS believes a reasonable number of alternatives were analyzed based on the nature of this action. Additionally, the alternatives analyzed were all reasonable, would all meet the purpose and need of the action, and were all objectively evaluated. The public had several opportunities to provide input on the development of the proposed action and EA. The Council process, which is based on stakeholder involvement, provides opportunities for public input on scoping and public comment on fishery management proposals during Council, subcommittee, and advisory body meetings. Meetings of the Council and its advisory bodies constitute the scoping process, involving the development of alternatives and consideration of the impacts of the alternatives: all meetings are announced in advance, and welcome public attendance and comments. Specifically the public had opportunity to provide input into this action and EA during the March and November 2009, and March and June 2010, Pacific Council meetings. Additionally, NMFS published a **Federal Register** notice on June 8, 2011, that announced the availability of the Amendment and draft EA and comments on the draft EA were accepted until August 8, 2011, providing the public 60 days to submit comments on the EA.

Classification

The Administrator, Southwest Region, NMFS, determined that the Amendment 13 is necessary for the conservation and management of the CPS fishery and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

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

The Chief Council for Regulation of the Department of Commerce certified to the Chief Council for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here.

No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: November 8, 2011.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 660 as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

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

■ 2. Amend § 660.502 by removing the definition of ''Monitored species (MS)'' and revising the definition of ''Harvest guideline'' to read as follows:

§ 660.502 Definitions.

* * * * *

Harvest guideline means a specified numerical harvest objective that is not a quota. Attainment of a harvest guideline does not require complete closure of a fishery. It is operationally similar to an Annual Catch Target (ACT) (as defined at § 600.310(f)(2) of this chapter).

* * * * *

■ 3. Revise § 660.508 to read as follows:

§ 660.508 Annual specifications.

(a) The Regional Administrator will determine any harvest guideline, quota, Annual Catch Limit (ACL) (defined at § 600.310(f)(2)) or Annual Catch Target (ACT) (defined at § 600.310(f)(2) of this chapter) in accordance with the framework process in the FMP.

(b) Any harvest guideline, quota, ACL, or ACT, including any apportionment between the directed fishery and set-

aside for incidental harvest, will be published in the **Federal Register**.

(c) The announcement of each harvest guideline, quota, ACL or ACT will contain the following information if available or applicable:

(1) The estimated biomass or MSY proxy on which the harvest guideline, quota, ACL or ACT was determined;

(2) The portion, if appropriate, of the harvest guideline, quota, ACL or ACT set aside to allow for incidental harvests after closure of the directed fishery;

(3) The estimated level of the incidental trip limit that will be allowed after the directed fishery is closed; and

(4) The allocation, if appropriate, between Subarea A and Subarea B.

(d) As necessary, harvest guidelines, quotas, OFLs (defined at § 600.310(f)(2)), ABCs (defined at § 600.310(f)(2) of this chapter), ACLs or ACTs, will receive public review according to the following procedure:

(1) Meetings will be held by the Council's CPSMT and AP, where the estimated biomass and/or other biological or management benchmarks will be reviewed and public comments received. Each of these meetings will be announced in the **Federal Register** before the date of the meeting, if possible.

(2) All materials relating to the estimated biomass and/or other biological or management benchmarks will be forwarded to the Council and its Scientific and Statistical Committee and will be available to the public from the Regional Administrator when available.

(3) At a regular meeting of the Council, the Council will review the estimated biomass and/or other biological or management benchmarks and offer time for public comment. If the Council requests a revision, justification must be provided.

(4) The Regional Administrator will review the Council's recommendations, justification, and public comments and base his or her final decision on the requirements of the FMP and other applicable law.

■ 4. Revise § 660.509 to read as follows:

§ 660.509 Accountability measures (season closures).

(a) *General rule.* When the directed fishery allocation or incidental allocation is reached for any CPS species it shall be closed until the beginning of the next fishing period or season. Regional Administrator shall announce in the **Federal Register** the date of such closure, as well as any incidental harvest level(s) recommended by the Council and approved by NMFS.

(b) *Pacific Sardine.* When the allocation and reallocation levels for Pacific sardine in § 660.511(f) through (h) are reached, the Pacific sardine fishery shall be closed until either it re-opens per the allocation scheme in § 660.511(g) and (h) or the beginning of the next fishing season as stated in § 660.510(a). The Regional Administrator shall announce in the **Federal Register** the date of the closure of the directed fishery for Pacific sardine.

[FR Doc. 2011–29309 Filed 11–10–11; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 76, No. 219
Monday, November 14, 2011

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AM50

Prevailing Rate Systems; Redefinition of the Austin, TX and Waco, TX, Appropriated Fund Federal Wage System Wage Areas

AGENCY: U.S. Office of Personnel Management.

ACTION: Proposed rule with request for comments.

SUMMARY: The U.S. Office of Personnel Management is issuing a proposed rule that would redefine the geographic boundaries of the Austin, TX, and Waco, TX, appropriated fund Federal Wage System (FWS) wage areas. The proposed rule would redefine Burleson and Lampasas Counties, TX, from the Austin wage area to the Waco wage area. These changes are based on recent consensus recommendations of the Federal Prevailing Rate Advisory Committee to best match the counties proposed for redefinition to a nearby FWS survey area. No other changes are proposed for the Austin and Waco FWS wage areas.

DATES: We must receive comments on or before December 14, 2011.

ADDRESSES: Send or deliver comments to Jerome D. Mikowicz, Deputy Associate Director for Pay and Leave, Employee Services, U.S. Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415–8200; email *pay-leave-policy@opm.gov;* or Fax: (202) 606–4264.

FOR FURTHER INFORMATION CONTACT: Madeline Gonzalez, (202) 606–2838; email *pay-leave-policy@opm.gov;* or FAX: (202) 606–4264.

SUPPLEMENTARY INFORMATION: The U.S. Office of Personnel Management (OPM) is issuing a proposed rule that would redefine the geographic boundaries of the Austin, TX, and Waco, TX, appropriated fund Federal Wage System (FWS) wage areas. This proposed rule would redefine Burleson and Lampasas Counties, TX, from the Austin wage area to the Waco wage area.

OPM considers the following regulatory criteria under 5 CFR 532.211 when defining FWS wage area boundaries:

(i) Distance, transportation facilities, and geographic features;

(ii) Commuting patterns; and

(iii) Similarities in overall population, employment, and the kinds and sizes of private industrial establishments.

In addition, OPM regulations at 5 CFR 532.211 do not permit splitting Metropolitan Statistical Areas (MSAs) for the purpose of defining a wage area, except in very unusual circumstances (*e.g.,* organizational relationships among closely located Federal activities).

OPM recently completed reviews of the definitions of the College Station-Bryan, TX and Killeen-Temple-Fort Hood, TX MSAs and, based on analyses of the regulatory criteria for defining wage areas, is proposing the changes described below. The Federal Prevailing Rate Advisory Committee (FPRAC), the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, recommended these changes by consensus. These changes would be effective on the first day of the first applicable pay period beginning on or after 30 days following publication of the final regulations. FPRAC recommended no other changes in the geographic definitions of the Austin and Waco wage areas.

College Station-Bryan, TX Metropolitan Statistical Area

Brazos, Burleson, and Robertson Counties, TX, comprise the College Station-Bryan, TX MSA. The College Station-Bryan MSA is split between the Austin, TX, and Waco, TX, wage areas. Burleson County is part of the area of application of the Austin wage area and Brazos and Robertson Counties are part of the area of application of the Waco wage area.

Based on an analysis of the regulatory criteria for Brazos County, the core county in the College Station-Bryan MSA, we recommend that the entire College Station-Bryan MSA be defined to the Waco wage area. When measuring to cities, the distance criterion favors the Waco wage area. When measuring to host installations, the distance criterion does not favor one wage area more than another. The commuting patterns criterion does not favor one wage area more than another. Brazos County resembles the Waco survey area more than the Austin survey area in terms of the overall population and employment and the kinds and sizes of private industrial establishments criteria. Based on this analysis, we believe Brazos County is appropriately defined to the Waco wage area. Since there appear to be no unusual circumstances that would permit splitting the College Station-Bryan MSA, OPM proposes to redefine Burleson County to the Waco wage area so that the entire College Station-Bryan MSA is in one wage area. The remaining county in the College Station-Bryan MSA, Robertson County, is already defined to the Waco wage area. There are currently no FWS employees working in Burleson County.

Killeen-Temple-Fort Hood, TX Metropolitan Statistical Area

Bell, Coryell, and Lampasas Counties, TX, comprise the Killeen-Temple-Fort Hood, TX MSA. The Killeen-Temple-Fort Hood MSA is split between the Austin, TX, and Waco, TX, wage areas. Lampasas County is part of the area of application of the Austin wage area and Bell and Coryell Counties are part of the area of application of the Waco wage area.

Based on an analysis of the regulatory criteria for Bell County, the core county in the Killeen-Temple-Fort Hood MSA, we recommend that the entire Killeen-Temple-Fort Hood MSA be defined to the Waco wage area. When measuring to cities from Fort Hood, the largest FWS employer in Bell County, the distance criterion does not favor one wage area more than another. Since the host installation for the Waco wage area is Fort Hood, when measuring to host installations, the distance criterion greatly favors the Waco wage area over the Austin wage area. All other criteria are indeterminate. Based on this analysis, we believe Bell County is appropriately defined to the Waco wage area. Since there appear to be no unusual circumstances that would permit splitting the Killeen-Temple-Fort Hood MSA, OPM proposes to redefine Lampasas County to the Waco wage area so that the entire Killeen-Temple-Fort Hood MSA is in one wage area. The remaining county in the Killeen-

Temple-Fort Hood MSA, Coryell County, is already defined to the Waco wage area. There are currently no FWS employees working in Lampasas County.

CFR Correction

In addition, this proposed rule adds the entire Syracuse-Utica-Rome, NY, FWS wage area to Appendix C to subpart B of part 532—Appropriated Fund Wage and Survey Areas. The Syracuse-Utica-Rome wage area was inadvertently deleted when the CFR was published in January 2004. This correction does not affect the pay of any FWS employees.

Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

U.S. Office of Personnel Management.

John Berry,

Director.

Accordingly, the U.S. Office of Personnel Management is proposing to amend 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

Appendix C to Subpart B of Part 532—Appropriated Fund Wage and Survey Areas

2. Appendix C to subpart B is amended for the State of New York by adding ''Syracuse-Utica-Rome'' and its constituent counties after ''Rochester'' and revising for the State of Texas the wage area listings of the Austin, TX, and Waco, TX, wage areas to read as follows:

* * * * *

NEW YORK

* * * * *

Syracuse-Utica-Rome

Survey Area

New York:
Herkimer
Madison
Oneida
Onondaga
Oswego

Area of Application. Survey area plus:

New York:
Broome
Cayuga
Chenango
Cortland
Hamilton
Otsego
Tioga
Tompkins

* * * * *

TEXAS

* * * * *

Austin

Survey Area

Texas:
Hays
Milam
Travis
Williamson

Area of Application. Survey area plus:

Texas:
Bastrop
Blanco
Burnet
Caldwell
Fayette
Lee
Llano
Mason
San Saba

* * * * *

Waco

Survey Area

Texas:
Bell
Coryell
McLennan

Area of Application. Survey area plus:

Texas:
Anderson
Bosque
Brazos
Burleson
Falls
Freestone
Hamilton
Hill
Lampasas
Leon
Limestone
Mills
Robertson

* * * * *

[FR Doc. 2011–29350 Filed 11–10–11; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Part 31

[Docket No. DHS–2008–0076]

RIN 1601–AA52

Ammonium Nitrate Security Program

AGENCY: National Protection and Programs Directorate, DHS.

ACTION: Notice of public meetings.

SUMMARY: The Department of Homeland Security's (DHS) National Protection and Programs Directorate (NPPD) is announcing an additional public meeting to consult with the public on a notice of proposed rulemaking (NPRM), entitled ''Ammonium Nitrate Security Program,'' which was published in the **Federal Register** on August 3, 2011. The Department previously announced a series of public meetings on the same topic on October 2, 2011 (*see* 76 FR 62311). Under the proposed Ammonium Nitrate Security Program, the DHS will regulate the sale and transfer of ammonium nitrate pursuant to section 563 of the Fiscal Year 2008 Department of Homeland Security Appropriations Act with the purpose of preventing the use of ammonium nitrate in an act of terrorism. The Department seeks public input on the proposed rule, particularly input regarding the questions and issues raised in the NPRM and raised in this notice.

Date, Time, and Location: An additional public meeting is scheduled to be held at the following location: *St. Petersburg, Florida,* Thursday, November 17, 2011, 10 a.m.–2 p.m., Hilton St. Petersburg Carillon Park, 950 Lake Carillon Drive, St. Petersburg, FL 33716.

DHS may announce changes to the current schedule or additional public meeting dates, times, and locations in a subsequent notice or notices to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ammonium Nitrate Security Program Manager, U.S. Department of Homeland Security, National Protection and Programs Directorate, Infrastructure Security Compliance Division, 245 Murray Lane, SW., Mail Stop 0610, Arlington, VA 20598–0610, telephone number (703) 235–5263. For additional information on public meeting facilities, information on access to those facilities for individuals with disabilities, or to request special assistance at public meetings, please contact the

Ammonium Nitrate Security Program Manager at (703) 235–5263.

SUPPLEMENTARY INFORMATION:

Background

Section 563 of the Fiscal Year 2008 Department of Homeland Security Appropriations Act amends the Homeland Security Act of 2002 and directs DHS to ''regulate the sale and transfer of ammonium nitrate by an ammonium nitrate facility to prevent the misappropriation or use of ammonium nitrate in an act of terrorism.'' *See* Public Law 110–161, Division E (2007). That statute also directs DHS to consult with appropriate private sector entities, state governments, heads of other Federal departments and agencies, and other appropriate stakeholders in developing and implementing ammonium nitrate regulations. *See id.,* 6 U.S.C. 488a(b); 488a(g); and 488a(i)(4)(B). The Department published an advance notice of proposed rulemaking on October 29, 2008, seeking public comment on a Secure Handling of Ammonium Nitrate Program, which was followed by the notice of proposed rulemaking for the Ammonium Nitrate Security Program published for public comment on August 3, 2011. *See* 73 FR 64280 (advance notice of proposed rulemaking); 76 FR 46908 (notice of proposed rulemaking).

Purpose

DHS/NPPD will hold an additional public meeting to consult with the public and with other interested parties on the NPRM for the Ammonium Nitrate Security Program. The agenda for the public meeting will consist of a presentation by the Department on the elements of the NPRM, followed by comments from the attending public concerning the proposed rulemaking.

Public Meeting Procedures and Participation

For those members of the public that cannot attend the scheduled public meetings, a copy of the Department's presentation provided at the public meetings is available on the Department's Ammonium Nitrate Security Program Web site, at *http://www.dhs.gov/files/programs/ammonium-nitrate-security-program.shtm.*

This additional public meeting is open to the public and is expected to last up to a total of four hours. Please note that the public meeting may adjourn early if all commenters present have had the opportunity to speak prior to the scheduled conclusion of the meeting. DHS will use a sign-in sheet to voluntarily collect contact information from the attending public and to properly log oral comments received during the meeting. Providing contact information will be voluntary, and members of the public may also make anonymous oral comments. Seating may be limited, but session organizers will make every effort to suitably accommodate all participants. In order to allow as many members of the public as possible to speak, each speaker must limit his/her remarks to three minutes.

A transcript of this additional public meeting, and transcripts of the public meetings previously announced in the **Federal Register**, will be provided in the electronic docket for the Ammonium Nitrate Security Program rulemaking, docket number DHS–2008–0076, available at *http://www.regulations.gov.* Written comments on the proposed Ammonium Nitrate Security Program may also be submitted to DHS. As specified in the NPRM, you may submit comments, identified by docket number DHS–2008–0076, by one of the following methods:

- *Federal eRulemaking Portal:* Follow the instructions at *http://www.regulations.gov* for submitting comments.
- *Mail:* U.S. Department of Homeland Security, National Protection and Programs Directorate, Infrastructure Security Compliance Division, 245 Murray Lane, SW., Mail Stop 0610, Arlington, VA 20598–0610.

To avoid duplication, please use only one of these methods to submit written comments.

Key Comments Solicited by the Department

The Department is soliciting comments on all aspects of the NPRM. Of particular interest are comments addressing the following major issues:

Ammonium Nitrate Use and Characteristics

1. The types, quantities, and concentrations of ammonium nitrate and ammonium nitrate mixtures produced, used, sold, and transferred in the United States.
2. The detonability of ammonium nitrate and ammonium nitrate mixtures of different quantities and concentrations.

Registration

1. The level of access to the Internet that potential registration applicants currently have and/or the level of access potential applicants anticipate having in the future.
2. How potential registration applicants who do not have readily-accessible Internet access could obtain the access necessary to register online.
3. How to best notify ammonium nitrate agents (AN Agents) when ammonium nitrate purchasers (AN Purchasers) submit those AN Agents' names to the Department prior to sale or transfer of ammonium nitrate.
4. The efficiency and sufficiency of notifying applicants of registration number (AN Registered User Number) approvals and denials via email or other electronic means.
5. The proposed regulatory coverage of truck drivers and other ammonium nitrate transporters.

Verification

1. The proposed requirement that certain forms of identification should be acceptable for purposes of a visual identity verification check.
2. The advisability, costs, and benefits of enabling AN Agents to provide AN Purchasers' identity verification information directly to ammonium nitrate sellers (AN Sellers) when it is not possible for an AN Seller to verify the identity of the AN Purchaser in person.
3. Possible alternative methods that could be employed to verify AN Purchasers' identities in sales or transfers involving AN Agents.

Recordkeeping

1. The benefits and costs of maintaining records regarding the AN Purchaser (and, where applicable, AN Agent) verification process.
2. How ammonium nitrate facility (AN Facility) personnel should notify AN Purchasers and AN Agents that the information they provide may be shared with the Department.

Dated: November 4, 2011.

Penny Anderson,

Director, Infrastructure Security Compliance Division, Department of Homeland Security.

[FR Doc. 2011–29339 Filed 11–10–11; 8:45 am]

BILLING CODE 9110–9P–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Rural Business-Cooperative Service

Rural Housing Service

Rural Utilities Service

7 CFR Parts 759, 1945 and 762

RIN 0560–AH17

Disaster Designation Process

AGENCY: Farm Service Agency, Rural Business-Cooperative Service, Rural Housing Service, and Rural Utilities Service USDA.

ACTION: Proposed rule.

SUMMARY: The Farm Service Agency (FSA) proposes to amend the disaster designation regulations with simplified procedures for designating USDA Secretarial disaster areas. Proposed changes to the regulation would delegate the designation authority to FSA State officials, remove the requirement that a request for designation of a disaster area be initiated and submitted by a State Governor or Indian Tribal Council to the Secretary, add a simplified disaster designation in severe drought situations, and change the USDA Secretarial disaster designation process from six steps to two steps for natural disasters, including special provisions for certain drought situations. FSA proposes to move the regulations to the same chapter of the Code of Federal Regulations (CFR) as the FSA Emergency Loan (EM) Program regulations. FSA expects the amended procedures would result in faster designations of disaster areas, and result in more timely disaster assistance.

DATES: We will consider comments that we receive by January 13, 2012.

ADDRESSES: We invite you to submit comments on this rule. In your comment, include the Regulation Identifier Number (RIN) and volume, date, and page number of this issue of the **Federal Register**. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Steve Peterson, Disaster Assistance Program Branch Chief, Production, Emergencies, and Compliance Division, Farm Programs, FSA, USDA, 1400 Independence Ave., SW., Mail Stop 0517, Washington, DC 20250–0517.
- *Hand Delivery or Courier:* USDA FSA Farm Programs, Production, Emergencies, and Compliance Division, Disaster Assistance Branch, 1400 Independence Ave., SW., Mail Stop 0517, Washington, DC 20250.

Comments will be available for inspection online at www.regulations.gov and at the mail address listed above between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. A copy of this proposed rule is also available through the FSA home page at *http://www.fsa.usda.gov/.*

FOR FURTHER INFORMATION CONTACT: Steve Peterson; telephone: (202) 720–5172. Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, *etc.*) should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

Background

Declaring or determining counties to be disaster areas is important to the conduct of some programs administered by USDA. These include EM Program administered by FSA. The Secretary of Agriculture is authorized to designate counties as disaster areas to make emergency loans available (7 U.S.C. 1961) and those designations have been used to qualify counties for other programs such as crop disaster payment programs. The current disaster designation process is set out in 7 CFR part 1945.

Depending on the nature of the program involved FSA can, potentially, be called upon to administer four types of area disaster determinations:

(1) USDA Secretarial disaster designations,

(2) Presidential major disaster and Presidential emergency declarations,

(3) FSA Administrator's Physical Loss Notifications, and

(4) Quarantine designations by the Secretary under the Plant Protection Act or animal quarantine laws as defined in section 2509 of the Food, Agriculture, Conservation and Trade Act of 1990 (referenced in 7 CFR part 761, which includes a definition of ''quarantine'' in accordance with 7 U.S.C. 1961).

A disaster designation specifies:

(1) The specific disaster that resulted in the designation,

(2) The incidence period (dates) of that disaster, and

(3) The specific counties that are included in the designation.

Of the four types of disaster determinations listed above that FSA administers, the USDA Secretarial disaster designation is the one that most often impacts FSA programs and, currently, its process is the most complicated. This regulation proposes to amend FSA responsibilities for administering the USDA Secretarial disaster designation process. FSA proposes to simplify the processes and delegate them to the FSA State level. This regulation would not amend or change the process to make any other disaster determinations and the Presidential declarations made outside of USDA. Likewise, this document does not propose to amend the definition of ''physical losses'' or the documentation of those losses for the Administrator's Physical Loss Notification administered under 7 CFR parts 761 and 764.

Proposed Change in Natural Disaster Definition

Under the current regulations, producers with eligible losses may apply for EM in counties named as primary disaster counties or those counties contiguous to such primary disaster counties under a disaster designation under any of the four types of determinations listed above. Eligible applicants for EM include ''established farmers'' as defined in 7 CFR part 761, who meet other regulatory requirements specified in 7 CFR part 764. This rule proposes to include in 7 CFR 759.3 a definition of ''natural disaster'' that is consistent with the definition of ''natural disaster'' in 7 CFR part 761, which provides the definitions used for emergency loans. It would remove the specific examples of unusual and adverse weather conditions from the definition of ''natural disaster'' that is currently in 7 CFR part 1945. This would give FSA the flexibility to determine on the basis of production losses what events merit a disaster designation, rather than on whether the event fits one of the types on the list. The existing regulations in 7 CFR part 1945 define ''Major disaster,'' ''Presidential emergency,'' and ''Natural disaster'' uniquely, each with different events. The current lists of events in the existing regulations are inconsistent, include events such as storms that often do not cause widespread production losses, and do not include rare disaster types. ''Major disaster'' and ''Presidential emergency'' in 7 CFR part 1945 include ''[a]ny hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe.'' The definition of natural disaster in 7 CFR part 1945 includes:

unusual and adverse weather conditions or natural phenomena include such things as: a major single natural occurrence or event such as a blizzard, cyclone, earthquake, hurricane or tornado; a single storm, or series of storms, accompanied by severe hail, excessive rain, heavy snow, ice and/or high wind; an electrical storm; or a severe weather pattern over a period of time which, due to excessive rainfall, unusual lack of rainfall, or periods of high or low temperatures, causes flooding, substantial water damage, drought or freezing, or which results in the spreading and flourishing of insects or pests, or in plant or animal diseases spreading into epidemic proportions, or prevents the control of fire, however caused.

Removing the lists of events from the definition of natural disaster would clarify that the Secretary has the authority to determine what constitutes a natural disaster, based on production losses, and add integrity to the process of disaster designation. It would also make the definition of ''natural disaster'' consistent within the FSA chapter of the CFR.

Eligibility Requirements That Would Not Change With This Rule

To be eligible for EM loans and sometimes for other FSA disaster assistance program benefits, an operation must have been substantially affected by a disaster in the United States and be located in a county (or contiguous to such a county) that was designated as a disaster area by the Secretary, declared a major disaster or emergency by the President, received an FSA Administrator's physical loss notification, or under a quarantine imposed by the Secretary in accordance with 7 U.S.C. 1961. If a Presidential declaration is made, the Secretary will make emergency loans available, provided that the Presidential declaration is not solely for so-called ''Category A'' and ''Category B'' Public Assistance or Hazard Mitigation Grant Assistance made available by the Federal Emergency Management Agency. This policy would not change with this rule. (Category A and Category B Public Assistance provides assistance for other than actual disaster losses and Hazard Mitigation Grant Assistance provides assistance to alleviate or eliminate future disaster losses; neither of these categories are necessarily correlated with agricultural losses.) The basic eligibility requirements for emergency loans and FSA disaster assistance benefits would not change under the proposed amendments to the regulations. The eligibility requirements are set by the laws authorizing each program. Some FSA disaster programs, such as the Supplemental Revenue Assistance Payments Program (SURE), can only be triggered by a Secretarial disaster designation, as specified in the authorizing law. Regulations for SURE are in 7 CFR part 760, subpart G.

A Secretarial designation or a Presidential declaration may be required in order to make applicants in the designated counties eligible for Small Business Administration (SBA) Economic Injury loans for agriculture related businesses; however, if the county is designated for individual assistance in the Presidential declaration, applicants will also be eligible for SBA assistance and a Secretarial designation will not be necessary. Existing procedures to avoid duplication of assistance between FSA and SBA programs would not change with this rule.

Current Six-Step Disaster Designation Process

The current USDA Secretarial disaster designation process described in 7 CFR 1945.20 is a six-step process that requires certain actions by the Secretary of Agriculture, a State Governor or Indian Tribal Council, the FSA National office, the FSA State Executive Director (SED), FSA county offices, the County Emergency Board (CEB), and the State Emergency Board (SEB). Some of the entities specified in the current regulations are identified by obsolete titles. The current regulations in 7 CFR part 1945 refer to the ''State Food and Agriculture Council'' and the ''Local Food and Agriculture Council'' responsibilities, which are currently performed by the SEB and CEB, respectively. Similarly, the functions of County Supervisor and State Director as described in 7 CFR part 1945 are now performed by the FSA County Executive Director and the FSA SED. This rule would update the language to reflect current practice.

The current regulations require that a request to the Secretary of Agriculture for designation of a disaster area must be made only by a State Governor or Indian Tribal Council. (That request is Step One of six steps in the current process.) As specified in the current regulations, this triggers review of the request at the FSA National office (Step Two), and the relevant County and State offices are required to prepare and send a Loss Assessment Report (LAR) to the FSA National Office for each county named in the request. (The LAR is referred to as the Damage Assessment Report or DAR in 7 CFR part 1945.)

At the county level, when the LAR is complete, the CEB conducts meetings and approves or disapproves the LAR. (Step Three) The CEB is a county-level board that includes representatives of USDA agencies providing services in the area, which can include, but are not limited to, the Forest Service, the Natural Resources Conservation Service, and the National Institute of Food and Agriculture. The CEB representatives are responsible for reporting the occurrence of a disaster and assessing the damage caused by a disaster, that is, whether the natural phenomena substantially affected farmers with physical or production losses. The CEB submits the county-level approved LAR to the SEB for review and processing. (Step Four) At the State level, the SEB reviews and processes the LAR, prepares comments and recommendations, and submits it to the FSA National office. (Step Five) The FSA National office reviews the loss information on the LAR, determines eligibility as a ''natural disaster'' under part 1945, and prepares a package, including a letter of approval or disapproval, to be signed by the Secretary of Agriculture. (Step Six)

The current USDA Secretarial designation process has been in place for at least 20 years. The regulations have not been substantively revised since 1988. The Secretary received 183 requests for a Secretarial designation for Calendar Year 2009. Approximately 119 were approved.

Proposed Two-Step Disaster Designation Process

This rule proposes to simplify the USDA Secretarial designation process from a six-step process to a two-step process for natural disasters. In addition, as discussed below, for severe drought occurrences, the disaster designation process would be simplified even further. This rule proposes that the determination of eligibility for counties to be named in USDA Secretarial disaster designations would be made at the State level. The SED would make the designation on behalf of the Secretary with a recommendation from the SEB. USDA Secretarial disaster designations could therefore be made more quickly. The rule also proposes to remove the requirement that a request must be initiated from the State Governor or Indian Tribal Council to the Secretary, and the requirement for National Office review of the information submitted by the SEB. Under the proposed regulation, Indian Tribal Councils and governors would still be able to initiate such a request to the CEB, SEB, or Secretary, but that request would no longer be required to initiate the disaster designation process. The proposed process would include the SED, CEB, and SEB. The SED would also be involved as the chairperson of

the SEB. This proposed change is intended to simplify and speed up the process for USDA Secretarial disaster designations.

Under the new process proposed in this rulemaking:

Step 1—The CEB would identify a disaster area and submit a request to the SEB for a disaster area recommendation.

Step 2—The SEB, subject to such review as would prove appropriate, would make a disaster area recommendation on the basis of production losses and the SED would make the disaster designation on behalf of the Secretary.

After a disaster designation was made using this proposed two-step process, the Secretary would inform the Governor and Indian Tribal Council(s) of the designation. The SED would inform the FSA county offices, the FSA national office, and SEDs in neighboring states of the disaster-affected contiguous counties in those states.

A farmer, Indian Tribal Council, or the local governing body could initiate the process by reporting production losses or drought conditions to the CEB or SEB or, if the Indian Tribal Council or local governing body so chooses, initiate the process directly to the Secretary. If the CEB found that drought conditions were not sufficiently severe to trigger the streamlined process for drought disaster determinations, losses could still be sufficient to initiate the proposed two-step Secretarial disaster designation process. A farmer, Indian Tribal Council, or local governing body could also provide information to support a determination of an Administrator's Physical Loss Notification.

The determination of a disaster does not and would not remove or replace any other eligibility requirements for any producer under any programs. The process of qualifying for EM would still require determination of individual production losses. This proposed rule would not represent a change from the current regulation with regards to loss thresholds. The current regulations use a threshold of 30 percent loss countywide of the normal year's dollar value of all crops or loss by a single enterprise. That threshold would not change with this rule. However, consistent with current regulations, the proposed rule would continue to allow for disaster determinations to be made for EM purposes only if the Secretary determines that, although the 30 percent loss countywide threshold has not been met, the unusual and adverse weather conditions or natural phenomena have resulted in such significant production losses, or have produced such extenuating circumstances as to warrant a finding that a qualifying natural disaster has occurred.

This proposed rule would consolidate provisions regarding instances in which EM eligibility is generated by a general crop loss in a county, the losses of a particular enterprise, or other special circumstances. These changes are needed to streamline the structure of the regulations, but are not intended to cause any substantive change.

To streamline the process for disaster determinations in the case of certain drought occurrences, the proposed amendments to the regulation would add a nearly automatic designation for any county in which drought conditions, as reported in the U.S. Drought Monitor (*http://www.drought.unl.edu/dm/monitor.html*), meet the drought intensity value of at least D2 (Drought-Severe) for 8 consecutive weeks. The U.S. Drought Monitor is the only such tool currently available; it is a widely recognized and objective source of drought information. It is specifically referenced in the 2008 Farm Bill as one of the eligibility ''triggers'' for the Livestock Forage Disaster program. Under the proposed rule, once a county meets the D2 threshold for 8 consecutive weeks, the SED will automatically designate the county; no LAR will be required. Any county that has a portion of its area in a drought intensity value of D3 (Drought—Extreme) or higher at any time during the growing season of the affected crops would be considered a disaster area. Streamlining the process for disaster determinations for severe drought would help reduce paperwork and documentation requirements at the FSA local level, and is intended to make the process more efficient and reduce FSA costs. It would not remove all documentation requirements; documentation of loss above the thresholds would still be required. Individual producer losses would still need to be documented for EM eligibility. This rule would not change the paperwork or documentation requirements for producers. This proposed amendment would both streamline the process and add a quantifiable standard for determining primary county eligibility due to drought and drought-related disasters.

Summary of Proposed Changes to the Disaster Designation Process Regulations

This rule proposes changes to the regulations to simplify the disaster designation process and to reorganize the disaster designation regulations. In addition to the substantive changes described in this document, FSA proposes to move the disaster designation regulations from 7 CFR part 1945 to 7 CFR part 759. This would better organize the FSA regulations and incorporate the disaster designation process near the FSA EM regulations in 7 CFR part 764 and the Indemnity Payment Programs regulations in 7 CFR part 760. The CCC disaster program regulations will be in 7 CFR parts 1439 and 1480; chapter XIV of title 7 of the CFR is designated for CCC. The current 7 CFR part 1945 includes information relevant to internal actions in designating disaster areas, relationships with other federal government organizations, EM training, and providing notifications; such information is not required to be in the regulation because it does not impose requirements on the public or define benefit eligibility. For example, the processes on extending termination dates and the relationship between the Administrator's notification and a Secretarial designation from § 1945.20 are not changing; they are being removed from the rule because they are internal processes and not substantive such that need to remain in the rule. Similarly, this rule would remove information in the regulations about internal FSA processes for 24-hour ''flash reports.'' FSA proposes to remove this internal and procedural information from the regulations. This information will be included in FSA internal operating guidelines and directives that are anticipated to be issued at approximately the same time as the final regulation.

FSA also proposes to make a conforming change to amend 7 CFR part 762, ''Guaranteed Farm Loans,'' to remove a reference to 7 CFR part 1945 and replace it with a reference to the new part 759.

The following table summarizes section by section the amendments FSA proposes in moving the regulations into the new part 759, using the Table of Contents from the existing part 1945.

Current section (# and heading)	New proposed section (# and brief explanation of change)
§§ 1945.1, 1945.3–4, and 1945.7–17—Reserved	None—Section would be removed.
§ 1945.2—Purpose	§ 759.1—Purpose.—Section would be amended to reflect proposed streamlined disaster designation process.
§ 1945.5—Abbreviations § 1946.6.—Definitions.	§ 759.2—Abbreviations and Definitions. Abbreviations for agencies not involved in the FSA process would be removed. Abbreviations no longer used in the section would be removed. Abbreviations for entities now involved including SEB, CEB, *etc.,* would be added. Definitions would be consolidated and edited to be consistent with 7 CFR part 761. Except for EM, provisions allowing exceptions for production loss thresholds would be removed. Definitions of disaster and farmers would be removed; there are suitable definitions in 7 CFR part 761. Definition of normal year's dollar value would be amended for plain language and to remove references to entities no longer involved in the FSA process. Definitions of incidence period and national office would be removed.
§ 1945.18—United States Department of Agriculture (USDA) Food and Agriculture Council (FAC).	None—Section would be removed. The responsibilities of the State and local FAC are now performed by the SEB and CEB, as would be described in § 759.5.
§ 1945.19—Reporting Potential Natural Disasters and Initial Actions	§ 759.5—Secretarial Disaster Area Determination and Notification Process. This section would describe the streamlined Secretarial and SEB regular and drought determination processes. The internal processes described in § 1945.19 would be removed.
§ 1945.20—Making EM loans available	§ 759.6—EM to be made available. This section would describe the ''trigger'' for EM availability under the 4 types of disaster designations, which would be the same 4 types as under § 1945.20. Provisions concerning the internal processes of notification within FSA and with other departments would be removed. The processes on extending termination dates and the relationship between the Administrator's notification and a Secretarial designation would not change; these would be removed from the rule because they are internal processes.
§ 1945.21—Reporting and Coordination Requirements	None—Section would be removed. Provisions concerning the internal processes of notification within FSA and with other departments would be removed.
§ 1945.25—Relationship Between FmHA or Its Successor Agency under Public Law 103–354 and FEMA.	None—Section would be removed. Provisions concerning the processes of notification between FmHA and FEMA would be removed.
§ 1945.26—Relationship between FmHA or its successor agency under Public Law 103–354 and SBA.	None—Section would be removed. Provisions concerning the processes of notification between FmHA and the SBA would be removed.
§ 1945.27—Relationship between FCIC and FmHA or its successor agency under Public Law 103–354.	None—Section would be removed. Provisions concerning the processes of notification between FmHA and FCIC would be removed.
§ 1945.28—Relationship between ASCS and FmHA or its successor agency under Public Law 103–354.	None—Section would be removed. Provisions concerning the processes of notification between FmHA and ASCS would be removed.
§ 1945.30—FmHA or its successor agency under Public Law 103–354 Emergency Loan Support Teams (ELST).	None—Section would be removed. Provisions concerning the processes of notification internal to FmHA would be removed.
§ 1945.31—FmHA or its successor agency under Public Law 103–354 Emergency Loan Assessment Teams (ELAT).	None—Section would be removed. Provisions concerning the processes of notification internal to FmHA would be removed.
§ 1945.35—Special EM loan training	None—Section would be removed. Informational section about internal training program has been removed.
§ 1945.45—Public information function	None—Section would be removed. Non-regulatory informational section has been removed.

Executive Orders 12866 and 13563

Executive Order 12866, ''Regulatory Planning and Review,'' and Executive Order 13563, ''Improving Regulation and Regulatory Review,'' 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 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

The Office of Management and Budget (OMB) designated this rule as not significant under Executive Order 12866, ''Regulatory Planning and Review,'' and therefore, OMB has not reviewed this proposed rule.

Clarity of the Regulation

Executive Order 12866, as supplemented by Executive Order 13563, requires each agency to write all rules in plain language. In addition to your substantive comments on these proposed rules, we invite your comments on how to make them easier to understand. For example:

- Are the requirements in the rule clearly stated? Are the scope and intent of the rule clear?
- Does the rule contain technical language or jargon that is not clear?
- Is the material logically organized?
- Would changing the grouping or order of sections or adding headings make the rule easier to understand?
- Could we improve clarity by adding tables, lists, or diagrams?
- Would more, but shorter, sections be better? Are there specific sections that are too long or confusing?
- What else could we do to make the rule easier to understand?

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601), FSA is certifying that this rule would not have a significant economic effect on a substantial number of small entities. New provisions in this rule would not impact a substantial number of small entities to a greater extent than large entities. FSA anticipates that the proposed rule would not require submission of any additional information by the public. It is expected to be revenue-neutral, neither increasing nor decreasing benefits for producers as a whole. Therefore, FSA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Environmental Review

FSA has determined that the simplifying procedures for designating USDA Secretarial disasters identified in this proposed rule is considered administrative in nature and does not constitute a major Federal action that would significantly affect the quality of the human environment. Therefore, in accordance with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and FSA regulations for compliance with NEPA (7 CFR part 799), no environmental assessment or environmental impact statement will be prepared.

Executive Order 12372

Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' requires consultation with State and local officials. The objectives of the Executive Order are to foster an intergovernmental partnership and a strengthened Federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal Financial assistance and direct Federal development. This rule neither provides Federal Financial assistance or direct Federal development; it does not provide either grants or cooperative agreements. Therefore, this program is not subject to Executive Order 12372.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, ''Civil Justice Reform.'' The provisions of this proposed rule will not have preemptive effect with respect to any State or local laws, regulations, or policies that conflict with such provision or which otherwise impede their full implementation. The rule will not have retroactive effect.

Executive Order 13132

This rule has been reviewed under Executive Order 13132, ''Federalism.'' The policies contained in this rule would not have any substantial direct effect on States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. Nor would this rule impose substantial direct compliance costs on State and local governments. Although this rule removes the requirement for a disaster designation request by a governor or Tribal governor, it still allows such a request. Therefore, consultation with the States is not required.

Executive Order 13175

This rule has been reviewed for compliance with Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' This Executive Order imposes requirements on the development of regulatory policies that have Tribal implications or preempt Tribal laws. The policies contained in this rule do not preempt Tribal law.

FSA has consulted with the USDA Office of Tribal Relations and has concluded that this rule will not have a substantial direct effect on Indian tribes and no formal Tribal consultation under EO 13175 is required. FSA has committed to conduct an informational webinar to explain this rule to all interested Indian Tribes once this rule has been finalized.

The Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures of $100 million or more in any 1 year for State, local, or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This proposed rule contains no Federal mandates, as defined under title II of the UMRA, for State, local, and Tribal governments or the private sector. Thus, this proposed rule is not subject to the requirements of sections 202 and 205 of UMRA.

Paperwork Reduction Act of 1995

The amendments in this proposed rule require no revision to the information collection that was previously approved by OMB under control number 0560–0170. Although this proposed rule would streamline the disaster designation process, removing the requirement for a State governor or Indian Tribal Council to initiate a request for a Secretarial disaster designation, it does not prohibit that action and may therefore not result in a reduction in burden hours. Any change in burden hours will be documented in the next information collection request.

E-Government Act Compliance

FSA is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Federal Assistance Program

These changes affect the following FSA program listed in the Catalog of Federal *Domestic Assistance:* 10.404—Emergency Loans.

List of Subjects

7 CFR Part 759

Administrative practice and procedure, Agriculture, Authority delegations, Disaster assistance, Loan programs—Agriculture, Reporting and recordkeeping requirements.

7 CFR Part 762

Agriculture, Grant programs—Agriculture, Reporting and recordkeeping requirements.

7 CFR Part 1945

Agriculture, Disaster assistance, Drug traffic control, Loan programs—Agriculture, Reporting and recordkeeping requirements.

For the reasons discussed above, FSA proposes to amend 7 CFR chapters VII and XVIII as follows:

7 CFR Chapter VII

1. Add part 759 to read as follows:

PART 759—DISASTER DESIGNATIONS AND NOTIFICATIONS

Sec.

759.1 Administration.
759.2 Purpose.
759.3 Abbreviations and definitions.
759.5 Secretarial disaster area determination and notification process.
759.6 EM to be made available.

Authority: 5 U.S.C. 301, 7 U.S.C. 1961 and 1989.

§ 759.1 Administration.

(a) This part will be administered under the general supervision and direction of the Administrator, Farm Service Agency (FSA).

(b) FSA representatives do not have authority to modify or waive any of the provisions of the regulations of this part as amended or supplemented.

(c) The Administrator will take any action required by the regulations of this part that the Administrator determines has not already been taken. The Administrator will also:

(1) Correct, or require correction of any action taken that is not in accordance with the regulations of this part or

(2) Require withholding taking any action that is not in accordance with this part.

(d) No provision or delegation in these regulations will preclude the Administrator or a designee or other such person, from determining any question arising under this part, or from reversing or modifying any determination made under this part.

§ 759.2 Purpose.

(a) This part describes and explains the types of incidents that can result in an area being determined a disaster area, making qualified farmers in such areas eligible for Emergency loans (EM) or eligible for such other assistance that may be available, based on Secretarial disaster designations.

(b) This part specifies the responsibility of the County Emergency Board (CEB), State Emergency Board (SEB), and the State Executive Director (SED) on behalf of the Secretary of Agriculture in regard to Secretarial Designations; the factors used in making a natural disaster determination; the availability of EM when a Presidential declaration is made or a USDA quarantine is imposed by the Secretary; and provides SED actions in regard to requesting a physical loss notification and USDA quarantines.

§ 759.3 Abbreviations and definitions.

(a) *Abbreviations.*

CEB means the County Emergency Board.

CED means the County Executive Director.

DAFP means the Deputy Administrator for Farm Programs of the Farm Service Agency.

EM means Emergency loan.

FSA means the Farm Service Agency.

LAR means the Loss Assessment Report.

NASS means the National Agricultural Statistics Service.

SEB means the State Emergency Board.

SED means the State Executive Director.

USDA means the United States Department of Agriculture.

(b) *Definitions.*

Contiguous county is used in reference to another county, any county whose boundary touches at any point with that of the other county.

County is used when referring to a geographical area, a local administrative subdivision of a State or a similar political subdivision of the United States generally considered to be in county usage, for example, a ''county'' or ''parish.'' Except where otherwise specified, the use of the term county or similar political subdivision is for administrative purposes only.

CEB or the County Emergency Board is comprised of the representatives of several USDA agencies that have responsibilities for reporting the occurrence of, and assessing the damage caused by, a disaster, and for requesting approval in declaring a county a disaster area.

CED or the County Executive Director is the person who is in charge of administering the local FSA county office for a particular county.

Disaster area is the county or counties declared or designated as a disaster area as a result of natural disaster related losses. This includes primary counties and counties named as contiguous to those counties declared or designated as a disaster area.

LAR is a loss assessment report prepared by the CEB relating to the State and county where the potential disaster occurred and for which county or counties the CEB is responsible. The LAR includes as applicable, but is not limited to, starting and ending dates of the disaster, crop year affected, type of disaster incident, area of county affected by disaster; total number of farms affected, crop loss or pasture loss data associated with the applicable disaster (or both types of losses), livestock destroyed, and other property losses.

Natural disaster is a disaster in which unusual and adverse weather conditions or other natural phenomena have substantially affected farmers by causing severe physical losses or severe production losses or both.

Normal year's dollar value is the average yield of the 5 years immediately preceding the disaster year for each cash crop, including hay and pasture, grown in the county, multiplied by the average commodity price for the 36 months immediately preceding the disaster year for each crop, using data from NASS where available.

Presidential declaration is a declaration of a disaster by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121–2) requiring Federal emergency assistance to supplement State and local efforts to save lives and protect property, public health and safety, or to avert or lessen the threat of a disaster.

Primary county is a county determined to be a disaster area.

Production losses (severe) within a county are those in which there has been a reduction county-wide of at least a 30 percent or more loss of at least one crop in the county.

SEB is comprised of the representatives of several USDA agencies having emergency program responsibilities at the State level. The board is required to respond to emergencies and carry out the Secretary's emergency preparedness responsibilities. The FSA State Executive Director serves as the Chairperson of the USDA SEB in each State and is responsible for providing the leadership and coordination for all USDA emergency programs at the State level.

Severe physical losses mean, for the purpose of determining an Administrator's declaration of physical loss, losses that consist of severe damage to, or destruction of: Physical farm property including farmland (except sheet erosion); structures on the land including, but not limited to, building, fences, dams; machinery, equipment, supplies, and tools; livestock, livestock products, poultry and poultry products; harvested crops and stored crops.

Substantially affected is when there has been a natural disaster as defined in this section, and the applicant has sustained qualifying physical or production losses, as defined in this section.

Termination date is the date specified in a disaster declaration, designation, or notification that establishes the final date after which EM applications can no longer be accepted. The termination date is the first business day that occurs on or after 8 months from the date of the disaster declaration or designation.

U.S. Drought Monitor is a collaborative effort between Federal and academic partners that is produced on a weekly basis to synthesize multiple indices, outlooks, and drought impacts on a map and in narrative form. This synthesis of indices is reported by the National Drought Mitigation Center at

http://www.drought.unl.edu/dm/monitor.html.

United States means each of the several States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

§ 759.5 Secretarial disaster area determination and notification process.

(a) *U.S. Drought Monitor.* In the case of severe or extreme drought, as defined in this section, the SED will designate the relevant area as a disaster area. A LAR will not be required.

(1) If any portion of a county is physically located in an area with a Drought Monitor Intensity Classification value of D3 (drought—extreme) or higher during any part of the growing season of the crops affected by the disaster in the county, then the county will be designated a disaster area by the SED.

(2) Any county that meets the threshold Drought Monitor Intensity Classification value of D2 (drought—severe) for at least 8 consecutive weeks during the growing season of affected crops will be designated a disaster area by the SED.

(b) *CEB and SEB recommendations.* CEB will identify potential disaster areas and make a disaster designation recommendation request to SEB when a disaster has resulted in severe production losses. A farmer(s), Indian Tribal Council, or the local governing body may initiate the process, by reporting production losses or drought conditions to the CEB.

(1) Except as provided for extreme or severe drought in paragraph (a) of this section, CEB will submit a request with a LAR to SEB for review and recommendation for approval by the SED. CEB's written request and SEB recommendation must be submitted to SED within three months of the last day of the occurrence of a natural disaster as determined by the SED.

(2) If SEB determines a natural disaster has occurred, SEB will forward the recommendation to SED. The natural disaster may include drought conditions that were not sufficiently severe to meet the criteria in paragraph (a) of this section. Since the U.S. Drought Monitor tracks only drought conditions, not specifically agricultural losses resulting from those conditions, it is possible for a drought that does not meet the criteria in paragraph (a) of this section to result in production losses that constitute a natural disaster.

(3) SED will make the disaster area determination on behalf of the Secretary subject to such review by DAFP as may be appropriate, including that the delegation of authority to the SED may be revoked. In all cases, DAFP may reverse any SED determination.

(c) *Eligible production losses.* Except as provided in paragraph (d) of this section, to be determined to be a disaster area, the county must have had production losses of 30 percent of at least one crop in the county due to an unusual and adverse weather condition or natural phenomena.

(d) *Discretionary exception to production losses for EM.* The SED or Secretary may determine that although the conditions specified in § 795.5(c) have not been met, the unusual and adverse weather conditions or natural phenomena have resulted in such significant production losses, or have produced such extenuating circumstances, as to warrant a finding that a natural disaster has occurred for the purpose of making EM available only. In making this determination, the SED or Secretary may consider such factors as the nature and extent of production losses; the number of farmers who have sustained qualifying production losses; the number of farmers that other lenders in the county indicate they will not be in position to provide emergency financing; whether the losses will cause undue hardship to a certain segment of farmers in the county; whether damage to particular crops has resulted in undue hardship; whether other Federal or State benefit programs, which are being made available due to the same disaster, will consequently lessen undue hardship and the demand for EM loans; and any other factors considered relevant.

§ 759.6 EM to be made available.

EM will be made available under part 764 of this chapter in disaster areas determined as follows:

(a) *Secretarial designations.* When production losses meet the requirements in § 759.5 or if the discretionary exception to production losses for EM under § 759.5(d) has been exercised and the SED has acted on behalf of the Secretary to make a disaster area determination.

(b) *Physical loss notification.* When only physical losses occur, the SED will submit a request to the FSA Administrator to make a determination that a natural disaster has occurred in a county, resulting in severe physical losses. If the FSA Administrator determines that such a natural disaster has occurred, then EM physical loss loans can be made available to eligible farmers for physical losses only.

(c) *USDA quarantine.* Any quarantine imposed by the Secretary of Agriculture under the Plant Protection Act or the animal quarantine laws, as defined in section 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990, automatically authorizes EM for production and physical losses resulting from the quarantine.

(d) *Presidential declaration.* Whenever the President declares a Major Disaster Declaration or an Emergency Declaration, the Secretary will make EM available to eligible applicants in declared and contiguous counties, provided:

(1) The Presidential declaration is not solely for Category A or Category B Public Assistance or Hazard Mitigation Grant Assistance.

(2) The Presidential Major Disaster declaration is for losses due to severe, general disaster conditions including but not limited to conditions such as flood, hurricane, or earthquake.

PART 762—GUARANTEED FARM LOANS

2. The authority citation for part 762 continues to read as follows:

Authority: 5 U.S.C. 301 and 7 U.S.C. 1989.

§ 762.106 [Amended]

3. Amend § 762.106(b)(2) and (c)(4) by removing the reference ''part 1945, subpart A of this title'' and adding in its place each time it appears ''§ 761.2(b) and part 759 of this chapter''.

PART 1945—[REMOVED]

4. Under the authority of 5 U.S.C. 301, part 1945 is removed.

Signed on October 20, 2011.

Karis T. Gutter,

Acting Under Secretary, Farm and Foreign Agricultural Services.

[FR Doc. 2011–29011 Filed 11–10–11; 8:45 am]

BILLING CODE 3410–05–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AI91

[NRC–2011–0008]

List of Approved Spent Fuel Storage Casks: MAGNASTOR® System, Revision 2

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC or the Commission) is proposing to amend its spent fuel storage cask regulations by revising the

NAC International, Inc. (NAC) MAGNASTOR® System listing within the ''List of Approved Spent Fuel Storage Casks'' to include Amendment No. 2 to Certificate of Compliance (CoC) Number 1031. Amendment No. 2 will revise: Technical Specification (TS) 3.3.2 to reduce the transportable storage canister removable surface contamination limits; TS 4.1.1 to add various boron-10 areal densities for use with Pressurized Water Reactor and Boiling Water Reactor baskets and to replace the fuel tube orthogonal pitch with the minimum fuel tube outer diagonal dimension; Table 2.1–2, ''ASME Code Alternatives for MAGNASTOR® components,'' of the Final Safety Analysis Report to correct the code reference; and Appendices A and B of the TSs to make editorial corrections.

DATES: Submit comments by December 14, 2011. Comments received after this date will be considered if it is practical to do so, but the NRC staff is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Please include Docket ID NRC–2011–0008 in the subject line of your comments. For instructions on submitting comments and accessing documents related to this action, see Section I, ''Submitting Comments and Accessing Information'' in the **SUPPLEMENTARY INFORMATION** section of this document. You may submit comments by any one of the following methods:

- *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for documents filed under Docket ID NRC–2011–0008. Address questions about NRC dockets to Carol Gallagher, telephone: (301) 492–3668, email: *Carol.Gallagher@nrc.gov.*
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attn: Rulemakings and Adjudications Staff.
- *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive a reply email confirming that we have received your comments, contact us directly at (301) 415–1977.
- *Hand-deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. EST Federal workdays (telephone: (301) 415–1977).
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at (301) 415–1101.

FOR FURTHER INFORMATION CONTACT: Gregory Trussell, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: (301) 415–6445, email: *Gregory.Trussell@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Submitting Comments and Accessing Information

Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site, *http://www.regulations.gov.* Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

You can access publicly available documents related to this document using the following methods:

- *NRC's Public Document Room (PDR):* The public may examine and have copied, for a fee, publicly available documents at the NRC's PDR, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1–(800) 397–4209, (301) 415–4737, or by email to *PDR.Resource@nrc.gov.*
- *Federal rulemaking Web site:* Public comments and supporting materials related to this proposed rule can be found at *http://www.regulations.gov* by searching on Docket ID NRC–2011–0008.

For additional information, see the direct final rule published in the Rules and Regulations section of this issue of the **Federal Register**.

Procedural Background

This rule is limited to the changes contained in Amendment No. 2 to CoC No. 1031 and does not include other aspects of the MAGNASTOR® System. Because the NRC considers this action noncontroversial and routine, the NRC is publishing this proposed rule concurrently as a direct final rule in the Rules and Regulations section of this issue of the **Federal Register**. Adequate protection of public health and safety continues to be ensured. The direct final rule will become effective on January 30, 2012. However, if the NRC receives significant adverse comments on the direct final rule by December 14, 2011, then the NRC will publish a document that withdraws the direct final rule. If the direct final rule is withdrawn, the NRC will address the comments received in response to the proposed revisions in a subsequent final rule. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action in the event the direct final rule is withdrawn.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when:

(a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC staff to make a change (other than editorial) to the rule, CoC, or TSs.

For additional procedural information and the regulatory analysis, see the direct final rule published in the Rules and Regulations section of this **Federal Register**.

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; the Nuclear Waste Policy Act of 1982, as amended, and 5 U.S.C. 553; the NRC is proposing to adopt 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: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); Energy Policy Act of 2005, Pub. L. 109–58, 119 Stat. 549 (2005).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c),(d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244 (42 U.S.C. 10101, 10137(a), 10161(h)).

Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

2. In § 72.214, Certificate of Compliance 1031 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1031.

Initial Certificate Effective Date: February 4, 2009.

Amendment Number 1 Effective Date: August 30, 2010.

Amendment Number 2 Effective Date: January 30, 2012.

SAR Submitted by: NAC International, Inc.

SAR Title: Final Safety Analysis Report for the MAGNASTOR® System.

Docket Number: 72–1031.

Certificate Expiration Date: February 4, 2029.

Model Number: MAGNASTOR.

* * * * *

Dated at Rockville, Maryland, this 27th day of October, 2011.

For the Nuclear Regulatory Commission.

Michael F. Weber,

Acting Executive Director for Operations.

[FR Doc. 2011–29338 Filed 11–10–11; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF ENERGY

10 CFR Part 431

RIN 1904–AC62

Efficiency and Renewables Advisory Committee; Notice of Meeting

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

ACTION: Notice of open meeting.

SUMMARY: This document announces an open meeting of two Negotiated Rulemaking Working Groups; one concerning Liquid Immersed and Medium-Voltage Dry-Type and the second addressing Low-Voltage Dry-Type Distribution Transformers. The Liquid Immersed and Medium-Voltage Dry-Type Group (MV Group) and the Low-Voltage Dry-Type Group (LV Group) are working groups within the Appliance Standards Subcommittee of the Efficiency and Renewables Advisory Committee (ERAC). The purpose of the MV and LV Groups is to discuss and, if possible, reach consensus on a proposed rule for regulating the energy efficiency of distribution transformers, as authorized by the Energy Policy Conservation Act (EPCA) of 1975, as amended, 42 U.S.C. 6313(a)(6)(C) and 6317(a).

DATES: Wednesday, November 30, 2011; 9 a.m.–5 p.m.

Thursday, December 1, 2011; 9 a.m.–5 p.m.

Friday, December 2, 2011; 9 a.m.–5 p.m.

ADDRESSES: The meetings on November 30, 2011, and December 1, 2011, will be held at the American Public Power Association, 1875 Connecticut Ave. NW., Suite 1200, Washington, DC 20009–5715.

The meeting on December 2, 2011, will be held at the U.S. Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585, Room 8E–089.

FOR FURTHER INFORMATION CONTACT: John Cymbalsky, U.S. Department of Energy, Office of Building Technologies (EE–2J), 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–1692 or email: *John.Cymbalsky@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

Background: DOE has decided to use the negotiated rulemaking process to develop proposed energy efficiency standards for distribution transformers. The primary reasons for using the negotiated rulemaking process for developing a proposed Federal standard is that stakeholders strongly support a consensual rulemaking effort and DOE believes such a regulatory negotiation process will be less adversarial and better suited to resolving the complex technical issues raised by this rulemaking. An important virtue of negotiated rulemaking is that it allows expert dialog that is much better than traditional techniques at getting the facts and issues right and will result in a proposed rule that will effectively reflect Congressional intent.

A regulatory negotiation will enable DOE to engage in direct and sustained dialog with informed, interested, and affected parties when drafting the proposed regulation that is then presented to the public for comment. Gaining this early understanding of all parties' perspectives allows DOE to address key issues at an earlier stage of the process, thereby allowing more time for an iterative process to resolve issues. A rule drafted by negotiation with informed and affected parties is more likely to maximize benefits while minimizing unnecessary costs than one conceived or drafted without the opportunity for sustained dialog among interested and expert parties. DOE anticipates that there will be a need for fewer substantive changes to a proposed rule developed under a regulatory negotiation process prior to the publication of a final rule.

To the maximum extent possible, consistent with the legal obligations of the Department, DOE will use the consensus of the advisory committee or subcommittee as the basis for the rule the Department proposes for public notice and comment.

Purpose of the Meeting: To continue the process of seeking consensus on a proposed rule for setting standards for the energy efficiency of liquid immersed and medium- and low-voltage dry type distribution transformers, as authorized

by the Energy Policy Conservation Act (EPCA) of 1975, as amended, 42 U.S.C. 6313(a)(6)(C) and 6317(a).

Tentative Agenda: The MV Group will meet at 9 a.m. and will conclude at 5 p.m. on Wednesday, November 30, 2011, and reconvene from 9 a.m. through 12 p.m. on Thursday, December 1, 2011. The LV Group will meet from 1 p.m. through 5 p.m. on Thursday, December 1, 2011, and reconvene from 9 a.m. through 5 p.m. on Friday, December 2, 2011. The tentative agenda for the meetings includes continued discussion regarding the analyses of alternate standard levels and negotiation efforts to address the perceived issues.

Public Participation: Members of the public are welcome to observe the business of the meetings and to make comments related to the issues being discussed at appropriate points, when called on by the moderator. The facilitator will make every effort to hear the views of all interested parties within limits required for the orderly conduct of business. To attend the meeting and/or to make oral statements regarding any of the items on the agenda, email: *erac@ee.doe.gov.* Please include ''MV and LV Work Group 113011'' in the subject line of the message. Please be sure to specify which working group discussion you will be attending. In the email, please provide your name, organization, citizenship and contact information. Space is limited.

Participation in the meeting is not a prerequisite for submission of written comments. ERAC invites written comments from all interested parties. If you would like to file a written statement with the committee, you may do so either by submitting a hard or electronic copy before or after the meeting. Electronic copy of written statements should be emailed to: *erac@ee.doe.gov.*

Minutes: The minutes of the meeting will be available for public review at: *http://www.erac.energy.gov.*

Issued in Washington, DC on November 3, 2011.

LaTanya R. Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2011–29139 Filed 11–10–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–1229; Directorate Identifier 2011–NM–132–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model DC–9–10, DC–9–20, DC–9–30, DC–9–40, and DC–9–50 series airplanes; and Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87), MD–88, and MD–90–30 airplanes, that are equipped with auxiliary fuel tanks. This proposed AD was prompted by fuel system reviews conducted by the manufacturer. This proposed AD would require adding design features to detect electrical faults, to detect a pump running in an empty fuel tank, and to ensure that a fuel pump's operation is not affected by certain conditions. We are proposing this AD to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

DATES: We must receive comments on this proposed AD by December 29, 2011.

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:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* 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 Office (phone: (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Serj Harutunian, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, California 90712–4137; phone: (562) 627–5254; fax: (562) 627–5210; email: *serj.harutunian@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2011–1229; Directorate Identifier 2011–NM–132–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 because of 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 FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88,'' Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 requires certain type design (i.e., type certificate (TC) and supplemental type certificate (STC)) holders to substantiate

that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: Single failures, single failures in combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this proposed AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

A fuel pump may cause an ignition source in a fuel tank when it has internal electrical faults, or when the pump overheats due to prolonged dry running in an empty fuel tank. Electrical faults inside fuel pumps may cause arcing and burn through the pump housing. Electrical arcs entering an empty fuel tank may cause the fuel vapors to ignite. If a pump is not shut off in a timely manner when the tank is emptied, the dry-running pump may cause excessive heat and become an ignition source inside the tank.

FAA's Findings

During the SFAR 88 safety assessment, it was determined that each electrically powered fuel pump installed in the center wing tank and/or auxiliary fuel tank must have a protective device installed to detect electrical faults, which can cause arcing and burn-through of the fuel pump housing. That same device must shut off the pump by automatically removing electrical power from the pump when such faults are detected. It was also determined that design features must be added to detect when a center wing tank or auxiliary tank is emptied such that each pump is manually or automatically shut off within 60 seconds after it is emptied. The design features must also preclude undetected running of a fuel pump in an empty tank, after the pump was commanded off manually or automatically. The design features must also ensure that a fuel pump cannot be shut off due to system failures sooner than a specified length of time.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would prohibit operation of an affected airplane as of 60 months after the effective date of the AD, unless an amended type certificate or supplemental type certificate that incorporates the following design features and requirements has been approved by the FAA, and those design features are installed on the airplane.

- A protective device for each electrically powered fuel pump that will detect electrical faults and shut off the pump automatically when such faults are detected
- Additional design features to detect any center wing tank or auxiliary fuel tank pump running in an empty fuel tank and to shut off each pump within a specified time
- Means to ensure that a fuel pump cannot be shut off due to system failures sooner than a specified length of time.

This proposed AD would also prohibit operation of any airplane affected by this AD unless the FAA-approved design features specified in the certification plans are installed within a specified time.

Costs of Compliance

We estimate that this proposed AD affects 1,288 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Installing design features—for airplanes with center wing and auxiliary tanks (600 airplanes).	50 work-hours × $85 per hour = $4,250.	$35,000	$39,250	$23,550,000
Installing design features—for airplanes with center wing tank (688 airplanes).	35 work-hours × $85 per hour = $2,975.	17,000	19,975	13,742,800

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):

The Boeing Company: Docket No. FAA–2011–1229; Directorate Identifier 2011–NM–132–AD.

(a) Comments Due Date

We must receive comments by December 29, 2011.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company airplanes, certificated in any category, as identified in paragraphs (c)(1) through (c)(8) of this AD, and equipped with auxiliary fuel tanks.

(1) Model DC–9–11, DC–9–12, DC–9–13, DC–9–14, DC–9–15, and DC–9–15F airplanes.

(2) Model DC–9–21 airplanes.

(3) Model DC–9–31, DC–9–32, DC–9–32 (VC–9C), DC–9–32F, DC–9–33F, DC–9–34, DC–9–34F, and DC–9–32F (C–9A, C–9B) airplanes.

(4) Model DC–9–41 airplanes.

(5) Model DC–9–51 airplanes.

(6) Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) airplanes.

(7) Model MD–88 airplanes.

(8) Model MD–90–30 airplanes.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 28: Fuel.

(e) Unsafe Condition

This AD was prompted by fuel system reviews conducted by the manufacturer. We are issuing this AD to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

(f) Compliance

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

(g) Criteria for Operation

As of 60 months after the effective date of this AD, no person may operate any airplane affected by this AD unless an amended type certificate or supplemental type certificate that incorporates the design features and requirements described in paragraphs (g)(1), (g)(2), and (g)(3) of this AD has been approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, and those design features are installed on the airplane.

(1) Each electrically powered fuel pump installed in the center wing tank or auxiliary fuel tank must have a protective device installed to detect electrical faults that can cause arcing and burn through the fuel pump housing. The same device must shut off the pump by automatically removing electrical power from the pump when such faults are detected. When a fuel pump is shut off as the result of detection of an electrical fault, the device must stay latched off until the fault is cleared through maintenance action and verified that the pump and the electrical power feed is safe for operation.

(2) Additional design features must be installed to detect when any center wing tank or auxiliary fuel tank pump is running in an empty fuel tank. The prospective pump shutoff system must shut off each pump no later than 60 seconds after the fuel tank is emptied. The pump shutoff system design must preclude undetected running of a fuel pump in an empty tank, after the pump was commanded off manually or automatically.

(3) The implementation of the design features defined in paragraphs (g)(1) and (g)(2) of this AD must ensure that a fuel pump cannot be shut off due to system failures including nuisance shutoffs sooner than 100,000 hours' mean time between failures (MTBF).

Note 1: After accomplishing the installation specified in paragraph (g) of this AD, maintenance and/or preventative maintenance under 14 CFR part 43 is permitted provided the maintenance does not result in changing the AD-mandated configuration (reference 14 CFR 39.7).

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles ACO, 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 manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD.

(2) 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.

(i) Related Information

For more information about this AD, contact Serj Harutunian, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles ACO, 3960 Paramount Boulevard, Lakewood, California 90712–4137; phone: (562) 627–5254; fax: (562) 627–5210; email: *serj.harutunian@faa.gov.*

Issued in Renton, Washington, on October 28, 2011.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–29303 Filed 11–10–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–1245; Directorate Identifier 2011–CE–033–AD; RIN 2120–AA64]

Airworthiness Directives; Cessna Aircraft Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede an existing airworthiness directive (AD) that applies to certain Cessna Aircraft Company (Cessna) Models 172R and 172S airplanes. The existing AD requires you to inspect the fuel return line assembly for chafing; replace the fuel return line assembly if chafing is found; and inspect the clearance between the fuel return line assembly and both the right steering tube assembly and the airplane structure, adjusting as necessary. Since we issued that AD, we have received a field report of a fuel return line chafing incident on a Cessna Model 172 airplane with a serial number (S/N) that was not included in the AD. This proposed AD would retain the actions of the current AD and add S/Ns to the Applicability section of the AD. Chafing of the fuel return line assembly could lead to fire. We are proposing this AD to correct the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by December 29, 2011.

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:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, KS 67277; telephone: (316) 517–6000; fax: (316) 517–8500; email: *Customercare@cessna.textron.com;* Internet: *http://www.cessna.com.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* 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 Office (phone: (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Trenton Shepherd, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209; phone: (316) 946–4143; fax: (316) 946–4107; email: *trent.shepherd@faa.gov.*

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–2011–1245; Directorate Identifier 2011–CE–033–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 because of 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

On January 22, 2008, we issued AD 2008–03–02, Amendment 39–15351 (73 FR 5737, January 31, 2008), for certain Cessna Models 172R and 172S airplanes. That AD requires you to inspect the fuel return line assembly for chafing; replace the fuel return line assembly if chafing is found; and inspect the clearance between the fuel return line assembly and both the right steering tube assembly and the airplane structure, adjusting as necessary. That AD resulted from reports of chafed fuel return line assemblies, which were caused by the fuel return line assembly rubbing against the right steering tube assembly during full rudder pedal actuation. We issued that AD to detect and correct chafing of the fuel return line assembly, which could result in fuel leaking under the floor and fuel vapors entering the cabin. This condition could lead to fire under the floor or in the cabin area.

Actions Since Existing AD Was Issued

Since we issued AD 2008–03–02 (73 FR 5737, January 31, 2008), we received a field report of a fuel return line chafing incident on a Cessna Model 172 airplane with an S/N that was not included in the AD.

Relevant Service Information

We reviewed Cessna Mandatory Service Bulletin SB07–28–01, dated June 18, 2007, and Cessna Service Bulletin SB07–28–01, Revision 1, dated September 22, 2011. The service information describes the following procedures:

• Inspecting the fuel return line assembly;

• Replacing the fuel return line assembly if chafing is found; and

• Inspecting the clearance between the fuel return line assembly and both the right steering tube assembly and the airplane structure, adjusting as necessary.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would retain all of the requirements of AD 2008–03–02 (73 FR 5737, January 31, 2008). This proposed AD would add airplanes to the applicability statement of the current AD.

Change to Existing AD

This proposed AD would retain all requirements of AD 2008–03–02 (73 FR 5737, January 31, 2008). Since AD 2008–03–02 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 2008–03–02	Corresponding requirement in this proposed AD
paragraph (e)(1)	paragraph (g)(1) and (g)(2)
paragraph (e)(2)	paragraph (h)
paragraph (e)(3)	paragraph (i)

Costs of Compliance

We estimate that this proposed AD affects 768 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection of the fuel return line assembly for chafing and clearance.	1 work-hour × $85 per hour = $85.	Not applicable	$85	$65,280

The difference in estimated costs of this proposed AD and AD 2008–03–02 (73 FR 5737, January 31, 2008) is an increase in the estimated labor cost for those airplanes affected by AD 2008–

03–02 and the costs of the additional airplanes added to the proposed AD.

We estimate the following costs to do any necessary replacements that would be required based on the results of the proposed inspection. We have no way of determining the number of aircraft that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement of the fuel return line assembly and adjustment of the clearance between the fuel return line assembly and both the right steering tube assembly and the airplane structure.	0.5 work-hour × $85 per hour = $42.50.	$123	$165.50

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 have 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 that the 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, 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 removing airworthiness directive (AD) 2008–03–02, Amendment 39–15351 (73 FR 5737, January 31, 2008), and adding the following new AD:

Cessna Aircraft Company: Docket No. FAA–2011–1245; Directorate Identifier 2011–CE–033–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by December 29, 2011.

(b) Affected ADs

This AD supersedes AD 2008–03–02 (73 FR 5737, January 31, 2008), Amendment 39–15351.

(c) Applicability

This AD applies to the following Cessna Aircraft Company airplanes, certificated in any category:

(1) *Group 1:* Model 172R, serial numbers (S/N) 17281188 through 17281390;

(2) *Group 2:* Model 172S, S/N 172S9491 through 172S10489;

(3) *Group 3:* Model 172R, S/N 17281391 through 17281572; and

(4) *Group 4:* Model 172S, S/N 172S10490 through 172S11073.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code Fuel, 28.

(e) Unsafe Condition

This AD was prompted by a field report of a fuel return line chafing incident on a Cessna Model 172 airplane with a serial number that was not in the Applicability statement of AD 2008–03–02. Chafing of the fuel return line assembly could result in fuel leaking and fuel vapors, which could lead to fire. We are issuing this AD to correct the unsafe condition on these products.

(f) Compliance

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

(g) Inspection Requirement Retained From AD 2008–03–02, Amendment 39–15351 (73 FR 5737, January 31, 2008)

(1) *For Group 1 and Group 2 Airplanes:* within the next 100 hours time-in-service (TIS) after March 6, 2008 (the effective date retained from AD 2008–03–02) or within the next 12 months after March 6, 2008 (the effective date retained from AD 2008–03–02), whichever occurs first, inspect the fuel return line assembly (Cessna part number (P/N) 0500118–49) for chafing. Do the inspection following Cessna Service Bulletin SB07–28–01, dated June 18, 2007.

(2) *For Group 3 and Group 4 Airplanes:* within the next 100 hours TIS after the effective date of this AD or within the next 12 months after the effective date of this AD, whichever occurs first, inspect the fuel return line assembly (Cessna P/N 0500118–49) for chafing. Do the inspection following Cessna Service Bulletin SB07–28–01, Revision 1, dated September 22, 2011.

(h) Replacement Requirement Retained From AD 2008–03–02, Amendment 39–15351 (73 FR 5737, January 31, 2008)

For All Airplanes: before further flight after the inspection required in paragraph (g)(1) or (g)(2) of this AD where evidence of chafing was found, replace the fuel return line assembly (Cessna P/N 0500118–49). Do the replacement following Cessna Service Bulletin SB07–28–01, dated June 18, 2007; or Cessna Service Bulletin SB07–28–01, Revision 1, dated September 22, 2011.

(i) Inspection and Adjustment Requirement Retained From AD 2008–03–02, Amendment 39–15351 (73 FR 5737, January 31, 2008)

For All Airplanes: before further flight after the inspection required in paragraph (g)(1) or (g)(2) of this AD if no chafing is found or after the replacement required in paragraph (h) of this AD, whichever of the previous situations applies, inspect for a minimum clearance of 0.5 inch between the following parts throughout the entire range of copilot rudder pedal travel. If less than 0.5 inch clearance is found, before further flight, adjust the clearance. Follow paragraph 6 of the Instructions section of Cessna Service Bulletin SB07–28–01, dated June 18, 2007; or Cessna Service Bulletin SB07–28–01, Revision 1, dated September 22, 2011. This AD requires a minimum clearance of 0.5

inch. The requirements of this AD take precedence over the actions required in the service information.

(1) The fuel return line assembly (Cessna P/N 0500118–49) and the steering tube assembly (Cessna P/N MC0543022–2C); and

(2) The fuel return line assembly (Cessna P/N 0500118–49) and the airplane structure.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Wichita Aircraft Certification Office (ACO), 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 manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD.

(2) 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.

(k) Related Information

(1) For more information about this AD, Trenton Shepherd, Aerospace Engineer, Wichita ACO, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209; phone: (316) 946–4143; fax: (316) 946–4107; email: *trent.shepherd@faa.gov.*

(2) For service information identified in this AD, contact Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, KS 67277; telephone: (316) 517–6000; fax: (316) 517–8500; email: *Customercare@cessna.textron.com;* Internet: *http://www.cessna.com.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106.

For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on November 7, 2011.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–29315 Filed 11–10–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25738; Directorate Identifier 2006–NE–27–AD]

RIN 2120–AA64

Airworthiness Directives; General Electric Company (GE) CF6–80C2B Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede an existing airworthiness directive (AD) that applies to all GE CF6–80C2B series turbofan engines. The existing AD currently requires installing software version 8.2.Q1 to the engine electronic control unit (ECU), which increases the engine's margin to flameout. Since we issued that AD, we have received reports of additional engine events. This proposed AD would require the removal of the affected ECUs from service. We are proposing this AD to prevent engine flameout or un-commanded engine in-flight shutdown (IFSD) of one or more engines, leading to an emergency or forced landing of the airplane.

DATES: We must receive comments on this proposed AD by January 13, 2012.

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:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* 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 Office (*phone:* (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tomasz Rakowski, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; *phone:* (781) 238–7735; *fax:* (781) 238–7199; *email: tomasz.rakowski@faa.gov.*

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–2006–25738; Directorate Identifier 2006–NE–27–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 because of 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

On May 30, 2007, we issued AD 2007–12–07, Amendment 39–15085 (72 FR 31174, June 6, 2007), for all GE CF6–80C2B series turbofan engines. That AD requires installing software version 8.2.Q1 to the ECU, which increases the engine's margin to flameout. That AD was prompted by multiple reports of flameout events during flight on engines with an ECU software version preceding version 8.2.Q1, including reports of events where all engines simultaneously experienced a flameout. Investigation showed that exposure to ice crystals during flight was associated with these flameout events. That AD action was intended to minimize the potential of an engine flameout event caused by ice accretion and shedding during flight.

Actions Since Existing AD Was Issued

Since we issued AD 2007–12–07 (72 FR 31174, June 6, 2007), we received two reports of ice crystal condition flameouts on engines equipped with ECU software version 8.2.Q1. Prompted by these reports, GE developed ECU software version 8.2.R with improved inclement weather capability, and enhanced fuel metering valve (FMV) fault handling logic to reduce the risk of engine IFSD caused by intermittent FMV feedback signals.

Subsequently, we received reports of eight engine IFSD events and four engine flameout ground events. These events were caused by ignition system induced noise creating dual-channel faults in the CPU. The event engines were operating with 8.2.Q1 and 8.2.R versions of ECU software and equipped with the new generation of front panel assembly (FPA) and pressure subsystem (PSS) circuit boards. Prompted by these reports, GE developed an ECU hardware fix to eliminate the potential for dual-channel CPU faults due to ignition system-induced noise. This proposed AD supersedure removes the affected ECUs from the fleet. These ECUs, if not corrected, could result in flameout or

un-commanded IFSD of one or more engines, leading to an emergency or forced landing of the airplane.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require the removal from service of certain affected ECU part numbers (P/Ns) with software version 8.2.Q1 and prior, which are susceptible to engine flameouts due to inclement weather, and those with the new generation FPA/PSS circuit boards, which are susceptible to IFSD. The proposed compliance times for removal are based on the ECU's degree of susceptibility to engine flameout or IFSD. This proposed AD would also prevent airplanes from having more than one ECU with P/N 2121M37P02, 2121M38P02, or 2121M41P02, installed.

Costs of Compliance

We estimate that this proposed AD would affect 697 GE CF6–80C2B series turbofan engines installed on airplanes of U.S. registry. We also estimate that it would take about 4 work-hours per engine to perform a removal and replacement of the ECU, and that the average labor rate is $85 per work-hour. A replacement ECU costs about $4,600. Based on these figures, we estimate the total cost of the AD to U.S. operators to be $3,443,180.

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 have 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 that the 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 removing airworthiness directive (AD) 2007–12–07, Amendment 39–15085 (72 FR 31174, June 6, 2007), and adding the following new AD:

General Electric Company: Docket No. FAA–2006–25738; Directorate Identifier 2006–NE–27–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by January 13, 2012.

(b) Affected ADs

This AD supersedes AD 2007–12–07, Amendment 39–15085 (72 FR 31174, June 6, 2007).

(c) Applicability

This AD applies to General Electric Company (GE) CF6–80C2B1F, CF6–80C2B1F1, CF6–80C2B1F2, CF6–80C2B2F, CF6–80C2B3F, CF6–80C2B4F, CF6–80C2B5F, CF6–80C2B6F, CF6–80C2B6FA, CF6–80C2B7F, and CF6–80C2B8F turbofan engines, including engines marked on the engine data plate as CF6–80C2B7F1.

(d) Unsafe Condition

This AD results from:

(1) Two reports of engine flameout events during flight in inclement weather conditions; and

(2) Eight reports of engine in-flight shutdown (IFSD) events caused by dual-channel central processing unit (CPU) faults in the electronic control unit (ECU); and

(3) Four reports of engine flameout ground events.

(e) We are issuing this AD to prevent engine flameout or un-commanded engine IFSD of one or more engines, leading to an emergency or forced landing of the airplane.

(f) Compliance

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

(g) ECU Removal

(1) Remove from service ECUs with part numbers (P/Ns) listed in Table 1 of this AD, within 6 months or 450 engine flight cycles after the effective date of this AD, whichever occurs first.

TABLE 1—AFFECTED ECU P/NS

1471M63P01	1471M63P02	1471M63P03	1471M63P04	1471M63P05
1471M63P06	1471M63P07	1471M63P08	1471M63P09	1471M63P10
1471M63P11	1471M63P12	1471M63P13	1471M63P14	1471M63P15
1471M63P16	1471M63P17	1471M63P18	1471M63P23	1471M63P24
1471M63P25	1471M63P26	1471M63P27	1471M63P28	1471M63P29
1471M63P30	1471M63P31	1471M63P32	1471M63P33	1471M63P34
1471M63P35	1471M63P36	1519M89P01	1519M89P02	1519M89P03
1519M89P04	1519M89P05	1519M89P06	1519M89P07	1519M89P08
1519M89P09	1519M89P10	1519M89P13	1519M89P14	1519M89P15
1519M89P16	1519M89P17	1519M89P18	1519M89P19	1519M89P20
1519M89P21	1519M89P22	1519M89P23	1519M89P24	1519M89P25
1519M89P26	1820M33P01	1820M33P02	1820M33P03	1820M33P04

TABLE 1—AFFECTED ECU P/NS—Continued

1820M33P05	1820M33P06	1820M33P07	1820M33P08	1820M33P09

(2) Remove from service ECUs with P/N 2121M37P01, 2121M37P02, 2121M38P01, 2121M38P02, 2121M41P01 and 2121M41P02, within 14 months or 1,050 engine flight cycles after the effective date of this AD, whichever occurs first.

(3) Remove from service ECUs with P/Ns listed in Table 2 of this AD, within 60 months or 4,500 engine flight cycles after the effective date of this AD, whichever occurs first.

TABLE 2—AFFECTED ECU P/NS

1471M63P37	1471M63P38	1471M63P39	1471M63P40	1471M63P42
1519M89P27	1519M89P28	1519M89P29	1519M89P30	1519M89P32
1820M33P10	1820M33P11	1820M33P12	1820M33P13	1820M33P15
2121M25P01	2121M25P02	2121M26P01	2121M26P02	2121M29P01
2121M29P02	2121M37P03	2121M38P03	2121M41P03	

(h) Installation Prohibition

(1) After the effective date of this AD, do not install any ECU P/N listed in Table 1 of this AD onto any airplane.

(2) After the effective date of this AD, do not operate any airplane with more than one ECU, P/N 2121M37P02, 2121M38P02, or 2121M41P02, installed.

(i) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, FAA, may approve AMOCs for this AD. Use the procedures in 14 CFR 39.19 to make your request.

(j) Related Information

For more information about this AD, contact Tomasz Rakowski, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; *phone:* (781) 238–7735; *fax:* (781) 238–7199; *email: tomasz.rakowski@faa.gov.*

Issued in Burlington, Massachusetts, on November 3, 2011.

Peter A. White,

Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2011–29228 Filed 11–10–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2011–0937]

RIN 1625–AA09

Drawbridge Operation Regulation; Black River, La Crosse, WI

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking and public meeting.

SUMMARY: The Coast Guard proposes a change to drawbridge operations for the Canadian Pacific Railroad Drawbridge across the Black River at Mile 1.0 near La Crosse, Wisconsin. Drawspan is currently operated by an onsite bridge tender, opening on signal following two-hour notification. The proposed change is for drawspan operation by remote operator, opening immediately upon demand.

DATES: Comments and related material must reach the Coast Guard on or before January 13, 2012. A public meeting will be held on November 29, 2011.

ADDRESSES: You may submit comments identified by docket number USCG–2011–0937 using any one of the following methods:

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

(2) *Fax:* (202) 493–2251.

(3) *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.

(4) *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. Comments can also be delivered in person at the public meeting on November 29, 2011, 6 p.m. at the Black River Beach Neighborhood Center, 1433 Rose Street, La Crosse, WI 54603.

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

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Mr. Eric Washburn, Bridge Administrator, Western Rivers, (314) 269–2378, email *Eric.Washburn@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

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

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2011–0937), 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 (*http://www.regulations.gov*), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* click on the ''submit a comment'' box, which will then become highlighted in blue. In the ''Document Type'' drop down menu select ''Proposed Rules'' and insert

''USCG–2011–0937'' in the ''Keyword'' box. Click ''Search'' then click on the balloon shape in the ''Actions'' column. 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 them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule 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,* click on the ''read comments'' box, which will then become highlighted in blue. In the ''Keyword'' box insert ''USCG–2011–0937'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. 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. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

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

Public Meeting

We plan on holding a public meeting regarding this rulemaking at 6 p.m. on November 29, 2011 at the Black River Beach Neighborhood Center, 1433 Rose Street, La Crosse, WI 54603. We plan to record this meeting using a certified stenographer, and then make the transcript available through a link in our online docket.

For information on facilities or services for individuals with disabilities or to request special assistance at the public meeting, contact Mr. Eric Washburn at the telephone number or email address indicated under the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Basis and Purpose

The Black River is a navigable waterway of the United States from its mouth at mile 698.2 of the Upper Mississippi River, to approximately mile 3.0. Heavy recreational vessel traffic can be found along the length of the river and commercial navigation primarily operates up to mile 1.4. In this reach, commercial barge operations handle cement, chemical, and fuel products at various loading terminals. A large recreational vessel manufacturer and marine repair facility are also located within this stretch of river.

The Black River drawbridge operation regulation contained in 33 CFR 117.1081, states that ''The draw of the CP Rail Railroad bridge, Mile 1.0 at La Crosse, shall open on signal if at least two hours notice is given.'' In order to reduce wait time for requested drawbridge openings while also reducing operating costs, Canadian Pacific has requested this drawbridge be operated where vessels would contact a remote drawbridge operator via VHF–FM Channel 16 or telephone (507) 895–6087. Mariners would establish radio or telephone communications and request an opening. The remote operator would ensure no trains were in the block and then proceed with opening the drawspan. Once opened to navigation it would remain raised until the remote operator verified safe vessel passage. This verification would be conducted by radio or telephone confirmation with the passing vessel, video monitoring, and boat detection equipment.

Discussion of Proposed Rule

The Coast Guard proposes to amend 33 CFR 117.1081 by changing the current requirement from the bridge opening on signal if two hours notice is given to the bridge opening upon demand by communicating to a remote operator via VHF–FM Channel 16 or telephone.

The Coast Guard has determined this regulation change will reduce vessel wait time by eliminating the two-hour advance notice requirement mandated by existing regulations.

Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Executive Order 12866 and Executive Order 13563

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. We expect the economic impact of this rule on commercial traffic operating on the Black River to be minimal. The operating procedures affected by this change will be for the benefit of vessels transiting the bridge because reduced drawspan opening delays under the new regulatory guidance are anticipated.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

This action is based on the expected reduction in wait time for drawspan openings and will not impact the local businesses, organizations, or government entities in the community.

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

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Mr. Eric Washburn (see **ADDRESSES**). The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

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

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01, and Commandant Instruction M16475.lD which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment because it simply promulgates the operating regulations or procedures for drawbridges. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 117

Bridges.

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. Revise § 117.1081 to read as follows:

§ 117.1081 Black River.

The drawspan of the Canadian Pacific Railroad bridge, mile 1.0 at La Crosse, is operated by remote operator located at the Canadian Pacific Railway Minneapolis Operations Center, in Minneapolis, Minnesota. Drawspan shall open upon demand by contacting remote operator via VHF–FM Channel 16 or telephone (507) 895–6087.

Dated: November 2, 2011.

Roy A. Nash,

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

[FR Doc. 2011–29240 Filed 11–10–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2011–0002; Internal Agency Docket No. FEMA–B–1223]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule.

SUMMARY: Comments are requested on the proposed Base (1% annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed in the table below. The purpose of this proposed rule is to seek general information and comment regarding the proposed regulatory flood elevations for the reach described by the downstream and upstream locations in the table below. The BFEs and modified BFEs are a part of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for

participation in the National Flood Insurance Program (NFIP). In addition, these elevations, once finalized, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents in those buildings.

DATES: Comments are to be submitted on or before February 13, 2012.

ADDRESSES: The corresponding preliminary Flood Insurance Rate Map (FIRM) for the proposed BFEs for each community is available for inspection at the community's map repository. The respective addresses are listed in the table below.

You may submit comments, identified by Docket No. FEMA–B–1223, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov*.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov*.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in those buildings.

Comments on any aspect of the Flood Insurance Study and FIRM, other than the proposed BFEs, will be considered. A letter acknowledging receipt of any comments will not be sent.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Executive Order 12866, Regulatory Planning and Review. This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866, as amended.

Executive Order 13132, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This proposed rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)	
				Existing	Modified
Town of Carrollton, Mississippi					
Mississippi	Town of Carrollton	Big Sand Creek	Approximately 0.6 mile downstream of State Route 35.	None	+214
			Approximately 800 feet upstream of State Route 35.	None	+222

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

ADDRESSES

Town of Carrollton

Maps are available for inspection at the Town Hall, 701 Lexington Street, Carrollton, MS 38917.

Flooding Source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Montgomery County, Alabama, and Incorporated Areas				
Audubon Ditch	At the upstream side of Norman Bridge Road	+185	+184	City of Montgomery.
	Approximately 600 feet upstream of Augusta Avenue	None	+209	
Baldwin Slough Tributary 2 (backwater effects from Baldwin Slough).	At the Baldwin Slough confluence	None	+196	City of Montgomery.
	At the downstream side of Halifax Lane	None	+196	
Baskins Mill Creek	At the Little Sandy Creek confluence	None	+252	Unincorporated Areas of Montgomery County.
	Approximately 3.3 miles upstream of Goodwyn Road	None	+280	
Baskins Mill Creek Tributary 10 (backwater effects from Baskins Mill Creek).	At the Baskins Mill Creek confluence	None	+256	Unincorporated Areas of Montgomery County.
	At the downstream side of Woodley Road	None	+256	
Baskins Mill Creek Tributary 7	At the Baskins Mill Creek confluence	None	+276	Unincorporated Areas of Montgomery County.
	Approximately 0.4 mile upstream of the Baskins Mill Creek confluence.	None	+278	
Baskins Mill Creek Tributary 8 (backwater effects from Baskins Mill Creek).	At the Thompson Creek confluence	None	+264	Unincorporated Areas of Montgomery County.
	Approximately 1,000 feet upstream of the Thompson Creek confluence.	None	+264	
Baskins Mill Creek Tributary 8_2 (backwater effects from Baskins Mill Creek).	At the Thompson Creek confluence	None	+263	Unincorporated Areas of Montgomery County.
	Approximately 860 feet upstream of the Thompson Creek confluence.	None	+263	
Baskins Mill Creek Tributary 9 (backwater effects from Baskins Mill Creek).	At the Baskins Mill Creek confluence	None	+257	Unincorporated Areas of Montgomery County.
	Approximately 640 feet upstream of the Baskins Mill Creek confluence.	None	+257	
Camp Creek	Approximately 1,400 feet downstream of Troy Highway (U.S. Route 231).	+202	+203	City of Montgomery.
	At the downstream side of Vaughn Road	+240	+241	
Camp Creek Tributary	Approximately 360 feet upstream of the Camp Creek confluence.	+214	+213	City of Montgomery.
	Approximately 0.5 mile upstream of Bell Road	+226	+225	
Camp Creek Tributary 2	At the Camp Creek confluence	+236	+238	City of Montgomery.
	Approximately 300 feet downstream of Vaughn Road	+238	+239	
Camp Creek Tributary 5 (backwater effects from Camp Creek).	Approximately 840 feet upstream of the Camp Creek confluence.	+226	+225	City of Montgomery.
	Approximately 0.5 mile upstream of the Camp Creek confluence.	None	+225	
Caney Branch Tributary 8 (backwater effects from Caney Branch).	At the Caney Branch confluence	None	+174	City of Montgomery.
	Approximately 2,000 feet upstream of the Caney Branch confluence.	None	+174	
Catoma Creek Tributary 1 Branch 4 (backwater effects from Catoma Creek Tributary 1).	Approximately 1.0 mile upstream of the Catoma Creek Tributary 1 confluence.	+200	+199	City of Montgomery, Unincorporated Areas of Montgomery County.
	At the downstream side of Woodley Road	+200	+199	
Dry Creek	Approximately 0.9 mile upstream of Canty Road	None	+271	Unincorporated Areas of Montgomery County.
	At the downstream side of Greenwood Road	None	+302	
Dry Creek Tributary 2 (backwater effects from Dry Creek).	At the Dry Creek confluence	None	+281	Unincorporated Areas of Montgomery County.
	Approximately 880 feet upstream of the Dry Creek confluence.	None	+281	

Flooding Source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Dry Creek Tributary 4 (backwater effects from Dry Creek).	At the Dry Creek confluence	None	+281	Unincorporated Areas of Montgomery County.
	Approximately 530 feet upstream of the Dry Creek confluence.	None	+281	
Dry Creek Tributary 5 (backwater effects from Dry Creek).	At the Dry Creek confluence	None	+278	Unincorporated Areas of Montgomery County.
	Approximately 740 feet upstream of the Dry Creek confluence.	None	+278	
Genetta Ditch	Approximately 1.0 mile upstream of West South Boulevard (U.S. Route 80).	+175	+173	City of Montgomery.
	At the downstream side of South Jackson Street	None	+239	
Greenbrier Creek	Approximately 600 feet upstream of the Olustee Creek confluence.	None	+373	Unincorporated Areas of Montgomery County.
	Approximately 0.6 mile upstream of Centerpoint Road	None	+390	
Hog Creek	At the Pintlalla Creek confluence	None	+261	Unincorporated Areas of Montgomery County.
	Approximately 1.1 miles upstream of Smiley Ferry Road.	None	+297	
Jackson Creek	Approximately 0.5 mile downstream of Gardner Road	None	+373	Unincorporated Areas of Montgomery County.
	At the downstream side of Curtis Road	None	+455	
Jackson Creek Tributary 1 (backwater effects from Jackson Creek).	At the Jackson Creek Tributary 1_1 confluence	None	+423	Unincorporated Areas of Montgomery County.
	Approximately 580 feet upstream of the Jackson Creek Tributary 1_1 confluence.	None	+423	
Jackson Creek Tributary 1_1	At the Jackson Creek confluence	None	+423	Unincorporated Areas of Montgomery County.
	Approximately 1,100 feet upstream of the Jackson Creek confluence.	None	+424	
Jackson Creek Tributary 3	At the Jackson Creek confluence	None	+407	Unincorporated Areas of Montgomery County.
	Approximately 790 feet upstream of the Jackson Creek confluence.	None	+408	
Jackson Creek Tributary 4	At the Jackson Creek confluence	None	+387	Unincorporated Areas of Montgomery County.
	Approximately 1,800 feet upstream of the Jackson Creek confluence.	None	+390	
Jackson Creek Tributary 5	At the Jackson Creek confluence	None	+378	Unincorporated Areas of Montgomery County.
	Approximately 520 feet upstream of Gardner Road	None	+380	
Jenkins Creek Tributary	Approximately 1,400 feet downstream of Chantilly Parkway (State Route 110).	None	+205	City of Montgomery, Town of Pike Road, Unincorporated Areas of Montgomery County.
	Approximately 1,400 feet upstream of Wynlakes Boulevard.	None	+229	
Johnsons Creek	Approximately 1,300 feet upstream of the Mathews Slough confluence.	+208	+207	Unincorporated Areas of Montgomery County.
	Approximately 2.7 miles upstream of Flowers Road	None	+258	
Johnsons Creek Tributary 1	At the Johnsons Creek confluence	None	+256	Unincorporated Areas of Montgomery County.
	Approximately 1,200 feet upstream of the Johnsons Creek confluence.	None	+257	
Johnsons Creek Tributary 4 (backwater effects from Johnsons Creek).	Approximately 840 feet upstream of the Johnsons Creek confluence.	None	+210	Unincorporated Areas of Montgomery County.
	At the downstream side of Macon County Road	None	+210	
Little Catoma Creek	Approximately 0.6 mile downstream of Troy Highway (U.S. Route 231).	+210	+211	Town of Pike Road, Unincorporated Areas of Montgomery County.
	Approximately 0.5 mile upstream of Hayneville Ridge Road (Old Hayneville Road).	None	+268	

Flooding Source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Little Sandy Creek	At the Baskins Mill Creek confluence	None	+252	Unincorporated Areas of Montgomery County.
	Approximately 0.7 mile upstream of Goodwyn Road	None	+264	
Little Sandy Creek Tributary 10 (backwater effects from Baskins Mill Creek).	At the Little Sandy Creek confluence	None	+262	Unincorporated Areas of Montgomery County.
	Approximately 0.6 mile upstream of the Little Sandy Creek confluence.	None	+262	
Mathews Slough	Approximately 1,500 feet upstream of the Johnsons Creek confluence.	+208	+207	City of Montgomery, Town of Pike Road, Unincorporated Areas of Montgomery County.
	Approximately 800 feet upstream of London Road	None	+261	
Mathews Slough Tributary 1 (backwater effects from Mathews Slough).	At the Mathews Slough confluence	None	+260	City of Montgomery, Unincorporated Areas of Montgomery County.
	Approximately 600 feet upstream of the Mathews Slough confluence.	None	+260	
Mathews Slough Tributary 10	At the Mathews Slough confluence	None	+236	Town of Pike Road, Unincorporated Areas of Montgomery County.
	Approximately 1,400 feet upstream of the Mathews Slough confluence.	None	+237	
Mathews Slough Tributary 11	At the Mathews Slough confluence	None	+238	Unincorporated Areas of Montgomery County.
	Approximately 0.4 mile upstream of the Mathews Slough confluence.	None	+241	
Mathews Slough Tributary 12 (backwater effects from Mathews Slough).	At the Mathews Slough confluence	None	+247	Unincorporated Areas of Montgomery County.
	Approximately 820 feet upstream of the Mathews Slough confluence.	None	+247	
Mathews Slough Tributary 5	At the Mathews Slough confluence	None	+228	Town of Pike Road, Unincorporated Areas of Montgomery County.
	Approximately 1,500 feet upstream of Flowers Road	None	+230	
Mathews Slough Tributary 7	At the Mathews Slough confluence	+213	+214	Unincorporated Areas of Montgomery County.
	Approximately 0.7 mile upstream of the Mathews Slough confluence.	+214	+215	
Mathews Slough Tributary 7_1 (backwater effects from Mathews Slough).	At the Mathews Slough Tributary 7 confluence	+214	+215	Unincorporated Areas of Montgomery County.
	Approximately 0.7 mile upstream of the Mathews Slough Tributary 7 confluence.	+216	+215	
McDowell Creek	At the downstream side of Flowers Road	None	+238	Unincorporated Areas of Montgomery County.
	Approximately 2 miles upstream of Plantation Bend Road.	None	+268	
McDowell Creek Tributary 1 (backwater effects from McDowell Creek).	At the McDowell Creek confluence	None	+256	Unincorporated Areas of Montgomery County.
	Approximately 750 feet upstream of the McDowell Creek confluence.	None	+256	
McDowell Creek Tributary 2 (backwater effects from McDowell Creek).	At the McDowell Creek confluence	None	+247	Unincorporated Areas of Montgomery County.
	At Lawson Road	None	+247	
Millies Creek Tributary 2 (backwater effects from Millies Creek).	Approximately 1,610 feet upstream of the Millies Creek confluence.	+229	+228	City of Montgomery, Town of Pike Road, Unincorporated Areas of Montgomery County.
	Approximately 2,000 feet upstream of the Millies Creek confluence.	+229	+228	

Flooding Source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Millies Creek Tributary 3 (backwater effects from Millies Creek).	Approximately 870 feet upstream of the Millies Creek confluence.	+217	+216	City of Montgomery, Unincorporated Areas of Montgomery County.
	Approximately 0.5 mile upstream of the Millies Creek confluence.	+217	+216	
Millies Creek Tributary 4 (backwater effects from Millies Creek).	Approximately 1.0 mile upstream of the Millies Creek confluence.	+199	+198	City of Montgomery, Unincorporated Areas of Montgomery County.
	Approximately 1.3 miles upstream of the Millies Creek confluence.	+199	+198	
Oliver Creek	Approximately 0.3 mile downstream of Countryside Lane.	+174	+173	City of Montgomery.
	At the upstream side of I–85	+238	+237	
Oliver Creek Tributary	At the Oliver Creek confluence	+184	+185	City of Montgomery.
	Approximately 300 feet upstream of Burbank Road	None	+221	
Oliver Creek Tributary 2 (backwater effects from Oliver Creek).	At the Oliver Creek confluence	+220	+225	City of Montgomery.
	Approximately 800 feet upstream of the Oliver Creek confluence.	+220	+225	
Olustee Creek	Approximately 700 feet upstream of the Greenbrier Creek confluence.	None	+374	Unincorporated Areas of Montgomery County.
	At the downstream side of State Highway 94	None	+404	
Olustee Creek Tributary 5	At the Olustee Creek confluence	None	+394	Unincorporated Areas of Montgomery County.
	Approximately 0.6 mile upstream of the Olustee Creek confluence.	None	+395	
Olustee Creek Tributary 5_1	At the Olustee Creek Tributary 5 confluence	None	+395	Unincorporated Areas of Montgomery County.
	Approximately 1,300 feet upstream of the Olustee Creek Tributary 5 confluence.	None	+397	
Olustee Creek Tributary 6	At the Olustee Creek confluence	None	+393	Unincorporated Areas of Montgomery County.
	Approximately 2,000 feet upstream of the Olustee Creek confluence.	None	+395	
Olustee Creek Tributary 6_1	At the Olustee Creek Tributary 6 confluence	None	+394	Unincorporated Areas of Montgomery County.
	Approximately 1,300 feet upstream of the Olustee Creek Tributary 6 confluence.	None	+395	
Panther Creek	Approximately 3 miles upstream of the Line Creek confluence.	None	+219	Town of Pike Road, Unincorporated Areas of Montgomery County.
	Approximately 4.5 miles upstream of the Line Creek confluence.	None	+226	
Pinchony Creek Tributary 4 (backwater effects from Pinchony Creek).	Approximately 200 feet upstream of Clover Field Road.	None	+204	Unincorporated Areas of Montgomery County.
	Approximately 1,500 feet upstream of Clover Field Road.	None	+204	
Pinchony Creek Tributary 4_1 (backwater effects from Pinchony Creek).	Approximately 200 feet upstream of Clover Field Road.	None	+204	Unincorporated Areas of Montgomery County.
	Approximately 1,100 feet upstream of Clover Field Road.	None	+204	
Pinchony Creek Tributary 8 (backwater effects from Pinchony Creek).	Approximately 1,220 feet upstream of the Pinchony Creek confluence.	None	+219	Unincorporated Areas of Montgomery County.
	At the downstream side of Tabernacle Road	None	+219	
Pintlalla Creek	Approximately 1.3 miles downstream of County Highway 14 (Union Academy Ada Road).	None	+255	Unincorporated Areas of Montgomery County.
	Approximately 300 feet upstream of County Highway 12 (West Hickory Grove Road).	None	+291	
Pintlalla Creek Tributary 2	At the Pintlalla Creek confluence	None	+285	Unincorporated Areas of Montgomery County.
	Approximately 0.6 mile upstream of the Pintlalla Creek confluence.	None	+291	

Flooding Source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Pintlalla Creek Tributary 24 ...	Approximately 0.5 mile upstream of the Pintlalla Creek confluence.	+169	+170	Unincorporated Areas of Montgomery County.
	Approximately 1.8 miles upstream of the Pintlalla Creek confluence.	+169	+171	
Pintlalla Creek Tributary 26 ...	At the Pintlalla Creek confluence	+163	+164	Unincorporated Areas of Montgomery County.
	Approximately 2 miles upstream of the Pintlalla Creek confluence.	+164	+165	
Pintlalla Creek Tributary 3	At the Pintlalla Creek confluence	None	+278	Unincorporated Areas of Montgomery County.
	Approximately 1.1 miles upstream of the Pintlalla Creek confluence.	None	+287	
Pintlalla Creek Tributary 32 (backwater effects from Pintlalla Creek).	Approximately 0.5 mile upstream of the Pintlalla Creek confluence.	None	+168	Unincorporated Areas of Montgomery County.
	Approximately 0.8 mile upstream of the Pintlalla Creek confluence.	None	+168	
Pintlalla Creek Tributary 3_1	At the Pintlalla Creek Tributary 3 confluence	None	+285	Unincorporated Areas of Montgomery County.
	Approximately 0.6 mile upstream of the Pintlalla Creek Tributary 3 confluence.	None	+287	
Pintlalla Creek Tributary 4 (backwater effects from Pintlalla Creek).	At the Pintlalla Creek confluence	None	+274	Unincorporated Areas of Montgomery County.
	Approximately 1,300 feet upstream of the Pintlalla Creek confluence.	None	+274	
Pintlalla Creek Tributary 5_2	At the Hog Creek confluence	None	+286	Unincorporated Areas of Montgomery County.
	Approximately 1,800 feet upstream of the Hog Creek confluence.	None	+290	
Pintlalla Creek Tributary 5_2_1.	At the Pintlalla Creek Tributary 5_2 confluence	None	+289	Unincorporated Areas of Montgomery County.
	Approximately 600 feet upstream of the Hog Creek confluence.	None	+291	
Pintlalla Creek Tributary 5_3	At the Hog Creek confluence	None	+273	Unincorporated Areas of Montgomery County.
	Approximately 0.6 mile upstream of the Hog Creek confluence.	None	+277	
Pintlalla Creek Tributary 5_4	At the Hog Creek confluence	None	+263	Unincorporated Areas of Montgomery County.
	Approximately 2,000 feet upstream of the Hog Creek confluence.	None	+264	
Pintlalla Creek Tributary 6 (backwater effects from Pintlalla Creek).	At the Pintlalla Creek confluence	None	+267	Unincorporated Areas of Montgomery County.
	Approximately 1,300 feet upstream of the Pintlalla Creek confluence.	None	+267	
Pintlalla Creek Tributary 7	Approximately 800 feet upstream of the Pintlalla Creek confluence.	None	+255	Unincorporated Areas of Montgomery County.
	At the downstream side of County Highway 14 (Union Academy Ada Road).	None	+257	
Sandy Creek	Approximately 1,250 feet downstream of Woodley Road.	None	+247	Unincorporated Areas of Montgomery County.
	Approximately 1.8 miles upstream of County Highway 39 (Mount Zion Road).	None	+338	
Sandy Creek Tributary 10	At the Sandy Creek confluence	None	+307	Unincorporated Areas of Montgomery County.
	Approximately 0.7 mile upstream of the Sandy Creek confluence.	None	+315	
Sandy Creek Tributary 10_1 (backwater effects from Sandy Creek).	At the Sandy Creek Tributary 10 confluence	None	+310	Unincorporated Areas of Montgomery County.
	Approximately 730 feet upstream of the Sandy Creek Tributary 10 confluence.	None	+310	
Sandy Creek Tributary 11	At the Sandy Creek confluence	None	+318	Unincorporated Areas of Montgomery County.

Flooding Source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
	Approximately 1,300 feet upstream of the Sandy Creek confluence.	None	+322	
Sandy Creek Tributary 12 (backwater effects from Sandy Creek).	At the Sandy Creek confluence	None	+330	Unincorporated Areas of Montgomery County.
	Approximately 750 feet upstream of the Sandy Creek confluence.	None	+330	
Sandy Creek Tributary 13 (backwater effects from Sandy Creek).	At the Sandy Creek confluence	None	+335	Unincorporated Areas of Montgomery County.
	Approximately 750 feet upstream of the Sandy Creek confluence.	None	+335	
Sandy Creek Tributary 2 (backwater effects from Sandy Creek).	At the Sandy Creek confluence	None	+290	Unincorporated Areas of Montgomery County.
	Approximately 700 feet upstream of the Sandy Creek confluence.	None	+290	
Sandy Creek Tributary 3	At the Sandy Creek confluence	None	+281	Unincorporated Areas of Montgomery County.
	Approximately 1,100 feet upstream of the Sandy Creek confluence.	None	+283	
Sandy Creek Tributary 5 (backwater effects from Sandy Creek).	At the Sandy Creek confluence	None	+253	Unincorporated Areas of Montgomery County.
	Approximately 1,800 feet upstream of the Sandy Creek confluence.	None	+253	
Sandy Creek Tributary 9 (backwater effects from Sandy Creek).	At the Sandy Creek confluence	None	+279	Unincorporated Areas of Montgomery County.
	Approximately 700 feet upstream of the Sandy Creek confluence.	None	+279	
Sherwood Ditch	At the upstream side of East Haven Road	+219	+221	City of Montgomery.
	At the upstream side of I–85	None	+268	
Thompson Creek	Approximately 0.6 mile downstream of Goodwyn Road.	None	+257	Unincorporated Areas of Montgomery County.
	Approximately 1.3 miles upstream of Woodley Road	None	+279	
Thompson Creek Tributary 4	At the Thompson Creek confluence	None	+278	Unincorporated Areas of Montgomery County.
	Approximately 1,400 feet upstream of the Thompson Creek confluence.	None	+279	
Three Mile Branch Tributary 1 (backwater effects from Three Mile Branch).	At the Three Mile Branch confluence	+180	+179	City of Montgomery.
	Approximately 1,500 feet upstream of the Three Mile Branch confluence.	None	+179	
Wares Ferry Ditch	At the upstream side of U.S. Route 231	None	+177	City of Montgomery.
	At the downstream side of Atlanta Highway	None	+233	
Wares Ferry Ditch Left Fork	At the Wares Ferry Ditch confluence	None	+217	City of Montgomery.
	Approximately 300 feet downstream of Atlanta Highway.	None	+240	
Wares Ferry Ditch Tributary	Approximately 500 feet downstream of Hilda Drive	+204	+203	City of Montgomery.
	Approximately 700 feet downstream of Jule Drive	None	+217	
Whites Slough	At the downstream side of Narrow Lane Road	+189	+187	City of Montgomery, Unincorporated Areas of Montgomery County.
	Approximately 500 feet upstream of Vaughn Road	+240	+244	
Whites Slough Tributary 1 (backwater effects from Whites Slough).	Approximately 1,300 feet downstream of Carriage Brook Road.	None	+234	City of Montgomery.
	Approximately 200 feet downstream of Carriage Brook Road.	None	+234	
Wiley Creek	Approximately 1.6 miles upstream of the Catoma Creek confluence.	+177	+176	City of Montgomery.
	At the downstream side of Hyundai Boulevard	+195	+189	

* National Geodetic Vertical Datum.

Flooding Source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	

+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

ADDRESSES

City of Montgomery
Maps are available for inspection at 103 North Perry Street, Montgomery, AL 36104.

Town of Pike Road
Maps are available for inspection at 9575 Vaughn Road, Montgomery, AL 36064.

Unincorporated Areas of Montgomery County
Maps are available for inspection at 101 South Lawrence Street, Montgomery, AL 36104.

Dickinson County, Michigan (All Jurisdictions)

Menominee River	Approximately 1.1 miles downstream of Little Quinnesec Dam.	None	+888	City of Kingsford, Township of Breitung.
	At the Iron County boundary	None	+1118	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

ADDRESSES

City of Kingsford
Maps are available for inspection at City Hall, 305 South Carpenter Avenue, Kingsford, MI 49802.

Township of Breitung
Maps are available for inspection at the Breitung Township Hall, 3851 Menominee Street, Quinnesec, MI 49876.

Macomb County, Michigan (All Jurisdictions)

Anchor Bay	Entire shoreline within community	+580	+579	City of New Baltimore, Township of Chesterfield, Township of Harrison.
Auvase Creek/Sutherland-Oemig Drain.	Approximately 960 feet downstream of Jefferson Avenue.	+580	+579	Township of Chesterfield.
	Approximately 850 feet downstream of Sugarbush Road.	+580	+579	
Crapaud Creek	Approximately 860 feet downstream of Main Street	+580	+579	City of New Baltimore.
	Approximately 340 feet downstream of Perrin Street	+580	+579	
Fish Creek	Approximately 1,170 feet downstream of Callens Road.	+580	+579	Township of Chesterfield.
	Approximately 1,585 feet upstream of Callens Road	+580	+579	
Salt River	Approximately 0.5 mile downstream of Jefferson Avenue.	+580	+579	Township of Chesterfield.
	Approximately 70 feet downstream of 23 Mile Road	+580	+579	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
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Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

Flooding Source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	

ADDRESSES

City of New Baltimore
Maps are available for inspection at 36535 Green Street, New Baltimore, MI 48047.

Township of Chesterfield
Maps are available for inspection at 47275 Sugarbush Road, Chesterfield, MI 48047.

Township of Harrison
Maps are available for inspection at 38151 L'Anse Creuse Street, Harrison Township, MI 48045.

Midland County, Michigan (All Jurisdictions)

Tittabawassee River	Approximately 0.43 mile upstream of Pere Marquette Rail-Trail of Mid-Michigan.	None	+631	Township of Edenville, Township of Jerome, Village of Sanford.
	Approximately 1 mile upstream of Meridian Road	None	+638	
Tobacco River	At the Tittabawassee River confluence	None	+638	Township of Edenville.
	Approximately 0.85 mile upstream of the Tittabawassee River confluence.	None	+640	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
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Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

ADDRESSES

Township of Edenville
Maps are available for inspection at the Township Hall, 467 Moore Street, Edenville, MI 48620.

Township of Jerome
Maps are available for inspection at the Jerome Township Hall, 3243 North West River Road, Sanford, MI 48657.

Village of Sanford
Maps are available for inspection at the Village Hall, 106 Lincoln Street, Sanford, MI 48657.

Wayne County, Pennsylvania (All Jurisdictions)

Ariel Creek	Approximately 400 feet downstream of Goose Pond Road.	+1256	+1255	Township of Lake, Township of Salem.
	Approximately 1,500 feet upstream of Lake Ariel Highway.	None	+1434	
Balls Creek	At the West Branch Delaware River confluence	None	+940	Township of Buckingham, Township of Scott.
	Approximately 1.5 miles upstream of Carl Sands Road.	None	+1277	
Beaverdam Creek	At the Delaware River confluence	+733	+734	Township of Damascus.
	Approximately 4.1 miles upstream of Buckley Lane	None	+1158	
Carley Brook	Approximately 200 feet upstream of the Lackawaxen River confluence.	None	+957	Borough of Honesdale, Township of Berlin, Township of Dyberry, Township of Oregon, Township of Texas.
	Approximately 0.5 mile upstream of Highhouse Road	None	+1150	
Delaware River	At the Pike County boundary	+693	+691	Township of Berlin, Township of Buckingham, Township of Damascus, Township of Manchester.
	At the West Branch Delaware River confluence	+903	+904	
Equinunk Creek	At the Delaware River confluence	None	+871	Township of Buckingham, Township of Manchester.
	Approximately 1,300 feet upstream of Crooked Creek Road.	None	+1108	

Flooding Source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Holbert Creek	Approximately 400 feet upstream of the Lackawaxen River confluence.	None	+942	Township of Berlin, Township of Texas.
	Approximately 0.6 mile upstream of Garrett Hill Road	None	+1177	
Little Equinunk Creek (backwater effects from Delaware River).	From the Delaware River confluence to approximately 1,230 feet upstream of the Delaware River confluence.	+816	+815	Township of Manchester.
Middle Creek	Approximately 1.3 miles downstream of Middle Creek Road.	None	+1145	Township of Cherry Ridge, Township of Lake, Township of South Canaan.
	Approximately 0.5 mile upstream of Cortez Road	None	+1357	
Mill Creek	Approximately 50 feet upstream of the Wallenpaupack Creek confluence.	None	+1375	Township of Dreher.
	Approximately 1.2 miles upstream of South Sterling Road.	None	+1601	
Moss Hollow Creek	Approximately 0.3 mile upstream of the West Branch Wallenpaupack Creek confluence.	+1290	+1289	Township of Salem.
	Approximately 1.8 miles upstream of Ledgedale Road	None	+1383	
South Branch Equinunk Creek.	At the Equinunk Creek confluence	None	+908	Township of Manchester.
	Approximately 100 feet upstream of the Equinunk Creek confluence.	None	+910	
Tributary to Middle Creek	At the Middle Creek confluence	None	+1205	Township of South Canaan.
	Approximately 1.4 miles upstream of South Baker Road.	None	+1396	
Van Auken Creek	At the Lake Ladore confluence	None	+1369	Borough of Waymart, Township of Canaan.
	Approximately 1,360 feet upstream of Roosevelt Highway.	None	+1864	
West Branch Delaware River	At the Delaware River confluence	+903	+904	Township of Buckingham, Township of Scott.
	At the Delaware County boundary	None	+952	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
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Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

ADDRESSES

Borough of Honesdale
Maps are available for inspection at the Borough Municipal Building, 958 Main Street, Honesdale, PA 18431.

Borough of Waymart
Maps are available for inspection at the Borough Municipal Building, 116 South Street, Waymart, PA 18472.

Township of Berlin
Maps are available for inspection at the Berlin Township Municipal Building, 50 Milanville Road, Beach Lake, PA 18405.

Township of Buckingham
Maps are available for inspection at the Buckingham Township Municipal Building, 177 Travis Road, Starrucca, PA 18462.

Township of Canaan
Maps are available for inspection at the Canaan Township Municipal Building, 46 Gallik Road, Waymart, PA 18472.

Township of Cherry Ridge
Maps are available for inspection at the Cherry Ridge Township Municipal Building, 269 Spinner Road, Honesdale, PA 18431.

Township of Damascus
Maps are available for inspection at the Township Municipal Building, 60 Conklin Hill Road, Damascus, PA 18415.

Township of Dreher
Maps are available for inspection at the Dreher Township Municipal Building, 899 Main Street, Newfoundland, PA 18445.

Township of Dyberry
Maps are available for inspection at the Dyberry Township Municipal Building, 44 Cabin Corner, Honesdale, PA 18431.

Township of Lake
Maps are available for inspection at the Lake Township Municipal Building, 1270 Easton Turnpike, Lake Ariel, PA 18436.

Flooding Source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	

Township of Manchester
Maps are available for inspection at the Manchester Township Municipal Building, 3881 Hancock Highway, Equinunk, PA 18417.

Township of Oregon
Maps are available for inspection at the Oregon Township Municipal Building, 474 Fox Hill Road, Honesdale, PA 18431.

Township of Salem
Maps are available for inspection at the Salem Township Municipal Building, 3 Savitz Road, Moscow, PA 18444.

Township of Scott
Maps are available for inspection at the Scott Township Municipal Building, 197 Sherman Road, Susquehanna, PA 18847.

Township of South Canaan
Maps are available for inspection at the South Canaan Township Municipal Building, 46 Lake Quinn Road, Waymart, PA 18472.

Township of Texas
Maps are available for inspection at the Texas Township Municipal Building, 320 Shady Lane, Honesdale, PA 18431.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: October 17, 2011.

Sandra K. Knight,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2011–29197 Filed 11–10–11; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2011–0002; Internal Agency Docket No. FEMA–B–1229]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule.

SUMMARY: Comments are requested on the proposed Base (1% annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed in the table below. The purpose of this proposed rule is to seek general information and comment regarding the proposed regulatory flood elevations for the reach described by the downstream and upstream locations in the table below. The BFEs and modified BFEs are a part of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, these elevations, once finalized, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents in those buildings.

DATES: Comments are to be submitted on or before February 13, 2012.

ADDRESSES: The corresponding preliminary Flood Insurance Rate Map (FIRM) for the proposed BFEs for each community is available for inspection at the community's map repository. The respective addresses are listed in the table below.

You may submit comments, identified by Docket No. FEMA–B–1229, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in those buildings.

Comments on any aspect of the Flood Insurance Study and FIRM, other than the proposed BFEs, will be considered. A letter acknowledging receipt of any comments will not be sent.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Executive Order 12866, Regulatory Planning and Review. This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866, as amended.

Executive Order 13132, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This proposed rule meets the

applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)	
				Existing	Modified
City of Snyder, Oklahoma					
Oklahoma	City of Snyder.	Tributary 1	Approximately 1,200 feet downstream of A Street.	None	+1347
			Approximately 160 feet downstream of A Street.	None	+1348
	City of Snyder.	Tributary 2	Approximately 950 feet downstream of B Street to approximately 850 feet downstream of B Street.	None	+1353

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.
Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

ADDRESSES

City of Snyder

Maps are available for inspection at City Hall, 721 E Street, Snyder, OK 73566.

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Cass County, Indiana, and Incorporated Areas				
Crooked Creek	Approximately 0.44 mile upstream of the Wabash River confluence.	None	+569	Unincorporated Areas of Cass County.
	Approximately 0.39 mile upstream of West County Road 100 North.	None	+636	
Goose Creek	At the upstream side of Cliff Drive	None	+591	City of Logansport, Unincorporated Areas of Cass County.
	Approximately 200 feet upstream of Humphrey Boulevard.	None	+598	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
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** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.
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ADDRESSES

City of Logansport

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Maps are available for inspection at City Hall, 601 East Broadway Street, Room 303, Logansport, IN 46947.				
Unincorporated Areas of Cass County				
Maps are available for inspection at the Cass County Government Building, 200 Court Park, Logansport, IN 46947.				
Harrison County, Indiana, and Incorporated Areas				
Blue River (backwater effects from Ohio River).	At the Ohio River confluence	None	+431	Unincorporated Areas of Harrison County.
	Approximately 530 feet downstream of State Route 462.	None	+431	
Blue River	Approximately 1.7 miles downstream of Main Street.	None	+540	Unincorporated Areas of Harrison County.
	Approximately 0.5 mile downstream of Main Street.	None	+545	
Blue River	Approximately 1,150 feet upstream of Norfolk Southern Railway.	None	+551	Unincorporated Areas of Harrison County.
	Approximately 0.77 mile upstream of Norfolk Southern Railway.	None	+554	
Indian Creek Tributary 27.	Approximately 1,940 feet downstream of State Route 64.	None	+645	Unincorporated Areas of Harrison County.
	Approximately 0.41 mile upstream of Private Drive #5755.	None	+699	
Ohio River	At the Meade County boundary	None	+431	Town of Mauckport.
	At the Jefferson County boundary	None	+446	Town of New Amsterdam, Unincorporated Areas of Harrison County.

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
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Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

ADDRESSES

Town of Mauckport

Maps are available for inspection at the Harrison County Plan Commission, 245 Atwood Street Northeast, Suite 215, Corydon, IN 47112.

Town of New Amsterdam

Maps are available for inspection at the Harrison County Plan Commission, 245 Atwood Street Northeast, Suite 215, Corydon, IN 47112.

Unincorporated Areas of Harrison County

Maps are available for inspection at the Harrison County Plan Commission, 245 Atwood Street Northeast, Suite 215, Corydon, IN 47112.

Magoffin County, Kentucky, and Incorporated Areas				
Beetree Branch (backwater effects from Licking River).	At the Licking River confluence	None	+956	Unincorporated Areas of Magoffin County.
	Approximately 885 feet upstream of the Licking River confluence.	None	+956	
Big Half Mountain Creek (backwater effects from Licking River).	At the Licking River confluence	None	+901	Unincorporated Areas of Magoffin County
	Approximately 355 feet upstream of Clyde Holliday Cemetery Road.	None	+901	
Brushy Fork (backwater effects from Licking River).	At the Licking River confluence	None	+976	Unincorporated Areas of Magoffin County.
	Approximately 865 feet upstream of the Licking River confluence.	None	+976	
Buck Branch (backwater effects from Licking River).	At the Licking River confluence	None	+932	Unincorporated Areas of Magoffin County.

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
	Approximately 1,615 feet upstream of the Licking River confluence.	None	+932	
Elk Creek (backwater effects from Licking River).	At the Licking River confluence	+846	+848	Unincorporated Areas of Magoffin County.
	Approximately 175 feet upstream of Combs Branch Road.	+846	+848	
Gardner Branch (backwater effects from Licking River).	At the Licking River confluence	+847	+849	Unincorporated Areas of Magoffin County.
	Approximately 615 feet upstream of Connelly Farm Road.	+847	+849	
Grape Creek (backwater effects from Licking River).	At the Licking River confluence	None	+828	Unincorporated Areas of Magoffin County.
	Approximately 0.7 mile upstream of the Licking River confluence.	None	+828	
Gun Creek (backwater effects from Licking River).	At the Licking River confluence	None	+890	Unincorporated Areas of Magoffin County.
	Approximately 700 feet upstream of State Highway 7.	None	+890	
Johnson Creek (backwater effects from Licking River).	At the Licking River confluence	None	+829	Unincorporated Areas of Magoffin County.
	Approximately 870 feet upstream of State Highway 134.	None	+829	
Left Fork Licking River (backwater effects from Licking River).	Approximately 0.8 mile upstream of Bert T. Combs Mountain Parkway.	+844	+846	Unincorporated Areas of Magoffin County.
	Approximately 1,505 feet upstream of State Highway 3337.	+844	+846	
Lick Creek (backwater effects from Licking River).	At the Licking River confluence	None	+814	Unincorporated Areas of Magoffin County.
	Approximately 120 feet downstream of Hensley Road.	None	+814	
Licking River	At the Morgan County boundary	None	+806	City of Salyersville, Unincorporated Areas of Magoffin County.
	Approximately 800 feet upstream of Quicksand Fork Road.	None	+1014	
Licking River Arc 1	At the Licking River confluence	+847	+849	Unincorporated Areas of Magoffin County.
	At the Licking River divergence	+848	+849	
Licking River Arc 2	At the Licking River confluence	+850	+852	City of Salyersville, Unincorporated Areas of Magoffin County.
	Approximately 1,935 feet downstream of Main Street.	+851	+852	
Middle Fork Licking River (backwater effects from Licking River).	At the Licking River confluence	+844	+846	Unincorporated Areas of Magoffin County.
	Approximately 0.8 mile upstream of Bert T. Combs Mountain Parkway.	+844	+846	
Oakley Creek (backwater effects from Licking River).	At the Licking River confluence	None	+883	Unincorporated Areas of Magoffin County.
	Approximately 1,140 feet upstream of State Highway 1635.	None	+883	
Pricy Creek (backwater effects from Licking River).	At the Licking River confluence	None	+808	Unincorporated Areas of Magoffin County.
	Approximately 670 feet upstream of State Highway 3333.	None	+808	

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Quicksand Fork (backwater effects from Licking River).	At the Licking River confluence	None	+1012	Unincorporated Areas of Magoffin County.
	Approximately 360 feet upstream of Quicksand Fork Road.	None	+1012	
Right Fork Buck Branch (backwater effects from Licking River).	At the Buck Branch confluence	None	+932	Unincorporated Areas of Magoffin County.
	Approximately 95 feet downstream of Buck Creek Road.	None	+932	
Right Fork Licking River (backwater effects from Licking River).	Approximately 0.8 mile upstream of Bert T. Combs Mountain Parkway.	+844	+846	Unincorporated Areas of Magoffin County.
	Approximately 1,670 feet upstream of Ghost Branch Road.	+844	+846	
Salt Lick Branch (backwater effects from Licking River).	At the Licking River confluence	None	+924	Unincorporated Areas of Magoffin County.
	Approximately 0.6 mile upstream of State Highway 7.	None	+924	
Trace Fork (backwater effects from Licking River).	At the Licking River confluence	None	+943	Unincorporated Areas of Magoffin County.
	Approximately 1,410 feet upstream of the Licking River confluence.	None	+943	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

ADDRESSES

City of Salyersville

Maps are available for inspection at City Hall, 315 East Maple Street, Salyersville, KY 41465.

Unincorporated Areas of Magoffin County

Maps are available for inspection at the Magoffin County Courthouse, Judge's Office, 457 Parkway Drive, Salyersville, KY 41465.

Wayne County, West Virginia, and Incorporated Areas

Big Sandy River	At the Ohio River confluence	+549	+550	Town of Fort Gay, Unincorporated Areas of Wayne County.
	At the Tug Fork confluence	+576	+575	
Mill Creek (backwater effects from Tug Fork).	From the Tug Fork confluence to approximately 1.1 miles upstream of the Tug Fork confluence.	+577	+575	Town of Fort Gay.
Tug Fork	At the Big Sandy River confluence	+576	+575	Town of Fort Gay.
	Approximately 0.5 mile upstream of the Big Sandy River confluence.	+577	+575	

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+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

ADDRESSES

Town of Fort Gay

Maps are available for inspection at the Town Hall, 3407 Wayne Street, Fort Gay, WV 25514.

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Unincorporated Areas of Wayne County				
Maps are available for inspection at the Wayne County Courthouse, 700 Hendricks Street, Wayne, WV 25570.				
Marquette County, Wisconsin, and Incorporated Areas				
Fox River	Approximately 1.8 miles downstream of State Highway 22.	+771	+770	City of Montello, Unincorporated Areas of Marquette County, Village of Endeavor.
	At the Columbia County boundary	+782	+779	
Montello River	Approximately 292 feet downstream of the State Highway 22 bridge.	+774	+771	City of Montello.
	At Montello Granite Company Dam	+787	+774	
Neenah Creek	At the most downstream Columbia County boundary.	+783	+782	Unincorporated Areas of Marquette County.
	At the most upstream Columbia County boundary.	+788	+789	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.
Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

ADDRESSES

City of Montello
Maps are available for inspection at 20 Underwood Avenue, Montello, WI 53949.

Unincorporated Areas of Marquette County
Maps are available for inspection at 77 West Park Street, Montello, WI 53949.

Village of Endeavor
Maps are available for inspection at 400 Church Street, Endeavor, WI 53930.

Sauk County, Wisconsin, and Incorporated Areas				
Baraboo River	At the Columbia County boundary	+802	+804	City of Baraboo, City of Reedsburg, Unincorporated Areas of Sauk County, Village of La Valle, Village of North Freedom, Village of Rock Springs.
	At the Juneau County boundary	+910	+912	
Devil's Lake Tributary (backwater effects from Baraboo River).	At the Baraboo River confluence	+819	+820	City of Baraboo.
	Approximately 780 feet downstream of Old Lake Road.	+819	+820	
Hay Creek (backwater effects from Baraboo River).	Approximately 75 feet downstream of County Highway V.	+881	+882	City of Reedsburg, Unincorporated Areas of Sauk County.
	Approximately 1,860 feet upstream of County Highway V.	+881	+882	
Little Baraboo River (backwater effects from Baraboo River).	At the Baraboo River confluence	+892	+895	Unincorporated Areas of Sauk County, Village of La Valle.
	Approximately 70 feet downstream of State Highway 58.	+892	+895	
Narrows Creek (backwater effects from Baraboo River).	At the Baraboo River confluence	+870	+872	Unincorporated Areas of Sauk County, Village of Rock Springs.
	At the downstream side of State Highway 154.	+870	+872	
Plum Creek (backwater effects from Baraboo River).	At the Baraboo River confluence	+909	+912	Unincorporated Areas of Sauk County.
	Approximately 0.78 mile upstream of confluence with Baraboo River.	+911	+912	

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Seeley Creek (backwater effects from Baraboo River).	At the Baraboo River confluence	+864	+865	Unincorporated Areas of Sauk County.
	Approximately 1,450 feet downstream of Freedom Road.	+864	+865	

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
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** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.
Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

ADDRESSES

City of Baraboo
Maps are available for inspection at City Hall, 135 4th Street, Baraboo, WI 53913.
City of Reedsburg
Maps are available for inspection at City Hall, 134 South Locust Street, Reedsburg, WI 53959.
Unincorporated Areas of Sauk County
Maps are available for inspection at the West Square Building, 505 Broadway, Baraboo, WI 53913.
Village of La Valle
Maps are available for inspection at the Village Hall, 103 West Main Street, La Valle, WI 53941.
Village of North Freedom
Maps are available for inspection at the Village Hall, 103 North Maple Street, North Freedom, WI 53951.
Village of Rock Springs
Maps are available for inspection at the Village Hall, 101 1st Street, Rock Springs, WI 53961.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: October 28, 2011.

David L. Miller,

Associate Administrator, Federal Insurance and Mitigation Administration, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2011–29337 Filed 11–10–11; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2011–0002; Internal Agency Docket No. FEMA–B–1227]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule.

SUMMARY: Comments are requested on the proposed Base (1% annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed in the table below. The purpose of this proposed rule is to seek general information and comment regarding the proposed regulatory flood elevations for the reach described by the downstream and upstream locations in the table below. The BFEs and modified BFEs are a part of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP). In addition, these elevations, once finalized, will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents in those buildings.

DATES: Comments are to be submitted on or before February 13, 2012.

ADDRESSES: The corresponding preliminary Flood Insurance Rate Map (FIRM) for the proposed BFEs for each community is available for inspection at the community's map repository. The respective addresses are listed in the table below.

You may submit comments, identified by Docket No. FEMA–B–1227, to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean

that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in those buildings.

Comments on any aspect of the Flood Insurance Study and FIRM, other than the proposed BFEs, will be considered. A letter acknowledging receipt of any comments will not be sent.

National Environmental Policy Act. This proposed rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

Regulatory Flexibility Act. As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

Executive Order 12866, Regulatory Planning and Review. This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866, as amended.

Executive Order 13132, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This proposed rule meets the applicable standards of Executive Order 12988.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Isabella County, Michigan (All Jurisdictions)				
Blanchard Mill Pond	Entire shoreline	None	+912	Township of Rolland.
Camelot Lake	Entire shoreline	None	+706	Township of Chippewa.
Coldwater Lake	Entire shoreline within community	None	+866	Township of Nottawa, Township of Sherman.
Halls Lake	Entire shoreline	None	+994	Township of Broomfield.
Indian Lake	Entire shoreline	None	+886	Township of Vernon.
Lake Manitonka	Entire shoreline within community (downstream of North Brinton Road).	None	+936	Township of Sherman.
Lake Manitonka	Entire shoreline within community (upstream of North Brinton Road).	None	+941	Township of Coldwater, Township of Sherman.
Lake Windaga	Entire shoreline within community	None	+924	Township of Coldwater, Township of Sherman.
Lake of the Hills	Entire shoreline within community	None	+894	Township of Nottawa, Township of Sherman.
Littlefield Lake	Entire shoreline	None	+911	Township of Gilmore.
Scott Lake Drain	Entire shoreline within community	None	+892	Saginaw Chippewa Tribe, Township of Nottawa.
Stevenson Lake	Entire shoreline	None	+850	Township of Vernon.
Weidman Mill Pond	Entire shoreline within community	None	+887	Saginaw Chippewa Tribe, Township of Nottawa, Township of Sherman.
Woodruff Lake	Entire shoreline within community	None	+913	Township of Broomfield, Township of Deerfield.

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.
** BFEs to be changed include the listed downstream and upstream BFEs, and include BFEs located on the stream reach between the referenced locations above. Please refer to the revised Flood Insurance Rate Map located at the community map repository (see below) for exact locations of all BFEs to be changed.

Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

ADDRESSES

Saginaw Chippewa Tribe

Maps are available for inspection at the Office of the Tribal Clerk, Saginaw Chippewa Indian Tribe, 7070 East Broadway Street, Mount Pleasant, MI 48858.

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	

Township of Broomfield
Maps are available for inspection at the Broomfield Township Hall, 2889 South Rolland Road, Remus, MI 49340.

Township of Chippewa
Maps are available for inspection at the Chippewa Township Hall, 11084 East Pickard Road, Mount Pleasant, MI 48858.

Township of Coldwater
Maps are available for inspection at 8328 West Beck Road, Lake, MI 48632.

Township of Deerfield
Maps are available for inspection at the Deerfield Township Hall, 3032 South Winn Road, Mount Pleasant, MI 48858.

Township of Gilmore
Maps are available for inspection at the Gilmore Township Hall, 1998 West Stevenson Lake Road, Farwell, MI 48622.

Township of Nottawa
Maps are available for inspection at the Nottawa Township Hall, 3024 West Weidman Road, Weidman, MI 48893.

Township of Rolland
Maps are available for inspection at 524 Cedar Street, Blanchard, MI 49310.

Township of Sherman
Maps are available for inspection at the Sherman Township Hall, 3550 North Rolland Road, Weidman, MI 48893.

Township of Vernon
Maps are available for inspection at the Vernon Township Hall, 10877 North Lincoln Road, Clare, MI 48617.

Washoe County, Nevada, and Incorporated Areas

211 Creek	Approximately 400 feet downstream of U.S. Route 395.	None	+5039	City of Reno, Unincorporated Areas of Washoe County.
	Approximately 0.42 mile upstream of Union Pacific Railroad.	None	+5513	
6015 Creek	At the upstream side of the West Copperfield Creek confluence.	None	+5166	City of Reno.
	Approximately 1,500 feet upstream of the West Copperfield Creek confluence.	None	+5252	
6634 Creek	Approximately 1.11 miles downstream of Union Pacific Railroad.	None	+5068	City of Reno.
	Approximately 0.47 mile upstream of Union Pacific Railroad.	None	+5473	
Copperfield Creek	Approximately 1,600 feet downstream of the West Copperfield Creek confluence.	None	+5040	City of Reno, Unincorporated Areas of Washoe County.
	Approximately 0.92 mile upstream of U.S. Route 395 (southbound on-ramp).	None	+5295	
Evans Creek	Approximately 1,700 feet upstream of Lakeside Drive	None	+4682	City of Reno, Unincorporated Areas of Washoe County.
	Approximately 0.52 mile upstream of Evans Creek Drive.	None	+5070	
Fat Creek	Approximately 460 feet downstream of U.S. Route 395.	None	+5040	City of Reno, Unincorporated Areas of Washoe County.
	Approximately 0.62 mile upstream of Frontage Road	None	+5086	
Flat Creek	Approximately 975 feet downstream of the Flat Creek Split confluence.	None	+5043	City of Reno, Unincorporated Areas of Washoe County.
	Approximately 0.58 mile upstream of the Flat Creek Split confluence.	None	+5177	
Flat Creek Split	Approximately 50 feet upstream of Frontage Road	None	+5043	City of Reno, Unincorporated Areas of Washoe County.
	Approximately 130 feet downstream of the Flat Creek confluence.	None	+5052	
North Evans Creek	Approximately 160 feet downstream of the Evans Creek confluence.	None	+4900	Unincorporated Areas of Washoe County.
	Approximately 0.74 mile upstream of the Evans Creek confluence.	None	+5094	

Flooding source(s)	Location of referenced elevation **	* Elevation in feet (NGVD) + Elevation in feet (NAVD) # Depth in feet above ground ∧ Elevation in meters (MSL)		Communities affected
		Effective	Modified	
Short Creek	Approximately 1,500 feet downstream of U.S. Route 395.	None	+5039	City of Reno, Unincorporated Areas of Washoe County.
	Approximately 0.61 mile upstream of Frontage Road	None	+5153	
West Copperfield Creek	Approximately 1,000 feet downstream of Frontage Road.	None	+5060	City of Reno, Unincorporated Areas of Washoe County.
	Approximately 1.01 miles upstream of Frontage Road	None	+5259	

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+ North American Vertical Datum.
# Depth in feet above ground.
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Send comments to Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472.

ADDRESSES

City of Reno

Maps are available for inspection at the City Hall Annex, 450 Sinclair Street, Reno, NV 89501.

Unincorporated Areas of Washoe County

Maps are available for inspection at the Washoe County Administration Building, 1001 East 9th Street, Reno, NV 89512.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: October 28, 2011.

David L. Miller,

Associate Administrator, Federal Insurance and Mitigation Administration, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2011–29203 Filed 11–10–11; 8:45 am]

BILLING CODE 9110–12–P

Notices

Federal Register

Vol. 76, No. 219

Monday, November 14, 2011

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

Commodity Credit Corporation

Farm Service Agency

Report of Acreage, Noninsured Crop Disaster Assistance Program

AGENCY: Commodity Credit Corporation and Farm Service Agency, USDA.

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 seeking comments from all interested individuals and organizations on an extension of a currently approved information collection associated with the report of acreage for the Noninsured Crop Disaster Assistance Program (NAP). This information collection is needed to administer the program.

DATES: We will consider comments that we receive by January 13, 2012.

ADDRESSES: We invite you to submit comments on this notice. In your comments, include date, OMB control number, volume, and page number of this issue of the **Federal Register**. 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:* USDA Farm Service Agency, ATTN: Jantrice Williams, Agriculture Program Specialist, CPS, Farm Programs, Production Emergencies and Compliance Division, 1400 Independence Avenue SW., STOP 0517, Washington, DC 20250–0523.
- *Email:* Send comment to: *jantrice.williams@wdc.usda.gov*.
- *Fax:* (202) 720–4941.

Comments also should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jantrice Williams, Agriculture Program Specialist, (202) 720–3637.

SUPPLEMENTARY INFORMATION:

Description of Information Collection

Title: Report of Acreage for the Noninsured Crop Disaster Assistance Program (NAP).

OMB Control Number: 0560–0004.

Expiration Date: 01/31/2012.

Type of Request: Extension.

Abstract: NAP provides financial assistance to producers who have suffered a production loss of an eligible crop or were prevented from planting an eligible crop as a result of natural disasters. Eligible crops are commercial crops or other agricultural commodities for which catastrophic risk protection under 7 U.S.C. 1508(b) is not available and that are produced for food or fiber. Additionally, eligible crops also include floricultural, ornamental nursery, and Christmas tree crops, turfgrass sod, seed crops, and aquaculture. Specific information is collected from producers on identification of the crop (including type and variety), practices, intended uses, planting patterns, and predominant species of forage vegetation (including intended method of harvest, i.e. mechanically harvested or grazed); dates crops were planted or planting was completed (including age of perennial crops); number of acres of each planting of the eligible crop in which the producer has a share in the administrative county; number of acres intended but prevented from being planted; zero acres planted when the crop for which a NAP application for coverage was filed, or is not planted; shares and identities of all producers sharing in the crop at the time a NAP application for coverage was filed; FSA farm serial number or location of commodities not necessarily associated with an FSA farm serial number such as colonies of bees for honey production (including the number of bee colonies belonging to the unit); aquaculture production (including the name, type, or variety of each aquaculture species in a physical location of acreage on which the facility resides such as ponds and waterbeds); ornamental nursery (including the size and origin, i.e. container or field grown, of plants belonging to the unit); mushroom facilities; turfgrass sod (including the average number of square yards per acre and all unharvested acres); and trees for maple sap production (including number of eligible trees, average size and age of producing trees, and total number of taps placed or anticipated for the tapping season). NAP operates under the regulations at 7 CFR part 1437.

Respondents: Producers.

Estimated of Respondent Burden: Public reporting burden for this collection of information is estimated to average 45 minutes (.75 hour) per response. The average travel time, which is included in the total burden, is estimated to be 1 hour per respondent.

Estimated Annual Number of Respondents: 291,500.

Estimated Annual Number of Forms per person: 1.5.

Estimate of Total Annual Burden: 619,438.

We are requesting comments on all aspects of this information collection and to help us to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the FSA, including whether the information will have practical utility;

(2) Evaluate the accuracy of the FSA's estimate of burden including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information to be collected;

(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.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission for Office of Management and Budget approval.

Signed on November 7, 2011.

Bruce Nelson,

Administrator, Farm Service Agency.

[FR Doc. 2011–29290 Filed 11–10–11; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Understanding Value Trade-Offs Regarding Fire Hazard Reduction Programs in the Wildland-Urban Interface

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the extension with no revision of a currently approved information collection, Understanding Value Trade-offs Regarding Fire Hazard Reduction Programs in the Wildland-Urban Interface.

DATES: Comments must be received in writing on or before January 13, 2012 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Armando González-Cabán, Pacific Southwest Research Station, Forest Service, USDA, 4955 Canyon Crest Drive, Riverside, CA 92507.

Comments also may be submitted via facsimile to (951) 680–1501, or by email to: *agonzalezcaban@fs.fed.us.*

The public may inspect comments received at 4955 Canyon Crest Drive, Riverside, CA 92507, building one reception area during normal business hours. Visitors are encouraged to call ahead to (951) 680–1500 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Armando González-Cabán, Pacific Southwest Research Station, Forest Service, USDA, (951) 680–1525. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–(800) 877–8339 twenty-four hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title: Understanding Value Trade-offs Regarding Fire Hazard Reduction Programs in the Wildland-Urban Interface.

OMB Number: 0596–0189.

Expiration Date of Approval: April 30, 2012.

Type of Request: Extension with revision.

Abstract: Forest Service and university researchers will contact recipients of a phone-mail questionnaire to help forest and fire managers understand value trade-offs regarding fire hazard reduction programs in the wildland-urban interface. Through those contacts, researchers will evaluate the responses of California and Colorado residents to different scenarios related to fire-hazard reduction programs, determine how effective residents think the programs are, and calculate how much residents would be willing to pay to implement the alternatives presented to them. This information will help researchers provide better information to natural resource, forest, and fire managers when they are contemplating the kind and type of fire-hazard reduction program to implement to achieve forestland management planning objectives.

A random sample of California and Colorado residents are contacted via random-digit dialed telephone calls and asked to participate in the research study. Those agreeing to participate then answer a minimal set of questions to determine pre-existing knowledge of fuels reduction treatments and provide a mailing address, as well as agreeing to a date and time for an in-depth interview related to the questionnaire. After completion of the in-depth interview, no further contact with the participants will occur.

A university research-survey center collects the information. A Forest Service researcher and a researcher at a cooperating university analyze the data collected. Both researchers are experienced in applied economic non-market valuation research and survey research.

The Forest Service, Bureau of Land Management, Bureau of Indian Affairs, National Park Service, Fish and Wildlife Service, as well as many State agencies with fire protection responsibilities will benefit from this.

At present the Forest Service, Bureau of Land Management, Bureau of Indian Affairs, National Park Service, Fish and Wildlife Service, and many State agencies with fire protection responsibilities are planning to embark on an ambitious and costly fuels reduction program for fire risk reduction and will benefit from public opinion on which treatments are most effective or desirable.

Estimate of Annual Burden: 30 minutes.

Type of Respondents: Members of the public.

Estimated Annual Number of Respondents: 1,000.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 1,250 hours.

Comment Is Invited

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) 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) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of 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 when provided, will be a matter of public record. Comments will be summarized and included in the submission request toward Office of Management and Budget approval.

Dated: November 4, 2011.

Angela V. Coleman,

Associate Deputy Chief, Research & Development.

[FR Doc. 2011–29207 Filed 11–10–11; 8:45 am]

BILLING CODE 3410–11–P

BROADCASTING BOARD OF GOVERNORS

Government in the Sunshine Act Meeting Notice

Notice of Meeting of the Broadcasting Board of Governors.

DATE AND TIME: Friday, November 18, 2011, 4 p.m.

PLACE: Cohen Building, Room 3321, 330 Independence Ave. SW., Washington, DC 20237.

SUMMARY: The Broadcasting Board of Governors (BBG) will be meeting at the time and location listed above. The BBG will receive and consider recommendations from the BBG's Governance Committee regarding the BBG meeting schedule for year 2012. The BBG will receive reports from: the International Broadcasting Bureau Director including the BBG's Performance Accountability Report and global audience estimate, the Voice of America Director, the Office of Cuba Broadcasting Director, and the Presidents of Radio Free Europe/Radio Liberty, Radio Free Asia, and the Middle East Broadcasting Networks. The meeting is open to public observation via streamed webcast, both

live and on-demand, on the BBG's public Web site at *http://www.bbg.gov.*

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact Paul Kollmer-Dorsey at (202) 203–4545.

Paul Kollmer-Dorsey,

Deputy General Counsel.

[FR Doc. 2011–29476 Filed 11–9–11; 4:15 pm]

BILLING CODE 8610–01–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Manufacturers' Shipments, Inventories, and Orders (M3) Survey

AGENCY: U.S. Census Bureau, 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before January 13, 2012.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Chris Savage, U.S. Census Bureau, Manufacturing and Construction Division, 4600 Silver Hill Rd., Room 7K071, Washington, DC 20233–6913, (301) 763–4834 or via the Internet at *john.c.savage@census.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The U.S. Census Bureau plans to request an extension of the current Office of Management and Budget (OMB) clearance of the Manufacturers' Shipments, Inventories and Orders (M3) survey. The Manufacturers' Shipments, Inventories, and Orders (M3) survey requests data from domestic manufacturers on form M–3 (SD), which will be mailed at the end of each month. Data requested are shipments, new orders, unfilled orders, total inventory, materials and supplies, work-in-process, and finished goods. It is currently the only survey that provides broad-based monthly statistical data on the economic conditions in the domestic manufacturing sector.

The M3 survey is designed to measure current industrial activity and to provide an indication of future production commitments. The value of shipments measures the value of goods delivered during the month by domestic manufacturers. Estimates of new orders serve as an indicator of future production commitments and represent the current sales value of new orders received during the month, net of cancellations. Substantial accumulation or depletion of unfilled orders measures excess or deficient demand for manufactured products. The level of inventories, especially in relation to shipments, is frequently used to monitor the business cycle.

We do not plan any changes to the M–3 (SD) form. The estimated total annual burden hours will remain 17,200 due to no increase in the number of respondents.

II. Method of Collection

Respondents submit data on form M–3 (SD) via mail, facsimile machine, or via the Internet. Analysts call respondents who usually report, to obtain data in time for preparing the monthly estimates.

III. Data

OMB Control Number: 0607–0008.

Form Number: M–3 (SD). You can obtain information on the proposed content at this Web site: *http//www.census.gov/mcd/clearance.*

Type of Review: Regular submission.

Affected Public: Businesses, large and small, or other for profit.

Estimated Number of Respondents: 4,300.

Estimated Time per Response: 20 minutes.

Estimated Total Annual Burden Hours: 17,200.

Estimated Total Annual Cost: $510,152.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C. Sections 131 and 182.

IV. Request for Comments

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

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

Dated: November 7, 2011.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2011–29233 Filed 11–10–11; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–403–801]

Fresh and Chilled Atlantic Salmon From Norway: Final Results of Full Third Sunset Review of Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On January 3, 2011, the Department of Commerce (the Department) initiated a sunset review of the antidumping duty (AD) order on fresh and chilled Atlantic salmon from Norway pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). *See Initiation of Five-Year (''Sunset'') Review,* 76 FR 89 (January 3, 2011) (*Sunset Initiation*). On the basis of adequate substantive responses submitted by domestic and respondent interested parties, the Department determined to conduct a full sunset review of this AD order pursuant to section 751(c) of the Act and 19 CFR 351.218(e)(2). As a result of our analysis, the Department finds that revocation of the AD order would likely lead to continuation or recurrence of dumping.

DATES: *Effective Date:* November 14, 2011.

FOR FURTHER INFORMATION CONTACT: John Conniff, AD/CVD Operations, Office 3, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–1009.

SUPPLEMENTARY INFORMATION:

Background

On January 3, 2011, the Department initiated the third sunset review of the AD order on fresh and chilled Atlantic salmon from Norway pursuant to section 751(c) of the Act. *See Sunset Initiation.* On January 13, 2011, the Government of Norway (GON), Norwegian Seafood Federation (NSF), and Aquaculture Division of the Norwegian Seafood Association (ADNSA) (collectively, the respondents), filed letters of appearance in the review.[1] On January 18, 2011, Phoenix Salmon U.S., Inc. (Phoenix Salmon), a domestic producer of fresh and chilled Atlantic salmon, filed a notice of intent to participate in the review.[2]

On January 21, 2011, NSF and ADNSA supplemented their letter of appearance by submitting to the Department a list of their members. On February 2, 2011, the Department received a substantive response from Phoenix Salmon and a joint substantive response from the respondents within the deadline specified in 19 CFR 351.218(d)(3)(i).

Based on a finding that the substantive responses were adequate, we determined to conduct a full sunset review of this AD order. *See* Memorandum to Gary Taverman, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, from Melissa Skinner, Director, Antidumping and Countervailing Duty Operations, Office 3, regarding ''Adequacy Determination: Third Sunset Reviews of the Antidumping and Countervailing Duty Orders on Fresh and Chilled Atlantic Salmon From Norway'' (April 6, 2011).

On July 29, 2011, the Department published in the **Federal Register** the preliminary results of the full third sunset review of the AD order on fresh and chilled Atlantic salmon from Norway. *See Fresh and Chilled Atlantic Salmon From Norway: Preliminary Results of Full Third Sunset Review of Antidumping Duty Order,* 76 FR 45513 (July 29, 2011) (*Preliminary Results*) and accompanying Issues and Decision Memorandum. We preliminarily found that dumping was likely to continue or recur.

The Department invited interested parties to comment on the *Preliminary Results.* On September 19, 2011, we received a case brief from the GON, and on September 26, 2011, we received a rebuttal brief from Phoenix Salmon. We did not conduct a hearing because a hearing was not requested.

Scope of the Order

The product covered by the order is the species Atlantic salmon (Salmon Salar) marketed as specified herein; the order excludes all other species of salmon: Danube salmon, Chinook (also called ''king'' or ''quinnat''), Coho (''silver''), Sockeye (''redfish'' or ''blueback''), Humpback (''pink'') and Chum (''dog'').[3] Atlantic salmon is a whole or nearly-whole fish, typically (but not necessarily) marketed gutted, bled, and cleaned, with the head on. The subject merchandise is typically packed in fresh-water ice (''chilled''). Excluded from the subject merchandise are fillets, steaks and other cuts of Atlantic salmon. Also excluded are frozen, canned, smoked or otherwise processed Atlantic salmon. Atlantic salmon is currently provided for under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 0302.12.0003 and 0302.12.0004.

The HTSUS subheadings are provided for convenience and customs purposes. The written description remains dispositive as to the scope of the product coverage.

Analysis of Comments Received

All issues raised in this review are addressed in the Issues and Decision Memorandum for the Final Results of Full Third Sunset Review of the Antidumping Duty Order on Fresh and Chilled Atlantic Salmon from Norway (Decision Memorandum) from Gary Taverman, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, dated concurrently with this final notice, which is hereby adopted by this notice. Parties can find a complete discussion of all issues raised in this full sunset review and the corresponding recommendation in this public memorandum which is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Services System (IA ACCESS). Access to IA ACCESS is available in the Central Records Unit room 7046 of the main Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at *http://ia.ita.doc.gov/frn.* The signed Decision Memorandum and the electronic versions of the Decision Memorandum are identical in content.

Final Results of Review

We determine that revocation of the AD duty order on fresh and chilled Atlantic salmon from Norway would be likely to lead to continuation or recurrence of dumping at the following weighted-average margins:

Manufacturer/exporter	Margin (percent)
Salmonor A/S	18.39
Sea Star International A/S	24.61
Skaarfish Mowi A/S	15.65
Fremstad Group A/S	21.51
Domstein and Co.	31.81
Saga A/S	26.55
Chr. Bjelland Seafood A/S	19.96
Hallvard Leroy A/S	31.81
All Others	23.80

Notification to Interested Parties

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

We are issuing and publishing the final results of this review in accordance with sections 751(c), 752, and 777(i) of the Act.

Dated: November 7, 2011.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2011–29332 Filed 11–10–11; 8:45 am]

BILLING CODE 3510–DS–P

[1] These public documents and all other public documents and public versions of proprietary documents with regard to this third full sunset review are available on the public record located in the Department's Central Records Unit at room 7046 of the main Department of Commerce building.

[2] Phoenix Salmon claimed to be the successor to the two domestic producers who participated in the prior sunset review—Atlantic Salmon of Maine and Heritage Salmon Company, Inc.

[3] On August 5, 2009, the Department made a final scope ruling determining that whole salmon steaks are within the scope of the order. *See Notice of Scope Rulings,* 75 FR 14138 (March 24, 2010).

DEPARTMENT OF COMMERCE

International Trade Administration

Application(s) for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent

scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before December 5, 2011. Address written comments to Statutory Import Programs Staff, Room 3720, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. at the U.S. Department of Commerce in Room 3720.

Docket Number: 11–065. *Applicant:* University of Florida, Department of Biochemistry, 1600 SW Archer Road, Gainesville, FL 32610–0245. *Instrument:* Electron Microscope. *Manufacturer:* FEI Co., Czech Republic. *Intended Use:* The instrument will be used to study various macromolecular complexes including ~200 nm thick sections of specimen blocks prepared from diverse cell types such as mammalian tissues, invertebrate cells, plant cells, bacterial cells, and fungal cells. To determine the 3D structures of isolated macromolecules at sub-nanometer resolution, dual axis electron tomography, immune-electron tomography, and single-particle reconstruction techniques will be used. *Justification for Duty-Free Entry:* There are no instruments of the same general category manufactured in the United States. *Application accepted by Commissioner of Customs:* October 12, 2011.

Docket Number: 11–066. *Applicant:* University of Florida, Department of Biochemistry, 1600 SW Archer Road, Gainesville, FL 32610–0245. *Instrument:* Electron Microscope. *Manufacturer:* FEI Co., Czech Republic. *Intended Use:* The instrument will be used to study various macromolecular complexes including ~200 nm thick sections of specimen blocks prepared from diverse cell types such as mammalian tissues, invertebrate cells, plant cells, bacterial cells, and fungal cells. To determine the 3D structures of isolated macromolecules at sub-nanometer resolution, dual axis electron tomography, immune-electron tomography, and single-particle reconstruction techniques will be used. *Justification for Duty-Free Entry:* There are no instruments of the same general category manufactured in the United States. *Application accepted by Commissioner of Customs:* October 25, 2011.

Dated: November 7, 2011.

Gregory Campbell,

Director, IA Subsidies Enforcement Office.

[FR Doc. 2011–29334 Filed 11–10–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–403–802]

Fresh and Chilled Atlantic Salmon From Norway: Final Results of Full Third Sunset Review of Countervailing Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On January 3, 2011, the Department of Commerce (the Department) initiated a sunset review of the countervailing duty (CVD) order on fresh and chilled Atlantic salmon from Norway pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). *See Initiation of Five-Year (''Sunset'') Review,* 76 FR 89 (January 3, 2011) (*Sunset Initiation*). On the basis of a notice of intent to participate and an adequate substantive response filed on behalf of the domestic interested party and adequate substantive responses from the respondent interested parties, the Department determined to conduct a full sunset review of this CVD order pursuant to section 751(c) of the Act and 19 CFR 351.218(e)(2). As a result of our analysis, the Department finds that revocation of the CVD order would likely lead to continuation or recurrence of a countervailable subsidy.

DATES: *Effective Date:* November 14, 2011.

FOR FURTHER INFORMATION CONTACT: Kristen Johnson, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4793.

SUPPLEMENTARY INFORMATION:

Background

On January 3, 2011, the Department initiated the third sunset review of the CVD order on fresh and chilled Atlantic salmon from Norway pursuant to section 751(c) of the Act. *See Sunset Initiation.* Phoenix Salmon U.S., Inc. (Phoenix Salmon), the domestic interested party, timely filed a notice of intent to participate and submitted a substantive response to the Department. The Government of Norway (GON), the Norwegian Seafood Federation, and Aquaculture Division of the Norwegian Seafood Association, the respondent interested parties, also submitted to the Department a substantive response.

Based on a finding that the substantive responses were adequate, we determined to conduct a full sunset review of this CVD order. *See* Memorandum to Gary Taverman, Acting Deputy Assistant Secretary for AD/CVD Operations, from Melissa Skinner, Director, AD/CVD Operations, Office 3, regarding ''Adequacy Determination: Third Sunset Reviews of the Antidumping and Countervailing Duty Orders on Fresh and Chilled Atlantic Salmon From Norway,'' (April 6, 2011).

On June 28, 2011, the Department published the preliminary results of this full sunset review, finding a likelihood of continuation or recurrence of subsidization with a net countervailable subsidy likely to prevail of 2.20 percent *ad valorem* for all producers/exporters of subject merchandise from Norway. *See Fresh and Chilled Atlantic Salmon From Norway: Preliminary Results of Full Third Sunset Review of Countervailing Duty Order,* 76 FR 37786 (June 28, 2011).

Interested parties were invited to comment on the preliminary results. On September 7, 2011, we received a case brief from the GON, and on September 12, 2011, we received a rebuttal brief from Phoenix Salmon. We did not conduct a hearing because a hearing was not requested.

Scope of the Order

The product covered by the order is the species Atlantic salmon (Salmo Salar) marketed as specified herein; the order excludes all other species of salmon: Danube salmon, Chinook (also called ''king'' or ''quinnat''), Coho (''silver''), Sockeye (''redfish'' or ''blueback''), Humpback (''pink'') and Chum (''dog'').[1] Atlantic salmon is a whole or nearly-whole fish, typically (but not necessarily) marketed gutted, bled, and cleaned, with the head on. The subject merchandise is typically packed in fresh-water ice (''chilled''). Excluded from the subject merchandise are fillets, steaks and other cuts of Atlantic salmon. Also excluded are frozen, canned, smoked or otherwise processed Atlantic salmon. Atlantic salmon is currently provided for under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 0302.12.0003 and 0302.12.0004.

The HTSUS subheadings are provided for convenience and customs purposes. The written description remains dispositive as to the scope of the product coverage.

Analysis of Comments Received

All issues raised in this review are addressed in the Issues and Decision

[1] On August 5, 2009, the Department made a final scope ruling determining that whole salmon steaks are within the scope of the order. *See Notice of Scope Rulings,* 75 FR 14138 (March 24, 2010).

Memorandum for the Final Results of Full Third Sunset Review of the Countervailing Duty Order on Fresh and Chilled Atlantic Salmon from Norway (Decision Memorandum) from Gary Taverman, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, dated concurrently with this final notice, which is hereby adopted by this notice. Parties can find a complete discussion of all issues raised in this full sunset review and the corresponding recommendation in this public memorandum which is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Services System (IA ACCESS). Access to IA ACCESS is available in the Central Records Unit, room 7046 of the main Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at *http://ia.ita.doc.gov/frn*. The signed Decision Memorandum and electronic versions of the Decision Memorandum are identical in content.

Final Results of Review

The Department determines that revocation of the CVD order on fresh and chilled Atlantic salmon would likely lead to continuation or recurrence of a countervailable subsidy at the rate of 2.20 percent *ad valorem* for all producers/exporters of subject merchandise from Norway. *See* Decision Memorandum.

Notification to Interested Parties

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

We are issuing and publishing the final results of this review in accordance with sections 751(c), 752, and 777(i) of the Act.

Dated: November 3, 2011.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2011–29335 Filed 11–10–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Smart Grid Advisory Committee

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

ACTION: Notice of open meeting.

SUMMARY: The Smart Grid Advisory Committee (SGAC or Committee), will hold a meeting on Tuesday, November 29, 2011 from 8:30 a.m. to 5 p.m. The primary purpose of this meeting is to discuss the Committee's preliminary recommendations to be included in the Committee's report to NIST. The preliminary recommendations that the Committee will consider at the meeting will be posted on the SGAC Web site at *http://www.nist.gov/smartgrid.* The agenda may change to accommodate Committee business. The final agenda will be posted on the Smart Grid Web site at *http://www.nist.gov/smartgrid.*

DATES: The SGAC will hold a meeting on Tuesday, November 29, 2011, from 8:30 a.m. until 5 p.m. The meeting will be open to the public.

ADDRESSES: The meeting will be held in Lecture Room E, in the Administration Building at NIST in Gaithersburg, Maryland. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Dr. George W. Arnold, National Coordinator for Smart Grid Interoperability, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8100, Gaithersburg, MD 20899–8100; telephone (301) 975–2232, fax (301) 975–4091; or via email at *nistsgfac@nist.gov.*

SUPPLEMENTARY INFORMATION: The Committee was established in accordance with the Federal Advisory Committee Act (5 U.S.C. App.).

Background information on the Committee is available at *http://www.nist.gov/smartgrid/committee.cfm.*

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the Smart Grid Advisory Committee (SGAC) will hold a meeting on Tuesday, November 29, 2011, from 8:30 a.m. until 5 p.m. The meeting will be held in Lecture Room E, in the Administration Building at NIST in Gaithersburg, Maryland. The primary purpose of this meeting is to discuss the Committee's preliminary recommendations to be included in the Committee's report to NIST. The preliminary recommendations that the Committee will consider at the meeting will be posted on the SGAC Web site at *http://www.nist.gov/smartgrid.* The agenda may change to accommodate Committee business. The final agenda will be posted on the Smart Grid Web site at *http://www.nist.gov/smartgrid.*

Individuals and representatives of organizations who would like to offer comments and suggestions related to the Committee's affairs are invited to request a place on the agenda by contacting Cuong Nguyen at *cuong.nguyen@nist.gov* or (301) 975–2254 no later than November 22, 2011. On November 29, 2011, approximately one-half hour will be reserved at the end of the meeting for public comments, and speaking times will be assigned on a first-come, first-serve basis. The amount of time per speaker will be determined by the number of requests received, but is likely to be about 3 minutes each. Questions from the public will not be considered during this period. Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated on the agenda, and those who were unable to attend in person are invited to submit written statements to the Office of the National Coordinator for Smart Grid Interoperability, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 8100, Gaithersburg, MD 20899–8100; fax (301) 975–4091; or via email at *nistsgfac@nist.gov.*

All visitors to the NIST site are required to pre-register to be admitted. Anyone wishing to attend this meeting must register by close of business Tuesday, November 22, 2011, in order to attend. Please submit your name, time of arrival, email address, and phone number to Cuong Nguyen. Non-U.S. citizens must also submit their country of citizenship, title, employer/sponsor, and address. Mr. Nguyen's email address is *cuong.nguyen@nist.gov* and his phone number is (301) 975–2254.

Dated: November 8, 2011.

Willie E. May,

Associate Director for Laboratory Programs.

[FR Doc. 2011–29319 Filed 11–10–11; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

National Fire Protection Association (NFPA): Request for Comments on NFPA's Codes and Standards

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: The National Institute of Standards and Technology (NIST) is publishing this notice on behalf of the National Fire Protection Association (NFPA) to announce the availability of and request comments on the technical reports that will be presented at NFPA's 2012 Fall Revision Cycle.

DATES: Forty-eight reports are published in the 2012 Fall Revision Cycle Report on Proposals and will be available on December 23, 2011. Comments received by 5 p.m. EST/EDST on March 2, 2012 will be considered by the respective NFPA Committees before final action is taken on the proposals.

ADDRESSES: The 2012 Fall Revision Cycle Report on Proposals will be available and downloadable from NFPA's Web site on December 23, 2011 at *http://www.nfpa.org,* or by requesting a copy from the NFPA, Fulfillment Center, 11 Tracy Drive, Avon, Massachusetts 02322. Comments on the report should be submitted to Amy Beasley Cronin, Secretary, Standards Council, NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02169–7471.

FOR FURTHER INFORMATION CONTACT: Amy Beasley Cronin, Secretary, Standards Council, NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02169–7471, (617) 770–3000. David F. Alderman, NIST, (301) 975–4019.

SUPPLEMENTARY INFORMATION: Since 1896, the National Fire Protection Association (NFPA) has accomplished its mission by advocating scientifically based consensus codes and standards, research, and education for safety related issues. NFPA's *National Fire Codes®*, which holds over 295 documents, are administered by more than 240 Technical Committees comprised of approximately 7,600 volunteers and are adopted and used throughout the world. NFPA is a nonprofit membership organization with approximately 70,000 members from over 100 nations, all working together to fulfill the Association's mission.

The NFPA process provides ample opportunity for public participation in the development of its codes and standards. All NFPA codes and standards are revised and updated every three to five years in Revision Cycles that begin twice each year and take approximately two years to complete. Each Revision Cycle proceeds according to a published schedule that includes final dates for all major events in the process. The process contains five basic steps that are followed both for developing new documents as well as revising existing documents. These steps are: Calling for Proposals; Publishing the Proposals in the Report on Proposals; Calling for Comments on the Committee's disposition of the Proposals and these Comments are published in the Report on Comments; having a Technical Report Session at the NFPA Conference and Expo; and finally, the Standards Council Consideration and Issuance of documents.

Note: Anyone wishing to make Amending Motions on the Technical Committee Reports (ROP and ROC) must signal his or her intention by submitting a Notice of Intent to Make a Motion by the Deadline of 5 p.m. EST/EDST on or before October 5, 2012. Certified motions will be posted by November 2, 2012. Documents that receive notice of proper Amending Motions (Certified Amending Motions) will be presented for action at the annual June 2013 Association Technical Meeting. Documents that receive no motions will be forwarded directly to the Standards Council for action on issuance.

For more information on these new rules and for up-to-date information on schedules and deadlines for processing NFPA Documents, check the NFPA Web site at *http://www.nfpa.org*, or contact NFPA Codes and Standards Administration.

The purpose of this notice is to request comments on the technical reports that will be published in the NFPA's 2012 Fall Revision Cycle. The publication of this notice by the National Institute of Standards and Technology (NIST) on behalf of NFPA is being undertaken as a public service; NIST does not necessarily endorse, approve, or recommend any of the standards referenced in the notice.

Background

The National Fire Protection Association (NFPA) develops building, fire, and electrical safety codes and standards. Federal agencies frequently use these codes and standards as the basis for developing Federal regulations concerning safety. Often, the Office of the Federal Register approves the incorporation by reference of these standards under 5 U.S.C. 552(a) and 1 CFR part 51.

Request for Comments

Interested persons may participate in these revisions by submitting written data, views, or arguments to Amy Beasley Cronin, Secretary, Standards Council, NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02169–7471. Commenters may use the forms provided for comments in the Report on Proposals. Each person submitting a comment should include his or her name and address, identify the notice and give reasons for any recommendations. Comments received by 5 p.m. EST/EDST on March 2, 2012 for the 2012 Fall Revision Cycle Report on Proposals will be considered by the NFPA before final action is taken on the proposals.

Copies of all written comments received and the disposition of those comments by the NFPA committees will be published as the 2012 Fall Revision Cycle Report on Comments by August 24, 2012. A copy of the Report on Comments will be sent automatically to each commenter.

2012 FALL REVISION CYCLE—REPORT ON PROPOSALS

[P = Partial revision; W = Withdrawal; R = Reconfirmation; N = New; C = Complete revision]

NFPA 10	Standard for Portable Fire Extinguishers	P
NFPA 14	Standard for the Installation of Standpipe and Hose Systems	P
NFPA 17	Standard for Dry Chemical Extinguishing Systems	P
NFPA 17A	Standard for Wet Chemical Extinguishing Systems	P
NFPA 22	Standard for Water Tanks for Private Fire Protection	P
NFPA 36	Standard for Solvent Extraction Plants	P
NFPA 52	Vehicular Gaseous Fuel Systems Code	P
NFPA 67	Guideline on Explosion Protection for Gaseous Mixtures in Pipe Systems	N
NFPA 68	Standard on Explosion Protection by Deflagration Venting	P
NFPA 70B	Recommended Practice for Electrical Equipment Maintenance	P

2012 FALL REVISION CYCLE—REPORT ON PROPOSALS—Continued

[P = Partial revision; W = Withdrawal; R = Reconfirmation; N = New; C = Complete revision]

NFPA 140	Standard on Motion Picture and Television Production Studio Soundstages, Approved Production Facilities, and Production Locations.	P
NFPA 211	Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances	P
NFPA 225	Model Manufactured Home Installation Standard	P
NFPA 241	Standard for Safeguarding Construction, Alteration, and Demolition Operations	P
NFPA 259	Standard Test Method for Potential Heat of Building Materials	P
NFPA 260	Standard Methods of Tests and Classification System for Cigarette Ignition Resistance of Components of Upholstered Furniture.	P
NFPA 261	Standard Method of Test for Determining Resistance of Mock-Up Upholstered Furniture Material Assemblies to Ignition by Smoldering Cigarettes.	P
NFPA 270	Standard Test Method for Measurement of Smoke Obscuration Using a Conical Radiant Source in a Single Closed Chamber.	P
NFPA 274	Standard Test Method To Evaluate Fire Performance Characteristics of Pipe Insulation	P
NFPA 289	Standard Method of Fire Test for Individual Fuel Packages	P
NFPA 290	Standard for Fire Testing of Passive Protection Materials for Use on LP-Gas Containers	P
NFPA 495	Explosive Materials Code	P
NFPA 496	Standard for Purged and Pressurized Enclosures for Electrical Equipment	P
NFPA 498	Standard for Safe Havens and Interchange Lots for Vehicles Transporting Explosives	P
NFPA 501A	Standard for Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities	P
NFPA 501	Standard on Manufactured Housing	P
NFPA 505	Fire Safety Standard for Powered Industrial Trucks Including Type Designations, Areas of Use, Conversions, Maintenance, and Operations.	P
NFPA 551	Guide for the Evaluation of Fire Risk Assessments	P
NFPA 705	Recommended Practice for a Field Flame Test for Textiles and Films	P
NFPA 801	Standard for Fire Protection for Facilities Handling Radioactive Materials	P
NFPA 900	Building Energy Code	P
NFPA 909	Code for the Protection of Cultural Resource Properties—Museums, Libraries, and Places of Worship	P
NFPA 1006	Standard for Technical Rescuer Professional Qualifications	P
NFPA 1061	Standard for Professional Qualifications for Public Safety Telecommunicator	P
NFPA 1404	Standard for Fire Service Respiratory Protection Training	P
NFPA 1451	Standard for a Fire Service Vehicle Operations Training Program	P
NFPA 1600	Standard on Disaster/Emergency Management and Business Continuity Programs	P
NFPA 1851	Standard on Selection, Care, and Maintenance of Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting.	P
NFPA 1852	Standard on Selection, Care, and Maintenance of Open-Circuit Self-Contained Breathing Apparatus (SCBA).	P
NFPA 1855	Standard for Selection, Care, and Maintenance of Protective Ensembles for Technical Rescue Incidents.	N
NFPA 1925	Standard on Marine Fire-Fighting Vessels	P
NFPA 1962	Standard for the Inspection, Care, and Use of Fire Hose, Couplings, and Nozzles and the Service Testing of Fire Hose.	P
NFPA 1964	Standard for Spray Nozzles	P
NFPA 1981	Standard on Open-Circuit Self-Contained Breathing Apparatus (SCBA) for Emergency Services	P
NFPA 1982	Standard on Personal Alert Safety Systems (PASS)	P
NFPA 1989	Standard on Breathing Air Quality for Emergency Services Respiratory Protection	P
NFPA 1999	Standard on Protective Clothing for Emergency Medical Operations	P

Dated: November 4, 2011.

Willie E. May,

Associate Director for Laboratory Programs.

[FR Doc. 2011–29314 Filed 11–10–11; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

National Fire Protection Association (NFPA) Proposes To Revise Codes and Standards

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: The National Institute of Standards and Technology (NIST) is publishing this notice on behalf of the National Fire Protection Association (NFPA) to announce the NFPA's proposal to revise some of its fire safety codes and standards and requests proposals from the public to amend existing or begin the process of developing new NFPA fire safety codes and standards. The purpose of this request is to increase public participation in the system used by NFPA to develop its codes and standards.

DATES: Interested persons may submit proposals by 5 p.m. EST/EDST on or before the date listed with the code or standard.

ADDRESSES: Amy Beasley Cronin, Secretary, Standards Council, NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02169–7471.

FOR FURTHER INFORMATION CONTACT: Amy Beasley Cronin, Secretary, Standards Council, at above address, (617) 770–3000. David F. Alderman, NIST at (301) 975–4019.

SUPPLEMENTARY INFORMATION: The National Fire Protection Association (NFPA) proposes to revise some of its safety codes and standards and requests proposals from the public to amend existing or begin the process of developing new NFPA safety codes and standards. The purpose of this request is to increase public participation in the system used by NFPA to develop its codes and standards. The publication of this notice of request for proposals by the National Institute of Standards and Technology (NIST) on behalf of NFPA is being undertaken as a public service; NIST does not necessarily endorse,

approve, or recommend any of the standards referenced in the notice.

The NFPA process provides ample opportunity for public participation in the development of its codes and standards. All NFPA codes and standards are revised and updated every three to five years in Revision Cycles that begin twice each year and take approximately two years to complete. Each Revision Cycle proceeds according to a published schedule that includes final dates for all major events in the process. The code revision Process contains five basic steps that are followed for developing new documents as well as revising existing documents: Call for Proposals; Publishing the Report on Proposals (ROP); Call for Comments on the Committee's disposition of the Proposals and publication of these Comments in the Report on Comments (ROC); the Association Technical Meeting at the NFPA Conference & Expo; and finally, the Standards Council Consideration and Issuance of documents.

Note: Anyone wishing to make Amending Motions on the Technical Committee Reports (ROP and ROC) must signal his or her intention by submitting a Notice of Intent to Make a Motion by the Deadline stated in the ROC. Certified motions will then be posted on the NFPA Web site. Documents that receive notice of proper Amending Motions (Certified Amending Motions) will be presented for action at the annual June Association Technical Meeting. Documents that receive no motions will be forwarded directly to the Standards Council for action on issuance.

For more information on these rules and for up-to-date information on schedules and deadlines for processing NFPA Documents, check the NFPA Web site at *http://www.nfpa.org*, or contact NFPA Codes and Standards Administration.

Background

The National Fire Protection Association (NFPA) develops building, fire, and electrical safety codes and standards. Federal agencies frequently use these codes and standards as the basis for developing Federal regulations concerning safety. Often, the Office of the Federal Register approves the incorporation by reference of these standards under 5 U.S.C. 552(a) and 1 CFR part 51.

When a Technical Committee begins the development of a new or revised NFPA code or standard, it enters one of two Revision Cycles available each year. The Revision Cycle begins with the Call for Proposals, that is, a public notice asking for any interested persons to submit specific written proposals for developing or revising a code or standard. The Call for Proposals is published in a variety of publications. Interested parties have approximately twenty weeks to respond to the Call for Proposals.

Following the Call for Proposals period, the Technical Committee holds a meeting to consider and accept, reject or revise, in whole or in part, all the submitted Proposals. The committee may also develop its own Proposals. A document known as the Report on Proposals, or ROP, is prepared containing all the Public Proposals, the Technical Committees' action on each Proposal, as well as all Committee-generated Proposals. The ROP is then submitted for the approval of the Technical Committee by a formal written ballot. If the ROP does not receive approval by a two-thirds vote calculated in accordance with NFPA rules, the Report is returned to the committee for further consideration and is not published. If the necessary approval is received, the ROP is published in a compilation of Reports on Proposals issued by NFPA twice yearly for public review and comment, and the process continues to the next step.

The Report on Proposals is sent automatically free of charge to all who submitted Proposals and each Committee member, as well as anyone else who requests a copy. All ROPs are also available for free downloading at *http://www.nfpa.org.*

Once the ROP becomes available, there is a 60-day comment period during which anyone may submit a Public Comment on the proposed changes in the ROP. The Committee then reconvenes at the end of the comment period and acts on all Comments.

As before, a two-thirds approval vote by written ballot of the eligible members of the Committee is required for approval of actions on the Comments. All of this information is compiled into a second report, called the Report on Comments (ROC), which, like the ROP, is published, and is made available for public review for a seven-week period.

The process of public input and review does not end with the publication of the ROP and ROC. Following the completion of the Proposal and Comment periods, there is a further opportunity for debate and discussion through the Association Technical Meeting that takes place at the NFPA Conference & Expo.

The Association Technical Meeting provides an opportunity for the final Technical Committee Report (*i.e.,* the ROP and ROC) on each proposed new or revised code or standard to be presented to the NFPA membership for the debate and consideration of motions to amend the Report. Before making an allowable motion at an Association Technical Meeting, the intended maker of the motion must file, in advance of the session, and within the published deadline, a Notice of Intent to Make a Motion. A Motions Committee appointed by the Standards Council then reviews all notices and certifies all amending motions that are proper. Only these Certified Amending Motions, together with certain allowable Follow-Up Motions (that is, motions that have become necessary as a result of previous successful amending motions) will be allowed at the Association Technical Meeting.

For more information on dates/locations of NFPA Technical Committee meetings and NFPA Annual Association Technical Meeting, check the NFPA Web site at: *http://www.nfpa.org/itemDetail.asp?categoryID=822&itemID=22818.*

The specific rules for the types of motions that can be made or who can make them are set forth in NFPA's Regulations Governing Committee Projects which should always be consulted by those wishing to bring an issue before the membership at an Association Technical Meeting.

Request for Proposals

Interested persons may submit proposals, supported by written data, views, or arguments, to Amy Beasley Cronin, Secretary, Standards Council, NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02169–7471. Proposals should be submitted on forms available from the NFPA Codes and Standards Administration Office, or from NFPA's Web site at *http://www.nfpa.org.*

Each person must include his or her name and address, identify the code or standard, and give reasons for the proposal. Proposals received by 5 p.m. EDT/EDST on or before the closing date indicated with each code or standard would be acted on by the respective Committee, and then considered by the NFPA Membership at the Association Technical Meeting.

Document—Edition	Document title	Proposal closing date
NFPA 1—2012	Fire Code	6/22/2012
NFPA 2—2011	Hydrogen Technologies Code	1/4/2012
NFPA 3—2012	Recommended Practice on Commissioning and Integrated Testing of Fire Protection and Life Safety Systems.	6/22/2012
NFPA 18—2011	Standard on Wetting Agents	6/22/2012
NFPA 30—2012	Flammable and Combustible Liquids Code	6/22/2012
NFPA 30A—2012	Code for Motor Fuel Dispensing Facilities and Repair Garages	6/22/2012
NFPA 30B—2011	Code for the Manufacture and Storage of Aerosol Products	6/22/2012
NFPA 31—2011	Standard for the Installation of Oil-Burning Equipment	5/24/2013
NFPA 37—2010	Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines.	1/4/2012
NFPA 40—2011	Standard for the Storage and Handling of Cellulose Nitrate Film	6/22/2012
NFPA 51B—2009	Standard for Fire Prevention During Welding, Cutting, and Other Hot Work	11/25/2011
NFPA 54—2012	National Fuel Gas Code	6/22/2012
NFPA 56PS—2012	Standard for Fire and Explosion Prevention During Cleaning and Purging of Flammable Gas Piping Systems.	11/25/2011
NFPA 58—2011	Liquefied Petroleum Gas Code	11/25/2011
NFPA 59—2012	Utility LP-Gas Plant Code	6/22/2012
NFPA 69—2008	Standard on Explosion Prevention Systems	1/4/2012
NFPA 70—2011	National Electrical Code®	11/4/2011
NFPA 70E—2012	Standard for Electrical Safety in the Workplace®	6/22/2012
NFPA 79—2012	Electrical Standard for Industrial Machinery	6/22/2012
NFPA 82—2009	Standard on Incinerators and Waste and Linen Handling Systems and Equipment	1/4/2012
NFPA 86—2011	Standard for Ovens and Furnaces	6/22/2012
NFPA 87—2011	Recommended Practice for Fluid Heaters	6/22/2012
NFPA 88A—2011	Standard for Parking Structures	6/22/2012
NFPA 90A—2012	Standard for the Installation of Air-Conditioning and Ventilating Systems	6/22/2012
NFPA 90B—2012	Standard for the Installation of Warm Air Heating and Air-Conditioning Systems	6/22/2012
NFPA 92—2012	Standard for Smoke Management Systems	6/22/2012
NFPA 96—2011	Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations.	11/25/2011
NFPA 99—2012	Health Care Facilities Code	6/22/2012
NFPA 99B—2010	Standard for Hypobaric Facilities	6/22/2012
NFPA 101—2012	Life Safety Code®	6/22/2012
NFPA 130—2010	Standard for Fixed Guideway Transit and Passenger Rail Systems	11/25/2011
NFPA 220—2012	Standard on Types of Building Construction	6/22/2012
NFPA 221—2012	Standard for High Challenge Fire Walls, Fire Walls, and Fire Barrier Walls	6/22/2012
NFPA 302—2010	Fire Protection Standard for Pleasure and Commercial Motor Craft	6/22/2012
NFPA 306—2009	Standard for the Control of Gas Hazards on Vessels	11/25/2011
NFPA 318—2012	Standard for the Protection of Semiconductor Fabrication Facilities	6/22/2012
NFPA 403—2009	Standard for Aircraft Rescue and Fire-Fighting Services at Airports	11/25/2011
NFPA 412—2009	Standard for Evaluating Aircraft Rescue and Fire-Fighting Foam Equipment	11/25/2011
NFPA 484—2012	Standard for Combustible Metals	6/22/2012
NFPA 502—2011	Standard for Road Tunnels, Bridges, and Other Limited Access Highways	11/25/2011
NFPA 520—2010	Standard on Subterranean Spaces	5/24/2013
NFPA 556—2011	Guide on Methods for Evaluating Fire Hazard to Occupants of Passenger Road Vehicles.	6/22/2012
NFPA 610—2009	Guide for Emergency and Safety Operations at Motorsports Venues	11/25/2011
NFPA 703—2012	Standard for Fire Retardant Treated-Wood and Fire-Retardant Coatings for Building Materials.	6/22/2012
NFPA 720—2012	Standard for the Installation of Carbon Monoxide (CO) Detection and Warning Equipment.	6/22/2012
NFPA 730—2011	Guide for Premises Security	1/4/2012
NFPA 731—2011	Standard for the Installation of Electronic Premises Security Systems	1/4/2012
NFPA 750—2010	Standard on Water Mist Fire Protection Systems	1/4/2012
NFPA 780—2011	Standard for the Installation of Lightning Protection Systems	11/25/2011
NFPA 790—2012	Standard for Competency of Third-Party Field Evaluation Bodies	6/22/2012
NFPA 791—2012	Recommended Practice and Procedures for Unlabeled Electrical Equipment Evaluation.	6/22/2012
NFPA 853—2010	Standard for the Installation of Stationary Fuel Cell Power Systems	5/24/2013
NFPA 914—2010	Code for Fire Protection of Historic Structures	5/24/2013
NFPA 921—2011	Guide for Fire and Explosion Investigations	1/4/2012
NFPA 1005—2007	Standard for Professional Qualifications for Marine Fire Fighting for Land-Based Fire Fighters.	1/4/2012
NFPA 1021—2009	Standard for Fire Officer Professional Qualifications	11/11/2011
NFPA 1026—2009	Standard for Incident Management Personnel Professional Qualifications	11/11/2011
NFPA 1031—2009	Standard for Professional Qualifications for Fire Inspector and Plan Examiner	11/11/2011
NFPA 1033—2009	Standard for Professional Qualifications for Fire Investigator	11/11/2011
NFPA 1123—2010	Code for Fireworks Display	11/25/2011
NFPA 1143—2009	Standard for Wildland Fire Management	11/25/2011
NFPA 1192—2011	Standard on Recreational Vehicles	1/4/2012
NFPA 1194—2011	Standard for Recreational Vehicle Parks and Campgrounds	1/4/2012
NFPA 1521—2008	Standard for Fire Department Safety Officer	1/4/2012

Document—Edition	Document title	Proposal closing date
NFPA 1561—2008	Standard on Emergency Services Incident Management System	1/4/2012
NFPA 1670—2009	Standard on Operations and Training for Technical Search and Rescue Incidents	1/4/2012
NFPA 1710—2010	Standard for the Organization and Deployment of Fire Suppression Operations, Emergency Medical Operations, and Special Operations to the Public by Career Fire Departments.	6/22/2012
NFPA 1720—2010	Standard for the Organization and Deployment of Fire Suppression Operations, Emergency Medical Operations and Special Operations to the Public by Volunteer Fire Departments.	6/22/2012
NFPA 1901—2009	Standard for Automotive Fire Apparatus	11/25/2011
NFPA 1963—2009	Standard for Fire Hose Connections	1/4/2012
NFPA 1965—2009	Standard for Fire Hose Appliances	1/4/2012
NFPA 1975—2009	Standard on Station/Work Uniforms for Emergency Services	1/4/2012
NFPA 2113—2012	Standard on Selection, Care, Use, and Maintenance of Flame-Resistant Garments for Protection of Industrial Personnel Against Flash Fire.	6/22/2012
NFPA 5000—2012	Building Construction and Safety Code®	6/22/2012

* Proposed NEW document drafts are available from NFPA's Web site—*http://www.nfpa.org,* or may be obtained from NFPA's Codes and Standards Administration, 1 Batterymarch Park, Quincy, Massachusetts 02169–7471.

Dated: November 4, 2011.

Willie E. May,

Associate Director for Laboratory Programs.

[FR Doc. 2011–29317 Filed 11–10–11; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Permits for Incidental Taking of Endangered or Threatened Species

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 January 13, 2012.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Larissa Plants, (301) 427–8403 or *Larissa.Plants@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for an extension of a currently approved information collection.

The Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*) imposed prohibitions against the taking of endangered species. In 1982, Congress revised the ESA to allow permits authorizing the taking of endangered species incidental to otherwise lawful activities. The corresponding regulations (50 CFR 222.222) established procedures for persons to apply for such a permit. In addition, the regulations set forth specific reporting requirements for such permit holders.

The regulations contain three sets of information collections: (1) Applications for incidental take permits, (2) applications for certificates of inclusion, and (3) reporting requirements for permits issued. Certificates of inclusion are only required if a general permit is issued to a representative of a group of potential permit applicants, rather than requiring each entity to apply for and receive a permit.

When a species is listed as threatened, section 4(d) of the ESA requires the Secretary of Commerce to issue whatever regulations are deemed necessary or advisable to provide for conservation of the species. In many cases those regulations reflect blanket application of the section 9 take prohibition. However, the National Marine Fisheries Service (NMFS) recognizes certain exceptions to that prohibition, including habitat restoration actions taken in accord with approved state watershed action plans. While watershed plans are prepared for other purposes in coordination with or fulfillment of various state programs, a watershed group wishing to take advantage of the exception for restoration activities (rather than obtaining a section 10 permit) would have to submit the plan for NMFS review.

The required information is used to evaluate the impacts of the proposed activity on endangered species, to make the determinations required by the ESA prior to issuing a permit, and to establish appropriate permit conditions.

II. Method of Collection

Currently, most information is collected on paper, but in some instances, there is electronic access and capability.

III. Data

OMB Control Number: 0648–0230.

Form Number: None.

Type of Review: Regular submission (extension of a currently approved collection).

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions, and state, local, or tribal government.

Estimated Number of Respondents: 13.

Estimated Time per Response: 80 hours for a permit application (including Habitat Conservation Plans), 40 minutes for transfer of an incidental take permit; 8 hours for a permit report, 30 minutes for a Certificate of Inclusion and 10 hours for a watershed plan.

Estimated Total Annual Burden Hours: 472.

Estimated Total Annual Cost to Public: $450.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden

(including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

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

Dated: November 8, 2011.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2011–29279 Filed 11–10–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA817

Marine Mammals; File No. 16124

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Sea World, Inc., Sea World, Inc., 9205 South Park Center Loop, Suite 400, Orlando, FL 32819 (Brad Andrews, Responsible Party), has applied in due form for a permit to conduct research on and enhancement of Hawaiian monk seals (*Monachus schauinslandi*) in permanent captivity.

DATES: Written, telefaxed, or email comments must be received on or before December 14, 2011.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the *Features* box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 16124 from the list of available applications.

These documents are also available upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; *phone* (301) 427–8401; *fax* (301) 713–0376;

Pacific Islands Region, NMFS, 1601 Kapiolani Blvd., Room 1110, Honolulu, HI 96814–4700; *phone* (808) 944–2200; *fax* (808) 973–2941; and

Southeast Region, NMFS, 263 13th Avenue South, Saint Petersburg, Florida 33701; *phone* (727) 824–5312; *fax* (727) 824–5309.

Written comments on this application should be submitted to the Chief, Permits, Conservation and Education Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. 16124 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits, Conservation and Education Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Jennifer Skidmore, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The applicant proposes to continue long-term holding of six adult female monk seals that were deemed non-releasable in 1997 due to an eye disease of unknown etiology; release of the seals would have presented a risk to the health of wild monk seals. The objectives of this request are to allow captive maintenance of the seals at Sea World, San Antonio, TX, to enhance survival of the species and conduct scientific research. In addition to the continued captive maintenance of the seals to prevent disease risk to the wild population, the applicant requests authorization to allow continued public awareness through education and public observation of the seals. Research proposed includes vaccination trials involving administration of two vaccines and up to four blood samples and four nasal swabs per seal per year. Non-intrusive research concurrent with husbandry and medical procedures is also proposed. The permit is requested for a 5-year period.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: November 7, 2011.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2011–29308 Filed 11–10–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–BB57

Pacific Fishery Management Council; Notice of Intent

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

ACTION: Notice of intent to prepare an environmental impact statement (EIS); request for comments; notice of public scoping meetings.

SUMMARY: NMFS and the Pacific Fishery Management Council announce their intent to prepare an EIS in accordance with the National Environmental Policy Act (NEPA) of 1969 to analyze the impacts on the human (biological, physical, social, and economic) environment of setting harvest specifications (including Overfishing Limits (OFLs), Acceptable Biological Catches (ABCs), and Annual Catch Limits (ACLs)) and management measures for 2013 and 2014, pursuant to the Pacific Coast Groundfish Fishery Management Plan.

DATES: Public scoping will be conducted through regular meetings of the Pacific Fishery Management Council and its advisory bodies continuing through the June 2012 meeting (see *http://www.pcouncil.org/council-operations/council-meetings/future-meetings/).* Written comments on the scope of the analysis will be accepted through December 14, 2011 (see **SUPPLEMENTARY INFORMATION**). Written, faxed or emailed comments must be received by 5 p.m. Pacific Daylight time on December 14, 2011.

ADDRESSES: You may submit comments, on issues and alternatives, identified by

0648–BB57 by any of the following methods:

- Email *GroundfishSpex2013–14@noaa.gov.* Include RIN 0648–BB57 and enter Scoping Comments in the subject line of the message.
- *Fax:* (503) 820–2299, Attention Kit Dahl.
- *Mail:* Dr. Donald McIsaac, Pacific Fishery Management Council, 7700 NE Ambassador Pl., Suite 101, Portland, OR 97220, Attention Kit Dahl.

NMFS will accept anonymous comments. You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Kit Dahl, Pacific Fishery Management Council, phone: (503) 820–2280, fax: (503) 820–2299 and Email: *kit.dahl@noaa.gov;* or Sarah Biegel, NMFS Northwest Region NEPA; email: *Sarah.T.Biegel@noaa.gov*.

Electronic Access

This **Federal Register** document is available on the Government Printing Office's Web site at: *http://www.gpoaccess.gov/fr/index/html*.

SUPPLEMENTARY INFORMATION:

Background for Agency Action

There are more than 90 species managed under the Pacific Coast Groundfish Fishery Management Plan (Groundfish FMP). These groundfish stocks support an array of commercial, recreational, and Indian tribal fishing interests in state and Federal waters off the coasts of Washington, Oregon, and California. In addition, groundfish are also harvested incidentally in non-groundfish fisheries, most notably, the trawl fisheries for pink shrimp and California halibut.

The amount of each Pacific Coast groundfish species or species complex that is available for harvest in a specific year is referred to as an Annual Catch Limit (ACL). The groundfish fishery regulations also include a collection of management measures intended to keep the total catch of each groundfish species or species complex at or below the ACL. The Groundfish harvest specifications and management measures are set at least biennially.

The Proposed Action

The proposed action is to use the ''best available scientific information,'' to implement harvest specifications (including OFLs, ABCs, and ACLs) for calendar years 2013 and 2014 for species and species' complexes managed under the Groundfish FMP, and to implement new management measures to address conservation concerns and other objectives identified in the FMP. The intent is that 2014 harvest specifications will remain in place until replaced by the 2015 specifications and management measures. The specifications must be consistent with requirements of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), particularly the 10 National Standards enumerated in section 301(a) of the MSA, the Groundfish FMP, and other applicable law. Eight Pacific Coast groundfish species are currently ''overfished'' and managed under rebuilding plans. Rebuilding plans must rebuild the stock in a time period that is as short as possible, taking into account the status and biology of the stock, the needs of fishing communities, recommendations by international organizations in which the United States participates, and the interaction of the overfished stock within the marine ecosystem.

The Council will also establish 2-year allocations of catch opportunity for stocks or stock complexes in cases where fixed allocations are not specified in the Groundfish FMP. The proposed action includes management measures designed to keep total catch at or below ACLs. Management measures may be established for each year of the 2-year period or shorter periods, and the types of measures usually differ among groundfish fishery sectors. Management measures intended to control the rate at which different groundfish species or species groups are taken in the fisheries include trip limits, bag limits, size limits, time/area closures, and gear restrictions. Under Amendment 20 to the Groundfish FMP, Individual Fishing Quotas and allocations replace cumulative trip limits as the primary catch control tool for limited entry trawl vessels targeting groundfish species and delivering to shoreside processors and for the at-sea whiting sector respectively.

Alternatives

NEPA requires that agencies evaluate reasonable alternatives to the proposed action in an EIS, which address the purpose and need for agency action. The Council is scheduled to adopt a preliminary range of alternatives for analysis and public review at its November 1–7, 2011, meeting. Alternatives include different ACLs for appropriate fishery management units, allocation of fishing opportunity among various fishery participants, and associated management measures. ACLs may reflect modifications to current rebuilding plans for one or more overfished species if necessary. The Council is scheduled to choose a preferred alternative at its June 21–26, 2012, meeting.

Preliminary Identification of Environmental Issues

A principal objective of the scoping and public input process is to identify potentially significant impacts to the human environment that should be analyzed in depth in the EIS. If, during the preparation of this EIS, NMFS determines that a finding of no significant impact can be supported, it may prepare an Environmental Assessment (EA) and issue a retraction of this notice. Alternatively, NMFS may still continue with the preparation of an EIS. Information and analysis prepared for this action also may be used when scoping future groundfish harvest specifications and management measure actions to help decide whether to prepare an EA or EIS.

Public Scoping Process

Public scoping will occur throughout the Council's decision-making process. All decisions during the Council process benefit from written and oral public comments delivered prior to or during the Council meeting. These public comments are considered integral to scoping for developing this EIS. The Council began considering the proposed action at their September and November 2011 meetings. Council meetings in 2012 that offer additional opportunities for public involvement include: The April 1–6 meeting in Seattle Washington (Sheraton Seattle Hotel, 1400 Sixth Avenue, Seattle, WA 98101), and the June 21–26 meeting in San Mateo California (San Mateo Marriott, 1770 South Amphlett Boulevard, San Mateo, CA 94402). For further information on these meetings, visit the Council's Web site, *http://www.pcouncil.org/council-operations/council-meetings/future-meetings/*.

Special Accommodations

The meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kris Kliensmidt *Kris.Kleinschmidt@noaa.gov* (503) 820–2280 at least 5 days prior to the meeting date.

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

Dated: November 7, 2011.

Steven Thur,

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

[FR Doc. 2011–29323 Filed 11–10–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA801

Fisheries of the Pacific Region

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

ACTION: Notification of determination of an overfished condition.

SUMMARY: This action serves as a notice that NMFS, on behalf of the Secretary of Commerce (Secretary), has determined that Pacific ocean perch, (*Sebastes alutus*), which is managed by the Pacific Fishery Management Council, is in an overfished condition.

NMFS notifies the appropriate fishery management council (Council) whenever it determines that overfishing is occurring, a stock is in an overfished condition, or a stock is approaching an overfished condition.

FOR FURTHER INFORMATION CONTACT: Mark Nelson, (301) 427–8565.

SUPPLEMENTARY INFORMATION: Pursuant to sections 304(e)(2) and (e)(7) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1854(e)(2) and (e)(7), and implementing regulations at 50 CFR 600.310(e)(2), NMFS, on behalf of the Secretary, notifies Councils whenever it determines; a stock or stock complex is approaching an overfished condition, a stock or stock complex is overfished, or existing action taken to prevent previously identified overfishing or rebuilding a previously identified overfished stock or stock complex has not resulted in adequate progress. NMFS also notifies Councils when it determines a stock or stock complex is subject to overfishing.

On September 30, 2011, NMFS informed the Pacific Fishery Management Council that the most recent stock assessment for Pacific ocean perch found that the biomass is below the overfished threshold. A review of the stock assessment determined that it constituted the best available information and that the change in the stock status was primarily a result of using a different model to assess the stock. The assessment also found that overfishing was not occurring and that the stock of Pacific ocean perch is rebuilding.

Pacific ocean perch are currently under a rebuilding plan. The Council must continue to take measures to ensure that overfishing does not occur and that the stock rebuilds on schedule. If additional information were to reveal any concern over maintaining the current rebuilding progress, changes to the management or rebuilding parameters of Pacific ocean perch could be addressed through the biennial specification and management measures process.

Dated: November 8, 2011.

Steven Thur,

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

[FR Doc. 2011–29318 Filed 11–10–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA815

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's (Council) VMS/Enforcement Committee and Advisory Panel with the United States Coast Guard will hold a Commercial Fishing Gear Stowage Workshop to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meeting will be held on Tuesday, November 29, 2011 at 10 a.m.

ADDRESSES: The meeting will be held at the Northeast Regional Fisheries Training Center, 5200 East Hospital Road, Buzzards Bay, MA 02542. The public must preregister for this workshop to facilitate entrance to this secure facility, see **SUPPLEMENTARY INFORMATION** for details.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Preregistration: Should be emailed to Lt. Lyle Kessler, USCG Northeast Fisheries Training Center *lyle.e.kessler@uscg.mil* with ''I plan to attend the gear stowage workshop'' in the subject line. You will need to provide your first and last name, license number, State and plate number.

Agenda

The Committee and advisory panel will discuss research regulation changes that would decrease industry's safety concerns regarding gear stowage regulations, while maintaining enforcement's ability to enforce gear stowage regulations from the air.

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 identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This workshop is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: November 7, 2011.

Tracey L. Thompson,

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

[FR Doc. 2011–29190 Filed 11–10–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA818

New England Fishery Management Council (NEFMC); 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 Research Steering Committee (Committee), in November, 2011, 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: The meeting will be held on Wednesday, November 30, 2011 at 9 a.m.

ADDRESSES: The meeting will be held at the Four Points Sheraton, 407 Squire Road, Revere, MA 02151, telephone: (781) 284–7200; fax: (781) 289–3176.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Research Steering Committee will meet to give an update on the NEFSC Northeast Cooperative Research Program and an update on NERO Cooperative research activities: response to NEFMC letter concerning scientific research catch; NEFMC request to approve the mid-size eliminator trawl; and other matters. The Committee will also review cooperative research projects final reports: ''Use of kites in shrimp codends to reduce small shrimp and bycatch species,'' (NEC)—Pingguo He UNH, Dan Schick, ME DMR; ''Pulse: A cooperative partnership for pelagic ocean ecosystem monitoring in the Gulf of Maine,'' (NEC)—Jeffrey A. Runge and Rebecca J. Jones; ''Saco Bay Scallop Stock Enhancement Project,'' (NEC)—Heather Deese-Riordan; ''Activity and Distribution of Cod in the Ipswich Bay Spawning Area,'' (NEC)—W.H. Howell, UNH; ''Building on Promise: Continued investigation using a 4-seam bottom trawl to improve escapement of small haddock and cod,'' Dana L. Morse, ME Sea Grant (NEC).

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

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: November 7, 2011.

Tracey L. Thompson,

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

[FR Doc. 2011–29196 Filed 11–10–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA816

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council Staff will hold a meeting of recreational fishermen to get input into management measures for the recreational summer flounder, scup, and black sea bass fisheries.

DATES: The meeting will begin on Friday, December 2, 2011 at 1 p.m. and will end on Saturday, December 3, 2011 no later than 5:30 p.m.

ADDRESSES: The meeting will be held at the Pier V Hotel at 711 Eastern Avenue Baltimore MD 21202, in the Harbor East Ballroom.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State Street Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, 800 N. State Street Suite 201, Dover, DE 19901; telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is for the Mid-Atlantic Fishery Management Council to get guidance from the recreational fishing community in three areas: (1) What the recreational community envisions for Mid-Atlantic fisheries in the future; (2) The annual process related to establishing recreational regulations, focusing on the summer flounder, scup, and black sea bass fishery, and; (3) How the Council can work more effectively with the recreational community to integrate their views into the management process.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to M. Jan Saunders at the Mid-Atlantic Council Office, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: November 7, 2011.

Tracey L. Thompson,

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

[FR Doc. 2011–29191 Filed 11–10–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XS41

Marine Mammals; File No. 87–1851

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

ACTION: Notice; issuance of permit amendment.

SUMMARY: Notice is hereby given that Daniel P. Costa, Ph.D., University of California at Santa Cruz, Long Marine Laboratory, 100 Shaffer Road, Santa Cruz, CA has been issued a major amendment to Permit No. 87–1851–03.

ADDRESSES: The permit amendment and related documents are available for review upon written request or by appointment in the following office(s): Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376; and Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562) 980–4001; fax (562) 980–4018.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Tammy Adams, Ph.D., (301) 427–8401.

SUPPLEMENTARY INFORMATION: On August 2, 2011, notice was published in the **Federal Register** (76 FR 46279) that a request for an amendment to Permit No. 87–1851–03 to conduct research on Weddell seals (*Leptonychotes weddellii*) had been submitted by the above-named applicant. The requested permit amendment has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

Permit No. 87–1851–04 changes the expiration date of the permit from January 31, 2012 to December 31, 2012, and authorizes capture, tagging, and sampling of 35 Weddell seals, and

weighing 35 Weddell seal nursing pups, during 2012. The amendment also increases the number of authorized mortalities from 3 to 4 annually, but does not increase the number authorized over the duration of the permit (eight total).

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: November 4, 2011.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2011–29306 Filed 11–10–11; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds products and services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Effective Date:* 12/15/2011.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Patricia Briscoe, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION:

Additions

On 3/25/2011 (76 FR 16733–16734); 8/26/2011 (76 FR 53419–53420); 9/2/2011 (76 FR54741–54742); 9/9/2011 (76 FR 55883); and 9/16/2011 (76 FR 57719–57720), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and services and impact of the additions on the current or most recent contractors, the Committee has determined that the products and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. The action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products and services are added to the Procurement List:

Products

Nonrechargeable Battery

NSN: 6135–01–446–8310—Alkaline, D, 1.5V.
NSN: 6135–01–486–1443—Alkaline, 6V.
NSN: 6135–01–275–1363—Alkaline, 6V.
NSN: 6135–00–904–6780—Button, Silver Oxide, 1.55V.
NSN: 6135–00–993–6823—Button, Silver Oxide, 1.55V.
NSN: 6135–01–538–0997—Button, Lithium, 3V.
NSN: 6135–01–452–8160—Button, Lithium, 3V.
NSN: 6135–01–301–8776—Lithium, AA, 3.6V.
NSN: 6135–01–246–0307—Button, Silver Oxide, 1.55V.
NSN: 6135–01–246–0308—Button, Silver Oxide, 1.55V.
NSN: 6135–01–219–8612—Button, Zinc-Air. 1.4V.
NSN: 6135–01–096–0330—Button, Silver Oxide, 1.55V.
NPA: Eastern Carolina Vocational Center, Inc., Greenville, NC.
Contracting Activity: Defense Logistics Agency Land and Maritime, Columbus, OH.
Coverage: C-List for 100% of the requirement of the Department of Defense, as aggregated by the Defense Logistics Agency Land and Maritime, Columbus, OH.
NSN: 7930–00–NIB–0583—Refills, Bathroom Cleaner and Deodorizer, Cartridge Concentrate.
NSN: 7930–00–NIB–0584—Starter Kit, Bathroom Cleaner and Deodorizer, Cartridge Concentrate.
NSN: 7930–00–NIB–0585—Refills, Glass and Hard Surface Cleaner, Cartridge Concentrate.
NSN: 7930–00–NIB–0586—Starter Kit, Glass and Hard Surface Cleaner, Cartridge Concentrate.
NSN: 7930–00–NIB–0591—Refills, Disinfectant Cleaner-Degreaser Cartridge Concentrate.
NSN: 7930–00–NIB–0592—Starter Kit, Disinfectant Cleaner-Degreaser Cartridge Concentrate.
NSN: 7930–00–NIB–0593—Refills, Multi-Purpose Cleaner, Cartridge Concentrate.
NSN: 7930–00–NIB–0594—Starter Kit, Multi-Purpose Cleaner, Cartridge Concentrate.
NPA: Association for Vision Rehabilitation and Employment, Inc., Binghamton, NY.
Contracting Activity: General Services Administration, Fort Worth, TX.
Coverage: A-List for the Total Government Requirement as aggregated by the General Services Administration.

Services

Service Type/Locations: Document Destruction Service.
NPA: NISH (Prime Contractor).
Contracting Activity: Dept of the Treasury/Internal Revenue Service, Washington, DC.

I.R.S. Offices located at the following addresses:

2403 Folsom Street, Eau Claire, WI
425 State Street, La Crosse, WI
NPA (Subcontractor): AccessAbility, Inc., Minneapolis, MN
Fletc Building 67, Glynco, GA
1131 Chapel Crossing Road, Bldg 67, Brunswick, GA
NPA (Subcontractor): Austin Task, Inc., Austin, TX
53 North Sixth Street, New Bedford, MA
75 Perseverance Way, Hyannis, MA
One Montvale Ave., Stoneham, MA
NPA (Subcontractor): CranstonArc, Cranston, RI
1550 Main Street, Springfield, MA
NPA (Subcontractor): Easter Seals Capital Region & Eastern Connecticut, Inc., Windsor, CT
4309 Jacksboro Highway, Wichita Falls, TX
Third & Pine Streets, Abilene, TX
8404 Esters Blvd, Irving, TX
NPA (Subcontractor): Expanco, Inc., Fort Worth, TX
14479 S. John Humphrey Drive, Orland Park, IL
NPA (Subcontractor): Glenkirk, Northbrook, IL
2426 Lee Hwy-Preston Sq, Bristol, VA
NPA (Subcontractor): Goodwill Industries—Knoxville, Inc., Knoxville, TN
10208 Park Plaza, Suite C, Rothschild, WI
NPA (Subcontractor): Goodwill Industries of Southeastern Wisconsin, Inc., Milwaukee, WI
1810 Hale Ave, Harlingen, TX
NPA (Subcontractor): Goodwill Industries of South Texas, Inc., Corpus Christi, TX
1099 Alakea Street, Honolulu, HI

NPA (Subcontractor): Goodwill Contract Services of Hawaii, Inc., Honolulu, HI
210 Walnut Street, Des Moines, IA
4300 Westown Parkway, West Des Moines, IA
425 Second Street, SE., Cedar Rapids, IA
NPA (Subcontractor): Harrison County Sheltered Workshop Association, Bethany, MO
7657 Levin Road, Suite L–20, Silverdale, WA
NPA (Subcontractor): Northwest Center, Seattle, WA
1004 North Big Spring, Midland, TX
NPA (Subcontractor): ReadyOne Industries, Inc., El Paso, TX
100 Dey Place, Edison, NJ
165 Passaic Avenue, Fairfield, NJ
4 Paragon Way, STE #2, Freehold, NJ
111 Wood Ave, South, Iselin, NJ
30 Montgomery Street, Jersey City, NJ
200 Sheffield Street, Mountainside, NJ
20 Washington Place, Newark, NJ
1 Newark Center, Newark, NJ
1 Kalisa Way, Paramus, NJ
1719 C Route 10, Parsippany, NJ
200 Federal Plaza, Paterson, NJ
955 Springfield Ave, Springfield, NJ
107 Charles Lindbergh Blv, Garden City, NY
1180 Vets Mem Hwy, Hauppauge, NY
50 Clinton St., Hempstead, NY
290 BWY—Foley Square, New York, NY
2283 Third Avenue, New York, NY
33 Maiden Lane, New York, NY
1200 Waters Place, New York—Bronx, NY
1 Lefrak City Plaza, New York—Queens, NY
445 Forrest Ave., New York—Richmond, NY
10 Richmond Terrace, New York—Richmond, NY
10 Metrotech Center, New York—Kings, NY
518A East Main Street, Riverhead, NY
240 W Nyack Road/250, West Nyack, NY
1600 Stewart Ave., Westbury, NY
210 East Post Road, White Plains, NY
NPA (Subcontractor): NYSARC, Inc., NYC Chapter, New York, NY
300 Pearl Street, Buffalo, NY
130 South Elmwood Avenue, Buffalo, NY
Appletree Business Park, Cheektowaga, NY
201 Como Park Blvd., Cheektowaga, NY
E 3RD & Pendergast, Jamestown, NY
250 Corp. PL–255 East Ave, Rochester, NY
100 South Clinton Street, Syracuse, NY
615 Erie Blvd. West, Syracuse, NY
10 Broad Street, Rm 130, Utica, NY
1314 Griswald Plaza, Erie, PA
7th & State Street, Erie, PA
NPA (Subcontractor): Lifetime Assistance, Inc., Rochester, NY
57 Haddonfield Road, Cherry Hill, NJ
5218 Atlantic Avenue, Mays Landing, NJ
44 South Clinton Ave., 3rd Fl, Trenton, NJ
3 W. Broad Street, Bethlehem, PA
200 Lakeside Drive, Suite 220, Horsham, PA
601 S. Henderson Road, King of Prussia, PA
1720 Hempstead Rd Bldg 144, Lancaster, PA
1400 North Providence Rd, Media, PA
600 Arch Street, Philadelphia, PA
701 Market Street, Philadelphia, PA
1601 Market Street, Philadelphia, PA
11620 Caroline Road, Philadelphia, PA
9815 B Roosevelt Blvd., Philadelphia, PA
201 Penn Street, Reading, PA
2801 Eastern Blvd, York, PA
2970 Market Street, Philadelphia, PA
NPA (Subcontractor): Opportunity Center, Incorporated, Wilmington, DE
1250 Edwin Miller Blvd., Martinsburg, WV
150 Court St, Charleston, WV
420 Riffe ST., Sophia, WV
1206 Quarrier St, Charleston, WV
845 Fifth Avenue, Huntington, WV
55 Meridian Parkway, Martinsburg, WV
1021 National Road, Wheeling, WV
NPA (Subcontractor): PACE Enterprises of West Virginia, Inc., Star City, WV
210 1st Street, SW., Roanoke, VA
1600 N. Coalter Street, Staunton, VA
NPA (Subcontractor): Southside Training Employment Placement Services, Inc., Farmville, VA
Service Type/Location: Grounds & Cemetery Facilities Maintenance
Fort McClellan Veterans Cemetery and Prisoner of War Cemetery Anniston, AL.
NPA: The Opportunity Center Easter Seal Facility—The Ala ES Soc, Inc., Anniston, AL
Contracting Activity: Dept of the Army, W0LX Anniston Depot Prop Div, Anniston, AL
Service Type/Locations: Rubbish Removal and Recycling Service
Department of the Treasury, Internal Revenue Service, Chicago, IL
I.R.S. Offices at the following locations:
Submission Processing Center & Tax Break Café, 3651 S. IH–35, Austin, TX
Connection Warehouse, 2021 East Woodward, Austin, TX
Southpark G (CSB), 1821 Directors Blvd., Austin, TX
Southpark J, 2191 Woodward, Austin, TX
Southpark K, 4175 Freidrich Lane, Austin, TX
South Tech. Bldg. 4, 2101 East Saint Elmo Road, Austin, TX
Child Development Center, 3651 South IH–35, Austin, TX
JJ Pickle Federal Building, 300 E. 8th St., Austin, TX
Research Park, 2301 Research Blvd., Bldg. 4, Austin, TX
Rundberg Building, 825 E. Rundberg Lane, Austin, TX
Southpark Office Center (SPOC), 5015 S. IH–35, Austin, TX
NPA: Austin Task, Inc., Austin, TX.
Contracting Activity: Dept of Treasury, Internal Revenue Service, Chicago, IL.
Service Types/Location: Janitorial Service, Grounds Maintenance, William Jefferson Clinton Birthplace Home National Historic Site (NHS) 117 S. Hervey St., Hope, AR.
NPA: Rainbow of Challenges, Inc., Hope, AR.
Contracting Activity: Department of the Interior, National Park Service, Midwest Region, Omaha, NE
Service Type/Locations: Mail Management Support Service, FISCN SMD NDW Postal Division Code 415.74, 2822 Doherty Drive, SW., Ste 1000, Joint Base Anacostia Bolling, DC.
NPAs: NewView Oklahoma, Inc., Oklahoma City, OK (Prime Contractor); ServiceSource, Inc., Alexandria, VA (Subcontractor); Regional Navy Mail Center, Fleet & Industrial Supply Center, 9225 Third Avenue, Norfolk, VA; Navy Mail Center Naval Air Station, 1155 Rosenbaum Ave, Meridian, MS
NPA: NewView Oklahoma, Inc., Oklahoma City, OK (Prime Contractor) Contracting Activity: Dept of the Navy, FISC Norfolk, Norfolk, VA

Patricia Briscoe,

Deputy Director, Business Operations (Pricing and Information Management).

[FR Doc. 2011–29289 Filed 11–10–11; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to the Procurement List.

SUMMARY: The Committee is proposing to add products and service to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Comments Must Be Received on or Before:* 12/15/2011.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

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. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the products and service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will

furnish the products and service to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products and service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and service proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following products and service are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Products

NSN: 8040–00–NIB–0019—Dispenser, Disposable, Permanent Adhesive Tape.
NPA: Industries for the Blind, Inc., West Allis, WI.
Contracting Activity: General Services Administration/FSS Tools Acquisition Division II, Kansas City, MO.
Coverage: B-List for the Broad Government Requirement as aggregated by the General Services Administration.
NSN: PGC89201—Instant Corn Soy Blend.
NPA: Transylvania Vocational Services, Inc., Brevard, NC.
Contracting Activity: Department of Agriculture, Farm Service Agency, Agriculture Stabilization and Conservation Service, Kansas City, MO.
Coverage: C-List for 100% of the requirement of the U.S. Department of Agriculture as aggregated by the U.S. Department of Agriculture, Farm Service Agency, Agriculture Stabilization and Conservation Service, Kansas City, MO.

Service

Service Type/Location: Base Supply Center, Joint Base Andrews Naval Air Facility Washington, 1500 West Perimeter Road, Suite 2780, Joint Base Andrews, MD.
NPA: Blind Industries & Services of Maryland, Baltimore, MD,
Contracting Activity: Dept of the Air Force, FA2860 11 Cons Lgc, Andrews AFB, MD.

Patricia Briscoe,

Deputy Director, Business Operations, (Pricing and Information Management).

[FR Doc. 2011–29288 Filed 11–10–11; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Policy Board; Federal Advisory Committee Meeting Notice

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

ACTION: Federal advisory committee meeting notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended) and the Sunshine Act of 1976 (5 U.S.C. 552b, as amended) the Department of Defense announces the following Federal advisory committee meeting of the Defense Policy Board (hereafter referred to as ''the DPB'').

DATES: Tuesday, November 29, 2011 and Wednesday, November 30, 2011.

ADDRESSES: The Pentagon, 2000 Defense Pentagon, Washington, DC 20301–2000.

FOR FURTHER INFORMATION CONTACT: Ms. Ann Hansen, 2000 Defense Pentagon, Washington, DC 20301–2000; Phone: (703) 571–9232.

SUPPLEMENTARY INFORMATION:

Administrative Meeting: From 8 a.m. until 8:30 a.m. on Tuesday, November 29, 2011, the DPB will hold an administrative meeting under 41 CFR 102–3.160(b) to swear in its members and provide them with administrative information from a Federal officer or agency.

Quarterly Meeting: From Tuesday, November 29, 2011 (8:30 a.m. to 8:30 p.m.) through Wednesday, November 30, 2011 (7:30 a.m. to 10 a.m.) the DPB will hold a quarterly meeting under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended) and the Sunshine Act of 1976 (5 U.S.C. 552b, as amended).

Purpose of Meeting: To obtain, review and evaluate classified information related to the DPB's mission to advise on: (a) Issues central to strategic DoD planning; (b) policy implications of U.S. force structure and force modernization and on DoD's ability to execute U.S. defense strategy; (c) U.S. regional defense policies; and (d) other research and analysis of topics raised by the Secretary of Defense, the Deputy Secretary or the Under Secretary of Defense for Policy.

Meeting Agenda: Beginning at 8:30 a.m. on November 29 through the end of the meeting on November 30, the DPB will have secret level discussions on national security matters that will deal with U.S., and Allied force structure, potential threats and broad national security issues within the Pacific Rim, the Eastern Mediterranean, NATO, and nuclear deterrence.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.155, the Department of Defense has determined that the meeting shall be closed to the public. The Under Secretary of Defense (Policy), in consultation with the Office of the General Counsel, has determined in writing that this meeting be closed to the public because the discussions fall under the purview of Title 5, United States Code, Section § 552b(c)(1) and are inextricably intertwined with the unclassified material that they cannot reasonably be segregated into separate discussions without disclosing secret or classified material.

Written Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the membership of the DPB at any time or in response to the stated agenda of a planned meeting. Written statements should be submitted to the DPB's Designated Federal Officer; the Designated Federal Officer's contact information can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp.* Written statements that do not pertain to a scheduled meeting of the DPB 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 five business days prior to the meeting in question. The Designated Federal Officer will review all submitted written statements and provide copies to all committee members.

Due to difficulties, beyond the control of the Defense Policy Board or its Designated Federal Officer, the Board was unable to file a **Federal Register** notice announcing its November 29–30, 2011 meeting within the 15-calendar day period the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

Dated: November 8, 2011.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–29320 Filed 11–10–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Federal Advisory Committee; Defense Intelligence Agency (DIA) Advisory Board; Closed Meeting

AGENCY: DIA, Department of Defense (DoD).

ACTION: Meeting notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix 2 (2001)), the Government in the Sunshine Act of 1976 (5 U.S C. 552b), and 41 CFR 102–3.10, DoD hereby announces that the DIA Advisory Board will meet on December 2, 2011. The meeting is closed to the public. The meetings necessarily include discussions of classified information relating to DIA's intelligence operations including its support to current operations.

DATES: The meeting will be held on December 2, 2011 (from 8:30 a.m. to 3:30 p.m.).

ADDRESSES: The meeting will be held at Bolling Air Force Base.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Harrison, (703) 697–5102, Alternate Designated Federal Official, DIA Office for Congressional and Public Affairs, Pentagon 1A874, Washington, DC 20340–5100.

Committee's Designated Federal Official: Mr. William Caniano, (703) 614–4774, DIA Office for Congressional and Public Affairs, Pentagon 1A874, Washington, DC 20340–5100. *William.Caniano@dodiis.mil.*

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting

For the Advisory Board to discuss DIA operations and capabilities in support of current intelligence operations.

Agenda

DECEMBER 2, 2011

8:30 a.m.	Convene Advisory Board Meeting and Administrative Business.	Mr. William Caniano, Designated Federal Official. Mrs. Mary Margaret Graham, Chairman.
9 a.m	Subcommittee Business	
10:30 a.m	Break	
10:45 a.m	Classified Briefings	DIA Personnel.
12 p.m	Lunch	
1 p.m	Briefings and Discussion	LTG Burgess, Director, DIA.
3 p.m	Break	
3:10 p.m	Discussions and Deliberations	Mr. William Caniano, Designated Federal Official. Mrs. Mary Margaret Graham, Chairman.
3:30 p.m	Adjourn	

Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.155, the Director, DIA, has determined that the all meetings shall be closed to the public. The Director, DIA, in consultation with the DIA Office of the General Counsel, has determined in writing that the public interest requires that all sessions of the Board's meetings be closed to the public because they include discussions of classified information and matters covered by 5 U.S.C. 552b(c)(1).

Written Statements

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Board Committee Act of 1972, the public or interested organizations may submit written statements at any time to the DIA Advisory Board regarding its missions and functions. All written statements shall be submitted to the Designated Federal Official for the DIA Advisory Board. The Designated Federal Official will ensure that written statements are provided to the Board for its consideration. Written statements may also be submitted in response to the stated agenda of planned board meetings. Statements submitted in response to this notice must be received by the Designated Federal Official at least five calendar days prior to the meeting which is the subject of this notice. Written statements received after that date may not be provided or considered by the Board until its next meeting. All submissions provided before that date will be presented to the Board before the meeting that is the subject of this notice. Contact information for the Designated Federal Official is listed under **FOR FURTHER INFORMATION CONTACT.**

Dated: November 7, 2011.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–29204 Filed 11–10–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2011–OS–0122]

Privacy Act of 1974; System of Records

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

ACTION: Notice to Amend a System of Records.

SUMMARY: The Office of the Secretary of Defense is proposing to amend a system of records notice in its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: The changes will be effective on December 14, 2011 unless comments are received that would result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Cindy Allard, Chief, OSD/JS Privacy Office, Freedom of Information Directorate, Washington Headquarters Services, 1155 Defense Pentagon, Washington DC 20301–1155, or by phone at (571) 372–0461.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT**. The specific changes to the records systems being amended are set forth below followed by the notices, as amended, published in their entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: November 7, 2011.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DWHS D02

SYSTEM NAME:

PEGASYS CARDKEY (March 18, 2010, 75 FR 13088).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with ''Washington Headquarters Services, Facilities Services Directorate, Federal Facilities Division, Pentagon Building Management Office, Building Operations Command Center, 1155 Defense Pentagon, Room 1B349, Washington, DC 20301–1155.''

* * * * *

PURPOSE(S):

Delete entry and replace with ''This system maintains a listing of individuals who have been granted room entry access to areas of the Pentagon under the control of Washington Headquarters Services/Facilities Services Directorate/Federal Facilities Division.''

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Facility Manager, Washington Headquarters Services, Facilities Services Directorate, Federal Facilities Division, Pentagon Building Management Office, Building Operations Command Center, 1155 Defense Pentagon, Room 1B349, Washington, DC 20301–1155.''

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to Facility Manager, Washington Headquarters Services, Facilities Services Directorate, Federal Facilities Division, Pentagon Building Management Office, Building Operations Command Center, 1155 Defense Pentagon, Room 1B349, Washington, DC 20301–1155.

Written requests should contain the full name and Social Security Number (SSN) of the individual.''

* * * * *

DWHS D02

SYSTEM NAME:

PEGASYS CARDKEY.

SYSTEM LOCATION:

Washington Headquarters Services, Facilities Services Directorate, Federal Facilities Division, Pentagon Building Management Office, Building Operations Command Center, 1155 Defense Pentagon, Room 1B349, Washington, DC 20301–1155.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DoD military, civilian employees, and contractors who require room access to Pentagon space under the control of Pentagon Building Management Office and Building Operations Command Center for Wedge 1 Corridors 3 and 4.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number (SSN) and sponsoring DoD office.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 113, Secretary of Defense; DoD Directive 5110.4, Washington Headquarters Services (WHS); and E.O. 9397 (SSN), as amended.

PURPOSE(S):

This system maintains a listing of individuals who have been granted room entry access to areas of the Pentagon under the control of Washington Headquarters Services/Facilities Services Directorate/Federal Facilities Division.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the Office of the Secretary of Defense's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

By individual's name and Social Security Number (SSN).

SAFEGUARDS:

Records are maintained in a secure and limited access area. Access is password protected and is limited to those individuals who require access to the records to perform their official assigned duties. Physical entry by unauthorized persons is restricted through the use of locks and Pentagon Force Protection Agency (PFPA) card swipe system.

RETENTION AND DISPOSAL:

Disposition pending. Until the National Archives and Records Administration approve the retention and disposal of these records, treat them as permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Facility Manager, Washington Headquarters Services, Facilities Services Directorate, Federal Facilities Division, Pentagon Building Management Office, Building Operations Command Center, 1155 Defense Pentagon, Room 1B349, Washington, DC 20301–1155.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to Facility Manager, Washington Headquarters Services, Facilities Services Directorate, Federal Facilities Division, Pentagon Building Management Office, Building Operations Command Center, 1155 Defense Pentagon, Room 1B349, Washington, DC 20301–1155.

Written requests should contain the full name and Social Security Number (SSN) of the individual.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Office of the Secretary of Defense/Joint Staff Freedom of Information Act Requester Service Center, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155.

Written requests should contain the full name and Social Security Number (SSN) of the individual and be signed as well as the name and number of this

system of records notice so that your request can be tasked to the appropriate office.

CONTESTING RECORD PROCEDURES:

The Office of the Secretary of Defense rules for accessing records, for contesting contents and appealing initial agency determinations are published in Office of the Secretary of Defense Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2011–29198 Filed 11–10–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2011–OS–0107]

Privacy Act of 1974; System of Records; Correction

AGENCY: National Security Agency/Central Security Service, DOD.

ACTION: Notice to amend a system of records; correction.

SUMMARY: On October 5, 2011 (76 FR 61676–61679), DoD published a notice announcing its intent to amend a Privacy Act System of Records. Categories of Individuals Covered by the System was written incorrectly; and Categories of Records in the System were omitted. This notice corrects that error.

FOR FURTHER INFORMATION CONTACT: National Security Agency/Central Security Service, Freedom of Information Act and Privacy Act Office, 9800 Savage Road, Suite 6248, Ft. George G. Meade, MD 20755–6248 or call by phone at (301) 688–6527.

SUPPLEMENTARY INFORMATION: On October 5, 2011, DoD published a notice announcing its intent to amend a system in its inventory of Privacy Act System of Records: NSA/CSS Employee Assistance Service Case Records. Subsequent to the publication of that notice, DoD discovered that the Categories of Individuals Covered by the System on page 61677 was incorrectly published, and the Categories of Records in the System were omitted.

Correction

In the notice (FR Doc. 2011–OS–0107) published on October 5, 2011, (76 FR 61676–61679) make the following correction. On page 61677, in the third column, replace the Categories of Individuals Covered by the System paragraph with ''NSA/CSS civilian employees, military assignees, and family members who voluntarily request counseling assistance. Non-NSA federal employees and third-party employees (foreign nationals) who are detailed to NSA/CSS.''

After this paragraph insert:

''CATEGORIES OF RECORDS IN THE SYSTEM:

Files consist of the individual's full name, Social Security Number (SSN), address and case records compiled by counselor and patient questionnaires, questionnaires completed by private counselors to whom clients are referred, the records of medical treatment and services, correspondence with personal physicians and other care providers, NSA/CSS Medical Center reports, results of psychological assessment testing and interviews, psychiatric examination results and related reports.''

Dated: November 7, 2011.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–29201 Filed 11–10–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2011–OS–0121]

Privacy Act of 1974; System of Records

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

ACTION: Notice to delete a System of Records.

SUMMARY: The Office of the Secretary of Defense (Office of Assistant General Counsel, Manpower and Health Affairs) is deleting systems of records notice from its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on December 14, 2011 unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- Federal Rulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Mail: Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mrs. Cindy Allard, Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155, or by phone at (571) 372–0461.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT**.

The Office of the Secretary of Defense proposes to delete one system of records notice from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The proposed deletion is not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: November 7, 2011.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Deletion:

DGC 06

Attorney and Summer Intern Position Applications (February 22, 1993, 58 FR 10227).

REASON:

Based on a recent review of DGC 06, Attorney and Summer Intern Position Applications by the Office of the Assistant General Counsel (Manpower and Health Affairs), it has been determined that DGC 06 is duplicative of OPM/GOVT–5 Recruiting, Examining, and Placement Records (June 19, 2006, 71 FR 35351), and can therefore be deleted. Records in this system will not be destroyed until the National Archives and Records Administration (NARA) retention has been fulfilled.

[FR Doc. 2011–29200 Filed 11–10–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2011–OS–0120]

Privacy Act of 1974; System of Records

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

ACTION: Notice to Delete a System of Records.

SUMMARY: The Office of the Secretary of Defense is deleting a systems of record notice from its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on December 14, 2011 unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mrs. Cindy Allard, Privacy Act Officer, Office of Freedom of Information, Washington Headquarters Services, 1155 Defense Pentagon, Washington, DC 20301–1155, or by phone at (571) 372–0461.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT**.

The Office of the Secretary of Defense proposes to delete one system of records notice from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The proposed deletion is not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: November 7, 2011.

Aaron Siegel,

Alternate OSD **Federal Register** *Liaison Officer, Department of Defense.*

Deletion

DWHS B44

OSD Travel File (February 22, 1993, 58 FR 10227).

REASON:

Based on a recent review of DWHS B44, OSD Travel File (February 22, 1993, 58 FR 10227), it has been determined it is no longer being used and all records have reached the record retention requirements and have been destroyed; therefore this system can now be deleted.

[FR Doc. 2011–29199 Filed 11–10–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

Performance Review Board Membership

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: Notice is given of the names of members of a Performance Review Board for the Department of the Army.

DATES: *Effective Date:* November 14, 2011.

FOR FURTHER INFORMATION CONTACT: Barbara Smith, Civilian Senior Leader Management Office, 111 Army Pentagon, Washington, DC 20310–0111.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of Title 5, U.S.C., requires each agency to establish, in accordance with regulations, one or more Senior Executive Service performance review boards. The boards shall review and evaluate the initial appraisal of senior executives' performance by supervisors and make recommendations to the appointing authority or rating official relative to the performance of these executives.

The Department of the Army Performance Review Board will be composed of a subset of the following individuals:

1. Ms. Stephanie A. Barna, Deputy General Counsel (Operations and Personnel), Office of the General Counsel.
2. Mr. Joseph C. Capps, Executive Director/Director of Services, Assistant Chief of Staff for Installation Management, Installation Management Command.
3. Dr. Craig E. College, Deputy, Deputy Assistant Chief of Staff for Installation Management, Office of the Assistant Chief of Staff for Installation Management.
4. Ms. Kathryn A. Condon, Executive Director of the Army National Cemeteries Program, Office of the Secretary of the Army.
5. Ms. Gwendolyn R. DeFilippi, Director, Civilian Senior Leader Management Office, Office of the Assistant Secretary of the Army (Manpower and Reserve Affairs).
6. MG Genaro J. Dellarocco, Commanding General, United States Army Test and Evaluation Command.
7. GEN Ann E. Dunwoody, Commanding General, United States Army Materiel Command.
8. Ms. Sue A. Engelhardt, Director of Human Resources, United States Army Corps of Engineers.
9. MG Michael R. Eyre, Deputy Commanding General for Reserve Affairs, United States Army Corps of Engineers.
10. Mr. Kevin M. Fahey, Program Executive Officer, Combat Support and Combat Service Support, Office of the Assistant Secretary of the Army (Acquisition, Logistics and Technology).
11. Mr. Louis J. Hansen, Principal Deputy to the Assistant Secretary of the Army (Installations and Environment), Office of the Assistant Secretary of the Army (Installations and Environment).
12. Ms. Ellen M. Helmerson, Deputy Chief of Staff, G–1/4 (Personnel and Logistics), United States Army Training and Doctrine Command.
13. Mr. Thomas R. Lamont, Assistant Secretary of the Army (Manpower and Reserve Affairs), Office of the Assistant Secretary of the Army (Manpower and Reserve Affairs).
14. Mr. Mark R. Lewis, Deputy Chief Management Officer, Office of the Under Secretary of the Army.
15. Ms. Joyce E. Morrow, Administrative Assistant to the Secretary of the Army, Office of the Secretary of the Army.
16. Mr. John B. Nerger, Executive Deputy to the Commanding General, United States Army Materiel Command.
17. Mr. Levator Norsworthy Jr., Deputy General Counsel (Acquisition)/Senior Deputy General Counsel, Office of the General Counsel.
18. Mr. Gerald B. O'Keefe, Deputy Administrative Assistant to the Secretary of the Army/Executive Director, Resources and Programs Agency, Office of the Administrative Assistant to the Secretary of the Army.

19. LTG William Phillips, Deputy Assistant Secretary of the Army (Acquisition, Logistics and Technology), Office of the Assistant Secretary of the Army (Acquisition, Logistics and Technology).

20. Mr. Wimpy D. Pybus, Deputy Assistant Secretary of the Army for Acquisition, Policy and Logisitics, Office of the Assistant Secretary of the Army (Acquisition, Logistics, and Technology).

21. Mr. Craig R. Schmauder, Deputy General Counsel (Installation, Environment and Civil Works), Office of the General Counsel.

22. Mr. Karl F. Schneider, Principal Deputy to the Assistant Secretary of the Army (Manpower and Reserve Affairs), Office of Assistant Secretary of the Army, Manpower and Reserve Affairs.

23. Mr. Brian M. Simmons, Executive Technical Director/Deputy to the Commander, United States Army Test and Evaluation Command.

24. Ms. Heidi Shyu, Acting Assistant Secretary of the Army (Acquisition, Logistics and Technology), Office of the Assistant Secretary of the Army (Acquisition, Logistics and Technology).

25. Mr. Lawrence Stubblefield, Deputy Assistant Secretary of the Army (Diversity and Leadership), Office of the Assistant Secretary of the Army (Manpower and Reserve Affairs).

26. MG Merdith B. W. Temple, Deputy Commanding General, United States Army Corps of Engineers.

27. LTG Dennis L. Via, Deputy Commanding General, United States Army Material Command.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2011–29272 Filed 11–10–11; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF ENERGY

Notice of Intent To Prepare an Environmental Impact Statement and Notice of Potential Floodplain and Wetlands Involvement for the W.A. Parish Post-Combustion CO_2 Capture and Sequestration Project, Southeastern TX

AGENCY: Department of Energy.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement and Notice of Potential Floodplain and Wetlands Involvement.

SUMMARY: The U.S. Department of Energy (DOE) announces its intent to prepare an environmental impact statement (EIS) pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality's (CEQ) NEPA regulations (40 CFR parts 1500–1508), and DOE's NEPA implementing procedures (10 CFR part 1021), to assess the potential environmental impacts of providing financial assistance for a project proposed by NRG Energy, Inc (NRG). DOE selected NRG's proposed W.A. Parish Post-Combustion CO_2 Capture and Sequestration Project (Parish PCCS Project) for a financial assistance award through a competitive process under the Clean Coal Power Initiative (CCPI) program. NRG would design, construct and operate a commercial-scale carbon dioxide (CO_2) capture facility at its existing W.A. Parish Generating Station (Parish Plant) in Fort Bend County, Texas; deliver the CO_2 via a new pipeline to the existing West Ranch oil field in Jackson County, Texas for use in enhanced oil recovery (EOR) operations; and demonstrate monitoring techniques to verify the permanence of geologic CO_2 storage.

The project would use an amine-based post-combustion technology to capture 90 percent (approximately 1.6 million tons) of the CO_2 annually from a 250-megawatt equivalent (MWe) flue gas slip stream taken from the 617 megawatt (MW) Unit 8 at the Parish Plant. Captured CO_2 would be dried, compressed, and transported about 80 miles in a new pipeline to an existing oil field where it would be used for EOR. The project would demonstrate an integrated commercial-scale deployment of post-combustion CO_2 capture technology for use in EOR operations and long-term geologic storage. DOE selected this project to receive a financial assistance award through a competitive process under Round 3 (second selection phase) of the CCPI program.

The EIS will further inform DOE's decision on whether to provide financial assistance to NRG for the Parish PCCS Project. DOE proposes to provide NRG with up to $355 million of the overall project cost, which would constitute approximately 42 percent of the estimated $845 million total (in 2010 dollars). The project would further a specific objective of Round 3 of the CCPI program by demonstrating advanced coal-based technologies that capture and sequester, or put to beneficial use, CO_2 emissions from coal-fired power plants.

The purposes of this Notice of Intent (NOI) are to: (1) Inform the public about DOE's proposed action and NRG's proposed project; (2) announce the public scoping meetings; (3) solicit comments for DOE's consideration regarding the scope and content of the EIS; (4) invite those agencies with jurisdiction by law or special expertise to be cooperating agencies in preparation of the EIS; and (5) provide notice that the proposed project may involve potential impacts to floodplains and wetlands.

DOE does not have regulatory jurisdiction over the Parish PCCS Project, and its decisions are limited to whether and under what circumstances it would provide financial assistance to the project. As part of the EIS process, DOE will consult with interested federal, state, regional and local agencies and Native American tribes.

DATES: DOE invites comments on the proposed scope and content of the EIS. Comments must be received within 30 days after publication of this NOI in the **Federal Register** to ensure consideration. In addition to receiving comments in writing and by email [See **ADDRESSES** below], DOE will conduct public scoping meetings to provide government agencies, private-sector organizations and the general public with opportunities to present oral and written comments or suggestions with regard to DOE's proposed action, alternatives, and the potential impacts of NRG's proposed project for DOE consideration during development of the EIS. The public scoping meetings will be held at the Needville High School, 100 Fritzella Road, in Needville, Texas, on Wednesday, November 30, 2011; and at the Jackson County Services Building, 411 North Wells Street, in Edna, Texas, on Thursday, December 1, 2011.

Oral comments will be heard during the formal portion of the scoping meetings beginning at 7 p.m. [See Public Scoping Process.] The public is also invited to informal sessions beginning at 5 p.m. at the same locations to learn more about the project and the proposed action. Representatives from DOE and NRG will be present at the informal sessions to discuss the proposed project, the CCPI program, and the EIS process. Displays and other information about DOE's proposed action and NRG's proposed project will also be available.

ADDRESSES: Written comments on environmental concerns about the project, overall scope of the EIS, or requests to participate in the public scoping meetings should be addressed to Mr. Mark W. Lusk, U.S. Department of Energy, National Energy Technology Laboratory, 3610 Collins Ferry Road, P.O. Box 880, Morgantown, WV 26507–0880. Individuals and organizations who would like to provide oral or electronic comments should contact Mr.

Lusk by postal mail at the above address; telephone ((412) 386–7435, or toll-free 1–(877) 812–1569); fax (304) 285–4403); or electronic mail (*Parish.EIS0473@netl.doe.gov.*)

FOR FURTHER INFORMATION CONTACT: For further information about this proposed project, contact Mr. Lusk, as described above. For general information on the DOE National Environmental Policy Act (NEPA) process, contact Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (GC–54), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585; telephone ((202) 586–4600); fax (202) 586–7031); or leave a toll-free message (1–(800) 472–2756).

SUPPLEMENTARY INFORMATION:

Background

The CCPI program was established in 2002 as a government and private sector partnership to increase investment in clean coal technology. Through cooperative agreements with its private sector partners, the program advances clean coal technologies to commercialization. Congress established criteria for projects receiving financial assistance under this program in Title IV of the Energy Policy Act of 2005 (Pub. L. 109–58; EPAct 2005). Under this statute, CCPI projects must ''advance efficiency, environmental performance and cost competitiveness well beyond the level of technologies that are in commercial service'' (Pub. L. 109–58, Sec. 402(a)). On February 17, 2009, the *American Recovery and Reinvestment Act of 2009* (Pub. L. 111–5, 123 Stat. 115) appropriated $3.4 billion to DOE for Fossil Energy Research and Development. DOE intends to use a significant portion of these funds to provide financial assistance to CCPI projects.

The CCPI program selects projects for its government-private sector partnerships through an open and competitive process. DOE issues funding opportunity announcements specifying the types of projects it seeks, and invites submission of applications. DOE reviews applications according to the criteria specified in the funding opportunity announcement; these criteria include technical, financial, environmental, and other considerations. DOE selects projects demonstrating the most promise when evaluated against these criteria, and enters into a cooperative agreement with the selected applicants. These agreements set out project objectives, obligations of the parties, and other features of the partnerships. Applicants must agree to provide at least 50 percent of their project's cost; and for most CCPI projects, the applicant's cost share is much higher.

To date, the CCPI program has conducted three rounds of solicitations and project selections. Round 1 sought projects that would demonstrate advanced technologies for power generation and improvements in plant efficiency, economics, and environmental performance. Round 2 requested applications for projects that would demonstrate improved mercury controls and gasification technology. Round 3, which DOE conducted in two phases, sought projects that would demonstrate advanced coal-based electricity generating technologies, coupled with the capture and sequestration (or beneficial use) of CO_2 emissions. DOE's overarching goal for Round 3 projects was to demonstrate technologies at commercial scale in a commercial setting that would: (1) Operate at 90 percent capture efficiency for CO_2; (2) make progress towards capture and sequestration at less than a 10 percent increase in the cost of electricity for gasification systems and a less than 35 percent increase for combustion and oxy-combustion systems; and (3) make progress towards capture and sequestration of 50 percent of the facility's CO_2 output at a scale sufficient to evaluate full impacts of carbon capture technology on a generating plant's operations, economics, and performance. The Parish PCCS Project was one of three projects selected in the second phase of Round 3. DOE entered into a cooperative agreement with NRG on May 7, 2010.

Purpose and Need for DOE Action

The purpose and need for DOE action is to advance the CCPI program by funding projects with the best chance of achieving the program's objectives as established by Congress: commercialization of clean coal technologies that advance efficiency, environmental performance, and cost competitiveness well beyond the level of technologies currently in commercial service.

DOE Proposed Action

DOE's proposed action is to provide limited financial assistance through a cooperative agreement with NRG for a new post-combustion carbon capture and compression system that would be added to the existing W.A. Parish power plant, with the captured CO_2 piped to an oil field for EOR. Under the original cooperative agreement, DOE agreed to provide approximately $167 million in cost-shared funding, or about 50 percent of the total estimated costs for a smaller project (about 60 MWe). However, the cooperative agreement also specified that NRG would perform a screening study to determine if a larger scale system can be employed to improve system economics and performance. As a result, NRG recently proposed that the technology be demonstrated at a larger scale and requested an increase in DOE funding to be applied to the total estimated $845 million project cost. DOE's proposed action for purposes of the EIS is to provide up to $355 million in cost-shared funding for this project.

The W.A. Parish Post-Combustion CO_2 Capture and Sequestration Project

NRG's proposed project would demonstrate the commercial feasibility of a retrofit, commercial-scale CO_2 capture and compression system, coupled with use of CO_2 for enhanced oil recovery (EOR) and ultimate sequestration. NRG would design and construct a system that would capture approximately 90 percent of the CO_2 in an up to 250 MWe flue gas slip stream of the combustion exhaust gases from the existing 617 MW coal-fired Unit 8 at NRG's Parish Plant. The captured CO_2 (up to 5,475 tons per day) would be transported an estimated 80 miles in a new pipeline to be constructed by NRG. The CO_2 would be used for EOR and ultimately sequestered at the existing West Ranch oil field in Jackson County, Texas.

Proposed Carbon Capture Facility: W.A. Parish Generating Station

The proposed capture system would be constructed on NRG's 4,880-acre W.A. Parish Plant in rural Fort Bend County near the small town of Thompsons, Texas. The plant site includes four large pulverized coal-fueled power generating units, four smaller natural gas-fired units, and a 2,100-acre lake used for cooling water. The proposed project would retrofit one of the coal-fueled units (Unit 8) with a post combustion CO_2 capture system, using space available on the plant site immediately adjacent to the unit. The CO_2 capture system would use the Fluor Corporation (Fluor) advanced Econamine FG Plus^{SM} technology, with monoethanolamine as the basis for the solvent. The project demonstration period may also include tests of other amine-based solvents. A new natural gas-fired combined-cycle power plant, estimated to be 80 MW in size, would be constructed to produce the auxiliary power needed to drive the compressors and equipment of the capture system. The exhaust gases from the new combustion turbine would produce

steam to provide heat for the solvent regeneration process.

CO_2 Compression and Transport

Captured CO_2 would be compressed and transported in a new pipeline to injection sites at the West Ranch oil field, an estimated 80 miles from the proposed capture facility. The pipeline route would traverse parts of Fort Bend, Wharton and Jackson counties. The anticipated route includes mostly rural, sparsely-developed agricultural lands. NRG is currently evaluating potential pipeline routes; and plans to use existing rights-of-way and avoid sensitive resources to the greatest extent practical. Potential pipeline routes will be considered as part of the NEPA process.

CO_2 Sequestration via Enhanced Oil Recovery

The proposed project would deliver up to 1.6 million tons of CO_2 per year to the West Ranch oil field, located in Jackson County near the central Gulf Coast of Texas, to be used for EOR. The oil field has operated since 1938 and is well-characterized. However, CO_2 floods have not been previously demonstrated in this field. A joint venture between NRG and Hilcorp Energy Company would conduct the EOR operations.

Project activities eligible for cost-sharing would include: engineering and design, permitting, equipment procurement, construction, startup and demonstration. Infrastructure investments in the oil field by NRG and the costs of EOR operations would not be cost-shared by DOE and are not included in the total project cost estimates. DOE would, however, cost-share in monitoring, verification, and accounting (MVA) activities at the EOR site to demonstrate the permanence of CO_2 sequestration through EOR. Following the DOE cost-shared demonstration phase, the system would likely continue long-term commercial operations, without further DOE funding.

CO_2 Monitoring, Verification, and Accounting Program

NRG would implement a MVA program to monitor the injection and migration of CO_2 within the geologic formations. The MVA program must meet regulatory and CCPI program requirements and may consist of the following components: (1) Injection system monitoring; (2) containment monitoring (via monitoring wells, mechanical integrity testing, and other means); (3) CO_2 plume tracking via multiple techniques; (4) CO_2 injection simulation modeling; and (5) experimental techniques yet to be developed.

Proposed Project Schedule

The project proposed by NRG includes three phases: (1) Planning and conceptual design; (2) detailed engineering, procurement and construction; and (3) three years of demonstration and monitoring. NRG plans to start construction in November 2012 and begin commercial operations (demonstration phase) by 2015. The schedule is contingent on NRG receiving the necessary permits and regulatory approvals, as well as financial closing on all the necessary funding sources, including DOE's financial assistance. DOE's decision to provide financial assistance for detailed design, procurement of equipment, construction, and operations is contingent on completion of the NEPA process.

Connected and Cumulative Actions

Under the cooperative agreement between DOE and NRG, DOE would share in the cost of the carbon capture and supporting facilities at the power plant site, pipeline construction, development of monitoring wells and related facilities at the EOR site, and some of the operational costs (e.g., MVA activities) during the three-year demonstration phase. DOE will consider the potential impacts associated with connected actions, such as potential development of additional support facilities or infrastructure that would be anticipated for the proposed project.

DOE will also consider the cumulative impacts of the proposed project along with any other connected actions, including those of third parties. The cumulative impacts analysis will include an assessment of pollutant emissions (including greenhouse gas emission reductions) and other incremental impacts that, when added to past, present and reasonably foreseeable future impacts, may have significant effects on the human environment.

Alternatives, Including the Proposed Action

NEPA requires that an EIS evaluate the range of reasonable alternatives to an agency's proposed action. The range of reasonable alternatives encompasses those alternatives that would satisfy the underlying purpose and need for agency action. The purpose and need for DOE action is to advance the CCPI program by providing cost-shared funding for selected projects that have the best chance of achieving the program's objectives as established by Congress: the commercialization of clean coal technologies that advance efficiency, environmental performance, and cost competitiveness well beyond the level of technologies currently in service.

DOE's NEPA implementing procedures include a process for identifying and analyzing reasonable alternatives in the context of providing financial assistance through the competitive selection of projects proposed by entities outside the Federal Government. The range of reasonable alternatives in competitions for grants, loans, loan guarantees and other financial support is defined initially by the range of responsive proposals received by DOE. Unlike projects undertaken directly by the federal government, DOE cannot mandate what outside entities propose, where they propose their project, or how they propose to do it, beyond expressing basic requirements in the funding opportunity announcement; and these express requirements must be limited to those that further the program's objectives. DOE's decision is then limited to selecting projects from the applications that meet the CCPI program's goals.

DOE prepared an environmental critique (see 10 CFR § 1021.216) that assessed the environmental impacts and issues relating to each of the proposals received in CCPI Round 3 that met the basic eligibility requirements. The DOE selecting official considered these impacts and issues, along with other aspects of the proposals (such as technical merit and financial ability) and the program's objectives, in making awards. After DOE selects a project for an award, the range of reasonable alternatives becomes the project as proposed by the applicant, any alternatives still under consideration by the applicant or that are reasonable within the confines of the project as proposed (e.g., the locations of the processing units, pipelines, and injection sites on land proposed for the project) and a ''no action'' alternative.

DOE currently plans to evaluate the project as proposed by NRG (with and without any mitigating conditions that DOE may identify as reasonable and appropriate), alternatives to NRG's proposal that it is still considering (e.g., CO_2 capture rates and solvents, power and steam supply options, locations of alternative pipeline routes, and locations of injection and monitoring wells), and the no action alternative. The EIS may also analyze other reasonable project-specific alternatives identified by DOE (in consultation with NRG) or the public (as part of the public scoping process).

Under the no action alternative, DOE would not provide funding to NRG. In the absence of financial assistance from DOE, NRG could reasonably pursue two options. It could build the project without DOE funding; the impacts of this option would be essentially the same as those of NRG's proposed project, except any DOE-required mitigations would not be imposed. Alternatively, NRG could choose not to pursue its project, and there would be no impacts from the project. This latter option would not contribute to the goal of the CCPI program, which is to accelerate commercial deployment of advanced coal technologies that provide the United States with clean, reliable, and affordable energy. However, as required by NEPA, DOE analyzes this option as the no action alternative for the purpose of making a meaningful comparison between the impacts of DOE providing financial assistance and withholding that assistance.

Alternatives being considered by NRG related to specifics of the proposed project will also be discussed in the EIS. NRG and its partners are considering locations for the injection and monitoring wells and the pipeline corridors necessary for transportation of the CO_2.

Floodplains and Wetlands

The footprint of the proposed capture facilities and related infrastructure that would be constructed at the existing Parish Plant would be located to avoid or minimize potential impacts to wetlands or floodplains. Wetland and floodplain impacts, if any, would likely only be associated with installation of monitoring and injection wells, or the construction of CO_2 pipelines or other linear features required for this project. The CO_2 pipeline would likely need to cross the Colorado, Navidad and Lavaca rivers, as well as smaller streams along the route. DOE will identify such impacts during preparation of the EIS and, if any are identified, DOE will prepare a floodplain and wetland assessment in accordance with its regulations (10 CFR Part 1022) and include the assessment in the EIS.

Preliminary Identification of Environmental Issues

DOE intends to address the issues listed below when considering the potential impacts resulting from the construction and operation of NRG's proposed project and any connected actions. This list is neither intended to be all-inclusive, nor a predetermined set of potential impacts. DOE invites comments on the list of important issues to be considered in the EIS. The preliminary list of potentially affected resources or activities and their related environmental issues includes, but is not limited to:

- Air quality resources: potential air quality impacts from emissions during construction and operation of the proposed project on local sensitive receptors, local environmental conditions, and special-use areas, including impacts to smog and haze, impacts from dusts, and impacts from amine and greenhouse gas emissions;
- Water resources: potential impacts from water utilization and consumption, plus potential impacts from wastewater discharges;
- Infrastructure and land use: potential impacts associated with delivery of feed materials and distribution of products (*e.g.,* access roads, pipelines);
- Visual resources: potential impacts to the viewshed, scenic views (e.g., impacts from the injection wells, pipelines, and support facilities for the injection wells and pipelines), and internal and external perception of the community or locality;
- Solid wastes: pollution prevention and waste management (generation, treatment, transport, storage, disposal or use), including hazardous materials;
- Ecological resources: potential on-site and off-site impacts to vegetation, wildlife, threatened or endangered species, and ecologically sensitive habitats;
- Floodplains and wetlands: potential wetland and floodplain impacts from construction of project facilities and pipelines;
- Traffic: potential impacts from the construction and operation of the facilities, including changes in local traffic patterns, deterioration of roads, traffic hazards, and traffic controls;
- Historic and cultural resources: potential impacts related to land disturbance and development associated with new linear facilities (pipelines, etc.);
- Geology: potential impacts from the injection and storage of CO_2 on underground resources such as ground water supplies, mineral resources, and fossil fuel resources;
- Fate and stability of CO_2 being sequestered by its use for EOR;
- Health and safety issues: potential impacts associated with use, transport, and storage of hazardous chemicals (including ammonia), and CO_2 capture and transport to the sequestration site(s);
- Socioeconomic impacts, including the creation of jobs;
- Disproportionately high and adverse human health and environmental impacts on minority and low-income populations;
- Noise and light: potential impacts from construction, transportation of materials, and facility operations;
- Connected actions: potential development of support facilities or supporting infrastructure (e.g., facilities and utilities anticipated for EOR operations);
- Cumulative effects: incremental impacts of the proposed project when added to other past, present, and reasonably foreseeable future projects; and
- Compliance with regulatory and environmental permitting requirements.

Public Scoping Process

This NOI initiates the public scoping process under NEPA, which will assist in the development of the draft EIS. To ensure identification of issues related to DOE's proposed action and NRG's proposed project, DOE seeks public input to define the scope of the EIS. The public scoping period will end 30 days after publication of this NOI in the **Federal Register**. Interested government agencies, tribal governments, private-sector organizations, and individuals are encouraged to submit comments or suggestions concerning the content of the EIS, issues and impacts that should be addressed, and alternatives that should be considered. Scoping comments should clearly describe specific issues or topics that the EIS should address. Written, emailed, or faxed comments should be received within 30 calendar days of this notice (see **ADDRESSES**).

DOE will conduct public scoping meetings at the Needville High School, 100 Fritzella Road, in Needville, Texas, on Wednesday, November 30, 2011; and at the Jackson County Services Building, 411 North Wells Street, in Edna, Texas, on Thursday, December 1, 2011. The public is invited to learn more about the project at informal sessions at these locations beginning at 5 p.m. DOE will begin the formal meetings with an overview of NRG's proposed project. Oral comments will be heard during the formal portion of the scoping meetings beginning at 7 p.m. DOE requests that anyone wishing to speak at the public scoping meetings should contact Mr. Lusk, either by phone, email, fax, or postal mail (see **ADDRESSES**). Those who do not make advance arrangements may register at the meetings (preferably at the beginning of the meeting) and may be given an opportunity to speak after previously scheduled speakers. Speakers will be given approximately five minutes to present their comments. Speakers wanting more than five

minutes should indicate the length of time desired in their requests. Depending on the number of speakers, DOE may need to limit all speakers to five minutes initially and provide second opportunities as time permits. Oral and written comments will be given equal consideration.

The meetings will not be conducted as evidentiary hearings and speakers will not be cross-examined. However, speakers may be asked clarifying questions to help ensure that DOE fully understands the comments or suggestions. A presiding officer will establish the order of speakers and provide any additional procedures necessary to conduct the meetings. A court stenographer will record the proceedings, including all oral comments received. Individuals may also provide written materials in lieu of, or to supplement, their oral comment.

Issued in Pittsburgh, Pennsylvania, this 4th day of November 2011.

Anthony V. Cugini

Director, National Energy Technology Laboratory.

[FR Doc. 2011–29333 Filed 11–10–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12790–001]

Andrew Peklo III; Notice of Application Accepted for Filing with the Commission, Intent to Waive Scoping, Soliciting Motions to Intervene and Protests, Ready for Environmental Analysis, Soliciting Comments, Terms and Conditions, Recommendations, and Prescriptions, and Establishing an Expedited Schedule for Processing

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Exemption From Licensing.

b. *Project No.:* 12790–001.

c. *Date filed:* February 16, 2011.

d. *Applicant:* Andrew Peklo III.

e. *Name of Project:* Pomperaug Hydro Project.

f. *Location:* On the Pomperaug River, in the Town of Woodbury, Litchfield County, Connecticut. The project would not occupy lands of the United States.

g. *Filed Pursuant to:* Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2705, 2708.

h. *Applicant Contact:* Andrew Peklo III, 29 Pomperaug Road, Woodbury, CT 06798, (203) 263–4566, *themill@charter.net.*

i. *FERC Contact:* Steve Kartalia, (202) 502–6131 or *Stephen.kartalia@ferc.gov.*

j. *Deadline for filing motions to intervene and protests, comments, terms and conditions, recommendations, and prescriptions:* Due to the small size and particular location of this project and the close coordination with state and federal agencies during the preparation of the application, the 60-day timeframe in 18 CFR 4.34(b) for filing comments, terms and conditions, recommendations, and prescriptions is shortened. Instead, comments, terms and conditions, recommendations, and prescriptions will be due 30 days from the issuance date of this notice. Further, the date for filing motions to intervene and protests will be due 30 days from the issuance date of this notice. All reply comments must be filed with the Commission within 45 days from the date of this notice.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–(866) 208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing and is now ready for environmental analysis.

l. *Project Description:* The Pomperaug Hydro Project would consist of: (1) the existing 90-foot-long, 15-foot-high Pomperaug River dam equipped with three existing gates; (2) an existing 0.1-acre impoundment with a normal water surface elevation of 226 feet above mean sea level; (3) an existing 40-foot-long, 42- to 50-inch-diameter penstock; and (4) an existing powerhouse integral to the dam, containing one new 76-kilowatt turbine generating unit. Project power would be transmitted through a new 24-foot-long, 208-volt underground transmission line. The proposed project is estimated to generate an average of 300,000 kilowatt-hours annually.

The applicant proposes to: (1) Rehabilitate the existing gates including constructing a new intake structure with a trashrack; and (2) construct a new fish passage facility adjacent to the existing powerhouse.

m. Due to the project works already existing and the limited scope of proposed rehabilitation of the project site described above, the applicant's close coordination with Federal and State agencies during the preparation of the application, completed studies, and agency recommended preliminary terms and conditions, we intend to waive scoping, shorten the notice filing period, and expedite the exemption process. Based on a review of the application, resource agency consultation letters including the preliminary terms and conditions, and comments filed to date, Commission staff intends to prepare a single environmental assessment (EA). Commission staff determined that the issues that need to be addressed in its EA have been adequately identified during the pre-filing period, which included a public meeting and site visit, and no new issues are likely to be identified through additional scoping. The EA will consider assessing the potential effects of project construction and operation on geology and soils, aquatic, terrestrial, threatened and endangered species, recreation and land use, aesthetic, and cultural and historic resources.

n. 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.

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.

o. Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of

Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST'', ''MOTION TO INTERVENE'', ''COMMENTS,'' ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

p. *Procedural schedule:* The application will be processed according to the following procedural schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Notice of the availability of the EA	April 2012

Dated: November 3, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–29243 Filed 11–10–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13011–003]

Shelbyville Hydro LLC; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Major License.

b. *Project No.:* 13011–003.

c. *Date filed:* October 28, 2011.

d. *Applicant:* Shelbyville Hydro LLC (Shelbyville Hydro), a wholly-owned subsidiary of Symbiotics LLC.

e. *Name of Project:* Lake Shelbyville Dam Hydroelectric Project.

f. *Location:* On the Kaskaskia River, in Shelby County, Illinois at an existing dam owned and operated by the U.S. Corps of Engineers (Corps). The project would occupy 3.24 acres of federal lands managed by the Corps.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Brent L. Smith, Chief Operating Officer, Symbiotics LLC 371 Upper Terrace, Suite 2, Bend, OR 97702; *Telephone* (541) 330–8779.

i. *FERC Contact:* Lesley Kordella, (202) 502–6406 or *Lesley.Kordella@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.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* December 27, 2011.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–(866) 208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

m. The application is not ready for environmental analysis at this time.

n. The project would be located at an existing dam owned and operated by the Corps-St. Louis District. The existing Lake Shelbyville Dam was constructed in 1963 for the purposes of flood control, recreation development, water supply, navigation release, and fish and wildlife conservation. In August of 1970, the USACE closed the gates to start the initial filling of the lake. The West Okaw and Kaskaskia rivers were inundated 17 miles upstream of the dam.

The Lake Shelbyville Dam is an earthen embankment with an elevation of 643 feet above mean sea level (MSL). The dam is 3,025 feet long and rises 108 feet above the river bed. The concrete spillway is located at 593 feet MSL and is topped by three Tainter gates that are approximately 45 feet wide by 37 feet high. The two regulating outlet structures release water through the face of the spillway. The impoundment above the Lake Shelbyville Dam, referred to as Lake Shelbyville, varies according to flood control operations controlled by the Corps. Lake Shelbyville has a maximum storage capacity of 684,000 acre-feet. Of the 684,000 acre-feet of storage, 474,000 acre-feet have been designated for flood control.

The average depth of the reservoir is 16 feet and the maximum is 67 feet.

The proposed Lake Shelbyville Project would consist of: (1) A powerhouse located downstream on the western embankment of the spillway; (2) a penstock, which would be connected to the west outlet structure, and extend along the western bank to the powerhouse; (3) a trash rack with 4-inch spacing that would be integrated into the existing intake structure; (4) a new transformer pad located adjacent to the powerhouse; (5) a modified access road that would pass to the west of the powerhouse; (6) a parking lot on the west side of the powerhouse; (7) a 49-foot-long by 105-foot-wide tailrace; (8) 407 feet of 12.47-kilovolt (kV) buried transmission line to connect the project to the existing Shelby Electric Cooperative substation located 900 feet downstream of the dam; (9) three turbine-generator units for a combined installed capacity of 6.8 megawatts; and (10) appurtenant facilities. The projected annual energy generation would be 20.3 gigawatt hours.

The project would operate in a run-of-release mode utilizing releases from Lake Shelbyville as they are dictated by the Corps, with no proposed change to the Corps' facility operation. Power generation would be seasonally variable as flow regimens and pool levels are set forth by the Corps. The project would generate power using flows between 130 cfs (cubic feet per second) to 1,500 cfs. When flows are below 130 cfs, all flows would be passed through the existing outlet structure and the project would then be offline. When flows are greater than 1,500 cfs, excess flow would be passed through the existing outlet structure.

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. With this notice, we are initiating consultation with the Illinois State Historic Preservation Officer (SHPO), as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36, CFR, at 800.4.

q. *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 Letter	December 2011.
Request Additional Information	January 2012.
Issue Acceptance Letter	March 2012.
Issue Scoping Document 1 for Comments	April 2012.
Comments on Scoping Document 1	May 2012.
Issue Scoping Document 2 (if necessary)	June 2012.
Issue notice of ready for environmental analysis	July 2012.
Commission issues a single EA	February 2013.

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: November 3, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–29246 Filed 11–10–11; 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: EG12–9–000.
Applicants: Fire Island Wind, LLC.
Description: Self-Certification of EWG Status of Fire Island Wind, LLC.
Filed Date: 11/03/2011.
Accession Number: 20111103–5009.
Comment Date: 5 p.m. ET on 11/24/2011.

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

Docket Numbers: ER11–3420–000.
Applicants: Gridway Energy Corp.
Description: Refund Report of Gridway Energy Corp.
Filed Date: 08/22/2011.
Accession Number: 20110822–5234.
Comment Date: 5 p.m. ET on 11/17/2011.

Docket Numbers: ER11–3420–000.
Applicants: Gridway Energy Corp.
Description: Supplemental Refund Report to be effective 9/30/2011.
Filed Date: 09/30/2011.
Accession Number: 20110930–5034.
Comment Date: 5 p.m. ET on 11/17/2011.

Docket Numbers: ER11–3551–000; ER11–3822–000; ER11–3553–000; ER11–3554–000; ER11–3824–000.
Applicants: Glacial Energy of New York, Glacial Energy of New England, Inc., Glacial Energy of New Jersey, Inc., Glacial Energy of Illinois, Inc. Glacial Energy of California, Inc.
Description: Refund Report of Glacial Energy of New York, *et al.*
Filed Date: 10/05/2011.
Accession Number: 20111005–5116.
Comment Date: 5 p.m. ET on 11/17/2011.

Docket Numbers: ER11–3614–005.
Applicants: Glacial Energy Holdings.
Description: Substitute Market-Based Rate Filing to be effective 9/26/2011.
Filed Date: 11/03/2011.
Accession Number: 20111103–5000.
Comment Date: 5 p.m. ET on 11/24/2011.

Docket Numbers: ER11–4197–000.
Applicants: Michigan Electric Transmission Company, LLC, Midwest Independent Transmission System Operator, Inc.
Description: METC–Lowell Refund Report to be effective N/A.
Filed Date: 11/03/2011.
Accession Number: 20111103–5060.
Comment Date: 5 p.m. ET on 11/24/2011.

Docket Numbers: ER11–4531–001.
Applicants: Reliable Power, LLC.
Description: Compliance to baseline Refile to be effective 11/3/2011.
Filed Date: 11/03/2011.
Accession Number: 20111103–5044.
Comment Date: 5 p.m. ET on 11/24/2011.

Docket Numbers: ER11–4613–001.
Applicants: DB Energy Trading LLC.
Description: Amendment to September 23rd Baseline Filing to be effective 11/3/2011.
Filed Date: 11/03/2011.
Accession Number: 20111103–5057.

Comment Date: 5 p.m. ET on 11/24/2011.

Docket Numbers: ER11–4691–001.
Applicants: Icetec.com.
Description: Icetec.com Corrected Baseline ETariff to be effective 9/30/2011.
Filed Date: 11/03/2011.
Accession Number: 20111103–5062.
Comment Date: 5 p.m. ET on 11/24/2011.

Docket Numbers: ER12–331–000.
Applicants: New York Independent System Operator, Inc., Niagara Mohawk Power Corporation.
Description: Service Agreement No. 1742 between National Grid, NYPA, PEP, and MI to be effective 1/1/2012.
Filed Date: 11/02/2011.
Accession Number: 20111102–5119.
Comment Date: 5 p.m. ET on 11/23/2011.

Docket Numbers: ER12–332–000.
Applicants: California Independent System Operator Corporation.
Description: 2011–11–02 CAISO MSSAA with NCPA to be effective 1/1/2012.
Filed Date: 11/02/2011.
Accession Number: 20111102–5120.
Comment Date: 5 p.m. ET on 11/23/2011.

Docket Numbers: ER12–332–000.
Applicants: California Independent System Operator Corporation.
Description: 2011–11–02 CAISO MSSAA with NCPA to be effective 1/1/2012.
Filed Date: 11/02/2011.
Accession Number: 20111102–5121.
Comment Date: 5 p.m. ET on 11/23/2011.

Docket Numbers: ER12–333–000.
Applicants: New York Independent System Operator, Inc., Niagara Mohawk Power Corporation.
Description: Service Agreement No. 1743 between National Grid, NYPA, PEP, and MI to be effective 1/1/2012.
Filed Date: 11/02/2011.
Accession Number: 20111102–5122.
Comment Date: 5 p.m. ET on 11/23/2011.

Docket Numbers: ER12–334–000.
Applicants: Duke Energy Kentucky, Inc., Duke Energy Ohio, Inc., Midwest Independent Transmission System Operator, Inc.
Description: 11–02–11 Schedule 38 and Attachment GG to be effective 1/1/2012.
Filed Date: 11/02/2011.
Accession Number: 20111102–5128.
Comment Date: 5 p.m. ET on 11/23/2011.

Docket Numbers: ER12–335–000.
Applicants: Black Hills Power, Inc.
Description: Revised BH Power, Inc., JOATT Schedule 2 to be effective 1/1/2012.
Filed Date: 11/02/2011.
Accession Number: 20111102–5130.
Comment Date: 5 p.m. ET on 11/23/2011.

Docket Numbers: ER12–336–000.
Applicants: PacifiCorp.
Description: UAMPS ARTSOA to be effective 1/2/2012.
Filed Date: 11/02/2011.
Accession Number: 20111102–5131.
Comment Date: 5 p.m. ET on 11/23/2011.

Docket Numbers: ER12–337–000.
Applicants: Mississippi Power Company.
Description: 2011 MRA Rate Case to be effective 1/1/2012.
Filed Date: 11/02/2011.
Accession Number: 20111102–5155.
Comment Date: 5 p.m. ET on 11/23/2011.

Docket Numbers: ER12–338–000.
Applicants: Minco Wind Interconnection Services, LLC.
Description: Minco Wind Interconnection Services, LLC Shared Facilities Agreement to be effective 11/3/2011.
Filed Date: 11/02/2011.
Accession Number: 20111102–5159.
Comment Date: 5 p.m. ET on 11/23/2011.

Docket Numbers: ER12–339–000.
Applicants: Driftwood LLC.
Description: Cancellation of Tariff ID Fifty to be effective 11/4/2011.
Filed Date: 11/03/2011.
Accession Number: 20111103–5002.
Comment Date: 5 p.m. ET on 11/24/2011.

Docket Numbers: ER12–340–000.
Applicants: Duke Energy Carolinas, LLC.
Description: Concord PPA Filing—RS 327 to be effective 1/1/2012.
Filed Date: 11/03/2011.
Accession Number: 20111103–5023.
Comment Date: 5 p.m. ET on 11/24/2011.

Docket Numbers: ER12–341–000.
Applicants: Duke Energy Carolinas, LLC.
Description: Kings Mountain PPA Filing—RS 331 to be effective 1/1/2012.
Filed Date: 11/03/2011.
Accession Number: 20111103–5025.
Comment Date: 5 p.m. ET on 11/24/2011.

Docket Numbers: ER12–342–000.
Applicants: Otter Tail Power Company.
Description: Request for Approval of Transmission Rate Incentives of Otter Tail Power Company.
Filed Date: 11/02/2011.
Accession Number: 20111102–5170.
Comment Date: 5 p.m. ET on 11/23/2011.

Docket Numbers: ER12–343–000.
Applicants: PJM Interconnection, LLC.
Description: Queue No. X1–071; Original Service Agreement No. 3092 to be effective 10/6/2011.
Filed Date: 11/03/2011.
Accession Number: 20111103–5061.
Comment Date: 5 p.m. ET on 11/24/2011.

Docket Numbers: ER12–344–000.
Applicants: ITC Midwest LLC.
Description: Notice of Cancellation to be effective 9/29/2011.
Filed Date: 11/03/2011.
Accession Number: 20111103–5064.
Comment Date: 5 p.m. ET on 11/24/2011.

Docket Numbers: ER12–345–000.
Applicants: ITC Midwest LLC.
Description: Notice of Cancellation to be effective 11/4/2011.
Filed Date: 11/03/2011.
Accession Number: 20111103–5065.
Comment Date: 5 p.m. ET on 11/24/2011.

Docket Numbers: ER12–346–000.
Applicants: Global Energy, LLC.
Description: Baseline Refiled to be effective 11/3/2011.
Filed Date: 11/03/2011.
Accession Number: 20111103–5066.
Comment Date: 5 p.m. ET on 11/24/2011.

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 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

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

Dated: November 3, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–29268 Filed 11–10–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP12–129–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Centerpoint 34682 to Sequent 39298 to be effective 11/1/2011.
Filed Date: 11/02/2011.
Accession Number: 20111102–5095.
Comment Date: 5 p.m. ET on 11/14/2011.

Docket Numbers: RP12–130–000.
Applicants: Paiute Pipeline Company.
Description: Fourth Revised Volume No. 1–A to be effective 12/2/2011.
Filed Date: 11/03/2011.
Accession Number: 20111103–5001.
Comment Date: 5 p.m. ET on 11/15/2011.

Docket Numbers: RP12–131–000.
Applicants: Guardian Pipeline, LLC.
Description: Transporter's Use Gas Correction to be effective 11/1/2011.
Filed Date: 11/03/2011.
Accession Number: 20111103–5038.
Comment Date: 5 p.m. ET on 11/15/2011.

Docket Numbers: RP12–132–000.
Applicants: Kinder Morgan Interstate Gas Transmission LLC.
Description: Negotiated Rate 2011–11–3 IT TMV to be effective 11/4/2011.
Filed Date: 11/03/2011.
Accession Number: 20111103–5139.
Comment Date: 5 p.m. ET on 11/15/2011.

Docket Numbers: RP12–133–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: 11/03/11 Negotiated Rates—Hess Corporation (HUB) to be effective 11/3/2011.
Filed Date: 11/03/2011.
Accession Number: 20111103–5146.
Comment Date: 5 p.m. ET on 11/15/2011.

Docket Numbers: RP12–134–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: 11/03/11 Negotiated Rates—Constellation Energy—RTS to be effective 11/3/2011.
Filed Date: 11/03/2011.
Accession Number: 20111103–5148.
Comment Date: 5 p.m. ET on 11/15/2011.

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 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP11–2639–001.
Applicants: Northern Border Pipeline Company.
Description: CP10–468–000 Princeton Lateral In Service on 11–1–11(B) to be effective N/A.
Filed Date: 11/02/2011.
Accession Number: 20111102–5157.
Comment Date: 5 p.m. ET on 11/14/2011.

Docket Numbers: RP12–76–001.
Applicants: East Cheyenne Gas Storage, LLC.
Description: East Cheyenne Amendment (Non-conforming agreements) to be effective 11/1/2011.
Filed Date: 11/03/2011.
Accession Number: 20111103–5003.
Comment Date: 5 p.m. ET on 11/15/2011.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5 p.m. Eastern time on the specified comment date.

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

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

Dated: November 4, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–29258 Filed 11–10–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12737–002]

Jordan Hydroelectric Limited Partnership; Notice of Availability of Final Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380, the Office of Energy Projects has reviewed the application for an original license for the 3.7-megawatt (MW) Gathright Hydroelectric Project located on the Jackson River in Alleghany County, Virginia, at the U.S. Army Corps of Engineers' (Corp) Gathright Dam and has prepared a final environmental assessment (EA). In the final EA, Commission staff analyze the potential environmental effects of licensing the project and conclude that issuing a license for the project, with appropriate environmental measures, would not constitute a major federal action significantly affecting the quality of the human environment.

A copy of the final EA is on file with the Commission and is available for public inspection. The final EA may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, (202) 502–8659.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

For further information contact Allyson Conner at (202) 502–6082.

Dated: November 4, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–29250 Filed 11–10–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL11–48–000]

Southern California Edison Company; Notice of Filing

Take notice that on September 26, 2011, Southern California Edison Company filed its compliance filing, pursuant to the Federal Energy Regulatory Commission's (FERC or the Commission) August 26, 2011 Order on Waiver Request (Order).[1]

Any person desiring to intervene or to protest in the above proceeding must

[1] Southern California Edison Company, Order on Waiver Request 136 FERC ¶ 61,133 (2011).

file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. 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. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

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

Comment Date: 5 p.m. on November 25, 2011.

Dated: November 4, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–29260 Filed 11–10–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR12–4–000; Docket No. PR12–5–000; Not Consolidated]

Enterprise Intrastate L.P., Enterprise Texas Pipeline LLC; Notice of Filing

Take notice that on November 1, 2011, the applicants listed above filed a revised Statement of Operating Conditions (SOC) applicable to transportation services. The applicants state that the SOC submitted have been revised to remove all references to StarWeb and to add references to the new ''gFlow'' system and are proposed to be effective November 1, 2011.

Any person desiring to participate in this rate filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 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 date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not 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 7 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 p.m. Eastern Time on Monday, November 14, 2011.

Dated: November 3, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–29249 Filed 11–10–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–308–000]

Manzana Wind LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Manzana Wind LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is November 25, 2011.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov*. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public

Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 4, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–29257 Filed 11–10–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–327–000]

L&L Energy LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of L&L Energy LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is November 25, 2011.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 4, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–29261 Filed 11–10–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER12–346–000]

Global Energy, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Global Energy, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is November 25, 2011.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: November 4, 2011.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2011–29259 Filed 11–10–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2225–015—WA]

Sullivan Creek Project, Public Utility District No 1 of Pend Oreille County; Notice of Teleconference

a. *Date and Time of Meeting:* Monday, November 21, 2011 at 10:30 a.m. (Pacific Time).

b. *Place:* By copy of this notice we are inviting all interested parties to attend a teleconference from their location.

c. *FERC Contact:* Frank Winchell, (202) 502–6104: *frank.winchell@ferc.gov.*

d. *Purpose of the Meeting:* Commission staff will be meeting with the Pend Oreille PUD, Forest Service, Washington State Historic Preservation Office, Advisory Council on Historic Preservation, and Kalispel Tribe to go over associated memorandum of agreements for cultural resources.

e. All local, State, and Federal agencies, Indian tribes, and interested parties are hereby invited to listen in on

the teleconference. The phone number and passcode to the teleconference will be provided upon a request made by interested parties to Frank Winchell. All requests for the teleconference phone number and passcode must be made *No Later Than 1:30 p.m. (Pacific Time), November 16, 2011.*

Dated: November 3, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–29245 Filed 11–10–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14287–000]

Table Mountain Pumped Storage Project; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On September 14, 2011, Table Mountain Hydro, LLC, Arizona, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Table Mountain Pumped Storage Project to be located near the towns of Peach Springs and Kingman, Mohave County, Arizona. The project would affect federal lands administered by the Bureau of Land Management. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) An upper reservoir, formed by a 90-foot-high by 6,020-foot-long, roller-compacted concrete (RCC) or a concrete-faced-rockfill (CFRD) dam, with a total storage capacity of 5,280 acre-feet and a water surface area of 66 acres at full pool elevation of 5,120 feet above mean sea level (msl); (2) a lower reservoir, formed by a 160-foot-high by 1,480-foot-long RCC or CFRD dam, having a total storage capacity of 5,683 acre-feet and a water surface area of 69 acres at full pool elevation of 3,700 feet msl; (3) approximately 12,750 feet of conduit connecting the upper to the lower reservoir in three different sections: A 1,640-foot-long by a 16.5-foot-diameter, concrete-lined vertical-pressure tunnel, a 5,000-foot-long by 16.5-foot-diameter concrete-lined headrace, and a 6,300-foot-long by 19.8-foot-diameter tailrace; and (4) an underground powerhouse located roughly at a depth of 1,000 feet at an elevation of 3,300 feet msl, with reversible pump-turbines totaling 400 megawatts (MW) (3 units x 133 MW units) of generating capacity, with up to 100 MW of additional pumping capacity (total of 500 MW pumping capacity). The annual energy output would be approximately 1,051,200 mega-watt-hours. Interconnection would be provided at either: (1) The Moenkopi-Eldorado 500 kilovolt (kV) line (APS/SCE) via a new, 4.3-mile-long, single-circuit 345-kV line; (2) the Mead-Phoenix 500-kV line (WAPA, APS, SRP, LADWP) via a new, 6.3-mile-long, 345-kV line; or (3) the Liberty-Mead 345-kV line (WAPA) via a new, 7.5-mile-long, single-circuit 345-kV line. The transmission line would require a 120- to 160-foot-wide right of way.

Applicant Contact: Matthew Shapiro, Table Mountain Hydro, LLC., 1210 W. Franklin St., Ste. 2, Boise, ID 83702; phone (208) 246–9925.

FERC Contact: Brian Csernak; *phone:* (202) 502–6144.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–(866) 208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14287–000) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: November 4, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–29248 Filed 11–10–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14286–000]

Haiwee Ridge Pumped Storage Project; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On September 14, 2011, Haiwee Ridge Hydro, LLC, California, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Haiwee Ridge Pumped Storage Project to be located on South Haiwee reservoir, near the town of Olancha, Inyo County, California. The project would affect federal lands administered by the Bureau of Land Management. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project (Alternatives A and B) would consist of the existing South Haiwee dam. The dam has operations limited due to past seismic activity. The crest of the dam is at elevation 3,766 feet above mean sea level (msl), but the water level in the reservoir is limited to a maximum elevation of 3,742 feet msl.

The applicant is studying the following alternatives:

South Haiwee Alternative A: (1) An upper reservoir formed by a 160-foot-high by 2,270-foot-long, roller-compacted concrete (RCC) dam, two saddle dams (a 35-foot-high by 680-foot-long RCC dam and a 65-foot-high by 680-foot-long RCC dam) having a total storage capacity of 15,100 acre-feet and a water surface area of 175 acres at full pool elevation of 5,050 feet msl; (2) a lower reservoir formed by the 81-foot-high by 1,555-foot-long potentially

rebuilt South Haiwee dam having a total storage capacity of 46,600 acre-feet and a water surface area of 660 acres at full pool elevation of 3,756 feet msl; (3) approximately 13,150 feet of conduit connecting the upper to the lower reservoir in three different sections: A 3,000-foot-long by 18.5-foot-diameter, concrete-lined low-pressure tunnel, a 7,850-foot-long by 18.5-foot-diameter concrete-lined pressure shaft, and a 2,300-foot-long by 22.2-foot diameter tailrace; and (4) an underground powerhouse located roughly 1,500 feet east of South Haiwee reservoir at an elevation of 3,600 feet msl.

South Haiwee Alternative B: (1) An upper reservoir formed by a 210-foot-high by 1,320-foot-long, RCC dam and a 25-foot-high by 800-foot-long RCC saddle dam having a total storage capacity of 14,235 acre-feet and a water surface area of 241 acres at full pool elevation of 5,000 feet msl; (2) a lower reservoir formed by the 91-foot-high by 1,523-foot-long potentially rebuilt South Haiwee dam having a total storage capacity of 46,600 acre-feet and a water surface area of 800 acres at full pool elevation of 3,756 feet msl; (3) approximately 14,700 feet of conduit connecting the upper to the lower reservoir in three different sections: a 5,100-foot-long by 18.9-foot-diameter, concrete-lined low-pressure tunnel, a 5,600-foot-long by 18.9-foot-diameter concrete-lined pressure shaft, and a 4,000-foot-long by 22.7-foot diameter tailrace; and (4) an underground powerhouse located roughly 3,300 feet southeast of South Haiwee reservoir at an elevation of 3,580 feet msl.

New Reservoir Alternative: (1) An upper reservoir formed by a 210-foot-high by 1,320-foot-long, RCC dam having a total storage capacity of 14,235 acre-feet and a water surface area of 241 acres at full pool elevation of 5,000 feet msl; (2) a lower reservoir formed by a 60-foot-high by 10,600-foot-long RCC dam having a total storage capacity of 46,600 acre-feet and a water surface area of 800 acres at full pool elevation of 3,756 feet above msl; (3) approximately 12,500 feet of conduit connecting the upper to the lower reservoir in three different sections: a 3,750-foot-long by 17.5-foot-diameter, concrete-lined low-pressure tunnel, a 6,300-foot-long by 17.5-foot-diameter concrete-lined pressure shaft, and a 2,500-foot-long by 21-foot diameter tailrace; and (4) an underground located roughly 8,500 feet southwest of South Haiwee reservoir at an elevation of 3,400 feet msl.

All of the alternatives would consist of 4 reversible pump-turbines with a capacity of 500 megawatts (MW) (4 units x 125 MW unit). Annual energy output would be approximately 1,533,000 mega-watt-hours. Interconnection would exist at the Los Angeles Department of Water & Power's 230-kilovolt (kV) Owens George-Rinaldi transmission line via a 0.9-mile-long interconnection, or with Southern California Edison's 115-kV Control-Inyokern transmission line via a new 0.9- to 2.3-mile-long interconnection, depending on constructed option. A 70-foot-long by 280-foot-wide by 120-foot-high underground power house would be the same for all of the project alternatives.

Applicant Contact: Mr. Matthew Shapiro, Haiwee Ridge Hydro, LLC., 1210 W. Franklin St., Ste. 2, Boise, ID 83702; *phone* (208) 246–9925.

FERC Contact: Brian Csernak; *phone:* (202) 502–6144.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–(866) 208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14286–000) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: November 3, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–29247 Filed 11–10–11; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP12–10–000]

Saltville Gas Storage Company LLC; Notice of Request Under Blanket Authorization

Take notice that on October 21, 2011 Saltville Gas Storage Company LLC (Saltville), 5400 Westheimer Court, Houston, Texas 77056, filed in Docket No. CP12–10–000, a prior notice request pursuant to sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to abandon one injection/withdrawal well in Washington County, Virginia. Specifically, Saltville proposes to permanently plug and abandon the EH 123 wellbore and remove associated wellhead and approximately 75 feet of two-inch facility piping. Saltville states that the proposed abandonment will not result in the termination of any services to Saltville's customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, 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 directed to Lisa A. Connolly, General Manager, Rates and Certificates, Saltville Gas Storage Company LLC, P.O. Box 1642, Houston, Texas 77251, or call (713) 627–4102, or fax (713) 627–5947, or by email: *laconnolly@spectraenergy.com.*

Any person may, within 60 days after the 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. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) file 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 protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

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 commenter's 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 he Commission's environmental review process. Environmental commenter's will not be required to serve copies of filed documents on all other parties. However, the non-party commentary, 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 via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

Dated: November 3, 2011.

Kimberly D. Bose,

Secretary.

[FR Doc. 2011–29244 Filed 11–10–11; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9491–1]

Clean Water Act Section 303(d): Availability of 28 Total Maximum Daily Loads (TMDLs) in Louisiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces the availability for comment on the administrative record files and the calculations of 28 TMDLs prepared by EPA Region 6. This notice covers waters in the State of Louisiana's Lake Pontchartrain Basin that were identified as impaired on the State's Section 303(d) list. These TMDLs were completed in response to a court order in the lawsuit styled *Sierra Club, et al.* v. *Clifford, et al.,* No. 96–0527, (E.D. La.).

DATES: Comments must be submitted in writing to EPA on or before December 29, 2011.

ADDRESSES: Comments on the 28 TMDLs should be sent to Diane Smith, Environmental Protection Specialist, Water Quality Protection Division, U.S. Environmental Protection Agency Region 6, 1445 Ross Ave., Dallas, TX 75202–2733 or email: *smith.diane@epa.gov.* For further information, contact Diane Smith at (214) 665–2145 or fax (214) 665–7373. The administrative record files for the 28 TMDLs are available for public inspection at this address as well. Documents from the administrative record files may be viewed at *http://www.epa.gov/earth1r6/6wq/npdes/tmdl/index.htm,* or obtained by calling or writing Ms. Smith at the above address. Please contact Ms. Smith to schedule an inspection.

FOR FURTHER INFORMATION CONTACT: Diane Smith at (214) 665–2145.

SUPPLEMENTARY INFORMATION: In 1996, two Louisiana environmental groups, the Sierra Club and Louisiana Environmental Action Network (plaintiffs), filed a lawsuit in Federal Court against the EPA, styled *Sierra Club, et al.* v. *Clifford, et al.,* No. 96–0527, (E.D. La.). Among other claims, plaintiffs alleged that EPA failed to establish Louisiana TMDLs in a timely manner. EPA proposes these 28 TMDLs pursuant to a consent decree entered in this lawsuit.

EPA Seeks Comment on 28 TMDLs

By this notice EPA is seeking comment on the following 28 TMDLs for waters located within Louisiana:

Subsegment	Waterbody name	Pollutant
040102	Comite River—Wilson-Clinton Hwy to entrance of White Bayou (East Baton Rouge Parish) (Scenic).	Fecal Coliform.
040103	Comite River—Entrance of White Bayou to Amite River	Fecal Coliform.
040201	Bayou Manchac—Headwaters to Amite River	Fecal Coliform.
040302	Amite River—LA Hwy 37 to Amite River Diversion Canal	Fecal Coliform.
040304	Grays Creek—Headwaters to Amite River	Fecal Coliform.
040305	Colyell Creek System (includes Colyell Bay)	Fecal Coliform.
040503	Natalbany River—Headwaters to Tickfaw River	Fecal Coliform.
040504	Yellow Water River—Origin to Ponchatoula Creek	Fecal Coliform.
040505	Ponchatoula Creek and Ponchatoula River	Fecal Coliform.
040603	Selsers Creek—Origin to South Slough	Fecal Coliform.
040703	Big Creek and Tributaries—Headwaters to confluence with Tangipahoia River	Fecal Coliform.
040909	W–14 Main Diversion Canal—From its origin in the north end of the City of Slidell to its junction with Salt Bayou.	Fecal Coliform.
040910	Salt Bayou—Headwaters to Lake Pontchartrain (Estuarine)	Fecal Coliform.
041302	Lake Pontchartrain Drainage Canals	Fecal Coliform.
041401	New Orleans East Leveed Waterbodies (Estuarine)	Fecal Coliform.
040501	Tickfaw River—From MS State Line to LA Hwy 42 (Scenic)	TDS.
040504	Yellow Water River—Origin to Ponchatoula Creek	TDS.
040301	Amite River—MS State Line to LA Hwy 37 (Scenic)	TSS.
040401	Blind River—From Amite River Diversion Canal to mouth at Lake Maurepas (Scenic).	TSS.
040903	Bayou Cane—Headwaters to U.S. Hwy 190 (Scenic)	TSS.
040303	Amite River—Amite River Diversion Canal to Lake Maurepas	Mercury.
040401	Blind River—From Amite River Diversion Canal to mouth at Lake Maurepas (Scenic).	Mercury.
040403	Blind River—Source to confluence with Amite River Diversion Canal (Scenic)	Mercury.
040501	Tickfaw River—From MS State Line to LA Hwy 42 (Scenic)	Mercury
040701	Tangipahoa River—MS State Line to Interstate Hwy 1–12 (Scenic)	Mercury.

Subsegment	Waterbody name	Pollutant
040801	Tchefuncte River and Tributaries—Headwaters to confluence with Bogue Falaya River (Scenic).	Mercury.
040905	Bayou Liberty—Headwaters to LA Hwy 433	Mercury.
040906	Bayou Liberty—LA Hwy 433 to confluence with Bayou Bonfouca (Estuarine)	Mercury.

EPA requests the public provide to EPA any water quality related data and information that may be relevant to the calculations for the 28 TMDLs. EPA will review all data and information submitted during the public comment period and will revise the TMDLs where appropriate. EPA will then forward the TMDLs to the Louisiana Department of Environmental Quality (LDEQ). The LDEQ will incorporate the TMDLs into its current water quality management plan.

Dated: November 3, 2011.

Troy Hill,

Acting Director, Water Quality Protection Division, EPA Region 6.

[FR Doc. 2011–29302 Filed 11–10–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2011–0793; FRL–9327–4]

Decision on Waiver Application From 3M

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA conditionally granted the request from 3M for a waiver from testing tetrabromobisphenol A (CASRN 79–94–7). Regulations issued by EPA under section 4 of the Toxic Substances Control Act require that specified chemical substances be tested to determine if they are contaminated with halogenated dibenzo-p-dioxins (HDDs) or halogenated dibenzofurans (HDFs), and that results be reported to EPA. However, the regulations allow for exclusion and waiver from these requirements if an appropriate application is submitted to EPA and is approved. EPA received such a request for a waiver from these testing requirements from 3M.

DATES: EPA conditionally granted the 3M waiver on November 7, 2011.

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Rebecca Edelstein, National Program Chemicals Division, Office Pollution Prevention and Toxics (7404T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8566; Email address: *edelstein.rebecca@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?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the request for waiver, 3M. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get copies of this document and other related information?

EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2011–0793. All documents in the docket are listed in the docket index available at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

II. What action is the agency taking?

This notice announces the conditional granting of the request from 3M for a waiver from testing under 40 CFR 766.32(a)(2)(i) for tetrabromobisphenol A (CASRN 79–94–7). This waiver is conditional on 3M manufacturing (including importing) no more than 100 kilograms (kg) of the chemical substance per year, and on its doing so solely for research and development purposes.

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

Under 40 CFR part 766, EPA requires testing of certain chemical substances to determine whether they may be contaminated with HDDs and HDFs. Under 40 CFR 766.32(a)(2)(i), a waiver may be granted if a responsible company official certifies that the chemical substance is produced only in quantities of 100 kg or less per year, and only for research and development purposes.

Under 40 CFR 766.32(b), a request for a waiver must be made 60 days before resumption of manufacture or importation of a chemical substance not being manufactured, imported, or processed as of June 5, 1987.

On September 14, 2011, EPA received a waiver request from 3M under 40 CFR 766.32(a)(2)(i). EPA announced receipt of the 3M waiver request and requested public comment in the **Federal Register** issue of September 27, 2011 (76 FR 59699)

(FRL–8890–4). The waiver request from 3M indicates that 3M intends to import less than 100 kg of tetrabromobisphenol A (CASRN 79–94–7), a chemical substance subject to testing under 40 CFR part 766, as part of an experimental formulation for research and development purposes. In a subsequent email message, dated September 27, 2011, 3M confirmed that the chemical substance will solely be used for research and development purposes.

EPA has determined that 3M qualifies for a research and development waiver from testing for tetrabromobisphenol A, conditional on 3M manufacturing (including importing) no more than 100

kg of the chemical substance per year, and on its doing so solely for research and development purposes.

EPA received an anonymous comment on 3M's waiver request stating that EPA should deny the waiver request; however, the commenter did not provide any rationale for why EPA should deny 3M's request.

List of Subjects

Environmental protection, Dibenzofurans, Dioxins, Hazardous substances, Tetrabromobisphenol A.

Dated: November 7, 2011.

Wendy C. Hamnett,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 2011–29301 Filed 11–10–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9491–7]

Environmental Economics Advisory Committee Augmented for the Consideration of the Value of Water to the U.S. Economy

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA or Agency) Science Advisory Board (SAB) Staff Office announces a public teleconference of the augmented SAB Environmental Economics Advisory Committee to provide early advice on the value of water to the United States (U.S.) Economy. The SAB Staff Office also announces the availability of information on committee members and the opportunity for public comment.

DATES: The teleconference will be held on December 5, 2011 from 12:30 p.m. to 5 p.m. (Eastern Time).

ADDRESSES: The public teleconference will be conducted by telephone only.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information regarding this teleconference may contact Mr. Thomas Carpenter, Designated Federal Officer (DFO), SAB Staff Office, by telephone/voice mail at (202) 564–48853 or via email at *carpenter.thomas@epa.gov.* General information concerning the EPA Science Advisory Board can be found at the EPA SAB Web site at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION:

Background: The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDAA) codified at 42 U.S.C. 4365, to provide independent scientific and technical peer review, advice, consultation, and recommendations to the EPA Administrator on the technical basis for EPA actions. As a Federal Advisory Committee, the SAB conducts business in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. app. 2) and related regulations. Pursuant to FACA and EPA policy, notice is hereby given that the Environmental Economics Advisory Committee Augmented for the Consideration of the Value of Water to the U.S. Economy will hold a public teleconference to provide early advice to assist EPA scope, plan and develop a report on water's contribution to the U.S. economy. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

EPA's Office of Water requested SAB provide a consultation on the data, information, and analytical methodology to evaluate the value of water to the U.S. economy and provide a resource for future decision-making. EPA plans to develop a report on the importance of clean water to the U.S. economy. The Agency is seeking advice and comment on topics such as how the availability of clean water may affect patterns of economic development, advantages clean water may provide to different sectors of the economy (*i.e.,* tourism, farming and food production, fishing, manufacturing, infrastructure, housing and energy), and what data are available or needed to support strategic choices. EPA anticipates this effort, when combined with EPA research on the value of water in the United States from nonmarket values (*e.g.,* nonuse values, recreation, *etc.*), will integrate market and nonmarket economic value information that is critical to support decision-making at multiple scales (*e.g.,* EPA, state, regional, watershed, or local).

Availability of the review materials: The agendas and materials in support of this meeting will be placed on the EPA Web site at *http://www.epa.gov/sab* in advance of the meeting. For technical questions and information concerning EPA's approach, please contact Mr. John Powers at (202) 564–5776 or *powers.john@epa.gov.*

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office.

Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit relevant comments pertaining to the group conducting this advisory activity, EPA's charge, or meeting materials. Input from the public to the SAB will have the most impact if it consists of comments that provide specific scientific or technical information or analysis for the SAB to consider. Members of the public wishing to provide comment should contact the Designated Federal Officer for the relevant advisory committee directly.

Oral Statements: In general, individuals or groups requesting an oral presentation at this public meeting will be limited to five minutes per speaker. Interested parties should contact Mr. Thomas Carpenter, DFO, in writing (preferably via email), at the contact information noted above, by November 30, 2011 to be placed on the list of public speakers for the meeting. *Written Statements:* Written statements should be received in the SAB Staff Office by November 30, 2011 so that the information may be made available to the SAB Panel for their consideration. Written statements should be supplied to the DFO in electronic format via email (acceptable file formats: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format). It is the SAB Staff Office general policy to post written comments on the Web page for the advisory meeting or teleconference. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its Web sites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the SAB Web site. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact Mr. Carpenter at the phone number or email address noted above, preferably at least ten days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: November 4, 2011.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2011–29295 Filed 11–10–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9491–5]

Notification of a Public Teleconference of the Chartered Science Advisory Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces a public teleconference of the Chartered SAB on December 6, 2011 to receive an update on EPA strategic research directions and to conduct quality reviews of two draft SAB reports, a draft *Review of Great Lakes Restoration Initiative Action Plan* and draft *SAB Recommendations for EPA's FY2011 Scientific and Technological Achievement Awards (STAA).*

DATES: The public teleconference will be held on December 6, 2011 from 12 p.m. to 3 p.m. (Eastern Daylight Time).

ADDRESSES: The public teleconference will be conducted by telephone only.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing to obtain general information concerning the public teleconference may contact Dr. Angela Nugent, Designated Federal Officer (DFO). Dr. Nugent may be contacted at the EPA Science Advisory Board (1400R), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; or by telephone/voice mail at (202) 564–2218; fax at (202) 565–2098; or email at *nugent.angela@epa.gov.* General information concerning the EPA Science Advisory Board can be found on the EPA Web site at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION: The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDAA), codified at 42 U.S.C. 4365, to provide independent scientific and technical advice to the EPA Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. Pursuant to FACA and EPA policy, notice is hereby given that the SAB will hold a public teleconference to receive an update on EPA strategic research directions and to conduct quality reviews of two draft SAB reports, a draft *SAB Recommendations for EPA's FY2011 Scientific and Technological Achievement Awards (STAA)* and a draft *Review of Great Lakes Restoration Initiative Action Plan.* The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Background

(1) Update on Office of Research and Development (ORD) Strategic Research Directions

At ORD's request, the SAB provided joint advice with ORD's Board of Scientific Counselors on strategic research directions through an October 2011 report, *Office of Research and Development (ORD) New Strategic Research Directions: A Joint Report of the Science Advisory Board (SAB) and ORD Board of Scientific Councilors (BOSC)* (EPA–SAB–12–001). The ORD Deputy Associate Administrator for Science will provide an update on ORD activities in this area and discuss ORD's request for additional SAB advice.

(2) EPA's Scientific and Technological Achievement Awards (STAA)

At ORD's request, the Science Advisory Board makes recommendations to the Administrator concerning nominations for the Agency's FY 2011 Scientific and Technological Achievement Awards. These awards are established to honor and recognize EPA employees who have made outstanding contributions in the advancement of science and technology through their research and development activities, as exhibited in publication of their results in peer-reviewed journals.

An SAB committee reviewed the nominations and prepared a draft report making recommendations for the Administrator's consideration for FY 2011 recognition and awards. Background information about this advisory activity can be found on the SAB Web site at *http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/2011%20STAA?OpenDocument.*

(3) Review of Great Lakes Restoration Initiative Action Plan

EPA is leading an interagency Great Lakes Restoration Initiative (GLRI) to protect and restore the chemical, biological, and physical integrity of the Great Lakes. The GLRI is designed to target the most significant environmental problems in the region. To guide the efforts of the GLRI, EPA and its Federal partners, through the Great Lakes Interagency Task Force, developed a comprehensive multi-year Action Plan. The EPA Great Lakes National Program Manager requested the SAB to review the GLRI Action Plan to assess the appropriateness of its measures and actions to achieve its stated priorities and goals.

An SAB panel reviewed the EPA's action plan and prepared a draft report that will undergo quality review by the chartered SAB. Background information about this advisory activity can be found on the SAB Web site at: *http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/Review%20of%20GLRI%20Action%20Plan?OpenDocument.*

Availability of Meeting Materials: The agenda and other materials in support of the teleconference will be placed on the SAB Web site at *http://www.epa.gov/sab* in advance of the teleconference.

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office.

Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit comments for a federal advisory committee to consider as it develops advice for EPA. Input from the public to the SAB will have the most impact if it provides specific scientific or technical information or analysis for the SAB to consider or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide comment should contact the Designated Federal Officer directly. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a teleconference will be limited to three minutes. Those interested in being placed on the public speakers list for the December 6, 2011 teleconference should contact Dr. Nugent at the contact information provided above no later than December 1, 2011. *Written Statements:* Written statements should be supplied to the DFO via email at the contact information noted above by December 1, 2011 for the teleconference so that the information may be made available to the Panel members for their consideration. Written statements should be supplied in one of the following electronic formats: Adobe

Acrobat PDF, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format. It is the SAB Staff Office general policy to post written comments on the Web page for the advisory meeting or teleconference. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its Web sites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the SAB Web site.

Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Nugent (202) 564–2218 or *nugent.angela@epa.gov.* To request accommodation of a disability, please contact Dr. Nugent preferably at least ten days prior to the teleconference to give EPA as much time as possible to process your request.

Dated: November 3, 2011.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2011–29299 Filed 11–10–11; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

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 burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: (a) 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; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) 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 (e) ways to further reduce the information burden for 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 Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before January 13, 2012. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at (202) 395–5167 or via Internet at *Nicholas_A._Fraser@omb.eop.gov* and to Judith B. Herman, Federal Communications Commission, via the *Internet at judith-b.herman@fcc.gov.* To submit your PRA comments by Email, send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, (202) 418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0755.

Title: Sections 59.1 through 59.4, Infrastructure Sharing.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 75 respondents; 1,125 responses.

Estimated Time per Response: 1–2 hours.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. Section 259 of the Communications Act of 1934, as amended.

Total Annual Burden: 2,025 hours.

Total Annual Cost: N/A.

Privacy Impact Assessment: N/A.

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit confidential information to the Commission. If the Commission requests respondents submit information which respondents believe is confidential, respondents may request confidential treatment of such data under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission is seeking an extension of this information collection in order to obtain the full three year approval from OMB. The Commission will submit this information collection to the OMB after this comment period. There are no changes in any of the reporting and third party disclosure requirements. The Commission is reporting a 150 hour adjustment decrease in burden which is due to fewer responses.

The three reporting and third party disclosure requirements are under section 259 of the Communications Act of 1934, as amended. They are (1) Filing of tariffs, contracts or arrangements; (2) information concerning deployment of new services and equipment; and (3) notice upon termination of section 259 agreements.

The information collections by the Commission will under the requirement that incumbent LECs file any tariffs, contracts and agreements for infrastructure sharing will be made available for public inspection. Under the requirement that LECs provide timely information on planned deployments of new services and equipment is provided to third parties (qualifying carriers). And, under the requirement that providing incumbent LECs furnish 60 day notice prior to termination of a section 259 sharing agreement is provided to third parties (qualifying carriers) to protect customers from sudden changes in service.

Federal Communications Commission.

Bulah P. Wheeler,

Deputy Manager, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–29283 Filed 11–10–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications

Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: (a) 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; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) 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 (e) ways to further reduce the information burden for 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 Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before January 13, 2012. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at (202) 395–5167 or via Internet at *Nicholas_A._Fraser@omb.eop.gov* and to Judith B. Herman, Federal Communications Commission, via the Internet at *Judith-b.herman@fcc.gov.* To submit your PRA comments by email send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, (202) 418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0848.

Title: Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket No. 98–147.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 1,400 respondents; 17,340 responses.

Estimated Time per Response: 3.5461361 hours (average burden per response).

Frequency of Response: On occasion reporting requirement, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. Sections 201 and 251 of the Communications Act of 1934, as amended.

Total Annual Burden: 61,490 hours.

Total Annual Cost: N/A.

Privacy Impact Assessment: No impact.

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit confidential information. Any respondent that submits information to the Commission that they believe is confidential may request confidential treatment of such information under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this expiring information collection to the Office of Management and Budget (OMB) after this comment period to renew the current OMB approval for this information collection. There is no change to the Commission's existing burden estimates. There is no change to any of the reporting, recordkeeping and/or third party disclosure requirements.

The reporting, recordkeeping and/or third party disclosure requirements implement sections 201 and 251 of the Communications Act of 1934, as amended, to provide for physical collocation on rates, terms and conditions that are just, reasonable and nondiscriminatory, and to promote deployment of advanced telecommunications services without significantly degrading the performance of other services. All the requirements will be used by the Commission and competitive local exchange carriers (LECs) to facilitate the deployment of telecommunications services, including advanced telecommunications services.

Federal Communications Commission.

Bulah P. Wheeler,

Deputy Manager, Office of the Secretary, Office of Managing Director.

[FR Doc. 2011–29284 Filed 11–10–11; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection Renewals; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, 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 renewal of two existing information collections, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments on renewal of the information collections described below.

DATES: Comments must be submitted on or before January 13, 2012.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/notices.html.*
- Email: *comments@fdic.gov.* Include the name of the collection in the subject line of the message.
- Mail: Leneta G. Gregorie (202) 898–3719), Counsel, Room F–1084, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- Hand Delivery: Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Leneta G. Gregorie, at the FDIC address above.

SUPPLEMENTARY INFORMATION:

Proposal to renew the following currently approved collections of information:

1. Title: Notification of Changes of Insured Status.

OMB Number: 3064–0124.

Frequency of Response: On occasion.

Affected Public: Insured depository institutions.

Estimated Number of Respondents: 280 (certifications); 5 (depositor notices).

Estimated Time per Response: 15 minutes (certifications); 1 hour (depositor notices).

Total Annual Burden: 75 hours.

General Description of Collection: The collection involves the certification that insured depository institutions provide the FDIC when they completely assume deposit liabilities from another insured depository institution, and a notification that insured depository institutions provide to the FDIC when they seek to voluntarily terminate their insured status.

2. Title: Qualified Financial Contracts.

OMB Number: 3064–0163.

Frequency of Response: On occasion.

Estimated Number of Respondents: 190 (recordkeeping/reporting); 20 (application).

Estimated Time per Response: 64 hours (24 hours—reporting; 40 hours— recordkeeping); 30 minutes (application).

Estimated Total Annual Burden: 12,160 hours (recordkeeping/reporting); 10 hours application).

Total Annual Burden: 12,170 hours.

General Description: This collection consists of reporting and recordkeeping requirements for qualified financial contracts (QFCs) held by insured depository institutions in troubled condition.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, 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 information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 8th day of November 2011.

Federal Deposit Insurance Corporation.

Robert Feldman,

Executive Secretary.

[FR Doc. 2011–29291 Filed 11–10–11; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Update to Notice of Financial Institutions for Which the Federal Deposit Insurance Corporation Has Been Appointed Either Receiver, Liquidator, or Manager

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Update Listing of Financial Institutions in Liquidation.

SUMMARY: Notice is hereby given that the Federal Deposit Insurance Corporation (Corporation) has been appointed the sole receiver for the following financial institutions effective as of the Date Closed as indicated in the listing. This list (as updated from time to time in the **Federal Register**) may be relied upon as ''of record'' notice that the Corporation has been appointed receiver for purposes of the statement of policy published in the July 2, 1992 issue of the **Federal Register** (57 FR 29491). For further information concerning the identification of any institutions which have been placed in liquidation, please visit the Corporation Web site at *http://www.fdic.gov/bank/individual/failed/banklist.html* or contact the Manager of Receivership Oversight in the appropriate service center.

Dated: November 7, 2011.

Federal Deposit Insurance Corporation.

Pamela Johnson,

Regulatory Editing Specialist.

INSTITUTIONS IN LIQUIDATION

[In alphabetical order]

FDIC ref. No.	Bank name	City	State	Date closed
10410	Mid City Bank, Inc	Omaha	NE	11/4/2011
10411	SunFirst Bank	Saint George	UT	11/4/2011

[FR Doc. 2011–29292 Filed 11–10–11; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 11–20]

Publication of Inaccurate or Inactive Ocean Common Carrier Tariffs; Order to Show Cause

This proceeding is instituted pursuant to sections 8 and 11 of the Shipping Act of 1984 (1984 Act), 46 U.S.C. 40501, 41302, and the Commission's regulations governing tariff requirements of ocean common carriers, 46 CFR part 520. Section 8 of the 1984 Act, 46 U.S.C. 40501, provides that an ocean common carrier holding out to provide service in the United States foreign trades must keep open to public inspection in an automated tariff system tariffs showing all of the carrier's rates, charges, classifications, rules, and practices between all points or ports on its own route and on any through route that has been established. The Commission's rules require that prior to the commencement of common carrier service pursuant to a published tariff, each common carrier must notify the Commission's Bureau of Trade Analysis (BTA) of the location of its tariff(s) and the publisher, if any, used to maintain its tariffs, by electronically submitting Form FMC–1 via the Commission's Web site. A list of the locations of all carrier and conference tariffs submitted on Form FMC–1 is published on the Commission's Web site. The list is updated in real-time to permit any interested person to obtain tariff information and to allow the Commission to assess carrier compliance with statutory tariff publication requirements. Any changes in this information or the carrier's name, organization number, home office address, or telephone must be immediately transmitted to BTA. 46 CFR 520.3(d). The Commission's rules also require that carriers and conferences inform BTA, in writing, whenever a tariff is cancelled and the effective date of that cancellation. 46 CFR 520.7(b).

It has come to the attention of the Commission that the entities listed in Schedule A to this Order are currently identified as active vessel-operating common carriers (VOCCs) on the Commission's Web site, but do not

appear to be engaged in providing ocean common carrier service in the foreign commerce of the United States. As of July 2010, three hundred fifteen (315) VOCCs were identified on the Commission's Web site as active carriers maintaining tariff publications at the Web site locations specified therein. BTA's Office of Service Contracts and Tariffs (OSCT) recently performed an audit of the carriers appearing in the FMC–1 database to determine the accuracy of the information provided to the Commission and verify their activity in the services held out in their tariffs. Relying on a variety of online resources[1] as well as individual carrier Web sites, the audit identified the absence of any recent activity in the foreign waterborne commerce of the United States by those VOCCs identified in Schedule A. It appears that those carriers may have in fact ceased operations and failed to notify the Commission.

The Commission previously has found that maintenance of common carrier tariffs absent a present intention to furnish those services held out in such tariffs is contrary to the purposes of the Shipping Act and the Commission's tariff regulations. In Docket No. 98–31, *Publication of Inactive or Inaccurate Ocean Common Carrier Tariffs,* 28 SRR 832 (FMC, 1999), the Commission found that ten respondents had violated Section 8 of the Shipping Act by holding out to provide services as VOCCs and ''by not operating vessels providing common carrier services in the U.S. foreign commerce in accordance with their respective VOCC tariffs.'' Similar findings were entered by the Commission in Docket No. 80–77, *Failure of Vessel Operating Common Carriers in the Foreign Commerce of the United States to Comply With the Certification Filing Requirements of Section 21(b) of the Shipping Act, 1916,* 21 SRR 706, 707 (FMC, 1978), wherein the Commission held that:

> [C]arriers not actively carrying cargo or clearly committed to commence carrying cargo between ports named in a tariff at the rates stated therein are not common carriers by water within the meaning of Section 18(b) and their tariffs in such unserved trades are subject to cancellation. See *Publication of Inactive Tariffs,* 20 FMC 433, (1978). The Commission will, therefore, cancel the tariffs of the Appendix B carriers as contrary to Section 18(b) and the Commission's tariff filing regulations (46 CFR part 536), but will take no further action against them.

In *Publication of Inactive Tariffs by Independent Carriers,* 17 SRR 471, 472 (FMC, 1977), the Commission concluded that tariff cancellations were a necessary step in serving important public purposes:

> It is misleading to the public, potentially unfair to competing carriers, and an administrative burden upon our staff for ''paper'' tariffs to be kept on file, available for possible use it should suit the narrow purposes of the persons issuing them to quickly enter the trade, but otherwise describing a nonexistent service. We construe such a situation as contravening the implicit requirements of Shipping Act 18(b), subsections (1) through (3), which necessitates the prompt submission of accurate information concerning the services offered by a common carrier, including the suspension of all or any part of the operations described by its published tariffs. [Citations omitted].

See also *Ghezzi Trucking Inc.—Cancellation of Inactive Tariffs,* 11 SRR 598, 600 (FMC, 1970). In proposing this action, the Commission seeks also to assure that vessel-operating common carrier tariffs not be used as a means or device by which others may circumvent the bonding and licensing requirements applicable to Non-Vessel-Operating Common Carriers (NVOCCs).

Now therefore, it is ordered That pursuant to Section 11 of the Shipping Act of 1984, 46 U.S.C. 41302, the entities listed in Schedule A to this Order are directed to show cause why the Commission should not cancel the FMC–1 filings identifying the location of the carrier's published tariff(s) currently on file with the Commission, for failure to provide service as a vessel-operating common carrier in accordance with the routes and rates set forth therein;

It is further ordered That the entities listed in Schedule A to this Order are directed to show cause why the Commission should not order those entities to cease and desist all activities by which they may hold out to provide service as a common carrier within the meaning of Section 3 of the 1984 Act, 46 U.S.C. 40102, unless and until such time as they commence providing ocean common carrier service in the foreign commerce of the United States or have filed with the Commission proof of compliance with the tariff and financial responsibility requirements governing NVOCCs;

It is further ordered That this proceeding be limited to the submission of affidavits of fact and memoranda of law;

It is further ordered That any person having an interest and desiring to intervene in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure, 46 CFR 502.72. Such petition shall be accompanied by the petitioner's memorandum of law and affidavit of fact, if any, and shall be filed no later than the day fixed below;

It is furthered ordered That the entities listed in Schedule A to this Order are named as Respondents in this proceeding. Affidavits of fact and memoranda of law shall be filed by Respondents and any intervenors in support of respondents no later than December 7, 2011;

It is further ordered That the Commission's Bureau of Enforcement (BOE) be made a party to this proceeding;

It is further ordered That reply affidavits and memoranda of law shall be filed by BOE and intervenors in support no later than December 22, 2011;

It is further ordered That:

(a) Should any party believe that an evidentiary hearing is required, that party must submit a request for such hearing together with a statement setting forth in detail the facts to be proved, the relevance of those facts to the issues in this proceeding, a description of the evidence which would be adduced, and why such evidence cannot be submitted by affidavit;

(b) Any request for evidentiary hearing shall be filed no later than December 22, 2011;

It is furthered ordered That notice of this Order to Show Cause be published in the **Federal Register**, and that a copy thereof be served upon each Respondent at its last known address;

It is further ordered That all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 2 of the Commission's Rules of Practice and procedure, 46 CFR 502.2, as well as being mailed directly to all parties of record;

Finally, it is ordered That pursuant to the terms of Rule 61 of the Commission's Rules of Practice and Procedure, 46 CFR 502.61, the final decision of the Commission in this proceeding shall be issued by March 6, 2012.

By the Commission.

Karen V. Gregory,

Secretary.

[1] Journal of Commerce (JOC) Sailings, PIERS, Sea-Web, and SERVCON.

SCHEDULE A—LISTING OF OCEAN COMMON CARRIERS

Name and address	Tariff
Action Marine Group LLC, 7140 NW. Miami Court, Miami, FL 33150	020521
African Atlantic Lines, Inc., One International Place, Boston, MA 02110	016858
Allstate Shipping Line, LLC, 1156 Clifton Avenue, Irvington, NJ 07111	021135
American-Iraqi Shipping Line, Inc., 1900 Campus Commons Drive, Suite 340, Reston, VA 20191	019754
Arawak Line, Ltd., 50 Shirley Street, Nassau, Bahamas	016405
Asia Project Services Pte. Ltd., 70 Shenton Way, #14–01 Marina House, Singapore, Singapore 079118	019854
Atlantsskip HF, Vesturvor 29, 200 Kopavogur, Kopavogur, Iceland	016243
Autoterminal International Limited, P.O. Box 186, Tortola, Road Town, British Virgin Islands	020075
Azure Shipping Corporation S.A., Torre Universal, Ave Federico Boyd, Panama City, Panama	013897
BSLE Malta Limited, 57 St Christopher Street, Valetta, Malta	020287
Carib Services Ltd., 2377 Guy N Verger Blvd., Tampa, FL 33605	015585
Caribbean Star I Freight Lines, 5353 W. Tyson Avenue, #D, Tampa, FL 33611	011635
Caribbean Transport Line S.A., 700 SE. 32nd Court, Fort Lauderdale, FL 33183	013360
Ceylon Shipping Corporation Ltd., 498 Westgate Drive, #323, Edison, NJ 08820	016589
Cido Car Carrier Service Limited, 20th Floor, World-Wide House, No. 19 Des Voeux Road Central, Hong Kong, China	021100
Columbia Coastal Transport Incorporated, 100 Walnut Avenue, Clark, NJ 07066	013594
Gateway Maritime Transport Corporation, 5505 Mitchelldale, Suite 118, Houston, TX 77092	010789
GMP Holdings, Ltd., P.O. Box SS–5178, Nassau, Bahamas	018663
IMC Maritime Group, 1214 Stonehollow Drive, Kingwood, TX 77339	010613
Jackson Shipping, Inc., 5353 W. Tyson Ave., Bldg. C, Tampa, FL 33611	008866
Kookyang Shipping Co., Ltd., 2nd Floor, Donsung Building, #17–7, 4–KA, Namdaemun-Ro, Chung-Ku, Seoul, South Korea	020957
Last-Land Air & Sea Transport, 11757 Katy Freeway, Suite 1300, Houston, TX 77079	020008
LCI Shipholdings, Inc., 650 Poydras Street, Suite 170, New Orleans, LA 70130	007840
Lineas Agromar S.A., Calle 73 Via 40–350, Apartado Aereo 359 and 5313, Barranquilla, Columbia	001608
Lineas Maritimas Mundiales, S.A., Avenida Nunez de Caceres, Esp. Luis F. Tomen, Santo Domingo, Dominican Republic	018002
Moby Maritime Corporation, P.O. Box 466, Palm City, FL 34991	016284
MP Ferrymar, Inc., P.O. Box 16620, San Juan, PR 00908–6620	017333
MP Line de Mexico, Bosque de Duraznos #69–1105 Torre B, Bosques de las Lomas, Mexico City, Mexico	019817
Olympic International Ltd., Room 1217, World Trade Center Bldg., 2–4–1, Hamamatsucho, Minato-Ku, Tokyo 105, Japan	009647
Omnium Brasil Line, LLC, 2353 St. Johns Bluff Road, South Jacksonville, FL 32246	018968
Overseas Carrier, Inc., 3526 F.M. 528, Suite 104, Friendswood, TX 77546	015799
Overseas Transport Company of 2000, E.A. Creque Bldg., Main Street, Road Town, Tortola, British Virgin Islands	016891
Pan Ocean Shipping Company, Ltd., Dae Han Fire Insurance Building, 51–1 Namchang-Dong, Jungk-Ku, C.P.O. Box 3051, Seoul, South Korea	000989
Phoenix Caribbean Shipping Line, Inc., 2945 Richmond Terrance, Staten Island, NY 10303	017772
POL-Atlantic, LTD., 10 Lutego 24, Gydnia, Poland	014038
Rusflot Shipping Line N.V., 4 Dormasolweg, Willemstad, Curacao, Netherlands Antilles	011301
Sloman Neptun, Langenstrasse 44, Bremen, D–28195, Germany	019484
Star West Joint Service, Albion House, 20 Queen Elizabeth St., London, SE1 2LS	009407
Strong Maritime Corporation, 6th Fl, No. 87 Sung Jiang Road, Taipei, Taiwan 10486	020122
Texas American Shipping Corp., 16800 Greenspoint Drive, Suite S–105S, Houston, TX 77060	005781
Transportacion Maritima Grancolombiana S.A., Carrera 13 A No. 77A–63, SantaFe De Bogota, Bogota, Colombia	014492
Unimar Maritime Limited, 2, Pinat Can St; P.O.B. 8005, Haifa, Israel	014286
Venezuelan Container Line, C.A., Piso 16, Torre El Chorro, Esquina El Chorro, Caracas, Venezuela	007292
VOC Steel Services B.V., Westeriaan 10, 3016 CK Rotterdam, Netherlands	016823
Western Pacific Shipping Company, Malakal Commercial Port, Box 9005, Koror, Palau 96940	017300
Windward Maritime LLC, 300 Pigeon Point Rd., New Castle, DE 19720	019885

[FR Doc. 2011–29226 Filed 11–10–11; 8:45 am]

BILLING CODE 6730–01–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 application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 8, 2011.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309:

1. *HCBF Holding Company, Inc.,* Palm City, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Grand Bankshares, Inc., and Grand Bank and Trust of Florida, both in West Palm Beach, Florida.

B. Federal Reserve Bank of Dallas (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Woodforest Financial Group Employee Stock Ownership Plan (with 401(k) Provisions) (Amended and Restated Effective March 1, 2006), and the related Woodforest Financial Group Employee Stock Ownership Trust;* The Woodlands, Texas; to acquire up to 30 percent of the voting shares of Woodforest Financial Group, Inc., The Woodlands, Texas, and thereby indirectly acquire voting shares of Woodforest National Bank, Houston, Texas.

Board of Governors of the Federal Reserve System, November 8, 2011.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2011–29271 Filed 11–10–11; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission (''FTC'' or ''Commission'').

ACTION: Notice.

SUMMARY: The FTC intends to ask the Office of Management and Budget (''OMB'') to extend through March 31, 2015, the current Paperwork Reduction Act (''PRA'') clearance for the information collection requirements in the Fair Packaging and Labeling Act (''FPLA'') regulations. That clearance expires on March 31, 2012.

DATES: Comments must be filed by January 13, 2012.

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 ''Fair Packaging & Labeling Regs, PRA Comments, P074200'' on your comment and file your comment online at *https://ftcpublic.commentworks.com/ftc/fplaPRA* by following the instructions on the Web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex J), 600 Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Ronald D. Lewis, Supervisory Investigator, Division of Enforcement, Bureau of Consumer Protection, (202) 326–2985, Federal Trade Commission, 600 Pennsylvania Ave. NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Under the PRA, 44 U.S.C. 3501–3521, Federal agencies must get OMB approval for each collection of information they conduct or sponsor. ''Collection of information'' includes agency requests or requirements to submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). As required by the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing paperwork clearance for the FPLA regulations. 44 U.S.C. 3506(c)(2)(A).

The FTC invites comments on: (1) Whether the labeling requirements in the FPLA regulations are necessary, including whether the information will be practically useful; (2) the accuracy of our burden estimates, including whether the methodology and assumptions used are valid; (3) how to improve the quality, utility, and clarity of the labels; and (4) how to minimize the burden of providing the required information to consumers. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before January 13, 2012.

The FPLA, 15 U.S.C. 1451–1461, was enacted to eliminate consumer deception concerning product size and package content. 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 a company that is responsible for the product. The FPLA regulations, 16 CFR parts 500–503, specify how manufacturers, packagers, and distributors of ''consumer commodities'' [1] must do this.

Estimated annual hours burden: 8,574,900 total burden hours (solely relating to disclosure [2]).

The number of companies used in the estimate is drawn from the most recent census available.[3] Commission staff conservatively estimates that approximately 857,490 [4] manufacturers, packagers, distributors, and retailers of consumer commodities make disclosures at an average burden of ten hours per entity, for a total disclosure burden of 8,574,900 hours.

Estimated annual cost burden: $186,932,820 (solely relating to labor costs)

The estimated annual labor cost burden associated with the FPLA disclosure requirements consists of one hour of managerial and/or professional time per covered entity (at an hourly rate of $54), plus two hours of specialized clerical support [5] (at an hourly rate of $26), and seven hours of clerical time per covered entity (at an hourly rate of $16), for a total of $186,932,820 ($218 blended labor cost per covered entity × 857,490 entities).[6]

Total capital and start-up costs are de minimis. For many years, covered businesses have done the packaging and labeling activities that require capital and start-up costs in the ordinary course of business independent of the FPLA regulations. Similarly, firms provide consumers the required information in the ordinary course of business.

Request for Comment: You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before January 13, 2012. Write ''Fair Packaging & Labeling Regs, PRA Comments, P074200'' on your comment. Your comment—including your name and

[1] ''The term consumer commodity or commodity means any article, product, or commodity of any kind or class which is customarily produced or distributed for sale through retail sales agencies or instrumentalities for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which usually is consumed or expended in the course of such consumption or use.'' 16 CFR 500.2(c). For the precise scope of the term's coverage see 16 CFR 500.2(c); 503.2; 503.5. See also *http://www.ftc.gov/os/statutes/fpla/outline.html.*

[2] To the extent that the FPLA-implementing regulations require sellers of consumer commodities to keep records that substantiate ''cents off,'' ''introductory offer,'' and/or ''economy size'' claims, Commission staff believes that most, if not all, of the records that sellers maintain would be kept in the ordinary course of business, regardless of the legal mandates.

[3] See *http://www.census.gov/econ/census0* 7. The 2007 Economic Census data is found at *http://www.factfinder.census.gov/servlet/DatasetMainPageServlet?_program+ECN&_tabId=ECN1&_submenuId=datasets_4&_lang=en&_ts=246366688395.*

[4] Although this figure is not rounded, it is an estimate as it is the sum total of projected industry codes subject to the FPLA. But, even allowing for industries that may apply, the Census data do not separately break out non-household products from household use. Accordingly, the source information is over-inclusive and thus overstates what is actually subject to the FPLA.

[5] ''Specialized clerical support'' consists of computer support personnel who design the appearance and layout of product packaging, including appropriate display of the disclosures required by the FPLA regulations.

[6] Based generally on the National Compensation Survey: Occupational Earnings in the United States, 2010, U.S. Department of Labor, U.S. Bureau of Labor Statistics (May 2011) (''BLS National Compensation Survey'') (citing the mean hourly earnings for management occupations, legal occupations/lawyers, and assorted clerical positions), available at *http://www.bls.gov/ncs/ncswage2010.html.* Clerical estimates are derived from the above source data, applying roughly a mid-range of mean hourly rates for potentially applicable clerical types, e.g., computer operators, data entry and information processing workers.

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 you 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 obtained from any person and which is privileged or confidential'' as provided 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 you 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)).[7] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, 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://www.ftcpublic.commentworks.com/ftc/fplaPRA*, by following the instructions on the Web-based form. In this Notice appears at *http:www.regulations.gov/#!*, you also may file a comment through that Web site.

If you file your comment on paper, write ''Fair Packaging & Labeling Regs, PRA comments, P074200'' on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex J) 600 Pennsylvania Avenue NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at 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 January 13, 2012. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

Willard K. Tom,

General Counsel.

[FR Doc. 2011–29216 Filed 11–10–11; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination—on the dates indicated—of the waiting period provided by law and the premerger notification rules. The listing for each transaction includes the transaction number and the parties to the transaction. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

EARLY TERMINATIONS GRANTED OCTOBER 1, 2011 THROUGH OCTOBER 31, 2011

10/04/2011		
20111415	G	MWI Veterinary Supply, Inc.; William C. Pratt; MWI Veterinary Supply, Inc.
20111434	G	ACE Limited; Penn Millers Holding Corporation; ACE Limited.
10/05/2011		
20111401	G	Cargill, Incorporated; Permira IV L.P. 2; Cargill, Incorporated.
20111425	G	Partners Limited; Brookfield Renewable Power Fund; Partners Limited.
10/07/2011		
20110864	G	Teva Pharmaceuticals Industries Ltd.; Cephalon, Inc.; Teva Pharmaceuticals Industries Ltd.
20111424	G	OCP Trust; Audax Private Equity Fund III, L.P.; OCP Trust.
20111439	G	Centrica plc; PNM Resources, Inc.; Centrica plc.
20111445	G	GenNx360 Capital Partners, L.P.; syncreon Holdings Limited; GenNx360 Capital Partners, L.P.
20111448	G	Nippon Steel Corporation; Sumitomo Metal Industries, Ltd.; Nippon Steel Corporation.
20111450	G	Markel Corporation; WI Holdings Inc.; Markel Corporation.
20111453	G	OGE Energy Corp.; Robert W. Jackson; OGE Energy Corp.

[7] 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), CFR 4.9(c), 16 CFR 4.9(c).

EARLY TERMINATIONS GRANTED OCTOBER 1, 2011 THROUGH OCTOBER 31, 2011—Continued

20111454	G	Platinum Equity Capital Partners II, L.P.; HKW Capital Partners III, L.P.; Platinum Equity Capital Partners II, L.P.
10/11/2011		
20111388	G	European Aeronautic Defence and Space Company EADS N.V.; Apax France VI; European Aeronautic Defence and Space Company EADS N.V.
10/12/2011		
20111443	G	Complete Production Services, Inc.; Michael R. LaFerney; Complete Production Services, Inc.
20111444	G	Complete Production Services, Inc.; Clyde Hinton; Complete Production Services, Inc.
20111446	G	William L. Frost; Rick N. Beard; William L. Frost.
20111452	G	TA XI L.P.; CoSentry.net, LLC; TA XI L.P.
20120005	G	Odyssey Investment Partners Fund IV, LP; BSSI Holdings, LLC; Odyssey Investment Partners Fund IV, LP.
10/13/2011		
20111449	G	Welsh, Carson, Anderson & Stowe XI, L.P.; ABRY Senior Equity II, L.P.; Welsh, Carson, Anderson & Stowe XI, L.P.
10/14/2011		
20111409	G	Clifton L. Thomas; ExxonMobil Oil Corporation; Clifton L. Thomas.
20111457	G	Colfax Corporation; Charter International PLC; Colfax Corporation.
20120002	G	BDT CF Acquisition Vehicle, LLC; Colfax Corporation; BDT CF Acquisition Vehicle, LLC.
20120020	G	Lonza Group Ltd.; Arch Chemicals, Inc.; Lonza Group Ltd.
10/17/2011		
20120004	G	Gores Capital Partners III, L.P.; Genesis Park Telecom Partners, L.P.; Gores Capital Partners III, L.P.
20120010	G	Carlyle Partners V. L.P.; Pharmaceutical Product Development, Inc.; Carlyle Partners V, L.P.
20120016	G	Robert Thomas Gaglardi; Dallas Stars, L.P.; Robert Thomas Gaglardi.
10/18/2011		
20110865	G	Applied Materials, Inc.; Varian Semiconductor Equipment Associates, Inc.; Applied Materials, Inc.
20111419	G	GTCR Fund X/A LP; Mr. Nochi Dankner; GTCR Fund X/A LP.
20111451	G	General Dynamics Corporation; Metro Machine Corp.; General Dynamics Corporation.
20120007	G	International Business Machines Corp.; Q1 Labs Inc.; International Business Machines Corp.
20120021	G	Sun Capital Partners V. L.P.; Wallace K. Tsuha, Jr.; Sun Capital Partners V, L.P.
20120023	G	NeuStar, Inc.; Targus Information Corporation; NeuStar, Inc.
20120024	G	Harvest Partners V., L.P.; OCM Mezzanine Fund II, L.P.; Harvest Partners V., L.P.
20120029	G	Permira IV Continuing L.P. 2; Netafim Ltd.; Permira IV Continuing L.P. 2.
10/19/2011		
20120022	G	Recology Inc. Employee Stock Ownership Plan; CleanScapes, Inc.; Recology Inc. Employee Stock Ownership Plan.
20120032	G	Trilantic Capital Partners IV L.P.; Implus Corporation; Trilantic Capital Partners IV L.P.
10/20/2011		
20111414	G	Pearson plc; Apollo Investment Fund IV, L.P.; Pearson plc.
20120008	G	FR XII Bravo MV, L.P.; Inversion Corporativa IC, S.A.; FR XII Bravo MV, L.P.
20120015	G	Craig O. McCaw; ContentGuard Holdings, Inc.; Craig O. McCaw.
10/21/2011		
20120026	G	Halliburton Company; Pine Brook Capital Partners (Cayman) AV–3 L.P.; Halliburton Company.
20120033	G	RLJ Equity Partners Fund I, L.P.; 2003 Riverside Capital Appreciation Fund, L.P.; RLJ Equity Partners Fund I, L.P.
20120043	G	Colam Entreprendre S.A.; OneSource Distributors Holdings, LLC; Colam Entreprendre S.A.
20120046	G	Gryphon Partners III, L.P.; Sentinel Capital Partners III, L.P.; Gryphon Partners III, L.P.
20120051	G	Monarch Casino & Resort, Inc.; Barry S. Sternlicht; Monarch Casino & Resort, Inc.
20120056	G	AGCO Corporation; Centerbridge Capital Partners, L.P.; AGCO Corporation.
10/24/2011		
20111421	G	Technip S.A.; Global Industries, Ltd.; Technip S.A.
20111441	G	Kerry Group plc; Cargill, Incorporated; Kerry Group plc.
10/25/2011		
20120050	G	J.C. Penney Company, Inc.; Liz Claiborne, Inc.; J.C. Penney Company, Inc.
10/26/2011		
20120003	G	Vista Equity Partners Fund IV, L.P.; The Sage Group plc; Vista Equity Partners Fund IV, L.P.
20120017	G	Trian Partners Strategic Investment Fund, L.P.; Family Dollar Stores, Inc.; Trian Partners Strategic Investment Fund, L.P.

EARLY TERMINATIONS GRANTED OCTOBER 1, 2011 THROUGH OCTOBER 31, 2011—Continued

20120019	G	Getinge AB; Atrium Medical Corporation; Getinge AB.
20120030	G	Tri-State Generation and Transmission Association, Inc.; Starwood Energy Infrastructure; Tri-State Generation and Transmission Association, Inc.
20120038	G	Rock-Tenn Company; Donald T. Kindt; Rock-Tenn Company.
20120047	G	Boise Inc.; Pregis Holding I Corporation; Boise Inc.
20120057	G	Martin Marietta Materials, Inc.; Lafarge S.A.; Martin Marietta Materials, Inc.
20120058	G	Lafarge S.A.; Martin Marietta Materials, Inc.; Lafarge S.A.
10/28/2011		
20110527	G	Healthcare Technology Holdings, Inc.; SDI Health Holdings LLC; Healthcare Technology Holdings, Inc.
20111447	G	Palladium Equity Partners III, L.P.; Prudential Capital Partners II, L.P.; Palladium Equity Partners III, L.P.
20120045	G	Communications Infrastructure Investments, LLC; 360networks Corporation; Communications Infrastructure Investments, LLC.
20120053	G	TTT Holdings, Inc.; John Boyle; TTT Holdings, Inc.
20120054	G	Tunstall Healthcare Group Limited; American Medical Alert Corp.; Tunstall Healthcare Group Limited.
20120055	G	G4S plc; FS Invest; G4S plc.
20120062	G	Steiner Leisure Limited; Ideal Image Development, Inc.; Steiner Leisure Limited.
20120064	G	Vention Medical, Inc.; Christine Bieber Orris; Vention Medical, Inc.
20120066	G	Sonoco Products Company; Metalmark Capital Partners, L.P.; Sonoco Products Company.
20120073	G	The Edward W. Scripps Trust; The McGraw-Hill Companies, Inc.; The Edward W. Scripps Trust.
20120092	G	David S. Blue; Hussey Copper Ltd.; David S. Blue.
10/31/2011		
20120072	G	Loews Corporation; Enterprise Products Partners L.P.; Loews Corporation.
20120080	G	Miraca Holdings Inc.; Mr. David D. Halbert; Miraca Holdings Inc.
20120091	G	H.I.G. Bayside Debt & LBO Fund II, L.P.; Mr. Alexander J. Gallo; H.I.G. Bayside Debt & LBO Fund II, L.P.

FOR FURTHER INFORMATION CONTACT: Renee Chapman, Contact Representative or Theresa Kingsberry, Legal Assistant, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room H–303, Washington, DC 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2011–28982 Filed 11–10–11; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HIT Policy Committee's Workgroup Meetings; Notice of Meetings

AGENCY: Office of the National Coordinator for Health Information Technology, HHS

ACTION: Notice of meetings.

This notice announces forthcoming subcommittee meetings of a federal advisory committee of the Office of the National Coordinator for Health Information Technology (ONC). The meetings will be open to the public via dial-in access only.

Name of Committees: HIT Policy Committee's Workgroups: Meaningful Use Workgroup and Privacy & Security Tiger Team. Other Workgroup meetings TBD.

General Function of the Committee: to provide recommendations to the National Coordinator on a policy framework for the development and adoption of a nationwide health information technology infrastructure that permits the electronic exchange and use of health information as is consistent with the Federal Health IT Strategic Plan and that includes recommendations on the areas in which standards, implementation specifications, and certification criteria are needed.

Date and Time: The HIT Policy Committee Workgroups will hold the following public meetings during December 2011: December 2nd, Privacy & Security Tiger Team, 2:00 to 4 p.m./ET; December 15th, Meaningful Use, 10:00 to 12 p.m./ET. TBD other Workgroups' calls.

Location: All workgroup meetings will be available via Web cast; for instructions on how to listen via telephone or Web visit *http://healthit.hhs.gov.* Please check the ONC Web site for additional information or revised schedules as it becomes available.

Contact Person: Mary Jo Deering, Office of the National Coordinator, HHS, 330 C Street, SW., Washington, DC 20201, (202) 260–1944, Fax: (202) 690–6079, email: *maryjo.deering@hhs.gov.* Please call the contact person for up-to-date information on these meetings. A notice in the **Federal Register** about last minute modifications that affect a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice.

Agenda: The workgroups will be discussing issues related to their specific subject matter, e.g., meaningful use, information exchange, privacy and security, quality measures, governance, or adoption/certification. If background materials are associated with the workgroup meetings, they will be posted on ONC's web site prior to the meeting at *http://healthit.hhs.gov.*

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the workgroups. Written submissions may be made to the contact person on or before two days prior to the workgroup's meeting date. Oral comments from the public will be scheduled at the conclusion of each workgroup meeting. Time allotted for each presentation will be limited to three minutes. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled open public session, ONC will take written comments after the meeting until close of business on that day.

If you require special accommodations due to a disability, please contact Mary Jo Deering at least seven (7) days in advance of the meeting.

ONC is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://healthit.hhs.gov* for procedures

on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App. 2).

Dated: November 7, 2011.

Mary Jo Deering,

Office of Policy and Planning, Office of the National Coordinator for Health Information Technology.

[FR Doc. 2011–29342 Filed 11–10–11; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HIT Policy Committee Advisory Meeting; Notice of Meeting

AGENCY: Office of the National Coordinator for Health Information Technology, HHS.

ACTION: Notice of meeting.

This notice announces a forthcoming meeting of a public advisory committee of the Office of the National Coordinator for Health Information Technology (ONC). The meeting will be open to the public.

Name of Committee: HIT Policy Committee.

General Function of the Committee: to provide recommendations to the National Coordinator on a policy framework for the development and adoption of a nationwide health information technology infrastructure that permits the electronic exchange and use of health information as is consistent with the Federal Health IT Strategic Plan and that includes recommendations on the areas in which standards, implementation specifications, and certification criteria are needed.

Date and Time: The meeting will be held on December 7, 2011, from 10 a.m. to 3 p.m./Eastern Time.

Location: Omni Shoreham Hotel, 2500 Calvert St. NW., Washington, DC 20008. For up-to-date information, go to the ONC Web site, *http://healthit.hhs.gov*

Contact Person: Mary Jo Deering, Office of the National Coordinator, HHS, 330 C Street SW., Washington, DC 20201, (202) 260–1944, Fax: (202) 690–6079, email: *maryjo.deering@hhs.gov* Please call the contact person for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice.

Agenda: The committee will hear reports from its workgroups, including the Meaningful Use Workgroup, and updates from ONC and other Federal agencies. ONC intends to make background material available to the public no later than two (2) business days prior to the meeting. If ONC is unable to post the background material on its Web site prior to the meeting, it will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on ONC's Web site after the meeting, at *http://healthit.hhs.gov.*

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the workgroups. Written submissions may be made to the contact person on or before two days prior to the workgroup's meeting date. Oral comments from the public will be scheduled at the conclusion of each workgroup meeting. Time allotted for each presentation will be limited to three minutes. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled open public session, ONC will take written comments after the meeting until close of business on that day.

Persons attending ONC's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

ONC welcomes the attendance of the public at its advisory committee meetings. Seating is limited at the location, and ONC will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Mary Jo Deering at least seven (7) days in advance of the meeting.

ONC is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://healthit.hhs.gov* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App. 2).

Dated: November 7 2011.

Mary Jo Deering,

Office of Policy and Planning, Office of the National Coordinator for Health Information Technology.

[FR Doc. 2011–29355 Filed 11–10–11; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HIT Standards Committee Advisory Meeting; Notice of Meeting

AGENCY: Office of the National Coordinator for Health Information Technology, HHS

ACTION: Notice of meeting.

This notice announces a forthcoming meeting of a public advisory committee of the Office of the National Coordinator for Health Information Technology (ONC). The meeting will be open to the public.

Name of Committee: HIT Standards Committee.

General Function of the Committee: to provide recommendations to the National Coordinator on standards, implementation specifications, and certification criteria for the electronic exchange and use of health information for purposes of adoption, consistent with the implementation of the Federal Health IT Strategic Plan, and in accordance with policies developed by the HIT Policy Committee.

Date and Time: The meeting will be held on December 14, 2011, from 9 a.m. to 1 p.m./Eastern Time.

Location: Washington Marriott Hotel, 1221 22nd Street NW., Washington, DC. For up-to-date information, go to the ONC Web site, *http://healthit.hhs.gov*.

Contact Person: Mary Jo Deering, Office of the National Coordinator, HHS, 330 C Street SW., Washington, DC 20201, (202) 260–1944, Fax: (202) 690–6079, Email: *maryjo.deering@hhs.gov*. Please call the contact person for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice.

Agenda: The committee will hear reports from its workgroups, including the Implementation Workgroup, and from ONC and other federal agencies. ONC intends to make background material available to the public no later than two (2) business days prior to the meeting. If ONC is unable to post the background material on its Web site prior to the meeting, it will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on ONC's Web site after the meeting, at *http://healthit.hhs.gov*.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the workgroups. Written

submissions may be made to the contact person on or before two days prior to the workgroup's meeting date. Oral comments from the public will be scheduled at the conclusion of each workgroup meeting. Time allotted for each presentation will be limited to three minutes. If the number of speakers requesting to comment is greater than can be reasonably accommodated during the scheduled open public session, ONC will take written comments after the meeting until close of business on that day.

Persons attending ONC's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

ONC welcomes the attendance of the public at its advisory committee meetings. Seating is limited at the location, and ONC will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Mary Jo Deering at least seven (7) days in advance of the meeting.

ONC is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://healthit.hhs.gov* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App. 2).

Dated: November 7, 2011.

Mary Jo Deering,

Office of Policy and Planning, Office of the National Coordinator for Health Information Technology.

[FR Doc. 2011–29356 Filed 11–10–11; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Decision To Evaluate a Petition To Designate a Class of Employees From Brookhaven National Laboratory, Upton, NY, To Be Included in the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HHS gives notice as required by 42 CFR 83.12(e) of a decision to evaluate a petition to designate a class of employees from Brookhaven National Laboratory, Upton, New York, to be included in the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program Act of 2000. The initial proposed definition for the class being evaluated, subject to revision as warranted by the evaluation, is as follows:

Facility: Brookhaven National Laboratory.

Location: Upton, New York.

Job Titles and/or Job Duties: All employees of the Department of Energy, its predecessor agencies, and its contractors and subcontractors.

Period of Employment: January 1, 1980 through December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Stuart L. Hinnefeld, Director, Division of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, *Telephone* (877) 222–7570. Information requests can also be submitted by Email to *DCAS@CDC.GOV.*

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 2011–29312 Filed 11–10–11; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Decision To Evaluate a Petition To Designate a Class of Employees From Sandia National Laboratory, Albuquerque, NM, To Be Included in the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: HHS gives notice as required by 42 CFR 83.12(e) of a decision to evaluate a petition to designate a class of employees from Sandia National Laboratory, Albuquerque, New Mexico, to be included in the Special Exposure Cohort Under the Energy Employees Occupational Illness Compensation Program Act of 2000. The initial proposed definition for the class being evaluated, subject to revision as warranted by the evaluation, is as follows:

Facility: Sandia National Laboratory.

Location: Albuquerque, New Mexico.

Job Titles and/or Job Duties: All personnel who worked in any area.

Period of Employment: January 1, 1963 through May 21, 2011.

FOR FURTHER INFORMATION CONTACT: Stuart L. Hinnefeld, Director, Division of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone (877) 222–7570. Information requests can also be submitted by email to *DCAS@CDC.GOV.*

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 2011–29322 Filed 11–10–11; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: ''Evaluation of ARRA Comparative Effectiveness Research Dissemination Contractor Efforts.'' In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3521, AHRQ invites the public to comment on this proposed information collection.

This proposed information collection was previously published in the **Federal Register** on July 27th, 2011 and allowed 60 days for public comment. No comments were received. The purpose of this notice is to allow an additional 30 days for public comment.

DATES: Comments on this notice must be received by December 14, 2011.

ADDRESSES: Written comments should be submitted to: AHRQ's OMB Desk Officer by fax at (202) 395–6974 (attention: AHRQ's desk officer) or by email at *OIRA_submission@omb.eop.gov* (attention: AHRQ's desk officer).

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@r,AHRQ.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Project

Evaluation of ARRA Comparative Effectiveness Research Dissemination Contractor Efforts

Today, both patients and their health care providers have many options when deciding on a treatment plan. Information available to patients and their health care providers offers great opportunities for informed decision making. However, the volume of information that needs to be reviewed and synthesized can be daunting. To complicate matters, studies may offer conflicting information or have a conflict of interest (*e.g.,* research sponsored by pharmaceutical companies that make drugs). Sorting through conflicting information requires a background in research that most patients do not have, and physicians have limited time to conduct these reviews. Having a neutral third party review research, draw conclusions, and disseminate findings is necessary to ensure effective health care delivery and consumption of quality care.

AHRQ recognizes the need to fill this gap and has taken a lead role in developing mechanisms for reviewing and disseminating Comparative Effectiveness Research (CER) and findings to clinicians, health care decision makers, purchasers/business decision makers, and consumers through its Effective Healthcare Program (EHCP). CER directly compares the benefits, potential risks, and costs of two or more health care interventions. These direct comparisons allow assessments of how well a health care treatment or intervention works under real-world conditions. AHRQ has paid careful attention not only to how studies are conducted but also to how results are communicated to its audiences.

To augment AHRQ's existing CER dissemination efforts performed by the Eisenberg Center and other initiatives, AHRQ is conducting four one-time projects to test other ways to disseminate CER results. These four related projects will test new approaches to CER dissemination and promote awareness of the EHCP. Collectively, dissemination efforts will reach AHRQ's priority audiences of: Clinical decision makers, health care system decision makers, purchasers/business decision makers, public policy decision makers, and consumers/patients.

Through these four projects AHRQ aims to: (1) Educate professional and consumer audiences about CER; (2) inform professional and consumer audiences about AHRQ's EHCP; (3) and inform a wide range of audiences about new EHCP research findings.

This project will evaluate the effectiveness of these four new dissemination efforts. The evaluation has four main goals:

1. Assess the effectiveness of the four dissemination strategies in creating awareness of CER, specific CER topics, and the EHCP.
2. Assess the effectiveness of the four dissemination strategies in fostering knowledge and understanding of CER finding, specific CER topics, and the EHCP.
3. Assess the effectiveness of the four dissemination strategies in promoting utilization, including use of the EHCP materials by consumers and by clinicians in patient care and if usage by clinicians is increasing across time.
4. Assess the effectiveness of the four dissemination strategies in supporting the benefits of using CER, and specific CER topics, for both patients and health care providers.

This study is being conducted by AHRQ through its contractor, IMPAQ International, LLC and its subcontractor, Battelle Memorial Institute, pursuant to AHRQ's statutory authority to conduct and support research on healthcare and on systems for the delivery of such care, including activities with respect to the quality, effectiveness, efficiency, appropriateness and value of healthcare services and with respect to clinical practice, including primary care and practice-oriented research. 42 U.S.C. 299a(a)(1) and (4).

Method of Collection

To achieve project goals the following data collections will be implemented, each of which apply to all of the above-stated goals:

1. Clinician Survey—Conduct three cross-sectional mail surveys with clinicians to measure awareness, understanding, use of the EHCP materials, and benefits of CER. Collecting survey data at multiple time points is critical to assess trends in the outcomes of interest among clinicians and the impact of ongoing and increased dissemination contractor activities. Three data points for the survey will allow us to test if the proportion of clinicians aware of CER and the Effective Healthcare Program is changing over time and if the rate of change is changing. The Survey will be administered at the end of years 1, 3 and 4; the burden for the year 4 data collection is not included in the estimates in Exhibits 1 and 2 since it will be included in a second OMB clearance package to be submitted after year 3.

2. Consumer/Patient Survey—Conduct two cross-sectional telephone surveys with consumers/patients to measure awareness, understanding, use of the EHCP materials, and benefits of CER. Collecting survey data at multiple time points is critical to assess trends in the outcomes of interest among consumers/patients and the impact of ongoing and increased dissemination contractor activities. Two data points for the survey will allow us to test if the proportion of consumers/patients aware of CER and the Effective Healthcare Program is changing over time. The Survey will be administered at the end of years 1 and 3. A short screener questionnaire will be used to identify eligible respondents.

3. Health System Decision Maker Survey—Conduct one cross-sectional telephone survey with health care system decision makers to measure awareness, understanding, use of the EHCP materials, and benefits of CER. The questionnaire and respondent materials for this data collection are not included in this submission since it occurs in year 4 of the project and have not yet been developed. These materials will be submitted in another OMB clearance package in year 3 of this project. This data collection is mentioned here in order to provide an overview of the entire 5 years of the project; it is not included in the burden estimates in Exhibits 1 and 2.

4. Clinician Focus Groups—Conduct six follow-up focus groups with clinicians after the first and third cross-sectional surveys of this audience. The focus groups will be conducted with three clinician segments: (1) Those who report awareness of CER and have self-reported use of CER in their clinical practice; (2) those who report awareness of CER and have self-reported non-use of CER in their clinical practice; and (3) those who report no awareness of CER. One moderator guide will be used for each focus group. By asking the same questions to each clinician segment, who will have been targeted by all four dissemination contractors, differences among answers are more likely to be attributed to the segmentation criteria and eliminate bias through different questions. Two focus groups will be conducted for each of the three segments. The clinician focus groups will be conducted by telephone. The focus groups will be administered at the end of year 2 and during year 5; the burden for the year 5 data collection is not included in the estimates in Exhibits 1 and 2 since it will be included in a second OMB clearance package to be submitted after year 3.

5. Consumer/Patients Focus Groups—Conduct twelve follow-up focus groups with consumers/patients after the first cross-sectional survey of this audience, at the end of year 2 of the project. The focus groups will be conducted with three consumer/patient segments: (1) Those who report awareness of CER and have self-reported use of CER in medical decision making; (2) those who report awareness of CER and have self-reported non-use of CER in medical decision making; and (3) those who report no awareness of CER. Four focus groups will be conducted for each of the three segments. A single screening questionnaire will be used to recruit participants. The consumer/patient focus groups will be conducted by telephone.

6. Health System Decision Maker Focus Groups—Conduct twelve follow-up focus groups with health care system decision makers, after the cross-sectional survey of this audience. The focus groups will be conducted with three decision maker segments: (1) Those who reported awareness of CER and have self-reported use of CER in business decision making; (2) those who reported awareness of CER and have self-reported non-use of CER in business decision making; and (3) those who report no awareness of CER. Four focus groups will be conducted for each of the three segments. The focus groups will be conducted by telephone. The screener, moderator guides, and respondent materials for this data collection are not included in this submission since it occurs in year 5 of the project and have not yet been developed. These materials will be submitted in another OMB clearance package in year 3 of this project. This data collection is mentioned here in order to provide an overview of the entire 5 years of the project; it is not included in the burden estimates in Exhibits 1 and 2.

7. Semi-Structured Interviews—Conduct semi-structured interviews, in year 3 of the project, with 20 individuals in each of the following groups: health care system decision makers, purchasers, and policymakers for a total of 60 interviews. In-depth interviews will be used to determine how people receive and interpret CER-related materials and verbal information, and adopt new behaviors based on information they receive.

AHRQ will use the survey, focus group, and in-depth interview data to assess trends and the effectiveness of the four complementary and different dissemination methods to inform current and future dissemination of the EHCP. Specific attention will be given to changes in audience awareness, understanding, behavior change/use, and benefits of CER. Collecting data at multiple times will enable AHRQ to determine whether increased dissemination contractors' activities over time is associated with any change in CER awareness, knowledge, use, or benefit. Finally, collecting data from five audiences (*i.e.,* clinicians, consumers/patients, health system decision makers, purchasers, and policy makers) will enable AHRQ to assess the effectiveness of its CER-related dissemination efforts among its target populations.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondent's time to participate in this evaluation. The total burden hours are estimated to be 3,760.

Clinician Surveys: The design for the clinician survey consists of three cross sectional waves (only 2 of which are included in the estimates here, as explained in section 1), each wave having 1,926 respondents for a total of 3,852 across the two waves included in this information collection request. The survey will take no longer than 20 minutes to complete.

Consumer/Patient Surveys: The design for the consumer/patient survey consists of two cross-sectional waves, each wave having 1,000 respondents for a total of 2,000 across both waves. The screener will take no longer than 5 minutes to complete. The survey will take no longer than 20 minutes to complete.

Clinician Focus Groups: Six follow-up focus groups with clinicians will be conducted by telephone twice; once after the first and again after the third cross-sectional surveys of this audience (only one of which is included in the estimates here, as explained in section 1). Focus group participants will have completed the survey and will have expressed interest in participating in a telephone focus group. For each of the two rounds of focus groups, twelve clinicians will be recruited for each of six focus groups. Focus groups will last one hour.

Consumer/Patient Focus Groups: Twelve follow-up focus groups with consumer/patients will be conducted by telephone after the first cross-sectional survey of this audience. Focus group participants will have completed the survey and will have expressed interest in participating in a telephone focus group. Eight people will be in each focus group. The screener will take no longer than 5 minutes to complete. Focus group will last approximately 90 minutes.

In-Depth Interviews With Other Key Audiences: In-depth interviews will be conducted with up to 20 representatives in each of three key audiences: (1) Health care system decision makers, (2) purchasers, and (3) policy makers. Respondents located in the metropolitan Washington, DC/Baltimore area will be interviewed in person, and respondents located outside the local area will be interviewed by telephone. Participant recruitment should take no longer than five minutes. The interviews will last one hour.

The estimated annualized cost burden associated with the respondent's time to participate in this evaluation is shown in Exhibit 2. The total cost burden is estimated to be $144,266.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Data collection activity	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
Clinician Survey	3,852	1	20/60	1,284
Consumer/Patient Survey:				
Screener	2,560	1	5/60	214
Survey	2,000	1	20/60	667
Clinician Focus Groups	72	1	60/60	72
Consumer/Patient Focus Groups:				
Screener	120	1	5/60	10
Focus Group	96	1	90/60	144
Semi-structured Interviews with Health System Decision Makers	20	1	60/60	20
Semi-structured Interviews with Purchasers	20	1	60/60	20

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Data collection activity	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
Semi-structured Interviews with Policymakers	20	1	60/60	20
Total	8,760	n/a	n/a	2,451

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Data collection activity	Number of respondents	Total burden hours	Average hourly wage rate *	Total cost burden
Clinician Survey	3,852	1,284	$88.46	$113,583
Consumer/Patient Survey:				
Screener	2,560	214	20.90	4,473
Survey	2,000	667	20.90	13,940
Clinician Focus Groups	72	72	88.46	6,369
Consumer/Patient Focus Groups:				
Screener	120	10	20.90	209
Focus Groups	96	144	20.90	3,010
Semi-structured Interviews with Health System Decision Makers	20	20	43.74	875
Semi-structured Interviews with Purchasers	20	20	46.59	932
Semi-structured Interviews with Policymakers	20	20	43.74	875
Total	8,760	2,451	n/a	144,266

* Based upon the mean of the average wages, National Compensation Survey: Occupational wages in the United States May 2009, ''U.S. Department of Labor, Bureau of Labor Statistics.'' Hourly wage rates for clinicians were estimated using the mean wage for internists (occupation code 29–1063). Hourly wage rates for consumers/patients were estimated using the mean wage for all occupations (occupation code 00–0000) since participants in the consumer groups may have a wide range of jobs and occupations. Hourly wage rates for health system decision makers and policymakers were estimated using the mean wage for medical and health services managers (occupation code 11–9111). Hourly wage rates for purchasers were estimated using the mean wage for purchasing managers (occupation code 11–3061). These rates were obtained in January 2011 at the following Web site: *http://www.bls.gov/oes/current/oes_nat.htm#b29-0000.*

Estimated Annual Costs to the Federal Government

The total cost to the Government for this information collection is $2,719,272 over the five years of the project. Exhibit 3 provides a breakdown of these costs.

EXHIBIT 3—ESTIMATED TOTAL AND ANNUALIZED COST

Cost component	Total cost	Annualized cost
Project Development	$420,055	$84,011
Data Collection Activities	1,452,290	290,458
Data Processing and Analysis, and Reports to AHRQ	141,637	28,327
Project Management	291,706	58,341
Overhead	413,584	82,717
Total	2,719,272	543,854

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ healthcare research and healthcare information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: October 31, 2011.

Carolyn M. Clancy,

Director.

[FR Doc. 2011–28981 Filed 11–10–11; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Agency Information Collection Activities: Proposed Collection; Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

ACTION: 30-Day notice of submission of information collection approval from the Office of Management and Budget and request for comments.

SUMMARY: As part of a Federal Government-wide effort to streamline the process to seek feedback from the public on service delivery, the Administration for Children and Families has submitted a Generic Information Collection Request (Generic ICR): ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery'' to OMB for approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*).

DATES: Comments must be submitted by December 14, 2011.

ADDRESSES: Written comments may be submitted directly to the following: Office of Management and Budget, Paperwork Reduction Project, *Fax:* (202) 395–7285, *EMail: OIRA_SUBMISSION@OMB.EOP.GOV, Attn:* Desk Officer for the Administration for Children and Families.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. *Email address: infocollection@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Abstract: The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between 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 to 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.

The Agency received no comments in response to the 60-day notice published in the **Federal Register** of December 22, 2010 (75 FR 80542).

Below we provide the Administration for Children and Families projected average estimates for the next three years:

Current Actions: New collection of information.

Type of Review: New Collection.

Affected Public: Non-profit organizations, Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

Average Expected Annual Number of activities: 5.

Respondents: 300.

Annual responses: 300.

Frequency of Response: Once per request.

Average minutes per response: 30.

Burden hours: 150 hours.

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.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2011–29281 Filed 11–10–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0776]

Agency Information Collection Activities; Proposed Collection; Comment Request; Reclassification Petitions for Medical Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection requirements for reclassification petitions for medical devices.

DATES: Submit either electronic or written comments on the collection of information by January 13, 2012.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Daniel Gittleson, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, (301) 796–5156, *Daniel.Gittleson@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the

Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Reclassification Petitions for Medical Devices—21 CFR 860.123 (OMB Control Number 0910–0138)—Extension

Under sections 513(e) and (f), 514(b), 515(b), and 520(l) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360c(e) and (f), 360d(b), 360e(b), and 360j(l)) and part 860 (21 CFR part 860), subpart C, FDA has responsibility to collect data and information contained in reclassification petitions. The reclassification provisions of the FD&C Act allow any person to petition for reclassification of a device from any of the three classes, i.e., I, II, and III, to another class. The reclassification procedure regulation requires the submission of specific data when a manufacturer is petitioning for reclassification. This includes a ''Supplemental Data Sheet,'' Form FDA 3427, and a ''Classification Questionnaire,'' Form FDA 3429. Both forms contain a series of questions concerning the safety and effectiveness of the device type. Further, the reclassification content regulation (§ 860.123) requires the submission of valid scientific evidence demonstrating that the proposed reclassification will provide a reasonable assurance of safety and effectiveness of the device type for its indications for use. Thus, the reclassification provisions of the FD&C Act serve primarily as a vehicle for manufacturers to seek reclassification from a higher to a lower class, thereby reducing the regulatory requirements applicable to a particular device type, or to seek reclassification from a lower to a higher class, thereby increasing the regulatory requirements applicable to that device type. If approved, petitions requesting classification from class III to class II or class I provide an alternative route to market in lieu of premarket approval for class III devices. If approved, petitions requesting reclassification from class I or II, to a different class, may increase requirements.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
860.123	6	1	6	500	3,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on the last 3 years, and actual reclassification petitions received, FDA anticipates that six petitions will be submitted each year. The time required to prepare and submit a reclassification petition, including the time needed to assemble supporting data, averages 500 hours per petition. This average is based upon estimates by FDA administrative and technical staff who: (1) Are familiar with the requirements for submission of a reclassification petition, (2) have consulted and advised manufacturers on these requirements, and (3) have reviewed the documentation submitted.

Dated: November 7, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–29255 Filed 11–10–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0015]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Orphan Drugs; Common European Medicines Agency/Food and Drug Administration Application Form for Orphan Medicinal Product Designation (Food and Drug Administration Form 3671)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Orphan Drugs; Common European Medicines Agency/Food and Drug Administration Application Form for Orphan Medicinal Product Designation (FDA Form 3671)'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Jonna Capezzuto, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, (301) 796–3794, *Jonnalynn.Capezzuto@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: On June 29, 2011, the Agency submitted a proposed collection of information entitled ''Orphan Drugs; Common European Medicines Agency/Food and Drug Administration Application Form for Orphan Medicinal Product Designation (FDA Form 3671)'' to OMB for review and clearance under 44 U.S.C. 3507. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information

collection and has assigned OMB control number 0910–0167. The approval expires on October 31, 2014. A copy of the supporting statement for this information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain.*

Dated: November 7, 2011.

David Dorsey,

Acting Associate Commissioner for Policy and Planning.

[FR Doc. 2011–29296 Filed 11–10–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0002]

Advisory Committee for Reproductive Health Drugs; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Advisory Committee for Reproductive Health Drugs.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on January 20, 2012, from 8 a.m. to 4:30 p.m.

Location: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (rm. 1503), Silver Spring, MD 20993–0002. Information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/default.htm;* under the heading ''Resources for You'', click on ''Public Meetings at the FDA White Oak Campus''. Please note that visitors to the White Oak Campus must enter through Bldg. 1.

Contact Person:

Kalyani Bhatt, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, rm. 2417, Silver Spring, MD 20993–0002, (301) 796–9001, FAX: (301) 847–8533, email: *ACRHD@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–(800) 741–8138, (301) 443–0572 in the Washington, DC area), and follow the prompts to the desired center or product area. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: The committee will discuss the benefits and risks of new drug application 22–139, progesterone gel 8%, Columbia Laboratories, Inc., for the proposed indication of ''reduction of risk of preterm birth in women with short uterine cervical length regardless of other risk factors in the mid-trimester of pregnancy.'' The uterine cervix is the mouth of the uterus (or womb) leading into the vagina (or birth canal). The benefit/risk discussion will focus on the adequacy of the demonstration of efficacy in the U.S. population.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before January 10, 2012. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before January 3, 2012. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by January 4, 2012.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Kalyani Bhatt at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: November 7, 2011.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2011–29181 Filed 11–10–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of 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: Heart, Lung, and Blood Initial Review Group; Heart, Lung, and Blood Program Project Review Committee.

Date: December 2, 2011.

Time: 8 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Bethesda Hotel, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Jeffrey H. Hurst, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7208, Bethesda, MD 20892–7924, (301) 435–0303, *hurstj@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: November 7, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–29311 Filed 11–10–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Preclinical Medications Discovery and Abuse Liability Testing (8904).

Date: December 6, 2011.

Time: 9:30 a.m. to 12 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 4227, MSC 9550, 6001 Executive Boulevard, Bethesda, MD 20892–9550, (301) 435–1439, *lf33c.nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Purity Specifications, Storage and Distribution for Medications Development (8903).

Date: January 4, 2012.

Time: 9:30 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 4227, MSC 9550, 6001 Executive Boulevard, Bethesda, MD 20892–9550, (301) 435–1439, *lf33c.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: November 7, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–29310 Filed 11–10–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; NANO Special Panel.

Date: December 5, 2011.

Time: 2 p.m. to 4 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: James J. Li, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, MSC 7849, Bethesda, MD 20892, (301) 806–8065, *lijames@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Aging and Neurodegenerative Disorders.

Date: December 9, 2011.

Time: 1 p.m. to 3 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: 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.*

(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: November 7, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–29307 Filed 11–10–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

Exercise of Authority Under the Immigration and Nationality Act

AGENCY: Office of the Secretary, DHS.

ACTION: Notice of determination.

Authority: 8 U.S.C. 1182(d)(3)(B)(i).

Following consultations with the Secretary of State and the Attorney General, I hereby conclude, as a matter of discretion in accordance with the authority granted to me by section 212(d)(3)(B)(i) of the Immigration and Nationality Act (INA), 8 U.S.C. 1182(d)(3)(B)(i), as amended, as well as the foreign policy and national security interests deemed relevant in these consultations, that subsections 212(a)(3)(B)(iv)(VI)(bb), (cc), and (dd) of the INA, 8 U.S.C. 1182(a)(3)(B)(iv)(VI)(bb), (cc), and (dd), shall not apply with respect to the provision of medical care by an alien, provided that the alien satisfies the relevant agency authority that the alien:

(a) Is seeking a benefit or protection under the INA and has been determined to be otherwise eligible for the benefit or protection;

(b) Has undergone and passed all relevant background and security checks;

(c) Has fully disclosed, to the best of his or her knowledge, in all relevant applications and interviews with U.S. government representatives and agents, the nature and circumstances of any medical care provided and any other activity or association falling within the scope of section 212(a)(3)(B) of the INA, 8 U.S.C. 1182(a)(3)(B);

(d) Has not voluntarily and knowingly provided medical care on behalf of a designated terrorist organization, as described in INA section 212(a)(3)(B)(vi)(I) or (II);

(e) Has not voluntarily and knowingly provided medical care with the intent of furthering the terrorist or otherwise violent activities of an organization or individual;

(f) Poses no danger to the safety and security of the United States; and

(g) Warrants an exemption from the relevant inadmissibility provision in the totality of the circumstances.

Implementation of this determination will be made by U.S. Citizenship and Immigration Services (USCIS), in consultation with U.S. Immigration and Customs Enforcement (ICE), or by U.S. consular officers, as applicable, who shall ascertain, to their satisfaction, and in their discretion, that the particular applicant meets each of the criteria set forth above.

When considering the totality of the circumstances, factors to be considered may include, among others: The purpose, extent, frequency, and nature of the medical care provided; the circumstances under which it was provided; the alien's involvement with the terrorist organization, including past or present membership and role in the organization; the nature of the activities committed by the terrorist organization; the alien's awareness of those activities; and the alien's conduct since providing the medical care.

This exercise of authority may be revoked as a matter of discretion and without notice at any time with respect to any and all persons subject to it. Any determination made under this exercise of authority as set out above can inform but shall not control a decision regarding any subsequent benefit or protection applications, unless such exercise of authority has been revoked.

This exercise of authority shall not be construed to prejudice, in any way, the ability of the U.S. government to commence subsequent criminal or civil proceedings in accordance with U.S. law involving any beneficiary of this exercise of authority (or any other person). This exercise of authority creates no substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

In accordance with section 212(d)(3)(B)(ii) of the INA, 8 U.S.C. 1182(d)(3)(B)(ii), a report on the aliens to whom this exercise of authority is applied, on the basis of case-by-case decisions by the U.S. Department of Homeland Security or by the U.S. Department of State, shall be provided to the specified congressional committees not later than 90 days after the end of the fiscal year.

This determination is based on an assessment related to the national security and foreign policy interests of the United States as they apply to the particular persons described herein and shall not have any application with respect to other persons or to other provisions of U.S. law.

Dated: October 13, 2011.

Janet Napolitano,

Secretary of Homeland Security.

[FR Doc. 2011–29316 Filed 11–10–11; 8:45 am]

BILLING CODE 9110–09–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2011–0105]

DHS Data Privacy and Integrity Advisory Committee

AGENCY: Privacy Office, DHS.

ACTION: Committee Management; Notice of Federal Advisory Committee Meeting.

SUMMARY: The DHS Data Privacy and Integrity Advisory Committee will meet on December 6, 2011, in Washington, DC. The meeting will be open to the public.

DATES: The DHS Data Privacy and Integrity Advisory Committee will meet on Tuesday, December 6, 2011, from 1 p.m. to 5 p.m. Please note that the meeting may end early if the Committee has completed its business.

ADDRESSES: The meeting will be held in the U.S. Citizenship and Immigration Services Tomich Center, 111 Massachusetts Avenue NW. (corner of New Jersey Avenue) Washington, DC 20529.

For information on facilities or services for individuals with disabilities, or to request special assistance at the meeting, contact Martha K. Landesberg, Executive Director, DHS Data Privacy and Integrity Advisory Committee, as soon as possible.

To facilitate public participation, we invite public comment on the issues to be considered by the Committee as listed in the **SUPPLEMENTARY INFORMATION** section below. A public comment period will be held during the meeting from 4 p.m. to 4:30 p.m., and speakers are requested to limit their comments to 3 minutes. If you would like to address the Committee at the meeting, we request that you register in advance by contacting Martha K. Landesberg at the address provided below or sign up at the registration desk on the day of the meeting. The names and affiliations, if any, of individuals who address the Committee are included in the public record of the meeting. Please note that the public comment period may end before the time indicated, following the last call for comments. Written comments should be sent to Martha K. Landesberg, Executive Director, DHS Data Privacy and Integrity Advisory Committee, by December 1, 2011. Persons who wish to submit comments and who are not able to attend or speak at the meeting may submit comments at any time. All submissions must include the Docket Number (DHS–2011–0105) and may be submitted by any *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: PrivacyCommittee@dhs.gov.* Include the Docket Number (DHS–2011–0105) in the subject line of the message.
- *Fax:* (703) 483–2999.
- *Mail:* Martha K. Landesberg, Executive Director, Data Privacy and Integrity Advisory Committee, Department of Homeland Security, Washington, DC 20528.

Instructions: All submissions must include the words ''Department of Homeland Security Data Privacy and Integrity Advisory Committee'' and the Docket Number (DHS–2011–0105). Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

If you wish to attend the meeting, please plan to arrive at the Tomich Center by 12:45 p.m., to allow extra time to be processed through security, and bring a photo I.D.

The DHS Privacy Office encourages you to register for the meeting in advance by contacting Martha K. Landesberg, Executive Director, DHS Data Privacy and Integrity Advisory Committee, at *PrivacyCommittee@dhs.gov.* Advance registration is voluntary. The Privacy Act Statement below explains how DHS uses the registration information you may provide and how you may access or correct information retained by DHS, if any.

Docket: For access to the docket to read background documents or comments received by the DHS Data Privacy and Integrity Advisory Committee, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Martha K. Landesberg, Executive Director, DHS Data Privacy and Integrity Advisory Committee, Department of Homeland Security, Washington, DC 20528, by telephone (703) 235–0780, by fax (703) 235–0442, or by email to *PrivacyCommittee@dhs.gov.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2. The DHS Data Privacy and Integrity Advisory Committee provides advice at the request of the Secretary of Homeland Security and the DHS Chief Privacy Officer on programmatic, policy, operational, administrative, and technological issues within the DHS that relate to personally identifiable information, as well as data integrity and other privacy-related matters. The committee was established by the Secretary of Homeland Security under the authority of 6 U.S.C. 451.

Agenda

During the meeting, the Chief Privacy Officer will provide the Committee an update on the activities of the DHS Privacy Office. In support of the Committee's ongoing advice to the Department on implementing privacy protections in DHS operations, the Committee will also hear and discuss a presentation on the Office of Intelligence & Analysis' implementation of Department privacy policy as well as the Office of Operations' use of media monitoring. During the meeting the Committee will discuss and vote on two draft reports to the Department providing guidance on privacy protections for information sharing within DHS. The draft reports will be posted on the Committee's Web site (*www.dhs.gov/privacy*) in advance of the meeting. If you wish to submit comments on the draft reports, you may do so in advance of the meeting by forwarding them to the Committee at the locations listed under **ADDRESSES**. The agenda will be posted in advance of the meeting on the Committee's Web site at *www.dhs.gov/privacy*. Please note that the meeting may end early if all business is completed.

Privacy Act Statement: DHS's Use of Your Information

Authority: DHS requests that you voluntarily submit this information under its following authorities: The Federal Records Act, 44 U.S.C. 3101; the FACA, 5 U.S.C. App. 2; and the Privacy Act of 1974, 5 U.S.C. 552a.

Principal Purposes: When you register to attend a DHS Data Privacy and Integrity Advisory Committee meeting, DHS collects your name, contact information, and the organization you represent, if any. We use this information to contact you for purposes related to the meeting, such as to confirm your registration, to advise you of any changes in the meeting, or to assure that we have sufficient materials to distribute to all attendees.

We may also use the information you provide for public record purposes such as posting publicly available transcripts and meeting minutes.

Routine Uses and Sharing: In general, DHS will not use the information you provide for any purpose other than the Principal Purposes, and will not share this information within or outside the agency. In certain circumstances, DHS may share this information on a case-by-case basis as required by law or as necessary for a specific purpose, as described in the DHS/ALL–002 Mailing and Other Lists System of Records Notice (November 25, 2008, 73 FR 71659).

Effects of Not Providing Information: You may choose not to provide the requested information or to provide only some of the information DHS requests. If you choose not to provide some or all of the requested information, DHS may not be able to contact you for purposes related to the meeting.

Accessing and Correcting Information: If you are unable to access or correct this information by using the method that you originally used to submit it, you may direct your request in writing to the DHS Deputy Chief FOIA Officer at *foia@dhs.gov.* Additional instructions are available at *http://www.dhs.gov/foia* and in the DHS/ALL–002 Mailing and Other Lists System of Records referenced above.

Mary Ellen Callahan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2011–29211 Filed 11–10–11; 8:45 am]

BILLING CODE 9110–9L–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–3342–EM; Docket ID FEMA–2011–0001]

Connecticut; Emergency and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of an emergency for the State of Connecticut (FEMA–3342–EM), dated October 31, 2011, and related determinations.

DATES: *Effective Date:* October 31, 2011.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 31, 2011, the President issued an emergency declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the Stafford Act), as follows:

I have determined that the emergency conditions in the State of Connecticut resulting from a severe storm during the period of October 29–30, 2011, are of sufficient severity and magnitude to warrant an emergency declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (''the Stafford Act''). Therefore, I declare that such an emergency exists in the State of Connecticut.

You are authorized to provide appropriate assistance for required emergency measures, authorized under Title V of the Stafford Act, to save lives and to protect property and public health and safety, and to lessen or avert the threat of a catastrophe in the designated areas. Specifically, you are authorized to provide assistance for emergency protective measures (Category B), limited to direct Federal assistance, under the Public Assistance program. This assistance excludes regular time costs for subgrantees' regular employees.

Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs. In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal emergency assistance and administrative expenses.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, Department of Homeland Security, under Executive Order 12148, as amended, Stephen M. De Blasio Sr., of FEMA is appointed to act as the Federal Coordinating Officer for this declared emergency.

The following areas of the State of Connecticut have been designated as adversely affected by this declared emergency:

All eight counties in the State of Connecticut for emergency protective measures (Category B), limited to direct

Federal assistance, under the Public Assistance program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2011–29221 Filed 11–10–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4029–DR; Docket ID FEMA–2011–0001]

Texas; Amendment No. 11 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Texas (FEMA–4029–DR), dated September 9, 2011, and related determinations.

DATES: *Effective Date:* November 3, 2011.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Texas is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of September 9, 2011.

Briscoe, Clay, Coryell, Edwards, Hall, Howard, Kimble, Menard, Montague, Nolan, Sutton, and Wise Counties for Public Assistance, including direct federal assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2011–29219 Filed 11–10–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4034–DR; Docket ID FEMA–2011–0001]

Maryland; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Maryland (FEMA–4034–DR), dated September 16, 2011, and related determinations.

DATES: *Effective Date:* October 21, 2011.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Maryland is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of September 16, 2011.

Baltimore County and the City of Baltimore for Public Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2011–29222 Filed 11–10–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4038–DR; Docket ID FEMA–2011–0001]

Maryland; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Maryland (FEMA–4038–DR), dated October 5, 2011, and related determinations.

DATES: *Effective Date:* November 3, 2011.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Maryland is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of October 5, 2011.

Baltimore and Harford Counties for Public Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance

(Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2011–29220 Filed 11–10–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4028–DR; Docket ID FEMA–2011–0001]

Massachusetts; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the Commonwealth of Massachusetts (FEMA–4028–DR), dated September 3, 2011, and related determinations.

DATES: *Effective Date:* October 20, 2011.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Commonwealth of Massachusetts is hereby amended to include the following areas among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of September 3, 2011.

Barnstable, Bristol, Dukes, Norfolk, and Plymouth Counties for Public Assistance, including direct Federal assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2011–29224 Filed 11–10–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4038–DR; Docket ID FEMA–2011–0001]

Maryland; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Maryland (FEMA–4038–DR), dated October 5, 2011, and related determinations.

DATES: *Effective Date:* November 1, 2011.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Maryland is hereby amended to include the following area among those areas determined to have been adversely affected by the event declared a major disaster by the President in his declaration of October 5, 2011.

Howard County for Public Assistance.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2011–29225 Filed 11–10–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4040–DR; Docket ID FEMA–2011–0001]

Puerto Rico; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Puerto Rico (FEMA–4040–DR), dated October 18, 2011, and related determinations.

DATES: *Effective Date:* October 18, 2011.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 18, 2011, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the Commonwealth of Puerto Rico resulting from Tropical Storm María during the period of September 8–14, 2011, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the Commonwealth of Puerto Rico.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance in the designated areas and Hazard Mitigation throughout the Commonwealth. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation and Other Needs Assistance will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Justo Hernández, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the Commonwealth of Puerto Rico have been designated as adversely affected by this major disaster:

The municipalities of Juana Díaz, Naguabo, and Yabucoa for Individual Assistance.

All municipalities within the Commomwealth of Puerto Rico are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2011–29223 Filed 11–10–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4039–DR; Docket ID FEMA–2011–0001]

New Jersey; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of New Jersey (FEMA–4039–DR), dated October 14, 2011, and related determinations.

DATES: *Effective Date:* October 14, 2011.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3886.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 14, 2011, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of New Jersey resulting from the Remnants of Tropical Storm Lee during the period of September 6–11, 2011, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of New Jersey.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, William L. Vogel, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of New Jersey have been designated as adversely affected by this major disaster:

Hunterdon, Mercer, Passaic, Sussex, and Warren Counties for Public Assistance.

All counties within the State of New Jersey are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2011–29227 Filed 11–10–11; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Extension of Agency Information Collection Activity Under OMB Review: Airport Security

AGENCY: Transportation Security Administration, DHS.

ACTION: 30-day Notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0002, abstracted below to OMB for review and approval of an extension of the currently approved collection under the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on August 10, 2011, 76 FR 49503. The collection involves implementing certain provisions of the Aviation and Transportation Security Act and 49 U.S.C. Chapter 449 that relate to the security of persons and property at airports operating in commercial air transportation.

DATES: Send your comments by December 14, 2011. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, OMB. Comments should be addressed to Desk Officer, Department of Homeland Security/TSA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Joanna Johnson, TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011; *telephone* (571) 227–3651; *Email TSAPRA@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

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

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

Title: Airport Security, 49 CFR part 1542.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 1652–0002.

Forms(s): NA.

Affected Public: Airport operators regulated under 49 CFR part 1542.

Abstract: TSA is seeking to renew its OMB control number 1542–0002, Airport Security, 49 CFR part 1542. The information collection is used to determine compliance with 49 CFR part 1542 and to ensure passenger safety and security by monitoring airport operator security procedures. The following information collections and other recordkeeping requirements with which respondent airport operators must comply fall under this OMB control number: (1) Development of an Airport Security Program (ASP) and submission to TSA; (2) submission of ASP amendments to TSA when applicable; (3) collection of data necessary to complete a criminal history records check (CHRC) for those individuals with access to a Security Identification Display Area (SIDA); (4) submission to TSA of identifying information about individuals to whom the airport operator has issued identification media, such as name, address, and country of birth, in order for TSA to conduct a Security Threat Assessment (STA); and (5) recordkeeping requirements associated with records required for compliance with the regulation, and for compliance with Security Directives (SDs).

This information collection is mandatory for airport operators. As part of their security programs, affected airport operators are required to maintain and update, as necessary, records of compliance with the security program provisions set forth in 49 CFR part 1542. This regulation also requires affected airport operators to make their security programs and associated records available for inspection and copying by TSA to verify compliance with transportation security regulations.

TSA also collects identifying information on individuals with unescorted access to a SIDA. Airport operators must ensure that individuals seeking unescorted access authority submit information for and receive a CHRC, as well as submit information so that TSA can conduct an STA. As part of this process, the individual must provide identifying information, including fingerprints. Additionally, airport operators must maintain these records and make them available to TSA for inspection and copying upon request.

Number of Respondents: 445.

Estimated Annual Burden Hours: An estimated 1,606,685 hours annually.

Issued in Arlington, Virginia, on November 8, 2011.

Joanna Johnson,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2011–29329 Filed 11–10–11; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Extension of Agency Information Collection Activity Under OMB Review: TSA Airspace Waiver Program

AGENCY: Transportation Security Administration, DHS.

ACTION: 30-day Notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0033, abstracted below to OMB for review and approval of an extension of the currently approved collection under the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on July 27, 2011, 76 FR 44944. This collection of information allows TSA to conduct security threat assessments on individuals on board aircraft operating in restricted airspace pursuant to an airspace waiver. This collection will enhance aviation security and protect assets on the ground that are within the restricted airspace.

DATES: Send your comments by December 14, 2011. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, OMB. Comments should be addressed to Desk Officer, Department of Homeland Security/TSA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Joanna Johnson, TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011; *telephone* (571) 227–3651; *email TSAPRA@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

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

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

Title: TSA Airspace Waiver.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 1652–0033.

Forms(s): N/A.

Affected Public: Aircraft operators, passengers, and crewmembers.

Abstract: The airspace waiver program allows general aviation U.S. and foreign aircraft operators who undergo security threat assessments to apply for approval to operate in U.S. restricted airspace, including over flying the United States and its territories. TSA is requesting this approval to respond to the needs of the general aviation community and to allow freedom of movement and commerce throughout U.S. airspace. The waiver request requires aircraft operators to provide information about the flight, passengers, and crew members in order for TSA to perform a security threat assessment on each individual.

Number of Respondents: 4,600.

Estimated Annual Burden Hours: An estimated 2,500 hours annually.

Issued in Arlington, Virginia, on November 8, 2011.

Joanna Johnson,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2011–29330 Filed 11–10–11; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Extension of Agency Information Collection Activity Under OMB Review: Law Enforcement Officer Flying Armed Training

AGENCY: Transportation Security Administration, DHS.

ACTION: 30-day Notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0034, abstracted below to OMB for review and approval of an extension of the currently approved collection under the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on August 10, 2011, 76 FR 49504. The collection involves TSA gathering information from Territorial, Tribal, Federal, municipal, county, state, and authorized railroad law enforcement agencies who have requested the Law Enforcement Officer (LEO) Flying Armed training course.

DATES: Send your comments by December 14, 2011. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, OMB. Comments should be addressed to Desk Officer, Department of Homeland Security/TSA, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Joanna Johnson, TSA PRA Officer, Office of Information Technology (OIT), TSA–11, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6011; *telephone* (571) 227–3651; *email TSAPRA@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation is available at *http://www.reginfo.gov.* Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

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

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

Title: Law Enforcement Officer Flying Armed Training.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 1652–0034.

Forms(s): N/A.

Affected Public: Law Enforcement Officers.

Abstract: TSA requires Territorial, Tribal, Federal, municipal, county, state, and authorized railroad law enforcement officers (LEOs) who have a mission need to fly armed to complete the LEO Flying Armed Training under 49 CFR 1544.219. Eligibility is based on requirements stated in 49 CFR 1544.219. TSA will gather information, including agency name, address, and name of each individual who will receive the training, from law enforcement agencies that have requested the LEO Flying Armed training course. Applicant verification ensures that only LEOs with a valid need to fly armed aboard commercial aircraft receive training. Applicants come from Territorial, Tribal, Federal, municipal, county, state, and authorized railroad law enforcement agencies throughout the country. For more information about the program, please see *http://www.tsa.gov/lawenforcement/programs/traveling_with_guns.shtm.*

Number of Respondents: 2,000.

Estimated Annual Burden Hours: An estimated 167 hours annually.

Issued in Arlington, Virginia, on November 8, 2011.

Joanna Johnson,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2011–29327 Filed 11–10–11; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5486–N–27]

Notice of Submission of Proposed Information Collection to OMB Evaluation of the Veterans Homelessness Prevention Demonstration

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The Department of Housing and Urban Development requests review and approval of the Paperwork Reduction Act requirements for the collection of information required to evaluate the Veterans Homelessness Prevention Demonstration (VHPD). The Department solicits public comments on the proposed collection of information to: (1) Enhance the quality, utility, and clarity of the information to be collected; and (2) minimize the burden of the information collection on those who respond; including through the use of appropriate automated collection

techniques or other forms of information technology that will reduce burden.

DATES: *Comments Due Date:* January 13, 2012.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within sixty (60) days from the date of this Notice. Comments should refer to the proposal by name and should be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 Seventh Street SW., Room 8230, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Elizabeth Rudd, Ph.D., Department of Housing and Urban Development, Office of Policy Development and Research, 451 7th Street SW., Room 8120, Washington, DC 20410; *email Elizabeth.C.Rudd@hud.gov;* or *telephone* (202) 402–7607. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the U.S. Department of Housing and Urban Development (HUD) will submit to OMB a request for approval to collect information to evaluate the Veterans Homelessness Prevention Demonstration. The FY 2009 budget for HUD included a $10 million set-aside for a demonstration program ''to test the effectiveness of strategies to prevent veterans from becoming homeless'' (Senate Report No. 110–418). The Senate Report directed HUD to coordinate the demonstration program with the U.S. Department of Veterans Affairs (VA) and the U.S. Department of Labor (DOL). The resulting demonstration program, the Veterans Homelessness Prevention Demonstration (VHPD), is being implemented in five communities. The objectives of the VHPD evaluation are to (1) Examine the most effective ways to identify, reach, and assist veterans who are at-risk of homelessness or are experiencing short-term homelessness; (2) evaluate the extent to which VHPD services and activities meet the needs of veterans experiencing a housing crisis and contribute to their longer-term economic stability and (3) identify barriers to providing prevention services to veterans.

Title of Proposed Notice: Evaluation of the Veterans Homelessness Prevention Demonstration.

Description of Information Collection:

OMB Control Number: XXXX-pending.

Agency Form Numbers: None.

Members of Affected Public: Households and VHPD program staff.

Estimated Total Number of Hours Needed to Prepare the Information Collection Including Number of Respondents, Frequency of Responses, and Hours of Responses:

Form	Respondent sample	Number of respondents	Average time to complete (hours)	Frequency	Total burden (hours)
Baseline Survey (Group 1)	VHPD Households	250	0.42	1	105
Follow-up Survey (Group 1)	VHPD Households	250	0.42	1	105
Follow-up Survey (Group 2)	VHPD Households	500	0.42	1	210
Focus Groups	VHPD clients	80	1.5	1	120
Key Informant Interviews	VHPD Staff	120	1	2	240
Site Reconnaissance Phone Interviews.	VHPD Staff	21	1	1	21
Total Burden Hours					801

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: November 3, 2011.

Raphael W. Bostic,

Assistant Secretary for Policy Development and Research.

[FR Doc. 2011–29358 Filed 11–10–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5486–N–26]

Notice of Proposed Information Collection for Public Comment on the: Study of Public Housing Agencies' Engagement With Homeless Households

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice of proposed information collection.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* January 13, 2012.

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: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street SW., Room 8234, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Anne Fletcher at (202) 402–4347 (this is not a toll-free number). Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Fletcher.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information 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; (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 collection techniques or other forms of information technology that will reduce burden, (*e.g.,* permitting electronic submission of responses).

This Notice also lists the following information:

Title of Proposal: Study of Public Housing Agencies' Engagement with Homeless Households.

OMB Control Number: XXXX-pending.

Description of the need for the information and proposed use: This information collection will support research that will explore and document how public housing agencies (PHAs) currently serve and interact with homeless households, to achieve the following: (1) Establish a baseline level of PHAs' current engagement in serving homeless households, (2) document the practices of PHAs that have an explicit preference for homeless households; (3) explore PHA perceptions of barriers to, or concerns about, increasing the number of homeless households served or targeting homeless households for priority housing assistance; and (4) identify mechanisms to address or eliminate barriers to serving homeless households in mainstream housing assistance, with a focus on the housing choice voucher (HCV) program and public housing. Findings of this study will enable the U.S. Department of Housing and Urban Development (HUD), which funds PHAs, to develop strategies to expand access to mainstream housing opportunities for homeless households that are rooted in evidence and informed by the PHAs themselves. The proposed data collection instrument is a web-based census survey that will be administered to all public housing agencies.

Members of affected public: Public housing agencies.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

ESTIMATED RESPONDENT BURDEN HOURS AND COSTS

Form	Respondent sample	Number of respondents	Average time to complete (minimum, maximum) in minutes	Frequency	Total burden (hours)
Survey	All public housing agencies (N=4,089)	4,089	20 (18–22)	1	1,363

Total Burden Hours—1,363.

Respondent's Obligation: Voluntary.

Status of the proposed information collection: Pending OMB approval.

Authority: Title 13 U.S.C. Section 9(a), and Title 12, U.S.C., Section 1701z–1 *et seq.*

Dated: November 4, 2011.

Raphael W. Bostic,

Assistant Secretary for Policy Development and Research.

[FR Doc. 2011–29359 Filed 11–10–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5480–N–111]

Notice of Submission of Proposed Information Collection to OMB Congregate Housing Services Program

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

This information is necessary to monitor the use of grant funds for the Congregate Housing Services Program (CHSP) according to statutory, regulatory, and administrative requirements.

DATES: *Comments Due Date:* December 14, 2011.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502–0485) 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 fax:* (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Colette Pollard., Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; *email* Colette Pollard at *Colette.Pollard@hud.gov.* or *telephone* (202) 402–3400. 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 the Department of Housing and Urban Development has submitted to OMB a request for approval of the Information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information 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; (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 collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Congregate Housing Services Program.

OMB Approval Number: 2502–0485.

Form Numbers: HUD–90198, HUD–91180–A, SF–269, HUD 91178A, HUD 90006.

Description of the Need for the Information and Its Proposed Use: This information is necessary to monitor the use of grant funds for the Congregate Housing Services Program (CHSP) according to statutory, regulatory, and administrative requirements.

Frequency Of Submission: Semi-annually.

	Number of respondents	Annual responses	×	Hours per response	Burden hours
Reporting burden	55	8		1.563	688

Total Estimated Burden Hours: 688.

Status: Extension without change of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: November 4, 2011.

Colette Pollard,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2011–29360 Filed 11–10–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management (BOEM)

Outer Continental Shelf (OCS) Western Planning Area (WPA) Gulf of Mexico (GOM) Oil and Gas Lease Sale 218

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Final notice of sale.

SUMMARY: On Wednesday, December 14, 2011, BOEM will open and publicly announce bids received for the blocks offered in WPA Oil and Gas Lease Sale 218, in accordance with provisions of the OCS Lands Act (OSCLA) (43 U.S.C. 1331–1356, as amended) and the regulations issued thereunder (30 CFR Part 556). The Final NOS 218 Package (Package) contains information essential to potential bidders, and bidders are charged with the knowledge of the documents contained in the Package.

Sale 218 includes five changes from WPA Sale 210 in August 2009: (1) BOEM revised the initial period of the lease term for blocks in water depths of 400 meters to less than 1,600 meters, (2) the minimum bonus bid has increased for blocks in water depths of 400 meters or deeper, (3) no deepwater royalty suspension provisions will be offered for leases issued from this sale, (4) bids submitted for blocks within the U.S.-Mexico ''Boundary Area'' will be held unopened until on or before 30 days following a Transboundary Agreement is executed or June 14, 2012, as explained below, and (5) the lease form has been revised.

DATES: Public bid reading for the WPA Oil and Gas Lease Sale 218 will begin at 9 a.m., Wednesday, December 14, 2011, at the Louisiana Superdome, 1500 Sugarbowl Drive, New Orleans, Louisiana 70112. All times referred to in this document are local New Orleans times, unless otherwise specified.

ADDRESSES: Interested parties can obtain a Package by contacting BOEM at: Gulf of Mexico Region Public Information Unit, Bureau of Ocean Energy Management, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, (504) 736–2519 or (800) 200–GULF, *http://www.gomr.boem.gov.*

Filing of Bids: Bidders must submit sealed bids to the Regional Director (RD), BOEM Gulf of Mexico Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana, 70123–2394, between 8 a.m. and 4 p.m. on normal working days, and from 8 a.m. to the Bid Submission Deadline of 10 a.m. on Tuesday, December 13, 2011, the day before the lease sale. If bids are mailed, please address the envelope containing all of the sealed bids as follows:

Attention: Chief, Leasing and Financial Responsibility Section, BOEM, Gulf of Mexico Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, *Contains Sealed Bids for WPA Oil and Gas Lease Sale 218, Please Deliver to Ms. Nancy Kornrumpf, 6th Floor, Immediately.*

Please Note: 1. Bidders mailing bid(s) are advised to call Ms. Nancy Kornrumpf at (504) 736–2726 or Ms. Cindy Thibodeaux at (504) 736–2809 immediately after putting their bid(s) in the mail. If the RD receives bids later than the time and date specified above, he will return those bids unopened to bidders. Should an unexpected event such as flooding or travel restrictions be significantly disruptive to bid submission, BOEM may extend the Bid Submission Deadline. Bidders may call (504) 736–0557 or access our BOEM Gulf of Mexico Internet Web site at: http://*www.gomr.boem.gov* for information about the possible extension of the Bid Submission Deadline due to such an event.

2. Blocks or portions of blocks beyond the United States (U.S.) Exclusive Economic Zone are offered based upon provisions of the 1982 Law of the Sea Convention, and could be subject to a continental shelf delimitation agreement between the United States and Mexico. Bidders are advised to refer to the *Bids on Blocks Near U.S.-Mexico Maritime and Continental Shelf Boundary* portion of this document for detailed information pertaining to the opening of bids affecting blocks in this area.

Areas Offered for Leasing: In WPA Oil and Gas Lease Sale 218, BOEM is offering to lease all blocks and partial blocks listed in the document ''List of Blocks Available for Leasing'' included in the Final NOS 218 Package. All of these blocks are shown on the following leasing maps and Official Protraction Diagrams (OPD's):

Outer Continental Shelf Leasing Maps—Texas Map Numbers 1 Through 8
(These 16 maps sell for $2.00 each.)

TX1	South Padre Island Area (revised November 1, 2000).
TX1A	South Padre Island Area, East Addition (revised November 1, 2000).
TX2	North Padre Island Area (revised November 1, 2000).
TX2A	North Padre Island Area, East Addition (revised November 1, 2000).
TX3	Mustang Island Area (revised November 1, 2000).
TX3A	Mustang Island Area, East Addition (revised September 3, 2002).
TX4	Matagorda Island Area (revised November 1, 2000).
TX5	Brazos Area (revised November 1, 2000).
TX5B	Brazos Area, South Addition (revised November 1, 2000).
TX6	Galveston Area (revised November 1, 2000).
TX6A	Galveston Area, South Addition (revised November 1, 2000).
TX7	High Island Area (revised November 1, 2000).
TX7A	High Island Area, East Addition (revised November 1, 2000).
TX7B	High Island Area, South Addition (revised November 1, 2000).
TX7C	High Island Area, East Addition, South Extension (revised November 1, 2000).
TX8	Sabine Pass Area (revised July 1, 2011).

Outer Continental Shelf Leasing Maps—Louisiana Map Numbers 1A, 1B, and 12
(These 3 maps sell for $2.00 each.)

LA1A	West Cameron Area, West Addition (revised February 28, 2007).
LA1B	West Cameron Area, South Addition (revised February 28, 2007).
LA12	Sabine Pass Area (revised February 28, 2007).

Outer Continental Shelf Official Protraction Diagrams
(These 7 diagrams sell for $2.00 each.)

NG14–03	Corpus Christi (revised November 1, 2000).
NG14–06	Port Isabel (revised November 1, 2000).
NG15–01	East Breaks (revised November 1, 2000).
NG15–02	Garden Banks (revised February 28, 2007).
NG15–04	Alaminos Canyon (revised November 1, 2000).
NG15–05	Keathley Canyon (revised February 28, 2007).
NG15–08	Sigsbee Escarpment (revised February 28, 2007).

Please note: A CD–ROM (in ARC/INFO and Acrobat (.pdf) format) containing all of the GOM leasing maps and OPD's, except for those not yet converted to digital format, is available from BOEM Gulf of Mexico Region Public Information Unit for a price of $15. These GOM leasing maps and OPD's are also available for free online in .pdf and .gra format at *http://www.gomr.boem.gov/homepg/lsesale/map_arc.html*.

For the current status of all GOM WPA leasing maps and OPD's, please refer to 66 FR 28002 (published May 21, 2001), 67 FR 60701 (published September 26, 2002), and 72 FR 27590 (published May 16, 2007). In addition, Supplemental Official OCS Block Diagrams (SOBD's) for these blocks are available which contain the U.S. 200 Nautical Mile Limit line and the U.S.-Mexico Maritime and Continental Shelf Boundary line. These SOBD's are also available from BOEM Gulf of Mexico Region Public Information Unit. For additional information, please call the Mapping and Automation Section at (504) 736–5768.

All blocks are shown on these leasing maps and OPD's. The available Federal acreage of all whole and partial blocks in this lease sale is shown in the document ''List of Blocks Available for Leasing'' included in the Final NOS 218 Package. Some of these blocks may be partially leased or deferred, or transected by administrative lines such as the Federal/state jurisdictional line. A bid on a block must include all of the available Federal acreage of that block. Also, information on the unleased portions of such blocks is found in the document ''Western Planning Area, Lease Sale 218, December 14, 2011—Unleased Split Blocks and Available Unleased Acreage of Blocks with Aliquots and Irregular Portions Under Lease or Deferred'' included in the Final NOS 218 Package.

Areas Not Available for Leasing: The following whole and partial blocks are not offered for lease in this sale:

Whole blocks and portions of blocks that lie within the boundaries of the Flower Garden Banks National Marine Sanctuary at the East and West Flower Garden Banks and Stetson Bank (the following list includes all blocks affected by the Sanctuary boundaries):

High Island, East Addition, South Extension (Leasing Map TX7C)
Whole Block: A–398
Portions of Blocks: A–366*, A–367*, A–374*, A–375, A–383*, A–384*, A–385*,
A–388, A–389, A–397*, A–399, A–401
*Leased

High Island, South Addition (Leasing Map TX7B)
Portions of Blocks: A–502, A–513
Garden Banks (OPD NG15–02)
Portions of Blocks: 134, 135

Whole blocks and portions of blocks that lie within the former Western Gap and lie within the 1.4 nautical mile north of the continental shelf boundary between the United States and Mexico:

Keathley Canyon (OPD NG15–05)
Portions of Blocks: 978 through 980
Sigsbee Escarpment (OPD NG15–08)
Whole Blocks: 11, 57, 103, 148, 149, 194
Portions of Blocks: 12 through 14, 58 through 60, 104 through 106, 150

Blocks currently under appeal (although currently unleased, the following blocks are under appeal and bids will not be accepted):
Garden Banks (NG15–02)
Blocks 623 and 624

Note: *Bids on Blocks Near the U.S.-Mexico Maritime and Continental Shelf Boundary.* Due to ongoing negotiations with the Government of Mexico on a Transboundary Agreement, bids submitted on any block in the ''Boundary Area'' as defined below will be segregated from bids submitted on blocks outside the Boundary Area. Bids submitted on blocks outside the Boundary Area will be opened on the date scheduled for sale, as is normally the practice. Bids submitted on blocks in the Boundary Area will not be opened on the date scheduled for the sale, but may be opened at a later date. On or before 30 days following execution of a Transboundary Agreement or June 14, 2012, whichever occurs first, the Secretary of the Interior will determine whether it is in the best interest of the United States either to open bids for Boundary Area blocks or to return the bids unopened.

BOEM will notify bidders at least 30 days prior to bid opening. Bidders on these blocks may withdraw their bids at any time after such notice and prior to 10 a.m. (New Orleans local time) of the day before bid opening. If BOEM does not give notice by 30 days after execution of a Transboundary Agreement or by June 14, 2012, whichever occurs first, BOEM will return the bids unopened. This will provide time for companies to make decisions regarding the next annual Western Gulf of Mexico Planning Area lease sale proposed for 2012, which may also offer blocks in this area. BOEM reserves the right to return these bids at any time. BOEM will not disclose which blocks received bids or the names of bidders in this area unless and until the bids are opened.

In the event the Secretary decides to open bids on blocks in the Boundary Area, BOEM will notify such bidders of the agreement and will describe the terms under which leases in the Boundary Area will be issued. The bidders will have 20 days from the date of the notice to inform BOEM whether they will withdraw their bids on blocks in the Boundary Area or to reaffirm their interest in such a lease subject to the new terms that are necessary to implement the United States' obligations under the Transboundary Agreement.

BOEM currently anticipates that blocks in the Boundary Area that are not awarded as a result of Lease Sale 218 would be reoffered in the following lease sale for the Western Planning Area, tentatively scheduled for later in 2012.

''Transboundary Agreement,'' refers to a possible agreement between the United Mexican States and the United States of America that may be approved by both governments after October 21, 2011 and before June 15, 2012, and that addresses identification and unitization of transboundary hydrocarbon reservoirs, allocation of production, inspections, safety, and environmental protection.

''Boundary Area,'' means an area comprised of the entirety of any and all blocks in the Western Planning Area, that are located or partially located within three nautical miles of the maritime and continental shelf boundary with Mexico, as that maritime boundary is delimited in the November 24, 1970 Treaty to Resolve Pending Boundary Differences and Maintain the

Rio Grande and Colorado River as the International Boundary, the May 4, 1978 Treaty on Maritime Boundaries between the United Mexican States and the United States of America, and the June 9, 2000 Treaty on the Continental Shelf between the Government of the United Mexican States and the Government of the United States of America. The following blocks comprise the Boundary Area:

Port Isabel Blocks—914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 945, 946, 947, 948, 958, 959, 960, 961, 962, 963, 964, 965, 965, 966, 967, 968, 989, 990, 991, and 992

Alaminos Canyon Blocks—881, 882, 883*, 884*, 885, 886, 887, 888, 889*, 890*, 891, 892, 893*, 894*, 895, 896, 897, 898, 899*, 900*, 901*, 902*, 903*, 904*, 905, 906, 907, 908, 909, 910, 911, 912, 925, 926, 927*, 928*, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939*, 940*, 941, 942*, 943*, 944*, 945*, 946, 947*, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 992, 993, 994, 995, 996, 997, 998, 999, 1000, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, and 1009

Keathley Canyon Blocks—925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, and 981

Sigsbee Escarpment Blocks—11, 12, 13, 14, 15, 57, 58, 59, 60, 61, 103, 104, 105, 106, 148, 149, 150, and 194

South Padre Island Blocks—1154, 1163, 1164, 1165, and 1166*

South Padre Island, East Addition Blocks—1155, 1156, 1157, 1158, 1159, 1160, 1161, 1162, A 78, A 79, A 80, A 81, A 82, A 83, A 84, A 85, A 86, A 87, A 89, and A 90

*Leased

Statutes and Regulations: Each lease is issued pursuant to the OCS Lands Act (OCSLA) of August 7, 1953; 43 U.S.C. 1331 et seq., as amended, (hereinafter called ''the Act'') and is subject to the Act, regulations promulgated pursuant thereto, and other statutes and regulations in existence upon the Effective Date of the lease, and those statutes enacted (including amendments to the Act or other statutes) and regulations promulgated thereafter, except to the extent they explicitly conflict with an express provision of this lease. It is expressly understood that subsequent amendments to the Act, other statutes, and regulations which do not explicitly conflict with an express provision of the lease may be made and that the Lessee bears the risk that such amendments may increase or decrease the Lessee's obligations under the lease. BOEM will use a new lease form (BOEM Form 2005 (October 2011)) to convey leases offered in this sale. The new lease form may be viewed on the BOEM Web site at: *http://www.gomr.boem.gov/homepg/boemforms/FormBOEM–2005.pdf.* The lease form will be amended to conform with the specific terms, conditions and stipulations applicable to the individual lease. Addressed below are the terms, conditions, and stipulations applicable to this sale.

Lease Terms and Conditions: Initial periods, extensions of initial periods, minimum bonus bid amounts, rental rates, escalating rental rates for leases with an approved extension of the initial 5-year period, royalty rate, minimum royalty, and royalty suspension provisions, if any, applicable to this sale are noted below. Related areas are depicted on the map ''Final, Western Planning Area, Lease Sale 218, December 14, 2011, Lease Terms and Economic Conditions,'' for leases resulting from this lease sale.

Initial Periods: Initial periods are summarized in the following table.

Water depth in meters	Initial periods
0 to <400	5 years extended to 8 years if a well is spudded during the initial 5-year period targeting hydrocarbons below 25,000 feet true vertical depth (TVD) subsea (SS).
400 to <800	5 years extended to 8 years if a well is spudded during the initial 5-year period.
800 to <1,600	7 years extended to 10 years if a well is spudded during the initial 7- year period.
1,600+	10 years.

Extensions of Initial Periods:

1. The 5-year initial period for a lease in water depths of less than 400 meters may be extended to 8 years if a well, targeting hydrocarbons below 25,000 feet TVD SS, is spudded within the 5-year initial period. The 3-year extension will be granted in cases where the well is drilled to a target below 25,000 feet TVD SS and may also be granted in cases where the well targets but does not reach a depth below 25,000 feet TVD SS due to mechanical or safety reasons.

In order for the 5-year initial period to be extended to 8 years, the lessee is required to submit to the Bureau of Safety and Environmental Enforcement (BSEE) GOM Regional Supervisor for Production and Development, within 30 days after completion of the drilling operation, a letter providing the well number, spud date, information demonstrating the target below 25,000 feet TVD SS, and if applicable, any safety or mechanical problems encountered that prevented the well from reaching a depth below 25,000 feet TVD SS. The Regional Supervisor must concur in writing that the conditions have been met to extend the initial period 3 years. The Regional Supervisor will provide written confirmation of any lease extension within 30 days of receipt of the letter provided.

A lease that has earned a 3-year extension by spudding a well during the 5-year initial period with a hydrocarbon target below 25,000 feet TVD SS, confirmed by BSEE, will not be eligible for a suspension for that same period under the regulations at 30 CFR 250.175 because the lease is not at risk of expiring.

2. The 5-year initial period for a lease in water depths of 400 meters to less than 800 meters issued from this sale will be extended to 8 years if a well is spudded within the initial 5-year period; otherwise, the lease expires on its own terms.

In order for the 5-year initial period to be extended to 8 years, the lessee is required to submit to the appropriate BSEE District Manager, within 30 days after spudding a well, a letter providing the well number, spud date, and requesting confirmation of a 3-year extension of the initial period. The District Manager will review the request and make a determination. A written response will be sent to the lessee documenting the District Manager's decision within 30 days of receipt of the request. For an extension to be granted, the District Manager must concur in writing that the conditions have been met to extend the initial period 3 years.

3. The 7-year initial period for a lease in water depths of 800 meters to less than 1,600 meters issued from this sale will be extended to 10 years if a well is spudded within the initial 7-year period; otherwise, the lease expires on its own terms.

In order for the 7-year initial period to be extended to 10 years, the lessee is

required to submit to the appropriate District Manager, within 30 days after spudding a well, a letter providing the well number, spud date, and requesting confirmation of a 3-year extension of the initial period. The District Manager will review the request and make a determination. A written response will be sent to the lessee documenting the District Manager's decision within 30 days of receipt of the request. For an extension to be granted, the District Manager must concur in writing that the conditions have been met to extend the lease term 3 years.

Minimum Bonus Bid Amounts: A bonus bid will not be considered for acceptance unless it provides for a cash bonus in the amount of $25 or more per acre or fraction thereof for blocks in water depths of less than 400 meters, or $100 or more per acre or fraction thereof for blocks in water depths of 400 meters or deeper; to confirm the exact calculation of the minimum bonus bid amount for each block, see ''List of Blocks Available for Leasing,'' contained in the Final NOS 218 Package. Please note that bonus bids must be in whole dollar amounts (*i.e.,* BOEM will disregard partial dollar amounts).

Rental Rates: Annual rental rates are summarized in the following table:

RENTAL RATES PER ACRE OR FRACTION THEREOF

Water depth in meters	Years 1–5	Years 6, 7, and 8+
0 to < 200	$7.00	$14.00, $21.00, $28.00.
200 to < 400	11.00	22.00, 33.00, 44.00.
400 to < 800	11.00	16.00.
800+	11.00	16.00.

Escalating Rental Rates for Leases with an Approved Extension of the Initial Period: Any lease in water depths less than 400 meters and granted a 3-year extension beyond the 5-year initial period as provided above will pay an escalating rental rate as shown above. The escalating rental rates after the 5th year for blocks in less than 400 meters will become fixed and no longer escalate if another well is spudded during the 3-year extended term of the lease that targets hydrocarbons below 25,000 feet TVD SS, and BOEM concurs that such a well has been spudded. In this case, the rental rate will become fixed at the rental rate in effect during the lease year in which the additional well was spudded.

Royalty Rate: 18.75 percent.

Minimum Royalty: $7.00 per acre or fraction thereof per year for blocks in water depths of less than 200 meters and $11.00 per acre or fraction thereof per year for blocks in water depths of 200 meters or deeper.

Royalty Suspension Provisions: Leases with royalty suspension volumes (RSV), are authorized under existing BSEE rules at 30 CFR part 203 and BOEM rules at 30 CFR part 560.

Deep and Ultra-Deep Gas Royalty Suspensions

A lease issued as a result of this sale may be eligible for royalty relief for deep and ultra-deep wells pursuant to 30 CFR 203.0 and 30 CFR 203.30–203.49. The regulations provide deep gas incentives in two ways. First, they provide an RSV of 35 billion cubic feet of natural gas for certain wells completed in a drilling depth category (20,000 feet TVD SS or deeper) for leases in 0 to less than 400 meters of water. Second, they offer RSVs to leases in 200 to less than 400 meters of water that are the same as the RSVs that were previously offered in shallower water *i.e.,* in zero to 200 meters of water. These RSV incentives are conditional on applicable price thresholds and require that wells completed from 15,000 to 20,000 feet TVD SS on leases in 200 to less than 400 meters of water must begin production before May 3, 2013.

Deepwater Royalty Suspensions

No deepwater royalty suspension provisions will be offered for leases issued from this sale.

Lease Stipulations: The map ''Final, Western Planning Area, Lease Sale 218, December 14, 2011, Stipulations and Deferred Blocks'' depicts those blocks on which one or more of four lease stipulations apply: (1) Topographic Features; (2) Military Areas; (3) Law of the Sea Convention Royalty Payment; (4) Protected Species. The texts of the stipulations are contained in the document ''Lease Stipulations, Western Planning Area, Oil and Gas Lease Sale 218, Final Notice of Sale'' included in this Final NOS 218 Package. In addition, the ''List of Blocks Available for Leasing,'' contained in the Final NOS 218 Package identifies for each listed block the lease stipulations applicable to that block.

Information to Lessees: The Final NOS 218 Package contains ''Information To Lessees'' document that provides information on certain issues pertaining to this oil and gas lease sale.

Method of Bidding: For each block bid upon, a bidder must submit a separate signed bid in a sealed envelope. The outside of the envelope should be labeled ''Sealed Bid for Oil and Gas Lease Sale 218, not to be opened until 9 a.m., Wednesday, December 14, 2011.'' The submitting company's name, its GOM company number, the map name, map number, and block number should be clearly identified on the outside of the envelope.

The sealed bid should list the total amount of the bid in a whole dollar amount, as well as, the sale number, the sale date, the submitting company's name, its GOM company number, the map name, map number, and the block number clearly identified. The information required on the bid(s) and the bid envelope(s) are specified in the document ''Bid Form and Envelope'' contained in the Final NOS 218 Package. A blank bid form has been provided therein for convenience and may be copied and filled in. The Final NOS 218 Package includes a sample bid envelope for reference.

The Final NOS 218 Package also includes the Telephone Numbers/Addresses of Bidders Form. BOEM requests that bidders provide this information in the suggested format prior to or at the time of bid submission. The Telephone Numbers/Addresses of Bidders Form should not be enclosed inside the sealed bid envelope.

BOEM published a list of restricted joint bidders for this lease sale in the **Federal Register** at 76 FR 67759 on November 2, 2011. Please also refer to joint bidding provisions at 30 CFR 556.41 for additional information. All bidders must execute all documents in conformance with signatory authorizations on file in BOEM Gulf of Mexico Region Adjudication Section. Designated signatories must be authorized to bind their respective legal business entities (e.g., a corporation, partnership, or LLC) and must have an incumbency certificate setting forth the authorized signatories on file with the

GOM Region Adjudication Section. Bidders submitting joint bids must include on the bid form the proportionate interest of each participating bidder, stated as a percentage, using a maximum of five decimal places (*e.g.,* 33.33333 percent) with total interest equaling 100 percent. BOEM may require bidders to submit other documents in accordance with 30 CFR 556.46. BOEM warns bidders against violation of 18 U.S.C. 1860 prohibiting unlawful combination or intimidation of bidders. Bidders are advised that BOEM considers the signed bid to be a legally binding obligation on the part of the bidder(s) to comply with all applicable regulations, including payment of one-fifth of the bonus bid on all high bids. A statement to this effect must be included on each bid form (see the document ''Bid Form and Envelope'' contained in the Final NOS 218 Package).

Withdrawal of Bids: Once submitted, bid(s) may not be withdrawn unless the RD receives a written request for withdrawal from the company who submitted the bid(s), prior to 10 a.m. on Tuesday, December 13, 2011. This request must be typed on company letterhead and must contain the submitting company's name, its company number, the map name/number and block number of the bid(s) to be withdrawn. The request must be in conformance with signatory authorizations on file in BOEM Gulf of Mexico Region Adjudication Section. Signatories must be authorized to bind their respective legal business entities (e.g., a corporation, partnership, or LLC) and must have an incumbency certificate setting forth the authorized signatories on file with BOEM GOM Region Adjudication Section. The name and title of said signatory must be typed under the signature block on the withdrawal letter. Upon the RD's, or his designee's, approval of such requests, he will indicate his approval by affixing his signature and date to the submitting company's request for withdrawal.

Rounding: The following procedure must be used to calculate the minimum bonus bid, annual rental, and minimum royalty: Round up to the next whole acre if the block acreage contains a decimal figure prior to calculating the minimum bonus bid, annual rental, and minimum royalty amounts. The appropriate rate per acre is applied to the whole (rounded up) acreage.

The bonus bid must be in whole dollar amounts and greater than or equal to the minimum bonus bid. The appropriate minimum bid per-acre rate is applied to the whole (rounded up) acreage and the resultant calculation is rounded up to the next whole dollar amount if the calculation results in any cents. The minimum bonus bid calculation, including all rounding, is shown in the document ''List of Blocks Available for Leasing'' included in the Final NOS 218 Package.

Bonus Bid Deposit: Each bidder submitting an apparent high bid must submit a bonus bid deposit to the Office of Natural Resources Revenue (ONRR) equal to one-fifth of the bonus bid amount for each such bid. All payments must be electronically deposited into an interest-bearing account in the U.S. Treasury (account information provided in the Electronic Funds Transfer (EFT) instructions found on the BOEM Web site at: *http://gomr.boem.gov/homepg/lsesale/218/EFT-Inst-June 20-2011.pdf*) by 11 a.m. Eastern Time the day following bid reading (no exceptions). Under the authority granted by 30 CFR 556.46(b), BOEM requires bidders to use electronic funds transfer procedures for payment of one-fifth bonus bid deposits for Lease Sale 218, following the detailed instructions contained on the Payment Information Web page that may be found on the ONRR Web site at: *http://www.onrr.gov/FM/PayInfo.htm*. Acceptance of a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States. If a lease is awarded, ONRR requests that only one transaction be used for payment of the four-fifths bonus bid amount and the first year's rental.

Note: *Certain bid submitters (i.e.,* those that are NOT currently an OCS mineral lease record title holder or designated operator OR those that have ever defaulted on a one-fifth bonus bid payment (EFT or otherwise)) *are required to guarantee (secure) their one-fifth bonus bid payment prior to the submission of bids.* For those who must secure the EFT one-fifth bonus bid payment, one of the following options may be used: (1) Provide a third-party guarantee; (2) amend bond coverage; (3) provide a letter of credit; or (4) provide a lump sum payment in advance via EFT. The EFT instructions specify the requirements for each option.

Withdrawal of Blocks: The United States reserves the right to withdraw any block from this lease sale prior to issuance of a written acceptance of a bid for the block.

Acceptance, Rejection, or Return of Bids: The United States reserves the right to reject any and all bids. In any case, no bid will be accepted, and no lease for any block will be awarded to any bidder, unless the bidder has complied with all requirements of this Notice, including those set forth in the documents contained in the associated Final NOS 218 Package and applicable regulations; the bid is the highest valid bid; and the amount of the bid has been determined to be adequate by the authorized officer. Any bid submitted that does not conform to the requirements of this Notice, the Act, and other applicable regulations may be returned to the bidder submitting that bid by the RD and not be considered for acceptance. The Attorney General may also review the results of the lease sale prior to the acceptance of bids and issuance of leases for anti-trust issues.

To ensure that the Government receives a fair return for the conveyance of lease rights for this lease sale, high bids will be evaluated in accordance with BOEM bid adequacy procedures. A copy of current procedures, ''Modifications to the Bid Adequacy Procedures'' at 64 FR 37560 on July 12, 1999, can be obtained from the BOEM Gulf of Mexico Region Public Information Unit or via the BOEM Gulf of Mexico Region Internet Web site at: *http://www.gomr.boem.gov/homepg/lsesale/174/174BIDAD.PDF*. In the existing bid adequacy procedures, water depth categories in the Gulf of Mexico are specified as (1) less than 800 meters and (2) 800 meters or more. Per 64 FR 37560, if different water depth categories are used for a Gulf of Mexico sale, they will be specified in the sale's final notice. For Sale 218, the water depth categories are specified as (1) less than 400 meters and (2) 400 meters or more.

Successful Bidders: The BOEM requires each company that has been awarded a lease to execute all copies of the lease (Form BOEM–2005 (October 2011), as amended), pay by EFT the balance of the bonus bid amount and the first year's rental for each lease issued in accordance with the requirements of 30 CFR 218.155; and satisfy the bonding requirements of 30 CFR part 556, subpart I, as amended.

Affirmative Action: The BOEM requests that, prior to bidding, the bidder file Equal Opportunity Affirmative Action Representation Form BOEM 2032 (October 2011) and Equal Opportunity Compliance Report Certification Form BOEM 2033 (October 2011) in the BOEM Gulf of Mexico Region Adjudication Section. This certification is required by 41 CFR part 60 and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967. In any event, prior to the execution of any lease contract, both forms are required to be on file for the bidder in the GOM Region Adjudication Section.

Geophysical Data and Information Statement: Pursuant to 30 CFR 251.12,

BOEM has a right to access geophysical data and information collected under a permit in the OCS.

Every bidder submitting a bid on a block in Sale 218, or participating as a joint bidder in such a bid, must submit at the time of bid submission a Geophysical Data and Information Statement (GDIS) in a separate and sealed envelope, identifying any enhanced or reprocessed geophysical data and information generated or used as part of the decision to bid or participate in a bid on the block (including the use of Controlled Source Electromagnetics, Gravity, etc.). The data identified in the GDIS should clearly identify whether the data or information are multi-client (speculative) data sets available directly from geophysical contractors or exclusive (proprietary) data sets specially processed for or by bidders. In addition, the GDIS should clearly identify the data type (2–D or 3–D, pre-stack or post-stack and time or depth); areal extent (*i.e.,* number of line miles for 2–D or number of blocks for 3–D) and migration algorithm (Wave Equation Migration, Reverse Time Migration, etc.) of the data and information. The statement must also include the name, phone number and full address of a contact person, and an alternate, who are both knowledgeable about the information and data listed and available for 30 days post-sale, the processing company, date processing was completed, owner of the original data set (who initially acquired the data), original data survey name and permit number. BOEM reserves the right to query about alternate data sets and to quality check and compare the listed and alternative data sets to determine which data set most closely meets the needs of the fair market value determination process.

The statement must also identify each block upon which the bidder submitted a bid or participated as a partner in a bid, but for which it did *not* use enhanced or reprocessed pre- or post-stack geophysical data and information as part of the decision to bid or to participate in the bid. The GDIS must be submitted, even if no enhanced geophysical data and information were used in bid preparation for the block.

In the event a company supplies any type of data to BOEM, that company must meet the following requirements to qualify for reimbursement:

1. The company must be registered with the Central Contractor Registration (CCR). The initial registration is valid for one year and must be updated annually thereafter. The Web site for registering is: *http://www.ccr.gov*. This is a requirement that was implemented on October 1, 2003, and requires all entities doing business with the Government to complete a business profile in the CCR. Payments are made electronically based on the banking information contained in the CCR. Therefore, if the company is not actively registered in the CCR, BOEM *will not* be able to reimburse or pay that company for any data supplied.

2. Effective May 1, 2011, the Department of Interior is requiring all of its agencies and bureaus to use the Department of Treasury's Internet Payment Platform (IPP) for electronic invoicing. The company must enroll at the IPP Web site if it has not already done so. Access will then be granted to use IPP for submitting requests for payment. When a request for payment is submitted, it must include the assigned Purchase Order Number on the request.

3. In addition, the company must complete an on-line Representations and Certifications application at *www.bpn.gov*. Even though the company may have never provided this information previously, it must now do so in order to do business with the Government or receive reimbursement.

Note: The GDIS Information Table can be submitted digitally on a CD or DVD as an Excel Spreadsheet.

Force Majeure: The BOEM Regional Director of the GOM Region has the discretion to change any date, time, and/or location specified in the Final NOS 218 Package in case of a force majeure event that the RD deems may interfere with the carrying out of a fair and proper lease sale process. Such events may include, but are not limited to, natural disasters (earthquakes, hurricanes, and floods), wars, riots, and acts of terrorism, fire, strikes, civil disorder or other events of a similar nature. In case of such events, bidders should call (504) 736–0557 or access our Web site at: *http://www.gomr.boem.gov* for information about any changes.

Dated: November 8, 2011.

Tommy P. Beaudreau,

Director, Bureau of Ocean Energy Management.

[FR Doc. 2011–29340 Filed 11–10–11; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

Gulf of Mexico (GOM), Outer Continental Shelf (OCS), Western Planning Area (WPA), Oil and Gas Lease Sale for the 2007–2012 5-Year OCS Program

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Notice of Availability (NOA).

SUMMARY: BOEM has prepared a ROD on an oil and gas lease sale tentatively scheduled for December 14, 2011 for WPA Lease Sale 218, which is the final WPA lease sale in the 2007–2012 5-Year OCS Program. The proposed sale is in the GOM WPA off the States of Texas and Louisiana. In preparing its decision, BOEM considered alternatives to the Proposed Action and the impacts as presented in the Final Supplemental Environmental Impact Statement (SEIS) and all comments received throughout the NEPA process. The Final SEIS updated the environmental and socioeconomic analyses for WPA Lease Sale 218, originally evaluated in the GOM OCS Oil and Gas Lease Sales: 2007–2012; WPA Sales 204, 207, 210, 215, and 218; Central Planning Area (CPA) Sales 205, 206, 208, 213, 216, and 222, Final EIS (OCS EIS/EA MMS 2007–018) (Multisale EIS), completed in April 2007 and updated the environmental and socioeconomic analyses for WPA Lease Sale 218 in the GOM OCS Oil and Gas Lease Sales: 2009–2012; CPA Sales 208, 213, 216, and 222; WPA Sales 210, 215, and 218; Final SEIS (OCS EIS/EA MMS 2008–041) (2009–2012 Supplemental EIS), completed in September 2008. BOEM has selected the proposed action, identified as the Agency's preferred alternative (Alternative A) in the Final SEIS, and will offer for lease all unleased blocks within the WPA for oil and gas operations, except whole and partial blocks within the boundary of the Flower Garden Banks National Marine Sanctuary and whole and partial blocks in the Western Gap buffer area.

SUPPLEMENTARY INFORMATION: On June 18, 2010, the Minerals Management Service (MMS) was renamed the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE). Effective October 1, 2011, BOEMRE was reorganized and separated into two separate bureaus, BOEM and the Bureau of Safety and Environmental Enforcement (BSEE). BOEM is responsible for managing development of the nation's offshore resources in an environmentally and economically

responsible way. BOEM's functions include: leasing, plan administration, environmental studies, NEPA analysis, resource evaluation, economic analysis, and renewable energy. BSEE is responsible for enforcing safety and environmental regulations. BSEE functions include: All field operations including permitting and inspections, research, offshore regulatory programs, oil spill response, and training and environmental compliance.

BOEMRE developed the Final EIS for WPA Lease Sale 218 in order to consider new circumstances and information available since publication of the prior EIS's or arising from, among other things, the *Deepwater Horizon* event and spill. In this Final EIS, BOEMRE evaluated three alternatives:

Alternative A—The Proposed Action: This is the Agency's preferred alternative. This alternative would offer for lease all unleased blocks within the WPA for oil and gas operations, except whole and partial blocks within the boundary of the Flower Garden Banks National Marine Sanctuary and whole and partial blocks in the Western Gap buffer area. The WPA sale area encompasses about 28.7 million acres. Approximately 18.3 million ac (64 percent) of the WPA sale area is currently unleased. The estimated amount of resources projected to be developed as a result of the proposed WPA lease sale is 0.222–0.423 billion barrels of oil (BBO) and 1.495–2.647 trillion cubic feet (Tcf) of gas.

Alternative B—The Proposed Action Excluding the Unleased Blocks Near Biologically Sensitive Topographic Features: This alternative would offer for lease all unleased blocks in the WPA, as described for the proposed action (Alternative A), with the exception of any unleased blocks subject to the Topographic Features Stipulation.

Alternative C—No Action: This is the cancellation of the proposed WPA lease sale. The opportunity for development of the estimated 0.222–0.423 BBO and 1.495–2.647 Tcf of gas that could have resulted from the proposed WPA lease sale would be precluded or postponed. Any potential environmental impacts resulting from the proposed lease sale would not occur or would be postponed.

After careful consideration, BOEM has selected the proposed action, identified as the Agency's preferred alternative (Alternative A) in the Final SEIS. BOEM's selection of the preferred alternative reflects an orderly resource development with protection of the human, marine, and coastal environments while simultaneously ensuring that the public receives an equitable return for these resources and that free-market competition is maintained.

Record of Decision Availability: To obtain a single printed or CD–ROM copy of the ROD for WPA Lease Sale 218, you may contact the BOEM, GOM OCS Region, Public Information Office (MS 5034), 1201 Elmwood Park Boulevard, Room 250, New Orleans, Louisiana 70123–2394 (1–800–200–GULF). An electronic copy of the ROD is available at the BOEM's Internet Web site at *http://www.gomr.boemre.gov/homepg/regulate/environ/nepa/nepaprocess.html.*

FOR FURTHER INFORMATION CONTACT: For more information on the ROD, you may contact Mr. Gary D. Goeke, BOEM, GOM OCS Region, 1201 Elmwood Park Boulevard (MS 5410), New Orleans, Louisiana 70123–2394. You may also contact Mr. Goeke by telephone at (504) 736–3233.

Authority: This NOA is published pursuant to the regulations (40 CFR part 1506) implementing the provisions of the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.* (1988)).

Dated: November 8, 2011.

Tommy P. Beaudreau,

Director, Bureau of Ocean Energy Management.

[FR Doc. 2011–29343 Filed 11–10–11; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2010–N174; 20124–1112–0000–F2]

Draft Environmental Assessment and Safe Harbor Agreement for the Houston Toad Within Nine Texas Counties

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; receipt of application.

SUMMARY: The Environmental Defense Fund (Applicant) has applied to the U.S. Fish and Wildlife Service (Service) for an enhancement of survival permit pursuant to a section of the Endangered Species Act of 1973, as amended. The requested permit, which is for a period of 30 years, would authorize incidental take of the endangered Houston toad (*Bufo houstonensis*) as a result of conservation actions, land management, and other land-use activities. We invite the public to review and comment on the permit application and the associated draft Safe Harbor Agreement (Agreement).

DATES: Written comments should be received on or before January 13, 2012.

ADDRESSES: You may submit comments or requests for copies or more information by any of the following methods. You may request hard copies or a CD–ROM of the documents.

- *Email: Edith_Erfling@fws.gov.* Include ''Clear Lake Ecological Services Field Office draft Houston Toad Programatic SHA/draft EA'' in the subject line of the message.
- *Fax:* [Attn: Field Supervisor], (281) 488–5882.
- *U.S. Mail:* 17629 El Camino Real, Suite 211, Houston, Texas 77058.
- *In-Person Drop-off, Viewing, or Pickup:* Call (281) 286–8282 to make an appointment (necessary for view/pickup only) during regular business hours at 17629 El Camino Real, Suite 211, Houston, Texas 77058. For more information on locations for viewing or obtaining documents, see ''Public Availability of Documents'' under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Marty Tuegel, at the Service's Southwest Regional Office, P.O. Box 1306, Albuquerque, New Mexico 87103 (505) 248–6651).

SUPPLEMENTARY INFORMATION: Under a Safe Harbor Agreement, participating property owners voluntarily undertake management activities to enhance, restore, or maintain habitat benefiting species listed under the Endangered Species Act. Safe Harbor Agreements encourage private and other non-Federal property owners to implement conservation efforts for listed species by assuring property owners they will not be subjected to increased property use restrictions as a result of increased target species abundance due to their efforts to improve conditions for listed species on their property. Application requirements and issuance criteria for enhancement of survival permits through Safe Harbor Agreements are found in 50 CFR 17.22 and 17.32.

Non-Federal landowners within Austin, Bastrop, Burleson, Colorado, Lavaca, Lee, Leon, Milam, and Robertson Counties, Texas, may be enrolled under the proposed Agreement if it is approved by entering into a Cooperative Agreement with the Applicant. The Cooperative Agreement will include: (1) A map of the property and its legal location; (2) the portion of the property to be enrolled and its acreage; (3) a description of the habitat types that occur on the portion of the property to be enrolled, including

accurate descriptions of vegetation, water features, and soil types; (4) current land use practices and existing development; and (5) a detailed account of conservation activities to be undertaken on the portion of the property to be enrolled. After signing a Cooperative Agreement, landowners will receive a certificate of inclusion to document landowners' participation in the Safe Harbor Agreement and convey incidental take authorization from the Applicant to certificate recipients. The Applicant will be responsible for annual monitoring and reporting related to implementation of the Safe Harbor Agreement and Cooperative Agreements and fulfillment of their provisions.

We have worked with the Applicant to design conservation activities expected to have a net conservation benefit to the Houston toad within the nine Texas counties to be covered under this proposed Agreement. These conservation activities include: (1) Brush management to create desired understory conditions and facilitate restoration of native ground cover; (2) forest enhancement/restoration to create favorable canopy conditions; (3) prescribed burning to restore, create, and maintain desired understory and ground cover conditions; (4) enhancement of existing breeding ponds to provide habitat for breeding adults and emerging toadlets; (5) control of red imported fire ants to maximize successful toadlet survival; (6) creation of new breeding ponds; and (7) headstarting and/or reintroduction of captively bred Houston toads (see section 5 ''Conservation Activities'' in the draft Agreement).

These conservation activities are expected to: (1) Enhance Houston toad foraging and hibernating habitat; (2) create and enhance Houston toad breeding and toadlet emergence habitat; (3) facilitate Houston toad dispersal through the creation and enhancement of habitat linkages throughout the species' range; (4) increase Houston toad population numbers through headstarting and reintroduction; and (5) facilitate viable, self-sustaining Houston toad subpopulations.

The incidental take of toads may occur from: (1) Habitat management actions conducted in accordance with the conservation activities in the Agreement, (2) ongoing land use activities that may have an increased chance of taking a toad if toad numbers increase, as expected, and (3) cessation of the conservation activities, return to baseline activities; if enrolled landowners exercise their authorization to do so under the permit.

The impacts of permit issuance and implementation on the human environment are analyzed within the draft Environmental Assessment, in compliance with the National Environmental Policy Act of 1969.

Section 9 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) prohibits ''taking'' of threatened or endangered species. However, the Service, under limited circumstances, may issue permits to take threatened and endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authorities

We provide this notice pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), its implementing regulations (50 CFR 17.22), and the National Environmental Policy Act (42 CFR 4371 *et seq.*).

Authority: 16 U.S.C. 1531 *et seq.*

Dated: October 13, 2011.

Joy E. Nicholopoulos,

Acting Regional Director, Southwest Region, Fish and Wildlife Service.

[FR Doc. 2011–29044 Filed 11–10–11; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–R–2011–N199; 1261–0000–81680–W5]

Otay River Estuary Restoration Project, South San Diego Bay Unit of the San Diego Bay National Wildlife Refuge, California; Environmental Impact Statement

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent; request for public comment.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), intend to prepare an environmental impact statement (EIS) for the proposed Otay River Estuary Restoration Project. The proposed project involves the restoration of 66.4 acres of estuarine (subtidal and intertidal) wetland habitat within the western terminus of the Otay River, part of the San Diego Bay National Wildlife Refuge. This notice advises the public that we intend to gather information necessary to prepare an EIS, pursuant to the National Environmental Policy Act (NEPA). We encourage the public and other agencies to participate in the NEPA scoping process by sending written suggestions and information on the issues and concerns that should be addressed in the draft EIS, including the range of alternatives, appropriate mitigation measures, and the nature and extent of potential environmental impacts.

DATES: To ensure that we have adequate time to evaluate and incorporate suggestions and other input, we must receive your comments on or before January 6, 2012.

ADDRESSES: Send your comments or requests for more information by any one of the following methods.

Email: Otay_NOI@fws.gov. Please include ''Otay Estuary NOI'' in the subject line of the message.

Fax: Attn: Brian Collins, (619) 476–9149.

U.S. Mail: Brian Collins, U.S. Fish and Wildlife Service, San Diego National Wildlife Refuge Complex, P.O. Box 2358, Chula Vista, CA 91912.

FOR FURTHER INFORMATION CONTACT: Brian Collins, Refuge Manager (619) 575–2704, extension 302), or Andy Yuen, Project Leader (619) 476–9150, extension 100).

SUPPLEMENTARY INFORMATION:

Background

In 2006, we completed a Comprehensive Conservation Plan (CCP) and EIS/Record of Decision (ROD) to guide the management of the San Diego Bay National Wildlife Refuge over a 15-year period (71 FR 64552, November 2, 2006). The wildlife and habitat management goal of the selected management alternative in the CCP for the South San Diego Bay Unit is to ''protect, manage, enhance, and restore * * * coastal wetlands * * * to benefit the native fish, wildlife, and plant species supported within the South San Diego Bay Unit.'' One of the strategies identified to meet this goal is to restore native habitats in the Otay River floodplain. The proposed restoration project represents step-down restoration planning for the western portion of the Otay River floodplain. The site-specific EIS for this project will tier from the programmatic EIS and ROD prepared for the CCP.

Funding for the proposed restoration is being provided by the Poseidon Resources Carlsbad Desalination Project, in order to implement their Marine Life Mitigation Plan (MLMP), which is required to fulfill part of their mitigation requirement for the desalination project. On November 15, 2007, the California Coastal Commission approved a Coastal Development Permit (CDP No. E–06–013) for the Poseidon desalination facility in Carlsbad, San Diego County. As part of that approval, the Commission required Poseidon to implement a Marine Life Mitigation Plan (MLMP).

In early 2010, Poseidon submitted an initial proposal to the California Coastal Commission identifying possible mitigation sites. The submittal compared about a dozen potential sites in the Southern California Bight and concluded that the Otay River floodplain portion of the San Diego Bay NWR was most suited to provide the type and amount of mitigation the MLMP required. California Coastal Commission staff and members of its Scientific Advisory Panel reviewed Poseidon's analysis and concurred that the Otay River floodplain site was most likely to meet the MLMP requirements and objectives. Final site selection required approval by both the California Coastal Commission and the San Diego Regional Water Quality Control Board (Control Board).

On February 9, 2011, the California Coastal Commission unanimously approved the Otay River floodplain site, and the site was approved by the Control Board on March 9, 2011. The MLMP requirements and objectives are consistent with the goals and objectives set forth in our CCP for the Otay River floodplain.

Prior to implementation of the restoration project, the California Coastal Commission must approve a Coastal Development Permit (CDP) for the proposed restoration. In accordance with the California Environmental Quality Act, the CDP process is exempt from the requirement of preparing an environmental impact report. The Commission's staff report and findings related to the CDP application for the project will be the environmental analysis document prepared under the Commission's certified regulatory program. The Commission will allow sufficient opportunity during the CDP process for public review and comment.

Proposed Project

We propose to convert approximately 67 acres of disturbed uplands within the western portion of the Otay River floodplain to functional estuarine habitats, including subtidal wetlands and intertidal salt marsh and mudflat habitat. Upland buffers to be provided around portions of the restored wetlands would be planted with native upland and wetland/upland transitional vegetation. The major goals of the project are to protect, manage, enhance, and restore open water coastal wetlands and native upland to benefit native fish, wildlife, and plant species supported within the South San Diego Bay Unit of the San Diego Bay NWR and to provide habitat for migratory shorebirds and other salt marsh-dependent species.

The project site, which is located within the City of San Diego to the west of Interstate 5 between Main Street to the north and Palm Avenue to the south, is included entirely within an area managed by the Service as a National Wildlife Refuge. The eastern portion of the site is owned by the Service in fee title, while the western portion is leased to the Service by the State Lands Commission.

In order to restore estuarine habitat in the Otay River floodplain, we have initially estimated that approximately 75 acres would need to be graded to provide both the wetland and upland components of the proposed restoration. To achieve elevations appropriate for supporting the desired estuarine habitat types, excavation of 3 to 11 feet of soil over an area of approximately 65 acres would be required, generating an estimated 750,000 to 1 million cubic yards of material, some of which will be used on site, while the remainder will be transported off site to an approved disposal site. The proposed wetlands would be tidally connected to San Diego Bay via the existing Otay River channel. Additional grading to deepen and potentially widen the Otay River channel from the western edge of the project site out to the mouth of the river may also be needed, pending hydraulic modeling.

Public Comment

We are furnishing this notice in accordance with section 1501.7 of the NEPA implementing regulations, to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. The Service is currently developing a range of restoration alternatives to be analyzed in the draft EIS, and we invite written comments from interested parties to ensure identification of the full range of alternatives, issues, and concerns. Information gathered through this scoping process will assist us in developing a range of alternatives. A detailed description of the proposed action and alternatives will be included in the EIS. The EIS will also address the direct, indirect, and cumulative impacts of the alternatives on environmental resources and identify appropriate mitigation measures for adverse environmental effects.

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can 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.

In addition to providing written comments, the public is encouraged to attend a public scoping meeting to provide us with suggestions and information on the scope of issues and alternatives to consider when drafting the EIS. A public scoping meeting will be held in San Diego County, California, in the fall of 2011. We will mail a separate announcement to the public with the exact date, time, and location of the public scoping meeting. Requests to be contacted about the scoping meeting should be directed to Brian Collins (see **ADDRESSES**). We will accept both oral and written comments at the scoping meeting.

NEPA Compliance

We will conduct environmental review in accordance with the requirements of NEPA, as amended (42 U.S.C. 4321 *et seq.*), its implementing regulations (40 CFR parts 1500–1508), other applicable regulations, and our procedures for compliance with those regulations. We anticipate that a draft EIS will be available for public review in the spring of 2012.

Alexandra Pitts,

Regional Director, Pacific Southwest Region.

[FR Doc. 2011–29265 Filed 11–10–11; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMT926000–L19100000–BJ0000–LRCME1G04814]

Notice of Filing of Plats of Survey; South Dakota

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM Montana State Office, Billings, Montana, on December 14, 2011.

DATES: Protests of the survey must be filed before December 14, 2011 to be considered.

ADDRESSES: Protests of the survey should be sent to the Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669.

FOR FURTHER INFORMATION CONTACT: Marvin Montoya, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669, telephone (406) 896–5124 or (406) 896–5009, *Marvin-Montoya@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: This survey was executed at the request of the Sisseton Agency, through the Acting Regional Director, Great Plains Region, Bureau of Indian Affairs and was necessary to determine trust and tribal lands.

The lands we surveyed are:

5th Principal Meridian, South Dakota

T. 124 N., R. 53 W.

The plat, in two sheets, representing the dependent resurvey of a portion of the subdivisional lines, a portion of the subdivision of section 15, and the adjusted 1981 meanders of Pickerel Lake, through former Lot 10, section 15, and the survey of five metes and bounds parcels situated in former Lot 10, section 15, Township 124 North, Range 53 West, Fifth Principal Meridian, South Dakota, was accepted October 28, 2011. We will place a copy of the plat, in two sheets, and related field notes we described in the open files. They will be available to the public as a matter of information. If the BLM receives a protest against this survey, as shown on this plat, in two sheets, prior to the date of the official filing, we will stay the filing pending our consideration of the protest. We will not officially file this plat, in two sheets, until the day after we have accepted or dismissed all protests and they have become final, including decisions or appeals.

Authority: 43 U.S.C. Chap. 3.

James D. Claflin,

Chief Cadastral Surveyor, Division of Resources.

[FR Doc. 2011–29331 Filed 11–10–11; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNM940000. L1420000.BJ0000]

Notice of Filing of Plats of Survey, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of Plats of Survey.

SUMMARY: The plats of survey described below are scheduled to be officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, thirty (30) calendar days from the date of this publication.

SUPPLEMENTARY INFORMATION:

New Mexico Principal Meridian, New Mexico (NM)

The plat, representing the dependent resurvey and survey, in Township 23 North, Range 13 West, of the New Mexico Principal Meridian, accepted September 30, 2011, for Group 963 NM.

The plat, in three sheets, representing the dependent resurvey and survey, in Township 24 North, Range 11 West, of the New Mexico Principal Meridian, accepted September 30, 2011, for Group 963 NM.

The plat, representing the dependent resurvey and survey, in Township 25 North, Range 11 West, of the New Mexico Principal Meridian, accepted September 30, 2011, for Group 963 NM.

The plat, representing the dependent resurvey and survey, in Township 24 North, Range 12 West, of the New Mexico Principal Meridian, accepted September 30, 2011, for Group 963 NM.

The plat, in six sheets, representing the dependent resurvey and survey, in Township 24 North, Range 13 West, of the New Mexico Principal Meridian, accepted September 30, 2011, for Group 963 NM.

The plat, in two sheets, representing the dependent resurvey and survey, in Township 23 North, Range 12 West, of the New Mexico Principal Meridian, accepted September 30, 2011, for Group 963 NM.

The plat, representing the dependent resurvey and survey, in Township 24 North, Range 12 West, of the New Mexico Principal Meridian, accepted September 30, 2011, Supplemental Plat NM.

The plat, representing the dependent resurvey and survey, in Township 24 North, Range 12 West, of the New Mexico Principal Meridian, accepted October 26, 2011, Supplemental Plat NM.

The plat, representing the dependent resurvey and survey, in Township 8 North, Range 2 East, of the New Mexico Principal Meridian accepted September 30, 2011, for Group 1110 NM.

The plat, representing the dependent resurvey and survey, in Township 7 North, Range 3 East, of the New Mexico Principal Meridian accepted September 30, 2011, for Group 1109 NM.

The plat, representing the dependent resurvey and survey, in Township 10 North, Range 3 East, of the New Mexico Principal Meridian accepted August 12, 2011, for Group 1106.

Sixth Principal Meridian, Kansas (KS)

The plat, representing the dependent resurvey and survey in Township 33 South, Range 41 West, of the Sixth Principal Meridian, accepted August 4, 2011, for Group 37 KS.

The plat, representing the dependent resurvey and survey in Township 33 South, Range 42 West, of the Sixth Principal Meridian, accepted August 8, 2011, for Group 36 KS.

Indian Meridian, Oklahoma (OK)

The plat, in two sheets, representing the dependent resurvey and survey in Township 21 North, Range 9 East, of the Indian Meridian, accepted October 26, 2011, for Group 200 OK.

The plat, in six sheets, representing the dependent resurvey and survey in Township 12 North, Range 21 East, of the Indian Meridian, accepted September 30, 2011, for Group 66 OK.

The plat, in four sheets, representing the dependent resurvey and survey in Township 11 North, Range 21 East, of the Indian Meridian, accepted September 30, 2011, for Group 66 OK.

The plat, in four sheets, representing the dependent resurvey and survey in Township 12 North, Range 20 East, of the Indian Meridian, accepted September 30, 2011, for Group 67 OK.

The plat, representing the dependent resurvey and survey in Township 12 North, Range 16 West, of the Indian Meridian, accepted October 28, 2011, for Group 206 OK.

FOR FURTHER INFORMATION CONTACT: These plats will be available for inspection in the New Mexico State Office, Bureau of Land Management, 301 Dinosaur Trail, Santa Fe, New

Mexico. Copies may be obtained from this office upon payment. Contact Marcella Montoya at (505) 954–2097, or by email at *Marcella_Montoya@nm.blm.gov*, for assistance.

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.

These plats are to be scheduled for official filing 30 days from the notice of publication in the **Federal Register**, as provided for in the BLM Manual Section 2097—Opening Orders. Notice from this office will be provided as to the date of said publication. If a protest against a survey, in accordance with 43 CFR 4.450–2, of the above plats is received prior to the date of official filing, the filing will be stayed pending consideration of the protest.

A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

A person or party who wishes to protest against any of these surveys must file a written protest with the Bureau of Land Management New Mexico State Director stating that they wish to protest.

A statement of reasons for a protest may be filed with the Notice of protest to the State Director or the statement of reasons must be filed with the State Director within thirty (30) days after the protest is filed.

Robert A. Casias,

Deputy State Director, Cadastral Survey/ GeoSciences.

[FR Doc. 2011–29321 Filed 11–10–11; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NER–HPPC–8471; 1843–PAGR–409]

Environmental Impact Statement and General Management Plan, Paterson Great Falls National Historical Park, NJ

AGENCY: National Park Service, Interior.

ACTION: Notice of intent.

SUMMARY: The National Park Service (NPS) announces its intent to prepare a General Management Plan and Environmental Impact Statement (GMP/EIS) for Paterson Great Falls National Historical Park (NHP), New Jersey.

In the park's enabling legislation, Congress established the Paterson Great Falls NHP Advisory Commission to advise in the development and implementation of the GMP. The Paterson Great Falls NHP Advisory Commission will be involved early in the planning process and will remain actively involved throughout the development of the plan. Prepared by planners in the NPS Northeast Region, with assistance from advisors and consultants, the GMP/EIS will propose a long-term approach to managing Paterson Great Falls NHP.

DATES: The place and time of public scoping meetings will be announced by the NPS and noticed in local newspapers serving the area. Scoping and other periodic public meeting notices and information regarding the GMP/EIS will also be placed on the NPS Planning, Environment and Public Comment (PEPC) Web site (*http://parkplanning.nps.gov/pagr*) for continuing public review and comment.

ADDRESSES: Information related to ongoing public involvement opportunities will be provided online at the Paterson Great Falls NHP Web site (*http://www.nps.gov/pagr*) and on the NPS PEPC Web site (*http://parkplanning.nps.gov/pagr*). Requests to be added to the project mailing list may be made electronically through the Paterson Great Falls NHP Web site or by directing requests to the contact listed below.

FOR FURTHER INFORMATION CONTACT: Helen Mahan, Community Planner/ Team Leader, National Park Service, Park Planning and Special Studies, 200 Chestnut Street, Philadelphia, PA 19106, *Telephone:* (215) 597–6483.

SUPPLEMENTARY INFORMATION: Consistent with applicable laws and regulations, the park's mission, and NPS policy, alternatives will be developed to guide the management of the site over the next 15 to 20 years. The alternatives will incorporate various zoning and management prescriptions to ensure resource protection and public enjoyment of the site. Following the process outlined under NEPA, a Draft GMP/EIS will be issued for public review and comment that evaluates the alternatives and analyzes the environmental consequences that could result from implementing any of the alternatives. Once all comments have been reviewed, a Final GMP/EIS identifying the agency's preferred alternative will be released for a 30-day no-action period, followed by a Record of Decision signed by the Northeast Regional Director selecting the alternative that will be implemented as the final approved GMP for Paterson Great Falls NHP.

The public is invited to express views and to identify issues and concerns about the long-term management of Paterson Great Falls NHP early in the process through public meetings and other media; and will have an opportunity to review and comment on a draft GMP/EIS. Public scoping meetings will be scheduled and will consist of a discussion of the GMP/EIS process, including ways that the public can be involved in providing and receiving information, and reviewing and commenting upon the draft GMP/EIS.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: November 4, 2011.

Gay Vietzke,

Deputy Regional Director for Park Operations, Northeast Region, National Park Service.

[FR Doc. 2011–29206 Filed 11–10–11; 8:45 am]

BILLING CODE 4310–25–P

DEPARTMENT OF THE INTERIOR

National Park Service

[4400–SZM]

Gettysburg National Military Park Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Notice of meetings.

SUMMARY: This notice sets forth the dates of April 19, 2012 and September 6, 2012 of the Gettysburg National Military Park Advisory Commission.

DATES: The public meetings will be held on April 19, 2012 and September 6, 2012 from 7 p.m. to 9 p.m.

Location: The meetings will be held at the Ford Education Center in the Gettysburg National Military Park Museum and Visitor Center, 1195 Baltimore Pike, Gettysburg, Pennsylvania 17325.

Agenda: The April 19, 2012 and September 6, 2012 meetings will consist of the Election of the Chair and Vice-Chair, Operational Updates on Park Activities which will consist of Historic Landscape Rehabilitation, Park Projects, FY12 Appropriations and the Citizens Open Forum where the public can make comments and ask questions on any park activity.

FOR FURTHER INFORMATION CONTACT: Bob Kirby, Superintendent, Gettysburg National Military Park, 1195 Baltimore Pike, Suite 100, Gettysburg, Pennsylvania 17325.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning agenda items. The statement should be addressed to the Gettysburg National Military Park Advisory Commission, 1195 Baltimore Pike, Suite 100, Gettysburg, Pennsylvania 17325.

Dated: November 1, 2011.

Bob Kirby,

Superintendent, Gettysburg NMP/Eisenhower NHS.

[FR Doc. 2011–29205 Filed 11–10–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

[Docket No. ONRR–2011–0009]

Agency Information Collection Activities: Submitted for Office of Management and Budget Review; Comment Request

AGENCY: Office of Natural Resources Revenue, Interior.

ACTION: Notice of an extension of a currently approved information collection.

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), the Office of Natural Resources Revenue (ONRR) is notifying the public that we have submitted to the Office of Management and Budget (OMB) an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under 30 CFR part 1218. This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements.

DATES: Submit written comments on or before December 14, 2011.

ADDRESSES: Submit written comments by either FAX (202) 395–5806 or email (*OIRA_Docket@omb.eop.gov*) directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (OMB Control Number 1012–0008).

Please also submit a copy of your comments to ONRR by one of the following methods:

- Electronically go to *http://www.regulations.gov*. In the entry titled ''Enter Keyword or ID,'' enter ONRR–2011–0009, and then click search. Follow the instructions to submit public comments. We will post all comments.
- Mail comments to Hyla Hurst, Regulatory Specialist, Office of Natural Resources Revenue, P.O. Box 25165, MS 61013C, Denver, Colorado 80225. Please reference ICR 1012–0008 in your comments.
- Hand-carry comments or use an overnight courier service. Our courier address is Building 85, Room A–614, Denver Federal Center, West 6th Ave. and Kipling St., Denver, Colorado 80225. Please reference ICR 1012–0008 in your comments.

FOR FURTHER INFORMATION CONTACT: Hyla Hurst, telephone (303) 231–3495, or email *hyla.hurst@onrr.gov*. You may also contact Hyla Hurst to obtain copies, at no cost, of (1) the ICR, (2) any associated forms, and (3) the regulations that require the subject collection of information. You may also review the information collection request online at *http://www.reginfo.gov/public/do/PRAMain*.

SUPPLEMENTARY INFORMATION: *Title:* 30 CFR part 1218, Collection of Monies Due the Federal Government.

OMB Control Number: 1012–0008.

Bureau Form Number: Form ONRR–4425.

Abstract: The Secretary of the U.S. Department of the Interior is responsible for mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). The Secretary is required by various laws to manage mineral resource production from Federal and Indian lands and the OCS, collect the royalties and other mineral revenues due, and distribute the funds collected in accordance with applicable laws. The Secretary also has a trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. The ONRR performs the minerals revenue management functions for the Secretary and assists the Secretary in carrying out the Department's trust responsibility for Indian lands. Public laws pertaining to mineral leases on Federal and Indian lands are posted on our Web site at *http://www.onrr.gov/Laws_R_D/PublicLawsAMR.htm.*

Minerals produced from Federal and Indian leases vary greatly in the nature of occurrence, production, and processing methods. When a company or an individual enters into a lease to explore, develop, produce, and dispose of minerals from Federal or Indian lands, that company or individual agrees to pay the lessor a share in an amount or value of production from the leased lands. The lessee is required to report various kinds of information to the lessor relative to the disposition of the leased minerals. Such information is generally available within the records of the lessee or others involved in developing, transporting, processing, purchasing, or selling such minerals. The information collected includes data necessary to ensure that production is accurately valued and royalties are appropriately paid.

This ICR covers unique reporting circumstances including (1) cross-lease netting in calculation of late-payment interest; (2) designation of a designee; and (3) and tribal permission for recoupment on Indian oil and gas leases.

Cross-Lease Netting in Calculation of Late-Payment Interest

Regulations at 1218.54 require ONRR to assess interest on unpaid or underpaid amounts. The ONRR distributes these interest revenues to states, Indian tribes, and the U.S. Treasury, based on financial lease distribution information. Current regulations at 1218.42 provide that an overpayment on a lease or leases may be offset against an underpayment on a different lease or leases to determine the net payment subject to interest, when certain conditions are met. This is called cross-lease netting. However, sections 6(a), (b), and (c) of the Royalty Simplification and Fairness Act (RSFA) require ONRR to pay interest on lessees' Federal oil and gas overpayments made on or after February 13, 1997 (6 months after the August 13, 1996, enactment of RSFA). The ONRR implemented this RSFA provision in 1997 and began calculating interest on both underpayments and overpayments for Federal oil and gas leases, making the cross-lease netting provisions at 1218.42 no longer applicable for these leases. Lessees must comply with the provisions at 30 CFR 1218.42(b) and (c) for Indian tribal leases or Federal leases other than oil and gas. They must demonstrate that cross-lease netting is correct by submitting production reports, pipeline allocation reports, or other similar documentary evidence. This information is necessary for ONRR to determine the correct amount of interest the lessee owes and to ensure that we collect in full all monies owed the Federal Government.

Designation of Designee

Requirements of RSFA established that owners of, primarily, operating rights or, secondarily, lease record title (both referred to as ''lessees'') are responsible for making royalty and related payments on Federal oil and gas leases (see 30 CFR 1218.52). It is

common, however, for a payor rather than a lessee to make these payments. When a payor makes payments on behalf of a lessee, RSFA section 6(g) requires that the lessee designate the payor as its designee and notify ONRR of this arrangement in writing. We designed Form ONRR–4425, Designation Form for Royalty Payment Responsibility, to request all the information necessary for lessees to comply with these RSFA requirements when choosing to designate an agent to pay for them. We require this information to ensure proper mineral revenue collection.

Tribal Permission for Recoupment on Indian Oil and Gas Leases

In order to report cross-lease netting on Indian oil and gas leases, lessees must also comply with regulations at 30 CFR 1218.53(b), allowing only lessees with written permission from the tribe to recoup overpayments on one lease against a different lease for which the tribe is the lessor. The payor must provide ONRR with a copy of the tribe's written permission. Generally, a payor may recoup an overpayment against the current month's royalties or other revenues owed on the same tribal lease. For any month, a payor may not recoup more than 50 percent of the royalties or other revenues owed in that month, under an individual allotted lease, or more than 100 percent of the royalties or other revenues owed in that month, under a tribal lease. Lessees report oil and gas lease recoupments on Form MMS–2014, Report of Sales and Royalty Remittance (which will be renumbered as Form ONRR–2014, as we update our forms and form numbers in the regulations). The burden hours are covered under ICR 1012–0004.

OMB Approval

We are requesting OMB's approval to continue to collect this information. Not collecting this information would limit the Secretary's ability to discharge the duties of the office and may also result in loss of royalty payments. Proprietary information submitted is protected, and there are no questions of a sensitive nature included in this information collection.

Frequency: On occasion.

Estimated Number and Description of Respondents: 1,630 Federal and Indian lessees.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: 1,255 hours.

We have not included in our estimates certain requirements performed in the normal course of business and considered usual and customary. The following chart shows the estimated burden hours by CFR section and paragraph:

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS

Citation 30 CFR part 1218	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
Subpart A—General Provisions—Cross-lease netting in calculation of late-payment interest.				
1218.42 (b) and (c)	Cross-lease netting in calculation of late-payment interest. (b) Royalties attributed to production from a lease or leases which should have been attributed to production from a different lease or leases may be offset * * * if * * * the payor submits production reports, pipeline allocation reports, or other similar documentary evidence pertaining to the specific production involved which verifies the correct production information * * * (c) If ONRR assesses late-payment interest and the payor asserts that some or all of the interest is not owed * * * the burden is on the payor to demonstrate that the exception applies * * *.	2	25	50
Subpart B—Oil and Gas, General—How does a lessee designate a Designee?				
1218.52(a), (c), and (d)	How does a lessee designate a Designee? (a) If you are a lessee under 30 U.S.C. 1701(7), and you want to designate a person to make all or part of the payments due under a lease on your behalf * * * you must notify ONRR * * * in writing of such designation * * *. (c) If you want to terminate a designation * * * you must provide [the following] to ONRR in writing * * *. (d) ONRR may require you to provide notice when there is a change in the percentage of your record title or operating rights ownership. The ONRR currently uses Form MMS–4425, Designation Form for Royalty Payment Responsibility, to collect this information.	0.75	1,600	1,200
Subpart B—Oil and Gas, General—Recoupment of overpayments on Indian mineral leases.				
1218.53(b)	Recoupment of overpayments on Indian mineral leases. (b) With written permission authorized by tribal statute or resolution, a payor may recoup an overpayment against royalties or other revenues owed * * * under other leases * * *. A copy of the tribe's written permission must be furnished to ONRR * * *.	1	5	5
Total Burden	.....	.....	1,630	1,255

Estimated Annual Reporting and Recordkeeping ''Non-hour'' Cost Burden: We have identified no ''non-hour cost'' burden associated with this collection of information.

Public Disclosure Statement: The PRA (44 U.S.C. 3501 *et seq.*) provides that 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.

Comments: Section 3506(c)(2)(A) of the PRA requires each agency to ''* * * provide 60-day notice in the **Federal Register** * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *.'' Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, we published a notice in the **Federal Register** on May 4, 2011 (76 FR 25370), announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. We received no comments in response to the notice.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. The OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by December 14, 2011.

Public Comment Policy: We post all comments, including names and addresses of respondents, at *http://www.regulations.gov.* Before including your address, phone number, email address, or other personal identifying information in your comment, be advised 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 from public view your personal identifying information, we cannot guarantee that we will be able to do so.

Information Collection Clearance Officer: Karen Burke (703) 487–3896.

Dated: November 3, 2011.

Gregory J. Gould,

Director, Office of Natural Resources Revenue.

[FR Doc. 2011–29294 Filed 11–10–11; 8:45 am]

BILLING CODE 4310–T2–P

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

[Docket No. ONRR–2011–0008]

Agency Information Collection Activities: Submitted for Office of Management and Budget Review; Comment Request

AGENCY: Office of Natural Resources Revenue, Interior.

ACTION: Notice of an extension of a currently approved information collection.

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), the Office of Natural Resources Revenue (ONRR) is notifying the public that we have submitted to the Office of Management and Budget (OMB) an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under 30 CFR part 1243. This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements.

DATES: Submit written comments on or before December 14, 2011.

ADDRESSES: Submit written comments by either FAX (202) 395–5806 or email (*OIRA_Docket@omb.eop.gov*) directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (OMB Control Number 1012–0006).

Please also submit a copy of your comments to ONRR by one of the following methods:

- Electronically go to *http://www.regulations.gov.* In the entry titled ''Enter Keyword or ID,'' enter ONRR–2011–0008, and then click search. Follow the instructions to submit public comments. We will post all comments.
- Mail comments to Hyla Hurst, Regulatory Specialist, Office of Natural Resources Revenue, P.O. Box 25165, MS 64000A, Denver, Colorado 80225. Please reference ICR 1012–0006 in your comments.
- Hand-carry comments or use an overnight courier service. Our courier address is Building 85, Room A–614, Denver Federal Center, West 6th Ave. and Kipling St., Denver, Colorado 80225. Please reference ICR 1012–0006 in your comments.

FOR FURTHER INFORMATION CONTACT: Hyla Hurst, telephone (303) 231–3495, or email *hyla.hurst@onrr.gov.* You may also contact Hyla Hurst to obtain copies, at no cost, of (1) the ICR, (2) any associated forms, and (3) the regulations that require the subject collection of information. You may also review the ICR online at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION:

Title: 30 CFR part 1243—Suspensions Pending Appeal and Bonding—Office of Natural Resources Revenue.

OMB Control Number: 1012–0006.

Bureau Form Numbers: ONRR–4435, ONRR–4436, and ONRR–4437.

Abstract: The Secretary of the U.S. Department of the Interior is responsible for mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). The Secretary is required by various laws to manage mineral resource production from Federal and Indian lands and the OCS, collect the royalties and other mineral revenues due, and distribute the funds collected in accordance with applicable laws. The Secretary also has a trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. The ONRR performs the minerals revenue management functions for the Secretary and assists the Secretary in carrying out the Department's trust responsibility for Indian lands. Public laws pertaining to mineral leases on Federal and Indian lands are posted on our Web site at *http://www.onrr.gov/Laws_R_D/PublicLawsAMR.htm.*

If ONRR determines that a lessee has not properly reported or paid, we may issue an order to pay additional royalties, a Notice of Noncompliance, or a Civil Penalty Notice requiring correct reporting or payment. Lessees then have a right to appeal those ONRR actions.

Regulations at 30 CFR part 1243 govern the submission of appropriate surety instruments to suspend compliance with orders or decisions and to stay the accrual of civil penalties (if the Office of Hearings and Appeals grants a lessee's petition to stay accrual of civil penalties), pending administrative appeal for Federal and Indian leases. For Federal oil and gas leases, under 30 U.S.C. 1724(l) and its implementing regulations in 30 CFR part 1243, appellants who are requesting a suspension without providing a surety may submit information to demonstrate financial solvency. This ICR covers the burden hours associated with submitting financial statements or surety instruments required to stay an ONRR order, decision, or accrual of civil penalties.

Stay of Payment Pending Appeal

Title 30 CFR 1243.1 explains how lessees or recipients of ONRR orders may suspend compliance with an order if they appeal in accordance with 30 CFR part 1290. Pending appeal, ONRR

suspends the payment requirement if the appellant submits a formal agreement of payment in case of default, such as a bond or other surety, or, for Federal oil and gas leases, demonstrates financial solvency. If the Office of Hearings and Appeals grants a lessee's, or other recipient of a Notice of Noncompliance or Civil Penalty Notice, request to stay the accrual of civil penalties under 30 CFR 1241.55(b)(2) and 1241.63(b)(2), the lessee or other recipient must post a bond or other surety, or, for Federal oil and gas leases, demonstrate financial solvency.

The ONRR accepts the following surety types: Form ONRR–4435, Administrative Appeal Bond (formerly Form MMS–4435); Form ONRR–4436, Letter of Credit (formerly Form MMS–4436); Form ONRR–4437, Assignment of Certificate of Deposit (formerly Form MMS–4437); Self-bonding; and U.S. Treasury Securities.

When an appellant selects and puts one of the surety types in place, the appellant must maintain the surety until completion of the appeal. If the appeal is decided in favor of the appellant, ONRR returns the surety to the appellant. If the appeal is decided in favor of ONRR, then we may take action to collect the total amount due or draw down on the surety. We draw down on a surety if the appellant fails to pay or fails to comply with requirements relating to amount due, timeframe, or surety submission or resubmission. Whenever ONRR must draw down on a surety, we must draw down the total amount due, which is defined as unpaid principal plus the interest accrued to the projected receipt date of the surety payment. Appellants may refer to the Surety Instrument Posting Instructions, which are on our Web site at *http://www.onrr.gov/FM/Forms/default.htm.*

Forms and Other Surety Types

Form ONRR–4435, Administrative Appeal Bond

Appellants may file Form ONRR–4435, Administrative Appeal Bond, which ONRR uses to secure the financial interests of the public and Indian lessors during the entire administrative and judicial appeal process. Under 30 CFR 1243.4, appellants must submit their contact and surety amount information on the bond to obtain the benefit of suspension of an obligation to comply with an order. A surety company that the U.S. Department of the Treasury approves (see Department of the Treasury Circular No. 570, as revised periodically in the **Federal Register**) must issue the bond. The ONRR Director or the ONRR-delegated bond-approving officer maintains these bonds in a secure facility. After the appeal has concluded, ONRR may release and return the bond to the appellant or collect payment on the bond. If collection is necessary for a remaining balance, ONRR will issue a demand for payment to the surety company with a notice to the appellant. We also will include all interest accrued on the affected bill.

Form ONRR–4436, Letter of Credit

Appellants may choose to file Form ONRR–4436, Letter of Credit (LOC), with no modifications. Requirements at 30 CFR 1243.4 continue to apply. A bank with a minimum Fitch rating of ''C'' must notarize and issue the LOC for appellants for a LOC of less than $1 million; ''B/C'' for a LOC between $1 million and $10 million; or ''B'' for a LOC over $10 million. A Fitch rating is a bank rating provided by Fitch, Inc., and is available at *http://www.fitchratings.com.* The LOC must have a minimum coverage period of 1 year and be automatically renewable for up to 5 years.

The appellant is responsible for verifying that the bank provides a current Fitch rating to ONRR. If the issuing bank's rating falls below the minimum acceptable level, the appellant must submit a satisfactory replacement surety within 14 days or ONRR will draw down the existing LOC. If the bank issuing the LOC chooses not to renew the existing LOC, it must provide ONRR with a notice of its decision not to renew 30 days prior to expiration of the LOC. After the appeal concludes, ONRR may release and return the LOC to the appellant or collect payment on the LOC. If collection is necessary for a remaining payment balance, ONRR will issue a demand for payment, which includes all interest assessed on the affected bill, to the bank with a notice to the appellant.

Form ONRR–4437, Assignment of Certificate of Deposit

Appellants also may choose to secure a debt using a Certificate of Deposit (CD) from their bank and by submitting Form ONRR–4437, Assignment of Certificate of Deposit. Appellants must file the request with ONRR prior to the invoice due date. We will accept only a book-entry CD that explicitly assigns the CD to the ONRR Director. The CD must be issued by a bank with the minimum required Fitch rating or be confirmed by a bank with an acceptable rating. The acceptable ratings for a CD are the same as for a LOC discussed above. If collection of the CD is necessary for a payment balance, ONRR will return unused CD funds to the appellant after total settlement of the appealed issues including applicable interest charges.

Self-Bonding

For Federal oil and gas leases, regulations at 30 CFR 1243.201 do not require a surety instrument when an appellant periodically demonstrates, to the satisfaction of ONRR, that the guarantor or appellant is financially solvent or otherwise able to pay the obligation. Appellants must submit a written request to ''self-bond'' every time a new appeal is filed. To evaluate the financial solvency and exemption from requirements of appellants to maintain a surety related to an appeal, ONRR requires appellants to submit a consolidated balance sheet subject to annual audit. In some cases, we also require copies of the most recent tax returns (up to 3 years) filed by appellants.

In addition, appellants must annually submit financial statements subject to annual audit to support a minimum net worth of $300 million. The ONRR uses the consolidated balance sheet or business information supplied to evaluate the financial solvency of a lessee, designee, or payor seeking to demonstrate financial solvency to stay its payment obligation pending appeal. If appellants do not have a consolidated balance sheet documenting their net worth or if they do not meet the $300 million net worth requirement, ONRR selects a business information or credit reporting service to provide information concerning an appellant's financial solvency. We charge the appellant a $50 fee each time we need to review data from a business information or credit reporting service. The fee covers our costs to determine an appellant's financial solvency.

U.S. Treasury Securities

Appellants may choose to secure their debts by requesting to use a U.S. Treasury Security (TS). Appellants must file a letter of request with ONRR prior to the invoice due date. The TS must: (1) Be a U.S. Treasury note or bond with maturity equal to or greater than 1 year; (2) 120 percent of the appealed amount plus 1 year of estimated interest (necessary to protect ONRR against interest rate fluctuations); and (3) be a book-entry TS. Book-entry securities are securities that are recorded in electronic records rather than as paper certificates.

OMB Approval

We are requesting OMB's approval to continue to collect this information. Not collecting this information would limit the Secretary's ability to discharge the

fiduciary duties of the office and also may result in loss of royalty and other payments.

The ONRR protects proprietary information submitted under this collection. We do not collect information of a sensitive nature in this ICR. A response is mandatory in order to suspend compliance with an order pending appeal.

Frequency: Annually and on occasion.

Estimated Number and Description of Respondents: 105 Federal or Indian appellants.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: 210 hours. We have not included in our estimates certain requirements performed in the normal course of business and considered usual and customary. The following table shows the estimated burden hours by CFR section and paragraph:

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS

Citation 30 CFR part 1243	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
1243.4(a)(1)	How do I suspend compliance with an order? (a) If you timely appeal an order, and if that order or portion of that order: (1) Requires you to make a payment, and you want to suspend compliance with that order, you must post a bond or other surety instrument or demonstrate financial solvency * * *.	2 hours	40 (Forms ONRR–4435, ONRR–4436, ONRR–4437; or TS).	80
1243.6	When must I or another person meet the bonding or financial solvency requirements under this part? If you must meet the bonding or financial solvency requirements under § 1243.4(a)(1), or if another person is meeting your bonding or financial solvency requirements, then either you or the other person must post a bond or other surety instrument or demonstrate financial solvency within 60 days after you receive the order or the Notice of Order.	Burden hours covered under § 1243.4(a)(1).		
1243.7(a)	What must a person do when posting a bond or other surety instrument or demonstrating financial solvency on behalf of an appellant? If you assume an appellant's responsibility to post a bond or other surety instrument or demonstrate financial solvency * * * (a) Must notify ONRR in writing * * * that you are assuming the appellant's responsibility * * *.	Burden hours covered under § 1243.4(a)(1).		
1243.8(a)(2) and (b)(2)	When will ONRR suspend my obligation to comply with an order? (a) Federal leases. * * * (2) If the amount under appeal is $10,000 or more, ONRR will suspend your obligation to comply with that order if you: (i) Submit an ONRR-specified surety instrument under subpart B of this part within a time period ONRR prescribes; or (ii) Demonstrate financial solvency under subpart C. (b) Indian leases. * * * (2) If the amount under appeal is $1,000 or more, ONRR will suspend your obligation to comply with that order if you submit an ONRR-specified surety instrument under subpart B of this part within a time period ONRR prescribes.	Burden hours covered under § 1243.4(a)(1).		
1243.101(b)	How will ONRR determine the amount of my bond or other surety instrument? * * * (b) If your appeal is not decided within 1 year from the filing date, you must increase the surety amount to cover additional estimated interest for another 1-year period. You must continue to do this annually * * *.	Burden hours covered under § 1243.4(a)(1).		
1243.200(a) and (b)	How do I demonstrate financial solvency? (a) To demonstrate financial solvency under this part, you must submit an audited consolidated balance sheet, and, if requested by the ONRR bond-approving officer, up to 3 years of tax returns to the ONRR, * * *.	2 hours	65 (Self-bonding submissions).	130

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

Citation 30 CFR part 1243	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
	(b) You must submit an audited consolidated balance sheet annually, and, if requested, additional annual tax returns on the date ONRR first determined that you demonstrated financial solvency as long as you have active appeals, or whenever ONRR requests. * * *			
1243.201(c)(1), (c)(2)(i) and (c)(2)(ii) and (d)(2).	How will ONRR determine if I am financially solvent? * * * (c) If your net worth, minus the amount we would require as surety under subpart B for all orders you have appealed is less than $300 million, you must submit * * *: (1) A written request asking us to consult a business-information, or credit-reporting service or program to determine your financial solvency; and (2) A nonrefundable $50 processing fee: (i) You must pay the processing fee * * *; (ii) You must submit the fee with your request * * * and then annually on the date we first determined that you demonstrated financial solvency, as long as you are not able to demonstrate financial solvency * * * and you have active appeals. (d)* * * (2) For us to consider you financially solvent, the business-information or credit-reporting service or program must demonstrate your degree of risk as low to moderate: * * *	Burden hours covered under §§ 1243.4(a)(1) and 1243.200(a) and (b).		
1243.202(c)	When will ONRR monitor my financial solvency? * * * (c) If our bond-approving officer determines that you are no longer financially solvent, you must post a bond or other ONRR-specified surety instrument under subpart B.	Burden hours covered under § 1243.4(a)(1).		
Total Burden			105	210

Estimated Annual Reporting and Recordkeeping ''Non-hour'' Cost Burden: There are no additional recordkeeping costs associated with this information collection. However, ONRR estimates five appellants per year will pay a $50 fee to obtain credit data from a business information or credit reporting service, which is a total ''non-hour'' cost burden of $250 per year (5 appellants per year × $50 = $250).

Public Disclosure Statement: The PRA (44 U.S.C. 3501 *et seq.*) provides that 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.

Comments: Section 3506(c)(2)(A) of the PRA requires each agency to ''* * * provide 60-day notice in the **Federal Register** * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *.'' Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, we published a notice in the **Federal Register** on May 4, 2011 (76 FR 25367), announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. We received no comments in response to the notice.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. The OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by December 14, 2011.

Public Comment Policy: We post all comments, including names and addresses of respondents, at *http://www.regulations.gov.* Before including your address, phone number, email address, or other personal identifying information in your comment, be advised 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 from public view your personal identifying information, we cannot guarantee that we will be able to do so.

Information Collection Clearance Officer: Karen Burke (703) 487–3896.

Dated: November 7, 2011.

Gregory J. Gould,

Director, Office of Natural Resources Revenue.

[FR Doc. 2011–29298 Filed 11–10–11; 8:45 am]

BILLING CODE 4310–T2–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–812]

Certain Computing Devices With Associated Instruction Sets and Software; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on September 22, 2011, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of VIA Technologies, Inc. of Taiwan; IP-First, LLC of Fremont, California; and Centaur Technology, Inc. of Austin, Texas. An amended complaint was filed on October 13, 2011. A letter further amending the Amended Complaint was filed on October 31, 2011. The amended complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain computing devices with associated instruction sets and software by reason of infringement of certain claims of U.S. Patent No. 6,253,312 (''the '312 patent''); U.S. Patent No. 6,253,311 (''the '311 patent''); U.S. Patent No. 6,754,810 (''the '810 patent''); U.S. Patent No. 7,185,180 (''the '180 patent''); and U.S. Patent No. 7,155,598 (''the '598 patent''). The amended complaint further alleges that an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue an exclusion order and a cease and desist order.

ADDRESSES: The amended complaint, except for any confidential information contained therein, is 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., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server 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.*

FOR FURTHER INFORMATION CONTACT: The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2011).

Scope of Investigation: Having considered the amended complaint, the U.S. International Trade Commission, on November 7, 2011, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain computing devices with associated instruction sets and software that infringe one or more of claims 1–4, 7–10, and 26–29 of the '312 patent; claims 1, 14, and 21 of the '311 patent; claims 20, 27, and 30 of the '810 patent; claims 23, 24 and 28–30 of the '598 patent; and claims 1–3 and 10–14 of the '180 patent, and whether an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

VIA Technologies, Inc., 8F, No. 535 Zhongzheng Road, Xindian District, New Taipei City 231, Taiwan.

IP-First, LLC, 940 Mission Court, Fremont, CA 94539.

Centaur Technology, Inc., 7600–C N. Capital of Texas Highway, Austin, TX 78731–1180.

(b) The respondent is the following entity alleged to be in violation of section 337, and is the party upon which the amended complaint is to be served:

Apple Inc., a/k/a Apple Computer, Inc., 1 Infinite Loop, Cupertino, CA 95014.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the amended complaint and the notice of investigation must be submitted by the named respondent in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d)–(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the amended complaint and the notice of investigation. Extensions of time for submitting responses to the amended complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of the respondent to file a timely response to each allegation in the amended complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the amended complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the amended complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

Issued: November 7, 2011.

By order of the Commission.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011–29263 Filed 11–10–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–813]

Certain Electronic Devices With Graphics Data Processing Systems, Components Thereof, and Associated Software; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on September 22, 2011, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of S3 Graphics Co., Ltd. of British West Indies and S3 Graphics, Inc. of Fremont, California.

An amended complaint was filed on October 14, 2011. The amended complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain electronic devices with graphics data processing systems, components thereof, and associated software by reason of infringement of certain claims of U.S. Patent No. 5,945,997 (''the '997 patent''); U.S. Patent No. 5,581,279 (''the '279 patent''); U.S. Patent No. 6,353,440 (''the '440 patent''); and U.S. Patent No. 5,977,960 (''the '960 patent''). The amended complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue an exclusion order and a cease and desist order.

ADDRESSES: The amended complaint, except for any confidential information contained therein, is 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., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server 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.*

FOR FURTHER INFORMATION CONTACT: The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2011).

Scope of Investigation: Having considered the amended complaint, the U.S. International Trade Commission, on November 7, 2011, *Ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain electronic devices with graphics data processing systems, components thereof, and associated software that infringe one or more of claims 1, 3–5, 9, and 16 of the '997 patent; claims 1, 5, and 9 of the '279 patent; 1–4 and 12–15 of the '440 patent; and claims 1 and 7 of the '960 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

S3 Graphics Co., Ltd., 2nd Floor, Zephyr House, Mary Street, P.O. Box 709, Grand Cayman, Grand Cayman Islands, British West Indies.

S3 Graphics, Inc., 940 Mission Court, Fremont, CA 94539.

(b) The respondent is the following entity alleged to be in violation of section 337, and is the party upon which the amended complaint is to be served:

Apple Inc., a/k/a Apple Computer, Inc., 1 Infinite Loop, Cupertino, CA 95014.

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the amended complaint and the notice of investigation must be submitted by the named respondent in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d)–(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the amended complaint and the notice of investigation. Extensions of time for submitting responses to the amended complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of the respondent to file a timely response to each allegation in the amended complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the amended complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the amended complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

Issued: November 7, 2011.

By order of the Commission.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011–29264 Filed 11–10–11; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Exemptions From Certain Prohibited Transaction Restrictions

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and/or the Internal Revenue Code of 1986 (the Code). This notice includes the following: D–11601, 2011–21, BB&T Asset Management, Inc.; and D–11608, 2011–22, Russell Trust Company.

SUPPLEMENTARY INFORMATION: A notice was published in the **Federal Register** of the pendency before the Department of a proposal to grant such exemption. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, DC. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicant has represented that it has complied with the requirements of the notification to interested persons. No requests for a hearing were received by the Department. Public comments were received by the Department as described in the granted exemption.

The notice of proposed exemption was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemption is administratively feasible;

(b) The exemption is in the interests of the plan and its participants and beneficiaries; and

(c) The exemption is protective of the rights of the participants and beneficiaries of the plan.

BB&T Asset Management, Inc. (BB&T AM), Located in Winston-Salem, North Carolina, [Prohibited Transaction Exemption 2011–21; Exemption Application No. D–11601].

Exemption

Section I: Covered Transactions

The sanctions resulting from the application of Code section 4975, by reason of Code section 4975(c)(1)(A) and (C)–(F), shall not apply, effective April 30, 2002 until December 27, 2005, to (1) directed trades by BB&T AM and its successors in interest (together, the Applicant) as an investment manager and investment adviser to certain plans, subject to Code section 4975, but not subject to Title I of ERISA (the IRAs), which resulted in the IRAs purchasing or selling securities from Scott & Stringfellow, LLC (S&S), an affiliated broker-dealer of BB&T AM (collectively, the Transactions); and (2) compensation paid by the IRAs to S&S in connection with the Transactions (the Transaction Compensation).

This exemption is subject to the conditions set forth below in Sections II and III.

Section II: Specific Conditions

(a) The Transactions and the Transaction Compensation were corrected (1) pursuant to the requirements set forth in the Department's Voluntary Fiduciary Correction Program (the VFC Program) [1] and (2) in a manner consistent with those transactions described in the Applicant's VFC Program application, dated January 22, 2010 (the VFC Program Application), that were substantially similar to the Transactions but that involved plans described in Code section 4975(e)(1) and subject to Title I of ERISA (the Qualified Plan Transactions).

(b) The Applicant received a ''no-action letter'' from the Department in connection with the Qualified Plan Transactions described in the VFC Program Application.

(c) The fair market value of the securities involved in the Transactions was determined in accordance with Section 5 of the VFC Program.

(d) The terms of the Transactions and the Transaction Compensation were at least as favorable to the IRAs as the terms generally available in arm's length transactions between unrelated parties.

(e) The Transactions and Transaction Compensation were not part of an agreement, arrangement or understanding designed to benefit a disqualified person, as defined in Code section 4975(e)(2).

(f) The Applicant did not take advantage of the relief provided by the VFC Program and Prohibited Transaction Exemption 2002–51 [2] (PTE 2002–51) for three (3) years prior to the date of the Applicant's submission of the VFC Program Application.

Section III: General Conditions

(a) The Applicant maintains, or causes to be maintained, for a period of six (6) years from the date of any Transaction such records as are necessary to enable the persons described in Section III(b)(1), to determine whether the conditions of this exemption have been met, except that:

(1) A separate prohibited transaction shall not be considered to have occurred if, due to circumstances beyond the control of Applicant, the records are lost or destroyed prior to the end of the six-year period; and

(2) No disqualified person with respect to an IRA, other than Applicant, shall be subject to excise taxes imposed by Code section 4975, if such records are not maintained, or are not available for examination, as required by Section III(b)(1).

(b) (1) Except as provided in Section III(b)(2), the records referred to in Section III(a) are unconditionally available at their customary location for examination during normal business hours by:

(A) Any duly authorized employee or representative of the Department, the Internal Revenue Service, or the Securities and Exchange Commission;

(B) Any fiduciary of any IRA that engaged in a Transaction, or any duly authorized employee or representative of such fiduciary; or

(C) Any owner or beneficiary of an IRA that engaged in a Transaction or a representative of such owner or beneficiary.

(2) None of the persons described in Sections III(b)(1)(B) and (C) shall be authorized to examine trade secrets of Applicant, or commercial or financial information which is privileged or confidential.

(3) Should Applicant refuse to disclose information on the basis that such information is exempt from disclosure, Applicant shall, by the close of the thirtieth (30th) day following the request, provide a written notice advising that person of the reasons for the refusal and that the Department may request such information.

Effective Date: This exemption is effective from April 30, 2002 until December 27, 2005.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on August 11, 2011 at 76 FR 49791.

FOR FURTHER INFORMATION CONTACT: Mr. Brian Shiker of the Department, telephone (202) 693–8552. (This is not a toll-free number.)

Russell Trust Company (RTC or the Applicant),
Located in Seattle, Washington.
[Prohibited Transaction Exemption 2011–22;
Exemption Application No. D–11608]

Exemption

Section I—Covered Transactions

(a) The restrictions of sections 406(a)(1)(A), (a)(1)(B), (a)(1)(D), 406(b)(1) and 406(b)(2) of the Act, and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A), (c)(1)(B), (c)(1)(D), and (c)(1)(E) of the Code, shall not apply, between September 14, 2009 and September 14, 2010, inclusive, to an arrangement involving the following transactions:

(1) The extension of credit, through a revised capital support agreement, to certain employee benefit plans (the Plans) invested, directly or indirectly, in the Russell Securities Lending Short-Term Investment Fund (the SecLending Fund) by the Frank Russell Company (FRC), the parent company of RTC and a party in interest with respect to the Plans, in connection with the

[1] 71 FR 20262 (April 19, 2006).

[2] 71 FR 20135 (April 19, 2006).

SecLending Fund's holding of certain notes (the Notes) issued by Lehman Brothers Holdings Inc. or its affiliates (the Revised SecLending Fund CSA);

(2) The extension of credit, through a revised capital support agreement, to certain Plans invested, directly or indirectly, in the RTC Russell Liquidity Fund (the Liquidity Fund) by FRC in connection with the Liquidity Fund's holding of the Notes (the Revised Liquidity Fund CSA);

(3) The provision of a revised guarantee to FRC by its parent company, the Northwest Mutual Life Insurance Company (NML), a party in interest with respect to the Plans, in order to ensure FRC's foregoing capital support obligation to the SecLending Fund (the Revised SecLending Fund Guarantee);

(4) The provision of a revised guarantee to FRC by NML in order to ensure FRC's foregoing capital support obligation to the Liquidity Fund (the Revised Liquidity Fund Guarantee);

(5) The accrual and periodic payment of certain supplemental yield contributions by FRC to the SecLending Fund (the SecLending Fund Supplemental Yield Contributions); and

(6) The accrual and periodic payment of certain supplemental yield contributions by FRC to the Liquidity Fund (the Liquidity Fund Supplemental Yield Contributions);

(b) The restrictions of sections 406(a)(1)(A), (a)(1)(B), 406(b)(1) and (b)(2) of the Act, and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A), (c)(1)(B), and (c)(1)(E) of the Code shall not apply to the September 10, 2010 cash sale (the Sale) of all of the Notes held by both the SecLending Fund and the Liquidity Fund (taken together, the Funds) to FRC, which transaction was settled on September 14, 2010 upon receipt by the Funds of the cash proceeds of the Sale; provided that all of the conditions set forth below in Section II are satisfied.

Section II—Conditions

(a) With respect to the arrangement involving (i) the Revised SecLending Fund CSA and the Revised Liquidity Fund CSA transactions (together, the Revised CSAs), (ii) the Revised SecLending Fund Guarantee and the Revised Liquidity Fund Guarantee transactions (together, the Revised Guarantees), and (iii) the SecLending Fund Supplemental Yield Contributions and the Liquidity Fund Supplemental Yield Contribution transactions (together, the Supplemental Yield Contributions):

(1) The decision to enter into each of these transactions was made on behalf of the Funds (and the employee benefit plans invested, directly or indirectly, in the Funds) by an independent fiduciary (the Independent Fiduciary), who reviewed their terms and conditions of each of the foregoing transactions and determined that they were protective of, and in the interest of, the Funds and the Plans investing therein;

(2) The foregoing transactions were entered into pursuant to written agreements that contained all of the relevant terms and conditions relating to such transactions; and

(3) The Funds did not pay any fees, commissions or other expenses in connection with the foregoing transactions;

(b) With respect to the Sale of the Notes by each Fund to FRC:

(1) The Sale was a one-time transaction for cash;

(2) In connection with the Sale, the applicable Fund received an amount which was equal to the greater of: (i) The market value of the Notes being sold on the date of the Sale; or (ii) the sum of the amortized cost of such Notes, plus any accrued but unpaid interest on such Notes through the earlier of the maturity date of the applicable Note or September 14, 2009, in each case calculated at the contract rate;

(3) The Funds did not pay any fees, commissions or other expenses in connection with the Sale;

(4) The decision to sell all of the Notes held by the Funds to FRC was made by an Independent Fiduciary, who determined that the Sale of the Notes was appropriate for, and in the best interests of, each of the Funds and the Plans invested, directly or indirectly, in the Funds, at the time of the Sale transaction;

(5) The Independent Fiduciary has taken all appropriate actions necessary to safeguard the interests of the Funds, and of the employee benefit plans invested, directly or indirectly, in the Funds, in connection with the transaction;

(6) If the exercise of any of FRC's rights, claims, or causes of action in connection with its ownership of the Notes results in recovering from the issuer of the Notes, or any third party, an aggregate amount that is in excess of the sum of: (i) The Sale price paid for the Notes by FRC; and (ii) interest on such Sale price paid for the Notes from and after September 10, 2010, determined at the face interest rate for the applicable Note, then FRC will refund such excess amount promptly to the Funds (after deducting all reasonable expenses incurred in connection with the recovery);

(c) RTC and its affiliates, as applicable, maintain, or cause to be maintained, for a period of six (6) years from the date of any covered transaction such records as are necessary to enable the person described below in paragraph (d)(1), to determine whether the conditions of this exemption have been met, except that:

(1) No party in interest with respect to a plan which engages in the covered transaction, other than FRC, RTC and their affiliates, as applicable, shall be subject to a civil penalty under section 502(i) of the Act or the taxes imposed by section 4975(a) and (b) of the Code, if such records are not maintained, or not available for examination, as required, below, by paragraph (d)(1);

(2) A separate prohibited transaction shall not be considered to have occurred solely because due to circumstances beyond the control of FRC, RTC or their affiliates, as applicable, such records are lost or destroyed prior to the end of the six-year period.

(d)(1) Except as provided, below, in paragraph (d)(2), and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to, above, in paragraph (c) are unconditionally available at their customary location for examination during normal business hours by—

(A) Any duly authorized employee or representative of the Department, the Internal Revenue Service, or the Securities and Exchange Commission; or

(B) Any fiduciary of any plan that engages in the covered transaction, or any duly authorized employee or representative of such fiduciary; or

(C) Any employer of participants and beneficiaries and any employee organization whose members are covered by a plan that engages in the covered transaction, or any authorized employee or representative of these entities; or

(D) Any participant or beneficiary of a plan that engages in the covered transaction, or duly authorized employee or representative of such participant or beneficiary;

(2) None of the persons described, above, in paragraph (d)(1)(B)–(D) shall be authorized to examine trade secrets of FRC, RTC or their affiliates, or commercial or financial information which is privileged or confidential; and

(3) Should RTC refuse to disclose information on the basis that such information is exempt from disclosure, RTC shall, by the close of the thirtieth (30th) day following the request, provide a written notice advising that person of the reasons for the refusal and

that the Department may request such information.

Written Comments

1. The Notice of Proposed Exemption (the Notice), published in the June 13, 2011 issue of the **Federal Register** beginning at page 34261, invited all interested persons to submit written comments and requests for a hearing to the Department within forty-five (45) days of the date of its publication. In response, the Department received a written comment from the Applicant on July 21, 2011 (which was supplemented by an additional clarifying letter from the Applicant on July 26, 2011) regarding the content of the Notice. This comment, which was the only one received by the Department in connection with the Notice, suggested certain clarifications and editorial adjustments to the operative language contained in Section I (''Covered Transactions'') and Section II (''Conditions'') of the Notice, which are described in detail below; those modifications suggested by the Applicant which the Department has determined to adopt are reflected in the text of this final grant (the Grant) of exemption. The Applicant's comment also requested certain adjustments to the text of the ''Summary of Facts and Representations'' section of the Notice, which are described and incorporated below. The Department notes that it did not receive any requests for a hearing from the Applicant or from any other person during the aforementioned 45-day comment period.

2. In its written comment, the Applicant expressed its view that the applicable period for exemptive relief described in Section I(a) of the Notice (the text of which begins at the first column of page 34261 of the June 13, 2011 issue of the **Federal Register**) should be modified in the Grant to encompass the period from September 10, 2009 through September 14, 2010. In requesting this adjustment, the Applicant noted that while FRC's and NML's primary obligations under the Revised SecLending Fund CSA, the Revised Liquidity Fund CSA, the Revised SecLending Fund Guarantee, and the Revised Liquidity Fund Guarantee may have technically terminated upon the closing of the Sale on September 10, 2010, the Supplemental Yield Contributions continued to accrue (and the proceeds of the Sale were not received by the Funds) until September 14, 2010. Therefore, the Applicant stated, all of the transactions covered by the exemption were not completed until September 14, 2010.

In support of this view, the Applicant's comment noted that Sections I(a)(5) and (6) of the Notice, which proposes exemptive relief for the ''accrual and periodic payment'' of the Supplemental Yield Contributions, would not in fact exempt the final payment of such contributions on September 14, 2010, nor the accrual of such contributions from September 10 through September 14, 2010. Moreover, the Applicant states, because the Supplemental Yield Contributions were made a part of the Revised CSAs, it could be concluded that the transactions described in Sections I(a)(1) through I(a)(4) of the Notice also were not completed until September 14, 2010. After due consideration, the Department concurs with the Applicant's suggested modification, and has determined to amend the text of lines 9 and 10 of Section I(a) in the Grant by deleting ''September 10, 2010'' and inserting in lieu thereof ''September 14, 2010''.

In this connection, the Applicant's comment also suggested an adjustment to the language of Section I(b) of the Notice (which begins at the second column of page 34261 of the same issue of the **Federal Register**) to reflect that the Sale, which was executed on September 10, 2010, ultimately settled on September 14, 2010 with receipt of the full Sale proceeds by the Funds on that date. The Department also concurs with this suggested modification, and amends the text of Section I(b) in the Grant by inserting a comma after ''FRC'' at line 11, and inserting of the words ''which transaction was settled on September 14, 2010 upon receipt by the Funds of the cash proceeds of the Sale'' prior to the concluding semicolon.

3. In its comment letter, the Applicant noted that Section I(b) of the Notice proposes to exempt the Sale transaction from ''[t]he restrictions of section 406(a)(1)(A), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) and (E) of the Code.'' With respect to this provision, the Applicant requested that the scope of exemptive relief for the Sale transaction be expanded to encompass relief from the restrictions of section 406(a), generally. The Applicant commented that the Sale could be viewed as a ''transfer to * * * a party in interest, of any assets of the plan,'' within the meaning of section 406(a)(1)(D) of the Act.[3] The Applicant further commented that it is possible that aspects of the Sale could be deemed to constitute the ''lending of money or other extension of credit between the plan and a party in interest,'' within the meaning of section 406(a)(1)(B) of the Act, especially if the Sale is viewed in conjunction with the other transactions described in Section I(a) of the Notice. Additionally, the Applicant noted in its comment that, in granting a number of recent individual exemptions covering substantially similar sale transactions and containing substantially similar conditions, the Department has provided relief in many of these exemptions from all of the provisions of section 406(a) of the Act.[4] Accordingly, in light of these recent exemptions, the Applicant stated that it saw no reason that the Sale should not be covered by the same scope of relief.

In response, the Department has determined, on its own motion, to extend the scope of relief covered by Section I(b) of the exemption to include sections 406(a)(1)(B) of the Act, as well as of sections 4975(c)(1)(B) of the Code. The Department is of the view that expanding the scope of exemptive relief offered in Section I(b) of the Grant to include the foregoing provisions of the Act and the Code is appropriate, insofar as Section II(b)(6) of both the Notice and the Grant generally requires FRC, as a condition of relief, to refund any excess proceeds (plus interest) arising as a consequence of any recovery from the issuer of the Notes (or any third party) in connection with the exercise of any of FRC's rights, claims, or causes of action associated with its pre-Sale ownership of the Notes. Such a recovery could result in, or be construed as, an extension of credit between FRC and the Funds. Accordingly, the Department amends the opening words of Section I(b) in the final Grant of exemption to read as follows:

''(b) The restrictions of section 406(a)(1)(A), (a)(1)(B), 406(b)(1), and 406(b)(2) of the Act, and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A), (c)(1)(B), and (c)(1)(E) of the Code shall not apply * * *''

[3] References made in the Applicant's comment letter to section 406 of the Act shall be deemed to include references to the corresponding provisions of section 4975 of the Code.

[4] Among the numerous individual exemptions cited by the Applicant's comment in support of its request for relief from all of the restrictions of section 406(a) of the Act were: (1) PTE 2011–07 (exempting a one-time cash sale of certain auction-rate securities by a plan to a party in interest from all of the restrictions of section 406(a) of the Act; (2) PTE 2009–27 (exempting a one-time cash sale of certain Lehman-issued securities by a fund to a party in interest of certain plans invested therein from the restrictions of section 406(a)(1)(A) through (D) of the Act); and (3) PTE 2008–12 (exempting a one-time cash sale of certain notes by a fund to a party in interest of certain plans invested therein from all of the restrictions of section 406(a) of the Act).

4. In its written comment, the Applicant also noted that Section II(b)(6) of the Notice provides that FRC must refund to the Funds any amounts that FRC may recover from the issuer of the Notes or any third party that is in excess of the sum of the Sale price paid by FRC for the Notes plus any interest on such Sale price paid from September 10, 2010 to September 14, 2010, inclusive, made by FRC to the Funds. The Applicant pointed out, however, that the corresponding conditions for relief found in a number of recent individual exemptions covering substantially similar sale transactions required the refund of any amounts recovered in excess of the applicable purchase price plus interest through the date of recovery.[5] The Applicant also noted that, in these corresponding conditions, the applicable interest rate credited to the purchase price correlated to an interest rate that was tied to the purchased securities. Therefore, the Applicant opined that the content of Section II(b)(6) of the Grant should not differ in substance from the corresponding conditions for exemptive relief found in recent, similar exemptions. For the foregoing reasons, the Applicant requested in its comment that Section II(b)(6) be amended in the Grant to require the refund to the Funds of any amounts that FRC may receive in excess of (i) the Sale proceeds paid for the Notes by FRC, plus (ii) interest on such Sale price paid for the Notes from and after September 10, 2010, determined at the face interest rate for the applicable Note.[6] Accordingly, after due consideration, the Department concurs with the Applicant's comment, and has determined to amend the text of Section II(b)(6) in the Grant to read as follows:

''(6) If the exercise of any of FRC's rights, claims, or causes of action in connection with its ownership of the Notes results in recovering from the issuer of the Notes, or any third party, an aggregate amount that is in excess of the sum of (i) The Sale price paid for the Notes by FRC; and (ii) interest on such Sale price paid for the Notes from and after September 10, 2010, determined at the face interest rate for the applicable Note, then FRC will refund such excess amount promptly to the Funds (after deducting all reasonable expenses incurred in connection with the recovery);''

5. In its comment, the Applicant also requested that the Department amend and correct certain language contained in the first sentence of the second paragraph of Representation 12 of the ''Summary of Facts and Representations'' section of the Notice (which is located in the first column of page 34265 of the aforementioned issue of the **Federal Register**) and in the third sentence of Representation 15 of the Notice (located in the third column of page 34265) concerning the formula to be used to compute the price of the Notes in the event of their sale to RTC. Specifically, the Applicant noted in its comment that the Revised CSAs did not contain a new provision stipulating the formula for determining such a sale price; rather, the Independent Fiduciary negotiated this formulaic price for the Notes within a separate term sheet prior to the consummation of the Sale. Accordingly, the Department has corrected the text of the Notice by deleting the words ''to include a new provision in each of the Revised CSAs stipulating'' that appears after the word ''Funds'' in the first sentence of the second paragraph of Representation 12; similarly, the text of the Notice is further corrected by deleting the words ''Revised CSAs with each of the Funds'' that appears in the parenthetical clause of the third sentence of Representation 15 and substituting in lieu thereof the words ''term sheet negotiated by the Independent Fiduciary''.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the text of the Notice that begins at 76 FR 34261 (June 13, 2011).

FOR FURTHER INFORMATION CONTACT: Mr. Mark Judge of the Department at (202) 693–8550 (This is not a toll-free number).

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) This exemption is supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of this exemption is subject to the express condition that the material facts and representations contained in the application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 7th day of November 2011.

Ivan Strasfeld,

Director of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

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[5] Among the numerous individual exemptions cited by the Applicant's comment in support of its suggested revision to Section II(b)(6) of the Notice governing the refund of excess proceeds received from the Sale of the Notes were PTE 2011–07 (see Section I(i)); PTE 2009–27 (see Condition (g)); and PTE 2008–12 (see Condition (f)).

[6] The face interest rates for the various Notes that were the subject of the Sale transaction covered by this exemption are displayed in a chart contained in the Notice, which is located at the conclusion of Representation 15 near the top of page 34266 of the June 13, 2011 issue of the **Federal Register**.

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Exemptions From Certain Prohibited Transaction Restrictions

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and/or the Internal Revenue Code of 1986 (the Code). This notice includes the following proposed exemptions: D–11637 HSBC–North America (U.S.) Tax Reduction Investment Plan; D–11679 Sammons Enterprises, Inc. Employee Stock Ownership ESOP; and D–11683 First Federal Bancshares of Arkansas, Inc. Employees' Savings and Profit Sharing Plan.

DATES: All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of

publication of this **Federal Register** Notice.

ADDRESSES: Comments and requests for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. All written comments and requests for a hearing (at least three copies) should be sent to the Employee Benefits Security Administration (EBSA), Office of Exemption Determinations, Room N–5700, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Attention: Application No.___, stated in each Notice of Proposed Exemption. Interested persons are also invited to submit comments and/or hearing requests to EBSA via email or FAX. Any such comments or requests should be sent either by email to: *moffitt.betty@dol.gov,* or by FAX to (202) 219–0204 by the end of the scheduled comment period. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of the Employee Benefits Security Administration, U.S. Department of Labor, Room N–1513, 200 Constitution Avenue NW., Washington, DC 20210.

Warning: If you submit written comments or hearing requests, do not include any personally-identifiable or confidential business information that you do not want to be publicly-disclosed. All comments and hearing requests are posted on the Internet exactly as they are received, and they can be retrieved by most Internet search engines. The Department will make no deletions, modifications or redactions to the comments or hearing requests received, as they are public records.

SUPPLEMENTARY INFORMATION:

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

HSBC–North America (U.S.) Tax Reduction Investment Plan (the Plan), Located in Mettawa, Illinois, [Application No. D–11637].

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990).

Section I: Transactions

If the proposed exemption is granted, effective March 2, 2009, the restrictions of sections 406(a)(1)(A) and 406(a)(1)(E), 406(a)(2), 406(b)(1), 406(b)(2), and 407(a)(1)(A) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) and 4975(c)(1)(E) of the Code,[1] shall not apply:

(1) To the acquisition of certain rights (the ADS Rights) by the Plan in connection with an offering (the Offering) of shares of stock (the Stock) in HSBC Holding, plc (Holdings) by Holdings, a party in interest with respect to the Plan,

(2) To the holding of the ADS Rights received by the Plan during the subscription period of the Offering; provided that the conditions as set forth in section II of this proposed exemption were satisfied;

Section II: Conditions

The relief provided in this exemption is conditioned upon adherence to the material facts and representations described, herein, and as set forth in the application file and upon compliance with the conditions, as set forth in this proposed exemption.

(1) The receipt by the Plan of the ADS Rights occurred in connection with the Offering made available by Holdings on the same terms to all shareholders, such as the Plan, of American Depository Shares[2] (the HSBC ADS) which represent the Stock of Holdings;

(2) The acquisition of the ADS Rights by the Plan resulted from an independent act of Holdings, as a corporate entity, and all holders of the ADS Rights, including the Plan, were treated in the same manner with respect to the acquisition of such rights;

(3) All holders of the ADS Rights, such as the Plan, received the same proportionate number of such rights based on the number of HSBC ADS held; and

(4) All decisions regarding the ADS Rights made by the Plan were made by an independent, qualified fiduciary (the I/F) which:

(a) Conducted a due diligence review of the Offering;

(b) Determined whether or not to direct the Plan to vote in favor of the Offering; and

(c) Evaluated a prudent strategy for disposition of the ADS Rights under the Offering that were allocated to the Plan.

Effective Date: This proposed exemption, if granted, will be effective, on March 2, 2009, the date of the announcement of the Offering.

Summary of Facts and Representations

1. The Plan is a defined contribution profit sharing plan, for eligible employees of HSBC North America Holdings, Inc. (the Employer) and its subsidiaries.

The Plan is qualified under section 401(a) of the Code. In addition, the Plan contains a cash or deferred arrangement intended to qualify under section 401(k) of the Code.

The Plan received a favorable determination letter, dated November 14, 2008, from the Internal Revenue Service. Although the Plan has been amended since applying for the determination letter, the Plan administrator and counsel for the Plan believe that the Plan is designed and is currently being operated in compliance with the applicable requirements of the Code.

[1] For purposes of this proposed exemption, references to specific provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

[2] American Depository Shares permit investment in foreign securities to trade on markets in the United States without many of the complications that would otherwise arise from such cross-border and cross-currency transactions.

As of September 30, 2009, the Plan had approximately 44,000 participants. The fair market value of the total assets of the Plan, as of September 30, 2009, was $2.4 billion.

2. The Plan provides for participant directed investment of contributions made to the Plan. Participants in the Plan may choose among investment options, including mutual funds managed by subsidiaries of the Employer and managed by Vanguard Fiduciary Trust Co. (Vanguard). Vanguard is the trustee of HSBC-North American (U.S.) Tax Reduction Investment Trust (the Trust) which holds the assets of the Plan. In addition, the Vanguard Group of Investment Companies is the record-keeper of the Plan.

3. The application was filed on behalf of the Employer, a financial services company, which sponsors the Plan. The Employer, as an employer any of whose employees are covered by the Plan, is a party in interest with respect to the Plan, pursuant to section 3(14)(C) of the Act.

It is represented that the Employer neither had nor exercised discretionary authority with respect to the ADS Rights acquired by the Plan pursuant to the Offering, and therefore, was not acting as fiduciary, as defined in section 3(21) of the Act. An administrative committee (the Committee) is the named fiduciary of the Plan with respect to daily administration of the Plan. The Committee, as a fiduciary of the Plan, is a party in interest with respect to the Plan, pursuant to section (3)(14)(A) of the Act.

4. The Employer is a subsidiary of Holdings, a public limited liability company incorporated in England and Wales with operations worldwide. The Employer comprises all of the business interests of Holdings in the United States. As the parent of the Employer which sponsors the Plan, Holdings is a party in interest with respect to the Plan, pursuant to section 3(14)(E)of the Act.

5. Holdings is the ultimate parent of the HSBC Group. The HSBC Group is not a separate legal entity, but rather the term, HSBC Group, is an informal collective reference to the legal entities wholly or partially owned by Holdings in Europe, Hong Kong, Asia Pacific, the Middle East, North America, and Latin America. The HSBC Group is not publicly traded on the London Stock Exchange (LSE) or any other stock exchange.

6. The Stock of Holdings is traded on the LSE under the symbol HSBA. The Stock of Holdings is also traded on stock exchanges in Hong Kong, Paris, and Bermuda.

In the United States, shares of HSBC ADS (each representing five (5) shares of the Stock of Holdings) are traded on the New York Stock Exchange (NYSE) under the symbol HBS. BNY Mellon, Inc. (BNY Mellon) is the depository bank that holds the Stock of Holdings in a custodial account and issues shares of HSBC ADS to investors in the United States.

7. The shares of HSBC ADS are a permitted investment option under the terms of the Plan. In this regard, although employee contributions, as of March 28, 2003, may no longer be directed into the acquisition of shares of HSBC ADS, any shares of HSBC ADS acquired prior to March 28, 2003, may continue to be held in participant accounts in the Plan.

The aggregate fair market value of the assets of the Plan invested in shares of HSBC ADS, as reflected in the Plan's most recent annual report dated, December 31, 2008, is $98,679,000. The approximate percentage of the fair market value of the Plan's total assets, as of December 31, 2008, that is represented by investments in shares of HSBC ADS is 4.9 percent (4.9%).

8. On March 2, 2009, Holdings announced its decision, as a corporate entity and issuer of securities, to issue, in connection with the Offering, up to 5,060,239,065 shares of Stock in the form of new ordinary shares, representing approximately 41.7 percent (41.7%) of the existing issued ordinary shares of Stock of Holdings, as of February 27, 2009, the last business day prior to the announcement of the Offering. It is represented that Holdings made this decision for the sole purpose of raising additional capital. An aggregate of 4,887,538,091 new ordinary shares of the Stock of Holdings were subscribed for in connection with the Offering. The gross proceeds from such subscriptions in connection with the Offering totaled £12,072,952,215.50.

Completion of the Offering was conditional upon approval from the shareholders of the Stock of Holdings and upon approval from the shareholders of the HSBC ADS, such as the Plan. The Offering was approved in a meeting (the General Meeting) held in London on March 19, 2009.

9. Under the terms of the Offering, all shareholders of the Stock of Holdings received certain rights (the Share Rights) to purchase, through the exercise of such Share Rights, the new ordinary shares of the Stock of Holdings being issued by Holdings in connection with the Offering. With respect to the Share Rights, under the terms of the Offering, five (5) Share Rights were issued for every twelve (12) shares of the Stock of Holdings, rounded down to the nearest whole number, held by each shareholder on March 13, 2009, (the Record Date). Each of the Share Rights permitted a shareholder of the Stock of Holdings to purchase one (1) additional share of such stock at 254 pence per share.

In addition, under the terms of the Offering, all shareholders of the HSBC ADS, such as the Plan, received ADS Rights to purchase HSBC ADS. With respect to the ADS Rights, under the terms of the Offering, five (5) ADS Rights were issued for every twelve (12) shares of the HSBC ADS, rounded down to nearest whole number, held by each holder of such shares, including the Plan, on the Record Date. Each of the ADS Rights permitted a holder, such as the Plan, to purchase one (1) additional share of the HSBC ADS for an estimated price of $17.75 per each share.

As of March 13, 2009, the Record Date, the Plan held 2,067,667 shares of the HSBC ADS [3] on behalf of 10,562 participants and beneficiaries. Accordingly, based on a ratio of five (5) ADS Rights issued for every twelve (12) shares of the HSBC ADS held, rounded down to nearest whole number, on March 20, 2009, the Plan acquired 861,527 ADS Rights.

10. It is represented that there was no market for the ADS Rights acquired by the Plan, because the terms of the Offering stipulated that the ADS Rights were not transferrable and would not be admitted to trading on the NYSE or any other stock exchange. In order to sell the ADS Rights, holders of the ADS Rights, such as the Plan, had to convert their ADS Rights into Share Rights. The conversion ratio between the ADS Rights and the Share Rights was one to five (1:5). Therefore, it is represented that underlying the 861,527 ADS Rights acquired by the Plan in the Offering that there were 4,307,639 Share Rights.

11. A market for the Share Rights did develop, and the Share Rights were listed on the LSE. In this regard, the Shares Rights began trading on the LSE on March 20, 2009, at 8 a.m. GMT.

12. The Offering closed on March 31, 2009, at 5 p.m. EST with respect to the ADS Rights. The Offering closed on April 3, 2009, at 11 a.m. BST with respect to the Share Rights. Pursuant to the terms of the Offering all unexercised rights expired and became worthless after the closing of the Offering.

[3] Based on the conversion of one HSBC ADS to five (5) shares of Stock of Holdings, the Plan held the equivalent of 10.3 million shares of the Stock of Holdings or less than 0.1% of the outstanding shares of Stock of Holdings.

13. To avoid engaging in a prohibited transaction, it is represented that the Plan considered whether or not to accept the ADS Rights. In this regard, the ADS Rights were accepted, because refusing to accept such rights might constitute a breach of the Employer's fiduciary duties to the Plan and to its participants and beneficiaries.

14. Although the Plan provides for participant directed investment, the applicant represents that it was not practicable to initiate and implement a participant level ''pass through'' voting during the proxy vote for the General Meeting, relating to the approval of the Offering, nor was it practicable to initiate and implement a participant level ''pass through'' of the exercise or sale of the ADS Rights, due to the short duration of time between when such rights were acquired by the Plan and when such rights expired under the terms of the Offering.

On March 12, 2009, the Employer first contacted U.S. Trust, Bank of America Private Wealth Management, acting on behalf of Bank of America, National Association (BANA),[4] to discuss BANA serving as the I/F for the Plan with respect to the Offering. On March 13, 2009, BANA issued an engagement agreement to the Employer to be retained as the I/F for the Plan with respect to the Offering. The Employer, as sponsor of the Plan and settlor of the Trust, amended section 6.5(i) of the Trust agreement, effective March 16, 2009, to retain BANA, to act as investment manager and I/F on behalf of the Plan.

15. BANA had sole authority to vote the shares of the HSBC ADS held under the Plan and to direct Vanguard to exercise or otherwise dispose of the ADS Rights acquired and held by the Trust, pursuant to the Offering. Specifically, BANA was responsible for: (i) Conducting a due diligence review of the Offering; (ii) determining whether or not to direct the Committee to vote in favor of the Offering at the General Meeting; and (iii) if the Offering were approved at the General Meeting to prudently evaluate a disposition strategy under the Offering for the ADS Rights that were allocated to the Plan.

With regard to the responsibility of BANA to instruct Vanguard, the Trustee of the Trust, on how to vote at the General Meeting held on March 19, 2009, it is represented that BANA performed an independent financial analysis of Holdings to determine the need for additional capital and the potential benefits of additional capital. BANA determined that Holdings appeared to be adequately capitalized, and that Holdings had taken steps to restructure its operations to better position itself for the future, in light of recent turmoil across a wide range of markets and industries, and in particular the financial services industry. Accordingly, it is represented that on March 16, 2009, BANA instructed Vanguard to vote the Plan's shares of the HSBC ADS in favor of the Offering at the General Meeting.

It is represented that on March 20, 2009, the participants and beneficiaries in the Plan whose accounts held shares of the HSBC ADS received their *pro rata* share of the ADS Rights. In this regard, BANA was responsible for analyzing and recommending a course of action for such rights received by such accounts.

As stated in the HSBC Rights Issue Prospectus (the Prospectus), issued by Holdings on March 17, 2009, shareholders of the HSBC ADS, including the Plan, were permitted to elect among the following three (3) options: (a) Exercise all or part of the ADS Rights for the purchase of shares of the HSBC ADS; (b) direct BNY Mellon to sell the Share Rights underlying the ADS Rights; (c) surrender the ADS Rights and receive Share Rights.

Option (A) Exercise All or Part of the ADS Rights

Under this option, a holder of the ADS Rights, including the Plan, could exercise all or only a part of the ADS Rights acquired in conjunction with the Offering and could purchase shares of HSBC ADS. In order to exercise the ADS Rights, a holder, such as the Plan, would have to deposit 110% of the subscription price for the HSBC ADS upon the exercise of each of the ADS Rights. The additional amount over and above the subscription price for the HSBC ADS was to increase the likelihood that the agent would have sufficient funds to pay the final subscription price for the HSBC ADS in light of a possible appreciation of Pounds Sterling against the U.S. dollar between the instruction date and the end of the subscription period, and to pay applicable United Kingdom stamp duty reserve taxes, and to pay any currency conversion expenses. It is represented that BANA understood that the Plan lacked available unallocated funds needed to exercise all of the ADS Rights.

The Plan could surrender a portion of the ADS Rights to BNY Mellon and direct BNY Mellon to sell the Share Rights underlying such ADS Rights, in order for the Plan to raise sufficient funds to exercise its remaining ADS Rights. According to BANA, this transaction would have resulted in the Plan receiving Pounds Sterling from the sale of the Share Rights, which would then have had to be converted back into U.S. dollars in order for the Plan to purchase shares of the HSBC ADS through the exercise of the remaining ADS Rights. The conversion from Pounds Sterling to U.S. dollars would have had to have been executed at the then-prevailing exchange rate. In the opinion of BANA, given the volatility in the foreign exchange markets and the uncertainty in future exchange rates, there was no guarantee that the Plan would have been able to convert the proceeds from the sale of the Share Rights into sufficient funds to exercise the remaining ADS Rights. If the Plan had received insufficient funds to exercise the remaining ADS Rights, such rights would have been deemed to have been declined and would have lapsed. Accordingly, for the reasons summarized above, BANA determined that the Plan would not select Option (A).

Option (B) Direct BNY Mellon To Sell the Share Rights Underlying the ADS Rights

Under this option, HSBC established a process by which a holder of ADS Rights, including the Plan, could elect to liquidate such ADS Rights by directing BNY Mellon to attempt to sell the underlying Share Rights on the LSE. Unlike Option (A) above, under Option (B), the Plan was not required to deposit any funds in order for BNY Mellon to liquidate the Plan's ADS Rights. Further, it is represented that BNY Mellon, as depository and as a premier trading firm that was familiar with the transaction, had appropriate trading accounts already in place to facilitate the trading, had the expertise and the processes in place to sell the Share Rights underlying the ADS Rights within the permitted time period. Notwithstanding the fact that there was some currency risk from the conversion of Pounds Sterling into U.S. dollars, according to the I/F, Option (B), offered the Plan an expedited, low cost, frictionless way to liquidate the Plan's interests in the ADS Rights. In this regard, it is represented that under Option (B), the Plan did not have to pay any brokerage commissions in

[4] It is represented that Evercore Trust subsequently acquired the business within BANA that performed the services as I/F with respect to the subject transactions. Norman Goldberg, the individual who supervised BANA's work in connection with this matter and who signed the April 9, 2009, letter from BANA, is currently employed with Evercore Trust, as Managing Director.

connection with the liquidation of its holding in ADS Rights.

Option (C) Surrender ADS Rights and Receive Share Rights

Under this option, a holder of ADS Rights, including the Plan, could elect to exchange such rights for the underlying Share Rights and to sell such Share Rights or exercise such Share Rights to purchase the Stock of Holdings on the LSE. To do so, the Plan would have had to direct BNY Mellon to cancel the ADS Rights and to deliver the underlying Share Rights to a brokerage account set up by the Plan at a firm in the United Kingdom that trades on the LSE. To surrender the ADS Rights and receive the underlying Share Rights, the Plan would have had to pay a 1.5% stamp tax. Finally, the Plan would have had to direct the broker to sell all of the Share Rights, or to exercise all of the Share Rights, or to sell sufficient Share Rights to generate the funds needed to exercise the Plan's remaining Share Rights. To sell and/or exercise the Share Rights through a broker selected by BANA on behalf of the Plan, BANA would have had to negotiate the brokerage fees and other expenses that the Plan would have had to pay such broker for the sale and/or exercise of the Share Rights. Additionally, the Plan would have had to assume the risks and responsibilities attendant to the Share Rights, including effecting the exercise or sale of such rights.

According to BANA, Option (C) presented a number of issues to the Plan that could have resulted in higher trading costs. As there was no market for the ADS Rights, the sale of such rights required conversion into the underlying Share Rights. The conversion of the ADS Rights and receipt of Share Rights would have required the Plan, rather than BNY Mellon, to sell the Share Rights and to receive the proceeds denominated in Pounds Sterling. In addition, the Plan would have had to effect a foreign exchange conversion at the then-prevailing exchange rate, repatriate the funds back into the U.S. (possibly paying any applicable taxes), and then either deposit the proceeds in participant accounts or use the proceeds to purchase shares of HSBC ADS on the NYSE. Furthermore, the Plan would have had to pay wire fees to move the proceeds back to the U.S. BANA points out that during this process, the share price of both the Stock of Holdings on the LSE and the share price of the HSBC ADS on the NYSE would be fluctuating and could possibly have moved against the Plan. Accordingly, BANA determined that the uncertainty of the stock markets and the foreign exchange markets, along with the costs associated with executing the different trades and repatriating the funds back to the U.S. and the uncertainty related to trade settlement and execution, might have resulted in higher trading costs to the Plan, and therefore, lower proceeds to Plan participants. For the foregoing reasons, BANA determined that Option (C) was not in the interest of the Plan.

The applicant provided the following chart which compares the three (3) options, discussed above, and assesses the risks associated with each of the three (3) options:

Risks	*Option (A)* Exercise All or Part of the ADS Rights	*Option (B)* Direct BNY Mellon to Sell the Share Rights Underlying the ADS Rights	*Option (C)* Surrender ADS Rights and Receive Share Rights
Plan Funding In order to exercise the ADS Rights, the Plan needed to deposit 110% of the 254 pence per share subscription price with BNY Mellon.	*Risk: High* The Plan lacked available unallocated funds needed to exercise the ADS Rights. To generate the necessary funds, the Plan would have had to direct BNY Mellon to sell a portion of the Plan's ADS Rights (technically to sell the Share Rights underlying the ADS Rights) to raise sufficient cash to exercise its remaining ADS Rights.	*Risk: Low* No funds were required for BNY Mellon to sell the ADS Rights (technically to sell the Share Rights underlying the ADS Rights) on the public market.	*Risk: High* The Plan lacked available unallocated funds needed to exercise the Share Rights it would receive after surrendering the ADS Rights, meaning the Plan's most viable alternative would have been to sell the Share Rights it received. In order to exercise the Share Rights, the Plan would have had to first sell a portion of the Share Rights to raise sufficient cash to exercise the remaining rights. This would raise other risks as outlined herein.
Operational Risks	*Risk: High*	*Risk: Low*	*Risk: High*

Risks	*Option (A)* Exercise All or Part of the ADS Rights	*Option (B)* Direct BNY Mellon to Sell the Share Rights Underlying the ADS Rights	*Option (C)* Surrender ADS Rights and Receive Share Rights
	In order to exercise the ADS Rights, the Plan would have had to first sell a portion of the ADS Rights (technically to sell the Share Rights underlying the ADS Rights) to raise sufficient funds to exercise its remaining ADS Rights. The uncertainty of the proceeds from this sale (due to constantly changing foreign exchange rates, a fluctuating price for the Share Rights, and uncertainty as to the timing of any such sale) made it impossible to accurately calculate the number of Share Rights to sell in order to raise sufficient proceeds to exercise the remaining ADS Rights. The Plan could have either raised insufficient funds, leaving it holding unexercised (and possibly unsellable) ADS Rights which would have lapsed; or would have ended up with excess cash.	HSBC had established a process to liquidate ADS Rights through BNY Mellon. BNY Mellon is a premier trading firm that was familiar with the transaction, was well-suited to execute all options available to shareholders, and offered competitive fees. BNY Mellon also had appropriate trading accounts already in place to facilitate the trading.	The Plan would have been responsible for selecting a broker to sell the Share Rights on the open market. To do so, the Plan would have had to set up a brokerage account at a firm in London that trades on the LSE. This would have entailed a number of risks, including the time to set up and verify an account and the lesser familiarity by the broker (compared with BNY Mellon) with the transaction. In addition, no other broker selected on behalf of the Plan was likely to have had the market access and the trading volume enjoyed by BNY Mellon.
Timing Risks	*Risk: Moderate-High*	*Risk: Low*	*Risk: High*
The Plan received the ADS Rights on March 20, 2009. Under the terms of the Offering, the ADS Rights expired on March 31, 2009 and the Share Rights expired on April 3, 2009. BANA had only 10 business days from the date on which the Prospectus describing the terms of the Offering was issued to evaluate the options available to the Plan, decide which of the options was in the best interest of the Plan's participant and beneficiaries, and carry out its decision.	It was understood that the Plan did not have cash available to exercise the ADS Rights and the Plan was not intending to sell other investments to raise sufficient cash. Because of the timing of the Offering, the Plan would have had to instruct BNY Mellon at the same time with respect to both the sale and the exercise of the ADS Rights; cash also had to be deposited at this time for the exercise of the ADS Rights. Even assuming the Plan could have immediately monetized (for deposit with BNY Mellon) its expected proceeds from the sale of the ADS Rights, Option (A) nonetheless presented moderate timing risk, because if insufficient funds were generated from the sale, there was not enough time to supplement the cash to ensure the remaining ADS Rights could be exercised. If the necessary funds were not generated in time the ADS Rights would have expired and likely become worthless.	The Plan needed to direct BNY Mellon to sell the ADS Rights (technically, the Share Rights underlying the ADS Rights) before such rights expired. As the depository and a premier trading firm, BNY Mellon already had the expertise and processes in place to sell the ADS Rights within the permitted period.	The Plan needed to convert the ADS Rights into Share Rights, set up brokerage accounts at a firm in London that trades on the LSE, and either sell all of the Share Rights or sell sufficient Share Rights to generate the funds needed to exercise the remaining rights. This option presented the greatest timing risks because any delay in setting up the brokerage accounts or executing the sales could have resulted in the ADS Rights expiring and becoming worthless.
Trading Costs	*Risk: Low*	*Risk: Low*	*Risk: High*

Risks	*Option (A)* Exercise All or Part of the ADS Rights	*Option (B)* Direct BNY Mellon to Sell the Share Rights Underlying the ADS Rights	*Option (C)* Surrender ADS Rights and Receive Share Rights
	This option presented low risk since the Plan would have incurred the same costs described in Option (B) in order to sell a portion of the ADS Rights (technically, the Share Rights underlying the ADS Rights) through BNY Mellon to raise sufficient cash to exercise its remaining ADS Rights. In order to exercise the remaining ADS Rights, the Plan needed to deposit 110% of the 254 pence per share subscription price with BNY Mellon. 110% of the subscription price needed to be deposited in order to cover possible exchange rate fluctuations, applicable United Kingdom stamp duty reserve taxes, and any currency conversion expenses.	This option presented low risk since the Plan would not have had to pay brokerage commissions for the sale of the ADS Rights (technically, the Share Rights underlying the ADS Rights) through BNY Mellon. The Plan would have had to have paid an ADS depository fee of $0.02 per ADS Right, any applicable taxes, and any other applicable fees and expenses of BNY Mellon, as provided under the deposit agreement, *pro rata* to the holders of the ADS Rights who directed BNY Mellon to sell the ADS Rights.	The Plan would have incurred an estimated 1.5% stamp tax to surrender the ADS Rights and receive the underlying Share Rights. In addition, BANA would have had to negotiate and the Plan would have had to pay brokerage fees for the sale or exercise of the Share Rights. Furthermore, the Plan would have had to pay wire fees to move the proceeds back to the U.S. This option presented the highest risk since it could have resulted in higher trading costs to the Plan with uncertainty related to trade settlement and execution, as well as requiring additional trades to convert any shares of Stock of Holdings acquired into HSBC ADS.
Foreign Exchange Rates	*Risk: High* Although certain foreign exchange rate risks were involved in all three options, this option presented the highest risk to the Plan since foreign exchange rate fluctuations could have prevented the Plan's ability to exercise all of the ADS Rights. The Plan would have needed to sell a portion of the ADS Rights (technically, the Shares Rights underlying the ADS Rights) in order to generate the funds needed to exercise the remaining ADS Rights. If the funds generated were insufficient due to a change in foreign exchange rates, the Plan likely would not have had time to sell additional ADS Rights in order to generate the additional funds needed to exercise the remaining ADS Rights.	*Risk: Low* BNY Mellon would need to convert the proceeds from the sale of the ADS Rights (technically, the Shares Rights underlying the ADS Rights) into U.S. dollars at the prevailing rate. The risk is low since the same conversion is needed to convert the proceeds under any of the three options into U.S. dollars.	*Risk: Moderate* The extent of this risk varied depending on whether BANA decided to sell all of the Share Rights or sell a portion of the Share Rights to raise sufficient proceeds to execute the remaining Share Rights. The risk would have been similar to Option (A) had BANA decided to sell some of the Share Rights to exercise the remaining Share Rights. The risk would have been similar too or less than that in Option (B) had BANA decided to sell all of the Share Rights, as BANA would have controlled the timing of the sale.

Accordingly, it is represented that for the reasons cited above, on March 23, 2009, BANA chose Option (B), above, and instructed Vanguard, as Trustee, in turn to instruct BNY Mellon, as depository agent, to liquidate the entire position of ADS Rights [5] from the Plan and to convert the proceeds [6] received from such sale in Pounds Sterling into U.S. dollars.[7] It is represented that the Share Rights underlying the Plan's ADS Rights that BNY Mellon was directed to sell were aggregated by BNY Mellon with the Share Rights underlying other ADS Rights that BNY Mellon was directed to sell by other holders of ADS Rights. Based on information provided by BNY Mellon, the aggregated Share Rights underlying the ADS Rights were sold throughout the period beginning on March 27, 2009 and ending on April 3, 2009, at an average price of 147 pence, after expenses.[8] Accordingly, it is represented that the Plan received total net proceeds of $7,291,066.81, on April 7, 2009, from the liquidation of the Plan's ADS Rights. It is represented that the proceeds represented less than .5% of the fair market value of the total assets of the Plan determined, as of September 30, 2009.

It is represented that the proceeds from the transactions were distributed, after accounting for the ADS depository's fees paid to BNY Mellon of

[5] The applicant has not requested, nor is the Department, herein, providing any relief from section 406 of the Act with respect to decision to liquidate the Plan's entire position of ADS Rights.

[6] The applicant has not requested, nor is the Department, herein, providing any relief from section 406 of the Act with respect to the foreign exchange transaction in connection with the conversion from Pounds Sterling into U.S. dollars.

[7] The responsible plan fiduciary must determine, consistent with its responsibilities under section 404 of the Act, whether the Plan suffered any losses with respect to the liquidation of the ADS Rights and the conversion of the proceeds into US Dollars by BNY Mellon and takes appropriate action in light of the potential magnitude of the recovery and the risks and costs of pursuing legal action on behalf of the Plan.

[8] It is represented that on March 27, 2009, the Share Rights traded in a range of 132 pence to 162 pence. On the same date, the HSBC ADS traded in a range of $28.26 to $29.02. At the close of trading on March 27, 2009, the Share Rights closed on the LSE at 147 pence, and the HSBC ADS closed on the NYSE at $28.47.

up to $0.02 per each share of HSBC ADS and expenses, *pro rata* to the shareholders of the ADS Rights, including the Plan.[9]

With regard to expenses, in addition to the ADS depository fees, the Plan paid foreign exchange charges incurred by BNY Mellon with respect to the conversion of Pounds Sterling to U.S. dollars. It is represented that on March 27, 2009, 1.4554 was the foreign exchange rate for converting Pounds Sterling to U. S. dollars. It is represented that this rate was obtained from OANDA [10] Corporation and reflects the average rate for converting Pounds Sterling into U.S. dollars on March 27, 2009. The foreign exchange charges were allocated *pro rata* to all holders of ADS Rights who directed BNY Mellon to sell the Share Rights underlying the ADS Rights, and the Plan's *pro rata* share of such foreign exchange charges were deducted from the final amount that the Plan received from the sale of such rights. It is represented that BANA does not have information as to the amount of such charges.[11] Further, the Prospectus also indicated that holders of ADS Rights who directed BNY Mellon to sell the Share Rights underlying their ADS Rights would have to pay any applicable taxes, and any other applicable fees and expenses of BNY Mellon, as provided under the deposit agreement,[12] with such fees and expenses allocated *pro rata* to all holders of ADS Rights who directed BNY Mellon to sell the Share Rights underlying their ADS Rights. It is represented that BANA does not have information on whether any such fees or expenses were applicable to the Share Rights underlying the ADS Rights sold by BNY Mellon on behalf of the Plan.

16. The Employer has requested an exemption with respect to the transactions which are the subject of this proposed exemption. In this regard, relief has been requested: (a) for the acquisition of the ADS Rights by the Plan in connection with the Offering by Holdings, and (b) for the holding of the ADS Rights by the Plan during the subscription period of the Offering. It is represented that the ADS Rights acquired by the Plan satisfy the definition of ''employer securities,'' pursuant to section 407(d)(1) of the Act, but do not meet the definition of ''qualifying employer securities,'' as set forth in section 407(d)(5) of the Act. Accordingly, the subject transactions constitute an acquisition and holding on behalf of a plan, of an employer security in violation of section 407(a) of the Act, for which the applicant has requested relief from sections 406(a)(1)(A) and 406(a)(1)(E), 406(a)(2), and 407(a)(1)(A). The subject transactions also raise conflict of interest issues by fiduciaries of the Plan for which relief from the prohibitions of 406(b)(1) and 406(b)(2) of the Act is needed.

17. It is represented that the subject transactions have already been consummated. In this regard, the Plan acquired the ADS Rights pursuant to the Offering on March 20, 2009, and held such rights pending the liquidation of such rights. It is represented that there was insufficient time between the date the Plan acquired the ADS Rights and the date such rights expired, to apply for and be granted an exemption. Accordingly, the Employer is seeking a retroactive exemption to be granted, effective as of March 2, 2009, the date that Holdings announced the Offering.

18. The applicant represents that the proposed exemption is feasible. In this regard, it is represented that the subject transactions are customary for the industry involved, as evidenced by the fact that the Department has granted individual administrative exemptions under similar circumstances. Further, the Employer bore the costs of the application for exemption, and the cost of the fee payable to BANA, and will bear the cost of notifying interested persons of the publication of the proposed exemption.

19. The applicant represents that the transactions which are the subject of this proposed exemption are in the interest of the Plan, because if the Plan had not participated in the Offering, those participants and beneficiaries whose accounts were invested in shares of HSBC ADS on the Record Date would not have received the benefit received by all other shareholders of the Stock of Holdings and shareholders of HSBC ADS.

20. The applicant represents that the proposed exemption provides sufficient safeguards for the protection of the Plan and its participants and beneficiaries. In this regard, the interests of the participants and beneficiaries of the Plan were independently represented at all times during the subject transactions by BANA. Further, BANA concluded that the most prudent course of action that the Plan could take with respect to the disposition of the ADS Rights and the course of action that was in the best interest of the affected participants and beneficiaries was to liquidate the ADS Rights under Option (B). Further, it is represented that the report prepared by BANA confirms that the subject transactions were administrative feasible, in the interest of, and protective of the rights of the Plan and its participants and beneficiaries.

21. In summary, the applicant represents that the subject transactions satisfy the statutory criteria of section 408(a) of the Act and section 4975(c)(2) of the Code because:

(a) The receipt by the Plan of the ADS Rights occurred in connection with the Offering made available by Holdings on the same terms to all shareholders of the HSBC ADS, including the Plan;

(b) The acquisition of the ADS Rights by the Plan resulted from an independent act of Holdings as a corporate entity, and all holders of the ADS Rights, including the Plan, were treated in the same manner with respect to the acquisition of such rights;

(c) All shareholders of HSBC ADS, such as the Plan, received the same proportionate number of ADS Rights based on the number of shares of HSBC ADS held; and

(d) All decisions regarding the disposition of the ADS Rights made on behalf of the Plan were made by BANA, acting as the I/F.

Notice to Interested Persons

The persons who may be interested in the publication in the **Federal Register** of the Notice of Proposed Exemption (the Notice) include participants and beneficiaries of the Plan whose accounts in the Plan held Stock.

It is represented that each of these classes of interested persons will be notified of the publication of the Notice by first class mail, within fifteen (15) days of publication of the Notice in the **Federal Register**. Such mailing will contain a copy of the Notice, as it appears in the **Federal Register** on the date of publication, plus a copy of the Supplemental Statement, as required, pursuant to 29 CFR 2570.43(b)(2), which will advise all interested persons of their right to comment and to request a hearing.

[9] The applicant has not requested, nor is the Department, herein, providing any relief from section 406 of the Act for the receipt of depository's fees by BNY Mellon in connection with the sale of the Share Rights underlying the ADS Rights.

[10] OANDA uses innovative computer and financial technology to provide Internet-based forex trading and currency information services to everyone, from individuals to large corporations, from portfolio managers to financial institutions. OANDA is a market maker and a source for currency data. It has access to one of the world's largest historical, high frequency, filtered currency databases.

[11] The applicant has not requested, nor is the Department providing any relief for the receipt of fees by BNY Mellon with respect to the foreign exchange transaction in connection with the conversion from Pounds Sterling into U.S. dollars.

[12] The applicant has not requested, nor is the Department, herein, providing any relief from section 406 of the Act with respect to receipt of any other applicable fees and expenses by BNY Mellon, as provided under the deposit agreement.

All written comments and/or requests for a hearing must be received by the Department from interested persons within 45 days of the publication of this proposed exemption in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ms. Angelena C. Le Blanc of the Department, telephone (202) 693–8540. (This is not a toll-free number.)

Sammons Enterprises, Inc. Employee Stock Ownership ESOP, (the ESOP), Located in Dallas, Texas, Application No. D–11679].

Proposed Exemption

The Department of Labor (the Department) is considering granting an exemption under the authority of section 408(a) of the Act in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the proposed exemption is granted, the restrictions of sections 406(a)(1)(A) and (D), 406(b)(1), and 406(b)(2) of the Act, and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A), (D) and (E) of the Code, shall not apply to the personal holding company consent dividend election (the Consent) with respect to Sammons Enterprises, Inc. (Sammons), by the trustee of the ESOP, provided that the following conditions are satisfied:

(a) The trustee of the ESOP is an independent, qualified fiduciary (the I/F), acting on behalf of the ESOP, which determines prior to entering into the transaction that the transaction is feasible, in the interest of, and protective of the ESOP and the participants and beneficiaries of the ESOP;

(b) Before the ESOP enters into the proposed transaction, the I/F reviews the transaction, and determines whether or not to approve the transaction, in accordance with the fiduciary provisions of the Act;

(c) The I/F monitors compliance with the terms and conditions of this proposed exemption, as described herein, and ensures that such terms and conditions are at all times satisfied;

(d) Sammons provides to the I/F, in a timely fashion, all information reasonably requested by the I/F to assist it in making its decision whether or not to approve the transaction;

(e) The consent dividend will represent no more than two percent (2%) of the ESOP's assets in any taxable year within the timeframe of the exemption proposed herein;

(f) Shares of Sammons stock are held in an ESOP suspense account, and are allocated each year to each eligible ESOP participant at the maximum level permitted under the Code;

(g) All of the requirements of section 565 of the Code are met with respect to the Consent; and

(h) All shareholders of Sammons are requested to consent to the dividend in the manner prescribed under section 565 of the Code.

Temporary Nature of Exemption: This exemption, if granted, will expire at the earlier of (i) the first day of the first fiscal year of Sammons next following the fiscal year in which falls the fifth anniversary of the date of grant of the exemption; and (ii) the first day upon which the ESOP fails to own at least 99% of the issued and outstanding shares of Sammons.

Summary of Facts and Representations

1. Sammons Enterprises, Inc. (Sammons) is a multi-faceted, global holding corporation headquartered in Dallas, Texas that owns and operates businesses and manages an investment portfolio across a diverse range of industries. Sammons was founded by Charles A. Sammons in 1962. Its roots originate in Dallas, Texas, where Mr. Sammons began Reserve Life Insurance Company in 1938, providing the foundation for what has grown into Sammons. Beginning in the early 1950's, Mr. Sammons began to diversify Sammons' operations, purchasing interests in the communications, industrial products distribution, insurance, travel and hospitality industries. Sammons has now concentrated its investments into three sectors—life insurance/annuities, equipment distribution, and hospitality and real estate.

2. The Sammons Enterprises, Inc. Employee Stock Ownership ESOP (the ESOP) was originally established in 1978 and, prior to 2010, had acquired approximately 4% of Sammons' outstanding shares. Prior to his death in 1988, almost all of Sammons' outstanding shares, other than those owned by the ESOP, were owned by Charles A. Sammons. At the time of his death, Mr. Sammons' shares passed to a charitable remainder trust with his widow Elaine D. Simmons as lifetime beneficiary. In 1997, Congress amended the Internal Revenue Code of 1986, as amended (the Code) to permit an ESOP and its related trust to be a beneficiary of a charitable remainder trust. This change in law allowed the ESOP to be named remainder beneficiary of the charitable trust established by Mr. Sammons. In January 2010, following the death of Mrs. Sammons, all of the Sammons shares held in the charitable remainder trust were transferred to the ESOP. The ESOP made no payment for the shares received from the charitable remainder trust.

3. As a result of the transfer to the ESOP, it presently owns 99.997% of Sammons' outstanding shares. The remaining 258 shares (representing .003% of Sammons' outstanding shares) are owned by 12 individuals who are former Sammons employees and ESOP participants who received their shares as part of their ESOP distributions.

4. As of December 31, 2010, the Sammons stock was valued by the ESOP's independent appraiser at $512 per share. The aggregate fair market value of the ESOP's Sammons share holdings is $4,099,394,048.[13] The ESOP had approximately 1,064 participants as of the end of the 2010 plan year.

5. Although the ESOP is not leveraged, under a special structure established pursuant to section 664(g) of the Code, the shares acquired from the charitable remainder trust are held in an ESOP suspense account, and are currently allocated each year to each eligible ESOP participant at the maximum level permitted under Code section 664(g)(7), *i.e.,* 25% of compensation (up to a maximum allocation of $45,000).[14]

6. The trustee of the ESOP trust is the applicant, GreatBanc Trust Company (GreatBanc). GreatBanc is nationally recognized as a highly skilled independent ERISA trustee specializing in ESOPs and ESOP transactions. GreatBanc's management team and staff have an average of over 20 years' experience in the financial services industry, and include legal and

[13] The applicant represents that, consistent with the requirements of the Act, including definitions of ''adequate consideration'' and ''current value'' found in Act sections 3(18) and 3(26), the value of the Sammons stock held by the ESOP is determined in good faith by the Plan's trustee, GreatBanc Trust Company, based upon valuations by the Plan's independent appraiser as required under Code section 401(a)(28)(C), and taking into account those factors determined to be relevant under Revenue Procedure 59–60 and the Department's Proposed Regulation section 2510.3–18. The applicant represents that, consistent with its fiduciary responsibilities under ERISA, it will, as the ESOP's independent trustee, continue to value the Sammons stock held by the ESOP in good faith based upon valuations performed by a qualified independent appraiser engaged by the Plan to ensure that all transactions are conducted at fair market value. The applicant further represents that Sammons regularly evaluates the performance of the qualified independent fiduciary under the terms of the ESOP Trust, and, as part of that evaluation, Sammons also regularly evaluates the performance of the ESOP's independent appraiser which is engaged on behalf of the ESOP by the qualified independent fiduciary.

[14] The Code provides for a maximum allocation of $30,000, adjusted annually for cost-of-living. For 2011, the maximum allocation is $45,000.

regulatory experts and investment management professionals who hold the Chartered Financial Analyst designation. GreatBanc serves as trustee or independent fiduciary for over 200 ESOPs and other qualified plans sponsored by both public and private companies, and has fiduciary responsibility for over $18 billion in plan assets. Fees received by GreatBanc for fiduciary services to the Sammons ESOP currently represent approximately 3% of GreatBanc's annual revenue.

7. As a result of its closely held nature and the types of revenue generated by certain of its lines of business, Sammons is potentially subject each year to a set of federal tax rules referred to as ''personal holding company taxes'' (PHCT). Although Sammons is a subchapter ''C'' corporation and pays its full share of corporate income taxes, the applicant represents that these PHCT rules can subject Sammons to a significant federal tax burden over and above that applied to most other companies. Given the ESOP's almost complete ownership of Sammons, these additional taxes would operate to the direct detriment of the ESOP and its participants.

8. The applicant represents that the pertinent sections of the Code were first adopted in 1934 at a time when federal corporate tax rules were substantially lower than individual tax rates. This rate differential prompted wealthy individuals to place their passive investments in controlled corporations, with the idea that ongoing investment earnings could grow and be reinvested in substantially greater amounts than if held directly by the individual investor. The PHCT rules seek to thwart this strategy by imposing an additional tax, at the highest individual tax rate, on the corporation's ''undistributed personal holding company income.'' By thus equalizing corporate and individual tax rates, the incentive to place the individual's investment portfolio in a corporate structure is removed. Currently, the PHCT rate is 15%, which equates to the top individual rate on capital gains and qualifying dividends.[15] Because this special tax regime is designed to preclude tax arbitrage by the controlled corporations of individual investors, it only applies if 50% or more of a company's stock is owned by five or fewer individuals. For this purpose, the ESOP is considered to be a single individual, notwithstanding its 1,604 participants, and thus the 50% ownership threshold is exceeded.

9. According to the applicant, the PHCT only applies if the corporation earns over 60% of what is referred to as its ''adjusted ordinary gross income'' from sources such as interest, dividends, rents and royalties. Although these particular forms of income may be suggestive of purely passive investments, they are defined under the Code in such a way that income from actively conducted trades or businesses can fall within their purview. For example, one Sammons subsidiary actively rents and sells industrial equipment to businesses in various states. The subsidiary employs approximately 450 workers who service and maintain this equipment. Although this business is an active, operating venture, it generates rental income which is subject to being characterized as personal holding company income. According to the applicant, these tax rules not only potentially subject Sammons, and, indirectly, the ESOP, to a tax burden which has nothing to do with the original purpose for which the tax rules were enacted, they also distort the ways in which Sammons must operate its businesses, to the detriment of the ESOP and its participants.

10. Sammons' business planning is thus significantly influenced by the potential application of the PHCT, and otherwise desirable business activities are avoided or structured in a less efficient manner so that Sammons may maintain its tax obligations at the same level as that applicable to its competitors.

11. Because the PHCT is applied to the company's undistributed personal holding company income, it is possible to avoid the tax by paying to the company's shareholders dividends equivalent to the amount of the company's personal holding company taxable income. The applicant represents that while the payment of such a dividend would resolve the PHCT problem, it is not an attractive alternative for (a) investors who would prefer to have the dividend amount remain invested in the company in order to fund future growth, or (b) companies that lack the liquidity to pay the required dividend.

12. In response to these concerns, section 565 of the Code allows companies to pay what is called a ''consent dividend.'' In the case of a consent dividend, the shareholder agrees to recognize current income on a ''deemed dividend'' that is not actually distributed to the shareholder in cash. Rather, the shareholder is treated, for tax purposes, as if it had received the dividend (on which it will be taxed), and then made a capital contribution to the company in equivalent amount. The amount of the consent dividend remains within the company to be utilized in furtherance of the company's objectives and shareholders' interests.

13. The applicant has requested an exemption to permit the Plan, based upon the discretionary determination of GreatBanc as trustee and independent fiduciary, to utilize the consent dividend process available to shareholders under Code section 565. If, in a year in which Sammons would otherwise be subject to the PHCT, the ESOP were able to elect to ''receive'' a consent dividend in an amount sufficient to represent a complete distribution of Sammons' personal holding company income, Sammons would be able to achieve significant tax savings at virtually no cost to the ESOP. This is because the ESOP, being a tax-exempt entity, would have no tax liability as a result of ''receiving'' the consent dividend. The applicant states that this represents a legitimate and appropriate use of the consent dividend process under Code section 565, and is entirely consistent with the language and purpose of that Code section, as well as the provisions of sections 401(a) and 501(a) of the Code.

14. For example, if a $5 million distribution were required in order to avoid imposition of the PHCT upon Sammons, a $5 million consent dividend would save Sammons, at the current surtax rates, $750,000. Virtually[16] the entire amount of this savings would inure to the benefit of the ESOP and its participants (because the ESOP presently owns 99.997% of the outstanding shares of Sammons). Importantly, this approach would also allow the consent dividend amount (and not just the tax savings) to continue to build share values within a successful and growing business.

15. The applicant represents that the ESOP's participation in the consent dividend process will permit Sammons to manage its businesses and conduct long-range business planning without the need to structure its operations, or to forego potentially profitable opportunities and initiatives, so as to avoid the generation of personal holding company income. This will create greater opportunities for corporate growth and the enhancement of shareholder value, which will inure

[15] Over the years since its enactment, the PHCT rate has ranged as high as 85%.

[16] The use of the term ''virtually'' both here and in representation 13, above, acknowledges the fact that the non-ESOP shareholders of Sammons might elect not to participate in the consent dividend process. These individuals currently hold .003% of Sammons' outstanding shares, and would receive a de minimis dividend payment if they elect not to participate in the consent dividend process.

directly to the benefit of the ESOP and its participants and beneficiaries. The ESOP will incur no economic detriment by participating in the consent dividend process, because Sammons does not otherwise pay dividends.[17] Thus, the ESOP would not be foregoing the option of receiving current cash dividends by consenting to receive the undistributed personal holding company income as a deemed dividend. Rather, the proposed transaction would permit Sammons to deploy its capital on a tax efficient basis in accordance with the provisions of the Code. Nevertheless, if GreatBanc determines in any year that it is not prudent and in the best interests of the ESOP and its participants and beneficiaries to participate in the consent dividend process, the Plan will be under no obligation to provide its consent. In such case, it will be up to Sammons' board and management to determine how best to address Sammons' tax position and obligations.

16. In summary, the applicant represents that the subject transaction satisfies the criteria contained in section 408(a) of the Act because: (a) The trustee of the ESOP, GreatBanc, is an independent, qualified fiduciary, acting on behalf of the ESOP, which determines prior to entering into the transaction that the transaction is feasible, in the interest of, and protective of the ESOP and the participants and beneficiaries of the ESOP; (b) Before the ESOP enters into the proposed transaction, GreatBanc will review the transaction, and determine whether or not to approve the transaction, in accordance with the fiduciary provisions of the Act; (c) GreatBanc will monitor compliance with the terms and conditions of this proposed exemption, as described herein, and ensure that such terms and conditions are at all times satisfied; (d) Sammons will provide to GreatBanc, in a timely fashion, all information reasonably requested by the GreatBanc to assist it in making its decision to consent (the Consent) to treat as a dividend from Sammons the amount specified in the Consent; (e) The consent dividend will represent no more than two percent (2%) of the ESOP's assets in any taxable year within the timeframe of the exemption proposed herein; (f) Shares of Sammons stock are held in an ESOP suspense account, and are allocated each year to each eligible ESOP participant at the maximum level permitted under the Code; (g) The dividend meets all of the requirements of section 565 of the Code to be treated as a consent dividend; (h) All shareholders of Sammons are requested to Consent to the dividend in the manner prescribed under section 565 of the Code; and (i) Because the ESOP owns 99.997% of Sammons' outstanding stock, the tax savings realized by Sammons from the subject transaction would inure directly to the benefit of the ESOP and its participants and beneficiaries.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 693–8546. (This is not a toll-free number.)

First Federal Bancshares of Arkansas, Inc. Employees' Savings and Profit Sharing Plan (the Plan), Located in Harrison, Arkansas, [Application No. D–11683].

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990).

Section I: Transactions

If the proposed exemption is granted, effective May 10, 2011, the restrictions of sections 406(a)(1)(A), 406(a)(1)(E), 406(a)(2), 406(b)(1), 406(b)(2), and 407(a)(1)(A) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) and 4975(c)(1)(E) of the Code,[18] shall not apply:

(1) To the acquisition of certain rights (the Rights) by the Plan in connection with an offering (the Offering) of shares of the common stock (the Stock) of First Federal Bancshares of Arkansas, Inc. (Bancshares) by Bancshares, a party in interest with respect to the Plan, and

(2) to the holding of the Rights received by the Plan during the subscription period of the Offering; provided that the conditions as set forth in section II of this proposed exemption were satisfied for the duration of the acquisition and holding.

Section II: Conditions

The relief provided in this exemption is conditioned upon adherence to the material facts and representations described, herein, and as set forth in the application file and upon compliance with the conditions, as set forth in this proposed exemption.

(1) The receipt of the Rights by the Plan occurred in connection with the Offering and was made available by Bancshares on the same terms to all shareholders of the Stock of Bancshares;

(2) The acquisition of the Rights by the Plan resulted from an independent act of Bancshares, as a corporate entity, and all holders of the Rights, including the Plan, were treated in the same manner with respect to the acquisition of such Rights;

(3) Each shareholder of the Stock, including the Plan, received the same proportionate number of Rights based on the number of shares of Stock of Bancshares held by such shareholder;

(4) The Rights were acquired pursuant to provisions under the Plan for individually directed investments of the accounts of the individual participants (the Invested Participants), all or a portion of whose accounts in the Plan hold the Stock;

(5) The decisions with regard to the holding and disposition of the Rights by the Plan were made by each of the Invested Participants in accordance with the provisions under the Plan for individually-directed accounts; and

(6) No brokerage fees, no commissions, no subscription fees, and no other charges were paid by the Plan with respect to the Offering, and no brokerage fees, no commissions, and no other monies were paid by the Plan to any broker in connection with the exercise of the Rights.

Effective Date: This proposed exemption, if granted, will be effective, May 10, 2011, the commencement date of the Offering.

Summary of Facts and Representations

1. The Plan is defined contribution profit sharing plan adopted effective June 1, 2006.[19] The Plan provides for a cash and deferred arrangement, *i.e.* a 401(k) plan. The Plan is a participant directed account plan designed and operated to comply with the requirements of section 404(c) of the Act. The fair market value of the total assets of the Plan, as of May 10, 2011, was $3.579 million.

2. Bancshares is the sponsor of the Plan for its subsidiaries. Bancshares is also the administrator for the Plan and the fiduciary responsible for Plan matters. As a fiduciary with respect to the Plan, Bancshares is a party in interest to the Plan, pursuant to section 3(14)(A) of the Act.

3. Since June 5, 2009, Reliance Trust Company (RTC) has served as the

[17] Sammons paid a relatively small dividend while Mrs. Sammons was alive. No dividends have been paid since her death, and Sammons does not anticipate paying dividends in the future.

[18] For purposes of this proposed exemption, references to specific provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

[19] Bancshares also maintained a qualified Employee Stock Ownership Plan which was merged into the Plan, effective June 1, 2006.

directed trustee and custodian for the Plan. As directed trustee and custodian, RTC is a party in interest to the Plan, pursuant to section 3(14)(A) of the Act. As service providers to the Plan, both Bancshares and RTC are parties in interest to the Plan, pursuant to section 3(14)(B) of the Act.

4. The Plan offers to participants a wide variety of institutionally managed collective trust index funds from which the Plan participants may choose to invest. One of the investment options under the Plan is the First Federal Employer Stock Fund (the Stock Fund). As of May 10, 2011, the Plan had approximately 231 participants of which 180 participant held shares in the Stock Fund.

5. The Stock Fund allows participants in the Plan to invest in the Stock of Bancshares. The Stock is a ''qualifying employer security,'' as defined under section 407(d)(5) of the Act and 4975(e) of the Code. The Stock ($0.01 par value) is listed for quotation on the NASDAQ Global Select Market (NASDAQ) under the symbol, FFBH. It is represented that the Stock is the same class of shares available to other investors.

Investment in the Stock Fund is entirely voluntary. Plan participants may invest in the Stock Fund up to 25 percent (25%) of any contributions remitted to the Plan. Features of the Stock Fund include:

(a) Neither Bancshares nor its subsidiaries contribute any capital Stock to the Plan. Instead all employer contributions are made in cash, and the Stock is acquired for the Plan only as a result of participant-directed investment decisions;

(b) Upon direction from a Plan participant to invest in the Stock Fund, RTC, acting as directed trustee, purchases the Stock on the open market at the prevailing market price;

(c) Bancshares, as the administrator of the Plan, has the responsibility of coordinating with RTC, regarding the administrative procedures to implement participant investment decisions regarding the Stock, but otherwise has no authority with respect to the Stock Fund;

(d) Upon the settlement of a trade implementing a participant's direction to invest in the Stock Fund, RTC becomes the shareholder of record and the Plan participant becomes the beneficial owner; and

(e) The Plan provides that participants are entitled to direct Bancshares, as the administrator of the Plan, regarding the voting of shares of the Stock held in their accounts, and that RTC shall follow such directions.

6. The application was filed on behalf of Bancshares, a unitary savings and loan holding company established in January 1996. Bancshares is a Texas corporation.[20] However, the shareholders approved the reincorporation of Bancshares from Texas to Arkansas during the annual meeting of shareholders held on June 22, 2011. Bancshares is in the process of making the requisite filings to complete the reincorporation. Bancshares has its principal place of business in Harrison, Arkansas. Bancshares does not employ any persons other than officers of First Federal Bank (the Bank), and Bancshares uses the support staff of the Bank from time to time. Substantially all of the activities of Bancshares are conducted through the Bank. As of March 31, 2011, Bancshares had $577.7 million in total assets, $542.9 million in total liabilities and $34.8 million in stockholders' equity.

7. The Bank is a wholly-owned subsidiary of Bancshares. Bancshares, as the parent of the Bank, is a party in interest with respect to the Plan, pursuant to section 3(14)(E) of the Act. The Bank is a community bank and a federally chartered saving and loan association formed in 1934 with a main office and full service branches in North central and Northwest Arkansas. As of March 31, 2011, the Bank had $577.7 million in assets. The Bank, as an employer any of whose employees are covered by the plan, is a party in interest with respect to the Plan, pursuant to section 3(14)(C) of the Act.

8. As part of its recapitalization plan, Bancshares and the Bank, on January 26, 2011, entered into an investment agreement with Bear State Financial Holdings, LLC (Bear State), a private equity investment group. The investment agreement set forth the terms and conditions of the recapitalization plan which consisted of the following:

(a) As a condition of the investment agreement with Bear State, Bancshares agreed to commence the Offering which is the subject of this proposed exemption, whereby shareholders of record would receive the Rights. In a press release, dated January 28, 2011, Bancshares, as a corporate entity, announced the Offering, and on the same date, in connection with the Offering, announced the issuance of up to 2,908,071 shares of Stock;

(b) On May 3, 2011, Bear State purchased from the United States Department of the Treasury (the Treasury) for $6 million aggregate consideration: (i) 16,500 shares of Bancshares' Fixed Rate Cumulative Perpetual Preferred Stock, Series A (the Preferred Stock), including accrued but unpaid dividends thereon; and (ii) a related warrant (the TARP Warrant), dated March 6, 2009, which provided for the purchase of 321,847 shares of the Stock at an exercise price of $7.69 per share. Both the TARP Warrant and the Preferred Stock were previously issued to the Treasury through the Troubled Asset Relief Program—Capital Purchase Program;

(c) Bancshares amended its Articles of Incorporation to cause a one-for-five stock split (the Reverse Stock Split) that occurred on May 3, 2011, in which the outstanding shares of the Stock decreased from 4,846,785 to approximately 969,357;

(d) On May 3, 2011, Bancshares sold to Bear State: (i) 15,425,262 post-Reverse Stock Split shares (the First Closing Shares) of the Stock at $3.00 per share in a private placement, and (ii) a warrant (the Investor Warrant) which provided for the purchase of 2 million post-Reverse Stock Split shares of the Stock at an exercise price of $3.00 per share;

(e) On May 3, 2011, Bear State paid Bancshares aggregate consideration of approximately $46.3 million for the First Closing Shares and the Investor Warrant, consisting of: (i) $40.3 million in cash, and (ii) Bear State's surrender of the Preferred Stock and the TARP Warrant to Bancshares for a $6 million credit against the purchase price of the First Closing Shares; and

(f) Pursuant to the investment agreement, Bear State agreed to backstop the Offering by purchasing in a second private placement for a purchase price of $3.00 per share, any Stock not subscribed for in the Offering, subject to an overall limitation on Bear State's ownership of 94.9 percent (94.9%) of the Stock.[21] In this regard, the backstop commitment would ensure that Bancshares would raise net proceeds after expenses of approximately $8.5 million through the Offering. It is represented that Bancshares used the net proceeds from the Offering for general corporate purposes, including capital contributions to the Bank.

8. In addition to providing Bancshares with an opportunity to raise equity

[20] The shareholders have approved the reincorporation of Bancshares from Texas to Arkansas during the annual meeting of shareholders held on June 22, 2011. Bancshares is in the process of making the requisite filings to complete the reincorporation.

[21] It is represented that because the Offering was fully subscribed, Bear State was not required to purchase any shares of Stock in a second private placement to backstop the Offering.

capital, the Offering also provided existing shareholders with the opportunity to purchase the Stock at the same price per share paid by Bear State for the 15,425,262 post-Reverse Split shares of Stock Bear State acquired on May 3, 2011.

9. The total number of shares of Stock outstanding, as of the commencement date of the Offering on May 10, 2011, was 16,394,619. At the close of business on May 10, 2011, the Stock was trading on the NASDAQ at $9.07 per share. After giving effect to the 2,908,071 shares of Stock issued in connection with the Offering, the issued and outstanding shares of Stock totaled 19,302,690. The closing price of the Stock on the ending date of the Offering on June 21, 2011, was $7.77.

10. Under the terms of the Offering, all shareholders of the Stock, including the Invested Participants in the Plan, automatically received at no charge the Rights to purchase, through the exercise of such Rights, the Stock being issued by Bancshares in connection with the Offering. All shareholders of the Stock, including the Invested Participants, held the Rights until such Rights were either exercised, or such Rights expired. With respect to the Rights, under the terms of the Offering, one (1) Right was issued for every share of the Stock held by each shareholder, including the Invested Participants, on March 23, 2011, 5 p.m. Eastern time (the Record Date), as adjusted to take account of the Reverse Stock Split that occurred on May 3, 2011. All Rights were rounded down to the nearest whole number for each shareholder, including the Invested Participants.

11. It is represented that the Rights were not listed, traded or quoted on NASDAQ or on any other stock exchange or trading market. Further, the terms of the Offering stipulated that the Rights could not be sold, assigned or transferred.

12. The Rights could only be exercised in whole numbers. Upon exercise, each of the Rights permitted a shareholder of the Stock, including the Invested Participants, to purchase three (3) additional shares of Stock at a subscription price of $3.00 per share. A shareholder, including each Invested Participant, had the right to choose to exercise some, all, or none of his Rights. The exercise of any of the Rights was irrevocable.

13. It is represented that to the extent shareholders did not exercise in full all of their Rights, each shareholder who did timely and fully exercise his basic Rights would have an oversubscription privilege to subscribe for a portion of the Stock in the Offering, subject to availability and allocation. However, a shareholder's ability to purchase Stock in the Offering (through the exercise of his basic Rights and any oversubscription privilege) was subject to an overall beneficial ownership limitation of 4.9 percent (4.9%) of Bancshares outstanding Stock. If oversubscription requests exceed the number of shares available, Bancshares allocated the available shares *pro rata* among the holders of Rights who exercised the oversubscription privilege.

14. The Rights could be exercised beginning May 10, 2011, the date of the issuance of the prospectus describing the Offering. The Offering was to have closed with respect to the exercise of the Rights on June 7, 2011, but due to delays in the delivery of subscription materials, the closing of the Offering was extended to June 21, 2011. Pursuant to the terms of the Offering all unexercised Rights expired and became worthless after the closing of the Offering.

15. It is represented that on May 10, 2011, the commencement date of the Offering, the Plan was the record owner of 106,964 shares of Stock which were allocated to the individual accounts of 180 Invested Participants. The aggregate fair market value of the assets of the Plan invested in shares of the Stock, on May 10, 2011, based on a closing price of such Stock of $9.07 on NASDAQ on that date was $970,167. As of May 10, 2011, the approximate percentage of the fair market value of the total assets of the Plan invested in the Stock was 27 percent (27%). As of the same date, 106,964 shares of Stock constituted approximately .65 percent (.65%) of the 16,394,619 shares of Stock outstanding.

16. Based on the ratio of one (1) Right for each share of Stock held, the Plan acquired 106,964 Rights, as a result of the Offering. It is represented that the Plan subscribed for 276,579 shares of Stock in the exercise of the basic Rights and the oversubscription privilege. Of the Rights received by the Plan on behalf of accounts of the Invested Participants all Rights were either exercised or expired.

17. The Plan and RTC were notified of the issuance of the Rights in a press release from Bancshares, dated May 10, 2011. Enclosed with a form letter mailed, on May 10, 2011, to each Invested Participant in the Plan Bancshares also provided a copy of the prospectus which described the Offering, a document providing frequently asked questions and answers regarding the Offering, an election form for Invested Participants in the Plan, a return envelope addressed to Bancshares, and a statement indicating the number of shares of Stock each Invested Participant held, as of the Record Date.

18. In order to exercise some or all of the Rights, an Invested Participant had to complete an election form and to submit such election form to Bancshares by the close of business on the fifth (5th) business day (June 14, 2011 at 5 p.m. EST), prior to the expiration of the Offering on June 21, 2011.[22] Each Invested Participant who submitted an election form was required to indicate on such election form a sufficient amount of current investments in such Invested Participant's account in the Plan to be liquidated in order to generate the full subscription price in cash based on the number of basic Rights and any oversubscription privileges to be exercised.[23] It is represented that the selected investments were liquidated consistent with such Invested Participant's direction on the election form and transferred to the Rights Fund at RTC which was established in anticipation of the Offering. RTC placed the order to purchase the shares with the Subscription Agent. It is represented that the Rights Fund was liquidated on June 21, 2011, and cash equal to the necessary subscription payment was transferred to the Subscription Agent. Following the closing of the Offering, the acquired shares of Stock were then credited to the applicable Invested Participant's account in the Plan. In the event the Invested Participants over-subscribed for more shares of Stock than were available under the Offering, the money resulting from the liquidation of investments to buy those oversubscribed shares was re-deposited into the Plan based on the Investment Participant's investment allocation election.

It is represented that although 5,576,216 total shares were subscribed for by all shareholders, including the

[22] It is represented that the extra five (5) business days were required to provide RTC, the Registrar and Transfer Company (the Subscription Agent), the Plan's record keeper, the custodian for the First Federal Bancshares of Arkansas, Inc. Rights Fund (the Rights Fund), and the clearing agent for the Offering sufficient time to process all such elections by the Invested Participants to exercise their Rights, tabulate and confirm the results, liquidate each such Invested Participant's funds, confirm the orders and the availability of such funds, and remit payment to purchase the shares.

[23] It is represented that if the value of investments liquidated did not equal or exceed the purchase price of the Stock that an Invested Participant had elected to purchase in the Offering, none of the Rights held in such Invested Participant's account were exercised. In that situation, such Invested Participant was deemed not to have exercised his Rights and all subscription payments received on that Invested Participant's behalf were returned to the Plan and deposited based upon such Participant's investment allocation election.

Invested Participants, under the basic Rights and under the oversubscription privilege, only a total of 2,908,071 shares of Stock were issued.

It is represented that 102 Invested Participants out of 180 decided to exercise the Rights. In this regard, the Rights of such Invested Participants were executed on or about May 10, 2011, until the Offering closed at 5 p.m. EST on June 14, 2011.[24] The Invested Participants exercised 64,677 basic Rights. As a result of this exercise, the Invested Participants received 194,031 shares of Stock from the exercise of their basic Rights and 55,014 shares of Stock from the exercise of their oversubscription privilege.

19. It is represented that no brokerage fees, commissions, subscription fees, or any other charges were paid by the Plan with respect to the Offering, and no brokerage fees, commissions, or other monies were paid by the Plan to any broker in connection with the exercise of the Rights. It is further represented that Bancshares did not charge any fees or sales commissions to issue the Rights and did not charge any fees to issue the Stock upon the exercise of the Rights.

20. It is represented that on June 30, 2011, the Invested Participants received the Stock purchased as a result of the exercise of the Rights. It is further represented that the Stock purchased in connection with the Offering was eligible for trading on NASDAQ by the Invested Participants on June 30, 2011.

21. Bancshares has requested an exemption with respect to the transactions which are the subject of this proposed exemption. In this regard, relief has been requested: (a) For the acquisition of the Rights by the Plan in connection with the Offering by Bancshares, and (b) for the holding of the Rights by the Plan during the subscription period of the Offering.

It is represented that the Rights acquired by the Plan satisfy the definition of ''employer securities,'' pursuant to section 407(d)(1) of the Act. As the Rights were not stock or a marketable obligation, such Rights do not meet the definition of ''qualifying employer securities,'' as set forth in section 407(d)(5) of the Act. Accordingly, the subject transactions constitute an acquisition and holding on behalf of a plan, of an employer security which is not a qualifying employer security, in violation of section 407(a) of the Act, for which the applicant has requested relief from sections 406(a)(1)(A), 406(a)(1)(E), 406(a)(2), and 407(a)(1)(A) of the Act. The subject transactions also raise conflict of interest issues by fiduciaries of the Plan for which relief from the prohibitions of section 406(b)(1) and 406(b)(2) of the Act has been requested.

22. It is represented that the subject transactions have already been consummated. In this regard, the Plan acquired the Rights pursuant to the Offering on May 10, 2011, and held such Rights pending the closing of the Offering on June 21, 2011. As there was insufficient time between the dates when the Plan acquired the Rights and when such Rights expired, to apply for and be granted an exemption, Bancshares is seeking a retroactive exemption to be granted, effective as of May 10, 2011, the date that the Plan acquired the Rights.

23. Bancshares represents that the proposed exemption is administratively feasible. In this regard, the acquisition and holding of the Rights by the Plan were one-time transactions that involved an automatic distribution of the Rights to all shareholders at no cost. It is represented that it is customary for the industry involved to make a rights offering available to all shareholders.

24. Bancshares represents that the transactions which are the subject of this proposed exemption are in the interest of the Plan, because the subject transactions represented a valuable opportunity to the accounts of the Invested Participants in the Plan to buy the Stock at a discount. It is represented that this discount could be realized by selling the Stock immediately after the exercise of the Rights and investing the proceeds from such sale of the Stock in other investment options under the Plan.

25. Bancshares represents that the proposed exemption provides sufficient safeguards for the protection of the Plan and its participants and beneficiaries. In this regard, participation in the Offering protected the accounts of the Invested Participants in the Plan from having their interests in the Stock diluted as a result of the Offering.

It is further represented that the interests of the accounts of Invested Participants in the Plan were adequately protected in that the Plan acquired and held the Rights automatically as a result of the Offering.

The accounts of Invested Participants in the Plan were protected against economic loss from the exercise of the Rights. In this regard, it is represented that RTC was instructed to note the public trading price of the Stock on June 20, 2011 (one business day before the close of the Offering), and was instructed not to exercise any Rights held by the Plan, if the per share public trading price of the Stock at the close of trading was less than or equal to the subscription price of $3.00 per share on that date. It is represented that the closing price of the Stock on June 20, 2011, was $8.01 per share. If on June 20, 2011 the public trading price per share of the Stock had not been greater than the exercise price under the Rights, the election to exercise would not have been honored and the payments received on behalf of Invested Participants would have been returned to the Plan and deposited based on such Invested Participants investment allocation election.

26. In summary, Bancshares represents that the subject transactions satisfy the statutory criteria of section 408(a) of the Act and section 4975(c)(2) of the Code because:

(a) The receipt by the Plan of the Rights occurred in connection with the Offering made available by Bancshares on the same terms to all shareholders of the Stock of Bancshares;

(b) The acquisition of the Rights by the Plan resulted from an independent act of Bancshares, as a corporate entity, and all holders of the Rights, including the Plan, were treated in the same manner with respect to the acquisition of such Rights;

(c) Each shareholder of the Stock, including the Plan, received the same proportionate number of Rights based on the number of shares of Stock of Bancshares held by such shareholder;

(d) The Rights were acquired pursuant to provisions under the Plan for individually directed investments of the accounts of the Invested Participants, all or a portion of whose accounts in the Plan hold the Stock;

(e) The decision to exercise the Rights or to refrain from exercising the Rights was made by each of the Invested Participants in accordance with the provision under the Plan for individually-directed accounts; and

(f) No brokerage fees, no commissions, no subscription fees, and no other charges were paid by the Plan with respect to the Offering, and no brokerage fees, no commissions, and no other monies were paid by the Plan to any broker in connection with the exercise of the Rights.

Notice to Interested Persons

The persons who may be interested in the publication in the **Federal Register** of the Notice of Proposed Exemption

[24] It is represented that the Invested Participants rely on the relief provided by the statutory exemption, pursuant to section 408(e) of the Act for the exercise of the Rights. The Department is offering no view, as to whether the requirements of the statutory exemption provided in section 408(e) of the Act have been satisfied. Further, the Department, herein, is not providing any relief with respect to the exercise of the Rights.

(the Notice) include all individuals who are participants in the Plan who received the Rights.

It is represented that all such interested persons will be notified of the publication of the Notice by first class mail, to each such interested person's last known address within fifteen (15) days of publication of the Notice in the **Federal Register**. Such mailing will contain a copy of the Notice, as it appears in the **Federal Register** on the date of publication, plus a copy of the Supplemental Statement, as required, pursuant to 29 CFR 2570.43(b)(2), which will advise all interested persons of their right to comment and to request a hearing.

All written comments and/or requests for a hearing must be received by the Department from interested persons within 45 days of the publication of this proposed exemption in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ms. Angelena C. Le Blanc of the Department, telephone (202) 693–8540. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC this 7th day of November 2011.

Ivan Strasfeld,

Director of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2011–29235 Filed 11–10–11; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Sunshine Act Meeting

TIME AND DATE: 9 a.m., Thursday, November 17, 2011.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Final Rule—Section 701.20 of NCUA's Rules and Regulations, Remittance Transfers.
2. Final Rule—Part 750 of NCUA's Rules and Regulations, Golden Parachute and Indemnification Payments, Technical Corrections.
3. Proposed Rule—Parts 701, 741, and 742 of NCUA's Rules and Regulations, Loan Participations.
4. Request from Finance Center Federal Credit Union to Expand its Community Charter.
5. Insurance Fund Report and Premium/Assessment Ranges.
6. NCUA's 2012 Operating Budget.
7. NCUA's Overhead Transfer Rate.
8. NCUA's Operating Fee Scale.

FOR FURTHER INFORMATION CONTACT: Mary Rupp, Secretary of the Board, Telephone: (703) 518–6304.

Mary Rupp,

Board Secretary.

[FR Doc. 2011–29488 Filed 11–9–11; 4:15 pm]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Sunshine Act Meeting

TIME AND DATE: 10 a.m., Wednesday, November 16, 2011.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Member Business Loan Waiver Appeal. Closed pursuant to some or all of the following: exemptions (4) and (8).
2. Consideration of Supervisory Activities (2). Closed pursuant to some or all of the following: exemptions (8), (9)(A)(ii) and 9(B).

FOR FURTHER INFORMATION CONTACT: Mary Rupp, Secretary of the Board, Telephone: (703) 518–6304.

Mary Rupp,

Board Secretary.

[FR Doc. 2011–29490 Filed 11–9–11; 4:15 pm]

BILLING CODE 7535–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Federal Advisory Committee on International Exhibitions

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Federal Advisory Committee on International Exhibitions (FACIE) will be held on December 7, 2011 in Room 815 at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506 (ending time is approximate). This meeting, from 9 a.m. to 12:30 p.m., is for application review and will be closed.

The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of February 15, 2011, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of Title 5, United States Code.

Further information with reference to these meetings can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5691.

Dated: November 7, 2011.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 2011–29230 Filed 11–10–11; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Arts Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that ten meetings of the Arts Advisory Panel to the National Council on the Arts will be held at the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506 as follows (ending times are approximate):

Arts Education (application review): November 29–December 2, 2011 in Room 714. This meeting, from 9 a.m. to 5:30 p.m. on November 29th–December 1st and from 9 a.m. to 3 p.m. on December 2nd, will be closed.

Visual Arts (application review): November 30–December 2, 2011 in Room 730. This meeting, from 9 a.m. to 5:30 p.m. on November 30th, from 9 a.m. to 6 p.m. on December 1st, and from 9 a.m. to 3:30 p.m. on December 2nd, will be closed.

Literature (application review): November 30–December 1, 2011 in Room 627. This meeting, from 9 a.m. to 6:30 p.m. on November 30th and from 9 a.m. to 5 p.m. on December 1st, will be closed.

Literature (application review): December 2, 2011 in Room 627. This meeting, from 9 a.m. to 6 p.m., will be closed.

Presenting (application review): December 5–6, 2011 in Room 627. This meeting, from 9 a.m. to 5:30 p.m. on December 5th and from 9 a.m. to 4:45 p.m. on December 6th, will be closed.

Design (application review): December 5–7, 2011 in Room 714. This meeting, from 9 a.m. to 5:30 p.m. on December 5th and 6th, and from 9 a.m. to 3 p.m. on December 7th, will be closed.

Theater (application review): December 7–9, 2011 in Room 716. This meeting, from 9 a.m. to 5:30 p.m. on December 7th, from 9 a.m. to 6 p.m. on December 8th, and from 9 a.m. to 3 p.m. on December 9th, will be closed.

Media Arts (application review): December 7–9, 2011 in Room 730. This meeting, from 9 a.m. to 5:45 p.m. on December 7th, from 9 a.m. to 6 p.m. on December 8th, and from 9 a.m. to 5 p.m. on December 9th, will be closed.

Opera (application review): December 12, 2011 in Room 716. This meeting, from 8:45 a.m. to 5:30 p.m., will be closed.

Opera (application review): December 13, 2011 in Room 716. This meeting, from 8:5 a.m. to 5:30 p.m., will be closed.

The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of February 15, 2011, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels that are open to the public, and if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman. If you need any accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, (202) 682–5532, TDY–TDD (202) 682–5496, at least seven (7) days prior to the meeting.

Further information with reference to these meetings can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5691.

Dated: November 7, 2011.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 2011–29231 Filed 11–10–11; 8:45 am]

BILLING CODE 7537–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Sunshine Act Meeting—November 30, 2011 Public Hearing

TIME AND DATE: 2 p.m., Wednesday, November 30, 2011.

PLACE: Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue NW., Washington, DC

STATUS: Hearing OPEN to the Public at 2 p.m.

PURPOSE: Public Hearing in conjunction with each meeting of OPIC's Board of Directors, to afford an opportunity for any person to present views regarding the activities of the Corporation.

PROCEDURES:

Individuals wishing to address the hearing orally must provide advance notice to OPIC's Corporate Secretary no later than 5 p.m. Wednesday, November 23, 2011. The notice must include the individual's name, title, organization, address, and telephone number, and a concise summary of the subject matter to be presented.

Oral presentations may not exceed ten (10) minutes. The time for individual presentations may be reduced proportionately, if necessary, to afford all participants who have submitted a timely request an opportunity to be heard.

Participants wishing to submit a written statement for the record must submit a copy of such statement to OPIC's Corporate Secretary no later than 5 p.m. Wednesday, November 23, 2011. Such statement must be typewritten, double-spaced, and may not exceed twenty-five (25) pages.

Upon receipt of the required notice, OPIC will prepare an agenda, which will be available at the hearing, that identifies speakers, the subject on which each participant will speak, and the time allotted for each presentation.

A written summary of the hearing will be compiled, and such summary will be made available, upon written request to OPIC's Corporate Secretary, at the cost of reproduction.

Written summaries of the projects to be presented at the December 8, 2011 Board meeting will be posted on OPIC's web site on or about Thursday, November 17, 2011.

CONTACT PERSON FOR INFORMATION: Information on the hearing may be obtained from Connie M. Downs at (202) 336–8438, via facsimile at (202) 408–0297, or via email at *Connie.Downs@opic.gov.*

Dated: November 9, 2011.

Connie M. Downs,

OPIC Corporate Secretary.

[FR Doc. 2011–29453 Filed 11–9–11; 4:15 pm]

BILLING CODE 3210–01–P

OFFICE OF PERSONNEL MANAGEMENT

Federal Employees' Group Life Insurance Program: New Federal Employees' Group Life Insurance (FEGLI) Premiums

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: The Office of Personnel Management (OPM) is announcing changes in premiums for certain Federal

Employees' Group Life Insurance (FEGLI) categories in accordance with sections 870.401(a)(2) and 870.402(a)(3) of title 5 of the Code of Federal Regulations. These include changes to premiums for Option B (most age bands), Option C (all age bands), and Post-Retirement Basic Insurance. These rates will be effective the first pay period beginning on or after January 1, 2012.

DATES: *Effective Date:* January 1, 2012.

FOR FURTHER INFORMATION CONTACT: Marguerite Martel, *marguerite.martel@opm.gov*, (202) 606–0004.

SUPPLEMENTARY INFORMATION: This notice announces changes to FEGLI Option B (most age bands), Option C (all age bands) and Post-Retirement Basic Insurance. The last premium change for some age categories of Option B and Option C and Post-Retirement Basic insurances was on the first pay period beginning on or after January 1, 2003 (Option B and Option C coverages had a three-year phase-in of premium changes ending in January 2005). Those changes coincided with the implementation of the Federal Employees' Life Insurance Improvement Act, Public Law 105–311, (112 Stat. 2950) which provided expanded coverage choices for employees, retirees, and compensationers with Option B and Option C coverage past age 65.

The premiums in the FEGLI Program represent estimates of premium income necessary to pay future expected benefits costs. The rates for all coverage categories are specific to the experience of the FEGLI group and are not based on mortality rates within the general population. Actuarial analysis of changing mortality rates makes periodic premium adjustments necessary.

Accordingly, OPM has completed a study of funding and claims experience within the FEGLI Program. Based on this updated actuarial analysis of actual claims experience, OPM has determined that changes are required to Option B, Option C and Post-Retirement Basic premiums. These changes reflect updated mortality and claims rates from actual program experience within each FEGLI category. The legislative structure of the FEGLI Program assumes that we set premiums for each age band independently of the other bands, so that each age band is financially self-supporting.

Based on updated experience, premiums for all Option B age bands, other than the oldest groups (ages 75–79 and ages 80 and over), will decrease. Premiums for Option C age bands under age 45 will also decrease. However, a rate increase is needed for Option C premiums for those ages 45 and over. Premiums for Post-Retirement Basic FEGLI will also increase slightly for those enrollees who elect the 50% Reduction and No Reduction. These increases are necessary due to the experience of the group and are necessary to sufficiently fund the projected future increases.

We will issue guidance to all agencies for the purpose of counseling employees and we will notify affected annuitants directly via OPM's Office of Retirement Services. The FEGLI premium rates will be maintained on the FEGLI Web site *http://www.opm.gov/insure/life*.

The new FEGLI premium rates for Option B, Option C and the Post-Retirement Basic Option are as follows:

OPTION B PREMIUM PER $1,000 OF INSURANCE

Age band	Biweekly	Monthly
Under 35	$0.02	$0.043
35–39	0.03	0.065
40–44	0.05	0.108
45–49	0.08	0.173
50–54	0.13	0.282
55–59	0.23	0.498
60–64	0.52	1.127
65–69	0.62	1.343
70–74	1.14	2.470
75–79	1.80	3.900
80 and over	2.40	5.200

The premiums for compensationers who are paid every four weeks are two times the biweekly premium.

OPTION C PREMIUM PER MULTIPLE OF INSURANCE

Age band	Biweekly	Monthly
Under 35	$0.22	$0.48
35–39	0.29	0.63
40–44	0.42	0.91
45–49	0.63	1.37
50–54	0.94	2.04
55–59	1.52	3.29
60–64	2.70	5.85
65–69	3.14	6.80
70–74	3.60	7.80
75–79	4.80	10.40
80 and over	6.60	14.30

The premiums for compensationers who are paid every four weeks are two times the biweekly premium.

ANNUITANT BASIC PREMIUM PER $1,000 OF INSURANCE

Election	Monthly withholding for each $1,000 of your BIA before age 65 (in dollars)	Monthly withholding for each $1,000 of your BIA after age 65 (in dollars)
75% Reduction	0.3250	(*)
50% Reduction	0.9650	0.64
No Reduction	2.2650	1.94

* No cost.

COMPENSATIONER BASIC PREMIUM PER $1,000 OF INSURANCE

Election	Withholding every 4 weeks for each $1,000 of your BIA before age 65 (in dollars)	Withholding every 4 weeks for each $1,000 of your BIA after age 65 (in dollars)
75% Reduction	0.30	(*)
50% Reduction	0.89	0.59
No Reduction	2.09	1.79

* No cost.

Premiums for other FEGLI coverages, including the Basic Employee premium and Option A (all age bands), will not change at this time. These rates will be effective the first pay period beginning on or after January 1, 2012.

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. 2011–29285 Filed 11–10–11; 8:45 am]

BILLING CODE 6325–63–P

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Cancellation of Upcoming Meeting

AGENCY: U.S. Office of Personnel Management.

ACTION: Notice.

SUMMARY: The Federal Prevailing Rate Advisory Committee is issuing this notice to cancel the November 17, 2011, public meeting scheduled to be held in Room 5A06A, U.S. Office of Personnel Management Building, 1900 E Street NW., Washington, DC. The original **Federal Register** notice announcing this meeting was published Monday, December 6, 2010, at 75 FR 75706.

FOR FURTHER INFORMATION CONTACT: Madeline Gonzalez, (202) 606–2838; email *pay-leave-policy@opm.gov;* or FAX: (202) 606–4264.

U.S. Office of Personnel Management.

Sheldon Friedman,

Chairman, Federal Prevailing Rate Advisory Committee.

[FR Doc. 2011–29274 Filed 11–10–11; 8:45 am]

BILLING CODE 6325–49–P

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974: New System of Records

AGENCY: U.S. Office of Personnel Management (OPM).

ACTION: Notice of a revised system of records OPM Central-16, Health Claims Disputes External Review Services.

SUMMARY: The Patient Protection and Affordable Care Act, Public Law 111–148, was enacted on March 23, 2010, and the Health Care and Education Reconciliation Act (the Reconciliation Act), Public Law 111–152, was enacted on March 30, 2010 (jointly referred to as ''the Affordable Care Act''). The Affordable Care Act and implementing regulations (codified in Department of Heath and Human Services (HHS) amended interim final rules (IFR) at 45 CFR Part 147) require that non-grandfathered health insurance plans and issuers offering group and individual coverage have effective internal claims and appeals and external review processes. The effective date for these requirements is plan or policy years beginning on or after September 23, 2010. Regarding external review, the statute requires that health plans and issuers comply with either a state external review process or a process meeting standards issued by the Secretary of Health and Human Services (HHS) that is ''similar to'' a state process meeting requirements in section 2719 (of what?) (a ''federal external review process''). The IFR now includes a transition period prior to January 1, 2012, during which time HHS will work with states to assist in making any necessary changes so that the state process will meet either the minimum consumer protections identified in 45 CFR 147.136 or, until January 1, 2014, the temporary standards listed in Technical Release 2011–02 that must be met in order for the state process to apply. Currently, the Office of Personnel Management (OPM) is administering an interim federal external review process for states that have not passed an external review law that was in effect on September 23, 2010. Beginning January 1, 2012, OPM will administer a federal external review process for all states that do not meet the required minimum consumer protections identified in the interim final regulations.

On September 16, 2010, OPM published a system of records that includes data relevant to external reviews entitled OPM Central 16, Health Claims Disputes External Review Services. OPM now proposes three changes to the system of records. First, OPM proposes expanding the categories of individuals covered by the system of records to include individuals covered by plans and issuers in all states that fail to comply with the minimum standards promulgated by HHS. In addition, the category of individuals that may utilize the external review process provided by OPM and covered by this system of records is further qualified—they must now be covered by a plan that has elected to participate in the external review process operated by OPM and the individual's claim must involve a rescission of coverage or medical judgment.

The second change to the system of records reflects OPM's requirement that claimants provide additional information necessary to determine whether the claimant is eligible for review. In some cases, much of this additional information may have already have been included under the original system of records notice because the information may be derived from documents provided by insurers. However, we have added three additional categories of information: The claimant's county name, an indication from the claimant of whether the external review request is for an urgent care claim, and an indication from the claimant of whether the external review request is related to a rescission of coverage or medical judgment.

Third, the routine uses have been expanded to include disclosure to a contractor for adjudication of the entire appeal. After October 1, 2011, the external review process may be administered by one or more Independent Review Organization(s) (IRO) under contract with OPM and under OPM's direction. This systems notice has also been modified to account for the possible involvement of IROs in this process. In accordance with specific contract provisions, the IRO(s) must comply with the requirements of The Privacy Act.

DATES: This action will be effective without further notice on January 1, 2012 unless comments are received that would result in a contrary determination.

ADDRESSES: Send written comments to the Office of Personnel Management, ATTN: Lynelle Frye, Health Claims Disputes External Review Services, 1900 E Street NW., Rm. 3415, Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Lynelle Frye, (202) 606–0004.

SUPPLEMENTARY INFORMATION: The program associated with this system of records is part of a broader initiative directed by HHS's Office of Consumer Information and Insurance Oversight (OCIIO) to implement Section 2719 of the Affordable Care Act. HHS has discretion under the Act in the manner in which it implements the external appeals process, OPM administers a health insurance appeals program as part of its Federal Employees Health Benefits Program, and OPM has offered to permit HHS/OCIIO to utilize its existing appeals processes and frameworks to administer the interim federal appeals process (as modified by an interagency agreement). HHS/OCIIO has accepted that offer. Consequently, OPM has authority to administer the program, using an arrangement under the Economy Act, 31 U.S.C. 1535.

U.S. Office of Personnel Management.

John Berry,

Director.

SYSTEM NAME:

OPM/Central-16 Health Claims Disputes External Review Services

SYSTEM LOCATION:

Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system will contain records on adverse benefit determinations and final internal adverse benefit determinations for claimants who qualify for external review according to the IFR and choose to appeal to OPM. Individuals may only appeal to OPM (1) if they purchase a health insurance policy or a group health plan from a health insurance issuer in a state that does not have an external review law that complies with the minimum standards promulgated by HHS or if they are enrolled in a self-insured nonfederal governmental health plan, (2) if they are in a non-grandfathered plan, (3) if the plan or policy year begins on or after September 23, 2010, (4) if the plan or policy has elected to participate in the external review process operated by OPM, and (5) if the claim involves a rescission of coverage or medical judgment. Health insurance issuers must notify claimants upon notice of an adverse benefit determination or final internal adverse benefit determination as to how to initiate an external review by OPM if they choose to do so. This notice must meet the requirements of 45 CFR Part 147(b)(2)(ii)(E).

CATEGORIES OF RECORDS IN THE SYSTEM:

In order to adjudicate an appeal, OPM requires claimants or their authorized representatives to submit the following information:

a. The denial of benefits or coverage that the individual received from the insurance plan or issuer;

b. Name,

c. Insurance ID number,

d. Phone number and mailing address,

e. The state and county in which they are insured,

f. An indication whether the external review request is for an urgent care claim,

g. An indication whether the external request is for review of a rescission or termination of coverage or involves medical judgment,

h. A brief statement of the reason for the external review request,

i. The insurer's name,

j. The claim number,

k. In cases where an authorized representative requests the external review, evidence of authorization from the authorized representative; and

Any additional information necessary to process the request for review that may be required by HHS regulation or guidance. In addition, claimants may choose to submit additional information that will become part of the system of records. This information is likely to include the following:

a. A statement about why the claimant believes their health insurance issuer's decision was wrong, based on specific benefit provisions in the plan brochure or contract;

b. Copies of documents that support the claim, such as physicians' letters, operative reports, bills, medical records, and explanation of benefits (EOB) forms;

c. Copies of all letters the claimant sent to their insurance plan about the claim;

d. Copies of all letters the health insurance issuer sent to the claimant about the claim;

e. The claimant's daytime phone number and the best time to call; and

f. The claimant's email address if they would like to receive OPM's decision via email.

Health insurance issuers will provide additional information and documentation. Consequently, the records in the system may include all of the following information:

a. Personal Identifying Information (Name, Social Security Number, Date of Birth, Gender, Phone number etc).

b. Address (Current, Mailing).

c. Dependent Information (Spouse, Dependents and their addresses).

d. Employment information.

e. Health care provider information.

f. Health care coverage information.

g. Health care procedure information.

h. Health care diagnosis information.

i. Provider charges and reimbursement information on coverage, procedures and diagnoses.

j. Any other letters or other documents submitted in connection with adverse benefit determinations or final internal adverse benefit determinations by claimants, healthcare providers, or health insurance issuers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

HHS has authority to administer the program under Sections 2701 through 2763, 2791, and 2792 of the Public Health Service Act (42 U.S.C. 300gg through 300gg–63, 300gg–91, and 300gg–92), as amended. HHS has discretion under the Act in the manner in which it implements the external appeals process, and it has entered an agreement with OPM under the Economy Act, 31 U.S.C. 1535, to provide such services.

PURPOSE:

The primary purpose of this system of records is to aid in the administration of external review of adverse benefit determinations and final internal adverse benefit determinations. OPM must have the capacity to collect, manage, and access health insurance benefits appeals information and documents on an ongoing basis in order for OPM to:

a. Determine eligibility for the federal external review process operated by OPM.

b. Review the adverse benefit determinations and final internal adverse benefit determinations to provide effective external review.

c. Track the progress of individual appeals and ensure that claimants do not submit duplicative appeals.

d. Make information available for any subsequent litigation related to a disputed external review decision.

e. Monitor whether health insurance issuers are providing benefits to which covered individuals are entitled.

f. Maintain records for parties to the dispute so that the covered individual and the insurance issuer can obtain a record of past appeals in which they were involved.

g. Track and report to HHS on the administration of the program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed to authorized entities, as is determined to be relevant and necessary, including disclosures outside of OPM as a routine use under 5 U.S.C. 552a(b)(3) as follows:

a. For claims adjudication—To disclose information to agency contractors conducting claim reviews for the purpose of adjudicating an appeal.

b. For law enforcement purposes—To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where OPM becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

c. For congressional inquiries—To provide information to a congressional

office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

d. For judicial/administrative proceedings—To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding. In those cases where the government is not a party to the processing, records may be disclosed if a subpoena has been signed by a judge.

e. For litigation purposes—To disclose to the Department of Justice or in a proceeding before a court, adjudicative body, or other administrative body before which OPM or HHS is authorized to appear, when:

1. OPM, HHS, or any component thereof; or

2. Any employee of OPM or HHS in his or her official capacity; or

3. Any employee of OPM or HHS in his or her individual capacity where the Department of Justice or OPM or HHS has agreed to represent the employee; or

4. The United States, when OPM or HHS determines that litigation is likely to affect OPM or HHS or any of their components; is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or OPM of HHS is deemed by OPM to be relevant and necessary to the litigation provided, however, that the disclosure is compatible with the purpose for which records were collected.

f. In the event of data breach—Records may be disclosed to appropriate Federal agencies and agency contractors that have a need to know the information for the purpose of assisting the agency's efforts to respond to a suspected or confirmed breach of the security or confidentiality of information maintained in this system of records and the information disclosed is relevant and necessary for that assistance.

g. For National Archives and Records Administration or the General Services Administration—For use in records management inspections conducted pursuant to 44 U.S.C. 2904 and 2906.

h. Researchers in and outside the Federal government for the purpose of conducting research on health care and health insurance trends and topical issues. Only de-identified data will be shared.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

STORAGE:

Paper records will be stored in a locked file cabinet within OPM and/or any contractors. Any electronic records will be maintained in electronic systems.

RETRIEVABILITY:

Records will primarily be manipulated, managed and summarized using a unique number assigned to each appeal. However, information may also be accessible by name or social security number.

SAFEGUARDS:

Paper records will be delivered to a locked P.O. Box and kept in a locked file cabinet. Electronic records will be maintained on password protected computers and systems. All individuals with access to these records will receive a background check and privacy training before accessing any of the records. OPM also restricts access to the records on the databases to employees who have the appropriate clearance. OPM and/or any contractors will comply with the Health Insurance Portability and Accountability Act (HIPAA); The Federal Information Security Management Act (FISMA); the Privacy Act; and Section 508 of the U.S. Rehabilitation Act. Contractors must also complete or have completed a security control assessment that conforms to the specifications provided in NIST SP 800–53, ISO 27001, or most recent DIACAP.

RETENTION AND DISPOSAL:

OPM and/or any contractors shall retain files for 75 calendar days before considering offsite storage in the event of judicial review. OPM and/or any contractors will maintain the records for 6 years. All records must be destroyed at the end of 6 years after OPM and/or any contractor issues a final decision on the review. Any computer records will be destroyed by electronic erasure. Any hard copies of records will be destroyed by shredding. A records retention schedule will be established with NARA.

SYSTEM MANAGER AND ADDRESS:

Edward DeHarde, U.S. Office of Personnel Management, Healthcare and Insurance, 1900 E Street NW., Washington, DC 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to determine whether this system of records contains information about them may do so by writing to the U.S. Office of Personnel Management, FOIA Requester Service Center, 1900 E Street NW., Room 5415, Washington, DC 20415–7900 or by emailing *foia@opm.gov.*

Individuals must furnish the following information for their records to be located:

a. Full name.
b. Date and place of birth.
c. Social Security Number.
d. Signature.
e. Available information regarding the type of information requested, including the name of the insurance plan involved in any appeal and the approximate date of the appeal.
f. The reason why the individual believes this system contains information about him/her.
g. The address to which the information should be sent.

Individuals requesting access must also comply with OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR part 297). In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

- If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on [date]. [Signature].'
- If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on [date]. [Signature].'

CONTESTING RECORD PROCEDURE:

Individuals wishing to obtain a copy of their records or to request amendment of records about them should write to the Office of Personnel Management, ATTN: Lynelle Frye, Policy Analyst, Planning and Policy Analysis, Health Claims Disputes External Review Services, Room 3415, Washington, DC 20415, and furnish the following information for their records to be located:

a. Full name.
b. Date and place of birth.
c. Social Security Number.
d. Signature.
e. Available information regarding the type of information that the individual seeks to have amended, including the name of the insurance plan involved in any appeal and the approximate date of the appeal.

Individuals requesting amendment must also follow OPM's Privacy Act regulations regarding verification of identity and amendment to records (5 CFR part 297). In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

• If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on [date]. [Signature].'

• If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on [date]. [Signature].'

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from:

a. Individuals who request OPM review.

b. Authorized representatives of covered individuals.

c. Health care providers.

d. Health insurance plans.

e. Medical professionals providing expert medical review under contract with OPM.

SYSTEM EXEMPTIONS:

None.

[FR Doc. 2011–29282 Filed 11–10–11; 8:45 am]

BILLING CODE 6325–63–P

RAILROAD RETIREMENT BOARD

2012 Railroad Experience Rating Proclamations, Monthly Compensation Base and Other Determinations

AGENCY: Railroad Retirement Board.

ACTION: Notice.

SUMMARY: Pursuant to section 8(c)(2) and section 12(r)(3) of the Railroad Unemployment Insurance Act (Act) (45 U.S.C. 358(c)(2) and 45 U.S.C. 362(r)(3), respectively), the Board gives notice of the following:

1. The balance to the credit of the Railroad Unemployment Insurance (RUI) Account, as of June 30, 2011, is $66,198,068.70;

2. The September 30, 2011, balance of any new loans to the RUI Account, including accrued interest, is zero;

3. The system compensation base is $3,597,631,820.16 as of June 30, 2011;

4. The cumulative system unallocated charge balance is ($335,379,239.56) as of June 30, 2011;

5. The pooled credit ratio for calendar year 2012 is zero;

6. The pooled charged ratio for calendar year 2012 is zero;

7. The surcharge rate for calendar year 2012 is 1.5 percent;

8. The monthly compensation base under section 1(i) of the Act is $1,365 for months in calendar year 2012;

9. The amount described in sections 1(k) and 3 of the Act as ''2.5 times the monthly compensation base'' is $3,412.50 for base year (calendar year) 2012;

10. The amount described in section 4(a–2)(i)(A) of the Act as ''2.5 times the monthly compensation base'' is $3,412.50 with respect to disqualifications ending in calendar year 2012;

11. The amount described in section 2(c) of the Act as ''an amount that bears the same ratio to $775 as the monthly compensation base for that year as computed under section 1(i) of this Act bears to $600'' is $1,763 for months in calendar year 2012;

12. The maximum daily benefit rate under section 2(a)(3) of the Act is $66 with respect to days of unemployment and days of sickness in registration periods beginning after June 30, 2012.

DATES: The balance in notice (1) and the determinations made in notices (3) through (7) are based on data as of June 30, 2011. The balance in notice (2) is based on data as of September 30, 2011. The determinations made in notices (5) through (7) apply to the calculation, under section 8(a)(1)(C) of the Act, of employer contribution rates for 2012. The determinations made in notices (8) through (11) are effective January 1, 2012. The determination made in notice (12) is effective for registration periods beginning after June 30, 2012.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092.

FOR FURTHER INFORMATION CONTACT: Marla L. Huddleston, Bureau of the Actuary, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611–2092, telephone (312) 751–4779.

SUPPLEMENTARY INFORMATION: The RRB is required by section 8(c)(1) of the Railroad Unemployment Insurance Act (Act) (45 U.S.C. 358(c)(1)) as amended by Public Law 100–647, to proclaim by October 15 of each year certain system-wide factors used in calculating experience-based employer contribution rates for the following year. The RRB is further required by section 8(c)(2) of the Act (45 U.S.C. 358(c)(2)) to publish the amounts so determined and proclaimed. The RRB is required by section 12(r)(3) of the Act (45 U.S.C. 362(r)(3)) to publish by December 11, 2011, the computation of the calendar year 2012 monthly compensation base (section 1(i) of the Act) and amounts described in sections 1(k), 2(c), 3 and 4(a–2)(i)(A) of the Act which are related to changes in the monthly compensation base. Also, the RRB is required to publish, by June 11, 2012, the maximum daily benefit rate under section 2(a)(3) of the Act for days of unemployment and days of sickness in registration periods beginning after June 30, 2012.

Surcharge Rate

A surcharge is added in the calculation of each employer's contribution rate, subject to the applicable maximum rate, for a calendar year whenever the balance to the credit of the RUI Account on the preceding June 30 is less than the greater of $100 million or the amount that bears the same ratio to $100 million as the system compensation base for that June 30 bears to the system compensation base as of June 30, 1991. If the RUI Account balance is less than $100 million (as indexed), but at least $50 million (as indexed), the surcharge will be 1.5 percent. If the RUI Account balance is less than $50 million (as indexed), but greater than zero, the surcharge will be 2.5 percent. The maximum surcharge of 3.5 percent applies if the RUI Account balance is less than zero.

The system compensation base as of June 30, 1991 was $2,763,287,237.04. The system compensation base for June 30, 2011 was $3,597,631,820.16. The ratio of $3,597,631,820.16 to $2,763,287,237.04 is 1.30193914. Multiplying 1.30193914 by $100 million yields $130,193,914. Multiplying $50 million by 1.30193914 produces $65,096,957. The Account balance on June 30, 2011, was $66,198,068.70. Accordingly, the surcharge rate for calendar year 2012 is 1.5 percent.

Monthly Compensation Base

For years after 1988, section 1(i) of the Act contains a formula for determining the monthly compensation base. Under the prescribed formula, the monthly compensation base increases by approximately two-thirds of the cumulative growth in average national wages since 1984. The monthly compensation base for months in calendar year 2012 shall be equal to the greater of (a) $600 or (b) $600 [1 + {(A–37,800)/56,700}], where A equals the amount of the applicable base with respect to tier 1 taxes for 2012 under section 3231(e)(2) of the Internal Revenue Code of 1986. Section 1(i) further provides that if the amount so determined is not a multiple of $5, it shall be rounded to the nearest multiple of $5.

The calendar year 2012 tier 1 tax base is $110,100. Subtracting $37,800 from $110,100 produces $72,300. Dividing $72,300 by $56,700 yields a ratio of 1.27513228. Adding one gives 2.27513228. Multiplying $600 by the amount 2.27513228 produces the amount of $1,365.08, which must then be rounded to $1,365. Accordingly, the monthly compensation base is determined to be $1,365 or months in calendar year 2012.

Amounts Related to Changes in Monthly Compensation Base

For years after 1988, sections 1(k), 3, 4(a–2)(i)(A) and 2(c) of the Act contain formulas for determining amounts related to the monthly compensation base.

Under section 1(k), remuneration earned from employment covered under the Act cannot be considered subsidiary remuneration if the employee's base year compensation is less than 2.5 times the monthly compensation base for months in such base year. Under section 3, an employee shall be a ''qualified employee'' if his/her base year compensation is not less than 2.5 times the monthly compensation base for months in such base year. Under section 4(a–2)(i)(A), an employee who leaves work voluntarily without good cause is disqualified from receiving unemployment benefits until he has been paid compensation of not less than 2.5 times the monthly compensation base for months in the calendar year in which the disqualification ends.

Multiplying 2.5 by the calendar year 2012 monthly compensation base of $1,365 produces $3,412.50. Accordingly, the amount determined under sections 1(k), 3 and 4(a–2)(i)(A) is $3,412.50 for calendar year 2012.

Under section 2(c), the maximum amount of normal benefits paid for days of unemployment within a benefit year and the maximum amount of normal benefits paid for days of sickness within a benefit year shall not exceed an employee's compensation in the base year. In determining an employee's base year compensation, any money remuneration in a month not in excess of an amount that bears the same ratio to $775 as the monthly compensation base for that year bears to $600 shall be taken into account.

The calendar year 2012 monthly compensation base is $1,365. The ratio of $1,365 to $600 is 2.27500000. Multiplying 2.27500000 by $775 produces $1,763. Accordingly, the amount determined under section 2(c) is $1,763 for months in calendar year 2012.

Maximum Daily Benefit Rate

Section 2(a)(3) contains a formula for determining the maximum daily benefit rate for registration periods beginning after June 30, 1989, and after each June 30 thereafter. Legislation enacted on October 9, 1996, revised the formula for indexing maximum daily benefit rates. Under the prescribed formula, the maximum daily benefit rate increases by approximately two-thirds of the cumulative growth in average national wages since 1984. The maximum daily benefit rate for registration periods beginning after June 30, 2012, shall be equal to 5 percent of the monthly compensation base for the base year immediately preceding the beginning of the benefit year. Section 2(a)(3) further provides that if the amount so computed is not a multiple of $1, it shall be rounded down to the nearest multiple of $1.

The calendar year 2011 monthly compensation base is $1,330. Multiplying $1,330 by 0.05 yields $66.50, which must then be rounded down to $66. Accordingly, the maximum daily benefit rate for days of unemployment and days of sickness beginning in registration periods after June 30, 2012, is determined to be $66.

Dated: November 7, 2011.

By Authority of the Board.

Martha P. Rico,

Secretary to the Board.

[FR Doc. 2011–29351 Filed 11–10–11; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request; Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 12g3–2, OMB Control No. 3235–0119, SEC File No. 270–104.

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 (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Rule 12g3–2 (17 CFR 240.12g3–2) under the Securities Exchange Act of 1934 (the ''Exchange Act'') provides an exemption from Section 12(g) of the Exchange Act (15 U.S.C. 78*l*(g)) for foreign private issuers. Rule 12g3–2 is designed to provide investors in foreign securities with information about such securities and the foreign issuer. The information filed under Rule 12g3–2 must be filed with the Commission and is publicly available. We estimate that it takes approximately one hour to provide the information required under Rule 12g3–2 and that the information is filed by 1,800 foreign issuers for a total annual reporting time burden of 1,800 hours.

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.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov*. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312 or send an email to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: November 7, 2011.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2011–29251 Filed 11–10–11; 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 Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rules 17Ad–6 and 17Ad–7, SEC File No. 270–151, OMB Control No. 3235–0291.

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 (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 17Ad–6 (17 CFR 240.17Ad–6) and Rule 17Ad–7 (17 CFR

240.17Ad–7) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act''). The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 17Ad–6 requires every registered transfer agent to make and keep current records about a variety of information, such as: (1) Specific operational data regarding the time taken to perform transfer agent activities (to ensure compliance with the minimum performance standards in Rule 17Ad–2 (17 CFR 240.17Ad–2); (2) written inquiries and requests by shareholders and broker-dealers and response time thereto; (3) resolutions, contracts or other supporting documents concerning the appointment or termination of the transfer agent; (4) stop orders or notices of adverse claims to the securities; and (5) all canceled registered securities certificates.

Rule 17Ad–7 requires each registered transfer agent to retain the records specified in Rule 17Ad–6 in an easily accessible place for a period of six months to six years, depending on the type of record or document. Rule 17Ad–7 also specifies the manner in which records may be maintained using electronic, microfilm, and microfiche storage methods.

These recordkeeping requirements are designed to ensure that all registered transfer agents are maintaining the records necessary for them to monitor and keep control over their own performance and for the Commission to adequately examine registered transfer agents on an historical basis for compliance with applicable rules.

The Commission estimates that approximately 473 registered transfer agents will spend a total of 236,500 hours per year complying with Rules 17Ad–6 and 17Ad–7 (500 hours per year per transfer agent).

Written comments are invited on: (a) 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; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents; 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.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid 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 Office of Management and Budget control number.

Please direct your written comments to: Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 6432 General Green Way, Alexandria, Virginia 22312 or send an email to: *PRA_Mailbox@sec.gov.*

Dated: November 7, 2011.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2011–29252 Filed 11–10–11; 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 Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 22c–2, SEC File No. 270–541, OMB Control No. 3235–0620.

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.

Rule 22c–2 (17 CFR 270.22c–2 ''Mutual Fund Redemption Fees'') under the Investment Company Act of 1940 (15 U.S.C. 80a) (the ''Investment Company Act'' or ''Act'') requires the board of directors (including a majority of independent directors) of most registered investment companies (''funds'') to either approve a redemption fee of up to two percent or determine that imposition of a redemption fee is not necessary or appropriate for the fund. Rule 22c–2 also requires a fund to enter into written agreements with their financial intermediaries (such as broker-dealers and retirement plan administrators) under which the fund, upon request, can obtain certain shareholder identity and trading information from the intermediaries. The written agreement must also allow the fund to direct the intermediary to prohibit further purchases or exchanges by specific shareholders that the fund has identified as being engaged in transactions that violate the fund's market timing policies. These requirements enable funds to obtain the information that they need to monitor the frequency of short-term trading in omnibus accounts and enforce their market timing policies.

The rule includes three ''collections of information'' within the meaning of the Paperwork Reduction Act of 1995 (''PRA'').[1] First, the rule requires boards to either approve a redemption fee of up to two percent or determine that imposition of a redemption fee is not necessary or appropriate for the fund. Second, funds must enter into information sharing agreements with all of their ''financial intermediaries''[2] and maintain a copy of the written information sharing agreement with each intermediary in an easily accessible place for six years. Third, pursuant to the information sharing agreements, funds must have systems that enable them to request frequent trading information upon demand from their intermediaries, and to enforce any restrictions on trading required by funds under the rule.

The collections of information created by Rule 22c–2 are necessary for funds to effectively assess redemption fees, enforce their policies in frequent trading, and monitor short-term trading, including market timing, in omnibus accounts. These collections of information are mandatory for funds that redeem shares within seven days of purchase. The collections of information also are necessary to allow Commission staff to fulfill its examination and oversight responsibilities.

Rule 22c–2(a)(1) requires the board of directors of all registered investment

[1] 44 U.S.C. 3501–3520.

[2] The rule defines a Financial Intermediary as: (i) Any broker, dealer, bank, or other person that holds securities issued by the fund in nominee name; (ii) a unit investment trust or fund that invests in the fund in reliance on section 12(d)(i)(E) of the Act; and (iii) in the case of a participant directed employee benefit plan that owns the securities issued by the fund, a retirement plan's administrator under section 316(A) of the Employee Retirement Security Act of 1974 (29 U.S.C. 1002(16)(A) or any person that maintains the plans' participant records. Financial Intermediary does not include any person that the fund treats as an individual investor with respect to the fund's policies established for the purpose of eliminating or reducing any dilution of the value of the outstanding securities issued by the fund. Rule 22c–2(c)(1).

companies and series thereof (except for money market funds, ETFs, or funds that affirmatively permit short-term trading of its securities) to approve a redemption fee for the fund, or instead make a determination that a redemption fee is either not necessary or appropriate for the fund. Commission staff understands that the boards of all funds currently in operation have undertaken this process for the funds they currently oversee, and the rule does not require boards to review this determination periodically once it has been made. Accordingly, we expect that only boards of newly registered funds or newly created series thereof would undertake this determination. Commission staff estimates that approximately 117 funds or series thereof (excluding money market funds and ETFs) are newly formed each year and would need to make this determination.

Based on conversations with fund representatives,[3] Commission staff estimates that it takes approximately 2 hours of the boards' time, as a whole, to approve a redemption fee or make the required determination. In addition, Commission staff estimates that it takes compliance personnel of the fund approximately 8 hours to prepare trading, compliance, and other information regarding the fund's operations to enable the board to make its determination, and takes internal counsel of the fund approximately 3 hours to review this information and present its recommendations to the board. Therefore, for each fund board that undertakes this determination process, Commission staff estimates it expends approximately 13 hours.[4] As a result, Commission staff estimates that the total time spent for all funds on this process is 1521 hours.[5]

Rule 22c–2(a)(2) requires a fund to enter into information sharing agreements with each of its financial intermediaries. Commission staff understands that all currently registered funds have already entered into such agreements with their intermediaries. Funds enter into new relationships with intermediaries from time to time, however, which requires them to enter into new information sharing agreements. Commission staff understands that, in general, funds enter into information-sharing agreement when they initially establish a relationship with an intermediary, which is typically executed as an addendum to the distribution agreement. Commission staff estimates that there are approximately 6911 open-end fund series currently in operation (excluding money market funds and ETFs). However, the Commission staff understands that most shareholder information agreements are entered into by the fund group (a group of funds with a common investment adviser), and estimates that there are currently 669 currently active fund groups.[6] Commission staff estimates that, on average, each active fund group enters into relationships with approximately 3 new intermediaries each year. Commission staff understands that funds generally use a standard information sharing agreement, drafted by the fund or an outside entity, and modifies that agreement according to the requirements of each intermediary. Commission staff estimates that negotiating the terms and entering into an information sharing agreement takes a total of approximately 4 hours of attorney time per intermediary (representing 2.5 hours of fund attorney time and 1.5 hours of intermediary attorney time). Accordingly, Commission staff estimates that each existing fund group expends 12 hours each year[7] to enter into new information sharing agreements, and all existing fund groups incur a total of 8028 hours.[8]

In addition, newly created funds advised by new entrants (effectively new fund groups) must enter into information sharing agreements with all of their financial intermediaries. Commission staff estimates that there are approximately 40 new funds or fund groups that form each year that will have to enter into information sharing agreements with each of their intermediaries.[9] Commission staff estimates that funds and fund groups formed by new advisers typically have relationships with significantly fewer intermediaries than existing fund groups, and estimates that new fund groups will typically enter into approximately 100 information sharing agreements with their intermediaries when they begin operations.[10] As discussed previously, Commission staff estimates that it takes approximately 4 hours of attorney time per intermediary to enter into information sharing agreements. Therefore, Commission staff estimates that each newly formed fund group will incur 400 hours of attorney time,[11] and all newly formed fund groups will incur a total of 16,000 hours to enter into information sharing agreements with their intermediaries.[12]

Rule 22c–2(a)(3) requires funds to maintain records of all information sharing agreements for 6 years in an easily accessible place. Commission staff estimates that there are approximately 6911 open-end fund series currently in operation (excluding money market funds and ETFs). However, the Commission staff anticipates that most shareholder information agreements will be stored at the fund group level and estimates that there are currently approximately 669 fund groups. Commission staff understands that information-sharing agreements are generally included as addendums to distribution agreements between funds and their intermediaries, and that these agreements would be stored as required by the rule as a matter of ordinary business practice. Therefore, Commission staff estimates that maintaining records of information sharing agreements requires approximately 10 minutes of time spent by a general clerk per fund, each year. Accordingly, Commission staff estimates that all funds will incur approximately 112 hours[13] in complying with the recordkeeping requirement of rule 22c–2(a)(3).

Therefore, Commission staff estimates that to comply with the information sharing agreement requirements of rule 22c–2(a)(1) and (3), it requires a total of 24,140 hours.[14]

The Commission staff estimates that on average, each fund group requests shareholder information once a week, and gives instructions regarding the restriction of shareholder trades every day, for a total of 417 responses related

[3] Unless otherwise stated, estimates throughout this analysis are derived from a survey of funds and conversations with fund representatives.

[4] This calculation is based on the following estimate: (2 hours of board time + 3 hours of internal counsel time + 8 hours of compliance time = 13 hours).

[5] This calculation is based on the following estimate: (13 hours × 117 funds = 1521 hours).

[6] ICI, 2011 Investment Company Fact Book at Fig 1.7 (2011) (*http://www.ici.org/stats/latest/2011_factbook.pdf*).

[7] This estimate is based on the following calculation: (4 hours × 3 new intermediaries = 12 hours).

[8] This estimate is based on the following calculation: (12 hours × 669 fund groups = 8028 hours).

[9] ICI, 2011 Investment Company Fact Book at Fig 1.7 (2011) (*http://www.ici.org/stats/latest/2011_factbook.pdf*).

[10] Commission staff understands that funds generally use a standard information sharing agreement, drafted by the fund or an outside entity, and then modifies that agreement to according the requirements of each intermediary.

[11] This estimate is based on the following calculation: (4 hours × 100 intermediaries = 400 hours).

[12] This estimate is based on the following calculation: (40 fund groups × 400 hours = 16,000 hours).

[13] This estimate is based on the following calculation: (10 minutes × 669 fund groups = 6690 minutes); (6690 minutes/60 = 112 hours).

[14] This estimate is based on the following calculation: (8028 hours + 16,000 hours + 112 hours = 24,140 hours).

to information sharing systems per fund group each year, and a total 278,973 responses for all fund groups annually.[15] In addition, the staff estimates that funds make 117 responses related to board determinations, 2007 responses related to new intermediaries of existing fund groups, 4000 responses related to new fund group information sharing agreements, and 669 responses related to recordkeeping, for a total of 6793 responses related to the other requirements of rule 22c–2. Therefore, the Commission staff estimates that the total number of responses is 285,766 (278,973 + 6793 = 285,766). The Commission staff estimates that the total hour burden for rule 22c–2 is 25,661 hours.[16]

Rule 22c–2 requires funds to enter into information sharing agreements with their intermediaries that enable funds to, upon request (i) be provided certain information regarding shareholders and their trades that are held through a financial intermediary or an indirect intermediary, and (ii) require the intermediary to execute instructions from the fund restricting or prohibiting further purchases or exchanges by shareholders that violate the fund's frequent trading policies. As a result of this requirement, some funds and intermediaries have had to develop and maintain information sharing, monitoring, and order execution systems (collectively ''information sharing systems''). In general, costs related to these information-sharing systems are borne at the fund group level.

The Commission understands that all currently operating funds and intermediaries have either developed information systems themselves or purchased them from third parties. However, these funds and intermediaries also incur certain ongoing costs related to these systems' maintenance and operation. The Commission staff understands that various organizations have developed, enhancements to their systems that allow funds and intermediaries to share the information required by the rule without developing or maintaining systems of their own. Other organizations have developed ''22c–2 solution'' systems that funds may lease. The Commission staff understands that most funds and intermediaries use these outside systems. In general, the staff estimates that the typical charges involved in operating and maintaining information sharing systems average 25 cents for every 100 account transactions requested. These systems generally also provide analytics, spreadsheets, and other tools designed to enable funds to analyze the data presented, as well as communication tools to process fund instructions regarding the restrictions and prohibitions they may request. Commission staff estimates that the costs of developing, maintaining and operating information systems for funds and intermediaries that do not use outside provider's systems is comparable to the costs charged by outside providers.[17] The Commission staff estimates that, on average, each fund group requests information for 100,000 transactions each week, incurring costs of $250 weekly, or $13,000 a year.[18] In addition, the Commission staff estimates that funds pay access fees to use these information sharing systems (or comparable internal costs) of approximately $30,000 each year. The Commission staff therefore estimates that a fund group would typically incur approximately $43,000 in costs each year related to the operation and maintenance of information sharing systems required by rule 22c–2. The Commission staff has previously estimated that there are approximately 669 fund groups currently active, and therefore estimates that all fund groups incur a total of $28,767,000 in ongoing costs each year related to maintaining and operating information sharing systems.[19]

In addition, newly formed funds and fund groups advised by advisers who are new entrants would also need to incur certain additional costs related to the initial development or purchase of these information-sharing systems. Commission staff estimates that it requires approximately $100,000 to purchase or develop and implement such an information sharing system for the first time. Commission staff has previously estimated that approximately 40 funds or fund groups are formed each year managed by new advisers, and therefore estimates that all these funds would incur total costs of approximately $4,000,000.[20] Therefore the staff estimates that the total costs related to rule 22c–2 would be approximately $32,767,000 ($28,767,000 + $4,000,000 = $32,767,000).

Responses provided to the Commission will be accorded the same level of confidentiality accorded to other responses provided to the Commission in the context of its examination and oversight program. Responses provided in the context of the Commission's examination and oversight program are generally kept confidential. Complying with the information collections of rule 22c–2 is mandatory for funds that redeem their shares within 7 days of purchase. 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 Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 6432 General Green Way, Alexandria, VA 22312; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: November 7, 2011.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2011–29253 Filed 11–10–11; 8:45 am]

BILLING CODE 8011–01–P

[15] This estimate is based on the following calculations: (52 + 365 = 417); (417 × 669 fund groups = 278,973).

[16] This estimate is based on the following calculation: (1521 hours (board determination) + 24,140 hours (information sharing agreements) = 25,661 total hours).

[17] We include the burden for funds that develop and operate these information sharing systems internally rather than purchasing them from third parties as a cost rather than as an hourly burden because Commission staff understands that, even when developing these systems themselves, funds generally either use independent contractors or hire new personnel, and thereby incur this burden as a cost, not an hourly expenditure.

[18] This estimate is based on the following calculations: (100,000 transaction requests × 0.0025¢ = $250); ($250 × 52 weeks = $13,000).

[19] This estimate is based on the following calculation: (669 fund groups × $43,000 = $28,767,000).

[20] This estimate is based on the following estimate: ($100,000 × 40 new fund groups = $4,000,000).

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Rovac Corp., RS Group of Companies, Inc., Rymer Foods, Inc. Stratus Services Group, Inc., Sun Cal Energy, Inc., Sun Motor International, Inc., Surebet Casinos, Inc., and Swiss Medica, Inc.; Order of Suspension of Trading

November 9, 2011

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Rovac Corp. because it has not filed any periodic reports since the period ended July 31, 2001.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of RS Group of Companies, Inc. because it has not filed any periodic reports since the period ended March 31, 2006.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Rymer Foods, Inc. because it has not filed any periodic reports since July 28, 2001.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Stratus Services Group, Inc. because it has not filed any periodic reports since the period ended June 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Sun Cal Energy, Inc. because it has not filed any periodic reports since the period ended March 31, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Sun Motor International, Inc. because it has not filed any periodic reports since the period ended June 30, 2007.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Surebet Casinos, Inc. because it has not filed any periodic reports since the period ended March 31, 2003.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Swiss Medica, Inc. because it has not filed any periodic reports since the period ended June 30, 2007.

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 November 9, 2011, through 11:59 p.m. EST on November 22, 2011.

By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–29414 Filed 11–9–11; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

RMD Technologies, Inc., Rockwall Holdings, Inc., Southmark Corp., Stargold Mines, Inc., Stelax Industries, Ltd., Stem Cell Innovations, Inc., and Surfect Holdings, Inc.; Order of Suspension of Trading

November 9, 2011.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of RMD Technologies, Inc. because it has not filed any periodic reports since the period ended February 29, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Rockwall Holdings, Inc. because it has not filed any periodic reports since the period ended December 31, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Southmark Corp. because it has not filed any periodic reports since the period ended June 30, 1996.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Stargold Mines, Inc. because it has not filed any periodic reports since the period ended September 30, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Stelax Industries, Ltd. because it has not filed any periodic reports since the period ended September 30, 2007.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Stem Cell Innovations, Inc. because it has not filed any periodic reports since the period ended September 30, 2007.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Surfect Holdings, Inc. because it has not filed any periodic reports since the period ended December 31, 2008.

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. E.S.T. on November 9, 2011, through 11:59 p.m. E.S.T. on November 22, 2011.

By the Commission.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–29413 Filed 11–9–11; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65706; File No. SR–Phlx–2011–143]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing of Proposed Rule Change to Modify Commentary .01 to Rule 1009 Regarding Criteria for Listing an Option on an Underlying Covered Security

November 8, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that on October 24, 2011, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange, pursuant to Section 19(b)(1) of the Act [3] and Rule 19b–4 thereunder,[4] proposes to amend Commentary .01 to Rule 1009 to modify the criteria for listing options on an underlying covered security.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaqtrader.com/micro.aspx?id=PHLXRulefilings*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Commentary .01 to Rule 1009 to modify the criteria for listing options on an underlying covered security as defined in Section 18(b)(1)(A) of the Securities Act of 1933 (hereinafter ''covered security(ies)''). The Exchange proposes to modify Rule 1009, Commentary .01(4)(i) to permit the listing of an option on an underlying covered security that has a market price of at least $3.00 per share on the business day immediately preceding the date on which the Exchange submits a certificate to the Options Clearing Corporation (''OCC'') for listing and trading. The Exchange does not intend to amend any other criteria for listing options on an underlying security in Rule 1009 and accompanying Commentary.

Currently the underlying covered security must have a closing market price of $3.00 per share for five consecutive business days preceding the date on which the Exchange submits a listing certificate to OCC. In the proposed amendment, the market price will still be measured by the closing price reported in the primary market in which the underlying covered security is traded; however, the measurement will be the price on the business day immediately preceding the submission of the listing certificate, instead of the prior five consecutive business days.

The Exchange acknowledges that the Options Listing Procedures Plan [5] requires that the listing certificate be provided to OCC no earlier than 12:01 a.m. and no later than 11 a.m. (Chicago time) on the trading day prior to the day on which trading is to begin.[6] The proposed amendment will still comport with that requirement. For example, if an initial public offering occurs at 11 a.m. on Monday, the earliest date the Exchange could submit its listing certificate to OCC would be on Tuesday by 12:01 a.m. (Chicago time), with the market price determined by the closing price on Monday. The option on the initial public offering would be eligible for trading on the Exchange on Wednesday. The proposed amendment would essentially enable options trading within two business days of an initial public offering becoming available instead of six business days (five consecutive business days plus the day the listing certificate is submitted to OCC).

The Exchange's current provision of the ''look back'' period of five consecutive business days assumed the five-day period was necessary to protect against attempts to manipulate the market.[7] Surveillance technologies and procedures concerning manipulation have evolved over the last decade to provide adequate prevention or detection of rule or securities law violations and the disciplining of the Exchange's members and persons associated with them for violation of such rules or laws. Surveillance for opening price manipulation and other existing surveillance patterns are utilized to monitor trading in options. The Exchange represents that these surveillance procedures are adequate to monitor the trading of options on the Exchange. In addition, the Exchange has complete access to information regarding trading activity of the underlying securities and options thereon. Furthermore, pursuant to Rule 1047(c), trading in any option may be halted by an Options Exchange Official whenever the Options Exchange Official deems such action appropriate in the interest of a fair and orderly market and to protect investors. The combination of the surveillance technologies and procedures, coupled with Rule 1047(c) provide a sufficient measure of protection from any attempts of market manipulation.

The proposed change will apply to all covered securities that meet the criteria of Exchange Rule 1009. Pursuant to Exchange Rule 1009, the Exchange Board of Directors (the ''Exchange Board'') establishes guidelines to be considered by the Exchange in evaluating potential underlying securities for Exchange option transactions.[8] However, the fact that a particular security may meet the guidelines established by the Exchange Board does not necessarily mean that it will be approved as an underlying security.[9] As part of the established criteria, the issuer must be in compliance with any applicable requirement of the Securities Exchange Act of 1934.[10] Additionally, in considering the underlying security, the Exchange relies on information made publicly available by the issuer and/or the market in which the security is traded.[11] Also, in determining whether to list an option that otherwise meets the objective listing criteria, the Chairman of the Exchange Board or his designee may consider, *inter alia,* the name recognition of the option or underlying security.[12] Even if the proposed option meets the objective criteria, the Chair of the Exchange Board

[3] 15 U.S.C. 78s(b)(1).

[4] 17 CFR 240.19b–4.

[5] On July 6, 2001, the Commission approved the Plan for the Purpose of Developing and Implementing Procedures Designed to Facilitate the Listing and Trading of Standardized Options Submitted Pursuant to Section 11a(2)(3)(B) [sic] of the Securities Exchange Act of 1934 (a/k/a the Options Listing Procedures Plan (''OLPP'')), which was proposed by the American Stock Exchange LLC (''Amex''), Chicago Board Options Exchange, Incorporated (''CBOE''), International Securities Exchange LLC (''ISE''), Options Clearing Corporation (''OCC''), Philadelphia Stock Exchange, Inc. (''Phlx''), and Pacific Exchange, Inc. (''PCX'') (n/k/a NYSE Arca). *See* Securities Exchange Act Release No. 44521, 66 FR 36809 (July 13, 2001). On February 5, 2004, Boston Stock Exchange, Inc. (''BSE'') was added as a Sponsor to OLPP. *See* Securities Exchange Act Release No. 49199, 69 FR 7030 (February 12, 2004). On March 21, 2008, the Nasdaq Stock Market, LLC (''Nasdaq'') was added as a Sponsor to the OLPP. *See* Securities Exchange Act Release No. 57546, 73 FR 16393 (March 27, 2008). On February 17, 2010, BATS Exchange, Inc. (''BATS'') was added as a Sponsor to the OLPP. *See* Securities Exchange Act Release No. 61528, 75 FR 8415 (February 24, 2010).

[6] *See* OLPP at page 3.

[7] *See* Release No. 47794 (May 5, 2003), 68 FR 25076 (May 9, 2003) (SR–Phlx–2003–27).

[8] *See* Exchange Rule 1009(b). The Exchange Board established specific criteria to consider by the Exchange in evaluating potential underlying securities for Exchange Option Transactions in its Commentary to Exchange Rule 1009.

[9] *Id.*

[10] *See* Exchange Rule 1009, Commentary .01(5).

[11] *See* Exchange Rule 1009, Commentary .02(d).

[12] *See* Exchange Rule 1009 Commentary .02(e).

may decide not to list or place limitations or conditions upon listing.[13] The Exchange believes these measures, along with its surveillance of the trading of options, provide adequate safeguards in the review of any covered security that may meet the proposed criteria for consideration of the option within the timeframe contained in this proposal.

Just as important, investors have requested that the Exchange offer options on initial public offerings sooner than the six business days time frame in order to provide the opportunity to hedge existing positions post-haste. As such, the Exchange believes the proposed amendment will allow the Exchange to provide investors with the options that are most useful and demanded by them without sacrificing any investor protections.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[14] in general, and furthers the objectives of Section 6(b)(5) of the Act[15] in particular, in that it is 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, by allowing the Exchange to swiftly list options on a qualifying security that has met the $3.00 eligibility price to meet the investor demands. The proposed amendment will remove impediments and perfect the mechanism of a free and open market and a national market system by providing an avenue for investors of an initial public offering, who are restricted from selling shares, to swiftly hedge their investment in the stock without the time delay.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

[13] *See* Exchange Rule 1009, Commentary .02(c).

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. The Commission is asking that commenters address the merit of Phlx's statements in support of the proposed rule change, in addition to any other comments they may wish to submit about the proposed rule change. The Commission notes that, prior to 2003, in order to qualify as underlying securities for options traded on national securities exchanges, covered securities were required to have a closing market price of at least $7.50 per share for the majority of business days during the three calendar months preceding the date of selection.[16] In proposing the $3 per share closing market price requirement and the five-day ''look back'' period that is the current requirement on Phlx and other national securities exchanges that list options, Phlx stated that the ''look back'' period of five consecutive days ''would provide a sufficient measure of protection from any attempts to manipulate the market price of the underlying security.''[17] The Exchange further stated that it believed that the proposed $3 price standard and the five-day ''look back'' period would ''provide a reliable test for stability [and] would present a more reasonable time period for qualifying the price of an underlying security.''[18] In approving the five-day ''look back'' period proposal, the Commission stated that the proposed requirements, coupled with an exchange's additional listing requirements, would enable the listing of options on companies that are financially sound.[19] In light of the foregoing, what are commenters' views as to whether Phlx's proposed initial listing standard and existing initial and maintenance listing standards would be sufficient to assure price stability of the underlying covered security? For example, the proposed standard would allow the listing of options on a stock that traded above $3 for only one day. What are commenters' views as to how the proposed ''look back'' period would impact concerns about the ability to manipulate the market? What are commenters' views on whether surveillance technologies and procedures concerning manipulation have evolved sufficiently to adequately prevent or detect potential violations of securities laws and rules and regulations thereunder resulting from this proposed rule change?

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2011–143 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2011–143. 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

[16] *See* Securities Exchange Act Release No. 47794 (May 5, 2003), 68 FR 25076 (May 9, 2003) (SR–Phlx–2003–27) (''Phlx Five-Day Notice'') (notice of filing and immediate effectiveness of proposed rule change relating to the amendment of price criteria for certain securities that underlie options traded on the Exchange). *See also* Securities Exchange Act Release No. 46957 (December 6, 2002), 67 FR 77106 (December 16, 2002) (SR–CBOE–2002–62).

[17] Phlx Five-Day Notice at 25078.

[18] *Id.*

[19] The Chicago Board Options Exchange was the first exchange to propose the $3 per share closing market price requirement and the five-day ''look back'' period. *See* Securities Exchange Act Release No. 47190 (January 15, 2003), 68 FR 3072, 3072–73 (January 22, 2003) (SR–CBOE–2002–62) (order approving proposed rule change to amend CBOE rule which establishes the pricing criteria for securities that underlie options traded on the Exchange).

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 a.m. and 3 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–Phlx–2011–143 and should be submitted on or before December 5, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2011–29300 Filed 11–10–11; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–65700; File No. SR–FINRA–2011–064]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change to Adopt FINRA Rule 4524 (Supplemental FOCUS Information) and Proposed Supplementary Schedule to the Statement of Income (Loss) Page of FOCUS Reports

November 7, 2011.

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 November 1, 2011, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. 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

FINRA is proposing to adopt FINRA Rule 4524 (Supplemental FOCUS Information) to require each member, as FINRA shall designate, to file such additional financial or operational schedules or reports as FINRA may deem necessary as a supplement to the FOCUS report. The content of such supplemental schedules or reports would be specified in a *Regulatory Notice* (or similar communication), which FINRA would file with the SEC pursuant to proposed FINRA Rule 4524. As part of the proposed rule change, FINRA is filing one such proposed schedule, a supplement to the Statement of Income (Loss) page of the FOCUS Report.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Pursuant to SEA Rule 17a–5, members are required to file with FINRA reports concerning their financial and operational status using SEC Form X–17A–5, Financial and Operational Combined Uniform Single (FOCUS) Report.[3] SEA Rule 17a-5 generally requires members that clear transactions or carry customer accounts to file a FOCUS Report Part II, and requires certain other members to file a FOCUS Report Part IIA. Members that use Appendix E to SEA Rule 15c3–1 to calculate net capital file a FOCUS Report Part II CSE[4] that is similar to the FOCUS Report Part II (collectively, the FOCUS Reports Part II, Part IIA, and Part II CSE are referred to hereinafter as ''FOCUS Reports'').

FINRA is proposing to adopt FINRA Rule 4524, a rule that would provide the mechanism by which FINRA can obtain from members more detailed financial information to augment the FOCUS reports required to be filed pursuant to SEA Rule 17a–5. Proposed FINRA Rule 4524 would require members to file such additional financial or operational schedules or reports to supplement FOCUS reports as FINRA may deem necessary or appropriate for the protection of investors or in the public interest.[5] Thus, the rule would provide FINRA the framework to request more specific information regarding, among other things, the assets and liabilities of a member, the generation of revenues and allocation of expenses by business segment or product lines, the sources of trading gains and losses, the types and amounts of fees earned, and the nature and extent of participation in securities offerings. Depending on the nature of the proposed supplemental schedule or report, FINRA may require that all members or any specified subset of members submit the schedule or report to FINRA.

FOCUS Reports provide FINRA with valuable information regarding a member's business; however, FINRA believes that it can better discharge its regulatory obligations with the benefit of additional information that gives FINRA a more complete and detailed view of a member's business operations. Accordingly, proposed FINRA Rule 4524 would provide FINRA a means and process to obtain greater transparency into a member's business activities and to better illuminate industry trends, allowing for more focused and effective examinations.

FINRA would effectuate proposed FINRA Rule 4524 by way of a *Regulatory Notice* or similar communication, the content of which would be filed with the Commission. To that end, as an initial report required pursuant to proposed FINRA Rule 4524, FINRA is also proposing a Supplemental Statement of Income (''SSOI'') to magnify the data from the Statement of Income (Loss) page of the FOCUS Reports.[6]

The proposed SSOI is intended to capture more granular detail of a firm's revenue and expense information. The lack of more specific revenue and expense categories for certain business

[20] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.17a–5.

[4] A broker-dealer that calculates its net capital under Appendix E of SEA Rule 15c3–1 is referred to as Alternative Net Capital (''ANC'') firm.

[5] Nothing in proposed FINRA Rule 4524 should be construed as altering in any manner a member's obligations under SEA Rule 17a–5(a)(2)(iv).

[6] *See* Exhibit 3.

activities on the Statement of Income (Loss) page of the FOCUS Reports has led many firms to report much of their revenue and expenses as ''other'' (miscellaneous), a very general categorization that provides FINRA limited visibility into revenue and expense trends. The proposed SSOI is divided into sections containing line items that seek additional detail to permit FINRA to better understand revenue sources and expense composition on an ongoing basis. This additional detail would allow FINRA to better assess risk at a firm, and as a result, better allocate examination resources. Each member would be required to file with FINRA the proposed SSOI within 17 business days of the end of each calendar quarter.

The proposed SSOI contains a *de minimis* exception for providing details of revenue and expenses for certain designated sections. If a member's total dollar amount for a designated section is $5,000 or less for the reporting period, the member would only be required to enter the total dollar amount to complete the section. Additionally, not every line item would apply to every member, especially those with limited product offerings, thus limiting the burden of completing the form.

The proposed SSOI includes a new Operational Page that would collect additional information from certain members with respect to participation in unregistered offerings during the reporting period. Members whose revenue from unregistered offerings exceeds 10% of total revenue for the reporting period would be required to complete the Operational Page by providing specific information about each unregistered offering. FINRA believes that such information would provide it with greater transparency and a stronger understanding regarding the types of unregistered offerings that generate significant revenue for members.

The proposed rule change will be effective upon Commission approval. FINRA will announce the implementation dates of both proposed FINRA Rule 4524 and the proposed schedule (i.e., the proposed SSOI) in a *Regulatory Notice* to be published no later than 60 days following Commission approval of the proposed rule change. The implementation date of the proposed schedule will be no sooner than 180 days, and no later than 365 days, following Commission approval of the proposed rule change.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[7] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change is consistent with the provisions of the Act noted above in that supplemental FOCUS information will further strengthen FINRA's ability to protect investors through a more informed understanding of the drivers of members' business that can be used for more targeted examinations.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The proposed rule change and the proposed SSOI were published for comment in *Regulatory Notice* 10–33 (July 2010) (the ''*Notice*''). FINRA received 28 comment letters in response to the *Notice*.[8] A copy of the *Notice* is attached as Exhibit 2a.[9] A list of the comment letters received in response to the *Notice* is attached as Exhibit 2b. Copies of the comment letters received in response to the *Notice* are attached as Exhibit 2c.[10] Below is a summary of the comments and FINRA's responses.

A. Schedule Not Needed or Justified

A number of commenters argued that the proposed SSOI is not needed or justified.[11] Some commenters stated that FINRA or the SEC can already request the information required by the proposed SSOI.[12] One commenter believed that the current reports provide sufficient detail for FINRA to understand a member's business.[13] Two commenters believed that routine exams already give a detailed view of a member's business operations.[14] Several other commenters did not see how the requested information protected investors.[15] Finally, one commenter argued that FINRA has not justified why the proposed SSOI is the best means of achieving FINRA's regulatory objectives without undue burden on members.[16] FINRA disagrees with the contentions that the information sought is unnecessary or superfluous. As stated in the *Notice,* FINRA believes that it can better discharge its regulatory obligations with the benefit of additional information that gives FINRA a more complete and detailed view of a member's business operations. Moreover, FINRA believes the proposed SSOI is the most effective and timely way to obtain the additional detail of the generation of revenues and allocation of expenses by business segment or product lines, the sources of trading gains and losses, the types and

[7] 15 U.S.C. 78*o*–3(b)(6).

[8] *See* Letter from Ivy League Financial Services, Inc., dated July 21, 2010 (''Ivy''); letter from M.S. Howells & Co., dated July 23, 2010 (''M.S. Howells''); letter from Hunter, Keith, Marshall & Co., Inc, dated July 27, 2010 (''HKM''); letter from Balanced Financial Securities, dated July 31, 2010 (''BFS''); letter from Foresters Equity Services, Inc., dated August 5, 2010 (''FES''); letter from Hodges Capital Management-First Dallas Securities, dated August 5, 2010 (''HCM''); letter from Farragut Capital LLC, dated August 12, 2010 (''Farragut''); letter from Integrity Investments, Inc., dated August 12, 2010 (''Integrity''); letter from Stephen Kinkade CPA, dated August 15, 2010 (''Kinkade''); letter from Wachtel & Co., Inc., dated August 16, 2010 (''Wachtel''); letter from First Asset Financial Inc., dated August 17, 2010 (''FAF''); letter from Aileen Gallagher, dated August 17, 2010 (''Gallagher''); letter from National Association of Independent Broker-Dealers, Inc., dated August 17, 2010 (''NAIBD''); letter from Securities Industry and Financial Markets Association, dated August 17, 2010 (''SIFMA''); letter from Wilson-Davis & Co., Inc., dated August 17, 2010 (''WDC''); letter from Allegheny Investments, LTD, dated August 18, 2010 (''Allegheny''); letter from Berkshire Bridge Capital, LLC, dated August 18, 2010 (''Berkshire''); letter from IBG Trading Inc., dated August 18, 2010 (''IBG''); letter from Integrated Management Solutions, dated August 18, 2010 (''IMS''); letter from Probitas Partners, dated August 18, 2010 (''Probitas''); letter from Real Estate Investment Securities Association, dated August 18, 2010 (''REISA''); letter from Regional Bond Dealers Association, dated August 18, 2010 (''RBDA''); letter from Sutherland Asbill & Brennan LLP, dated August 18, 2010 (''Sutherland''); letter from Southlake Capital Advisors, Inc., dated August 18, 2010 (''SCA''); letter from Trust Advisory Group, Ltd., dated August 18, 2010 (''TAG''); letter from Wedbush Securities Inc., dated August 18, 2010 (''Wedbush''); letter from Bank of America Merrill Lynch, dated August 19, 2010 (''B of A''); and letter from Citigroup Global Markets, Inc., dated August 20, 2010 (''Citi'').

[9] The Commission notes that while provided in Exhibit 2a to FINRA's filing with the Commission, the Notice is not attached hereto. The Notice can be accessed online at *http://www.finra.org/web/groups/industry/@ip/@reg/@notice/documents/notices/p121742.pdf.*

[10] The Commission notes that while provided in Exhibit 2c to the filing, the list of the commenters and comment letters received by FINRA are not attached hereto. Those comment letters can be accessed online at *http://www.finra.org/Industry/Regulation/Notices/2010/P121743.* As stated previously, all references to ''commenters'' are to the commenters to the Notice, which are listed in Exhibit 2b.

[11] Allegheny, FAF, Farragut, Integrity, Ivy, Kinkade, Probitas, REISA, Sutherland and WDC.

[12] Allegheny, Sutherland, Farragut, Integrity and Kinkade.

[13] Ivy.

[14] REISA and WDC.

[15] Farragut, Kinkade, Probitas and WDC.

[16] RBDA.

amounts of fees earned, and the nature and extent of participation in securities offerings.

B. Small Firm Concerns

Several commenters stated that the proposed SSOI will be costly and time consuming for small firms.[17] Some of these commenters argued that FINRA should provide an exemption from the rule for smaller firms.[18] Several commenters asserted that the Operational Page creates an unfair bias against smaller firms.[19] FINRA believes that the required information is important to identify regulatory risk and trends, irrespective of firm size. Therefore, FINRA does not believe a small firm exemption is appropriate. However, as mentioned above, the proposed SSOI contains a *de minimis* exception that will make the form less time consuming for many smaller firms. Additionally, FINRA points out that many of the line items will not apply to smaller firms with limited product offerings.

C. Clarifications and Recommended Changes

Certain commenters requested clarification of the information required on the proposed SSOI.[20] Several commenters suggested that FINRA should include instructions and definitions for the proposed SSOI.[21] One commenter had concerns that the ''numbers reported on the FOCUS Report and the Proposed Schedule will not automatically 'match.' '' [22] Further, several commenters recommended changes to specific line items on the proposed SSOI.[23] In response to these comments, FINRA has developed instructions for the proposed SSOI, which are included in the attached Exhibit 3. The instructions include guidance, clarifications and definitions with respect to certain line items that FINRA believes should ameliorate the commenters' concerns. Additionally, in response to recommended changes to specific line items, FINRA has amended the proposed SSOI by making the requested tax information less burdensome, allowing flexibility regarding the reporting of dividends and interest for principal trades and allowing revenue from unit investment trusts that are open-end companies to be included with revenue from investment company shares.

D. Data Capture

Several commenters suggested that the profit and loss information required by the proposed SSOI should be based on established units within a firm rather than by product.[24] In response, FINRA believes that requiring information by product is the best way to understand revenue sources and expense composition. However, FINRA is allowing firms, in certain instances, a choice as to which section and/or line item on the proposed SSOI to reflect revenue or expense. Firms must document the methodology chosen and apply it consistently across reporting periods. Additionally, the methodology must be made available to FINRA staff upon request.

E. Confidentiality

One commenter expressed competitive concerns with providing FINRA detailed departmental data.[25] Another commenter was concerned that the proposed SSOI could compromise otherwise confidential deal making.[26] The commenter stated that members ''specializing in restructuring/distressed situations are frequently bound to confidentiality by U.S. bankruptcy laws that would preclude the release of certain information.'' [27] FINRA does not believe these concerns are valid as the proposed SSOI would be treated with the same confidentiality as the FOCUS Report to which it relates.[28] In regard to the commenter's concern about being bound to confidentiality by U.S. bankruptcy laws, FINRA notes that the commenter did not provide any specific examples of such U.S. bankruptcy laws or discussion of the manner in which such laws would preclude a member from complying with the proposed rulemaking.

F. Use of the Proposed SSOI

Several commenters were concerned that the proposed SSOI would be used as the basis for the calculation of various assessments, fees and dues on members.[29] As previously mentioned, the proposed SSOI is intended to provide information about a member's revenue and expenses in greater detail. The proposed SSOI supplements the FOCUS report and would not be used as the basis for any assessments, fees or dues; however, total revenue on the proposed SSOI should equal total revenue on the FOCUS report.

G. Reporting Period

Several commenters recommended that reporting of the proposed SSOI be on a quarterly basis.[30] These commenters stated that ''[m]any firms as a matter of course have more detailed reporting requirements—both internal and external—on a quarterly basis, which would facilitate this additional FINRA reporting while limiting the need for additional resources.'' [31] FINRA agrees with the commenters and has proposed quarterly basis reporting for the proposed SSOI.

H. Filing Time Frame

Two commenters suggested that the proposed SSOI should be filed within the time frames for current supplemental reporting and not on the FOCUS filing date.[32] They believed that filing within such time frames would address resource constraints and would be consistent with other reporting time frames. FINRA disagrees with the commenters and instead has proposed to require the proposed SSOI to be filed within 17 business days after the end of the calendar quarter, consistent with the time frame allowed for the filing of the FOCUS Reports. FINRA believes that this time frame strikes the proper balance of ensuring FINRA receives timely information while giving firms' sufficient time to file the proposed SSOI.

I. Operational Page of the Proposed SSOI

Several commenters believed that FINRA is unfairly targeting Regulation D offerings.[33] One commenter suggested that the Operational Page only apply to all offerings that exceed a fixed dollar amount, rather than offerings in excess of 10% of total revenue.[34] Another commenter stated that the information requested by the Operational Page for firm underwriting and selling group arrangements is identical to the information requested following a blue sheet transaction.[35] The commenter urged that if the proposed SSOI is incorporated as represented, FINRA cease routinely requiring firms to provide identical information for firm underwriting and selling group

[17] Allegheny, BFS, FAF, Farragut, FES, Gallagher, HCM, HKM, IMS, Integrity, Kinkade, M.S. Howells, Probitas, RBDA, REISA, TAG, Wachtel and WDC.

[18] BFS, HKM, Wachtel and WDC.

[19] HKM, Kinkade, NAIBD and REISA.

[20] Allegheny, B of A, Citi, FAF, IMS, Kinkade, NAIBD, RBDA, Sutherland and WDC.

[21] Citi, IMS, Kinkade, NAIBD, RBDA and Sutherland.

[22] Sutherland.

[23] B of A, IMS and Kinkade.

[24] B of A, Citi, IMS, Kinkade, M.S. Howells and SIFMA.

[25] M.S. Howells.

[26] NAIBD.

[27] NAIBD.

[28] *See* SEA Rule 17a–5(a)(3).

[29] B of A, BBC, SIFMA and Wedbush.

[30] B of A and SIFMA.

[31] B of A and SIFMA.

[32] B of A and SIFMA.

[33] Farragut and REISA.

[34] Kinkade.

[35] NAIBD.

arrangements following a blue-sheet transaction.[36] Finally, one commenter stated that Operational Page reporting should be disassociated with financial reporting for any member filing FOCUS Report Part IIA (not filing FOCUS Report Part II) by having its own format, frequency and deadline schedule.[37]

FINRA believes the Operational Page of the proposed SSOI would provide greater transparency and valuable information regarding unregistered offerings. A fixed dollar amount threshold would be inappropriate as FINRA needs to capture revenue that is significant to the member. Members that exceed the 10% of total revenue threshold are considered to be obtaining significant revenue from unregistered offerings. Additionally, the information requested from the Operational Page is not identical to the information requested in a blue sheet transaction.[38] Finally, the Operational Page is part of the proposed SSOI, and therefore would be subject to the same frequency and deadline schedule of the proposed SSOI.

J. Implementation

Several commenters requested that FINRA provide sufficient lead time for members to prepare for the new rule.[39] A number of commenters stated system changes would be needed to capture the requested information.[40] One commenter suggested that the implementation of the proposed SSOI be staged as a series of pilots, beginning with clearing firms, then gradually covering the membership by firm size.[41] FINRA is sensitive to the operational and systems changes that may be necessary for members to complete the proposed SSOI, and as a result, is proposing to implement the SSOI no sooner than 180 days, and no later than 365 days, following Commission approval of the proposed rule change.

K. Alternatives to Schedule

A number of commenters offered alternatives to the proposed SSOI.[42] Several commenters suggested that more detailed information should not be required unless the particular line item represents a specified percentage of a firm's business or at least a dollar amount threshold.[43] One commenter suggested that FINRA consider requiring that the information requested by the proposed SSOI be submitted annually with the audit report.[44] Another commenter believed that instead of adopting the proposed SSOI, FINRA should meet with members to discuss whether a new regulatory report is needed; what format works best with the FOCUS Report; and consider the costs of implementing a system.[45] FINRA has considered these alternatives and believes that obtaining information regarding the detail of revenues earned or expenses incurred by product or other more specific categories is best achieved through the proposed SSOI. FINRA notes that it consulted with its advisory committees in connection with the development of the proposed SSOI.

L. New Financial and Operational Reports or Schedules

Several commenters suggested that any new financial or operational report or schedule required by FINRA be submitted to the SEC as a proposed rule change to allow members an opportunity to provide FINRA with feedback.[46] One commenter suggested that such submission is necessary due to possible conflicts that FINRA schedules and reports may have with other laws and rules.[47] Another commenter argued that the opportunity for member comment is needed because specific line items may be missing or irrelevant over time.[48]

As stated above, pursuant to proposed FINRA Rule 4524, FINRA will file with the SEC the content of any *Regulatory Notice* (or similar communication) issued pursuant to the proposed rule. Further, if such content contains material substantive changes, FINRA will file the content for comment with the SEC. Commenters will have an opportunity to express their concerns and provide feedback at that time.

M. Comment Period

One commenter expressed disappointment that the comment period ended the same day FINRA sent the *Notice.*[49] The commenter believed that FINRA did not give the public ample opportunity to study the matter. FINRA believes the commenter is mistaken as the *Notice* was issued on July 19, 2010, requesting comment until August 18, 2010.

[36] NAIBD.

[37] Kinkade.

[38] *See* SEA Rule 17a–25.

[39] Citi, RBDA and SIFMA.

[40] Citi, FAF, HCM, M.S. Howells, NAIBD, RBDA and SIFMA.

[41] NAIBD.

[42] Allegheny, NAIBD, Sutherland and Wachtel.

[43] NAIBD, Sutherland and Wachtel.

[44] Allegheny.

[45] Sutherland.

[46] IMS, NAIBD, RBDA and Sutherland.

[47] Sutherland.

[48] NAIBD.

[49] SCA.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2011–064 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2011–064. 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2011–064 and should be submitted on or before December 5, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[50]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2011–29254 Filed 11–10–11; 8:45 am]

BILLING CODE 8011–01–P

[50] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before December 14, 2011. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: *Agency Clearance Officer,* Jacqueline White, Small Business Administration, 409 3rd Street SW., 5th Floor, Washington, DC 20416; and *OMB Reviewer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: ''25–Model Corp.Resol.or GP Certif.33–Model Letter to Selling Agent. 34–Bank ID, 1065–Appl.Lic.Assure of Compliance.

Form No's: 23, 33, 34, 1065.

Frequency: On Occasion.

Description of Respondents: Application for SBA-guaranteed leverages.

Responses: 48.

Annual Burden: 42.

Title: ''U.S. Small Business Advisory Committee Membership Information''.

Form No: 898.

Frequency: On Occasion.

Description of Respondents: To collect information for Candidates for Advisory Council.

Responses: 100.

Annual Burden: 100.

Title: ''Financial Statement of Debtor''.

Form No: 770.

Frequency: On Occasion.

Description of Respondents: SBA Borrowers or guarantor's who request compromise.

Responses: 5,000.

Annual Burden: 2,500.

Title: ''Lender's Transcript of Account''.

Form No: 1149.

Frequency: On Occasion.

Description of Respondents: SBA Borrowers to complete loan authorization.

Responses: 3,600.

Annual Burden: 3,600.

Title: ''New Markets Venture Capital Program Application Funding and Reporting''.

Form No's: 2216, 2185, 2219, 2210, 468.1, 480

Frequency: On Occasion.

Description of Respondents: Programs Application and participants, SSBIC receiving grants under the NMVC program.

Responses: 1,151.

Annual Burden: 14,012.

Title: ''Settlement Sheet''.

Form No: 1050.

Frequency: On Occasion.

Description of Respondents: Lenders requesting SBA to provide the Agency with breakdown of payments.

Responses: 19,800.

Annual Burden: 4,950.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 2011–29209 Filed 11–10–11; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12820 and #12821]

Pennsylvania Disaster Number PA–00042

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Pennsylvania (FEMA–4025–DR), dated 09/12/2011 .

Incident: Hurricane Irene.

Incident Period: 08/26/2011 through 08/30/2011.

DATES: *Effective Date:* 11/04/2011.

Physical Loan Application Deadline Date: 12/14/2011.

Eidl Loan Application Deadline Date: 06/12/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Pennsylvania, dated 09/12/2011 is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 12/14/2011.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera Associate,

Administrator for Disaster Assistance.

[FR Doc. 2011–29215 Filed 11–10–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12874 and #12875]

Maryland Disaster Number MD–00018

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Maryland (FEMA–4038–DR), dated 10/05/2011.

Incident: Remnants of Tropical Storm Lee.

Incident Period: 09/06/2011 through 09/09/2011.

DATES: *Effective Date:* 11/01/2011.

Physical Loan Application Deadline Date: 12/05/2011.

Economic Injury (EIDL) Loan Application Deadline Date: 07/05/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Maryland, dated 10/05/2011, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Howard.

All other information in the original declaration remains unchanged

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–29210 Filed 11–10–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12848 and #12849]

Texas Disaster Number TX–00382

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 5.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Texas (FEMA–4029–DR), dated 09/21/2011 .

Incident: Wildfires.

Incident Period: 08/30/2011 and continuing.

DATES: *Effective Date:* 11/03/2011.

Physical Loan Application Deadline Date: 11/21/2011.

Economic Injury (EIDL) Loan Application Deadline Date: 06/21/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth,, TX 76155.

FOR FURTHER INFORMATION CONTACT: A Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Texas, dated 09/21/2011, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Briscoe, Clay, Coryell, Edwards, Hall, Howard, Kimble, Menard, Montague, Nolan, Sutton, Wise.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–29212 Filed 11–10–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12874 and #12875]

Maryland Disaster Number MD–00018

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Maryland (FEMA–4038–DR), dated 10/05/2011 .

Incident: Remnants of Tropical Storm Lee.

Incident Period: 09/06/2011 through 09/09/2011.

DATES: *Effective Date:* 11/03/2011.

Physical Loan Application Deadline Date: 12/05/2011.

Economic Injury (EIDL) Loan Application Deadline Date: 07/05/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Maryland, dated 10/05/2011, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Baltimore, Harford.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–29213 Filed 11–10–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12822 and #12823]

Pennsylvania Disaster Number PA–00044

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 4.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of

Pennsylvania (FEMA–4030–DR), dated 09/12/2011 .

Incident: Tropical Storm Lee.

Incident Period: 09/03/2011 through 10/15/2011.

DATES: *Effective Date:* 11/04/2011.

Physical Loan Application Deadline Date: 12/14/2011.

Eidl Loan Application Deadline Date: 06/12/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Pennsylvania, dated 09/12/2011 is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 12/14/2011.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–29214 Filed 11–10–11; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 7601]

Shipping Coordinating Committee; Notice of Committee Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 1 p.m. on Wednesday, December 7, 2011, in Room 5–1224 of the United States Coast Guard Headquarters Building, 2100 Second Street SW., Washington, DC 20593–0001. The primary purpose of the meeting is to prepare for the fifty fourth Session of the International Maritime Organization's (IMO) Subcommittee on Stability and Load Lines and on Fishing Vessels Safety (SLF) to be held at the IMO Headquarters, United Kingdom, January 16–20, 2012.

The Primary Matters To Be Considered Include

Adoption of the agenda;
Decisions of other IMO bodies;
Development of second generation intact stability criteria;
Development of guidelines on safe return to port for passenger ships;
Development of guidelines for verification of damage stability requirements for tankers;
Revision of the damage stability regulations for ro-ro passenger ships;
Development of amendments to SOLAS chapter II–1 subdivision standards for cargo ships;
Revision of SOLAS chapter II–1 subdivision and damage stability regulations;
Development of provisions to ensure the integrity and uniform implementation of the 1969 TM Convention;
Development of amendments to part B of the 2008 IS Code on towing and anchor operations;
Consideration of IACS unified interpretations;
Development of amendments to the criterion for maximum angle of heel in turns of the 2008 IS Code;
Development of amendments to SOLAS regulation II–1/4 concerning subdivision standards for cargo ships;
Biennial agenda and provisional agenda for SLF 55;
Election of Chairman and Vice-Chairman for 2013;
Any other business;

Report to the Maritime Safety Committee

Members of the public may attend this meeting up to the seating capacity of the room. To facilitate the building security process, and to request reasonable accommodation, those who plan to attend should contact the meeting coordinator, LCDR Catherine Phillips, by email at *Catherine.A.Phillips@uscg.mil*, by phone at (202) 372–1374, by fax at (202) 372–1925, or in writing at Commandant (CG–5212), U.S. Coast Guard, 2100 2nd Street SW., Stop 7126, Washington, DC 20593–7126 not later than December 1, 2011. Requests made after December 1, 2011 might not be able to be accommodated. Please note that due to security considerations, two valid, government issued photo identifications must be presented to gain entrance to the Headquarters building. The Headquarters building is accessible by taxi and privately owned conveyance (public transportation is not generally available). However, parking in the vicinity of the building is extremely limited. Additional information regarding this and other IMO SHC public meetings may be found at: *www.uscg.mil/imo.*

Dated: November 7, 2011.

Brian Robinson,

Executive Secretary, Shipping Coordinating Committee, Department of State.

[FR Doc. 2011–29326 Filed 11–10–11; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2011–1243]

Designation of Administrative Judges and Delegation of Authority

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) gives notice that the FAA Administrator has: designated the Director and Dispute Resolution Officers of the Office of Dispute Resolution for Acquisition (ODRA) as Administrative Judges for all matters within the ODRA's jurisdiction; and delegated authority to the ODRA that supersedes and replaces previous delegations of authority. The FAA is publishing the text of the Designation and Delegation, executed on October 12, 2011, so that it is available to interested parties.

FOR FURTHER INFORMATION CONTACT: Marie A. Collins, Dispute Resolution Officer and Administrative Judge for the Office of Dispute Resolution for Acquisition (AGC–70), Federal Aviation Administration, 800 Independence Street SW., Room 323, Washington, DC 20591; telephone (202) 267–3290; facsimile (202) 267–3720.

SUPPLEMENTARY INFORMATION:

Background

In 1995 Congress, through the Department of Transportation Appropriations Act, directed the FAA ''to develop and implement, not later than April 1, 1996, an acquisition management system that addressed the unique needs of the agency and, at a minimum, provided for more timely and cost effective acquisitions of equipment and materials.'' [1] In response, the FAA developed the Acquisition Management System (AMS), a system of policy guidance for the management of FAA procurement, and as a part of the AMS, created the Office of Dispute Resolution for Acquisition (ODRA) to facilitate the Administrator's review of procurement protests and contract disputes.[2] Subsequently, the FAA promulgated rules of procedure governing the ODRA's dispute resolution process by publishing a final rule entitled, Procedures for Protests and Contract Disputes; Amendment of Equal Access to Justice Act Regulations (effective June 28, 1999).[3] In addition to the rules of procedures, ODRA operates pursuant to a series of delegations of authority from the Administrator. Over time, the authority delegated to the ODRA by the Administrator expanded to include the authority of the ODRA Director, among other things, ''to execute and issue, on behalf of the Administrator, Orders and Final Decisions for the Administrator in all matters'' under the ODRA's jurisdiction valued at not more than $10 Million.[4] Congress provided further confirmation as to the FAA's dispute resolution authority in the Vision 100–Century of Aviation Reauthorization Act of 2003 (2003 Reauthorization Act), which expressly provided the ODRA with exclusive jurisdiction over bid protests and contract disputes under the AMS.[5] Specifically, the 2003 Reauthorization Act provided at Subsection (b)(2)(4), under the title ''Adjudication of Certain Bid Protests and Contract Disputes,'' that ''[a] bid protest or contract dispute that is not addressed or resolved through alternative dispute resolution shall be adjudicated by the Administrator,

[1] Public Law 104–50, 109 Stat. 436 (November 15, 1995).

[2] 61 FR 24348; May 14, 1996.

[3] 64 FR 32926; June 18, 1999.

[4] *See* 63 FR 49151, September 14, 1998; 65 FR 19958–01, April 13, 2000; 69 FR 17469–02, April 2, 2004.

[5] *See* Public Law 108–176, § 224(b), 117 Stat. 2490, 2528 (codified as amended at 49 U.S.C. 40110(d)(4)).

through Dispute Resolution Officers or Special Masters of the Federal Aviation Administration Office of Dispute Resolution for Acquisition, acting pursuant to Sections 46102, 46104, 46105, 46106 and 46107 and shall be subject to judicial review under Section 46110 and Section 504 of Title 5.'' On January 12, 2011, the FAA proposed to update and streamline the ODRA's procedural rules by publishing a notice of proposed rulemaking in the **Federal Register** amended Procedures for Protests and Contracts Dispute (76 FR 2035) which, among other things, reorganized and streamlined the rules, and harmonized them with current statutory and other authority. On September 7, 2011, the FAA adopted the proposed rule, publishing it as a final rule (76 FR 55217) in the **Federal Register,** with an effective date of October 7, 2011. The full text of the FAA Administrator's October 12, 2011 Designation and Delegation provides as follows:

In furtherance of an efficient FAA acquisition dispute resolution process, pursuant to 49 U.S.C. 106(f)(2), §§ 40101, *et seq.,* 46101, *et. seq.,* 40110 and 14 CFR part 17, I hereby designate the Director and the Dispute Resolution Officers of the Office of Dispute Resolution for Acquisition (''ODRA'') as Administrative Judges for all matters within the ODRA's jurisdiction and hereby delegate authority to the ODRA Director as follows:

a. To administer and conduct proceedings in individual bid protests, contract disputes and Circular A–76 contests, to appoint ODRA Dispute Resolution Officers/Administrative Judges and Special Masters to adjudicate all or portions of individual bid protests, contract disputes and contests; and to prepare findings and recommendations as well as proposed final orders in such cases;

b. To grant or deny dismissal or summary relief in bid protests, contract disputes or contests;

c. To stay an award or the performance of a contract temporarily, for no more than ten (10) business days, pending an Administrator's decision on a permanent stay. A stay will only be ordered by the ODRA in cases where the ODRA, based on the submissions of the parties, finds compelling reasons which would justify a stay, and recommends a stay to the Administrator;

d. To dismiss bid protests, contract disputes or contests, based on settlement agreements or voluntary withdrawals by the parties that instituted such proceedings;

e. To issue procedural and other interlocutory orders aimed at proper and efficient case management, including, without limitation, scheduling orders, subpoenas, sanctions orders for failure of discovery, and the like;

f. To issue protective orders aimed at prohibiting the public dissemination of certain information and materials provided to the ODRA and opposing parties during the course of bid protest, contract dispute or contest proceedings, including, but not limited to, documents or other materials reflecting trade secrets, confidential financial information and other proprietary or competition-sensitive data, as well as confidential Agency source selection information the disclosure of which might jeopardize future Agency procurement activities;

g. To utilize voluntary alternative dispute resolution (ADR) methods as the primary means of dispute resolution, in accordance with established Department of Transportation and FAA policies for using ADR to the maximum extent practicable;

h. To appoint ODRA Dispute Resolution Officers/Administrative Judges and Special Masters to engage with parties in voluntary, mutually agreeable ADR efforts aimed at resolving acquisition related disputes at the earliest possible stage, even before any formal protest, contract dispute or contest is filed with the ODRA;

i. To execute and issue, on behalf of the Administrator, final FAA decisions and orders in all matters within the ODRA's jurisdiction, provided that such matters involve either: (1) A bid protest concerning an acquisition having a minimum dollar value of not more than ten million dollars ($10,000,000.00); or (2) a contract dispute involving a total amount to be adjudicated, exclusive of interest, legal fees or costs, or not more than ten million dollars ($10,000,000.00). This Delegation does not preclude the Director of the ODRA from requesting, in any matter before the ODRA, that the order setting forth the final decision of the FAA be executed by the Administrator;

j. To execute and issue orders and final decisions on behalf of the Administrator for any applications made pursuant to the Equal Access to Justice Act for matters within the ODRA's jurisdiction;

k. To take all other reasonable steps deemed necessary and proper for the management of the FAA Dispute Resolution System and for the resolution of bid protests, contract disputes, or contests, in accordance with the Acquisition Management System and applicable law.

The foregoing authority may be re-delegated by the Director to ODRA Dispute Resolution Officers/ Administrative Judges and to Special Masters. This Delegation supersedes and replaces the Delegations issued to the Director of the ODRA on July 29, 1998, March 27, 2000, March 10, 2004 (Delegation), March 10, 2004 (OMB Circular A–76 Delegation), and March 31, 2010.

Issued in Washington, DC, on October 12, 2011.

Marc L. Warren,

Acting Chief Counsel.

[FR Doc. 2011–29336 Filed 11–10–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Suspension of Preparation of Environmental Impact Statement for the Proposed Replacement General Aviation Airport, Mesquite, Clark County, NV

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of suspension of preparation of Environmental Impact Statement.

SUMMARY: The Federal Aviation Administration (FAA) as the Lead Agency for the proposed project is issuing this notice to advise the public the FAA has suspended preparation of an Environmental Impact Statement (EIS) for a proposed Replacement General Aviation (GA) Airport in Mesquite, Clark County, Nevada. The FAA received a letter dated September 27, 2011, from the City of Mesquite, Nevada asking the FAA to suspend any further work on the EIS. The reasons for this action include the local economic conditions in Mesquite and other local fiscal and budgetary constraints.

FOR FURTHER INFORMATION CONTACT: David B. Kessler, AICP, Regional Environmental Protection Specialist, AWP–610.1, Airports Division, Federal Aviation Administration, Western-Pacific Region, P.O. Box 92007, Los Angeles, California 90009–2007, *Telephone:* 310/725–3615.

SUPPLEMENTARY INFORMATION: On December 8, 2004, the Federal Aviation Administration (FAA) issued a Notice of Intent in the **Federal Register** (69 FR 71097) to prepare an Environmental Impact Statement (EIS) for the proposed construction and operation of a proposed Replacement General Aviation (GA) Airport, for the City of Mesquite in eastern Clark County, Nevada. The City

of Mesquite proposed to build the replacement airport south of Interstate Highway 15 between Exit 108 and 109 on the Mormon Mesa, about 15 miles west of the existing Mesquite Municipal Airport. The City proposed to close the existing Mesquite Municipal Airport and change the airport land use to residential land use, including construction of a new arterial roadway through the existing airport property. To maintain access to the National Air Transportation System, the City also proposed to design, fund, and build a replacement GA airport at Mormon Mesa that would provide GA facilities and services to the flying public, support regional economic development at no cost to the FAA. The City proposed to build the replacement GA airport to meet FAA Airport Reference Code (ARC) B–II standards with a new runway 7,500 feet long by 100 feet wide.

On May 16, 2008, the Notice of Availability of FAA's Draft EIS was published in the **Federal Register** (73 FR 28461). The FAA received 34 comment letters on the Draft EIS from federal, state and local agencies, as well as the general public. In March 2009, as FAA was preparing responses to comments received on the 2008 Draft EIS, FAA determined there were significant new circumstances or information relevant to environmental concerns and bearing on the Proposed Project or its impacts. Consistent with Title 40 CFR 1501.9, FAA decided to prepare a Revised Draft Environmental Impact Statement (RDEIS).

The FAA received a letter from the City of Mesquite, dated September 27, 2011, asking the FAA to suspend any additional work on the EIS for the proposed Replacement GA Airport EIS. The City of Mesquite explained the postponement was based on local economic conditions and other local fiscal and budgetary constraints. The FAA does not know how long the suspension of the EIS will last.

Pursuant to Title 14, Code of Federal Regulations, Part 77, *Objects Affecting Navigable Airspace,* § 77.29 *Evaluating Aeronautical Effect,* when a proponent files a Notice of Proposed Construction or Alteration (FAA Form 7460–1) for a proposal in the vicinity of the proposed Replacement General Aviation Airport for Mesquite, the FAA will conduct an aeronautical study to determine the impact of a proposed structure, an existing structure that has not yet been studied by the FAA, or an alteration of an existing structure on aeronautical operations, procedures, and the safety of flight including but not limited to the proposal's impact on existing and planned public use airports.

Issued in Hawthorne, California, on October 28, 2011.

Mark A. McClardy,

Manager, Airports Division, Western—Pacific Region, AWP–600.

[FR Doc. 2011–29269 Filed 11–10–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Fifth Meeting: RTCA Special Committee 225, Rechargeable Lithium Battery and Battery Systems—Small and Medium Size

AGENCY: Federal Aviation Administration (FAA), U.S. Department of Transportation (DOT).

ACTION: Notice of RTCA Special Committee 225, Rechargeable Lithium Battery and Battery Systems—Small and Medium Size.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 225, Rechargeable Lithium Battery and Battery Systems—Small and Medium Size for the fifth meeting.

DATES: The meeting will be held November 30–December 1, 2011, from 9 a.m.–5 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1150 18th Street NW., Suite 910, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a Special Committee 225, Rechargeable Lithium Battery and Battery Systems—Small and Medium Size. The agenda will include the following:

November 30, 2011

- Introductions and Administrative Remarks.
- Review and approval of summary from the 4th plenary meeting.
- Review action items.
- Review SC–225 schedule for Plenary meetings, working group meetings, and document preparation.
- Working Group Meeting—Review draft document.
- Review new action items.
- Review agenda for Thursday.

December 1, 2011

- Review of meeting agenda, other actions.
- Verify dates of next plenary and upcoming meeting working group meetings.
- Establish Agenda for 6th plenary meeting.
- Working Group Meeting—Review draft document.
- Working Group report, review progress and actions.
- Review all action items.
- Adjourn.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on November 2, 2011.

Robert L. Bostiga,

Manager, Business Operations Group, Federal Aviation Administration.

[FR Doc. 2011–29266 Filed 11–10–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Tenth Meeting: RTCA Special Committee 217/EUROCAE WG–44: Terrain and Airport Mapping Databases

AGENCY: Federal Aviation Administration (FAA), U.S. Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 217/EUROCAE WG–44: Terrain and Airport Mapping Databases: For the tenth meeting

DATES: The meeting will be held December 6–9, 2011, from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at Honeywell Deer Valley Facility, Conference Room, PRN C, 21111 N. 19th Ave., Phoenix, AZ. 85027. If you plan on attending please contact John Kasten at telephone (303) 328–4535, at mobile (303) 260–9652 or email *john.kasten@jeppesen.com.*

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by

telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of RTCA Special Committee 217/EUROCAE WG–44: Terrain and Airport Mapping Databases. The agenda will include the following:

December 6, 2011

- Open Plenary Session.
- Chairman's Introductory Remarks.
- Housekeeping.
- Review and Approval of Ninth Meeting Minutes.
- Review of Meeting Agenda.
- Weekly Schedule.
- December PMC Meeting Discussion.
- Action Item Review (call for Presentations).
- Working Group Activity Status.

December 7, 2011

- Terrain and Obstacle Working Group Session.
- Discussion the differences between AIXM and the Modeling Effort for Terrain and Obstacles within the Committee.
- Decided on a method for addressing the use of the term ''obstacle'' in DO–276 and ''vertical structure'' in DO–272.
- Determine if and how to re-write Appendix E.
- Review work on Temporality.
- ASRN V&V Full Committee Working Group.

December 8, 2011

- Working Group Road Map Review.
- Draft Terms of Reference for DO–272–D and DO–291C.
- Action Item Review.
- Any other business.

December 9, 2011

- Closing Plenary Session.
- Joint RTCA SC–217/EUROCAE WG–44.
- Adjourn.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on November 2, 2011.

Robert L. Bostiga,

Manager, Business Operations Group, Federal Aviation Administration.

[FR Doc. 2011–29267 Filed 11–10–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Release of Airport Property: Melbourne International Airport, Melbourne, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and Request for Public Comment.

SUMMARY: The FAA hereby provides notice of intent to release certain airport properties totaling 22.15 acres at the Melbourne International Airport, Melbourne, Florida from the conditions, reservations, and restrictions as contained in a Quitclaim Deed agreement between the FAA and the City of Melbourne, dated August 6, 1947. The release of property will allow the Melbourne Airport Authority to dispose of the property for other than aeronautical purposes. The property is located on the north side of the airfield, along the west side of Neiman Avenue and south of Laurie Street in Brevard County, Florida. The parcel is currently designated as non-aeronautical use. The property will be released of its federal obligations to enhance the storm water management of the surrounding community, a benefit that cannot be quantified. The property will be swapped for another City-owned parcel. The 22.15-acre parcel to be acquired is located west of Apollo Boulevard and North of General Aviation Drive in Brevard County, Florida. This parcel is adjacent to airport property and is currently vacant. The fair market value of the Neiman Avenue/Laurie Street parcel has been determined by appraisal to be $53,000. The fair market value of the Apollo Boulevard/General Aviation Way parcel has been determined by appraisal to be $450,000.

Documents reflecting the Sponsor's request are available, by appointment only, for inspection at the Melbourne International Airport and the FAA Airports District Office.

SUPPLEMENTARY INFORMATION: Section 125 of The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21) requires the FAA to provide an opportunity for public notice and comment prior to the ''waiver'' or ''modification'' of a sponsor's Federal obligation to use certain airport land for non-aeronautical purposes.

DATES: Comments are due on or before December 14, 2011.

ADDRESSES: Documents are available for review at the Palm Beach International Airport, and the FAA Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822. Written comments on the Sponsor's request must be delivered or mailed to: Rebecca R. Henry, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822–5024.

FOR FURTHER INFORMATION CONTACT: Rebecca R. Henry, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, FL 32822–5024.

W. Dean Stringer,

Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 2011–29270 Filed 11–10–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA 2011–0001–N–17]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and its implementing regulations, the Federal Railroad Administration (FRA) hereby announces that it is seeking renewal of the following currently approved information collection activities. Before submitting these information collection requirements (ICRs) for clearance by the Office of Management and Budget (OMB), FRA is soliciting public comment on specific aspects of the activities identified below.

DATES: Comments must be received no later than January 13, 2012.

ADDRESSES: Submit written comments on any or all of the following proposed activities by mail to either: Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 25, Washington, DC 20590, or Ms. Kimberly Toone, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave.

SE., Mail Stop 35, Washington, DC 20590. Commenters requesting FRA to acknowledge receipt of their respective comments must include a self-addressed stamped postcard stating, ''Comments on OMB control number 2130–0505.'' Alternatively, comments may be transmitted via facsimile to (202) 493–6216 or (202) 493–6479, or via email to Mr. Brogan at *Robert.Brogan@dot.gov,* or to Ms. Toone at *Kimberly.Toone@dot.gov*. Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 21, Washington, DC 20590 (telephone: (202) 493–6292) or Ms. Kimberly Toone, Office of Information Technology, RAD–20, Federal Railroad Administration, 1200 New Jersey Ave. SE., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6132). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, § 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60-days notice to the public for comment on information collection activities before seeking approval for reinstatement or renewal by OMB. 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1), 1320.10(e)(1), 1320.12(a). Specifically, FRA invites interested respondents to comment on the following summary of proposed information collection activities regarding (i) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (ii) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (iii) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (iv) ways for FRA to minimize the burden of information collection activities on the public by automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronic submission of responses). *See* 44 U.S.C. 3506(c)(2)(A)(I)–(iv); 5 CFR 1320.8(d)(1)(I)–(iv). FRA believes that soliciting public comment will promote its efforts to reduce the administrative and paperwork burdens associated with the collection of information mandated by Federal regulations. In summary, FRA reasons that comments received will advance three objectives: (i) Reduce reporting burdens; (ii) ensure that it organizes information collection requirements in a ''user friendly'' format to improve the use of such information; and (iii) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

Below is a brief summary of the currently approved ICRs that FRA will submit for clearance by OMB as required under the PRA:

Title: Inspection and Maintenance Standards for Steam Locomotives.

OMB Control Number: 2130–0505.

Abstract: The Locomotive Boiler Inspection Act (LBIA) of 1911 required each railroad subject to the Act to file copies of its rules and instructions for the inspection of locomotives. The original LBIA was expanded to cover the entire steam locomotive and tender and all its parts and appurtenances. This Act then requires carriers to make inspections and to repair defects to ensure the safe operation of steam locomotives. The collection of information is used by tourist or historic railroads and by locomotive owners/operators to provide a record for each day a steam locomotive is placed in service, as well as a record that the required steam locomotive inspections are completed. The collection of information is also used by FRA Federal inspectors to verify that necessary safety inspections and tests have been completed and to ensure that steam locomotives are indeed ''safe and suitable'' for service and are properly operated and maintained.

Form Number(s): FRA–1, FRA–2, FRA–3, FRA–4, FRA–5, FRA–19.

Affected Public: Businesses.

Respondent Universe: 82 Steam Locomotive Owners/Operators.

Frequency of Submission: On occasion; annually.

Reporting Burden

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
230.6—Waivers	82 owners	2 waiver letters	1 hour	2
230.12—Conditions for movement—Non-Complying Locomotives.	82 owners/operators	10 tags	6 minutes	1
230.14–31 Service Day Inspection	82 owners/operators	100 reports	20 minutes	33
—Notifications	82 owners/operators	2 notifications	5 minutes	.17
230.15—92 Service Day Inspection	82 owners/operators	100 reports	20 minutes	33
230.16—Annual Inspection	82 owners/operators	100 reports	30 minutes	50
—Notifications	82 owners/operators	100 notifications	5 minutes	8
230.17–1,472 Service Day Inspection	82 owners/operators	10 forms	30 minutes	5
230.12—Conditions for movement—Non-Complying Locomotives.	82 owners/operators	10 tags	6 minutes	1
230.20—Alteration Reports for Steam Locomotive Boilers.	82 owners/operators	5 reports	1 hour	5
230.21—Steam Locomotive Number Change	82 owners/operators	1 document	2 minutes	.033
230.33—Welded Repairs/Alterations	82 owners/operators	5 letters	10 minutes	1
—Written Request to FRA for Approval—Unstayed Surfaces.	82 owners/operators	5 letters	10 minutes	1
230.34—Riveted Repairs/Alterations	82 owners/operators	10 requests	5 minutes	1
230.49—Setting of Safety Relief Valves	82 owners/operators	16 tags	2 minutes	1
230.96—Main, Side, and Valve Motion Rods	82 owners/operators	1 letter	10 minutes	.17
RECORD KEEPING REQUIREMENTS				
230.13—Daily Inspection Reports	82 owners/operators	3,650 reports	2 minutes	122

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
230.17—1,472 Service Day Inspection	82 owners/operators	10 reports	15 minutes	3
230.18—Service Day Report	82 owners/operators	150 reports	15 minutes	38
230.19—Posting of Copy	82 owners/operators	300 forms	1 minute	5
230.41—Flexible Stay Bolts with Caps	82 owners/operators	10 entries	1 minute	.17
230.46—Badge Plates	82 owners/operators	3 reports	30 minutes	2
230.47—Boiler Number	82 owners/operators	1 stamping	15 minutes	.25
230.75—Stenciling Dates of Tests and Cleaning.	82 owners/operators	50 tests	15 minute	1
230.98—Driving, Trailing, and Engine Truck Axles—Journal Diameter Stamped.	82 owners/operators	1 stamp	15 minutes	.25
230.116—Oil Tanks	82 owners/operators	30 signs	1 minute	1

Total Responses: 4,672.

Estimated Total Annual Burden: 314 hours.

Status: Extension of a Currently Approved Collection.

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 1320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, DC, on November 7, 2011.

Kimberly Coronel,

Director, Office of Financial Management, Federal Railroad Administration.

[FR Doc. 2011–29273 Filed 11–10–11; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 33 (Sub-No. 277X); Docket No. AB 318 (Sub-No. 7X)]

Union Pacific Railroad Company—Abandonment Exemption—in Lafourche Parish, LA; Louisiana & Delta Railroad, Inc.—Discontinuance of Service Exemption—in Lafourche Parish, LA

Union Pacific Railroad Company (UP) and Louisiana & Delta Railroad, Inc. (LDRR) (collectively, applicants) jointly have filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* for UP to abandon and LDRR to discontinue service over a portion of a line of railroad known as the Lockport Branch, extending between milepost 1.7 near Raceland and milepost 14.2 near Jay, a distance of 12.5 miles, in Lafourche Parish, La.[1] The line traverses United States Postal Service Zip Codes 70374 and 70394.

Applicants have certified that: (1) No local traffic has moved over the line for at least 2 years; (2) no overhead traffic has moved over the line for at least 2 years; and (3) no formal complaint filed by a user of rail service on the line (or state or local agency acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period. Applicants have further certified that the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to these exemptions, any employee adversely affected by the abandonment or discontinuance shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, these exemptions will be effective on December 14, 2011, unless stayed pending reconsideration.[2] Petitions to stay that do not involve environmental issues,[3] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[4] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 25, 2011. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by December 5, 2011,[5] with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicants' representatives: Mack H. Shumate, Jr., Senior General Attorney, Union Pacific Railroad Company, 101 North Wacker Drive, #1920, Chicago, IL 60606, and Eric M. Hocky, Thorp Reed & Armstrong, LLP, One Commerce Square, 2005 Market Street, Suite 1000, Philadelphia, PA 19103.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

Applicants have filed a combined environmental and historic report that addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. OEA will issue an environmental assessment (EA) by November 18, 2011. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001) or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–(800) 877–8339. Comments

[1] Applicants originally filed their notice of exemption on September 29, 2011. However, in a decision served on October 19, 2011, these proceedings were held in abeyance until October 25, 2011. Accordingly, October 25, 2011, will be considered the filing date for purposes of determining relevant deadlines.

[2] Applicants originally had indicated a proposed consummation date of November 18, 2011. However, because the proceedings were held in abeyance, the earliest these transactions may be consummated is December 14, 2011. *See* 49 CFR 1152.50(d)(2).

[3] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemptions' effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemptions' effective date.

[4] Each OFA must be accompanied by the filing fee, which is currently set at $1,500. *See* 49 CFR 1002.2(f)(25).

[5] Applicants state that they do not believe that the right-of-way is suitable for other public purposes, given the availability of other infrastructure in the area. They note that the line contains reversionary property interests which could affect the transfer of title or use of the property for other than railroad purposes.

on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to 49 CFR 1152.29(e)(2), UP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by UP's filing of a notice of consummation by November 14, 2012, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at ''*http://www.stb.dot.gov.*''

Decided: November 4, 2011.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2011–29131 Filed 11–10–11; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

November 7, 2011.

The Department of the Treasury will submit the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. A copy of the submissions may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury PRA Clearance Officer, Department of the Treasury, 1750 Pennsylvania Avenue NW., Suite 11010, Washington, DC 20220.

Dates: Written comments should be received on or before December 14, 2011 to be assured of consideration.

Alcohol and Tobacco Tax and Trade Bureau (TTB)

OMB Number: 1513–0092.

Type of Review: Extension without change of a currently approved collection.

Title: Marks on Wine Containers, TTB REC 5120/3.

Abstract: TTB requires that wine on wine premises be identified by statements of information on labels or contained in marks. TTB uses this information to validate the receipts of excise tax revenue by the Federal government.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 1.

OMB Number: 1513–0119.

Type of Review: Extension without change of a currently approved collection.

Title: Certification of Proper Cellar Treatment for Imported Natural Wine.

Abstract: TTB is requiring importers of natural wine to certify compliance with proper cellar treatment standards. This certification is necessary to comply with statutory requirements.

Respondents: Private Sector: Businesses or other for-profits.

Estimated Total Burden Hours: 6,600.

Clearance Officer: Gerald Isenberg, Alcohol and Tobacco Tax and Trade Bureau, Room 200 East, 1310 G Street NW., Washington, DC 20005; (202) 453–2165.

OMB Reviewer: Shagufta Ahmed, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; (202) 395–7873.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2011–29195 Filed 11–10–11; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Notice of Funds Availability (NOFA) Inviting Applications for the Community Development Financial Institutions the Native American CDFI Assistance (NACA) Program FY 2012 Funding Round (the FY 2012 Funding Round)

Announcement Type: Announcement of funding opportunity.

Catalog of Federal Domestic Assistance (CFDA) Number: 21.020.

Dates: Applications for Financial Assistance (FA) awards or Technical Assistance (TA) grants through the FY 2012 Funding Round of the NACA Program must be received by 11:59 p.m., Eastern Time (ET), January 18, 2012.

Executive Summary: Subject to funding availability, this NOFA is issued in connection with the FY 2012 Funding Round of the NACA Program, administered by the Community Development Financial Institutions (CDFI) Fund.

I. Funding Opportunity Description

A. *Award Requirements:* Through the NACA program, the CDFI Fund provides FA awards and TA grants. FA awards are made to certified Native CDFIs and certifiable Native CDFIs that complete and submit a NACA Application (Application) and meet the requirements set forth in this NOFA, subject to funding availability. In FY 2012, subject to the availability of funding, the CDFI Fund will also make FA awards under the Healthy Food Financing Initiative (HFFI–FA) to certified CDFIs that meet the requirements set forth in this NOFA. TA grants are made to certified Native CDFIs, certifiable Native CDFIs, emerging Native CDFIs, and Sponsoring Entities that complete and submit the Application and meet the requirements set forth in this NOFA.

B. *Program Regulations:* The regulations governing the NACA program are found at 12 CFR Parts 1805 and 1815 (the Regulations) and provide guidance on evaluation criteria and other requirements. Details regarding the application content requirements are found in the Application and related materials. Each capitalized term in this NOFA is more fully defined in this NOFA, the Regulations, or the Application, and the CDFI Fund encourages Applicants to review the Regulations in addition to this NOFA.

C. The CDFI Fund reserves the right to fund, in whole or in part, any, all, or none of the applications submitted in response to this NOFA. The CDFI Fund reserves the right to reallocate funds from the amount that is anticipated to be available under this NOFA to other CDFI Fund programs, particularly if the CDFI Fund determines that the number of awards made under this NOFA is fewer than projected. In addition, the CDFI Fund invites applications that propose innovative Financial Products and Financial Services to address the current difficult economic conditions of our nation.

D. Coordination with Broader Community Development Strategies: Consistent with Federal efforts to promote community revitalization, it is important for communities to develop a comprehensive neighborhood revitalization strategy that addresses neighborhood assets that are essential to transforming distressed neighborhoods into healthy and vibrant communities of opportunity. Furthermore, only through the development of comprehensive neighborhood revitalization plans that embrace the coordinated use of programs and resources in order to effectively address the interrelated

needs within a community will the broader vision of neighborhood transformation occur. Although not a requirement for participating in the NACA Program, the Federal government believes that a CDFI will be most successful when it is part of, and contributing to, an area's broader neighborhood revitalization strategy.

II. Award Information

A. Funding Availability

1. *FY 2012 Funding Round:* Subject to funding availability, the CDFI Fund expects to award, through this NOFA, approximately $12 million in NACA awards for FA and TA Applicants and In addition, through this NOFA and the CDFI Program NOFA, the CDFI Fund expects to award approximately $25 million total in FA awards to HFFI Applicants under the CDFI and NACA Programs. The CDFI Fund reserves the right to award more or less than the amounts cited above in the FY 2012 Funding Round, based upon available funding and other appropriate factors.

2. *Availability of Funds for the FY 2012 Funding Round:* Funds for the FY 2012 Funding Round have not yet been appropriated. If funds are not appropriated for the NACA program, there will not be a NACA FY 2012 Funding Round. If funds are appropriated, the amount of such funds may be greater or less than the amounts set forth above.

B. *Types of Awards:* An Applicant may submit an application for a TA award or an FA award, which includes NACA Program FA and HFFI–FA

1. FA Awards

FA awards provide flexible financial support to CDFIs so they may achieve the strategies outlined in their Comprehensive Business Plans. FA awards can be used in the following six categories: (i) Financial Products; (ii) Financial Services; (iii) Development Services; (iv) Loan Loss Reserves; (v) Capital Reserves; and/or (vi) Operations. For purposes of this NOFA, the six categories mean:

TABLE 1—SIX CATEGORIES OF FA

(i) Financial Products	Loans, grants, equity investments, and similar financing activities, including the purchase of loans that the Applicant originates and the provision of loan guarantees, in the Applicant's Target Market, or for related purposes that the CDFI Fund deems appropriate (including administrative funds used to carry out Financial Products).
(ii) Financial Services	Checking and savings accounts, certified checks, automated teller machines services, deposit taking, remittances, safe deposit box services, and other similar services (including administrative funds used to carry out Financial Services).
(iii) Development Services	Activities that promote community development and help the Applicant provide its Financial Products and Financial Services, including financial or credit counseling, housing and homeownership counseling (pre- and post-), self-employment technical assistance, entrepreneurship training, and financial management skill-building (including administrative funds used to carry out Development Services).
(iv) Loan Loss Reserves	Funds set aside in the form of cash reserves, or through accounting-based accrual reserves, to cover losses on loans, accounts, and notes receivable made in the Target Market, or for related purposes that the CDFI Fund deems appropriate (including administrative funds used to carry out Loan Loss Reserves).
(v) Capital Reserves	Funds set aside as reserves to support the Applicant's ability to leverage other capital, for such purposes as increasing its net assets or serving the financing needs of its Target Market, or for related purposes that the CDFI Fund deems appropriate (including administrative funds used to carry out Capital Reserves).
(vi) Operations	Funds used to carry out the Comprehensive Business Plan, and/or for related purposes the CDFI Fund deems appropriate, that are not used to carry out or administer any of the foregoing eligible FA uses.

The CDFI Fund may provide FA awards in the form of equity investments (including secondary capital in the case of certain Insured Credit Unions), grants, loans, deposits, credit union shares, or any combination thereof. The CDFI Fund reserves the right, in its sole discretion, to provide an FA award in a form and amount other than that which the Applicant requests; however, the award amount will not exceed the Applicant's award request as stated in its application. FA awards must be used to support the Applicant's activities; FA awards cannot be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to, third-party entities, whether Affiliates, Subsidiaries, or others. This includes certified CDFI bank holding companies that intend to transfer FA awards to their banks. Such transfers are not permitted. The entity that is to carry out the responsibilities of the award and deploy the award funds must be the entity that applies for the award.

2. *Healthy Food Financing Initiative (HFFI)* and HFFI–FA awards:

(i) *Overview.* The United States Department of Agriculture (USDA), Health and Human Services (HHS), and the United States Department of Treasury are working together to support projects that increase access to healthy, affordable food in low-income neighborhoods that lack access to healthy food options. As part of a coordinated effort called the Healthy Food Financing Initiative (HFFI), these three departments will aim to expand the availability of nutritious food through the establishment of healthy food retail outlets, including developing and equipping grocery stores, small retailers, corner stores, and farmers markets to help revitalize neighborhoods that currently lack these options.

In addition to the CDFI and NACA Programs, the HFFI includes: (i) The New Markets Tax Credit (NMTC) Program, also administered by the CDFI Fund; (ii) the Community and Economic Development (CED) Program, which HHS administers; and (iii) several programs that USDA administers including, among others, the Business and Industry (B&I) Program and the Intermediary Relending Program (IRP). Each of these programs provides a unique mechanism to support initiatives aimed at increasing access to healthy food. When these programs are combined, public dollars can act far more effectively as a market catalyst by providing the full range of financing to local actors—a key step to addressing the problem of limited access to affordable and nutritious food. Instead of approaching this problem through separate agency and program silos, the HFFI will use a collaborative approach

involving the resources of all three agencies.

For more information about this initiative, please visit the HFFI Web site at *www.usda.gov/fooddeserts.*

(ii) *HFFI–FA Awards.* In FY 2012, subject to appropriations, the CDFI Fund may award up to $25 million of HFFI–FA awards through the CDFI and NACA Programs. The CDFI Fund expects to make HFFI–FA awards of up to $3.5 million to certified CDFIs that submit and complete the CDFI/NACA Program Application and the HFFI–FA Supplemental Questionnaire. The HFFI–FA Supplemental Questionnaire will only be sent to those applicants indicating in their FY 2012 application that they intend to apply for an HFFI–FA award. The CDFI Fund reserves the right to make awards less than or greater than $3.5 million based upon the questionnaires received and the funds available. The FY 2012 HFFI–FA supplemental questionnaire will not likely be finalized and made available to prospective applicants until after the FY 2012 CDFI Program Application deadline. However, a copy of the FY 2011 HFFI–FA supplemental questionnaire is available for review on the CDFI Fund's Web site at *www.cdfifund.gov.*

HFFI–FA awards will be provided as a supplement to FA awards; therefore only those applicants that have been selected to receive an FA award under the FY 2012 CDFI or NACA Funding Round will be eligible to receive an HFFI–FA award. Such applicants will be rated and scored separately based upon the HFFI–FA supplemental questionnaire responses. HFFI–FA Applicants will be rated, among other elements, on the extent of community need, the quality of their HFFI–FA strategy, and their capacity to execute that strategy. The CDFI Fund will collaborate with the other Federal agencies involved in the HFFI prior to making final award selections. The CDFI Fund may, at its discretion, perform additional due diligence on Applicants for this initiative. HFFI–FA awards must be used to support the Applicant's activities; the awards cannot be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to, third-party entities, whether Affiliates, Subsidiaries, or others. This includes the transfer of an award from a Bank Holding Company to a Bank subsidiary.

3. TA Grants

(a) The CDFI Fund provides NACA TA as a grant and reserves the right, in its sole discretion, to provide a grant for uses and amounts other than that which the Applicant requests; however, the grant amount will not exceed the Applicant's request as stated in its application and the applicable budget chart.

(b) For purposes of this NOFA, TA eligible uses are: (i) Personnel/salary; (ii) personnel/fringe; (iii) professional services; (iv) travel; (v) training; (vi) equipment; (vii) materials/supplies; and (viii) other costs. (Please see the Application for details on TA uses.) TA grants must be used to support the Applicant's capacity building activities. TA grants cannot be used to support the activities of, or otherwise be passed through, transferred, or co-awarded to, third-party entities, whether Affiliates, Subsidiaries, or others. This includes the transfer of an award from a Bank Holding Company to a Bank subsidiary.

C. *Assistance Agreement:* Each Awardee under this NOFA must sign an Assistance Agreement before the CDFI Fund will disburse an award or grant. The Assistance Agreement contains the Award's terms and conditions. For further information, see Section VI.A of this NOFA.

III. Eligibility Information

A. *Eligible Applicants:* The Regulations specify the eligibility requirements each Applicant must meet in order to be eligible to apply for assistance under this NOFA. NACA Applicants may apply as either an FA applicant or a TA applicant, but not both. If an Applicant applies for both types of awards, it is in the sole discretion of the CDFI Fund to disqualify the Applicant from competing for either an FA award or a TA grant or to decide to give the Applicant either an FA award or a TA grant.

1. *FA Applicant Categories:* All FA Applicants must meet the criteria listed in Table 2.

TABLE 2—NACA APPLICANT CRITERIA

Applicant type	Criteria of applicant	Maximum award
FA	A Certified/Certifiable Native CDFI that meets all other eligibility requirements described in this NOFA.	Up to and including $750,000 in FA funds and up to and including $3.5 million in FA funds under the HFFI–FA.
TA	A Certified Native CDFI, a Certifiable Native CDFI, an Emerging Native CDFI, or a Sponsoring Entity.	Up to $150,000 for capacity-building activities.

2. *CDFI Certification Requirements:* For purposes of this NOFA, eligible FA Applicants include Certified Native CDFIs and Certifiable Native CDFIs; eligible TA Applicants include Certified Native CDFIs, Certifiable Native CDFIs, Emerging CDFIs, and Sponsoring Entities under the NACA Program, defined as follows:

TABLE 3—NATIVE CDFI CERTIFICATION REQUIREMENTS AND DEFINITIONS

Requirement/definition	Description
(a) Certified Native CDFI	An entity the CDFI Fund has officially notified that it meets all CDFI certification requirements as of this NOFA's publication date. CDFIs that have received official notification from the CDFI Fund that their certification has expired or been terminated are not eligible to apply as Certified. If the CDFI Fund has provided certified CDFIs with written notification that their certifications had been extended, the CDFI Fund will consider the extended certification dates to determine whether those certified CDFIs meet this eligibility requirement.

TABLE 3—NATIVE CDFI CERTIFICATION REQUIREMENTS AND DEFINITIONS—Continued

Requirement/definition	Description
(b) Certifiable Native CDFI	An entity that has submitted an application to the CDFI Fund demonstrating it meets the CDFI certification requirements but the CDFI Fund has not yet officially certified the entity. If the CDFI Fund is unable to certify an Applicant and the Applicant is selected for an FA award, the CDFI Fund may, in its sole discretion, terminate the award commitment. The CDFI Fund will not enter into an Assistance Agreement or disburse FA award funds unless and until an Applicant is Certified. The CDFI Certification application can be found on the CDFI Fund's website at *www.cdfifund.gov.* Certifiable Applicants must have submitted a certification application as of the date indicated in Section IV.F of this NOFA to be eligible for FA in the FY 2012 round.
(c) Emerging Native CDFI	An entity that demonstrates to the CDFI Fund it has an acceptable plan to become Certified by December 31, 2013, or another date selected by the CDFI Fund. Emerging CDFIs may only apply for TA grants; they are not eligible to apply for FA awards. Each Emerging CDFI selected to receive a TA grant will be required, pursuant to its Assistance Agreement with the CDFI Fund, to become certified as a CDFI by a specified date.
(d) *Sponsoring Entities*	An entity that proposes to create a separate legal entity that will become a certified Native CDFI. Sponsoring Entities include: (a) A Tribe, Tribal entity, Alaska Native Village, Village Corporation, Regional Corporation, Non-Profit Regional Corporation/Association, or Inter-Tribal or Inter-Village organization; or (b) an organization whose primary mission is to serve a Native Community including, but not limited to, an Urban Indian Center, Tribally Controlled Community College, community development corporation (CDC), training or education organization, or Chamber of Commerce, and that primarily serves a Native Community (meaning, at least 50 percent of its activities are directed toward the Native Community). Sponsoring Entities may only apply for TA grants; they are not eligible to apply for FA awards. Sponsoring entities that are selected to receive a TA grant will be required, pursuant to their Assistance Agreements with the CDFI Fund, to create a legal entity by a certain date that will, in turn, seek Native CDFI certification and to transfer remaining award funds to that Native CDFI upon certification.
(e) Material Events Form	Certified applicants must submit a certification of Material Events form if they have experienced a material event. A ''material event'' is an occurrence that affects an organization's strategic direction, mission, or business operation and, thereby, its status as a Certified CDFI and/or its compliance with the terms and conditions of an Assistance Agreement. Please see Section IV in this NOFA for deadlines to submit material events forms. The material events form can be found on the CDFI Fund's website at *www.cdfifund.gov.*
(f) Other Targeted Populations as Target Markets.	Other Targeted Populations are defined as identifiable groups of individuals in the Applicant's service area for which there exists strong evidence that they lack access to loans, equity investments, and/or Financial Services. The CDFI Fund has determined there is strong evidence that the following groups of individuals lack access to such products and services on a national level or within their recognized ancestral areas: (i) Native Americans or American Indians, including Alaska Natives living in Alaska; (ii) Blacks or African Americans; (iii) Hispanics or Latinos; (iv) Native Hawaiians living in Hawaii; and (v) other Pacific Islanders living in other Pacific Islands. An Applicant designating any of the above-cited Other Targeted Populations is not required to provide additional narrative explaining their lack of access to loans, equity investments, or Financial Services. To define these populations for the purposes of this NOFA, the CDFI Fund is using the following definitions, set forth in the Office of Management and Budget (OMB) Notice, Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity (October 30, 1997), as amended and supplemented: (a) American Indian, Native American, or Alaska Native: a person having origins in any of the original peoples of North and South America (including Central America) and who maintains Tribal affiliation or community attachment; (b) Black or African American: a person having origins in any of the black racial groups of Africa (terms such as Haitian or Negro can be used in addition to Black or African American); (c) Hispanic or Latino: a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race (the term Spanish origin can be used in addition to Hispanic or Latino); (d) Native Hawaiian: a person having origins in any of the original peoples of Hawaii; and (e) Other Pacific Islander: a person having origins in any of the original peoples of Guam, Samoa or other Pacific Islands.

4. *Limitation on Awards:* An Applicant may receive only one award under this FY 2012 NOFA. An Applicant may receive only one award through the FY 2012 CDFI Program Funding Round or the FY 2012 NACA Program Funding Round.

B. *Prior Awardees:* For purposes of this section, the CDFI Fund will consider an Affiliate to be any entity that meets the definition of Affiliate in the Regulations or any entity otherwise identified as an Affiliate by the Applicant in its funding application and/or its myCDFIFund account.

Prior awardees should note the following:

$5 Million Funding Cap: Congress waived the $5 million funding cap (*i.e.,* the prohibition that an applicant and its Affiliates cannot collectively receive more than $5 million in NACA Program awards over a three year period) for each of the FY 2009, FY 2010 and the FY 2011 funding rounds, and it is possible that the $5 million funding cap may be waived for the FY 2012 Funding Round. However, as of this NOFA's publication date such a waiver has not been enacted into law. Accordingly, the CDFI Fund is currently prohibited from obligating more than 1. $5 million in assistance, in the aggregate, to any one organization and its Subsidiaries and Affiliates during any three-year period. In general, the three-year period calculated for the cap extends back three years from the Effective Date of the Assistance Agreement between the

Awardee and the CDFI Fund. However, for purposes of this NOFA, because the funding cap was waived for 2009, 2010, and 2011, the CDFI Fund will only include assistance in the cap that will be provided to an Applicant (or its Subsidiaries or Affiliates) in the FY 2012 Funding Round. This means if a waiver of the funding cap is not enacted, Applicants and their Subsidiaries and Affiliates will be limited to a maximum award of $5 million in FA, HFFI–FA, and TA funds in FY 2012. The CDFI Fund will assess the $5 million funding cap applicability during the award selection phase if a Congressional waiver has not been enacted by that time.

Please see the following table for other Prior Awardee Requirements and Considerations:

TABLE 4—PRIOR AWARDEE REQUIREMENTS AND CONSIDERATIONS

Prior awardee situation	Requirements and considerations
Failure to Meet Reporting Requirements	The CDFI Fund will not consider an application if the Applicant or its Affiliate is a prior Awardee/Allocatee under any CDFI Fund program and is not current on the reporting requirements set forth in a previously executed assistance, allocation, or award agreement(s), as of this NOFA's application deadline. The CDFI Fund only acknowledges receipt of reports that are complete; incomplete reports or reports that are deficient of required elements will not be considered as having been received.
Pending Resolution of Noncompliance	It is in the CDFI Fund's sole discretion to consider the Applicant's application pending until full resolution of a noncompliance issue if the Applicant, is a prior Awardee/Allocatee under any CDFI Fund program and if: (i) The entity has submitted reports to the CDFI Fund indicating noncompliance with a previously executed agreement with the CDFI Fund, and (ii) the CDFI Fund has yet to make a final determination as to whether the entity is in default of its previously executed agreement.
Default Status	The CDFI Fund will not consider an application if an Applicant is a prior Awardee/Allocatee under any CDFI Fund program and is in default of a previously executed agreement with the CDFI Fund at the time that the application is due under this NOFA. Such entities will be ineligible to apply for an award under this NOFA as long as the Applicant or its Affiliate's prior award or allocation remains in default status or such other time period as the CDFI Fund has specified in writing.
Termination in Default	The CDFI Fund will not consider an Applicant's application that is a prior Awardee/Allocatee under any CDFI Fund program if the CDFI Fund made a final determination that the Awardee/Allocatee's prior award was terminated in default: (i) Within the 12-month period prior to this NOFA's application deadline, and (ii) the final reporting period end date for the applicable terminated award falls within the 12-month period prior to this NOFA's application deadline.
Undisbursed Award Funds	The CDFI Fund encourages Applicants with undisbursed funds to request the undisbursed funds from the CDFI Fund at least 10 business days prior to this NOFA's application deadline. The CDFI Fund will not consider an Applicant's application if the Applicant Awardee under any CDFI Fund program and has undisbursed award funds (as defined below) as of this NOFA's application deadline. The CDFI Fund will include the combined undisbursed prior awards, as of this NOFAs application deadline, of the Applicant and its affiliated entities, including those in which the affiliated entity Controls the Applicant, is Controlled by the Applicant, or shares common management officials with the Applicant as the CDFI Fund determines.
BEA Program Undisbursed Awards Calculations	For the BEA Program, undisbursed award funds will be included in the calculation of undisbursed awards for the Applicant and any three to five calendar years prior to the end of the calendar year of this NOFA's application deadline. For purposes of this NOFA, therefore, undisbursed awards made in FYs 2006, 2007, and 2008 will be included in the calculation for the Applicant's undisbursed award amounts if the funds have not been disbursed as of this NOFA's application deadline.
NACA Program Undisbursed Awards Calculations.	The NACA Program undisbursed funds will be calculated by adding all undisbursed award amounts made to the Applicant two to five calendar years prior to the end of the calendar year of this NOFA. Therefore, undisbursed NACA awards made in FYs 2006, 2007, 2008, and 2009 will be included in the undisbursed calculation as of this NOFA's application deadline.
Undisbursed Award Calculations	Undisbursed awards cannot exceed five percent of the total includable awards for the Applicant's BEA/CDFI/NACA awards, as of this NOFA's application deadline. (The total ''includable'' award amount is the total award amount from the relevant CDFI Fund program.) Please refer to an example of this calculation on the CDFI Fund's website, found in the Q&A document for the FY 2012 Funding Round. The ''undisbursed award funds'' calculation does not include: (i) Tax credit allocation authority made available through the NMTC Program; (ii) award funds that the Awardee has requested from the CDFI Fund by submitting a full and complete disbursement request before this NOFA's application deadline; (iii) award funds for an award that the CDFI Fund has terminated or de-obligated; or (iv) award funds for an award that does not have a fully executed assistance or award agreement.

2. *Contact the CDFI Fund:* Applicants that are prior CDFI Fund Awardees are advised to: (i) Comply with requirements specified in assistance, allocation, and/or award agreement(s), and (ii) contact the CDFI Fund to ensure necessary actions are underway for the disbursement or de-obligation of any prior outstanding award balance(s) as referenced above. An Applicant that is unsure about the disbursement status of any prior award should contact the CDFI Fund by sending an email to *CDFI.disburseinquiries@cdfi.treas.gov.*

C. Matching Funds Requirements

1. *Matching Funds Requirements in General:* FA Applicants must obtain non-Federal matching funds, on the basis of not less than one dollar for each dollar of FA funds the CDFI Fund provides. (This requirement pertains to FA Applicants only; matching funds are not required for TA Applicants). Matching funds must be comparable in form and value to the FA award. This means that if an Applicant is requesting an FA award, the Applicant must show it has obtained matching funds through commitment(s) from non-Federal sources that are equal to the amount requested from the CDFI Fund. Applicants cannot use matching funds from a prior FA award under the NACA Program or under another federal grant or award program to satisfy the matching funds requirement of this NOFA. If an Applicant seeks to use matching funds from an organization that was a prior Awardee under the NACA, the CDFI Fund will deem such funds as federal funds, unless the funding entity establishes and the CDFI Fund agrees, that such funds do not consist, in whole or in part, of NACA Program funds or other federal funds. The CDFI Fund encourages Applicants to review the Regulations at 12 CFR 1805.500 *et seq.* and matching funds guidance materials on the CDFI Fund's Web site for further information.

2. The CDFI Fund will not consider any FA Applicant for an award that has no matching funds in-hand or firmly committed as of this NOFA's application deadline. Specifically, FA Applicants must meet the following matching funds requirements:

(a) *Certified and Certifiable Native CDFIs:* A *Certified or Certifiable Native CDFI* Applicant must demonstrate that it has eligible matching funds equal to no less than 25 percent of the FA amount requested in-hand or firmly committed, on or after January 1, 2010, and on or before the application deadline. The CDFI Fund reserves the right to rescind all or a portion of an FA award and re-allocate the rescinded award amount to other qualified Applicant(s), if an Applicant fails to obtain in-hand 100 percent of the required matching funds by March 14, 2013 (with required documentation of such receipt received by the CDFI Fund not later than March 31, 2013). The CDFI Fund may grant an extension of such matching funds deadline for specific Applicants selected to receive FA awards, if the CDFI Fund deems it appropriate. For any Applicant that demonstrates it has less than 100 percent of matching funds in-hand or firmly committed as of the application deadline, the CDFI Fund will evaluate the Applicant's ability to raise the remaining matching funds by March 14, 2013.

(b) *HFFI–FA Applicants:* It is possible that the matching funds requirements for HFFI–FA awards may be waived for the FY 2012 Funding Round. However, as of this NOFA's publication such a waiver has not been enacted. An Applicant requesting an HFFI–FA award that does not include matching funds documentation in its application will be deemed ineligible for funding under the FY 2012 Funding Round if a matching funds waiver is not enacted. An Applicant requesting an HFFI–FA award that would not satisfy the matching funds requirements but is otherwise eligible under this NOFA may wish to submit an application in the event a matching funds waiver is enacted.

Accordingly, subject to the immediately preceding paragraph: A HFFI–FA Applicant must demonstrate that it has eligible matching funds equal to no less than 25 percent of the FA amount requested in-hand or firmly committed, on or after January 1, 2010, and on or before the deadline for the submitting the HFFI–FA supplemental questionnaire. The CDFI Fund reserves the right to rescind all or a portion of an FA award and re-allocate the rescinded award amount to other qualified Applicant(s), if an Applicant fails to obtain in-hand 100 percent of the required matching funds by March 14, 2013 (with required documentation of such receipt received by the CDFI Fund not later than March 31, 2013). The CDFI Fund may grant an extension of such matching funds deadline for specific Applicants selected to receive FA awards, if the CDFI Fund deems it appropriate. For any Applicant that demonstrates it has less than 100 percent of matching funds in-hand or firmly committed as of the application deadline, the CDFI Fund will evaluate the Applicant's ability to raise the remaining matching funds by March 14, 2013.

3. Matching Funds Terms Defined; Required Documentation

TABLE 5—MATCHING FUNDS DEFINITIONS

Type of Matching Funds	Definition
(a) *Matching funds "in-hand"*	The Applicant has actually received disbursement of the matching funds and provides to the CDFI Fund acceptable written documentation, showing the source, form, and amount of the matching funds (*i.e.,* grant, loan, deposit, and equity investment). Applicants must provide copies of the following documentation depending on the type of award being requested: (i) Loans—the loan agreement and promissory note; (ii) grant—the grant letter or agreement for all grants of $50,000 or more; (iii) equity investment—the stock certificate and any related shareholder agreement. The Applicant must also provide acceptable documentation that demonstrates receipt of the matching funds, such as a copy of a check or a wire transfer statement.
(b) Matching Funds "*firmly committed*"	The Applicant has entered into or received a legally binding commitment from the matching funds source showing the funds will be disbursed to the Applicant. The Applicant must also provide acceptable written documentation showing the source, form, and amount of the firm commitment (and, in the case of a loan, the terms thereof), as well as the anticipated disbursement date of the committed funds.

4. The CDFI Fund may contact the matching funds source to discuss the matching funds and the documentation that the Applicant has provided. If the CDFI Fund determines that any portion of the Applicant's matching funds is ineligible under this NOFA, the CDFI Fund, in its sole discretion, may permit the Applicant to offer alternative matching funds as a substitute for the ineligible matching funds. In such instances: (i) The Applicant must provide acceptable alternative matching funds documentation within two business days of the CDFI Fund's request, and (ii) the alternative matching funds documentation will not increase

the total amount of FA the Applicant requested.

5. *Special Rule for Insured Credit Unions:* The Regulations allow an Insured Credit Union to use retained earnings to serve as matching funds for an FA award in an amount equal to: (i) The increase in retained earnings that has occurred over the Applicant's most recent fiscal year; (ii) the annual average of such increases that has occurred over the Applicant's three most recent fiscal years; or (iii) the entire retained earnings that have been accumulated since the inception of the Applicant, as provided in the Regulations. For purposes of this NOFA, if option (iii) is used, the Applicant must increase its member and/or non-member shares or total loans outstanding by an amount equal to the amount of retained earnings committed as matching funds. This increase must occur by the end of the Awardee's second performance period, as set forth in its Assistance Agreement, and will be based on amounts reported in the Applicant's Audited or Reviewed Financial Statements or NCUA Form 5300 Call Report. The CDFI Fund will assess the likelihood of this increase during the application review process. An award will not be made to any Applicant that has not demonstrated in the relevant Financial Statements or NCUA Call Report that it has increased shares or loans by at least 25 percent of the requested FA award amount between December 31, 2010, and December 31, 2011.

IV. Application and Submission Information

A. *Application Submission:* Under this NOFA, all Applicants must submit their applications electronically through Grants.gov. The CDFI Fund will not accept applications through myCDFIFund accounts nor will applications be accepted via email, mail, facsimile, or other forms of communication, except in circumstances approved by the CDFI Fund beforehand.

B. *Grants.gov:* In compliance with Public Law 106–107 and Section 5(a) of the Federal Financial Assistance Management Improvement Act, the CDFI Fund is required to accept applications submitted through the Grants.gov electronic system. The CDFI Fund strongly recommends Applicants start the registration process as soon as possible and visit *www.grants.gov* immediately. Applicants that have used Grants.gov in the past must verify that their registration is current and active. New applicants must properly register, which may take several weeks to complete. Pursuant to OMB guidance (68 Federal Register 38402), each Applicant must provide, as part of its application submission, a Dun and Bradstreet Data Universal Numbering System (DUNS) number. In addition, each application must include a valid and current Employer Identification Number (EIN). An electronic application that does not include either a DUNS or an EIN is incomplete and may not be transmitted to the CDFI Fund from Grants.gov. As a result, Applicants without a DUNS or EIN should allow sufficient time for the IRS and/or Dun and Bradstreet to respond to inquiries and/or requests for identification numbers.

The CDFI Fund will not consider Applicants that fail to properly register in Grants.gov or to confirm they are properly registered and as a result, are unable to submit their applications before the deadline. Applicants are reminded that the CDFI Fund does not maintain the Grants.gov registration or submittal process so Applicants must contact Grants.gov directly for issues related to that aspect of the application submission process. Please see the following link for information on getting started on Grants.gov *http://grants.gov/applicants/organization_registration.jsp*.

C. *myCDFIFund Accounts:* myCDFIFund is the CDFI Fund's primary means of communication with Applicants. Applicants are responsible for ensuring their myCDFIFund account is updated at all times. All Applicants must register as an organization and as a user with myCDFIFund before the application deadline. Applicants failing to properly register and update their myCDFIFund accounts may miss important communication with the CDFI Fund that could impact their application. For more information on myCDFIFund, please see the ''Frequently Asked Questions'' link posted at *https://www.cdfifund.gov/myCDFI/Help/Help.asp.*

D. *Application Content Requirements:* The Application and related documents can be found on the Grants.gov and the CDFI Fund's Web sites. The CDFI Fund anticipates posting the Application and related documents to the CDFI Fund's Web site on the same day that the NOFA is released or shortly thereafter. Once an application is submitted to Grants.gov, the Applicant will not be allowed to change any element of the application. The CDFI Fund, however, may contact the Applicant to clarify or confirm application information.

E. *Paperwork Reduction Act:* Under the Paperwork Reduction Act (44 U.S.C. chapter 35), an agency may not conduct or sponsor a collection of information, and an individual is not required to respond to a collection of information, unless it displays a valid OMB control number. Pursuant to the Paperwork Reduction Act, the NACA Program funding Application has been assigned the following control number: 1559–0025.

F. Application Deadlines

1. Please see the following table for critical deadlines that are relevant to the FY 2012 Funding Round:

TABLE 6—FY 2012 FUNDING ROUND APPLICATION CRITICAL DATES

Description	Date due	Time
Certification application	December 21, 2011	midnight.
Certification Material Events Form	December 21, 2011	5 p.m.
Last day to contact Program staff	January 13, 2012	5 p.m.
Last day to contact Compliance staff	January 13, 2012	5 p.m.
NACA Program Application	January 18, 2012	11.59 p.m.

2. *Late Delivery:* The CDFI Fund will not accept an application, nor any portion of an application, delivered after the application deadline. The CDFI Fund will not grant exceptions or waivers. Any application that is deemed ineligible or rejected will not be returned to the Applicant.

G. *Intergovernmental Review:* Not applicable.

H. *Funding Restrictions:* For allowable uses of FA proceeds, please see the Regulations at 12 CFR 1805.301.

V. Application Review Information

A. *Format:* Applicants must complete, and the CDFI Fund will only accept, the Application as provided in Grants.gov and the CDFI Fund's Web site. The FY 2012 Application is a fillable electronic PDF form, with pre-set text limits and font size restrictions. Applicants should not submit information that has not been specifically requested in this NOFA or the Application. Applicants should not submit documents such as strategic plans or market studies unless the CDFI Fund has specifically requested such documents in the Application.

B. Review and Selection Process

1. *Eligibility and Completeness Review:* The CDFI Fund will review each application to determine whether it is complete and the Applicant meets the eligibility requirements described in Section III of this NOFA. An incomplete application or one that does not meet eligibility requirements will be rejected.

2. *Substantive Review:* If the Applicant has submitted a complete and eligible application, the CDFI Fund will conduct a substantive review in accordance with the criteria and procedures described in the Regulations, this NOFA, and the Application guidance. The CDFI Fund reserves the right to contact the Applicant by telephone, email, or mail for the sole purpose of clarifying or confirming application information. If contacted, the Applicant must respond within the CDFI Fund's time parameters or run the risk of their application being rejected.

3. Application Scoring and Award Selection (FA and TA Applicants)

(a) *Application Scoring:* The CDFI Fund will evaluate each application on the criteria categories and the scoring scale described in the Application. An Applicant must receive a minimum score in each evaluation criteria in order to be considered for an award. The CDFI Fund will score each part as indicated in the following table:

TABLE 7—APPLICATION SCORING CRITERIA

Application parts	Scoring points
Financial Assistance (FA) Applicants	
High Impact Narrative	10
Target Market Needs	10
Responsiveness to Target Market Needs	40
Delivery Capacity	40
Total points	100
Technical Assistance (TA) Applicants	
Technical Assistance Proposal	20
Target Market Needs	10
Responsiveness to Target Market Needs	30
Delivery Capacity	40
Total points	100

(b) *Evaluating Prior Award Performance:* The CDFI Fund will deduct points for any Applicant that is a prior awardee or allocatee of any CDFI Fund program if the Applicant: (i) Is noncompliant with any active award or award that terminated in the current calendar year by failing to meet performance goals and measures, reporting deadlines, or other requirements set forth in the CDFI Fund's assistance, allocation, or award agreement(s) during the Applicant's two complete fiscal years prior to this NOFA's application deadline; (ii) failed to make timely loan payments to the CDFI Fund during the Applicant's two complete fiscal years prior to this NOFA's application deadline (if applicable); and (iii) did not perform on any prior assistance, allocation, or award agreement, which is determined during the application review process. In addition, the CDFI Fund will deduct points if an FA Applicant had funds de-obligated for FA awards issued in FY 2009, 2010 or 2011 if: (i) The amount of de-obligated funds is at least $200,000 and (ii) the de-obligation occurred within the 12 months prior to this NOFA's application deadline. Point deductions for a de-obligation in this funding round will not be counted against future FA applications. The CDFI Fund has the sole discretion to deduct points from prior Awardees/Allocates if those Applicants have proceedings instituted against them in, by, or before any court, governmental, agency, or administrative body and has received a final determination within the last three years indicating the Applicant has discriminated on the basis of race, color, national origin, disability, age, marital status, receipt of income from public assistance, religion, or sex.

(c) *Award Selection:* The CDFI Fund will make its final award selections based on the Applicants' scores, ranked from highest to lowest, and the amount of funds available. In the case of tied scores, Applicants will be ranked according to each Applicant's Delivery Capacity score. TA Applicants will be grouped and ranked separately. In addition, the CDFI Fund may consider the institutional and geographic diversity of Applicants when making its funding decisions.

4. *Insured CDFIs:* In the case of Insured Depository Institutions and Insured Credit Unions, the CDFI Fund will consider the views of the Appropriate Federal Banking Agencies. Throughout the award review process, the CDFI Fund will consult with the Appropriate Federal Banking Agency about the Applicant's financial safety and soundness. If the Appropriate Federal Banking Agency identifies safety and soundness concerns, the CDFI Fund will assess whether the concerns cause or will cause the Applicant to be incapable of undertaking the activities for which funding has been requested. If it is determined the Applicant is incapable of meeting its obligations, the CDFI Fund reserves the right to rescind the award decision. The CDFI Fund also reserves the right to require insured CDFI Applicants to improve safety and soundness conditions prior to receiving an award disbursement. In addition, the CDFI Fund will take into consideration Community Reinvestment Act assessments of Insured Depository Institutions and/or their Affiliates.

5. *Award Notification:* Each Applicant will be informed of the CDFI Fund's award decision through a notification in the Applicant's myCDFIFund account. This includes notification to Applicants that have not been selected for an award if the decision is based on reasons other than completeness or eligibility. Applicants that have not been selected for an award will receive a debriefing in their myCDFIFund account. The CDFI Fund will provide this feedback in a format and within a timeframe dependent on available resources.

6. *Application Rejection:* The CDFI Fund reserves the right to reject an application if information (including administrative errors) comes to the CDFI Fund's attention that either adversely affects an Applicant's eligibility for an award, adversely affects the CDFI Fund's evaluation or scoring of an application, or indicates fraud or mismanagement on the Applicant's part. If the CDFI Fund determines any portion of the application is incorrect in a material respect, the CDFI Fund reserves the right, in its sole discretion, to reject the application. The CDFI Fund reserves the right to change its eligibility and evaluation criteria and procedures, if the CDFI Fund deems it appropriate.

If the changes materially affect the CDFI Fund's award decisions the CDFI Fund will provide information about the changes through the CDFI Fund's Web site. The CDFI Fund's award decisions are final and there is no right to appeal the decisions.

VI. Award Administration Information

Assistance Agreement: Each Applicant selected to receive an award under this NOFA must enter into an Assistance Agreement with the CDFI Fund in order to receive disbursement of the award funds. The Assistance Agreement will set forth the award terms and conditions, including but not be limited to the award: (i) Amount; (ii) type; (iii) uses; (iv) targeted market or activities; (v) performance goals and measures; and (vi) reporting requirements. FA Assistance Agreements will usually have three-year performance periods; TA Assistance Agreements will usually have two-year performance periods. All FA and TA awardees that are not Insured CDFIs will be required to provide the CDFI Fund with a Certificate of Good Standing from the Secretary of State for the Awardee's state of incorporation. This certificate can often be acquired online on the secretary of state Web site for the Awardee's state of incorporation and must generally be dated within 270 days of the date the Awardee executes the Assistance Agreement. Due to considerable backlogs in state government offices, Applicants are advised to submit requests for Certificates of Good Standing at the time that they submit their applications. If prior to entering into an Assistance Agreement with the CDFI Fund, information (including administrative error) comes to the CDFI Fund's attention that either adversely affects the Awardee's eligibility for an award, or adversely affects the CDFI Fund's evaluation of the Awardee's application, or indicates fraud or mismanagement on the Awardee's part, the CDFI Fund may, in its discretion and without advance notice to the Awardee, terminate the award or take such other actions as it deems appropriate. Moreover, if prior to entering into an Assistance Agreement, the CDFI Fund determines that the Awardee or an Affiliate of the Awardee is in default of any previously executed agreement with the CDFI Fund, the CDFI Fund may, in its discretion and without advance notice to the Awardee, either terminate the award or take such other actions as it deems appropriate. For purposes of this section, the CDFI Fund will consider an Affiliate to mean any entity that meets the definition of Affiliate in the Regulations or is otherwise identified by the Awardee as an Affiliate. The CDFI Fund reserves the right, in its sole discretion, to rescind an award if the Awardee fails to return the Assistance Agreement, signed by the authorized representative of the Awardee, and/or provide the CDFI Fund with any other requested documentation, within the CDFI Fund's deadlines.

1. *Failure to Meet Reporting Requirements:* If an Awardee is a prior Awardee/Allocatee under any CDFI Fund program and is not current with the reporting requirements set forth in the previously executed agreement(s) with the CDFI Fund, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Assistance Agreement until the Awardee/Allocatee is current with the reporting requirements. Please note that the CDFI Fund only acknowledges the receipt of reports that are complete. As such, incomplete reports or reports that are deficient of required elements will not be recognized as having been received. If said prior Awardee/Allocatee is unable to meet this requirement within the timeframe the CDFI Fund sets, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the Assistance Agreement and the award made under this NOFA.

2. *Pending Resolution of Noncompliance:* If an Applicant is a prior Awardee under any CDFI Fund program and if: (i) It has submitted reports to the CDFI Fund that demonstrate noncompliance with a previous executed agreement with the CDFI Fund; and (ii) the CDFI Fund has yet to make a final determination as to whether the entity is in default of its agreement, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Assistance Agreement, pending full resolution of the noncompliance issue to the CDFI Fund's satisfaction. If the said prior Awardee/Allocatee is unable to satisfactorily resolve the compliance issues, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the Assistance Agreement and the award made under this NOFA.

3. *Default Status:* If, at any time prior to entering into an Assistance Agreement through this NOFA, the CDFI Fund has made a final determination that an Awardee is a prior Awardee/Allocatee under any CDFI Fund program is in default of a previously executed assistance, allocation, or award agreement(s), the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Assistance Agreement, until said prior Awardee/Allocatee has submitted a complete and timely report demonstrating full compliance within the CDFI Fund's timeframe. If said prior Awardee/Allocatee is unable to meet this requirement and the CDFI Fund has not specified in writing that the prior Awardee/Allocatee is otherwise eligible to receive an Award under this NOFA, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the Assistance Agreement and the award made under this NOFA.

4. *Termination in Default:* The CDFI Fund reserves the right, in its sole discretion, to delay entering into or not to enter into an Assistance Agreement if: (i) within the 12-month period prior to entering into an Assistance Agreement for this funding round, the CDFI Fund has made a final determination that a prior Awardee under any CDFI Fund program whose award or allocation agreement was terminated in default, and (ii) the final reporting period end date for the applicable terminated agreement falls within the 12-month period prior to this NOFA's application deadline.

5. *Compliance with Federal Anti-Discrimination Laws:* If the Awardee has previously received funding through any CDFI Fund program, and if at any time prior to entering into an Assistance Agreement through this NOFA, the CDFI Fund is made aware of a final determination, made within the last three years, in any proceeding instituted against the Awardee in, by, or before any court, governmental, or administrative body or agency, declaring that the Awardee has discriminated on the basis of race, color, national origin, disability, age, marital status, receipt of income from public assistance, religion, or sex, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the Assistance Agreement and the award made under this NOFA.

B. Reporting

1. *Reporting requirements:* At least on an annual basis, the CDFI Fund will collect information from each Awardee including, but not limited to, an Annual Report with the following components: (i) Financial Reports, (ii) OMB A–133 audit; (iii) A–133 Narrative Report; (iv) Institution Level Report; (v) Transaction Level Report (for Awardees receiving FA awards); (vi) Financial Status Report SF–425 (for Awardees receiving TA grants); (vii) Uses of Financial Assistance (for Awardees receiving FA awards); (viii) Uses of Technical Assistance (for Awardees receiving TA grants); (ix) Explanation of Noncompliance (as applicable); and (x) such other information as the CDFI

Fund may require. Each Awardee is responsible for the timely and complete submission of the Annual Report, even if all or a portion of the documents is actually completed by another entity or signatory to the Assistance Agreement. If such other entities or signatories are required to provide Institution Level Reports, Transaction Level Reports, Financial Reports, or other documentation that the CDFI Fund may require, the Awardee is responsible for ensuring that the information submitted is timely and complete. The CDFI Fund reserves the right to contact such additional entities or signatories to the Assistance Agreement and require that additional information and documentation be provided. The CDFI Fund will use such information to monitor each Awardee's compliance with the requirements in the Assistance Agreement and to assess the impact of the NACA Program. All reports must be electronically submitted to the CDFI Fund via the Awardee's myCDFIFund account. The Institution Level Report and the Transaction Level Report must be submitted through the CDFI Fund's web-based data collection system, the Community Investment Impact System (CIIS). The Financial Reports may be uploaded to the Awardee's myCDFIFund account. All other components of the Annual Report may be submitted electronically, as the CDFI Fund directs. The CDFI Fund reserves the right, in its sole discretion, to modify these reporting requirements if it determines it to be appropriate and necessary; however, such reporting requirements will be modified only after notice to Awardees.

2. *Accounting:* The CDFI Fund will require each FA and TA Awardee to account for and track the use of its award. This means that FA and TA Awardees must track every dollar and must inform the CDFI Fund of its uses. This will require Awardees to establish separate administrative and accounting controls, subject to the applicable OMB Circulars. The CDFI Fund will provide guidance on the format and content of the annual information to be provided, outlining and describing how the funds were used. All Awardees must provide the CDFI Fund with an accurate and completed Automated Clearinghouse (ACH) form prior to award closing and disbursement.

VII. Agency Contacts

A. The CDFI Fund will respond to questions concerning this NOFA and the funding Application between the hours of 9 a.m. and 5 p.m. Eastern Time, starting on the date that the NOFA is published through three business days prior to the application deadline. During the three business days prior to the application deadline, the CDFI Fund will not respond to questions for Applicants until after the application deadline. Applications and other information regarding the CDFI Fund and its programs may be obtained from the CDFI Fund's Web site at *http://www.cdfifund.gov.* The CDFI Fund will post on its Web site responses to questions of general applicability regarding the NACA Program.

B. Applicants may contact the CDFI Fund as follows:

TABLE 8—CONTACT INFORMATION

Type of question	Telephone number (not toll free)	Email addresses
Fax number for all offices: (202) 622–7754		
NACA Program	(202) 622–6355	*cdfihelp@cdfi.treas.gov.*
Certification, Compliance Monitoring and Evaluation	(202) 622–6330	*ccme@cdfi.treas.gov.*
Information Technology Support	(202) 622–2455	*IThelpdesk@cdfi.treas.gov.*

C. *Information Technology Support:* People who have visual or mobility impairments that prevent them from creating a Target Market map using the CDFI Fund's Web site should call (202) 622–2455 for assistance (this is not a toll free number).

D. *Communication with the CDFI Fund:* The CDFI Fund will use the Applicants' and Awardees' contact information in their myCDFIFund accounts to communicate. It is imperative; therefore, that Applicants, Awardees, Subsidiaries, Affiliates, and signatories maintain accurate contact information in their accounts. This includes information like contact names, especially for the authorized representative; email addresses; fax and phone numbers; and office locations. For more information about myCDFIFund, as well as information on the Community Investment Impact System, please see the following Web site: *http://www.cdfifund.gov/ciis/accessingciis.pdf.*

VIII. Information Sessions and Outreach

The CDFI Fund may conduct webinars or host information sessions for organizations that are considering applying to, or are interested in learning about, the CDFI Fund's programs. For further information, please visit the CDFI Fund's Web site at *http://www.cdfifund.gov.*

Authority: 12 U.S.C. 4701, *et seq.;* 12 CFR parts 1805 and 1815.

Dated: November 8, 2011.

Donna J. Gambrell,

Director, Community Development Financial Institutions Fund.

[FR Doc. 2011–29305 Filed 11–10–11; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

OFAC Implementation of Certain Sanctions Imposed on Seven Persons by the Secretary of State Pursuant to the Iran Sanctions Act of 1996, as Amended

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is taking action to implement certain of the sanctions imposed on seven persons by the Secretary of State pursuant to the Iran Sanctions Act of 1996 (Pub. L. 104–172) (50 U.S.C. 1701 note) (''ISA''), as amended by the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Pub. L. 111–195) (''CISADA'').

DATES: OFAC's action to implement the sanctions on Associated Shipbroking, Petrochemical Commercial Company International, Royal Oyster Group,

Speedy Ship, and Tanker Pacific Management (Singapore) Pte. Ltd. was taken on May 24, 2011. OFAC's action to implement the sanctions on Allvale Maritime Inc. and Société Anonyme Monégasque D'Administration Maritime Et Aérienne was taken on August 26, 2011. The effective date for these actions is November 14, 2011 or the date of actual notice, whichever is earlier.

FOR FURTHER INFORMATION CONTACT: Assistant Director for Sanctions Compliance and Evaluation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: (202) 622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*http://www.treasury.gov/offices/enforcement/ofac*). Certain general information pertaining to OFAC's sanctions programs also is available via facsimile through a 24 hour fax-on-demand service, tel.: (202) 622–0077.

Background

ISA, as amended by CISADA, requires the Secretary of State, pursuant to authority delegated by the President, to impose or waive sanctions on persons determined to have made certain investments in Iran's energy sector or to have engaged in certain activities relating to Iran's refined petroleum sector. Executive Order 13574 of May 23, 2011, ''Authorizing the Implementation of Certain Sanctions Set Forth in the Iran Sanctions Act of 1996, as Amended,'' requires the Secretary of the Treasury, pursuant to authority under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706), to implement certain of the sanctions imposed by the Secretary of State under ISA, as amended by CISADA.

The five ISA sanctions that the Secretary of the Treasury is responsible for implementing are: (i) With respect to section 6(a)(3) of ISA, to prohibit any United States financial institution from making loans or providing credits to a person sanctioned under ISA consistent with section 6(a)(3) of ISA; (ii) with respect to section 6(a)(6) of ISA, to prohibit any transactions in foreign exchange that are subject to the jurisdiction of the United States and in which a person sanctioned under ISA has any interest; (iii) with respect to section 6(a)(7) of ISA, to prohibit any transfers of credit or payments between financial institutions or by, through, or to any financial institution, to the extent that such transfers or payments are subject to the jurisdiction of the United States and involve any interest of a person sanctioned under ISA; (iv) with respect to section 6(a)(8) of ISA, to block all property and interests in property that are in the United States, that come within the United States, or that are or come within the possession or control of any United States person, including any overseas branch, of a person sanctioned under ISA, and provide that such property and interests in property may not be transferred, paid, exported, withdrawn, or otherwise dealt in; and (v) with respect to section 6(a)(9) of ISA, to restrict or prohibit imports of goods, technology, or services, directly or indirectly, into the United States from a person sanctioned under ISA.

The Secretary of State recently imposed ISA sanctions on eight persons. *See* 76 FR 56,866 (Sept. 14, 2011), which provides the names of the eight persons subject to sanctions, as well as a complete list of the sanctions imposed on each person. Pursuant to Executive Order 13574, the Secretary of the Treasury is responsible for implementing certain of the sanctions imposed by the Secretary of State. Accordingly, the Director of OFAC, acting pursuant to delegated authority, has taken the actions described below to implement those sanctions set forth in Executive Order 13574 with respect to the seven persons listed below. The Secretary of State did not select any of the five sanctions that the Secretary of the Treasury is responsible for implementing pursuant to Executive Order 13574 for one of the eight persons on whom she imposed sanctions, and that person is therefore not included below.

1. Allvale Maritime Inc., 80 Broad Street, Monrovia, Liberia: The Director of OFAC has prohibited United States financial institutions from making loans or providing credits totaling more than $10,000,000 in any 12-month period to Allvale Maritime Inc. unless it is engaged in activities to relieve human suffering and the loans or credits are provided for such activities.

2. Associated Shipbroking (a.k.a. ASSOCIATED SHIPBROKING S.A.M.), Gildo Pastor Center—Block C 4.20, 7 rue du Gabian, Fontvieille MC 98000, Monaco; Web site *http://www.associated-shipbroking.mc*: The Director of OFAC has: (a) Blocked all property and interests in property of Associated Shipbroking that are or come within the United States, or that are or come within the possession or control of any United States person, including any overseas branch, and provided that such property and interests in property may not be transferred, paid, exported, withdrawn, or otherwise dealt in; (b) prohibited any transactions in foreign exchange that are subject to the jurisdiction of the United States and in which Associated Shipbroking has any interest; and (c) prohibited any transfers of credit or payments between financial institutions or by, through, or to any financial institution, to the extent that such transfers or payments are subject to the jurisdiction of the United States and involve any interest of Associated Shipbroking.

3. Petrochemical Commercial Company International (a.k.a. PETROCHEMICAL COMMERCIAL COMPANY INTERNATIONAL LIMITED; a.k.a. PETROCHEMICAL COMMERCIAL COMPANY INTERNATIONAL LTD; a.k.a. PETROCHEMICAL TRADING COMPANY LIMITED; a.k.a. ''PCCI''), P.O. Box 261539, Jebel Ali, Dubai, United Arab Emirates; 41, 1st Floor, International House, The Parade, St. Helier JE2 3QQ, Jersey; Ave. 54, Yimpash Business Center, No. 506, 507, Ashkhabad 744036, Turkmenistan; No. 21 End of 9th St, Gandi Ave, Tehran, Iran; 21, Africa Boulevard, Tehran, Iran; Registration ID 77283 (Jersey); all offices worldwide: The Director of OFAC has: (a) Blocked all property and interests in property of Petrochemical Commercial Company International that are or come within the United States, or that are or come within the possession or control of any United States person, including any overseas branch, and provided that such property and interests in property may not be transferred, paid, exported, withdrawn, or otherwise dealt in; (b) prohibited any transactions in foreign exchange that are subject to the jurisdiction of the United States and in which Petrochemical Commercial Company International has any interest; and (c) prohibited any transfers of credit or payments between financial institutions or by, through, or to any financial institution, to the extent that such transfers or payments are subject to the jurisdiction of the United States and involve any interest of Petrochemical Commercial Company International.

4. Royal Oyster Group, ROG Corporate Office, Royal Oyster General Trading LLC, P.O. Box 34299, Dubai, United Arab Emirates; Web site *www.oystersgroup.com:* The Director of OFAC has: (a) Blocked all property and interests in property of Royal Oyster Group that are or come within the United States, or that are or come within the possession or control of any United States person, including any overseas branch, and provided that such property and interests in property may not be

transferred, paid, exported, withdrawn, or otherwise dealt in; (b) prohibited any transactions in foreign exchange that are subject to the jurisdiction of the United States and in which Royal Oyster Group has any interest; and (c) prohibited any transfers of credit or payments between financial institutions or by, through, or to any financial institution, to the extent that such transfers or payments are subject to the jurisdiction of the United States and involve any interest of Royal Oyster Group.

5. Société Anonyme Monégasque D'Administration Maritime Et Aérienne (a.k.a. S.A.M.A.M.A.; a.k.a. SAMAMA), Villa Saint Jean, 3 Ruelle Saint Jean, MC 98000, Monaco: The Director of OFAC has prohibited United States financial institutions from making loans or providing credits totaling more than $10,000,000 in any 12-month period to Société Anonyme Monégasque D'Administration Maritime Et Aérienne unless it is engaged in activities to relieve human suffering and the loans or credits are provided for such activities.

6. Speedy Ship FZC (a.k.a. SEPAHAN OIL COMPANY; a.k.a. ''SPD''), Room 206, 2nd Floor, Building W5B, Dubai Airport Free Zone, P.O. Box 54916, Dubai, United Arab Emirates: The Director of OFAC has: (a) Blocked all property and interests in property of Speedy Ship that are or come within the United States, or that are or come within the possession or control of any United States person, including any overseas branch, and provided that such property and interests in property may not be transferred, paid, exported, withdrawn, or otherwise dealt in; (b) prohibited any transactions in foreign exchange that are subject to the jurisdiction of the United States and in which Speedy Ship has any interest; and (c) prohibited any transfers of credit or payments between financial institutions or by, through, or to any financial institution, to the extent that such transfers or payments are subject to the jurisdiction of the United States and involve any interest of Speedy Ship.

7. Tanker Pacific Management (Singapore) Pte Ltd, 1 Temasek Avenue, #38–01 Millenia Tower, Singapore 039192: The Director of OFAC has prohibited United States financial institutions from making loans or providing credits totaling more than $10,000,000 in any 12-month period to Tanker Pacific Management (Singapore) Pte. Ltd. unless it is engaged in activities to relieve human suffering and the loans or credits are provided for such activities.

The four persons listed above whose property and interests in property are blocked have been added to OFAC's List of Specially Designated Nationals and Blocked Persons with the identifying tag ''ISA''.

Dated: October 26, 2011.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2011–29194 Filed 11–10–11; 8:45 am]

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Part II

Department of Energy

10 CFR Part 430

Energy Conservation Program: Energy Conservation Standards for Fluorescent Lamp Ballasts; Final Rule

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket Number EE–2007–BT–STD–0016]

RIN 1904–AB50

Energy Conservation Program: Energy Conservation Standards for Fluorescent Lamp Ballasts

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

ACTION: Final rule.

SUMMARY: The Energy Policy and Conservation Act of 1975 (EPCA), as amended, prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including fluorescent lamp ballasts. EPCA also requires the U.S. Department of Energy (DOE) to determine whether any new or amended standards would be technologically feasible and economically justified, and would save a significant amount of energy. In this final rule, DOE adopts new and amended federal energy conservation standards for fluorescent lamp ballasts. It has determined that the new and amended energy conservation standards for these products would result in significant conservation of energy, and are technologically feasible and economically justified.

DATES: The effective date of this rule is January 13, 2012. Compliance with the new and amended standards established for fluorescent lamp ballasts in today's final rule is required as of November 14, 2014.

ADDRESSES: The docket for this rulemaking is available for review at *http://www.regulations.gov,* including **Federal Register** notices, framework documents, public meeting attendee lists and transcripts, comments, and other supporting documents/materials. All documents in the docket are listed in the *http://www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

A link to the docket Web page can be found at: *http://www1.eere.energy.gov/buildings/appliance_standards/residential/fluorescent_lamp_ballasts.html*. The regulations.gov page contains instructions on how to access all documents, including public comments, in the docket.

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

FOR FURTHER INFORMATION CONTACT:

Dr. Tina Kaarsberg, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–1393. Email: *Tina.Kaarsberg@ee.doe.gov*.

Ms. Elizabeth Kohl, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–7796. Email: *Elizabeth.Kohl@hq.doe.gov*.

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I. Summary of the Final Rule

Title III, Part B[1] of the Energy Policy and Conservation Act of 1975 (EPCA or the Act), Public Law 94–163 (42 U.S.C. 6291–6309, as codified), established the Energy Conservation Program for Consumer Products Other Than Automobiles. Pursuant to EPCA, any new or amended energy conservation standard that DOE prescribes for certain products, such as fluorescent lamp ballasts (ballasts), shall be designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Furthermore, the new or amended standard must result in a significant conservation of energy. (42 U.S.C. 6295(o)(3)(B)) In accordance with these and other statutory provisions discussed in this notice, DOE adopts new and amended energy conservation standards for ballasts. The new and amended standards, which are based on ballast luminous efficiency (BLE), the ratio of total lamp arc power to ballast input power as defined in Appendix Q1 of title 10 of the Code of Federal Regulations (CFR), part 430, are shown in Table I.1. These new and amended standards apply to all products listed in Table I.1 and manufactured in, or imported into, the United States on or after the compliance date specified in the **DATES** section.

TABLE I.1—NEW AND AMENDED ENERGY CONSERVATION STANDARDS FOR FLUORESCENT LAMP BALLASTS

Fluorescent lamp ballasts * shall have a ballast luminous efficiency no less than A/(1 + B * total lamp arc power∧-C) where A, B, and C are as follow:				Percent improvement over current standard or baseline **
Product Class	A	B	C	
Instant start and rapid start ballasts (not classified as residential) that are designed to operate 4-foot medium bipin lamps 2-foot U-shaped lamps 8-foot slimline lamps	0.993	0.27	0.25	5.7
Programmed start ballasts (not classified as residential) that are designed to operate 4-foot medium bipin lamps 2-foot U-shaped lamps 4-foot miniature bipin standard output lamps 4-foot miniature bipin high output lamps	0.993	0.51	0.37	10.8
Instant start and rapid start ballasts (not classified as sign ballasts) that are designed to operate 8-foot high output lamps	0.993	0.38	0.25	26.5
Programmed start ballasts (not classified as sign ballasts) that are designed to operate 8-foot high output lamps	0.973	0.70	0.37	26.2
Sign ballasts that operate 8-foot high output lamps	0.993	0.47	0.25	15.1
Instant start and rapid start residential ballasts that operate 4-foot medium bipin lamps 2-foot U-shaped lamps 8-foot slimline lamps	0.993	0.41	0.25	7.2
Programmed start residential ballasts that are designed to operate 4-foot medium bipin lamps 2-foot U-shaped lamps	0.973	0.71	0.37	5.8

* Fluorescent ballasts that are exempt from these standards are listed in section III.A.3.
** Percent improvement is applicable to the average of ballasts directly analyzed.

A. Benefits and Costs to Consumers

Table I.2 presents DOE's evaluation of the economic impacts of today's standards on consumers of ballasts for the product classes analyzed as representative (see section V.B.6), as measured by the average life-cycle cost (LCC) savings and the median payback period (PBP). The average LCC savings are positive for all product classes. For example, the estimated average LCC savings are $37 – $40 for 2-lamp instant start (IS) and rapid start (RS) ballasts that operate 4-foot T8[2] lamps in the commercial sector. When there was more than one baseline for a representative ballast type, DOE performed separate LCC analyses comparing replacement lamp-and-ballast systems to each baseline. Because T8 systems are generally more efficient and have lower overall LCCs than T12 systems, the LCC savings relative to the T8 baseline are lower than when comparing the same efficiency levels to a T12 baseline. At the adopted standard levels, however, LCC savings are positive for all replacement events and baselines analyzed.

[1] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

[2] A lamp description in the form ''T8'' refers to a lamp that (1) is tubular (linear) and (2) has a diameter of 8 eighths of an inch (1 inch).

TABLE I.2—IMPACTS OF TODAY'S STANDARDS ON CONSUMERS OF BALLASTS

Product Class *	Average LCC savings (*2010$*)	Median payback period (*years*) *
IS and RS ballasts (not classified as residential) that operate:		
4-foot MBP lamps (T12 baseline)	$37 to $40	−1.2 to −1.3.
4-foot MBP lamps (T8 baseline)	$3 to $8	2.7 to 4.4.
8-foot slimline lamps (T12 baseline)	$22 to $33	0.1.
8-foot slimline lamps (T8 baseline)	$5 to $7	0.5 to 0.6.
PS ballasts (not classified as residential) that operate:		
4-foot MBP lamps	$6 to $35	1.3 to 6.0.
4-foot MiniBP SO lamps	$10 to $19	2.4 to 3.8.
4-foot MiniBP HO lamps	$26 to $28	2.0 to 2.1.
IS and RS ballasts (not classified as sign ballasts) that operate:		
8-foot HO lamps (T12 baseline)	$134 to $230	−0.7 to −1.3.
Sign ballasts that operate:		
8-foot HO lamps	$251 to $403	−0.2 to −0.3.
IS and RS residential ballasts that operate:		
4-foot MBP lamps	$15 to $21	−5.5 to −9.5.

*IS = instant start; RS = rapid start; MBP = medium bipin; MiniBP = miniature bipin; PS = programmed start; SO = standard output; HO = high output.
**Negative PBP values indicate standards that reduce operating costs and installed costs.

B. Impact on Manufacturers

The industry net present value (INPV) is the sum of the discounted cash flows to the industry from the base year through the end of the analysis period (2014 to 2043). Using a real discount rate of 7.4 [3] percent, DOE estimates that the INPV for manufacturers of ballasts in the base case ranges from $733 million to $1.22 billion in 2010 dollars (2010$). Under today's standards, DOE expects that ballast manufacturers may lose up to 36.7 percent of their INPV, which is approximately $268.6 million. Based on DOE's interviews with the manufacturers of ballasts, however, DOE does not expect any plant closings or significant employment loss. See section VII.B.2.b and VIII.B.3.b for additional discussion on this topic.

C. National Benefits

DOE's analyses indicate that today's ballast standards would save a significant amount of energy over 30 years (2014–2043)—an estimated 2.7–5.6 quadrillion British thermal units (quads) of cumulative energy. This amount is equivalent to the annual energy use of 14 million to 28 million U.S. homes.[4]

The cumulative national net present value (NPV) of total consumer costs and savings of today's ballast standards in 2010$ ranges from $6.7 billion (at a 7-percent discount rate) to $21.6 billion (at a 3-percent discount rate). This NPV expresses the estimated total value of future operating-cost savings less the estimated increased product costs for products purchased in 2014–2043, discounted to 2011.

In addition, today's ballast standards would have significant environmental benefits. The energy savings would result in cumulative greenhouse gas emission reductions of 27–106 million metric tons (Mt) of carbon dioxide (CO_2) from 2014 through 2043. During this period, the standards would also result in emissions reductions [5] of 22–39 thousand tons of nitrogen oxides (NO_X) and 0.40–1.47 tons of mercury (Hg).[6]

The value of the CO_2 reductions is calculated using a range of values per metric ton of CO_2 (otherwise known as the Social Cost of Carbon, or SCC) developed by a recent interagency process. The derivation of the SCC values is discussed in section V.L. DOE estimates that the net present monetary value of the CO_2 emissions reductions is between $0.26 and $3.94 billion, expressed in 2010$ and discounted to 2011. DOE also estimates that the net present monetary value of the NO_X emissions reductions, expressed in 2010$ and discounted to 2011, is $3.91 to $40.2 million at a 7-percent discount rate, and $7.67 to $78.8 million at a 3-percent discount rate.[7]

Table I.3 summarizes the national economic costs and benefits expected to result from today's standards for fluorescent lamp ballasts.

[3] For ballasts, DOE uses a real discount rate of 7.4 percent. DOE's discount rate estimate was derived from industry financials then modified according to feedback during manufacturer interviews.

[4] This estimate is based on the energy use of homes in 2008, which is the most recent data available. See Rosenfeld, Arthur H. and Satish Kumar. Tables to Convert Energy or CO2 (saved or used) to Familiar Equivalents—Cars, Homes, or Power Plants (US Average Data for 2005). May 2008. *http://www.energy.ca.gov/commissioners/rosenfeld_docs/EquivalenceMatrix2008.doc*

[5] DOE calculates emissions reductions relative to the most recent version of the *Annual Energy Outlook* (*AEO*) Reference case forecast. As noted in TSD chapter 16, this forecast accounts for regulatory emissions reductions through 2008, including the Clean Air Interstate Rule (CAIR, 70 FR 25162 (May 12, 2005)), but not the Clean Air Mercury Rule (CAMR, 70 FR 28606 (May 18, 2005)). Subsequent regulations, including the currently proposed CAIR replacement rule, the Clean Air Transport Rule (75 FR 45210 (Aug. 2, 2010)), do not appear in the forecast.

[6] Results for NO_X and Hg are presented in short tons. One short ton equals 2000 lbs.

[7] DOE is aware of multiple agency efforts to determine the appropriate range of values used in evaluating the potential economic benefits of reduced Hg emissions. DOE has decided to await further guidance regarding consistent valuation and reporting of Hg emissions before it once again monetizes Hg emissions reductions in its rulemakings.

TABLE I.3—SUMMARY OF NATIONAL ECONOMIC BENEFITS AND COSTS OF FLUORESCENT LAMP BALLAST ENERGY CONSERVATION STANDARDS

Category	Present value *Billion 2010$*	Discount rate (percent)
Benefits		
Operating Cost Savings	12.0	7
	24.1	3
CO_2 Reduction Monetized Value (at $4.9/t) *	0.26	5
CO_2 Reduction Monetized Value (at $22.3/t) *	1.29	3
CO_2 Reduction Monetized Value (at $36.5/t) *	2.16	2.5
CO_2 Reduction Monetized Value (at $67.6/t) *	3.94	3
NO_X Reduction Monetized Value (at $450/ton) *	0.004	7
	0.01	3
NO_X Reduction Monetized Value (at $4,623/ton) *	0.04	7
	0.08	3
Total Benefits†	13.3	7
	25.4	3
Costs		
Incremental Installed Costs	3.68	7
	6.91	3
Net Benefits		
Including CO_2 and NO_X†	9.62	7
	18.5	3

* The CO_2 values represent global monetized values of the SCC in 2010 under several scenarios. The values of $4.9, $22.3, and $36.5 per metric ton (t) are the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The value of $67.6/t represents the 95th percentile of the SCC distribution calculated using a 3% discount rate.

† Total Benefits for both the 3% and 7% cases are derived using the SCC value calculated at a 3% discount rate, and the average of the low and high NO_X values used in DOE's analysis.

The benefits and costs of today's standards, for products sold in 2014–2043, can also be expressed in terms of annualized values. The annualized monetary values are the sum of (1) the annualized national economic value, expressed in 2010$, of the benefits from operating the product (consisting primarily of operating cost savings from using less energy, minus increases in equipment purchase and installation costs, which is another way of representing consumer NPV, plus (2) the annualized monetary value of the benefits of emission reductions, including CO_2 emission reductions.[8]

Although adding the value of consumer savings to the values of emission reductions provides a valuable perspective, two issues should be considered. First, the national operating cost savings are domestic U.S. consumer monetary savings that occur as a result of market transactions, while the value of CO_2 emissions reductions is based on a global value. Second, the assessments of operating cost savings and CO_2 savings are performed with different methods that use different time frames for analysis. The national operating cost savings are measured for the lifetime of ballasts shipped in 2014–2043. The SCC values, alternatively, reflect the present value of all future climate-related impacts resulting from the emission of one metric ton of CO_2 in each year, with impacts continuing well beyond 2100.

Estimates of annualized benefits and costs of today's standards are shown in Table I.4. (The following monetary values are expressed in 2010$.) The results under the primary estimate are as follows. Using a 7-percent discount rate for benefits and costs other than CO_2 reduction, for which DOE used a 3-percent discount rate along with the SCC series corresponding to a value of $22.3/ton in 2010, the cost of the standards in today's rule is $363 million per year in increased equipment costs, while the benefits are $1.2 billion per year in reduced equipment operating costs, $92 million in CO_2 reductions, and $2.2 million in reduced NO_X emissions. In this case, the net benefit amounts to $920 million per year. Using a 3-percent discount rate for all benefits and costs and the SCC series corresponding to a value of $22.3/ton in 2010, the cost of the standards in today's rule is $385 million per year in increased equipment costs, while the benefits are $1.3 billion per year in reduced operating costs, $92 million in CO_2 reductions, and $2.4 million in reduced NO_X emissions. In this case, the net benefit amounts to $1.1 billion per year.

[8] DOE used a two-step calculation process to convert the time-series of costs and benefits into annualized values. First, DOE calculated a present value in 2011, the year used for discounting the NPV of total consumer costs and savings, for the time-series of costs and benefits using discount rates of three and seven percent for all costs and benefits except for the value of CO_2 reductions. For the latter, DOE used a range of discount rates, as shown in Table I.3. From the present value, DOE then calculated the fixed annual payment over a 30-year period (2014 through 2043) that yields the same present value. This payment includes benefits to consumers which accrue after 2043 from the ballasts purchased from 2014 to 2043. Costs incurred by manufacturers, some of which may be incurred prior to 2014 in preparation for the rule, are not directly included, but are indirectly included as part of incremental product costs. The fixed annual payment is the annualized value. Although DOE calculated annualized values, this does not imply that the time-series of cost and benefits from which the annualized values were determined is a steady stream of payments.

TABLE I.4—ANNUALIZED BENEFITS AND COSTS OF NEW AND AMENDED STANDARDS FOR BALLASTS SOLD IN 2014–2043*

	Discount rate	Monetized *million 2010$/year*		
		Primary estimate	Low estimate (emerging technologies, roll-up scenario)	High estimate (existing technologies, shift scenario)
Benefits				
Operating Cost Savings	7%	1,189	886	1,492.
	3%	1,344	934	1,754.
CO_2 Reduction at $4.9/t**	5%	20	9	30.
CO_2 Reduction at $22.3/t**	3%	92	41	143.
CO_2 Reduction at $36.5/t**	2.5%	151	66	237.
CO_2 Reduction at $67.6/t**	3%	280	124	435.
NO_X Reduction at $2,537/t**	7%	2.2	1.3	3.0.
	3%	2.4	1.6	3.2.
Total (Operating Cost Savings, CO_2 Reduction and NO_X Reduction)†.	7% plus CO_2 range	1,211 to 1,471	896 to 1,011	1,525 to 1,930.
	7%	1,283	928	1,637.
	3%	1,438	976	1,900.
	3% plus CO_2 range	1,366 to 1,626	945 to 1,059	1,788 to 2,193.
Costs				
Incremental Product Costs	7%	363	227	498.
	3%	385	218	553.
Net Benefits/Costs				
Total (Operating Cost Savings, CO_2 Reduction and NO_X Reduction, Minus Incremental Product Costs)†.	7% plus CO_2 range	848 to 1,108	669 to 784	1,027 to 1,432.
	7%	920	700	1,139.
	3%	1,053	758	1,347.
	3% plus CO_2 range	981 to 1,241	727 to 842	1,235 to 1,640.

* This table presents the annualized costs and benefits associated with fluorescent lamp ballasts shipped between 2014 and 2043. These results include benefits to consumers which accrue after 2043 from the ballasts purchased from 2014 to 2043. Costs incurred by manufacturers, some of which may be incurred prior to 2014 in preparation for the rule, are not directly included, but are indirectly included as part of incremental product costs. The Primary, Low Benefits, and High Benefits Estimates utilize forecasts of energy prices and housing starts from the *AEO2010* Reference case, with the Low and High Estimates based on forecasted ballast shipments in the Emerging Technologies, Roll-up and Existing Technologies, Shift scenarios, respectively. In addition, all estimates use incremental product costs that reflect constant prices (no learning rate) for product prices. The different techniques used to evaluate projected price trends for each estimate are discussed in section V.E.1.

** The CO_2 values represent global monetized values (in 2010$) of the social cost of CO_2 emissions in 2010 under several scenarios. The values of $4.9, $22.3, and $36.5 per metric ton are the averages of SCC distributions calculated using 5-percent, 3-percent, and 2.5-percent discount rates, respectively. The value of $67.6/t represents the 95th percentile of the SCC distribution calculated using a 3-percent discount rate. The value for NO_X (in 2010$) is the average of the low and high values used in DOE's analysis.

† Total Benefits for both the 3-percent and 7-percent cases are derived using the SCC value calculated at a 3-percent discount rate, which is $22.3/t in 2010 (in 2010$). In the rows labeled as ''7% plus CO_2 range'' and ''3% plus CO_2 range,'' the operating cost and NO_X benefits are calculated using the labeled discount rate, and those values are added to the full range of CO_2 values.

D. Conclusion

Based on the analyses culminating in this final rule, DOE found the benefits to the nation of the standards (energy savings, consumer LCC savings, positive NPV of consumer benefit, and emission reductions) outweigh the costs (loss of INPV). DOE has concluded that the standards in today's final rule represent the maximum improvement in energy efficiency that is technologically feasible and economically justified, and would result in significant conservation of energy. DOE further notes that in all product classes, ballasts achieving the standard levels are already commercially available.

II. Introduction

The following section briefly discusses the statutory authority underlying today's final rule, as well as some of the historical background related to the establishment of standards for ballasts.

A. Authority

Title III, Part B of the Energy Policy and Conservation Act of 1975, Public Law 94–163 (42 U.S.C. 6291–6309, as codified) established the Energy Conservation Program for Consumer Products Other Than Automobiles,[9] a program covering most major household appliances (collectively referred to as ''covered products''), which includes the types of ballasts that are the subject of this final rule. (42 U.S.C. 6292(a)(13)) EPCA prescribed energy conservation standards for these products (42 U.S.C. 6295(g)(5), (6), and (8)), and directed DOE to conduct two cycles of rulemakings to determine whether to amend these standards. (42 U.S.C. 6295(g)(7))

Pursuant to EPCA, DOE's energy conservation program for covered products consists essentially of four parts: (1) Testing; (2) labeling; (3) the establishment of Federal energy conservation standards; and (4) certification and enforcement procedures. The Federal Trade Commission (FTC) is primarily responsible for labeling, and DOE

[9] For editorial reasons, upon codification in the U.S. Code (U.S.C.), Part B was redesignated Part A.

implements the remainder of the program. Subject to certain criteria and conditions, DOE is required to develop test procedures to measure the energy efficiency, energy use, or estimated annual operating cost of each covered product. (42 U.S.C. 6293) Manufacturers of covered products must use the prescribed DOE test procedure as the basis for certifying to DOE that their products comply with the applicable energy conservation standards adopted under EPCA and when making representations to the public regarding the energy use or efficiency of those products. (42 U.S.C. 6293(c) and 6295(s)) Similarly, DOE must use these test procedures to determine whether the products comply with standards adopted pursuant to EPCA. *Id.* The DOE test procedures for ballasts currently appear at 10 CFR part 430, subpart B, appendices Q and Q1. Compliance with the ballast efficacy factor energy conservation standards, required until the compliance date specified in the **DATES** section, is determined according to appendix Q. Compliance with the BLE standards adopted in this rule must be determined according to appendix Q1. The procedures in appendix Q1 were established by the ballast active mode test procedure final rule. 76 FR 25211 (May 4, 2011).

DOE must follow specific statutory criteria for prescribing new or amended standards for covered products. As indicated in the beginning of section I, any new or amended standard for a covered product must be designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Furthermore, DOE may not adopt any standard that would not result in the significant conservation of energy. (42 U.S.C. 6295(o)(3)) Moreover, DOE may not prescribe a standard: (1) For certain products, including ballasts, if no test procedure has been established for the product, or (2) if DOE determines by rule that the new or amended standard is not technologically feasible or economically justified. (42 U.S.C. 6295(o)(3)(A)–(B)) In deciding whether a new or amended standard is economically justified, DOE must determine whether the benefits of the standard exceed its burdens. (42 U.S.C. 6295(o)(2)(B)(i)) DOE must make this determination after receiving comments on the proposed standard, and by considering, to the greatest extent practicable, the following seven factors:

1. The economic impact of the standard on manufacturers and consumers of the products subject to the standard;

2. The savings in operating costs throughout the estimated average life of the covered products in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered products that are likely to result from the imposition of the standard;

3. The total projected amount of energy, or as applicable, water, savings likely to result directly from the imposition of the standard;

4. Any lessening of the utility or the performance of the covered products likely to result from the imposition of the standard;

5. The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

6. The need for national energy and water conservation; and

7. Other factors the Secretary of Energy (the Secretary) considers relevant.

(42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII))

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

Further, EPCA, as codified, establishes a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy savings during the first year that the consumer will receive as a result of the standard, as calculated under the applicable test procedure. See 42 U.S.C. 6295(o)(2)(B)(iii).

Additionally, 42 U.S.C. 6295(q)(1) specifies requirements when promulgating a standard for a type or class of covered product that has two or more subcategories. DOE must specify a different standard level than that which applies generally to such type or class of products for any group of covered products which have the same function or intended use if products within such group—(A) consume a different kind of energy from that consumed by other covered products within such type (or class); or (B) have a capacity or other performance-related feature which other products within such type (or class) do not have and such feature justifies a higher or lower standard. *Id.* In determining whether a performance-related feature justifies a different standard for a group of products, DOE must consider such factors as the utility to the consumer of such a feature and other factors DOE deems appropriate. *Id.* Any rule prescribing such a standard must include an explanation of the basis on which such higher or lower level was established. (42 U.S.C. 6295(q)(2))

Federal energy conservation requirements generally supersede State laws or regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6297(a)–(c)) DOE may, however, grant waivers of Federal preemption for particular State laws or regulations, in accordance with the procedures and other provisions set forth under 42 U.S.C. 6297(d).

Pursuant to the amendments contained in section 310(3) of the Energy Independence and Security Act of 2007 (EISA 2007), any final rule for new or amended energy conservation standards promulgated after July 1, 2010, is required to address standby mode and off mode energy use. (42 U.S.C. 6295(gg)(3)) Specifically, when DOE adopts a standard for a covered product after that date, it must, if justified by the criteria for adoption of standards under EPCA (42 U.S.C. 6295(o)), incorporate standby mode and off mode energy use into the standard or, if that is not feasible, adopt a separate standard for such energy use for that product. (42 U.S.C. 6295(gg)(3)(A)–(B)) DOE has determined that ballasts do not operate in an ''off mode'' as defined by EPCA (42 U.S.C. 6291(gg)(1)(A)(ii)), and that the only ballasts that consume power in a ''standby mode'' as defined by EPCA (42 U.S.C. 6291(gg)(1)(A)(iii)) are those that incorporate an electronic circuit enabling the ballast to communicate with and be part of a lighting control system. DOE's test procedures for ballasts address such standby mode energy use. 74 FR 54455 (October 22, 2009) and 76 FR 25211 (May 4, 2011); 10 CFR part 430, subpart B, appendix Q, section 3.2 and appendix Q1, section 3. DOE did not adopt standards for standby mode energy use, however, because DOE did not find any covered ballasts capable of operating in this

mode in its search of the marketplace. Therefore, this final rule does not include energy conservation standards for standby mode energy use. See section III.B for more detail.

DOE has also reviewed this regulation pursuant to Executive Order 13563, issued on January 18, 2011 (76 FR 3281, Jan. 21, 2011). EO 13563 is supplemental to and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, agencies are required by Executive Order 13563 to: (1) Propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

DOE emphasizes as well that Executive Order 13563 requires agencies ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' In its guidance, the Office of Information and Regulatory Affairs has emphasized that such techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.'' For the reasons stated in the preamble, DOE concludes that today's final rule is consistent with these principles, including the requirement that, to the extent permitted by law, benefits justify costs and that net benefits are maximized. Consistent with EO 13563, and the range of impacts analyzed in this final rule, the energy efficiency standards adopted herein by DOE achieve maximum net benefits.

B. Background

1. Ballast Efficacy Factor Standards

The Federal energy conservation standards for ballasts expressed in terms of ballast efficacy factor are set forth in Table II.1 and Table II.2. The standards in Table II.1 were adopted in a final rule published on September 19, 2000, which completed the first of the two rulemakings required under 42 U.S.C. 6295(g)(7) to consider amending the standards for ballasts (hereafter referred to as the 2000 Ballast Rule). 65 FR 56739. The standards in Table II.2 were established by amendments to EPCA in the Energy Policy Act of 2005 (EPAct 2005), Pub. L. 109–58.

TABLE II.1—ENERGY CONSERVATION STANDARDS FROM THE 2000 BALLAST RULE

Application for operation of *	Ballast input voltage	Total nominal lamp watts	Ballast efficacy factor
One F40T12 lamp	120	40	2.29
	277	40	2.29
Two F40T12 lamps	120	80	1.17
	277	80	1.17
Two F96T12 lamps	120	150	0.63
	277	150	0.63
Two F96T12HO lamps	120	220	0.39
	277	220	0.39

* F40T12, F96T12, and F96T12HO are defined in Appendix Q to Subpart B of Part 430.

10 CFR 430.32(m)(3).

TABLE II.2—ENERGY CONSERVATION STANDARDS FROM EPACT 2005

Application for operation of *	Ballast input voltage	Total nominal lamp watts	Ballast efficacy factor
One F34T12 lamp	120/277	34	2.61
Two F34T12 lamps	120/277	68	1.35
Two F96T12/ES lamps	120/277	120	0.77
Two F96T12HO/ES lamps	120/277	190	0.42

* F34T12, F96T12/ES, and F96T12HO/ES are defined in Appendix Q to Subpart B of Part 430.

(42 U.S.C. 6295(g)(8)(A); 10 CFR 430.32(m)(5))

In summary, as reflected in the previous two tables, the ballasts currently regulated under EPCA consist of ballasts that are designed to operate:

- One and two nominally 40-watt (W) and 34W 4-foot T12 medium bipin (MBP) lamps (F40T12 [10] and F34T12);
- Two nominally 75W and 60W 8-foot T12 single-pin (SP) slimline lamps (F96T12 and F96T12/ES); and
- Two nominally 110W and 95W 8-foot T12 recessed double contact high output lamps (F96T12HO and F96T12HO/ES) at nominal input voltages of 120 or 277 volts (V) with an input current frequency of 60 hertz (Hz).

[10] A notation in the form ''F40T12'' identifies a lamp type. This particular notation refers to a lamp that: (1) Is fluorescent; (2) has a nominal wattage of 40 W; (3) is linear (tubular); and (4) has a diameter of 12 eighths of an inch.

In addition, several ballasts are exempt from standards. These exemptions consist of ballasts designed to operate those lamps listed in Table II.1 that:

- Are designed for dimming to 50 percent or less of its maximum output;
- Are designed for use with two F96T12 high output (HO) lamps at ambient temperatures of −20 degrees Fahrenheit (F) or less and for use in an outdoor sign; or
- Have a power factor of less than 0.90 and are designed and labeled for use only in residential building applications.

2. History of Standards Rulemaking for Fluorescent Lamp Ballasts

EPCA establishes energy conservation standards for certain ballasts and requires that DOE conduct two cycles of rulemaking to determine whether to amend the standards for these ballasts, including whether to adopt standards for additional ballasts. (42 U.S.C. 6295(g)(5)–(8)) As indicated in section II.B.1, DOE completed the first of these rulemaking cycles by publishing the 2000 Ballast Rule. 65 FR 56740 (Sept. 19, 2000). In this rulemaking, the second rulemaking cycle required by 42 U.S.C. 6295(g)(7), DOE is amending the existing standards for ballasts and adopting standards for additional ballasts.

DOE initiated this rulemaking on January 14, 2008 by publishing in the **Federal Register** a notice announcing the availability of the ''Energy Conservation Standards Rulemaking Framework Document for Fluorescent Lamp Ballasts.'' (A PDF of the framework document is available at *http://www1.eere.energy.gov/buildings/appliance_standards/residential/pdfs/ballast_framework_011408.pdf.*) In that notice, DOE also announced a public meeting on the framework document and requested public comment on the matters raised in the document. 73 FR 3653 (Jan. 22, 2008). The framework document described the procedural and analytical approaches that DOE anticipated using to evaluate energy conservation standards for the ballasts, and identified various issues to be resolved in conducting this rulemaking.

DOE held the public meeting on February 6, 2008, where it: Presented the contents of the framework document; described the analyses it planned to conduct during the rulemaking; sought comments from interested parties on these subjects; and in general, sought to inform interested parties about, and facilitate their involvement in, the rulemaking. Interested parties at the public meeting discussed the active mode test procedure and several major analyses related to this rulemaking. At the meeting and during the period for commenting on the framework document, DOE received feedback that helped identify and resolve issues involved in this rulemaking.

DOE then gathered additional information and performed preliminary analyses to help develop potential energy conservation standards for ballasts. DOE published in the **Federal Register** an announcement of the availability of the preliminary technical support document (TSD) and of another public meeting to discuss and receive comments on the following matters: Product classes; the analytical framework, models, and tools that DOE was using to evaluate standards; the results of the preliminary analyses performed by DOE; and potential standard levels that DOE could consider. 75 FR 14319 (March 24, 2010) (hereafter referred to as the March 2010 notice). DOE also invited written comments on these subjects. *Id.* The preliminary TSD is available at *http://www1.eere.energy.gov/buildings/appliance_standards/residential/fluorescent_lamp_ballasts_ecs_prelim_tsd.html.* In the notice, DOE also requested comment on other relevant issues that would affect energy conservation standards for fluorescent lamp ballasts or that DOE should address in the notice of proposed rulemaking (NOPR). *Id.* at 14322.

The public meeting announced in the March 2010 notice took place on April 26, 2010. At that meeting, DOE presented the methodologies and results of the analyses set forth in the preliminary TSD. Interested parties discussed the following major issues at the public meeting: The efficiency metric; how test procedure variation might affect efficiency measurements; requirements for ballasts in environments that are sensitive to electromagnetic interference (EMI); product classes; manufacturer selling prices (MSPs) and overall pricing methodology; markups; the maximum technologically feasible ballast efficiency; cumulative regulatory burden; and shipments. DOE considered the comments received since publication of the March 2010 notice, including those received at the April 2010 public meeting, in the development of the NOPR.

In April 2011, DOE proposed new and amended energy conservation standards for fluorescent lamp ballasts. In conjunction with the NOPR, DOE also published on its Web site the complete TSD for the proposed rule, which incorporated the analyses DOE conducted and technical documentation for each analysis. The TSD included the engineering analysis spreadsheets, the LCC spreadsheet, the national impact analysis spreadsheet, and the manufacturer impact analysis (MIA) spreadsheet—all of which are available on DOE's Web site.[11] The proposed standards were as shown in Table II.3. 76 FR 20090, 20091 (April 11, 2011).

TABLE II.3—ENERGY CONSERVATION STANDARDS PROPOSED IN THE APRIL 2011 NOPR

Product class	Proposed BLE standard
IS and RS ballasts that operate 4-foot MBP lamps 8-foot slimline lamps	1.32 * ln(total lamp arc power) + 86.11.
PS ballasts that operate 4-foot MBP lamps 4-foot MiniBP SO lamps 4-foot MiniBP HO lamps	1.79 * ln(total lamp arc power) + 83.33.
IS and RS ballasts that operate 8-foot HO lamps	1.49 * ln(total lamp arc power) + 84.32.
PS ballasts that operate 8-foot HO lamps	1.46 * ln(total lamp arc power) + 82.63.
Ballasts that operate 8-foot HO lamps designed for cold temperature outdoor signs.	1.49 * ln(total lamp arc power) + 81.34.

[11] The Web site address for all the spreadsheets developed for this rulemaking proceeding are available at: *http://www1.eere.energy.gov/buildings/appliance_standards/residential/fluorescent_ballasts_nopr_analytical_tools.html.*

In the NOPR, DOE invited comment in particular on the following issues: (1) The exemption for T8 magnetic [12] ballasts in EMI-sensitive environments; (2) the appropriateness of establishing efficiency standards using an equation dependent on lamp-arc power; (3) the inclusion of several different ballast types in the same product class; (4) the methodology used to calculate manufacturer selling prices; (5) the efficiency levels considered; (6) the maximum technologically feasible level; (7) markups; (8) the inclusion T12 ballasts in the baseline analysis for life cycle costs; (9) the magnitude and timing of forecasted shipments; (10) the methodology and inputs DOE used for the manufacturer impact analysis—specifically, DOE's assumptions regarding markups, capital costs, and conversion costs; (12) the potential impacts of amended standards on small fluorescent lamp ballast manufacturers; (13) the trial standard levels (TSLs) considered; (14) the proposed standard level; and (15) potential approaches to maximize energy savings while mitigating impacts to certain fluorescent ballast consumer subgroups. 76 FR 20090, 20177 (April 11, 2011).

DOE held a public meeting on May 10, 2011, to hear oral comments on and solicit information relevant to the proposed rule (hereafter the May 2011 public meeting). At this meeting, the National Electrical Manufacturers Association (NEMA) presented test data that they found inconsistent with the data collected by DOE and that could affect the standards established in the final rule. In general, NEMA's ballast luminous efficiency values appeared to be lower than those obtained by DOE. NEMA and other stakeholders agreed that there were discrepancies between the two data sets and emphasized the importance of identifying the source of the differences. In addition, DOE received comments on the methodology used to account for compliance certification requirements, design variation, and lab-to-lab variation and on the appropriate shape of DOE's proposed efficiency level curves.

In light of these discrepancies, DOE published a notice of data availability (NODA) on August 24, 2011 to: (1) Announce the availability of additional test data collected by DOE and the data submitted by NEMA; (2) address the differences between test data obtained by DOE and test data submitted by NEMA; (3) describe the methodological changes DOE was considering for the final rule based on the additional data; (4) present efficiency levels developed using the revised methodology and all available test data; and (5) request public comment on these analyses.[13]

DOE considered the comments received in response to both the April 2011 NOPR and the August 2011 NODA when developing this final rule, and responds to these comments in the following sections.

III. Issues Affecting the Scope of This Rulemaking

A. Additional Fluorescent Lamp Ballasts for Which DOE is Adopting Standards

1. Scope of EPCA Requirement That DOE Consider Standards for Additional Ballasts

As discussed in section II.A, amendments to EPCA established energy conservation standards for certain fluorescent lamp ballasts and directed DOE to conduct two rulemakings to consider amending the standards. The first amendment was completed with the publication of the 2000 Ballast Rule. This rulemaking fulfills the statutory requirement to determine whether to amend standards a second time. EPCA specifically directs DOE, in this second amendment, to determine whether to amend the standards in effect for fluorescent lamp ballasts and whether such standards should be amended so that they would be applicable to additional fluorescent lamp ballasts. (42 U.S.C. 6295(g)(7)(B))

The April 2011 NOPR notes that a wide variety of fluorescent lamp ballasts are not currently covered by energy conservation standards, and thus are potential candidates for coverage under 42 U.S.C. 6295(g)(7). DOE encountered similar circumstances in a recent rulemaking that amended standards for general service fluorescent and incandescent reflector lamps (hereafter referred to as the 2009 Lamps Rule).[14] 74 FR 34080, 34087–8 (July 14, 2009). In that rule, DOE was directed by EPCA to consider expanding its scope of coverage to include additional general service fluorescent lamps (GSFL). EPCA defines GSFLs as fluorescent lamps that can satisfy the majority of fluorescent lamp applications and that are not designed and marketed for certain specified, non-general lighting applications. (42 U.S.C. 6291(30)(B)) As such, the term ''general service fluorescent lamp'' is defined by reference to the term ''fluorescent lamp,'' which EPCA defines as ''a low pressure mercury electric-discharge source in which a fluorescing coating transforms some of the ultraviolet energy generated by the mercury discharge into light,'' and as including the four enumerated types of fluorescent lamps for which EPCA already prescribes standards. (42 U.S.C. 6291(30)(A); 42 U.S.C. 6295(i)(1)(B)) To construe ''general service fluorescent lamp'' in 42 U.S.C. 6295(i)(5) as limited to those types of fluorescent lamps would mean there are no GSFLs that are not already subject to standards, and hence, there would be no ''additional'' GSFLs for which DOE could consider standards. Such an interpretation would conflict with the directive in 42 U.S.C. 6295(i)(5) that DOE consider standards for ''additional'' GSFLs, thereby nullifying that provision.

Therefore, DOE concluded that the term ''additional general service fluorescent lamps'' in 42 U.S.C. 6295(i)(5) allows DOE to set standards for GSFLs other than the four enumerated lamp types specified in the EPCA definition of ''fluorescent lamp.'' As a result, the 2009 Lamps Rule defined ''fluorescent lamp'' to include:

(1) Any straight-shaped lamp (commonly referred to as 4-foot medium bipin lamps) with medium bipin bases, a nominal overall length of 48 inches, and rated wattage of 25 or more;

(2) Any U-shaped lamp (commonly referred to as 2-foot U-shaped lamps) with medium bipin bases, a nominal overall length between 22 and 25 inches, and rated wattage of 25 or more;

(3) Any rapid start lamp (commonly referred to as 8-foot high output lamps) with recessed double contact bases and a nominal overall length of 96 inches;

(4) Any instant start lamp (commonly referred to as 8-foot slimline lamps) with single pin bases, a nominal overall length of 96 inches, and rated wattage of 52 or more;

(5) Any straight-shaped lamp (commonly referred to as 4-foot miniature bipin standard output lamps) with miniature bipin bases, a nominal overall length between 45 and 48 inches, and rated wattage of 26 or more; and

(6) Any straight-shaped lamp (commonly referred to 4-foot miniature bipin high output lamps) with miniature bipin bases, a nominal overall length between 45 and 48 inches, and rated wattage of 49 or more.

[12] When DOE refers to a magnetic ballast throughout this document, it is referring to a low frequency ballast as defined by as defined in ANSI C82.13–2002. Similarly, when DOE refers to an electronic ballast, it is referring to a high frequency ballast as defined by the same ANSI standard.

[13] The August 2011 NODA and accompanying data are available here: *http://www1.eere.energy.gov/buildings/appliance_standards/residential/notice_of_data_availability.html.*

[14] Documents for the 2009 Lamps Rule are available at: *http://www1.eere.energy.gov/buildings/appliance_standards/residential/incandescent_lamps.html.*

10 CFR 430.2

In this rulemaking, DOE is directed to consider whether any amended standard should be applicable to additional fluorescent lamp ballasts. (42 U.S.C. 6295(g)(7)(B)) EPCA defines a ''fluorescent lamp ballast'' as ''a device which is used to start and operate fluorescent lamps by providing a starting voltage and current and limiting the current during normal operation.'' (42 U.S.C. 6291(29)(A)) For this rule, DOE referenced the definition of fluorescent lamp adopted by the 2009 Lamps Rule. This definition allows DOE to consider expanding coverage to include additional fluorescent lamp ballasts while not eliminating coverage of any ballasts for which standards already exist.

2. Identification of the Additional Ballasts for Which DOE Establishes Standards

In considering whether to amend the standards in effect for fluorescent lamp ballasts so that they apply to ''additional'' fluorescent lamp ballasts as specified in section 325(g)(7)(B) of EPCA, DOE considered all fluorescent lamp ballasts (for which standards are not already prescribed) that operate fluorescent lamps, as defined in 10 CFR 430.2. For each additional fluorescent lamp ballast, DOE considered potential energy savings, technological feasibility and economic justification when determining whether to include them in the scope of coverage. In its analyses, DOE assessed the potential energy savings from market share estimates, potential ballast designs that improve efficiency, and other relevant factors. For market share estimates, DOE used both quantitative shipment data and information obtained during manufacturer interviews. DOE also assessed the potential to achieve energy savings in certain ballasts by considering whether those ballasts could serve as potential substitutes for other regulated ballasts.

In the April 2011 NOPR, DOE proposed extending coverage to several additional ballast types including those that operate: Additional numbers and diameters of 4-foot MBP lamps, 8-foot HO lamps, and 8-foot slimline lamps; 4-foot miniature bipin (MiniBP) standard output (SO) lamps; 4-foot MiniBP HO lamps; and 8-foot HO cold temperature lamps commonly used in outdoor signs. DOE did not propose to extend coverage to additional dimming ballasts or T8 magnetic ballasts that operate in EMI-sensitive environments, provided that these magnetic ballasts were designed and labeled for use in EMI-sensitive environments only and shipped by the manufacturer in packages of 10 or fewer ballasts.

The Northwest Energy Efficiency Alliance (NEEA) and the Northwest Power and Conservation Council (NPCC), the Northeast Energy Efficiency Partnerships (NEEP), the Appliance Standards Awareness Project (ASAP), and in a joint comment, ASAP, the Alliance to Save Energy, the American Council for an Energy-Efficient Economy, the National Consumer Law Center, and the National Resources Defense Council (hereafter the ''Joint Comment'') supported the proposed scope of coverage. ASAP and the Joint Comment stated that the expanded scope contributes significantly to the forecasted energy savings for this rulemaking. (NEEA and NPCC, No. 44 at p. 2 [15]; NEEP, No. 49 at p. 2; ASAP, Public Meeting Transcript, No. 43 at pp. 80–2; Joint Comment, No. 46 at p. 2) DOE also received several comments regarding the proposed exemption for T8 magnetic ballasts that operate in EMI-sensitive environments, coverage of residential ballasts, and additional comments recommending further exemptions. These comments are discussed in further detail in the following sections.

a. Ballasts That Operate in Environments Sensitive to Electromagnetic Interference

DOE received comments at the April 2010 public meeting that standards could eliminate magnetic ballasts that are currently used in certain EMI-sensitive environments. DOE conducted research and interviews with fluorescent lamp ballast and fixture manufacturers to identify the following applications as potentially sensitive to EMI: Medical operating room telemetry or life support systems; airport control systems; electronic test equipment; radio communication devices; radio recording studios; correctional facilities; clean rooms; facilities with low signal-to-noise ratios; and aircraft hangars or other buildings with predominantly metal construction.[16] DOE learned from manufacturer interviews that magnetic ballasts are typically recommended for situations in which EMI has been or is expected to be a concern.

Although there are several methods to reduce electromagnetic interference, available data do not indicate that EMI-related issues with electronic ballasts can be eliminated such that there are no longer safety concerns. For this reason, in the April 2011 NOPR DOE proposed an exemption for T8 magnetic ballasts designed and labeled for use in EMI-sensitive environments only and shipped by the manufacturer in packages containing 10 or fewer ballasts. DOE believed the exemption was necessary because in some environments, EMI could pose a serious safety concern that is best mitigated with magnetic ballast technology. DOE did not believe magnetic ballasts would likely be used as substitutes in current electronic ballast applications due to their higher cost and weight. 76 FR 20090, 20100–1 (April 11, 2011).

NEEA and NPCC, NEMA, and ASAP supported the exemption for magnetic ballasts in EMI-sensitive locations. (NEEA and NPCC, No. 44 at p. 2; NEMA, Public Meeting Transcript, No. 43 at p. 70; NEMA, No. 47 at pp. 2–3; ASAP, Public Meeting Transcript, No. 43 at pp. 80–2) ASAP and NEEA and NPCC suggested requiring the description ''designed, labeled, and marketed for use in EMI-sensitive applications'' to limit the possibility of exempted ballasts being sold in other applications. Philips commented that they are unsure how manufacturers would be able to control the marketing through distributors to the proper market. ASAP and NEEA and NPCC acknowledged that although manufacturers cannot control distribution, they can control how they market their products. (ASAP, Public Meeting Transcript, No. 43 at pp. 80–82; Philips, Public Meeting Transcript, No. 43 at p. 82; NEEA and NPCC, No. 44 at p. 2)

DOE did not receive any adverse comment regarding the exemption for T8 magnetic ballasts in EMI-sensitive applications and therefore, for the reasons discussed above, maintains this exemption in the final rule. DOE agrees with ASAP and NEEA and NPCC that this exemption should be designed such that, to the greatest extent possible, it does not become a pathway to circumvent compliance with standards adopted by this rulemaking. Therefore, DOE has modified the description of the exemption to cover ballasts ''designed, labeled, and marketed for use in EMI-sensitive applications.'' See appendix 5E of the TSD for more details on EMI-sensitive applications.

b. Ballasts That Operate in the Residential Sector

Radionic disagreed with DOE's decision to cover residential ballasts and stated that new residential models

[15] A notation in the form ''NEEA and NPCC, No. 44 at p. 2'' identifies a written comment that DOE has received and has included in the docket of this rulemaking. This particular notation refers to a comment: (1) Submitted by NEEA and NPCC; (2) in document number 44 of the docket; and (3) on page 2 of that document.

[16] This list is not all inclusive.

developed to meet standards are likely to have a high initial cost. Because residential consumers are sensitive to first cost, Radionic stated that consumers will choose less expensive and less efficient technologies, thereby potentially decreasing energy savings. (Radionic, No. 36 at p. 1)

As discussed in the April 2011 NOPR, DOE believes that residential ballasts represent a sizeable portion of the overall ballast market and represent significant potential energy savings. DOE agrees with comments received in response to the preliminary TSD, stating that demand for residential fluorescent ballasts will likely grow substantially as residential building codes become more stringent. For example, California, Oregon, and Washington have codes that require fluorescent or higher-efficacy systems in homes. Similarly, the 2009 International Energy Conservation Code requires that 50 percent of all permanently installed lighting in residences have a minimum efficacy of 45 lumens per watt. 76 FR 20090, 20099 (April 11, 2011). DOE projects that increased lighting efficacy requirements will drive consumers to continue to purchase fluorescent systems despite incremental increases in first cost. Furthermore, DOE notes that consumers are already purchasing higher efficiency fluorescent ballasts despite their higher initial first cost relative to other lighting technologies. As discussed in section V.A.1 and section V.B.5.g, standards for residential ballasts save significant amounts of energy, and are technologically feasible and economically justified. Therefore, DOE includes residential ballasts in the scope of coverage for this final rule.

c. Ballasts That Operate Below Minimum ANSI Current Levels

At the May 2011 public meeting, the General Electric Company (GE) commented that DOE's efficiency levels for programmed start (PS) ballasts assumed high efficiency filament cut-out at all arc powers. GE stated, however, that some low ballast factor (BF) PS ballasts operate at currents below minimum American National Standards Institute (ANSI) levels for T8 and T12 lamps and thus require filament heating to maintain lamp life. GE and NEMA noted that these ballasts would be unable to meet BLE requirements proposed in the April 2011 NOPR due to cathode heating, but would offer energy savings due to their relatively low power levels and use in conjunction with occupancy sensors. Thus, GE requested that these low BF ballasts be exempt from standards. (GE, Public Meeting Transcript, No. 43 at pp. 236, 238; NEMA, No. 47 at p. 6)

NEEA and NPCC recognized the operating limitations presented by these ballasts, but expressed concern over the lack of information about their fraction of shipments, the markets where they are most commonly sold, and their cost relative to other, more common ballast types designed to operate the same type and number of lamps. Specifically, NEEA and NPCC commented that these ballasts might be the kind of currently exempted product provided to the residential market, and that their continuing exemption could result in an increase in sales and accompanying loss in energy savings. (NEEA and NPCC, No. 44 at p. 4) The Joint Comment also highlighted the possibility of an increase in the use of these low BF ballasts in all applications if they were exempt from standards. They stated that the current small market share did not mean that shipments would not increase substantially in response to an exemption, thereby decreasing the potential energy savings due to the standards adopted by the rulemaking. (Joint Comment, No. 46 at pp. 2, 3)

DOE reviewed ANSI C78.81–2010 [17] and determined that ballasts designed to operate 4-foot MBP T8 lamps are required to use some level of cathode heating when operating lamps at currents less than 155 milliamperes (mA). Through testing, DOE learned the BF of these ballasts was similar to or less than 0.7. This low BF (which affects light output) is a unique utility that might be removed from the market if these ballasts were held to the established standard level. DOE analyzed test data for 4-foot MBP T8 programmed start ballasts with average currents less than 155 mA to determine if there was a trend between low current and low efficiency. DOE determined that as current decreased, the BLE also decreased. DOE concluded that none of the PS ballasts tested with an average current of less than 140 mA were able to meet the max tech efficiency levels analyzed in the PS product class. Therefore, DOE is exempting these PS low-current ballasts from the standards adopted in this final rule.

DOE does not believe that an exemption for these ballasts will lead to an increase in their use because when current is reduced, light output is also reduced. Consumers have light output requirements and would not consider a ballast that does not meet such a requirement to be an adequate substitute. Reduced light output could also require additional lighting fixtures to be purchased in order to meet expected lighting levels. It is unlikely, however, that consumers would purchase additional fixtures due to high first cost. As a result, DOE establishes an exemption for these PS, low-current ballasts. DOE has determined that the threshold for the exemption will be set at the current levels indicated in its testing, 140 mA for 4-foot MBP ballasts.

d. Other Exemptions

Radionic commented that DOE should consider exempting outdoor ballasts, cold weather ballasts, ''all ballasts for less than 30 watts'', ballasts that have a normal power factor [18] (a power factor equal to or greater than 0.6 and less than 0.9), and ballasts that are produced in small quantities for special applications. (Radionic, No. 36 at p. 1)

DOE notes that several of the ballasts mentioned by Radionic are already subject to standards. For example, because outdoor and cold weather ballasts, apart from sign ballasts, are already covered by current standards, DOE cannot exempt them from standards in this rulemaking due to anti-backsliding statutory provisions (discussed in section II.A). Similarly, DOE interpreted ''all ballasts for less than 30 watts'' as ballasts that operate total lamp arc powers less than 30 W. Some of these ballasts (such as ballasts that operate F34T12 lamps) are covered by current standards and cannot be exempted in this rulemaking. In general, DOE specifies efficiency levels using a power law equation that assigns BLE values as a function of total lamp arc power. In other words, the equation takes lower lamp arc power into account when assigning appropriate standard levels. Even though they operate lower wattage lamps, these ballasts still demonstrate significant potential energy savings and DOE test data shows they are capable of meeting the standard levels adopted by this final rule. Therefore, DOE will not exempt ballasts that operate total lamp arc powers less than 30 W in this final rule.

Ballasts with a normal power factor are classified as residential ballasts. DOE continues to cover residential ballasts as discussed in section III.A.2.b. For residential ballasts, as well as all other types listed above, Radionic did

[17] American National Standard for Electric Lamps—Double-Capped Fluorescent Lamps—Dimensional and Electrical Characteristics, Approved January 14, 2010.

[18] As defined by ANSI C82.13–2002, the power factor is calculated by determining the ratio of the input power to the apparent power. The input power is measured with a wattmeter, and the apparent power is the ballast input voltage multiplied by the ballast input current. For more information, see chapter 3 of the TSD.

not provide DOE with any specific information regarding ballasts produced in small quantities for special applications, or specific data indicating that these ballasts would be unable to meet any standards. DOE has looked at the market and has not identified any applications, other than those already defined, in which ballasts are unable to meet standards and would require an exemption. For all of the ballast types Radionic listed, DOE has determined that the adopted standard levels are technologically feasible and economically justified.

3. Summary of Fluorescent Lamp Ballasts To Which DOE Extends Coverage

With the exception of the comments discussed previously in this section, DOE received no other input related to coverage of fluorescent lamp ballasts. In addition, DOE's revised analyses indicate that energy conservation standards for the ballasts for which DOE proposed coverage in the April 2011 NOPR are still technologically feasible, economically justified, and would result in significant energy savings. Therefore, in summary, this final rule extends coverage to the following fluorescent lamp ballasts:

(1) Ballasts that operate 4-foot medium bipin lamps with a rated wattage [19] of 25W or more, and an input voltage at or between 120V and 277V;

(2) Ballasts that operate 2-foot medium bipin U-shaped lamps with a rated wattage of 25W or more, and an input voltage at or between 120V and 277V;

(3) Ballasts that operate 8-foot high output lamps with an input voltage at or between 120V and 277V;

(4) Ballasts that operate 8-foot slimline lamps with a rated wattage of 52W or more, and an input voltage at or between 120V and 277V;

(5) Ballasts that operate 4-foot miniature bipin standard output lamps with a rated wattage of 26W or more, and an input voltage at or between 120V and 277V;

(6) Ballasts that operate 4-foot miniature bipin high output lamps with a rated wattage of 49W or more, and an input voltage at or between 120V and 277V;

(7) Ballasts that operate 4-foot medium bipin lamps with a rated wattage of 25W or more, an input voltage at or between 120V and 277V, a power factor of less than 0.90, and are designed and labeled for use in residential applications; and

(8) Ballasts that operate 8-foot high output lamps with an input voltage at or between 120V and 277V, have an enclosure with an Underwriters Laboratories (UL) Type 2 rating, and are designed, labeled, and marketed for use in outdoor signs.[20]

The following ballasts are exempt from coverage:

(1) Additional dimming ballasts;

(2) Low frequency T8 ballasts that are designed, labeled, and marketed for use in EMI-sensitive environments and sold in packages of 10 or fewer;

(3) PS ballasts that operate 4-foot MBP T8 lamps and deliver on average less than 140mA to each lamp.

B. Off Mode and Standby Mode Energy Consumption Standards

EPCA requires energy conservation standards adopted for a covered product after July 1, 2010 to address standby mode and off mode energy use. (42 U.S.C. 6295(gg)(3)) Because DOE is required by consent decree to publish a final rule establishing any amended standards for fluorescent lamp ballasts by October 28, 2011,[21] this rulemaking is required to consider standby mode and off mode energy use. DOE determined that it is not possible for the ballasts at issue in this final rule to meet the off-mode criteria because there is no condition in which a ballast is connected to the main power source and is not already in a mode accounted for in either active or standby mode. In the test procedure addressing standby mode energy consumption, DOE determined that the only ballasts that consume energy in standby mode are those that incorporate an electronic circuit that enables the ballast to communicate with and be part of a lighting control interface (*e.g.,* digitally addressable lighting interface (DALI) enabled ballasts). 74 FR 54445, 54447–8 (October 22, 2009). DOE believes that the only commercially available ballasts that incorporate an electronic circuit to communicate with a lighting control interface are dimming ballasts.

As discussed in the April 2011 NOPR, DOE did not expand the scope of coverage to include additional dimming ballasts. Therefore, the only covered dimming ballasts are the four products specified in 10 CFR 430.32(m)(5) that operate reduced-wattage lamps. DOE research has not identified any dimming ballasts currently on the market that operate these lamps because the fill gas composition of reduced-wattage lamps makes them undesirable for use in dimming applications. Because DOE is not aware of any other dimming products that are covered by existing standards, DOE was unable to characterize standby mode energy consumption. Therefore, DOE does not adopt provisions to address ballast operation in standby mode as part of the energy conservation standards that are the subject of this rulemaking.

IV. General Discussion

A. Test Procedures

1. Background

As noted previously, manufacturers must use the test procedures for ballasts at 10 CFR part 430, subpart B, appendix Q to determine compliance with the currently applicable ballast efficacy factor standards. On March 24, 2010, DOE issued a NOPR in which it proposed revisions to these test procedures. 75 FR 14288. The principal change DOE proposed to the existing test methods was, in an effort to reduce measurement variation, to eliminate photometric measurements used to determine ballast efficacy factor (BEF). Instead, DOE proposed to use electrical measurements to determine ballast efficiency (BE), which could then be converted to BEF using empirically derived transfer equations. The proposed changes specified that the ballast operate a resistive load rather than a lamp load during performance testing. For consistency with previous methods, no changes were proposed for the measurement of BF (which required photometric measurements). The preliminary TSD for this rulemaking considered standards in terms of BEF, as determined by the methods proposed in the active mode test procedure NOPR.

After reviewing comments submitted in response to the active mode test procedure NOPR (75 FR 14287, March 24, 2010) and conducting additional research, DOE issued a supplemental NOPR (SNOPR) proposing a lamp-based ballast efficiency metric instead of the resistor-based metric proposed in the NOPR. 75 FR 71570 (November 24, 2010). The new metric, BLE, was equal to the total lamp arc power divided by ballast input power. DOE believed this

[19] The 2009 Lamps Rule adopted a new definition for rated wattage that can be found in 10 CFR 430.2.

[20] In the April 2011 NOPR, these ballasts were described as ''ballasts that operate 8-foot high output lamps with an input voltage at or between 120V and 277V, and operate at ambient temperatures of −20 degrees F or less and are used in outdoor signs.'' For the reasons stated in section 0, DOE uses this revised description for the final rule.

[21] Under the consolidated Consent Decree in *New York* v. *Bodman*, No. 05 Civ. 7807 (S.D.N.Y. filed Sept. 7, 2005) and *Natural Resources Defense Council* v. *Bodman*, No. 05 Civ. 7808 (S.D.N.Y. filed Sept. 7, 2005), as amended, the U.S. Department of Energy is required to publish, as that term is defined in the consent decree, a final rule amending energy conservation standards for fluorescent lamp ballasts no later than October 28, 2011.

lamp-based metric more accurately assessed the real-life performance of a ballast and also reduced measurement variation relative to the existing test procedure for BEF. DOE also proposed a method for calculating the BF of a ballast by dividing the measured lamp arc power on the test ballast by the measured lamp arc power on a reference ballast. In cases where reference ballast operating conditions were unavailable, the SNOPR provided a reference lamp power (specific to the ballast type) from an ANSI standard or from empirical results. The April 2011 NOPR for the standards rulemaking used the BLE procedures specified in the test procedure SNOPR to propose energy conservation standards.

The final rule for the active mode test procedure, which was published in the **Federal Register** on May 4, 2011, adopted the BLE metric proposed in the SNOPR with a few modifications. 76 FR 25211. To account for the increase in lamp efficacy associated with high-frequency lamp operation versus low-frequency, DOE had proposed an adjustment to the BLE of low-frequency systems. DOE had proposed that low-frequency BLE be multiplied by 0.9 to account for the approximately 10 percent increase in lighting efficacy associated with high-frequency lamp operation. For the final rule, DOE assigned specific lamp operating frequency adjustment factors for each ballast type considered. The adjustment factors more accurately approximated the increase in lighting efficacy associated with high-frequency lamp operation. In addition, in the final rule, DOE did not adopt a BF measurement procedure because BF was no longer used to define product classes for energy conservation standards.

This final rule for energy conservation standards evaluates standards for ballasts in terms of the BLE metric adopted in the active mode test procedure. Appendix Q1 of 10 CFR part 430 Subpart B will be used to evaluate compliance with the standards adopted in this final rule. 76 FR 25211, 25213 (May 4, 2011)

DOE received comments in response to the April 2011 NOPR regarding the new fluorescent ballast testing procedure and BLE metric. Several stakeholders expressed support for the BLE metric. The Pacific Gas and Electric Company, Southern California Edison, the Southern California Gas Company, and San Diego Gas and Electric (hereafter the ''CA Utilities'') commented that the new BLE metric is an improvement over the existing BEF metric because it allows for efficiency comparison across a wider range of ballasts. (CA Utilities, No. 45 at p. 1) NEEP and CA Utilities stated that the new BLE metric successfully simplifies testing requirements and enables the vast consolidation of product classes, which will make the compliance and enforcement processes easier. (NEEP, No. 92 at p. 3; CA Utilities, No. 45 at pp. 1–2) CA Utilities also approved of the new test procedure, commenting that they support the use of lamps to measure lamp arc power instead of sets of resistor banks designed to simulate lamps. CA Utilities stated that actual lamps, which have varying impedance based on power, more accurately represent real world loads on ballasts. They added that maintaining different sets of resistor banks at every ballast factor would have increased the testing burden for manufacturers. (CA Utilities, No. 45 at p. 2)

DOE also received several comments requesting clarification on the new test procedure. These comments are discussed in the following sections.

2. Transfer Function

GE asked if DOE would be creating transfer functions, similar to those proposed in the active mode test procedure NOPR, to convert BLE to BEF for marketing purposes. GE noted that as BEF will continue to be more relevant for consumers using lumens and system watts, manufacturers will continue to publish those numbers even though they will not test the ballasts with that metric. (GE, Public Meeting Transcript, No. 43 at p. 237) As discussed in section VII.D, to verify that no backsliding had occurred, DOE developed a method to convert BEF to BLE in order to compare current and newly adopted standards. However, DOE requires manufacturers to certify compliance in terms of the BLE metric only and therefore does not provide a transfer function for converting BLE to BEF for marketing purposes.

3. Reference Lamp

GE noted that it is not always clear what lamp should be used when testing a ballast and requested clarification on this matter. (GE, Public Meeting Transcript, No. 43 at pp. 236–7) DOE notes that Table A in the ballast test procedure, Appendix Q1 of 10 CFR part 430 Subpart B, provides the appropriate lamp wattage, diameter and base to use in testing for each covered ballast type. For example, the first row of Table A shows that ballasts ''that operate straight-shaped lamps (commonly referred to as 4-foot medium bipin lamps) with medium bipin bases and a nominal overall length of 48 inches'' should be tested with 32W T8 MBP lamps.

4. Total Lamp Arc Power

The People's Republic of China (P.R. China) noted that in the April 2011 NOPR, the term ''total lamp arc power'' was not well-defined. They noted that ANSI C78.81–2010 specifies ''arc wattage'' for various fluorescent tube lamps but does not define ''total lamp arc power.'' Furthermore, while the test procedure SNOPR included a definition for ''total lamp arc power,'' it also included a table that listed a low and/or high frequency ''reference lamp arc power'' for each covered ballast type. 75 FR 71570, 71592 (November 24, 2010). P.R. China indicated that these terms caused confusion regarding the appropriate value to be used when calculating the efficiency standard. Therefore, they suggested DOE clarify the specific value of ''total lamp arc power'' and use consistent terminology to avoid confusion. (P.R. China, No. 51 at p. 3–4)

CA Utilities and NEEA and NPCC agreed that it was unclear which arc power should be used to calculate the applicable BLE standard. CA Utilities recommended that DOE require manufacturers to use the average lamp arc power of the tested sample to determine the BLE for a given model. (CA Utilities, No. 58 at p. 4; NEEA and NPCC, No. 59 at p. 3)

DOE notes that reference lamp arc power refers to the arc wattage listed in ANSI C78.81–2010 and, as shown in that standard, can vary depending on whether the reference ballast operates at low or high frequency settings.[22] These values were provided in the test procedure SNOPR for the purposes of calculating ballast factor. However, because the test procedure final rule did not adopt a procedure for calculating ballast factor, reference lamp arc powers are no longer relevant. Total lamp arc power is a measured, not listed, value and is evaluated according to the recently adopted test procedure.

DOE also notes that 10 CFR 429.26 does not currently reflect the new ballast luminous efficiency metric. DOE plans to consider certification procedures in upcoming rulemakings related to compliance certification and enforcement.[23] For this final rule, DOE

[22] The test procedure defines a low frequency ballast as a fluorescent lamp ballast that operates at a supply frequency of 50 to 60 Hz and operates the lamp at the same frequency as the supply. The test procedure incorporates the ANSI C82.13 definition of high frequency ballast as a device which operates at a supply frequency of 50 or 60 Hz and operates the lamp at frequencies greater than 10 kHz.

[23] Details on certification and enforcement procedures can be found at: *www1.eere.energy.gov/*

computed the reported ballast luminous efficiency and total lamp arc power assuming the ballast basic models would be certified in the following manner. To certify compliance, manufacturers would calculate the total lamp arc power and BLE for each sample tested according to 10 CFR 430, Subpart B, Appendix Q1. They would then average the total lamp arc power of each sample and input that average into the appropriate energy conservation standard efficiency level. The output of that equation dictates the minimum BLE that the reported BLE for each basic model must meet or exceed. To calculate the reported BLE for each basic model, manufacturers would follow the provisions laid out in 10 CFR 429.26(a)(2)(ii).

B. Technological Feasibility

1. General

In each standards rulemaking, DOE conducts a screening analysis based on information it has gathered on all current technology options and prototype designs that could improve the efficiency of the products that are the subject of the rulemaking. As the first step in such analysis, DOE develops a list of technology options for consideration in consultation with manufacturers, design engineers, and other interested parties. DOE then determines which of these means for improving efficiency are technologically feasible. DOE considers technologies incorporated in commercially available products or in working prototypes to be technologically feasible. 10 CFR 430, subpart C, appendix A, section 4(a)(4)(i).

Once DOE has determined that particular technology options are technologically feasible, it further evaluates each of them in light of the following additional screening criteria: (1) Practicability to manufacture, install, or service; (2) adverse impacts on product utility or availability; and (3) adverse impacts on health or safety. For further details on the screening analysis for this rulemaking, see chapter 4 of the final rule TSD.

2. Maximum Technologically Feasible Levels

When DOE considers an amended standard for a type or class of covered product, it must determine the maximum improvement in energy efficiency or maximum reduction in energy use that is technologically feasible for that product. (42 U.S.C. 6295(p)(1)) Accordingly, DOE determined the maximum technologically feasible (''max tech'') ballast efficiency in the engineering analysis, using the design options identified in the screening analysis (see chapter 5 of the final rule TSD).

As a first step to identifying the max tech efficiency level, DOE conducted testing of commercially available ballasts. DOE was unable to identify working prototypes that had a higher efficiency than the tested products. Therefore, DOE has determined that TSL 3B, which is based on the most efficient commercially available ballasts tested, represents the highest efficiency level that is technologically feasible for a sufficient diversity of commercially available products (spanning several ballast factors, number of lamps per ballast, and types of lamps operated) within each product class. The max tech efficiency levels require the use of electronic ballasts with improved components (such as high efficiency transformers, diodes, capacitors, and transistors). The max tech levels also require IS instead of RS ballasts, or some form of cathode cut-out technology for PS ballasts. Table IV.1 presents the max tech levels for each product class.

TABLE IV.1—MAX TECH LEVELS

BLE = A/(1 + B * total lamp arc power ∧-C) where A, B, and C are as follows			
Product class	A	B	C
IS and RS ballasts (not classified as residential) that operate 4-foot MBP lamps 2-foot U-shaped lamps 8-foot slimline lamps	0.993	0.27	0.25
PS ballasts (not classified as residential) that operate 4-foot MBP lamps 2-foot U-shaped lamps 4-foot MiniBP SO lamps 4-foot MiniBP HO lamps	0.993	0.51	0.37
IS and RS ballasts (not classified as sign ballasts) that operate 8-foot HO lamps	0.993	0.28	0.25
PS ballasts (not classified as sign ballasts) that operate 8-foot HO lamps	0.973	0.52	0.37
Sign ballasts that operate 8-foot HO lamps	0.993	0.47	0.25
IS and RS residential ballasts that operate 4-foot MBP lamps 2-foot U-shaped lamps 8-foot slimline lamps	0.993	0.29	0.25
PS residential ballasts that operate: 4-foot MBP lamps 2-foot U-shaped lamps	0.973	0.50	0.37

C. Energy Savings

1. Determination of Savings

DOE used its national impact analysis (NIA) spreadsheet to estimate energy savings from new or amended standards for the ballasts that are the subject of this final rule. (The NIA spreadsheet model is described in section V.F of this final rule and in chapter 11 of the final rule TSD.) DOE forecasted energy savings for each TSL, beginning in 2014, the year that compliance with the new and amended standards is required, and ending in 2043. DOE quantified the energy savings attributable to each TSL as the difference in energy consumption between the standards case and the base case. The base case represents the forecast of energy consumption in the absence of new and amended

buildings/appliance_standards/certification_enforcement.html.

mandatory efficiency standards, and considers market demand for higher-efficiency products. For example, DOE models a shift in the base case from covered fluorescent lamp ballasts toward emerging technologies such as light emitting diodes (LEDs).

The NIA spreadsheet model calculates the electricity savings in ''site energy'' expressed in kilowatt-hours (kWh). Site energy is the energy directly consumed by ballasts at the locations where they are used. DOE reports national energy savings on an annual basis in terms of the aggregated source (primary) energy savings, which is the savings in energy used to generate and transmit the site energy. (See final rule TSD chapter 11.) To convert site energy to source (also known as primary) energy, DOE derived time-dependent conversion factors from the model used to prepare the Energy Information Administration's (EIA's) *Annual Energy Outlook 2010* (*AEO2010*).

2. Significance of Savings

As noted in section I, under 42 U.S.C. 6295(o)(3)(B) DOE is prohibited from adopting a standard for a covered product if such standard would not result in ''significant'' energy savings. While the term ''significant'' is not defined in the Act, the U.S. Court of Appeals, in *Natural Resources Defense Council* v. *Herrington,* 768 F.2d 1355, 1373 (DC Cir. 1985), indicated that Congress intended ''significant'' energy savings in this context to be savings that were not ''genuinely trivial.'' The energy savings for all of the TSLs considered in this final rule are nontrivial, and therefore DOE considers them ''significant'' within the meaning of section 325 of EPCA.

D. Economic Justification

1. Specific Criteria

As noted in section II.A, EPCA provides seven factors to be evaluated in determining whether a potential energy conservation standard is economically justified. (42 U.S.C. 6295(o)(2)(B)(i)) The following sections discuss how DOE addresses each of those seven factors in this rulemaking.

a. Economic Impact on Manufacturers and Consumers

In determining the impacts of a new or amended standard on manufacturers, DOE first determines the quantitative impacts using an annual cash-flow approach. This includes both a short-term assessment—based on the cost and capital requirements during the period between the announcement of a regulation and when the regulation requires compliance—and a long-term assessment over the 30-year analysis period. The impacts analyzed include INPV (which values the industry based on expected future cash flows), cash flows by year, changes in revenue and income, and other measures of impact, as appropriate. Second, DOE analyzes and reports the impacts on different types of manufacturers, including an analysis of impacts on small manufacturers. Third, DOE considers the impact of standards on domestic manufacturer employment and manufacturing capacity, as well as the potential for standards to result in plant closures and loss of capital investment. DOE also takes into account cumulative impacts of different related DOE regulations and other regulatory requirements on manufacturers.

For individual consumers, measures of economic impact include the changes in LCC and the payback period associated with new or amended standards. The LCC, which is separately specified as one of the seven factors to consider when determining the economic justification for a new or amended standard, (42 U.S.C. 6295(o)(2)(B)(i)(II)), is discussed in the following section. For consumers in the aggregate, DOE calculates the NPV from a national perspective of the economic impacts on consumers over the forecast period used in a particular rulemaking.

b. Life-Cycle Costs

The LCC is the sum of the purchase price of a product (including its installation) and the operating expense (including energy, maintenance, and repair expenditures) discounted over the lifetime of the product. The LCC savings for the considered efficiency levels are calculated relative to a base case that reflects likely trends in the absence of new or amended standards. The LCC analysis requires a variety of inputs, such as product prices, product energy consumption, energy prices, maintenance and repair costs, product lifetime, and consumer discount rates. DOE assumes in its analysis that consumers purchase the product in 2014.

To account for uncertainty and variability in specific inputs, such as product lifetime and discount rate, DOE uses a distribution of values with probabilities attached to each value. A distinct advantage of this approach is that DOE can identify the percentage of consumers estimated to achieve LCC savings or experiencing an LCC increase, in addition to the average LCC savings associated with a particular standard level. In addition to identifying ranges of impacts, DOE evaluates the LCC impacts of potential standards on identifiable sub-groups of consumers that may be disproportionately affected by a national standard.

c. Energy Savings

While significant conservation of energy is a separate statutory requirement for imposing an energy conservation standard, EPCA requires DOE, in determining the economic justification of a standard, to consider the total projected energy savings that are expected to result directly from the standard. (42 U.S.C. 6295(o)(2)(B)(i)(III)) DOE uses the NIA spreadsheet results in its consideration of total projected savings.

d. Lessening of Utility or Performance of Products

In establishing classes of products, and in evaluating design options and the impact of potential standard levels, DOE seeks to develop standards that would not lessen the utility or performance of the products under consideration. The efficiency levels considered in this final rule will not affect any features valued by consumers, such as starting method, ballast factor, or cold temperature operation. Therefore, none of the TSLs presented in section VII.A would reduce the utility or performance of the ballasts that are the subject of this final rule. (42 U.S.C. 6295(o)(2)(B)(i)(IV))

e. Impact of Any Lessening of Competition

EPCA directs DOE to consider any lessening of competition likely to result from standards. It directs the Attorney General to determine the impact, if any, of any lessening of competition likely to result from standards and to transmit this determination to the Secretary, not later than 60 days after the publication of a proposed rule, together with an analysis of the nature and extent of this impact. (42 U.S.C. 6295(o)(2)(B)(i)(V) and (B)(ii)) To assist the Attorney General in making this determination, DOE transmitted a copy of the April 2011 NOPR and TSD to the Attorney General for review. The Attorney General's response is discussed in section VII.B.5, and is reprinted at the end of this rule.

f. Need of the Nation To Conserve Energy

The non-monetary benefits of the standards in this final rule are likely to be reflected in improvements to the security and reliability of the nation's energy system. Reduced demand for electricity may also result in reduced costs for maintaining the reliability of

the nation's electricity system. DOE conducts a utility impact analysis to estimate how standards may affect the nation's needed power generation capacity.

Energy savings from the standards in this final rule are also likely to result in environmental benefits in the form of reduced emissions of air pollutants and greenhouse gases (GHG) associated with energy production. DOE reports the environmental effects from the new and amended standards—and from each TSL it considered for ballasts—in the environmental assessment contained in chapter 16 of the final rule TSD. DOE also reports estimates of the economic value of reduced emissions reductions resulting from the considered TSLs.

g. Other Factors

The Act allows the Secretary of Energy to consider any other factors he or she deems relevant in determining whether a standard is economically justified. (42 U.S.C. 6295(o)(2)(B)(i)(VII)) Under this provision, DOE considers subgroups of consumers that may be adversely affected by the standards established in this rule. DOE specifically assesses the impact of standards on low-income consumers, institutions of religious worship, and institutions that serve low-income populations. In considering these subgroups, DOE analyzes variations on electricity prices, operating hours, discount rates, and baseline ballasts. See section V.G for further detail.

2. Rebuttable Presumption

As set forth in 42 U.S.C. 6295(o)(2)(B)(iii), EPCA provides for a rebuttable presumption that an energy conservation standard is economically justified if the additional cost to the consumer of a product that meets the standard is less than three times the value of the first-year energy (and, as applicable, water) savings resulting from the standard, as calculated under the applicable DOE test procedure. DOE's LCC and PBP analyses generate values that calculate the payback period for consumers of potential new and amended energy conservation standards. These analyses include, but are not limited to, the 3-year payback period contemplated under the rebuttable presumption test. However, DOE routinely conducts an economic analysis that considers the full range of impacts to the consumer, manufacturer, nation, and environment, as required under 42 U.S.C. 6295(o)(2)(B)(i). The results of this analysis serve as the basis for DOE to evaluate the economic justification for a potential standard level (thereby supporting or rebutting the results of any preliminary determination of economic justification). The rebuttable presumption payback calculation is discussed in section VII.B.1.c.

V. Methodology and Discussion

DOE used three spreadsheets to estimate the impact of the adopted standards. The first spreadsheet calculates LCCs and payback periods of potential new energy conservation standards. The second provides shipments forecasts and then calculates national energy savings and NPV impacts of new energy conservation standards. Through the third, the Government Regulatory Impact Model (GRIM), DOE assesses manufacturer impacts.

Additionally, DOE uses a version of EIA's National Energy Modeling System (NEMS) to estimate the impacts of energy efficiency standards on electric utilities and the environment. The NEMS model simulates the energy sector of the U.S. economy. The version of NEMS used for appliance standards analysis is called NEMS-BT, and is based on the *AEO2010* version of NEMS with minor modifications. The NEMS-BT accounts for the interactions between the various energy supply and demand sectors and the economy as a whole.[24]

As a basis for this final rule, DOE has continued to use the spreadsheets and approaches explained in the April 2011 NOPR. DOE used the same general methodology as applied in the NOPR, but revised some of the assumptions and inputs for the final rule in response to public comments. The following sections discuss these revisions.

A. Product Classes

In evaluating and establishing energy conservation standards, DOE divides covered products into classes by the type of energy used, or by capacity or other performance-related feature that justifies a different standard for products having such feature. (See 42 U.S.C. 6295(q)) In deciding whether a feature justifies a different standard, DOE must consider factors such as the utility of the feature to users. *Id.* DOE establishes energy conservation standards for different product classes based on the criteria set forth in 42 U.S.C. 6295(o).

For the April 2011 NOPR, DOE undertook extensive testing of fluorescent lamp ballasts to evaluate the impact of numerous ballast characteristics on BLE. Using this test data, DOE empirically found a relationship between the BLE metric and lamp arc power. In general, as lamp arc power increases, BLE increases as well. DOE believes this association is due to the fixed losses of a ballast becoming proportionally less significant at higher lamp arc powers. This relationship allowed DOE to set efficiency levels as a function of total lamp arc power across a wide range of power levels, which simplified the product class structure and the amount of scaling required among product classes. In addition, setting efficiency levels with an equation allows for easier adaption of standards to future innovations. For example, an equation could account for the introduction of new ballast factors. It would also not necessarily have to be revised if the test procedure were modified to require testing with reduced-wattage lamps, toward which manufacturers have commented the market is moving. NEMA agreed that an efficiency standard using pure electrical measurements on a ballast operating a lamp load is appropriate provided the equation accounts for different operating characteristics of the various ballast types that are grouped into each product class. (NEMA, No. 47 at p. 3) NEMA's specific comments regarding the appropriate grouping of various ballast types are discussed later in this section.

After considering several potential class-setting factors, DOE proposed in the April 2011 NOPR to separate product classes based on starting method (instant start and rapid start versus programmed start), ballasts that operate 8-foot HO lamps, and ballasts that operate 8-foot HO lamps in cold-temperature outdoor signs. DOE noted that for each of those three ballast types, a difference in utility was accompanied by a difference in the BLE predicted by the power-efficiency relationship. These three distinctions resulted in five product classes for: IS/RS ballasts that operate 4-foot MBP and 8-foot slimline lamps; PS ballasts that operate 4-foot MBP, T5 SO, and T5 HO lamps, IS/RS ballasts that operate 8-foot HO lamps, PS ballast that operate 8-foot HO lamps, and ballasts that operate 8-foot HO lamps in cold temperature outdoor signs.

[24] The EIA approves the use of the name ''NEMS'' to describe only an *AEO* version of the model without any modification to code or data. Because the present analysis entails some minor code modifications and runs the model under various policy scenarios that deviate from *AEO* assumptions, the name ''NEMS-BT'' refers to the model as used here. (BT stands for DOE's Building Technologies Program.) For more information on NEMS, refer to *The National Energy Modeling System: An Overview,* DOE/EIA–0581 (98) (Feb.1998), available at: *tonto.eia.doe.gov/FTPROOT/forecasting/058198.pdf.*

ASAP and CA Utilities commented that the reduction from the 70 product classes considered in the preliminary analysis to the five product classes proposed in the NOPR provides a simpler standard and thus facilitates compliance and enforcement. (ASAP, Public Meeting Transcript, No. 43 at p. 80; CA Utilities, No. 45 at pp. 1–2) In addition, DOE received several comments related to the inclusion of residential and commercial ballasts in a single product class, the definition of the sign ballast product class, the grouping of ballasts with different starting methods, and the potential for additional subclasses within the 8-foot HO product class. These comments are discussed in the following sections.

1. Residential Ballasts

Separate minimum power factor and electromagnetic interference requirements exist for residential and commercial ballasts. Specifically, residential ballasts have more stringent (or lower maximum allowable) EMI requirements than commercial ballasts; they also have less stringent (or lower minimum allowable) power factor requirements.[25] Based on these differing requirements, in the April 2011 NOPR, DOE concluded that residential ballasts offer a unique utility in that they serve distinct market sectors and applications. However, because the April 2011 NOPR test data indicated residential ballasts could achieve similar levels of efficiency as commercial ballasts at the highest standard levels analyzed, DOE did not propose a separate product class for residential ballasts. In response to the April 2011 NOPR, DOE received several comments regarding this conclusion.

CA Utilities agreed with DOE's proposal that a separate product class is not necessary for residential ballasts because no specific characteristic affects efficiency. They stated that residential ballasts are not subject to more stringent FCC standards for EMI because these standards only apply to devices operating at frequencies greater than 30 megahertz (MHz). Thus, CA Utilities emphasized that starting method is more relevant to the efficiency of the ballast than the distinction of residential or commercial. (CA Utilities, No. 58 at p. 4; CA Utilities, No. 45 at p. 7) NEMA disagreed, commenting that not only are residential ballasts subject to more stringent standards for EMI, but that this requirement decreases ballast efficiency. NEMA and Universal added that while they support the inclusion of residential ballasts in this rulemaking, they oppose the inclusion of residential ballasts in the same product class as commercial ballasts, given their different efficiencies and application requirements. (NEMA, No. 47 at p. 4; Universal, Public Meeting Transcript, No. 43 at pp. 76–7)

Current regulatory requirements subject residential ballasts to more stringent conducted EMI requirements than commercial ballasts. In particular, DOE notes that separate FCC standards exist for both radiated and conducted EMI emissions. The 30 MHz standards cited by CA Utilities correspond to radiated EMI emissions frequencies, not to ballast operating frequencies. Devices that operate at frequencies less than 1.705 MHz, such as fluorescent lamp ballasts, are not required to measure radiated emissions that exist at frequencies above 30 MHz; therefore, radiated EMI standards do not apply to fluorescent lamp ballasts. Ballasts with *conducted* EMI emissions in the frequency range of 0.45 to 30 MHz, however, must comply with FCC standards for conducted EMI. The conducted EMI requirements are applicable to all fluorescent lamp ballasts, but are more stringent for residential ballasts, necessitating added interference filtration in order to comply.

CA Utilities also commented that although residential ballasts are subject to a lower minimum power factor requirement, they do not necessarily have low power factors; in fact, ballasts with either high or low power factors can be installed in the residential sector. CA Utilities concluded that therefore, many high-efficiency commercial ballasts available on the market today can be used in the residential sector without issue. (CA Utilities, No. 45 at pp. 6–7) Philips agreed that ballasts with high power factors can be installed in the residential sector, noting that the ENERGY STAR program for residential fixtures may soon require some level of power factor correction. Philips commented that increased power factor correction actually reduces the efficiency of residential ballasts because the losses associated with meeting FCC Class B requirements become more significant when including power factor correction. (Philips, Public Meeting Transcript, No. 43 at pp. 77–9)

Acuity Brands added that a residential ballast that achieves the same efficiency as the most efficient commercial product would be 50 percent more expensive because of the FCC EMI requirements. (Acuity Brands, Public Meeting Transcript, No. 43 at p. 79) NEMA pointed out that that a higher price could influence consumers to migrate from fluorescent luminaires to lower efficiency incandescent or halogen fixtures. (NEMA, No. 47 at p. 4) Edison Electric Institute (EEI) also expressed concern regarding the prices of residential ballasts, stating that a separate product class for residential ballasts is needed to improve economics for residential and low-income consumers. (EEI, No. 48 at p. 2)

DOE agrees that high power factor ballasts, similar to the power factors possessed by commercial products, can be installed in the residential sector. However, the addition of a power factor correction stage to a ballast circuit substantially increases the amount of electromagnetic interference due to the presence of high speed switches. Therefore, to meet the FCC requirements for residential products, commercial ballasts would require a more significant EMI filter and thus incur additional power losses.

As stated previously, DOE determined in the April 2011 NOPR that despite the differences in power factor and EMI requirements between residential and commercial 2-lamp 4-foot MBP IS/RS ballasts, both ballast types could reach achieve similar levels of efficiency at the highest levels analyzed. Based on the similarity in efficiency, DOE included both ballast types in the same product class. Since publication of the April 2011 NOPR, however, DOE has obtained additional test data for residential ballasts that indicate a separate product class for residential ballasts is warranted. Specifically, DOE tested 4-lamp residential ballasts and was unable to confirm that it was technologically feasible for 4-lamp residential ballasts to meet the commercial ballast efficiency levels. Thus, in the August 2011 NODA, DOE considered establishing a separate product class for residential ballasts. Because DOE proposed extending coverage to residential ballasts with both IS/RS and PS starting methods, DOE considered two new product classes: (1) IS/RS ballasts that operate 4-foot MBP lamps in the residential sector and (2) PS ballasts that operate 4-foot MBP lamps in the residential sector. A separate product class for residential ballasts would allow DOE to adopt separate standard levels for these products based on their associated consumer economics.

In response to the August 2011 NODA, the CA Utilities, NEEA and NPCC, and ASAP, the American Council for an Energy-Efficient Economy, and the Natural Resources Defense Council, in a second Joint

[25] ANSI C82.77–2002 requires residential ballasts to have a minimum power factor of 0.5 and commercial ballasts to have a minimum power factor of 0.9.

Comment, disagreed with the establishment of a separate product class for residential ballasts because residential ballasts can meet the same efficiency levels as commercial ballasts. The second Joint Comment added that although the data indicates that 4-lamp residential ballasts cannot achieve the same efficiency as their commercial counterparts, DOE should not establish a separate product class for this reason. They argued that 2-lamp ballasts are far more common in the residential sector than 4-lamp ballasts, which are often installed in commercial buildings. (CA Utilities, No. 58 at p. 4; NEEA and NPCC, No. 59 at p. 3; Second Joint Comment, No. 57 at p. 1–2)

In addition, the second Joint Comment, CA Utilities, and NEEA and NPCC stated that even if there were a difference in efficiency, DOE has not demonstrated that residential ballasts provide a unique consumer utility. (Second Joint Comment, No. 57 at pp. 1–2; CA Utilities, No. 58 at p. 4; NEEA and NPCC, No. 59 at p. 3) These interested parties stated that residential ballasts are not subject to more stringent FCC requirements for electromagnetic interference. CA Utilities added that even if they were, EMI filters are available and they do not believe these components affect efficiency. These interested parties also reiterated previous comments that, while residential ballasts have lower minimum power factor requirements, this did not prevent high power factor ballasts from being installed in this market sector. The second Joint Comment, CA Utilities, and NEEA and NPCC concluded that commercial ballasts could be used in the residential sector without issue.

DOE notes that both 2-lamp ballasts and 4-lamp ballasts are used in the residential sector. In addition, while 2-lamp ballasts may be more popular in the residential sector, ballasts that operate different numbers of lamps, such as the 4-lamp ballasts described by the second Joint Comment above, provide a unique utility, as explained in the following paragraph. EPCA requires DOE to consider any lessening of the utility or the performance of the covered products likely to result from the imposition of a standard. 42 U.S.C. 6295(o)(2)(B)(i)(IV). EPCA also prohibits DOE from establishing standards that are likely to result in the unavailability of performance characteristics, features, sizes, capacities and volumes that are substantially the same as those generally available in the United States when the standard is established. 42 U.S.C. 6295(o)(4). EPCA further requires DOE to prescribe a lower energy efficiency level for product classes in which the products have a performance-related feature, considering the utility of that feature to consumers and other factors, that justifies a lower efficiency level. 42 U.S.C. 6295(q). Available data indicates that these products cannot achieve the same efficiencies as their commercial counterparts and that, therefore, a separate product class and efficiency standard is warranted.

DOE disagrees with the assertion that commercial ballasts can be used as substitutes for residential products. Although both ballasts can have high power factors, residential ballasts are subject to more stringent FCC standards for conducted EMI emissions. DOE agrees that EMI can be mitigated by the addition of a filter, but disputes the CA Utilities' claim that the filter does not affect efficiency. If a residential ballast were designed to have a high power factor, the addition of a power factor correction stage would increase the amount of conducted emissions. Thus, the residential ballast must possess a stronger EMI filter to comply with FCC requirements. DOE notes that only one T8 residential ballast in the data set had a power factor greater than 0.9, and this model did not meet the most efficient EL considered for the residential product class. For these reasons, DOE concludes that residential ballasts are less efficient than commercial ballasts and also offer unique consumer utility. Therefore, as stated above, DOE has established a separate product class for these products in this final rule.

DOE also received comments regarding the types of ballasts that should be included in the residential product class. NEMA suggested that the residential ballast product class include ballasts that operate 8-foot slimline lamps in addition to ballasts that operate 4-foot MBP lamps. (NEMA, No. 47 at p. 6) In its search of the market, DOE discovered a small number of 8-foot slimline ballasts in product catalogs that are intended for use in the residential sector. DOE also noted that residential ballasts that are designed to operate 4-foot MBP lamps can also operate 2-foot U-shaped lamps. As described above, DOE finds that residential ballasts cannot achieve the same efficiency levels as commercial ballasts and that they offer the consumer unique utility. Therefore, DOE has modified the description of the residential product class to include: (1) IS/RS ballasts that operate 4-foot MBP, 2-foot U-shaped, and 8-foot slimline lamps in the residential sector and (2) PS ballasts that operate 4-foot MBP and 2-foot U-shaped lamps in the residential sector.[26]

2. Sign Ballasts

In the April 2011 NOPR, DOE proposed establishing a separate product class for ballasts that operate 8-foot HO lamps in cold temperature outdoor signs. This proposal was based on their unique utility and associated decrease in efficiency relative to standard 8-foot HO ballasts. Sign ballasts operate outdoors in wet and cold temperature environments and have highly flexible lamp pairing possibilities, both in terms of varied individual lamp lengths and different total lamp length (sum of the length of all lamps operated by the ballast). In response to the April 2011 NOPR, DOE received comments that the proposed sign ballast product class description was not sufficient.

ASAP encouraged DOE to ensure that the definition of the sign ballast product class is sufficiently narrow. (ASAP, No. 46 at p. 2) CA Utilities commented that DOE should reevaluate the defining characteristics of sign ballasts because it does not seem to accurately capture the products for which it was intended. In particular, CA Utilities and ASAP cited the description ''ballasts that operate 8-foot HO lamps'' as problematic because it could leave out sign ballasts that are designed for other lamp lengths. (CA Utilities, No. 45 at p. 7; ASAP, No. 46 at p. 2)

DOE agrees that sign ballasts capable of operating other lamp lengths, in addition to 8-foot lamps, should be included in the sign ballast product class. However, DOE does not agree that ballasts designed to operate solely these alternate lamps, other than 8-foot HO lamps, should be considered in the sign ballast product class or scope of coverage. In determining the scope of fluorescent ballasts covered by this rulemaking, DOE's research indicated that the vast majority of sign ballasts are capable of operating 8-foot HO lamps, in addition to other lamp lengths. Because sign ballasts that cannot operate 8-foot HO lamps were so rare, there was insufficient available data to analyze the efficiency potential of these ballasts. DOE does not include those ballasts that cannot operate 8-foot HO lamps in the sign ballast product class. DOE defined the added scope of sign ballasts based on their operation of 8-foot HO lamps and assessed the BLE of sign ballasts based on their performance when

[26] PS ballasts are not used in combination with 8-foot slimline lamps because the base of these lamps only has a single pin rather than the two required for electrode heating.

operating 8-foot HO lamps. Therefore, if the sign ballast cannot operate an 8-foot HO lamp, DOE did not include it in the scope of coverage of this rulemaking.[27]

CA Utilities also commented that it is not clear in the NOPR whether the usage of the phrase ''cold temperature'' in the product class description is a key factor in the definition of sign ballasts. They pointed out that some standard commercial ballasts and NEMA Premium products are rated for negative 20 degree F temperatures. (CA Utilities, Public Meeting Transcript, No. 43 at pp. 83–5) ASAP and the CA Utilities encouraged DOE to define the sign ballast product class in a way that does not reference cold temperature operation because it is not unique to these products. If the definition does not include better identifying characteristics, the CA Utilities expressed concern that sign ballasts that are not designed for cold temperature environments might be exempt from standards (ASAP, Public Meeting Transcript, No. 43 at p. 87; CA Utilities, Public Meeting Transcript, No. 43 at pp. 89–90) CA Utilities concluded that DOE must ensure that products not intended to provide the specific utility of outdoor sign ballasts cannot be construed as outdoor sign ballasts, and that products which are intended to provide this utility are covered by the standards. (CA Utilities, No. 45 at p. 7) Universal explained that cold temperature does have an effect on efficiency and is one of several characteristics that would separate a sign ballast application from another application. GE also noted that more energy is required to strike at a cold temperature with a longer lamp and it becomes more difficult for a system to start as lamp length increases and as temperature decreases. (Universal, Public Meeting Transcript, No. 43 at pp. 84–5; GE, Public Meeting Transcript, No. 43 at pp. 86–7, 89)

Available data support the CA Utilities assertion that cold temperature is not a key factor in the description of sign ballasts. Although sign ballasts are rated to operate in cold temperature environments, often down to −20 degrees Fahrenheit, DOE surveyed the market and found that all ballast types covered by this rulemaking have product offerings that include cold temperature ratings, including 8-foot HO ballasts designed and marketed for traditional non-outdoor sign applications. While a cold-temperature rating may affect efficiency, DOE found that these cold temperature rated non-sign ballasts were among the most efficient ballasts of their respective types. Therefore, DOE agrees that the cold-temperature rating is not a descriptor specific to ballasts intended to be used in outdoor signs.

Several manufacturers described alternative characteristics for defining the sign ballast product class. Universal and Osram Sylvania (OSI) commented that a sign ballast has a much longer striking distance, which requires a much higher open circuit voltage. GE added that striking distance and open circuit voltage add to efficiency losses. (Universal, Public Meeting Transcript, No. 43 at pp. 84–5; OSI, Public Meeting Transcript, No. 43 at p. 87; GE, Public Meeting Transcript, No. 43 at pp. 86–7, 89) However, Philips pointed out that IS ballasts are not as affected by wiring distances. (Philips, Public Meeting Transcript, No. 43 at pp. 88–9) Philips also stated that outdoor sign ballasts have a different weather rating than traditional ballasts. (Philips, Public Meeting Transcript, No. 43 at pp. 88–9) GE added that many manufacturers design to higher transient ratings for protection of the ballast in its outdoor application. (GE, Public Meeting Transcript, No. 43 at pp. 86–7, 89)

In DOE's assessment of the market, electronic sign ballasts use the IS starting method and therefore may not be as affected by wiring distances and increased open circuit voltage as RS ballasts. DOE also examined the available product literature to see if the increased wiring distances led to a significant difference in open circuit voltage. Higher open circuit voltages can require different components capable of withstanding those high voltages. These components may have decreased losses due to their more rugged build. If open circuit voltage were significantly different for sign ballasts, DOE could use that voltage to define the sign ballast product class. However, because open circuit voltage information is not readily available in product specification sheets, DOE could not further specify the sign ballast product class using open circuit voltage. DOE agrees with GE that higher transient ratings might lead to increased ballast losses, but was unable to determine a typical transient rating specific to sign ballasts from product literature.

Through a review of product datasheets, DOE did find that sign ballasts have a UL Type 2 rating for the enclosure whereas regular 8-foot HO ballasts are rated for UL Type 1. Type 2 enclosures are moisture resistant and have a rust resistant coating so that the ballast can be used in plastic sign applications without a separate metal enclosure.[28] Because the UL Type 2 enclosure rating distinguishes currently commercially available sign ballasts from regular ballasts that operate 8-foot HO lamps, DOE will use this enclosure rating as a distinction in defining the sign ballast product class.

ASAP suggested that the phrase ''designed and marketed'' should be added to the product class description for sign ballasts. ASAP also commented that sign ballasts should be labeled with the designation ''for use only in outdoor signs.'' (ASAP, No. 46 at pp. 2–3) DOE agrees with ASAP that these types of descriptors should be added to strengthen the product class description. Therefore, DOE has modified the description of these products to include ''designed, labeled, and marketed for use in outdoor signs.''

In summary, in this final rule, DOE adopted the description ''ballasts with a UL Type 2 rating designed, labeled, and marketed for use in outdoor signs that operate 8-foot HO lamps'' to define the sign ballast product class. DOE finds that this description is the most specific definition that can be accurately applied to all sign ballasts. While redesign of traditional 8-foot HO ballasts to meet the definition of the sign ballast product class is possible, DOE believes this to be an unlikely scenario due to the added cost of manufacturing the UL Type 2 enclosure and resulting increased price to the end-user. Customers currently purchasing traditional 8-foot HO systems would likely not tolerate a price increase resulting from added features that are not necessary for traditional applications.

3. Starting Method

In the April 2011 NOPR, based on DOE's determination that IS and RS ballasts provide the same utility to the consumer, DOE proposed to include both of these starting methods in one product class. DOE proposed a separate product class for PS ballasts because these ballasts were less efficient yet increased lamp lifetime in frequent on/off cycling applications. NEMA commented that lower performance RS ballasts should be grouped with PS ballasts instead of IS, citing their similarity in applications and operating characteristics. (NEMA, No. 47 at p. 3, 6)

DOE acknowledges that ballasts have different operating characteristics based on starting method. For example, IS ballasts are more efficient than RS and

[27] For these same reasons, the test procedure in Subpart B of 10 CFR Part 430 Appendix Q1 specifies that a sign ballast must be tested with the maximum number of 8-foot HO (either T8 or T12) lamps it is designed to operate.

[28] Universal Lighting Technologies Inc. *The Sign Ballast Today.* 2010. *www.signasign.com/news/signindustry.html.*

PS ballasts because the latter contain extra components and use extra power to provide filament heating to the lamp, thereby increasing the lamp's lifetime. In the BLE metric, such cathode heating is counted as a loss because it does not directly contribute to the creation of light. Therefore, RS and PS ballasts will have lower BLEs than comparable IS ballasts. DOE confirmed that RS and IS ballasts were commonly used as substitutes for each other, indicating consumers find no added benefit or utility associated with RS relative to IS. Both RS and PS ballasts use cathode heating; however, only PS ballasts limit the voltage across the lamp tube to prevent glow discharge during the initial cathode heating. This prevention of glow discharge also increases lamp lifetime in frequent on/off cycling applications. DOE found PS ballasts were commonly used in conjunction with occupancy sensors (a frequent on/off cycling application). DOE determined that because of their ability to limit voltage, PS ballasts offer the user a distinct utility. As a result of this unique utility and the difference in efficiency associated with these ballasts, DOE decided to establish separate product classes for programmed start ballasts.

4. 8-Foot HO

In the April 2011 NOPR, DOE included ballasts that operate all types of 8-foot HO lamps in one product class. NEMA commented that separate product classes should be established for ballasts that operate 8-foot HO T8 lamps and those that operate 8-foot HO T12 lamps. NEMA indicated that 8-foot T8 HO ballasts are typically electronic. (NEMA, No. 47 at p. 5) Though T8 electronic ballasts are more efficient than T12 magnetic and electronic ballasts, DOE found the two ballast types were commonly used as replacements and identified no added utility associated with 8-foot T8 electronic or 8-foot T12 ballasts. Therefore, neither lamp diameter nor electronic versus magnetic ballast type justifies the creation of different product classes for 8-foot HO ballasts.

5. Summary

After evaluating potential class-setting factors, DOE has established separate product classes for programmed start ballasts, residential ballasts, ballasts that operate 8-foot HO lamps, and sign ballasts. Table V.1 summarizes the seven product classes.

TABLE V.1—FLUORESCENT LAMP BALLAST PRODUCT CLASSES

Description	Product class No.
IS and RS ballasts (not classified as residential) that operate:	1
4-foot MBP lamps	
2-foot U-shaped lamps	
8-foot slimline lamps	
PS ballasts (not classified as residential) that operate:	2
4-foot MBP lamps	
2-foot U-shaped lamps	
4-foot MiniBP SO lamps	
4-foot MiniBP HO lamps	
IS and RS ballasts (not classified as sign ballasts) that operate 8-foot HO lamps	3
PS ballasts (not classified as sign ballasts) that operate 8-foot HO lamps	4
Sign ballasts that operate 8-foot HO lamps	5
IS and RS residential ballasts that operate	6
4-foot MBP lamps	
2-foot U-shaped lamps	
8-foot slimline lamps	
PS residential ballasts that operate:.	
4-foot MBP lamps	
2-foot U-shaped lamps	7

B. Engineering Analysis

1. NOPR Approach

The engineering analysis develops cost-efficiency relationships to show the manufacturing costs of achieving increased efficiency. In the April 2011 NOPR, DOE used the following methodology to conduct its engineering analysis.

Determine Representative Product Classes and Representative Ballast Types. When multiple product classes exist, DOE selects certain classes as ''representative'' to concentrate analytical effort. The representative product classes represent the most commonly sold ballasts and the majority of the ballast shipment volume. In the April 2011 NOPR, DOE analyzed four of the then five total product classes as representative. These included, 1) IS/RS ballasts that operate 4-foot MBP and 8-foot slimline lamps; 2) PS ballasts that operate 4-foot MBP lamps, 4-foot MiniBP SO lamps, and 4-foot MiniBP HO lamps; 3) IS/RS ballasts that operate 8-foot HO lamps; 4) and ballasts that operate 8-foot HO lamps in cold temperature outdoor signs. DOE did not directly analyze PS ballasts that operate 8-foot HO lamps due to their relatively low market share.

Within each representative product class, DOE selected at least one representative ballast type for each lamp type. For the IS/RS product class, DOE analyzed ballasts that operate: Two 4-foot MBP lamps; (2) four 4-foot MBP lamps; two 8-foot slimline lamps; and two 4-foot MBP lamps in the residential sector. For the PS product class, DOE analyzed ballasts that operate: (1) Two 4-foot T5 SO lamps; two 4-foot T5 HO; two 4-foot MBP lamps; and four 4-foot MBP lamps. For the 8-foot HO IS/RS product class, DOE analyzed 2-lamp ballasts as the representative ballast type, whereas for the sign ballast product class DOE analyzed 4-lamp ballasts as representative. DOE limited its representative ballast types to include only those ballasts that exhibit a normal ballast factor [29], as this BF is most common.

Collecting and Analyzing Test Data. DOE then tested a range of ballasts from multiple manufacturers including extensive testing of the representative ballast types. DOE attempted to test

[29] DOE defines low ballast factor as being less than or equal to 0.78, normal ballast factor as being greater than 0.78 but less than 1.10, and high ballast factor as being greater than or equal to 1.10.

five [30] samples for ballasts included in the representative ballast type categories (purchased over two years) and three samples for non-representative ballast types. DOE conducted testing at two laboratories or ''labs,'' one primary lab where the majority of testing occurred and another lab to analyze possible lab-to-lab variation. DOE conducted this testing in accordance with the lamp-based ballast luminous efficiency procedure in Appendix Q1 of 10 CFR 430.

Determine Efficiency Levels. Next, using the test data, DOE empirically found a relationship between BLE and the natural logarithm or ''log'' of total lamp arc power. In general, as total lamp arc power increased, BLE increased as well. DOE's hypothesis was that this behavior was due to the fixed losses of a ballast becoming proportionally less significant at higher arc powers. DOE established efficiency levels as a natural logarithmic function of total lamp arc power based on this power-efficiency relationship.

After compiling the test data, DOE plotted BLE versus total lamp arc power for both standard and high efficiency product lines from multiple manufacturers. Based on analysis of test data for representative ballast types, DOE identified certain natural divisions in BLE. DOE then adjusted the coefficient and constant of the logarithmic power-efficiency equation to create efficiency levels that corresponded to these divisions. DOE found that the more efficient ballast product lines generally had a reduced (flatter) slope than the standard-efficiency products. To reflect this observation, DOE decreased the coefficient of the more efficient EL equations and increased the coefficient of the less efficient EL equations. In the April 2011 NOPR, DOE established three efficiency levels for each product class except for sign ballasts, for which it developed one efficiency level above the baseline level.

In developing the max tech level, DOE found that no working prototypes existed that had a distinguishably higher BLE than currently available ballasts. Therefore, DOE established TSL3 as the highest level at which a sufficient diversity of products (spanning several ballast factors, number of lamps per ballast, and types of lamps operated) was commercially available.

[30] Because certain models were placed on backorder due to limited supply/production, only about 60 percent of representative ballast types in the April 2011 NOPR were tested with five or more samples.

In the April 2011 NOPR, DOE noted that compliance certification requirements could affect the reported efficiency. The active mode test procedure requires manufacturers to report the lower of either the sample average or the value calculated by an equation intended to account for small sample sizes. DOE's analysis of its own test data showed that it was more likely that manufacturers would be reporting the compliance equation result, as it would be the lower of the two values. Thus, DOE calculated the average difference between the output of the compliance equation and the sample mean to be 0.2 percent and reduced the efficiency levels, based on average BLEs, by this value.

DOE also considered lab-to-lab variation when determining efficiency levels in the April 2011 NOPR. While DOE tested a large number of ballasts at one primary lab, DOE also tested a subset of those ballasts at a second lab to determine the magnitude of any variation. DOE found that tested efficiencies for the ballast models sent to the second lab were slightly lower (by 0.6 percent on average) than the values measured at the main test facility. DOE then applied this additional 0.6 reduction to the efficiency levels, which were based on the primary lab's test data.

Select Baseline and More Efficient Ballasts. For each representative ballast type, DOE established baseline ballasts to serve as reference points against which DOE measures changes from potential amended energy conservation standards. Generally, a baseline ballast is a commercially available ballast that just meets existing Federal energy conservation standards and provides basic consumer utility. If no standard exists for that specific ballast, the baseline ballast represents the most common ballast sold within a representative ballast type with the lowest ballast luminous efficiency. DOE selected specific characteristics such as starting method, BF, and input voltage to characterize the most common ballast. DOE also selected multiple baseline ballasts for some representative ballast types to ensure consideration of varied consumer economics. Because fluorescent lamp ballasts are designed to operate fluorescent lamps, DOE also considered properties of the entire lamp-and-ballast system. Though ballasts are capable of operating several different lamp wattages, in the April 2011 NOPR, DOE chose the fluorescent lamp most commonly used with each ballast for analysis.

DOE selected commercially available ballasts with higher BLEs as replacements for each baseline ballast by considering the design options identified in the technology assessment and screening analysis (see chapter 4 of the NOPR TSD). DOE also included two substitution cases in the engineering analysis. In the first substitution case, the consumer is not able to change the spacing of the fixture and therefore replaces one baseline ballast with a more efficient ballast. This generally represents the lighting retrofit scenario where fixture spacing is predetermined by the existing installation. In this case, light output is generally maintained to within 10 percent of the baseline system lumen output.[31] In the second substitution case, the consumer is able to change the spacing of the fixture and purchases either more or fewer ballasts to maintain light output. This represents a new construction scenario in which the consumer has the flexibility to assign fixture spacing based on the light output of the new system. In this case, DOE normalizes the light output relative to the baseline ballast.

Conduct Price Analysis. In the April 2011 NOPR, DOE developed ballast manufacturer selling prices using three main inputs: (1) Teardown data; (2) manufacturer price lists (blue books); and (3) confidential manufacturer-supplied MSPs and incremental MPC values. In general, DOE used a combination of information from teardowns and manufacturer price lists throughout the analysis and used the aggregated manufacturer-supplied MSPs for comparison purposes. DOE used ratios of online supplier retail prices to scale to ELs where data from both teardowns and manufacturer price lists were unavailable.

Scaling to Non-Representative Product Classes. DOE scales ELs from representative product classes to those product classes it did not analyze directly. In the NOPR analysis, DOE applied a two percent reduction to the efficiency levels for the 8-foot HO IS/RS representative product class to determine efficiency levels for the 8-foot HO PS product class.

Comments Received. In response to the April 2011 NOPR and subsequent NODA, DOE received comments on the available data, methodology, engineering results, and efficiency levels. All of these comments are discussed in further detail in the following sections.

[31] In some instances (*e.g.,* when switching from T12 to T8 ballasts), light output exceeds these limits.

2. Available Test Data

For the April 2011 NOPR, DOE tested more than 450 ballasts to develop proposed energy conservation standards. At the time the NOPR was published, DOE posted test data to its public Web site as Appendix 5C of the TSD. Appendix 5C contained a listing of all ballast models tested at DOE's primary lab for the April 2011 NOPR, including identifying characteristics such as lamp type operated, number of lamps operated, starting method, ballast factor, input voltage, and catalog performance value. For each ballast model, DOE also reported average [32] tested values for input power, total lamp arc power, and BLE.[33]

At the May 2011 public meeting, NEMA presented data collected from several manufacturers.[34] NEMA's data included average BLE test results from three manufacturers that were subsequently reduced by 0.8 percent to account for compliance certification requirements. Attendees of the public meeting noted that the BLE values of the most efficient ballast models tested by NEMA appeared to be less than the most efficient ballast models tested by DOE. NEMA also noted that about 60 percent of DOE's test data represented ballast models with less than four tested samples, which is not consistent with the minimum number of samples required to demonstrate compliance with DOE's standards. The CA Utilities stated that if possible, DOE should conduct testing of four or more samples to more accurately reflect the testing process that must be completed by manufacturers for certification purposes. (NEMA, No. 52 at p. 9; CA Utilities, No. 45 at p. 3)

Following the May 2011 public meeting, DOE posted to the public meeting Web site a more comprehensive set of test data used to develop the April 2011 NOPR, which specified ballasts by serial numbers, added round robin test results, and included results for each sample tested, rather than the average across several samples for each model number. DOE also purchased and tested more than 120 additional ballasts to increase tested models' sample size to a minimum of four samples consistent with compliance certification requirements in 10 CFR 429.26. Furthermore, DOE tested additional ballast models, particularly for sign ballasts and residential ballasts, to gain more market information about these products. All available test data—the NEMA-provided data, the data utilized for the April 2011 NOPR, and the results of additional testing conducted after publication of the April 2011 NOPR—were posted on DOE's Web site in conjunction with the publication of the August 2011 NODA.[35]

3. NEMA-Provided and DOE BLE Data Comparison

As described in the previous section, at the May 2011 public meeting, NEMA members presented test results for the highest efficiency NEMA Premium products. NEMA emphasized that its results represented only high efficiency products, which generally exceeded NEMA Premium efficiency requirements. Therefore the comparisons did not include hundreds of products in lower-efficiency product lines that would be eliminated at the proposed standard level. NEMA compared its results to TSL3, the proposed standard level in the April 2011 NOPR. Based on its data and analysis, NEMA determined that 88 percent of its highest efficiency products failed to meet the proposed standard level. NEMA added that these IS and PS ballasts are likely 80 to 85 percent of the total market. NEMA concluded that the implementation of the proposed standards would cause a catastrophic ballast shortage in the market. (NEMA, Public Meeting Transcript, No. 43 at pp. 25–7; NEMA, No. 98 at pp. 2, 6)

A comparison of DOE and NEMA data sets showed that BLE values reported by NEMA were consistently lower than those reported by DOE. For example, NEMA noted that its data showed no ballast with a BLE higher than 91 percent at 50 watts, while DOE's data showed a BLE as high as 94 percent at the same wattage. NEMA also found that the variation between samples of each ballast model was much smaller within manufacturer-provided data than within DOE's data. NEMA underscored the significance of its data, stating that it would submit data derived using these same methods to demonstrate compliance with new standards. (NEMA, Public Meeting Transcript, No. 43 at pp. 47–8, 50, 99; NEMA, No. 98 at p. 6)

Earthjustice, Northwest Energy Efficiency Alliance (NEEA), ASAP, NEEP, and the CA Utilities emphasized the importance of determining the cause of the differences between DOE and NEMA test data. (Earthjustice, Public Meeting Transcript, No. 43 at p. 66; NEEA, Public Meeting Transcript, No. 43 at pp. 120–1; ASAP, Public Meeting Transcript, No. 43 at pp. 46–7; NEEP, No. 49 at pp. 1, 2; CA Utilities, Public Meeting Transcript, No. 43 at p. 62; CA Utilities, No. 45 at p. 2) NEEA noted that the source of the discrepancy between DOE and NEMA data should be determined before any efficiency levels are fit to either data set. (NEEA, Public Meeting Transcript, No. 43 at pp. 138–9) Acuity Brands suggested DOE divide its test data according to manufacturer and compare it with the test data from the individual manufacturers obtained under non-disclosure agreements. (Acuity Brands, Public Meeting Transcript, No. 43 at p. 149)

ASAP suggested DOE continue to use its own data for the final rule analysis and any supplemental data provided by manufacturers should be assessed in its raw form to ensure comparability with DOE data. (ASAP, No. 46 at p. 1) CA Utilities also advised DOE to continue to use its own test results for the final rule unless it determined a specific fault with the testing process of the labs used by DOE. (CA Utilities, No. 45 at p. 4)

Following the May 2011 public meeting, under non-disclosure agreements, several manufacturers provided the model numbers and efficiencies for the ballasts included in NEMA's data set. Upon receiving this information, DOE conducted a comparative analysis between NEMA data and DOE's independently tested data. DOE published the results of its analysis in the August 2011 NODA. DOE concluded that its data collection methods were consistent with Appendix Q1 of 10 CFR 430 and that, after removing NEMA's reduction factor as discussed in section V.B.3.a, the remaining differences between the two data sets arise primarily from normal measurement variation. Subsequent comments received on the NODA reaffirmed DOE's conclusions. Therefore, for this final rule, DOE continued to use its own data and utilized NEMA-provided data for comparison. The sections below detail DOE's comparative analysis and discuss several comments by interested parties suggesting possible sources of differences between the two datasets.

a. NEMA Reduction Factor

As described above, the data contained in NEMA's presentation at

[32] The average across several samples for each model number.

[33] DOE obtained these values in accordance with the active mode test procedure in Appendix Q1 of 10 CFR 430.

[34] These test results were contained in a Power Point presentation that was subsequently posted to the public meeting Web site at: *http://www1.eere.energy.gov/buildings/appliance_standards/residential/fluorescent_ballasts_nopr_public_meeting.html.*

[35] The August 2011 NODA and accompanying data are available here: *www1.eere.energy.gov/buildings/appliance_standards/residential/notice_of_data_availability.html.*

the May 2011 public meeting represented the mean of four or five samples decreased by 0.8 percent to account for compliance certification requirements. To calculate this 0.8 reduction factor, NEMA referred DOE to an analysis NEMA submitted in a comment in response to the preliminary TSD. In that analysis, NEMA calculated the 0.8 percent reduction factor based on application of the certification equation described in 10 CFR 429.26. NEMA assumed that each sample set's three standard deviation spread was equal to five percent of the mean efficiency (2.5 percent for design variation and 2.5 percent for measurement variation). NEMA then calculated a mean efficiency adjustment factor (from sample sizes of four and five) by inserting this standard deviation into the certification equation. This adjustment factor represented NEMA's estimate of the percent difference between the sample mean and the value NEMA anticipated reporting to DOE for certification. CA Utilities commented that NEMA's reduction of its test results by 0.8 percent may have been a misinterpretation of the test procedure and could have caused the discrepancy between DOE's and NEMA's BLEs. (CA Utilities, No. 45 at p. 2) ASAP agreed that DOE should not directly compare its data to NEMA's reduced points. (ASAP, No. 46 at p. 1)

In the August 2011 NODA, DOE stated that to understand potential discrepancies between NEMA and DOE's test data, it was necessary to ensure that similar calculation methodologies had been undertaken for the two data sets. Therefore, for the purpose of comparing the efficiency data, DOE removed the 0.8 percent reduction factor from NEMA's presented ballast efficiencies, resulting in values that represented mean tested efficiencies. DOE compared these efficiency values to DOE's mean tested efficiencies presented in the April 2011 NOPR.

b. Arc Power Versus Rated Power

Due to the relationship between total lamp arc power and ballast efficiency, in the April 2011 NOPR, DOE proposed establishing efficiency levels as logarithmic equations dependent on total lamp arc power. When NEMA plotted their test data against the DOE proposed efficiency levels, however, NEMA paired their ballast efficiency test data with approximated arc powers rather than measured arc powers. CA Utilities and NEEA and NPCC noted that NEMA appeared to list a batch of products all at the same ''rated power,'' and compared the performance of all of those products against the same BLE standard. They stated that their understanding was that standards are to be calculated based on the measured lamp arc power specific to each ballast, not the rated lamp power. (NEEA and NPCC, No. 44 at p. 5; CA Utilities, No. 45 at pp. 2–3)

DOE agrees that total lamp arc power, measured in accordance with the active mode test procedure, should be used when comparing manufacturer-provided data to DOE's efficiency levels. In the August 2011 NODA, DOE noted that the lamp arc power associated with a particular ballast in NEMA's data was an approximation rather than a test result. DOE found NEMA's approximation to be higher than typical test results in DOE's data set, with differences as high as 27.6 percent. As this discrepancy could potentially cause NEMA's test data to appear to have artificially lower efficiencies relative to DOE's efficiency levels, DOE revised NEMA's approximate lamp arc powers using ANSI reference lamp arc powers to calculate total expected lamp arc power. 76 FR 52892, 52895–6 (August 24, 2011). These lamp arc powers better aligned with expected total lamp arc powers for similar ballast types. DOE used these calculated powers when comparing the efficiency levels to the manufacturer-provided data as discussed in section V.B.5.

c. Test Procedure and Lab Accreditation

NEMA commented that the difference between the data it collected and DOE's results may be due to DOE's labs not having proper accreditation. NEMA stated that all of the labs used for its testing were certified according to ANSI C82.11–2002 and DOE should only test in similarly certified labs. NEMA specifically noted that it did not believe the Lighting Research Center (LRC) was ANSI C82.11–2002 certified. (NEMA, Public Meeting Transcript, No. 43 at pp. 30, 116) GE emphasized that labs should be accredited in accordance with ISO 17025, which is a definition of laboratory performance and accreditation for test equipment and test engineers using that equipment. (GE, Public Meeting Transcript, No. 43 at p. 116) Similarly, CA Utilities suggested that the difference between NEMA's and DOE's test results could be because the BLE test procedure is new and may require clarification. (CA Utilities, No. 45 at p. 2)

DOE notes that 10 CFR 430.25 requires testing of fluorescent lamp ballasts to be performed in accordance with Appendix Q1 of 10 CFR part 430 Subpart B by test laboratories accredited by National Volunteer Laboratory Accreditation Program (NVLAP) or a NVLAP-recognized organization, Underwriter Laboratories, or Council of Canada in accordance with ISO 17025. 76 FR 25211, 25219 (May 4, 2011). ISO 17025 is an international standard that outlines general requirements for the competence of testing and calibration laboratories. NVLAP operates an accreditation system that requires applicant laboratories to be assessed against all ISO 17025 requirements.

As described in the August 2011 NODA, DOE contacted both test laboratories utilized for DOE testing and verified each is properly accredited and that all testing was conducted in accordance with the active mode test procedure in Appendix Q1. CA Utilities stated that this action greatly improved the overall credibility of DOE's dataset. (CA Utilities, No. 58 at pp. 1–2) Given the verification of data collection methods, DOE continues to use its own data in this final rule.

d. Sample Size

NEMA also commented that the number of samples tested for several ballast models was too small, potentially resulting in test data unrepresentative of the mean efficiencies of the ballast model's population. They pointed out that about 60 percent of DOE's test data represented an average efficiency calculated with fewer than four samples, which is less than the minimum number of samples required to demonstrate compliance with DOE's standards. (NEMA, No. 52 at p. 9) CA Utilities also stated that if possible, DOE should conduct testing of four or more samples to more accurately reflect the testing process that must be completed by manufacturers for compliance. (CA Utilities, No. 45 at p. 3)

Since the publication of the April 2011 NOPR, DOE has conducted additional testing to increase the sample size of selected ballast models. More than 90 percent of tested ballast models now have a minimum of four samples. Only in those cases where models have been discontinued or were unavailable for purchase was DOE unable to test a minimum of four samples. DOE posted a complete set of test data on its Web site at the time the August 2011 NODA was published.

CA Utilities and NEEA and NPCC commended DOE for conducting additional testing to increase the sample size to a minimum of four ballast samples, consistent with the certification requirements in 10 CFR 429.26. NEEA and NPCC stated that the additional testing conducted improved the dataset's accuracy and credibility,

which contributed to the development of appropriate standard levels. (CA Utilities, No. 58 at p. 2; NEEA and NPCC, No. 59 at p. 2) DOE discusses how it utilized all available data in sections V.B.4 and V.B.5.

e. Measured Versus Calculated BLE

In response to the April 2011 NOPR, NEMA commented that it found several samples of DOE test data in which the measured BLE reported in appendix 5C of the NOPR TSD was not consistent with the BLE calculated by NEMA. Though some of the differences were small, NEMA provided examples of four ballast models with differences up to 8 percent. (NEMA, Public Meeting Transcript, No. 43 at pp. 28–9) DOE addressed these discrepancies in the August 2011 NODA.

For the small discrepancies identified by NEMA, DOE noted that the information provided by NEMA was consistent with calculating the BLE values by dividing the average arc power of all samples by the average input power of all samples. This method is not consistent with the active mode test procedure. In contrast, DOE's average BLE reported in appendix 5C of the TSD was determined, as required in the test procedure, by averaging the BLE of each individual sample. Based on DOE's analysis, this difference in methodology accounts for the small discrepancies observed between the values reported in appendix 5C and those calculated by NEMA.

DOE also worked to resolve the large differences cited by NEMA. DOE identified six samples with measured-versus-calculated BLE differences ranging from 7.8 to 8.0 percentage points, which included the specific examples cited by NEMA. These six samples were all magnetic ballasts; in accordance with the active mode test procedure (see Table A, Appendix Q1 of 10 CFR part 430 Subpart B), DOE calculated BLE for these samples by reducing the measured ballast efficiency (total lamp arc power divided by ballast input power) by a frequency adjustment factor (1.00 for high-frequency ballasts and values ranging from 0.93 to 0.95 for low-frequency ballasts). These larger discrepancies are consistent with NEMA not including this adjustment factor in its calculation of BLE. Thus, given the above explanation and the absence of any additional comments regarding this subject, DOE's measured BLE values are correctly calculated and consistent with the active mode test procedure.

f. Ballast Factor

NEMA also identified differences in appendix 5C of the NOPR TSD between catalog and tested values for ballast factor, in some cases as large as 10 or 15 percent. NEMA reported that based on its own tests, it would expect the average difference between catalog BF and tested BF to be 1.5 percent. (NEMA, Public Meeting Transcript, No. 43 at pp. 27–8) DOE acknowledges that there might be differences between ballast factor values reported in catalogs and DOE's test data. Catalogs generally report ballast factor using the procedure in Appendix Q of 10 CFR part 430 subpart B, which requires photometric measurements. DOE calculated ballast factor in the April 2011 NOPR using electrical measurements by measuring the lamp arc power for the test ballast and dividing it by the reference lamp arc power as specified by ANSI standards. Available information suggests that manufacturing variation, coupled with application of a different test procedure to determine BF, accounts for the difference between catalog BF and DOE measured BF. Because DOE did not establish product classes or standards using BF and the active mode test procedure final rule did not adopt a new method for its calculation, however, ballast factor is not relevant to this rulemaking.

g. Variation Within DOE's Data

Stakeholders also questioned the variation present within DOE's data and offered several suggestions on how to measure variation within the test results. Lutron and NEMA suggested DOE perform a gauge repeatability and reproducibility (R&R) analysis, a recognized technique to reconcile differences among measurements. (Lutron, Public Meeting Transcript, No. 43 at pp. 118–9; NEMA, Public Meeting Transcript, No. 43 at p. 121) Philips suggested that DOE look at the variation among each unit and among each lab, and then use the total variation to conduct a 3-sigma [36] analysis. Philips noted, however, that three samples is not a very statistically large sample size in examining this kind of variation. (Philips, Public Meeting Transcript, No. 43 at p. 113)

As described in the previous sections, DOE evaluated several factors to verify the integrity of its data. DOE has confirmed that testing was conducted in accordance with the active mode test procedure and that its calculations of BLE are accurate. Furthermore, additional testing has increased sample size such that it is consistent with compliance certification requirements. After accounting for the above items, DOE believes that variation in its data reflects expected measurement, design, and lab-to-lab variation. DOE addresses these sources of variation in the following sections.

4. Accounting for Variation and Compliance Certification Requirements

In the April 2011 NOPR, DOE accounted for lab-to-lab variation and compliance certification requirements by calculating reduction factors for each and adjusting the efficiency levels accordingly. DOE calculated a 0.6 percent reduction factor for lab-to-lab variation by comparing the data from the primary laboratory, which conducted the majority of DOE's testing, with data from its secondary laboratory, which tested a limited number of identical samples. DOE applied the 0.6 percent lab-to-lab variation reduction to the efficiency curves so that the standard level could, on average, be met by ballasts tested at the less efficient lab. To account for certification requirements, DOE calculated the difference between the output of the compliance certification equation in 10 CFR 429.26 and the sample mean of DOE's test data to be 0.2 percent. As DOE's certification requirements at 10 CFR 429.26 require manufacturers to report the lower of these two values, DOE reduced the efficiency levels, based on average BLEs, by this value.

OSI and Lutron Electronics Co., Inc. (Lutron) commented that in addition to lab-to-lab variation, both design and measurement variation need to be taken into account when setting a standard to make sure that the average of different tested samples will meet the minimum BLE requirements. OSI commented that design tolerances exist because different components are used in different production runs. OSI estimated this variation to be about two percent. (OSI, Public Meeting Transcript, No. 43 at pp. 137–8, 152; Lutron, Public Meeting Transcript, No. 43 at pp. 151–2)

NEMA submitted analyses in response to the NOPR recommending modifications to DOE's methodology of accounting for certification requirements and variation. NEMA's first analysis used an assumed design variation and measurement variation (each 2.5 percent) in the compliance certification equation to adjust each ballast efficiency data point. After analyzing the more detailed set of data posted after the May 2011 public meeting, NEMA submitted a similar analysis but used an assumed design variation and a calculated measurement variation. NEMA then suggested that

[36] 3-sigma is a statistical calculation that refers to data within three standard deviations from a mean. It is based on the rule that for a normal distribution, nearly all values lie within three standard deviations of the mean.

DOE base its efficiency levels on the adjusted data points rather than mean BLE values. Specifically, NEMA determined the mean BLE for each ballast model by averaging all tested values of that particular model. NEMA then calculated the maximum measurement variation across labs for each category of fluorescent lamp ballast (*e.g.,* 4-foot MBP, 4-foot MiniBP, or 8-foot high output). NEMA added this highest calculated measurement variation for each ballast type to a 2.5 percent assumed design tolerance to characterize the total variation. NEMA then entered these variations into the compliance equation to calculate a reduction factor based on sample size of each tested model. NEMA commented that DOE should make similar allowances in the standard levels to account for the variation present in DOE's own data. (NEMA, No. 52 at pp. 8–10)

The CA Utilities also conducted an analysis using the data DOE provided following the May 2011 public meeting. They agreed with NEMA that compliance certification requirements should be considered when assessing whether products will meet each standard level. However, they pointed out that NEMA had employed methods to characterize the certification procedures that were not consistent with the requirements specified in 10 CFR 429.26. Instead, the CA Utilities used individual samples of DOE's efficiency data to calculate both the sample mean and the value determined by the compliance certification equation in 10 CFR 429.26. Then, as directed by the compliance certification regulations, they represented the reported efficiency as the lower of the two values. They suggested that DOE base its efficiency levels on these reported values. (CA Utilities, No. 45 at pp. 3, 4–5)

Consistent with the April 2011 NOPR, DOE recognizes the importance of considering the variation present in the test data when developing efficiency levels. DOE acknowledges that due to design and measurement variation, the reported value for compliance certification may deviate from the sample mean and this difference must be accounted for. As described in the following sections, DOE has modified its approach to account for variation and compliance certification procedures based on the comments provided.

a. Design Variation and Compliance Certification Requirements

As stated earlier, 10 CFR 429.26 requires manufacturers to test a minimum of four fluorescent lamp ballasts and report the lower of either the mean efficiency of the samples or the output of a compliance certification equation based on the lower 99 percent confidence limit of the sample. The lower 99 percent confidence limit equation requires a calculation of the standard deviation of the sample set to account for measurement variation. Because over 90 percent of ballast models tested by DOE include samples obtained during two different years, the standard deviation for these models also incorporates design variation that is present in the sample set.

Both NEMA and the CA Utilities had previously commented that, in order to develop efficiency levels, DOE should adjust its mean efficiency data points to represent values similar to those manufacturers would report to DOE for compliance certification. However, their approaches differed in how they computed the standard deviation input for the compliance certification equation. The CA Utilities calculated the standard deviation among all samples of a particular ballast model tested at a single lab. NEMA, however, calculated the standard deviation by assuming a 2.5 percent design variation and then adding an additional factor based on DOE's lab-to-lab test data for each ballast category.

In the August 2011 NODA, DOE disagreed with NEMA's method of applying the compliance certification requirements. First, the compliance requirements direct manufacturers to calculate the standard deviation of the tested sample, rather than an assumed population standard deviation. Second, in practice, this calculation would likely not include data from more than one lab unless manufacturers chose to test their samples of a single ballast model at more than one location. DOE agreed that lab-to-lab variation was important, but considered accounting for it as a separate adjustment to efficiency levels as discussed below in section V.B.4.b.

The CA Utilities evaluated both the sample mean and compliance equation for each ballast model and compared the lower of the two, the reported value, to the standard level. DOE believed the CA Utilities' approach for accounting for compliance certification requirements was consistent with the procedures laid out in 10 CFR 429.26 and therefore, in the August 2011 NODA, considered using this methodology for the final rule. To facilitate this approach, as discussed earlier, DOE conducted additional testing after publication of the NOPR to increase the sample size of several ballast models in accordance with compliance certification requirements. To account for these requirements, DOE calculated a new data set that represented the reported value for all ballast models. DOE used these reported values to develop the efficiency levels described in the August 2011 NODA.

CA Utilities and NEEA and NPCC supported DOE's methodology of accounting for certification requirements when setting standard levels. They stated that the use of reported values accounts for design variation within a product line and measurement variation among multiple test runs within a single lab. These organizations also commented that this approach is more accurate than DOE's previous proposal to apply a 0.2 percent reduction to all efficiency levels. (CA Utilities, No. 58 at p. 2; NEEA and NPCC, No. 59 at p. 2)

NEMA, however, disagreed with the methodology presented in the August 2011 NODA. Specifically, NEMA claimed that the correction factor they calculated is essential to account for manufacturing and component variance. NEMA commented that because DOE's samples were acquired when market demand was low, the manufacturing variation present in DOE's test data was not representative of typical variation. They reasoned that manufacturers could be more selective when purchasing components for products manufactured during that time period. Under normal market conditions, manufacturers compete for the same component supply and often obtain parts that vary in quality and cost. NEMA commented that DOE should have tested a statistically representative sample set for each model (*i.e.,* a larger sampling from multiple productions lots, assembled over time) and that, absent this, DOE should have used a statistically derived method for determining an appropriate reduction rather than empirical data. (NEMA, No. 56 at pp. 2, 4)

As described previously, DOE believes that NEMA's recommended 0.8 percent reduction does not reflect appropriate certification procedures. As stated in 10 CFR 429.26, manufacturers are required to evaluate the certification equation using the standard deviation of the samples tested, not the expected variation in the population. Furthermore, NEMA included lab-to-lab variation when calculating its reduction factor. This calculation would likely not include data from more than one lab, however, unless manufacturers chose to test their samples of a single ballast model at more than one location. In addition, NEMA utilized a normal distribution critical value for the 99th percentile rather than the specified

t-statistic for the 99th percentile in evaluating the compliance equation.[37]

As explained in the preceding paragraphs, DOE considered both design variation and certification requirements when developing efficiency levels using the methodology presented in the August 2011 NODA. DOE purchased samples over several years, encompassing more than one production lot. While NEMA states that DOE purchased samples at a time when manufacturers could easily obtain the most efficient components, DOE also purchased ballasts (for the purpose of increasing sample size) during years in which interviewed manufacturers stated that they faced component shortages. Furthermore, consistent with 10 CFR 429.26, over 90 percent of models tested had a sample size of 4 or more. For these reasons, DOE continues to use the methodology described in the August 2011 NODA in this final rule.

NEMA commented that half of all borderline but compliant products will fail to meet the standard if an adjustment factor is calculated using average empirical data, such as DOE's method described above. (NEMA, No. 56 at p. 2) DOE notes that the certification requirements do not mandate that every sample tested must meet or exceed the standard level, rather they require that the average of the tested samples meet or exceed the standard. A compliant product may still have samples that test below the standard, provided that the average BLE meets or exceeds the level adopted in this final rule. NEMA's concern may be regarding a situation where all ballast samples are selected from a production run in which lower-quality components cause all samples to test at the lower end of the expected range attributable to design variation. However, there is no requirement that all samples be selected from the same production run. In fact, 10 CFR 429.26 states that samples should be randomly chosen. Manufacturers can also choose to test more than the minimum number of samples to address concerns about a borderline product.

b. Lab-to-Lab Variation

As described in section V.B.1, DOE accounted for lab-to-lab variation in the April 2011 NOPR by comparing data from two different labs and calculating a 0.6 percent reduction factor to apply to efficiency levels. NEMA noted that DOE's data showed significant variation between labs and stressed the importance of accurately quantifying this variation. (NEMA, Public Meeting Transcript, No. 43 at pp. 140–1) NEMA pointed out that DOE typically only used one lab to make measurements rather than validating variation using multiple labs. (NEMA, No. 52 at p. 7) Philips suggested that, after evaluating data among multiple labs, DOE should apply a reduction representative of the maximum variation present in the data rather than average variation. (Philips, Public Meeting Transcript, No. 43 at p. 113–5)

In the August 2011 NODA, DOE considered revising its methodology to account for lab-to-lab variation. DOE received test data from NEMA following the May 2011 public meeting and also received test data from NEMA-member manufacturers. The information from manufacturers allowed DOE to match NEMA test data with the same ballast models tested at DOE's primary and secondary labs. Using the model-specific test data supplied by manufacturers (representative of three different manufacturer labs) and DOE's BLE data (representative of the two labs used by DOE), DOE determined that on average, the BLE test data from DOE's primary lab was 0.7 percent more efficient than the average test lab. DOE attributed this offset to systematic lab-to-lab variation and therefore considered reducing the efficiency levels by 0.7 percent so that they are representative of ballasts tested at the average test lab. This approach was slightly different than that taken in the April 2011 NOPR, which applied a 0.6 percent reduction to efficiency levels, representing the average offset between DOE's primary lab and the least efficient lab (in that case, DOE's secondary lab). DOE believed that adjusting efficiency levels so that they represent the average test lab better characterized the mean performance of products currently being sold.

CA Utilities, NEEA, and NPCC commented that DOE should not use NEMA's data to calculate lab-to-lab variation. CA Utilities stated that because NEMA provided an approximation for arc power instead of measured arc power, their data is not useful for assessing lab-to-lab variation. They suggested DOE use its own data from the primary and secondary test labs to quantify this type of variation. (CA Utilities, No. 58 at p. 2; NEEA and NPCC, No. 59 at p. 2)

DOE believes that NEMA's data reflects correct application of the active mode test procedure, given confidential data received from individual manufacturers and NEMA's description of testing provided during the public meeting. (NEMA, Public Meeting Transcript, No. 43 at p. 51) Although interested parties expressed concern that NEMA did not provide the measured lamp arc power for each model, DOE notes that its approach for calculating lab-to-lab variation does not incorporate measured lamp arc power. Rather, DOE directly compares the BLE for a given ballast model to the BLE provided by NEMA for the same model. Although some stakeholders suggested that DOE only utilize its own results, DOE believes it should incorporate all available data. By doing so, the number of labs included in the calculation increases from two to five and the number of models available for comparison between labs increases as well. Therefore, DOE maintains the methodology described in the August 2011 NODA for this final rule.

5. Efficiency Levels

a. Curve Shape

As described in section V.B.1, DOE concluded in the April 2011 NOPR that a logarithmic relationship best modeled the observed trend between total lamp arc power and BLE and therefore proposed efficiency levels using this equation form. Several manufacturers commented that, based on the test data they collected, the shape of the proposed efficiency levels was not a good fit for all commercially available products. GE commented that it found larger discrepancies between its test data and minimum BLE requirements for ballasts with lower input power than higher input power. GE reported that none of its ballasts met the proposed standard efficiency in the low power range. (GE, Public Meeting Transcript, No. 43 at p. 58) NEMA also noted that at approximately 80 W and below, very few manufacturers had products meeting the programmed start minimum BLE requirements. (NEMA, Public Meeting Transcript, No. 43 at pp. 66–7; NEMA, No. 47 at p. 6) NEMA suggested an alternative equation in which they increased the natural log constant and decreased the additive constant to increase the curvature of the proposed standard and better fit the dataset. (NEMA, Public Meeting Transcript, No. 43 at p. 59) NEMA also recommended breaking up the power ranges into separate product classes to have the formulas fit the test data better and suggested a breaking point somewhere in the 50 to 100W range. (NEMA, Public Meeting Transcript, No. 43 at pp. 75–6)

Acuity Brands expressed concern that DOE was not considering can size when

[37] The compliance equation found in 10 CFR 429.26 requires the use of a t-statistic, to calculate the reported value. NEMA used a different statistical distribution, the standard normal distribution, in the calculation of its reduction factor.

determining what types of ballasts met proposed standards. NEMA reported that consumer demand has moved the ballast market into smaller can sizes, specifically to A- and N-cans, from F-cans. NEMA stated that three representative ballast types in A-cans currently make up 80 percent of the total U.S. market, and the market is in the process of migrating to even smaller N-cans. NEMA explained that smaller ballasts enable reduced fixture size and plenum height in buildings. Not only is this convention in accordance with green building practices, but smaller can sizes allow for a reduction of gas and waste, and a 10 to 15 percent reduction of steel in the manufacturing process. NEMA and Acuity Brands added that the smaller can sizes also increase the photometric efficiency of the fixture by two to six percent (for fixtures housing an A-can compared to an F-can). The small can allows better optical control and fuller use of the reflector as the thinner ballast housing blocks less light than larger cans. The smaller ballasts are also easier to access in the event that the ballast needs replacing. The limited space constrains the technology and components used, however, limiting possible efficiency gains. NEMA argued that, given the size of A- and N-cans, industry is currently developing the highest practical efficiency with NEMA Premium products. NEMA emphasized that while ballasts in the larger F-can can have higher efficiencies, consumer demand and fixture design makes moving to larger cans unsustainable. Acuity Brands asserted that if standard levels eliminate the smaller can sizes, DOE must, in its analysis, account for the additional costs of fixture redesign, engineering time, and incremental transportation costs. (NEMA, Public Meeting Transcript, No. 43 at pp. 32–3, 35–7; Acuity Brands, Public Meeting Transcript, No. 43 at pp. 99–100, 107–9, 171–2)

CA Utilities and NEEA and NPCC commented that lower standards are not needed to accommodate ballasts of the smallest can size, and CA Utilities noted that they were not aware of any unique utility provided by N-cans. CA Utilities also stated that NEMA had not presented data demonstrating that N-cans are less efficient than A-cans or that smaller can size can reduce the use of steel. (CA Utilities, No. 45 at p. 6) NEEA and NPCC strongly urged the Department to proceed with the proposed standards unless conclusive data is presented on these issues that would suggest a different standard is warranted. (NEEA and NPCC, No. 44 at p. 8–9)

Upon analysis, NEMA's test data showed a larger efficiency decrease at lower wattages than DOE's data indicated. Although DOE and NEMA generally tested the same types of ballasts, NEMA tested more permutations of ballast factor and number of lamps for each product line, particularly at lower wattages. For example, NEMA's data contained BLE values for 1-lamp 4-foot MBP ballasts with both low and high ballast factors, whereas DOE's data included 1-lamp 4-foot MBP ballasts with only normal ballast factors. For these reasons, in the August 2011 NODA, DOE considered changing the contour of the efficiency levels to better fit all of the available data. DOE acknowledges that industry is migrating to smaller can sizes, and the methodology described below allows ballasts with small can sizes to remain on the market.

Stakeholders had provided comments on a potential new equation form during the May 2011 public meeting, when DOE presented a power law equation fit to the data provided by NEMA. Several manufacturers commented that upon initial review, the new power law equation appeared to be a better fit to the NEMA data. (Philips, Public Meeting Transcript, No. 43 at pp. 136–7, NEMA, No. 47 at p. 3 OSI, Public Meeting Transcript, No. 43 at pp. 137–8) NEMA further stated that the logarithmic equation in the April 2011 NOPR was more stringent at lower wattages relative to higher wattages. A lower wattage ballast's efficiency is more affected by fixed losses than a higher wattage ballast. The new power law equation seemed to accommodate this difference in efficiency (NEMA, No. 47 at p. 11)

NEEA and NPCC supported the use of a logarithmic equation dependent on lamp arc power and based on the data presented by DOE in the April 2011 NOPR. However, NEEA and NPCC noted that the NEMA data does have a different shape and could be better fit by the power law equation presented during the May 2011 NOPR public meeting. The CA Utilities agreed, stating that the data supported the new curve shape. (NEEA and NPCC, No. 44 at p. 4–6; CA Utilities, No. 45 at p. 5–6)

Based on an application of several equation forms for efficiency levels, DOE concluded in the August 2011 NODA that a power law equation fit both the NEMA data and DOE data better than the logarithmic relationship proposed in the April 2011 NOPR. A power law equation takes the form:

$$BLE = \frac{A}{1 + B * power^{-C}}$$

Where: *power* = average total lamp arc power.

The exponent ''C'' determines the shape of the equation. Because NEMA's test data included a greater number of low wattage ballasts, DOE determined the exponent ''C'' by fitting a power law regression to NEMA's data. For the IS/RS product class (product class 1 in Table V.1), DOE found the exponent ''C'' to be 0.25. The exponent 0.25 is also a quantity used in relating power to relative losses (analog of efficiency) for distribution transformers, and fluorescent lamp ballasts similarly employ transformers and inductors. The PS NEMA data, however, yielded a different exponent for ballasts that use the PS starting method. PS ballasts have proportionately higher fixed losses due to internal control circuitry and heating of lamp electrodes (cathode heating). As such losses are a larger proportion of total losses at lower powers, the PS product classes have a steeper slope across the range of wattages corresponding to a larger exponent ''C'' of 0.37.

Once the exponents were established for the two starting method categories, DOE fit the power law equation to the reported value data (calculated in accordance with 10 CFR 429.26 as discussed in section V.B.4) by adjusting the coefficient ''B'' to delineate among criteria such as different product lines, lines, ballasts that operate different lamp types, and other clusters in efficiency data. The most efficient (maximum technologically feasible) ELs approximate the April 2011 NOPR proposals for the highest wattages, but better follow product line efficiency trends at lower wattages. DOE confirmed the impacts of efficiency levels considered in the August 2011 NODA by comparing the levels to both DOE's and NEMA's data.

In subsequent comments, NEMA supported the use of a power law equation to develop efficiency levels.

(NEMA, No. 56 at p. 3) DOE received no adverse comment regarding this approach, and therefore maintains the use of this equation form for the final rule.

b. Max Tech Ballast Efficiency

As described in the April 2011 NOPR and appendix 5D of the NOPR TSD, DOE was not able to identify any working prototypes with efficiencies higher than those of commercially-available ballasts. DOE therefore established the maximum technologically feasible efficiency level as the highest level that is technologically feasible for a sufficient diversity of commercially available products (spanning several ballast factors, number of lamps per ballast, and types of lamps operated) within each product class.

NEEA and NPCC agreed that no additional information suggests that higher efficiency levels exist above the most efficient levels analyzed for each product class in the April 2011 NOPR. (NEEA and NPCC, No. 44 at p. 6) NEMA reiterated this point by commenting that there were no improvements possible over the level of efficiency proposed by DOE in the April 2011 NOPR. NEMA stated that electronic ballasts perform functions that require some fixed level of power consumption including: Switching losses related to power conversion from AC to DC and back to AC, cathode preheating, striation control, and end of life protection. NEMA commented that using lower loss switches would increase cost dramatically, and that lower loss magnetic components would necessitate an overall increase in ballast size, which the market would not accept. (NEMA, No. 47 at pp. 6–7)

The CA Utilities, NEEA and NPCC, and the second Joint Comment commented that the max tech levels could be more stringent for higher wattage ballasts such as those that operate four 4-foot MBP lamps. They noted that among the 4-lamp 4-foot MBP IS/RS ballasts tested by DOE, a high percentage met the max tech level, and there was typically a greater range of efficiency among those ballasts that met the standard. (CA Utilities, No. 45 at p. 5–6; Second Joint Comment, No. 57 at p. 1; CA Utilities, No. 58 at p. 3; NEEA and NPCC, No. 59 at p. 2)

DOE determined the max tech level for today's final rule to be the highest level that is technologically feasible for a sufficient diversity of lamp types, ballast factors, and numbers of lamps, regardless of manufacturer. DOE developed EL3 for the IS/RS product class in accordance with this criteria. For some ballast types in this class, there is only one product available at the max tech level and therefore raising this level would remove these products from the marketplace. Therefore, DOE has concluded that EL3 represents the highest level for the IS/RS product class that is technologically feasible for a sufficient diversity of products and maintains this level for the final rule. The following sections describe the impact of each efficiency level in more detail.

c. IS and RS Ballasts

DOE developed three efficiency levels for the IS/RS product class. The least efficient level (EL1) was designed to eliminate 4-foot MBP T12 ballasts while allowing 4-foot MBP T8 and 8-foot slimline ballasts to comply with energy conservation standards. EL2 corresponds to a level which allows the highest-efficiency product lines from each of the four major ballast manufacturers to comply. DOE defines a full product line as spanning a sufficient diversity of products (spanning several ballast factors, numbers of lamps per ballast, and types of lamps operated). EL3 is the maximum technologically feasible level and allows nearly two manufacturer product lines comply.

d. PS Ballasts

DOE developed three efficiency levels for the PS product class (product class number 2 in Table V.1). The least efficient level (EL1) was designed to eliminate the least efficient 4-foot MBP, 4-foot T5 standard output, and 4-foot T5 high output PS ballasts. This also corresponds to a level at which each of the four major fluorescent lamp ballast manufacturers maintain a diversity of products. EL2 allows full product lines from two major manufacturers. Finally, EL3, the maximum technologically feasible level, was designed to represent the most efficient PS ballasts tested by DOE. EL3 is the highest level that allows one full line of products to meet standards, regardless of manufacturer.

e. Eight-Foot HO Ballasts

For the 8-foot HO IS/RS product class (product class 3 in Table V.1), DOE developed three efficiency levels. For this product class, DOE tested ballasts that operate two lamps, the most common lamp-and-ballast combination. EL1 was designed to just allow the least efficient T12 electronic ballasts, eliminating magnetic ballasts. EL2 allows the least efficient T8 ballast tested and eliminates the vast majority of T12 electronic ballasts. Finally, EL3 was designed to just allow the most efficient T8 ballast tested by DOE.

f. Sign Ballasts

The sign ballast market is primarily comprised of magnetic and electronic ballasts that operate T12 HO lamps. DOE tested sign ballasts that operate up to one, two, three, four, or six 8-foot T12 HO lamps. The test data showed that sign ballasts exist at two levels of efficiency. Therefore, DOE analyzed a baseline and one efficiency level above that baseline. EL1 was designed to allow a full line of electronic sign ballasts, including ballasts that operate up to six 8-foot HO lamps.

g. Residential Ballasts

In the April 2011 NOPR, DOE had proposed that both residential and commercial ballasts could achieve similar levels of efficiency at the highest levels analyzed. Based on the similarity in efficiency, DOE included both ballast types in the same product class. However, for the final rule, DOE conducted additional testing which indicates that 4-lamp residential ballasts are not able to achieve the same levels as commercial ballasts. Therefore, DOE has established a separate product class for residential ballasts and adjusted the efficiency levels for these ballasts to reflect the new data. EL1 was designed to just allow the least efficient T8 MBP ballasts, eliminating T12 residential ballasts. EL2, the maximum technologically feasible level, is the highest level that allows a full range of T8 products (including both two- and four-lamp ballasts) to comply.

6. Representative Units

a. Baseline Ballasts

For each ballast type analyzed, DOE selected a baseline ballast from which to measure improvements in efficiency. Baseline ballasts are what DOE believes to be the most common, least efficacious ballasts for each representative ballast type. For ballasts subject to existing Federal energy conservation standards, a baseline ballast is a commercially available ballast that just meets existing standards and provides basic consumer utility. If no standard exists for that specific ballast type, the baseline ballast represents the most common ballast sold within a representative ballast type with the lowest tested ballast luminous efficiency. In cases where two types of ballasts (each operating a different lamp diameter) are included in the same representative ballast type, DOE chose multiple baseline ballasts.

NEMA commented that magnetic ballasts should not be used as baselines. (NEMA, Public Meeting Transcript, No. 43 at pp. 38–9). DOE notes that while magnetic ballasts are not appropriate

baselines for the majority of ballast types, for certain ballast types they represent the most common, least efficient ballasts that meet existing energy conservation standards. For example, as most magnetic 4-foot MBP and 8-foot slimline ballasts do not meet the BEF standards set forth by the 2000 Ballast Rule and EPACT 2005, DOE chose electronic baselines for these ballast types. DOE used a magnetic ballast as a baseline for 8-foot HO ballasts, however, because a T12 magnetic ballast represents the least efficient ballast that meets existing energy conservation standards.

Consistent with projections that a significant portion of 8-foot HO ballasts sold in 2014 (the compliance year of the new and amended standards in this final rule) will be electronic T8HO ballasts, DOE analyzes a T8 electronic ballast as a second baseline for this ballast type. DOE also used a magnetic ballast as a baseline for sign ballasts, which is typical of the least efficient products that are commercially available. In addition, according to DOE's shipment estimates, magnetic ballasts constitute a significant portion of the sign ballast market. For these reasons, DOE continues to analyze both electronic and magnetic baselines for the 8-foot HO and sign representative ballast types in this final rule.

While NEAA and NPCC supported the use of T12 ballasts as an analytical baseline, EEI reasoned that due to the 2009 Lamps Rule, only T8 lamps will be able to comply with the new lamp efficacy standards. Therefore, T8 lamp-and-ballast systems will be the baseline (in terms of product availability) for all consumers as of July 2012. (NEEA and NPCC, No. 44 at p. 6; EEI, No. 48 at p. 2)

DOE has concluded that both T8 and T12 ballasts are appropriate baselines. Although many T12 lamps will not meet the standards adopted in the 2009 Lamps Rule, several manufacturers have already introduced T12 lamp models that are not covered by these standards. Therefore, DOE projects that T12 products will be offered in 2014, the compliance year for this rulemaking. For example, DOE projects that in 2014 shipments (in the base case with existing technologies), while T8 ballasts will have a 78 percent market share, T12 ballasts will still have a market share of 4 percent of covered shipments, or about 5.3 million ballasts.[38] Thus, DOE continues to use T12 ballasts as baselines in this final rule.

[38] T5 ballasts comprise the remaining market share.

b. Representative Units

DOE then selected representative units at each efficiency level with higher BLEs as replacements for each baseline ballast. Representative units are typically ballasts that just meet the EL requirements based on the representative units' lamp arc power. Because DOE revised the shape of the efficiency levels, it also reevaluated its selection of representative units. DOE selected three new representative units based on the revised EL requirements. The revised representative units included the EL3 units for 2-lamp 4-foot MBP and 2-lamp 8-foot slimline ballasts in the IS/RS product class, and the EL2 unit for 2-lamp 4-foot MBP ballasts in the residential IS/RS product class. See chapter 5 of the TSD for more details.

c. Reduced Wattage Lamps

In the April 2011 NOPR, DOE paired each ballast with a representative lamp type to develop system input power and lumen output characteristics for use in the LCC and NIA. Based on the active mode test procedure for fluorescent lamp ballasts, DOE used full wattage lamps for T8 and T5 ballasts and reduced wattage lamps for T12 ballasts. For example, for ballasts that operate 4-foot MBP lamps, DOE paired an F32T8 lamp with T8 ballasts and an F34T12 lamp with T12 ballasts. NEMA commented that due to the prevalence of energy-saving lamps in the market today, the standard 32 watt lamp is not an appropriate selection for the 4-foot MBP T8 system. (NEMA, Public Meeting Transcript, No. 43 at pp. 38–9)

DOE agrees that all ballasts do not operate full-wattage lamps and thus revised the engineering analysis to incorporate the distribution of full- and reduced-wattage lamps on the market. In the 2009 Lamps Rule, DOE estimated the distribution of lamps by wattage that would be compliant with the 2012 energy conservation standards. For this final rule, DOE used those distributions to develop weighted-average lamp wattages (*e.g.,* a rated wattage of 30.8 W for 4-foot MBP T8 lamps) to pair with T8 and T5 ballasts. In addition, DOE also updated the ballast luminous efficiency, system input power, system lumen output, lamp lifetime, and lamp price to reflect the distribution of lamp wattages. See chapter 5 of the final rule TSD for additional details.

7. Scaling to Product Classes Not Analyzed

In the April 2011 NOPR, DOE did not analyze 8-foot HO PS ballasts directly. Thus, it developed a scaling relationship for this starting method. To do so, DOE compared 4-foot MBP IS ballasts to their PS counterparts. DOE found the average reduction in BLE from IS to PS to be 2 percent and therefore applied this reduction to the efficiency levels for the 8-foot HO IS/RS product class.

P.R. China found this approach potentially lacking scientific basis and suggested DOE provide a more detailed explanation of its methodology. (P.R. China, No. 51 at p. 4) As discussed in section V.B.6, DOE identified and selected certain product classes as ''representative'' product classes where DOE would concentrate its analytical effort. DOE chose these representative product classes and the representative units within them primarily because of their high market volumes. DOE then scaled from these representative classes to those not directly analyzed. In the NOPR, DOE calculated a 2 percent reduction factor to scale between IS/RS and PS product classes. This factor was determined by comparing pairs of ballasts in which the only characteristic that differed was starting method. Absent new information, DOE continues to use the 2 percent reduction factor. However, because DOE has established different efficiency level shapes for the IS/RS versus PS product classes, DOE has revised its methodology for scaling an IS/RS efficiency level to a PS efficiency level in this final rule.

To establish residential PS and 8-foot HO PS efficiency levels, DOE input the arc power of the representative unit at each EL into the IS/RS efficiency level equation to calculate the minimum required BLE. DOE then fit an efficiency level with a PS exponent (the exponent ''C'' is 0.37 for PS ballasts) such that it passed through the minimum required BLE by adjusting the coefficient ''B''. Then, DOE applied the 2 percent reduction factor to the overall equation to account for the expected difference in efficiency between IS and PS ballasts. Because multiple representative ballast types existed in the same product class, DOE sought to match the stringency of the PS curve to the IS curve at the highest arc power within that product class.

8. Manufacturer Selling Prices

DOE received comments on the process used to develop manufacturer selling prices (MSPs). NEMA commented that published blue book values account for only a small fraction of market prices and are skewed to be higher relative to the rest of the market. (NEMA, No. 47 at p. 7) DOE recognizes that blue book values are often significantly higher than MSPs and therefore used teardown data and

confidential manufacturer-supplied MSPs in combination with blue book values to determine more accurate MSPs. DOE determined these MSP values by applying manufacturer-specific ratios between blue book prices and teardown- or aggregated manufacturer-sourced MSPs to blue book prices. By applying the manufacturer-specific ratios, the blue book price was reduced to reflect more realistic MSPs.

NEMA also commented that they do not think the price analysis method employed by DOE in the April 2011 NOPR accurately accounts for manufacturing variances among companies and circuit topology. In particular, NEMA disagreed with DOE's determination that higher efficiency ballasts were less expensive to manufacture than normal efficiency ballasts. (NEMA, No. 47 at p. 5) Based on DOE's assessment, certain higher efficiency ballasts are less expensive than lower efficiency ballasts. DOE notes that these trends are consistent with confidential manufacturer cost data received during interviews. Several low efficiency ballasts are magnetic ballasts, which are comprised of materials different from electronic ballasts. The difference in materials, such as the use of larger amounts of electrical steel and copper or aluminum windings in magnetic ballasts, would account for the higher cost. Similarly, DOE found some electronic T12 ballasts to carry a higher MSP than a more efficient T8 electronic ballast. Though these electronic ballasts utilize similar components, the low demand for T12 ballasts reduces the potential for high-volume discounts leading to a higher MSP relative to the T8 ballast.

NEMA questioned DOE's statement in the April 2011 NOPR that teardown prices are independent of long term commodity prices. (NEMA, No. 47 at p. 7) DOE acknowledges that a teardown analysis may be sensitive to the dynamic nature of the electrical component market, but continues to use the teardown results given that limited pricing information is publicly available. In the April 2011 NOPR, DOE amended its teardown approach such that incremental differences between two efficiency levels were based on pricing differences between single manufacturers' ballasts rather than basing prices directly from teardowns of different manufacturers. DOE notes that the industry did not provide average incremental MPC values. Instead, some manufacturers provided confidential data on an individual basis. DOE has not identified any new information that would affect its conclusion in the April 2011 NOPR, and therefore maintains this approach for the final rule.

9. Results

In this final rule, DOE establishes efficiency levels in terms of a power law equation that relates total lamp arc power to BLE. When developing efficiency level equations, DOE plotted the reported value for each ballast model to account for certification requirements. DOE then applied a reduction factor to the efficiency level equations based on an analysis of lab-to-lab variation. Table V.2 summarizes the efficiency levels developed by DOE for each product class. Costs associated with ballasts that meet these efficiency levels are presented in chapter 5 of the TSD.

TABLE V.2—EFFICIENCY LEVELS FOR REPRESENTATIVE PRODUCT CLASSES

BLE = A/(1+B*total lamp arc power∧-C) where A, B, and C are as follows:

Representative product class	Efficiency level	A	B	C
IS and RS ballasts (not classified as residential) that operate	EL 1		0.46	
4-foot MBP lamps	EL 2	0.993	0.31	0.25
2-foot U-shaped lamps	EL 3		0.27	
8-foot slimline lamps				
PS ballasts (not classified as residential) that operate	EL 1		0.60	
4-foot MBP lamps	EL 2	0.993	0.55	0.37
2-foot U-shaped lamps	EL 3		0.51	
4-foot MiniBP SO lamps				
4-foot MiniBP HO lamps				
IS and RS ballasts (not classified as sign ballasts) that operate 8-foot HO lamps	EL 1		1.01	
	EL 2	0.993	0.38	0.25
	EL 3		0.28	
Sign ballasts that operate 8-foot HO lamps	EL 1	0.993	0.47	0.25
IS and RS residential ballasts that operate	EL 1		0.41	
4-foot MBP lamps	EL 2	0.993	0.29	0.25
2-foot U-shaped lamps				
8-foot slimline lamps				

TABLE V.3—EFFICIENCY LEVELS FOR SCALED PRODUCT CLASSES

BLE = A/(1 + B * total lamp arc power∧-C) where A, B, and C are as follows:

Scaled product class	Efficiency level	A	B	C
PS ballasts (not classified as sign ballasts) that operate 8-foot HO lamps	EL 1		1.86	
	EL 2	0.973	0.70	0.37
	EL 3		0.52	
PS residential ballast that operate	EL 1		0.71	
4-foot MBP lamps	EL 2	0.973	0.50	0.37
2-foot U-shaped lamps				

C. Markups to Determine Product Price

By applying markups to the MSPs estimated in the engineering analysis, DOE estimated the amounts consumers would pay for baseline and more efficient products. At each step in the distribution channel, companies mark up the price of the product to cover business costs and maintain a profit margin. Identifying the appropriate markups and ultimately determining consumer product price depend on the type of distribution channels through which the product moves from manufacturer to consumer.

In response to the April 2011 NOPR, DOE received no comments regarding its markups analysis, and therefore retained this approach for this final rule. DOE's markups analysis method and results are discussed in the following sections.

1. Distribution Channels

Before it could develop markups, DOE needed to identify distribution channels (*i.e.,* how the products are distributed from the manufacturer to the end user) for the ballast designs addressed in this final rule. Most ballasts used in commercial and industrial applications pass through one of two types of distribution channels—an original equipment manufacturer (OEM) channel and a wholesaler channel. The OEM distribution channel applies to ballasts shipped in fixtures. In this distribution channel, the ballast passes from the manufacturer to a fixture OEM which in turn sells it to an electrical wholesaler (*i.e.,* distributor); from the wholesaler it passes to a contractor, and finally to the end user. The wholesaler distribution channel applies to ballasts not shipped in fixtures (*e.g.,* replacement ballasts). In this distribution channel, the ballast passes from the manufacturer to an electrical wholesaler, then to a contractor, and finally to the end user.

DOE assumed a separate home improvement retailer distribution channel for residential ballasts, because DOE could not obtain retail sales data detailing the breakdown between fixture ballasts and replacement ballasts, DOE assumed for the markups analysis that the manufacturer sells the residential ballast to a fixture OEM who in turn sells it in a fixture to a home improvement retailer, where it is purchased by the end user.

2. Estimation of Markups

Publicly-owned companies must disclose financial information regularly through filings with the U.S. Securities and Exchange Commission (SEC). Filed annually, SEC form 10–K provides a comprehensive overview of the company's business and financial conditions. To estimate OEM, wholesaler, and retailer markups, DOE used financial data from 10–K reports from publicly owned lighting fixture manufacturers, electrical wholesalers, and home improvement retailers.

DOE's markup analysis developed both baseline and incremental markups to transform the ballast MSP into an end user product price. DOE used the baseline markups to determine the price of baseline designs. Incremental markups are coefficients that relate the change in the MSP of higher-efficiency designs to the change in the OEM, wholesaler, and retailer sales prices. These markups refer to higher-efficiency designs sold under market conditions with new and amended energy conservation standards. The calculated average baseline markups for fixture OEM companies, electrical wholesalers, and home improvement retailers were 1.50, 1.23, and 1.51, respectively. The average incremental markups for OEMs, wholesalers, and home improvement retailers were 1.17, 1.05, and 1.15, respectively.

While recognizing that SEC form 10–K data is not product-specific, actual product markups are generally business-sensitive. For this rule, DOE contacted the National Association of Electrical Distributors (NAED) and received feedback from two NAED member companies, both confirming that DOE's calculated wholesaler markups were consistent with their actual markups for commercial and industrial ballast designs. DOE also contacted Home Depot and Lowe's regarding price markups for residential fluorescent lighting products, but both organizations declined to comment, citing competition concerns. Consequently, DOE based its estimated markups for commercial, industrial and residential ballast designs on financial data from 10–K reports.

For ballasts used in commercial and industrial applications, DOE adjusted the calculated average baseline and incremental markups to reflect estimated proportions of ballasts sold through the OEM and wholesaler distribution channels. DOE assumed ballasts in the fixture OEM channel represent 63 percent of the market and ballasts in the wholesaler channel represent 37 percent. These percentages are from chapter 3 (engineering analysis) of the final TSD for the 2000 Ballast Rule and were based on a comment submitted by NEMA for that rulemaking. For the current ballast rulemaking, neither NEMA nor other interested parties provided updated estimates of distribution channel proportions, or offered adverse comment regarding DOE's assumed proportions.

DOE then multiplied the resulting weighted average markups by a contractor markup of 1.13 (also from the 2000 Ballast Rule, and used in the 2009 Lamps Rule) and sales tax to develop total weighted baseline and incremental markups, which reflect all individual markups incurred in the ballast distribution channels. DOE has not identified a more recent estimate for contractor markups, and did not receive related data or estimates from interested parties in response to the ballasts preliminary TSD or April 2011 NOPR. For residential ballasts, DOE assumed that end users purchased ballasts—already installed in fixtures—directly from home improvement retailers with no contractor involvement or markup. DOE used OEM and retailer markups and sales tax to calculate total baseline and incremental markups for residential ballasts.

The sales tax represents state and local sales taxes applied to the end user equipment price. DOE derived state and local taxes from data provided by the Sales Tax Clearinghouse.[39] These data represent weighted averages that include state, county and city rates. DOE then derived population-weighted average tax values for each census

[39] The Sales Tax Clearinghouse. Available at *https://thestc.com/STRates.stm.* (Last accessed May 16, 2011.)

division and large state, and then derived U.S. average tax values using a population-weighted average of the census division and large state values. This approach provided a national average tax rate of 7.25 percent.

3. Summary of Markups

3. Summary of Markups

TABLE V.4—SUMMARY OF BALLAST DISTRIBUTION CHANNEL MARKUPS

	Commercial/industrial ballasts				Residential ballasts	
	OEM distribution (ballasts shipped in fixtures)		Wholesaler distribution (individual ballasts only)		Retailer distribution (ballasts shipped in fixtures)	
	Baseline	Incremental	Baseline	Incremental	Baseline	Incremental
Fixture OEM	1.50	1.17	.....	.....	1.50	1.17
Electrical Wholesaler (Distributor)	1.23	1.05	1.23	1.05	.....	.....
Home Improvement Retailer	.....	.....	.....	.....	1.51	1.15
Contractor or Installer	1.13	1.13	1.13	1.13	.....	.....
Sales Tax	1.07		1.07		1.07	
Overall	2.24	1.48	1.49	1.27	2.43	1.43
Assumed Market Percentage	63		37		100	
Overall (Weighted)	1.96 (Baseline)		1.41 (Incremental)		2.43	1.43

In response to the April 2011 NOPR, NEMA said it disagreed with DOE's incremental markups for OEMs, contractors and home improvement retailers, citing current economic conditions, price compression and commodity fluctuations. NEMA did not provide details about or suggested revisions to incremental markups. (NEMA, No. 47 at p. 7) DOE was not able to obtain confidential pricing and markups data from OEMs and home improvement retailers to validate its estimated baseline and incremental markups. Absent representative markups data, DOE retained its previously-vetted approach using SEC form 10–K financial reports to estimate markups for OEMs and home improvement retailers. Similarly, no new data to support different contractor markups were available, so DOE retained its NOPR markups for this final rule.

Using these markups, DOE generated ballast end user prices for each efficiency level it considered. Chapter 7 of the final rule TSD provides additional detail on the markups analysis.

D. Energy Use Analysis

For the energy use analysis, DOE estimated the energy use of ballasts in the field (*i.e.,* as they are actually used by consumers in commercial, industrial and residential applications). The energy use analysis provided the basis for other DOE analyses, particularly assessments of the energy savings and the savings in consumer operating costs that could result from DOE's adoption of new and amended standard levels.

To develop annual energy use estimates, DOE multiplied annual usage (in hours per year) by the lamp-and-ballast system input power (in watts). DOE characterized representative lamp-and-ballast systems in the engineering analysis, which provided measured and normalized system input power ratings (the latter used to compare baseline- and standards-case systems on an equal light-output basis). To characterize the country's average use of lamp-and-ballast systems for a typical year, DOE developed annual operating hour distributions by sector, using data published in the U.S. Lighting Market Characterization: Volume I (LMC),[40] the Commercial Building Energy Consumption Survey (CBECS),[41] the Manufacturer Energy Consumption Survey (MECS),[42] and the Residential Energy Consumption Survey (RECS).[43] DOE assumed, based on its market and technology assessment, that PS ballasts operating 4-foot MBP T8 lamps in the commercial sector were operated on occupancy sensors. Based on its survey of available literature, DOE assumed that occupancy sensors would result, on average, in a 30-percent reduction in annual operating hours.

DOE received no comments on the April 2011 NOPR regarding the energy use analysis for ballasts and retains this approach for today's final rule. Chapter 6 of the final rule TSD provides a more detailed description of DOE's energy use analysis.

E. Life-Cycle Cost and Payback Period Analyses

DOE conducted LCC and PBP analyses to evaluate the economic impacts of potential energy conservation standards for ballasts on individual consumers. For any given efficiency level, DOE measures the PBP and the change in LCC relative to an estimated baseline product efficiency level. The LCC is the total consumer expense over the life of a product, consisting of purchase, installation, and operating costs (expenses for energy use, maintenance, and repair). To compute the operating costs, DOE discounted future operating costs to the time of purchase and summed them over the lifetime of the product. The PBP is the estimated amount of time (in years) it takes consumers to recover the increased purchase cost (including installation) of a more efficient product through lower operating costs. DOE calculates the PBP by dividing the

[40] U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy. *U.S. Lighting Market Characterization. Volume I: National Lighting Inventory and Energy Consumption Estimate.* 2002. Available at *http://apps1.eere.energy.gov/buildings/publications/pdfs/corporate/lmc_vol1.pdf.*

[41] U.S. Department of Energy, Energy Information Administration. *Commercial Building Energy Consumption Survey: Micro-Level Data, File 2 Building Activities, Special Measures of Size, and Multi-building Facilities.* 2003. Available at *http://www.eia.doe.gov/emeu/cbecs/public_use.html.*

[42] U.S. Department of Energy, Energy Information Administration. *Manufacturing Energy Consumption Survey, Table 1.4: Number of Establishments Using Energy Consumed for All Purpose.* 2006. Available at *http://www.eia.doe.gov/emeu/mecs/mecs2006/2006tables.html.*

[43] U.S. Department of Energy, Energy Information Administration. *Residential Energy Consumption Survey: File 1: Housing Unit Characteristics.* 2005. Available at *http://www.eia.doe.gov/emeu/recs/recspubuse05/pubuse05.html.*

change in purchase cost (normally higher) by the change in average annual operating cost (normally lower) that results from the more efficient standard.

Inputs to the calculation of total installed costs include the cost of the product—which includes MSPs, distribution channel markups, and sales taxes—and installation costs. Inputs to the calculation of operating expenses include annual energy consumption, energy prices and price projections, repair and maintenance costs, product lifetimes, discount rates, and the year that compliance with new and amended standards is required. To account for uncertainty and variability, DOE created probability distributions for inputs such as operating hours, electricity prices, discount rates and sales tax rates, and disposal costs. For example, DOE created a probability distribution of annual energy consumption in its energy use analysis based, in part, on a range of annual operating hours. The operating hour distributions capture variation across census divisions and large states, building types, and lamp-and-ballast systems for three sectors (commercial, industrial, and residential). Because ballast MSPs were specific to the representative ballast designs evaluated in DOE's engineering analysis and price markups were based on limited publicly-available financial data, DOE used discrete values instead of distributions for these inputs.

The computer model DOE uses to calculate the LCC and PBP, which incorporates Crystal Ball (a commercially available software program), relies on a Monte Carlo simulation to incorporate uncertainty and variability into the analysis. The Monte Carlo simulations randomly sample input values from probability distributions of these values, performing more than 10,000 iterations per simulation run. The final rule TSD chapter 8 and its appendices provide details on the spreadsheet model and all inputs to the LCC and PBP analyses.

Table V.5 summarizes the approach and data DOE used to derive inputs to the LCC and PBP calculations for the April 2011 NOPR as well as the changes made for this final rule. The subsections that follow discuss the model inputs and DOE's changes to them.

TABLE V.5—SUMMARY OF INPUTS AND KEY ASSUMPTIONS IN THE LCC AND PBP ANALYSES *

Inputs	NOPR	Changes for the final rule
Product Cost	Derived by multiplying ballast MSPs by distribution channel markups and sales tax	No change.
Installation Cost	Derived costs using estimated labor times, and applicable labor rates from *RS Means Electrical Cost Data* (2007) and U.S. Bureau of Labor Statistics.	Updated labor rates from 2009$ to 2010$.
Annual Energy Use	Determined operating hours by associating building type-specific operating hours with regional distributions of various building types using lighting market and building energy consumption survey data: LMC (2002), CBECS (2003), MECS (2006), and RECS (2005) [44] (see section V.D).	No change (newer data unavailable).
Energy Prices	Electricity: Based on EIA's Form 826 data for 2010 Variability: Energy prices determined at state level.	No change.
Energy Price Projections	Forecasted using Annual Energy Outlook 2010 (*AEO2010*)	No change.[45]
Replacement and Disposal Costs.	Commercial/Industrial: Included labor and materials costs for lamp replacement, and disposal costs for failed lamps. Residential: Included only materials cost for lamps, with no lamp disposal costs. Variability: Assumed commercial and industrial consumers pay recycling costs in approximately 30 percent of lamp failures and 5 percent of ballast failures.	Updated labor rates from 2009$ to 2010$.
Product Lifetime	Ballasts: Lifetime based on average lifetimes from the 2000 Ballast Rule (and used in the 2009 Lamps Rule). Lamps: Assumed as 91 percent—94 percent of rated life, to account for lamp type and relamping practices.	No change.
Discount Rates	Commercial/Industrial: Estimated cost of capital to affected firms and industries; developed weighted average of the cost to the company of equity and debt financing. Residential: Estimated by examining all possible debt or asset classes that might be used to purchase ballasts. Variability: Developed a distribution of discount rates for each end-use sector.	No change.
Compliance Date of Standards.	2014	No change.
Ballast Purchasing Events.	Assessed two events: Ballast failure and new construction/renovation	No change.

* References for the data sources mentioned in this table are provided in the sections following the table or in chapter 8 of the final rule TSD.

1. Product Cost

To calculate consumer product costs, DOE multiplied the MSPs developed in the engineering analysis by the distribution channel markups described in section V.C.1 (along with sales taxes). DOE used different markups for baseline products and higher-efficiency products, because the markups estimated for incremental costs differ from those estimated for baseline models.

DOE received comments on the April 2011 NOPR questioning its product cost assumptions for residential ballasts. NEEA and NPCC noted that residential consumers would more likely replace an entire fluorescent lamp fixture upon ballast failure, and that these fixtures

[44] RECS was updated in 2009, but these updates did not address lighting usage; therefore, DOE used RECS 2005 data for this final rule.

[45] DOE continues to use *AEO2010* in its final rule analyses. The comment period on DOE's NODA, discussed previously, closed on September 14, 2011, and DOE is required by consent decree to publish the final amended standards for fluorescent lamp ballasts by October 28, 2011. (*State of New York, et al. v. Bodman et al.,* 05 Civ. 7807 (LAP) and *Natural Resources Defense Council, et al. v. Bodman, et al.,* 05 Civ. 7808 (LAP) (Nov. 3, 2006), as amended on June 20, 2011.) The additional time required for DOE to consider the comments and information submitted by interested parties did not allow sufficient time for DOE to update the final rule analyses using *AEO2011.* DOE has determined, however, that the *AEO2011* 30-year annual growth rates for energy consumption (electric power) and electricity generating capacity are almost identical to those in *AEO2010.* The forecasted near-term electricity prices in *AEO2010* are slightly higher than in *AEO2011,* and would produce slightly shorter payback periods. However, these payback periods and other LCC and NIA results are not expected to vary significantly using *AEO2010* and *AEO2011.*

would be less expensive than DOE's estimated ballast prices. (NEEA, Public Meeting Transcript, No. 43 at pp. 169–170; NPCC, Public Meeting Transcript, No. 43 at pp. 163–164; NEEA and NPCC, No. 44 at p. 6) DOE notes that fluorescent fixture and ballast price are highly variable, but maintains that its estimated residential ballast prices (approx. $10–12) are comparable with those for inexpensive fixtures (*e.g.,* shop lights) that residential consumers might replace upon ballast failure. DOE also notes that fixture price data that correspond with individual ballast efficiency levels are not readily available. Therefore, DOE retained its residential ballast product cost approach for this final rule.

On February 22, 2011, DOE published a Notice of Data Availability (NODA, 76 FR 9696) stating that DOE may consider improving regulatory analysis by addressing product and equipment price trends. DOE notes that learning curve analysis characterizes the reduction in production cost mainly associated with labor-based performance improvement and higher investment in new capital equipment at the microeconomic level. Experience curve analysis tends to focus more on entire industries and aggregates over various casual factors at the macroeconomic level: ''Experience curve'' and ''progress function'' typically represent generalizations of the learning concept to encompass behavior of all inputs to production and cost (i.e., labor, capital, and materials).'' The economic literature often uses these two terms interchangeably. The term ''learning'' is used here to broadly cover these general macroeconomic concepts.

Consistent with the February 2011 NODA, DOE examined historical producer price indices (PPI) for fluorescent ballasts and found both positive and negative real price trends depending on the specific time period examined. Therefore, in the absence of a definitive trend, DOE assumed in its price forecasts for the NOPR that the real prices of fluorescent ballasts are constant in time and that fluorescent ballast prices will trend the same way as prices in the economy as a whole. DOE is aware that there have been significant changes in both the regulatory environment and mix of fluorescent ballast and controls technologies that create analytical challenges for estimating longer-term product price trends from the product-specific PPI data. DOE performed price trends sensitivity calculations to examine the dependence of the analysis results on different analytical assumptions.

DOE received no comments on the April 2011 NOPR regarding its ballast price trend basis. For this final rule, DOE also considered adjusting ballast prices using forecasted price indices (called deflators) used by EIA to develop the *AEO.* When adjusted for inflation, the deflator-based price indices decline from 100 in 2010 to approximately 54 in 2043. The effect is diminished significantly when discounting is taken into account. Deflator-based net present value (NPV) results from the national impacts analysis (NIA) were approximately 9 percent higher than NPV values based on constant real prices for ballasts. Given this minor difference in estimated NPV, and that DOE did not receive negative comments on its constant real price basis in the NOPR, DOE retained its constant real price approach for this final rule. A more detailed discussion of price trend modeling and calculations is provided in Appendix 8B of the final rule TSD.

2. Installation Cost

The installation cost is the total cost to the consumer to install the equipment, excluding the marked-up consumer product price. Installation costs include labor, overhead, and any miscellaneous materials and parts. As detailed in the final rule TSD, DOE considered the total installed cost of a lamp-and-ballast system to be the consumer product price (including sales taxes) plus the installation cost. DOE applied installation costs to lamp-and-ballast systems installed in the commercial and industrial sectors, treating an installation cost as the product of the average labor rate and the time needed for installation. Using the same approach, DOE assumed that residential consumers must pay for the installation of a fixture containing a lamp-and-ballast system, and calculated installation price in the same manner. DOE received no comments on the April 2011 NOPR concerning its installation costs for the LCC analysis, and retained this approach for this final rule.

3. Annual Energy Use

As discussed in section V.D, DOE estimated the annual energy use of representative lamp-and-ballast systems using system input power ratings and sector operating hours. The annual energy use inputs to the LCC and PBP analyses are based on weighted average annual operating hours, whereas the Monte Carlo simulation draws on a distribution of annual operating hours to determine annual energy use.

4. Energy Prices

For the LCC and PBP, DOE derived average energy prices for 13 U.S. geographic areas consisting of the nine census divisions, with four large states (New York, Florida, Texas, and California) treated separately. For census divisions containing one of these large states, DOE calculated the regional average excluding the data for the large state. The derivation of prices was based on data from 2010 EIA Form 826, ''Monthly Electric Utility Sales and Revenue Data.'' DOE received no comments on the April 2011 NOPR concerning its derivation of energy prices for the LCC analysis and retained this approach for this final rule.

5. Energy Price Projections

To estimate the trends in energy prices, DOE used the price forecasts in *AEO2010.* To arrive at prices in future years, DOE multiplied current average prices by the forecast of annual average price changes in *AEO2010.* Because *AEO2010* forecasts prices to 2035, DOE followed past EIA guidelines and used the average rate of change from 2020 to 2035 to estimate the price trend for electricity from 2035 to 2043. In addition, the spreadsheets that DOE used to conduct the LCC and PBP analyses allow users to select price forecasts from *AEO's* low-growth, high-growth, and reference case scenarios to estimate the sensitivity of the LCC and PBP to different energy price forecasts. DOE received no specific comments on the April 2011 NOPR concerning its energy price forecasting method for the LCC analysis and retained this approach for this final rule.

6. Replacement and Disposal Costs

In the April 2011 NOPR, DOE addressed lamp replacements occurring within the analysis period as part of operating costs for considered lamp-and-ballast system designs. Replacement costs in the commercial and industrial sectors included the labor and materials costs associated with replacing a lamp at the end of its lifetime, discounted to 2011. For the residential sector, DOE projected that consumers would install their own replacement lamps and incur no related labor costs.

Some consumers recycle failed lamps and ballasts, thus incurring a disposal cost. For the 2009 Lamps Rule, DOE found average recycling costs of 10 cents per linear foot for GSFL and $3.50 for each ballast. DOE surveyed current online recycling cost data for this rulemaking, and determined that its 2009 recycling cost estimates were still

valid. A 2004 report by the Association of Lighting and Mercury Recyclers noted that approximately 30 percent of lamps used by businesses and 2 percent of lamps in the residential sector are recycled nationwide.[46] Consistent with the 2009 Lamps Rule, DOE considered the 30-percent lamp-recycling rate to be significant and incorporated lamp recycling costs into the LCC analysis for commercial and industrial consumers. DOE was unable to obtain reliable ballast recycling rate data, but projected that the likely higher ballast recycling costs would largely discourage voluntary ballast recycling by commercial and industrial consumers. DOE therefore did not include ballast recycling costs in the LCC analysis. Given the low (2 percent) estimated lamp recycling rate in the residential sector, DOE assumed that residential consumers would be even less likely to voluntarily incur the higher recycling costs for ballasts. Therefore, DOE excluded the recycling costs for lamps or ballasts from the LCC analysis for residential ballast designs.

DOE received no comments on the April 2011 NOPR concerning these assumed recycling rates and costs, and retained this approach in the final rule LCC analysis. The Monte Carlo simulation for the final rule allowed DOE to examine variability in recycling practices; consequently, DOE assumed that commercial and industrial consumers pay recycling costs in 5 percent of ballast failures—as well as the 30 percent of lamp failures assumed in the LCC analysis. As in the LCC analysis, DOE assumed that residential lamp and ballast disposal rates were insignificant, and excluded the related disposal costs from the Monte Carlo simulation for residential ballast designs.

7. Product Lifetime

Chapter 8 of the final rule TSD details DOE's basis for its calculation of average ballast lifetimes. DOE used assumptions from the 2000 Ballast Rule and the 2009 Lamps Rule. DOE explicitly sought comment on these assumptions but received no additional information upon which to base changes to them in today's final rule. For ballasts in the commercial and industrial sectors, DOE used an average ballast lifetime of 49,054 hours that, when combined the respective average annual operating hours, yielded average ballast lifetimes of approximately 13 and 10 years in the commercial and industrial sectors, respectively. Consistent with the 2000 Ballast Rule and the 2009 Lamps Rule, DOE assumed an average ballast lifetime of approximately 15 years in the residential sector, which corresponds with 11,835 hours total on an assumed 789 hours per year operating schedule. To account for a range of relamping practices (*e.g.,* group and spot relamping, where lamps are replaced preemptively or after failure, respectively), DOE assumed that lamps operated, on average, for 91–94 percent of rated life, depending on lamp type.

DOE also assumed that ballast lifetimes can vary due to both physical failure and economic factors (*e.g.,* early replacements due to retrofits). DOE accounted for variability in lifetime in LCC and PBP via the Monte Carlo simulation (using repeated random sampling), and in the shipments and NIA analyses by assuming a Weibull distribution for lifetimes that represents failures and replacements. DOE received no adverse comments on the April 2011 NOPR concerning its product lifetime assumptions and retained this approach for this final rule.

8. Discount Rates

The discount rate is the rate at which future expenditures are discounted to estimate their present value. In the April 2011 NOPR, DOE estimated separate discount rates for commercial, industrial, and residential consumers. For both the proposed and final rules, DOE also developed a distribution of discount rates for each end-use sector from which the Monte Carlo simulation samples.

For the industrial and commercial sectors, DOE assembled data on debt interest rates and the cost of equity capital for representative firms that use ballasts. DOE determined a distribution of the weighted-average cost of capital for each class of potential owners using data from the Damodaran online financial database.[47] DOE used the same distribution of discount rates for the commercial and industrial sectors. The average discount rates, weighted by the shares of each rate value in the sectoral distributions, are 6.9 percent for commercial end users and 7.2 percent for industrial end users.

For the residential sector, DOE assembled a distribution of interest or return rates from sources including the Federal Reserve Board's ''Survey of Consumer Finances'' (SCF) in 1989, 1992, 1995, 1998, 2001, 2004 and 2007. DOE assigned weights in the distribution based on the shares of each financial instrument in household financial holdings according to SCF data. The weighted-average discount rate for residential product owners is estimated to be 5.6 percent.

DOE received no comments on the April 2011 NOPR concerning its estimated discount rates for the LCC analysis and retained this approach for this final rule.

9. Compliance Date of Standards

The compliance date is when a covered product is required to meet a new or amended standard. EPCA requires that any new or amended standards established in this rule apply to products manufactured after a date that is five years after—(i) the effective date of the previous amendment; or (ii) if the previous final rule did not amend the standards, the earliest date by which a previous amendment could have been effective; except that in no case may any amended standard apply to products manufactured within three years after publication of the final rule establishing such amended standard. (42 U.S.C. 6295(g)(7)(C)). DOE is required by a 2006 consent decree, as amended, to publish any amended standards for ballasts by October 28, 2011.[48] In accordance with 42 U.S.C. 6295(g)(7)(C), the compliance date is three years after the publication of any final new and amended standards. DOE calculated the LCC for all end users as if each one would purchase a new ballast in the year compliance with the standard is required.

10. Ballast Purchasing Events

DOE based the LCC and PBP analyses for this rulemaking on scenarios where consumers must purchase a ballast. Each of these purchasing events may involve a different set of ballast or lamp-and-ballast designs and, therefore, a different set of LCC savings for a certain efficiency level. The two scenarios are (1) ballast failure and (2) new construction/renovation. In the ballast failure scenario, DOE assumed that the consumer of the failed ballast would replace it with a standards-compliant lamp-and-ballast combination such that the system light output never drops more than 10 percent below that of the baseline system. For the ballast failure scenario, DOE used rated system input power to calculate annual energy use. For new construction/renovation, DOE assumed that consumers may design a new installation that matches the

[46] Association of Lighting and Mercury Recyclers, ''National Mercury-Lamp Recycling Rate and Availability of Lamp Recycling Services in the U.S.'' Nov. 2004.

[47] The data are available at *http://pages.stern.nyu.edu/~adamodar.*

[48] *State of New York, et al.* v. *Bodman et al.,* 05 Civ. 7807 (LAP) and *Natural Resources Defense Council, et al.* v. *Bodman, et al.,* 05 Civ. 7808 (LAP) (Nov. 3, 2006), as amended on June 20, 2011.

overall light output of the base-case system. DOE used normalized system input power, adjusted to yield equivalent light output from both the baseline and substitute new construction/renovation systems.

DOE received no comments on the April 2011 NOPR concerning its assumed ballast purchasing events for the LCC analysis and retained this approach for this final rule.

F. National Impact Analysis—National Energy Savings and Net Present Value Analysis

DOE's NIA assessed the national energy savings (NES) and the NPV of total consumer costs and savings that would be expect from new or amended standards at specific efficiency levels. (''Consumer'' in this context refers to users of the regulated product.)

DOE used a spreadsheet model to calculate the energy savings and the national consumer costs and savings for each TSL. The TSD and other documentation for the rulemaking explain the models and how to use them, allowing interested parties to review DOE's analyses by changing various input quantities within the spreadsheet.

DOE used the NIA spreadsheet to calculate the NES and NPV, based on the annual energy consumption and total installed cost data from the energy use and LCC analyses. DOE forecasted the energy savings, energy cost savings, product costs, and NPV of consumer benefits for each product class for products sold from 2014 through 2043. The forecasts provided annual and cumulative values for these four output parameters. DOE examines sensitivities in the NIA by analyzing different efficiency scenarios, such as Roll-up and Shift.

DOE evaluated the national impacts of new and amended standards for ballasts by comparing base-case projections with standards-case projections. The base-case projections characterize energy use and consumer costs for each product class in the absence of new or amended energy conservation standards. DOE compared these projections with projections characterizing the market for each product class if DOE adopted new or amended standards at specific energy efficiency levels (*i.e.,* the TSLs or standards cases) for that class. In characterizing the base and standards cases, DOE considered historical shipments, the mix of efficiencies sold in the absence of new standards, and how that mix may change over time. Additional information about the NIA spreadsheet is in final rule TSD chapter 11.

Table V.6 summarizes the approach and data DOE used to derive the inputs to the NES and NPV analyses for the April 2011 NOPR, as well as the changes to the analyses for the final rule. A discussion of selected inputs and changes follows. See chapter 11 of the final rule TSD for further details.

TABLE V.6—APPROACH AND DATA USED FOR NATIONAL ENERGY SAVINGS AND CONSUMER NET PRESENT VALUE ANALYSES

Inputs	NOPR	Changes for the final rule
Shipments	Derived annual shipments from shipments model	See Table V.7.
Compliance Date of Standard.	2014	No change.
Annual Energy Consumption per Unit.	Established in the energy use analysis (NOPR TSD chapter 6)	Energy use analysis updated using most recent available inputs.
Rebound Effect	1% in commercial and industrial sectors, 8.5% in residential sector	No change.
Electricity Price Forecast	*AEO2010*	No change.
Energy Site-to-Source Conversion Factor.	Used marginal conversion factors generated by NEMS–BT; factors held constant after 2035.	No change.
Discount Rate	3% and 7% real	No change.
Present Year	2011	No change.

1. Shipments

Product shipments are an important input to any estimate of the future impact of a standard. To develop the shipments portion of the NIA spreadsheet, DOE used a three-step process to: (1) Estimate historical shipments; (2) calculate installed ballast stock; and (3) develop annual shipment projections for the analysis period 2014–2043. Table V.7 summarizes the approach and data DOE used to derive the inputs to the shipments analysis for the April 2011 NOPR and the changes DOE made for today's final rule. A discussion of these inputs and changes follows. For details on the shipments analysis, see chapter 10 of the final rule TSD.

TABLE V.7—APPROACH AND DATA USED FOR THE SHIPMENTS ANALYSIS

Inputs	NOPR	Changes for the final rule
Historical Shipments	Used historical shipments for 1990–2005 to develop shipments and stock projections for the analysis period; changed lifetime distribution and growth assumptions, mitigating oscillations in shipment projections.	No change.
Ballast Stock	Based projections on the shipments that survive up to a given date; assumed Weibull lifetime distribution.	No change.
Growth	Used 2010 *AEO* projections for floorspace growth	Revised growth rate for residential sector.

TABLE V.7—APPROACH AND DATA USED FOR THE SHIPMENTS ANALYSIS—Continued

Inputs	NOPR	Changes for the final rule
Base Case Scenarios	Analyzed both existing technology and emerging technology scenarios	Added dimming ballast penetration rate to the emerging technology scenario; revised efficiency apportionments for commercial sector ballasts operating 4-foot MBP lamps.
Standards Case Scenarios	Analyzed Shift and Roll-up scenarios based on both existing and emerging technology cases.	No change.

a. Historical Shipments

For the April 2011 NOPR, DOE used U.S. Census Bureau Current Industrial Reports (CIR) to estimate historical (1990–2005) shipments for each representative ballast type. The census CIR data cover NEMA shipments for individual ballast designs (*e.g.,* 2-lamp F96T8), as well as aggregated shipments for multiple designs to prevent disclosing data for individual companies. For lower-volume ballast designs, the CIR withheld shipments data to avoid disclosing individual company data.

For CIR reporting years for which specific shipments data are too aggregated or unavailable, DOE estimated historical shipments using trends within the available data and/or market trends identified in ballast manufacturer interviews, the 2009 Lamps Rule, and the 2000 Ballast Rule. DOE then adjusted these estimates to account for the volume of ballasts that non-NEMA companies import or manufacture. DOE received no comments on the April 2011 NOPR regarding historical ballast shipments data and estimates. DOE also found no historical ballast shipment data to validate its NOPR shipments analysis because neither NEMA nor its member companies typically retain data of the vintage in question (1990–2005). DOE therefore concluded that census data remain the best available data for estimating historical ballast shipments and retained its approach for this final rule.

b. Ballast Stock Projections

In its shipments analysis for the April 2011 NOPR, DOE calculated the installed ballast stock using historical shipments estimated from U.S. Census Bureau CIR data (1990–2005) and projected shipments for future years. DOE estimated the installed stock during the analysis period by calculating how many ballasts will survive up to a given year based on a Weibull lifetime distribution for each ballast type. DOE received no comments on the April 2011 NOPR regarding its ballast stock projection method and retained this approach for this final rule.

c. Projected Shipments

By modeling ballast market segments (*i.e.,* purchasing events) and applying lifetime distribution, growth and emerging technologies penetration rate assumptions, and efficiency scenarios, DOE developed annual shipment projections for the analysis period (2014–2043). The following subsections address the lifetime, base-case market share apportionment, emerging technology, market trend, and efficiency scenario issues that DOE considered in its shipments analysis for the final rule.

i. Ballast Lifetime Assumptions

In its shipments analysis for the April 2011 NOPR, DOE retained the average ballast physical lifetimes used in its preliminary analysis, and combined them with Weibull distributions for lifetimes to model ballast failures and retrofits. DOE received no comments on the April 2011 NOPR regarding its assumed average ballast lifetimes and lifetime distributions and retained this approach for this final rule.

ii. Base-Case Market Share Apportionments

When choosing lighting systems, consumers consider attributes such as lifetime, efficiency, price, lumen output, rated wattage, and total system power. Therefore, within each product class, DOE developed efficiency level market share apportionments to account for the mix of system attributes that consumers select in the base case. These market share apportionments were used to estimate base case historical shipments and installed stock for each ballast design.

DOE was not able to obtain detailed historical ballast shipment data to develop percentage market shares for the analyzed ballast designs. Based on initial manufacturer interviews, however, DOE was able to develop a general assumed market-share apportionment using shipments of electronic ballasts for 4-foot T8 MBP systems. DOE then applied this general apportionment to each product class in the base case, assigning 69 percent of shipments to the baseline ballast design, and dividing the remaining 31 percent of shipments among the higher efficiency designs.

For the April 2011 NOPR, DOE received several comments regarding base case market share apportionments and their effects on estimated energy savings and economic benefits. Universal questioned DOE assigning a majority market share to baseline ballast designs, noting at least 80 percent of NEMA manufacturers' current ballast shipments are classified as NEMA Premium. (Universal, Public Meeting Transcript, No. 43 at p. 38; NEMA, No. 56 at p. 4) Philips and Universal further contended that DOE's baseline apportionments—including magnetic ballast designs—effectively underestimated the efficiency of the installed ballast stock and overestimated the resulting energy savings and economic benefits of the proposed efficiency standards. (Philips, Public Meeting Transcript, No. 43 at p. 64; Universal, Public Meeting Transcript, No. 43 at p. 38)

DOE agrees that the ballast market is shifting to higher efficiency designs, but notes that its baseline representative ballasts (excluding ballasts operating two 8-foot T12 lamps, and four-lamp sign ballasts) are electronic designs. Therefore, less-efficient magnetic baseline designs did not have a significant effect on DOE's NIA results. However, DOE reviewed the prevalence of NEMA Premium products in its tested ballasts (including baseline products), and adjusted the market share apportionments of higher efficiency level ballasts in the IS and RS, and PS product classes accordingly. DOE could not verify NEMA's estimated 80 percent market share for higher efficiency designs. Based on its review,

however, DOE assigned a 64-percent market share to the higher efficiency level designs and a 36-percent market share to baseline ballast designs in these product classes in the base case for the final rule shipments analysis.

iii. Emerging Technologies Shipment Forecasts

In its previous analyses, DOE modeled separate existing and emerging technologies shipment scenarios to characterize the uncertainty in ballast market penetration by emerging solid-state lighting (SSL) technologies. The existing technologies scenario generally considers only the market penetration of technologies that are mature in terms of price and efficiency, largely excluding SSL. In the emerging technologies scenario, the shipments and installed stock of ballasts (*e.g.,* ballasts operating 4-foot MBP T8 lamps) decrease due to significant replacement by SSL. This scenario effectively lowers the energy savings of new fluorescent lamp ballast standards. DOE acknowledges both scenarios and the likelihood that actual results will fall between them by presenting the two scenarios' energy savings and economic effects as a range.

Consistent with the 2009 Lamps Rule and its current research, DOE assumed no SSL penetration for residential linear fluorescent applications. DOE stated in the April 2011 NOPR that residential energy codes will drive the market toward higher efficacy lighting systems, but that the related market growth will be greater for compact fluorescent lamp (CFL)-based fixtures than for 4-foot MBP fluorescent systems. As discussed in DOE's SSL Multi Year Program Plan (updated May 2011), the vast majority of residential sockets are dedicated to incandescent lamps, for which screw-base compact fluorescent and SSL lamps are direct replacements.[49] DOE's review of available residential fixture surveys confirms that linear fluorescent fixtures are typically relegated to utility room, laundry, and some kitchen applications. A comparison of recent California residential lighting data for 2005 and 2009 shows no significantly increased installation of linear fluorescent systems, and DOE believes that residential consumers will continue to opt for lower-first-cost fluorescent systems rather than installing more expensive SSL replacements for linear fluorescent lamps and fixtures. DOE received no adverse comments to the April 2011 NOPR for not including SSL penetration in its residential ballast shipments. Given the limited residential applications for linear fluorescent systems, DOE retained this approach for this final rule.

For the April 2011 NOPR, DOE received comments regarding how regulations requiring use of dimming ballasts could affect future shipments of fixed-output ballasts. Commenters referenced proposed regulations in California that would require controllable ballasts in non-residential applications. (ASAP, Public Meeting Transcript, No. 43 at p. 209; Lutron, Public Meeting Transcript, No. 43 at pp. 207–208; Philips, Public Meeting Transcript, No. 43 at p. 179) Philips further suggested that SSL and dimming ballasts in combination could largely eliminate the fixed-output ballast market by 2040. (Philips, Public Meeting Transcript, No. 43 at p. 187)

As part of its 2013 Title 24 updates (effective in 2014), the state of California is considering mandatory requirements for controllable light sources that could require dimming ballasts for non-residential linear fluorescent systems.[50] These proposed changes to Title 24 would build upon existing requirements for stepped lighting controls, requiring significantly increased granularity of control at the individual fixture level. It is uncertain, however, whether these proposed changes to Title 24 will be enacted. It is also not certain that other building standards, such as the American Society of Heating, Refrigerating and Air-Conditioning Engineers standard 90.1 (ASHRAE 90.1), would adopt the ballast controllability requirements being considered in California. DOE projects that a significant number of fluorescent lighting installations where dimming is not practical or possible (such as spaces without daylighting, or where occupancy/vacancy sensing can extinguish lighting) will remain, thus maintaining demand for fixed-output ballasts.

In its comments to the April 2011 NOPR, NEMA generally affirmed DOE's shipment projections, but asserted that DOE underestimated the current and future penetration of SSL in the emerging technologies scenario. (NEMA, No. 47 at pp. 8–9) NEEA stated that the emerging technologies forecast is the more likely of DOE's two shipment scenarios, and that DOE should increase the penetration of SSL and controllable lighting to lower the projected shipments of fixed-output ballasts. (NEEA and NPCC, No. 44 at p. 7)

As described previously in this section, DOE developed existing and emerging technologies shipment scenarios to investigate uncertainties in ballast market penetration by other technologies. Although dimming ballasts are an existing technology, DOE considered them an ''emerging application'' for fluorescent lighting applications and included dimming ballasts with SSL products in its emerging technologies shipments scenario for this final rule. As discussed in chapter 10 of the final rule TSD, because SSL penetration has increased since the inception of this rulemaking, DOE increased its estimated penetration rate earlier in the shipments analysis period. DOE also increased the maximum penetration of 40.6 percent (for SSL in the April 2011 NOPR) to a maximum penetration of 75 percent (for SSL and dimming ballasts combined). This increased penetration resulted in decreased shipments for affected ballast types for the lower boundary, base case shipments scenario.

iv. Anticipated Market Trends

DOE received comments on the April 2011 NOPR regarding its shipment projections for residential ballasts. NEEA and NPCC questioned whether DOE overestimated residential ballast shipments, based on the commenters' understanding of ballast lifetimes and new construction growth rates. (NEEA, Public Meeting Transcript, No. 43 at pp. 194–195; NPCC, Public Meeting Transcript, No. 43 at p. 195) DOE calculates shipments of ballasts due to new construction, retrofits and replacements for failed ballasts. After reviewing its assumptions for these three purchasing events, DOE adjusted its estimated shipments downward by approximately 30 percent for the final rule shipments analysis. See chapter 10 of the final rule TSD for additional details.

v. Efficiency Scenarios

Several of the inputs for determining NES (*e.g.,* the annual energy consumption per unit) and NPV (*e.g.,* the total annual installed cost and the total annual operating cost savings) depend on product efficiency.

For the April 2011 NOPR, DOE used two shipment efficiency scenarios: ''Roll-up'' and ''Shift.'' The Roll-up scenario is a standards case in which all product efficiencies in the base case that do not meet the standard would roll up to meet the new standard level.

[49] U.S. Department of Energy—Office of Energy Efficiency and Renewable Energy. *Solid-State Lighting Research and Development: Multi Year Program Plan.* March 2011 (Updated May 2011). Washington, DC Available at *http://apps1.eere.energy.gov/buildings/publications/pdfs/ssl/ssl_myp2011_web.pdf.*

[50] California Energy Commission's 2013 Building Energy Efficiency Standards Rulemaking Web page. Available at *http://www.energy.ca.gov/title24/2013standards/prerulemaking/.* (Last accessed May 27, 2011.)

Consumers in the base case who purchase ballasts above the standard level are not affected as they are assumed to continue to purchase the same base-case ballast or lamp-and-ballast system. The Roll-up scenario characterizes consumers primarily driven by the first-cost of the analyzed products. In contrast, the Shift scenario models a standards case in which the standard affects all base-case consumer purchases (regardless of whether their base-case efficiency is below the standard). In this scenario, any consumer may purchase a more efficient ballast, preserving the same relationship to the baseline ballast efficiency. For example, if a consumer purchased a ballast one efficiency level above the baseline, that consumer would do the same after a standard is imposed. In this scenario, DOE assumed product efficiencies in the base case that do not meet the standard would roll up to meet the new standard level, as in a roll-up scenario. However, product efficiencies at or above the new standard level would shift to higher efficiency levels. As the standard level increases, market share incrementally accumulates at the highest standard level because it represents max tech (*i.e.,* moving beyond this efficiency level is not achievable with today's technology).

DOE received no comments on the April 2011 NOPR regarding its Roll-up and Shift efficiency scenarios and retained this approach for the final rule shipments analysis.

2. Site-to-Source Energy Conversion

To estimate the national energy savings expected from appliance standards, DOE uses a multiplicative factor to convert site energy consumption (at the home or commercial building) into primary or source energy consumption (the energy required to convert and deliver the site energy). These conversion factors account for the energy used at power plants to generate electricity and losses in transmission and distribution. For electricity, the conversion factors vary over time due to projected changes in generation sources (*i.e.,* the power plant types projected to provide electricity to the country). The factors that DOE developed are marginal values, which represent the response of the system to an incremental decrease in consumption associated with appliance standards.

For the April 2011 NOPR, DOE used annual site-to-source conversion factors based on the version of NEMS that corresponds to *AEO2010,* which provides energy forecasts through 2035. For 2036–2043, DOE used conversion factors that remain constant at the 2035 values.

Section 1802 of EPAct 2005 directed DOE to contract a study with the National Academy of Science (NAS) to examine whether the goals of energy efficiency standards are best served by measurement of energy consumed, and efficiency improvements, at the actual point-of-use or through the use of the full-fuel-cycle, beginning at the source of energy production (Pub. L. 109–58 (August 8, 2005)). NAS appointed a committee on ''Point-of-Use and Full-Fuel-Cycle Measurement Approaches to Energy Efficiency Standards'' to conduct the study, which was completed in May 2009. The NAS committee defined full-fuel-cycle energy consumption as including, in addition to site energy use, the following: Energy consumed in the extraction, processing, and transport of primary fuels such as coal, oil, and natural gas; energy losses in thermal combustion in power generation plants; and energy losses in transmission and distribution to homes and commercial buildings.[51]

In evaluating the merits of using point-of-use and full-fuel-cycle measures, the NAS committee noted that DOE uses what the committee referred to as ''extended site'' energy consumption to assess the impact of energy use on the economy, energy security, and environmental quality. The extended site measure of energy consumption includes the energy consumed during the generation, transmission, and distribution of electricity but, unlike the full-fuel-cycle measure, does not include the energy consumed in extracting, processing, and transporting primary fuels. A majority of the NAS committee concluded that extended site energy consumption understates the total energy consumed to make an appliance operational at the site. As a result, the NAS committee recommended that DOE consider shifting its analytical approach over time to use a full-fuel-cycle measure of energy consumption when assessing national and environmental impacts, especially with respect to the calculation of greenhouse gas emissions. The NAS committee also recommended that DOE provide more comprehensive information to the public through labels and other means, such as an enhanced Web site. For those appliances that use multiple fuels (*e.g.,* water heaters), the NAS committee indicated that measuring full-fuel-cycle energy consumption would provide a more complete picture of energy consumed and permit comparisons across many different appliances, as well as an improved assessment of impacts.

In response to the NAS recommendations, DOE issued, on August 20, 2010, a Notice of Proposed Policy proposing to incorporate a full-fuel cycle analysis into the methods it uses to estimate the likely impacts of energy conservation standards on energy use and emissions. Specifically, DOE proposed to use full-fuel-cycle (FFC) measures of energy and GHG emissions, rather than the primary (extended site) energy measures it currently uses. Additionally, DOE proposed to work collaboratively with the FTC to make FFC energy and GHG emissions data available to the public to enable consumers to make cross-class comparisons. On October 7, 2010, DOE held an informal public meeting to discuss and receive comments on its planned approach. The Notice, a transcript of the public meeting and all public comments received by DOE are available at: *http://www.regulations.gov/search/Regs/home.html#docketDetail?R=EERE-2010-BT-NOA-0028.* Following the close of the public comment period, DOE issued a final policy statement on these subjects and will take steps to begin implementing that policy in future rulemakings and other activities. 76 FR 51281 (August 18, 2011). The Statement of Policy is available at: *http://www.gpo.gov/fdsys/pkg/FR-2011-08-18/pdf/2011-21078.pdf.*

G. Consumer Sub-Group Analysis

In analyzing the potential impact of new or amended standards on consumers, DOE evaluates the impact on identifiable sub-groups of consumers (*e.g.,* low-income households) that a national standard may disproportionately affect. DOE received no comments regarding specific sub-groups and, therefore, evaluated the same sub-groups addressed in the 2009 Lamps Rule, assuming that consumers using GSFL would share similar characteristics with ballast consumers. Specifically, DOE evaluated the following consumer sub-groups for the April 2011 NOPR: low-income households; institutions of religious worship; and institutions that serve low-income populations (*e.g.,* small nonprofits). DOE received no comments on the April 2011 NOPR regarding its choice of consumer sub-groups, and retained this approach for this final rule. The final rule TSD chapter 12 presents the consumer subgroup analysis.

[51] The National Academies, Board on Energy and Environmental Systems, Letter to Dr. John Mizroch, Acting Assistant Secretary, U.S. DOE, Office of Energy Efficiency and Renewable Energy from James W. Dally, Chair, Committee on Point-of-Use and Full-Fuel-Cycle Measurement Approaches to Energy Efficiency Standards, May 15, 2009.

H. Manufacturer Impact Analysis

DOE performed an MIA to estimate the financial impact of new and amended energy conservation standards on manufacturers of ballasts, and to calculate the impact of such standards on employment and manufacturing capacity. The MIA has both quantitative and qualitative aspects. The quantitative part of the MIA primarily relies on the GRIM, an industry cash-flow model using inputs specific to this rulemaking. The key GRIM inputs are data on the industry cost structure, product costs, shipments, and assumptions about markups and conversion expenditures. The key output is the INPV. DOE used the GRIM to calculate cash flows using standard accounting principles and to compare changes in INPV between a base case and various TSLs (the standards cases). The difference in INPV between the base and standards cases represents the financial impact of the new and amended standards on manufacturers. Different sets of shipment and markup assumptions (scenarios) will produce different results. The qualitative part of the MIA addresses factors such as product characteristics, characteristics of and impacts on particular sub-groups of firms, and important market and product trends. DOE outlined its complete methodology for the MIA in the NOPR. 76 FR 20090, 20134 (April 11, 2011). Chapter 13 of the TSD outlines the complete MIA.

1. Product and Capital Conversion Costs

New and amended energy conservation standards will cause manufacturers to incur conversion costs to bring their production facilities and product designs into compliance. For the MIA, DOE classified these conversion costs into two major groups: (1) product conversion costs and (2) capital conversion costs. For the final rule, DOE converted the NOPR product and capital conversion costs to 2010$ from 2009$ using the producer price index (PPI) for the relevant industry. The PPI is disaggregated into each North American Industry Classification System (NAICS) code. For fluorescent lamp ballasts, DOE updated the conversion costs using the specific PPI index under NAICS code 335311—''Electric power and specialty transformer manufacturing'' and series ID PCU3353113353115—''Fluorescent lamp ballasts.'' DOE's estimates of the product and capital conversion costs for fluorescent lamp ballasts can be found in section VII.B.2.a, of today's final rule and in chapter 13 of the TSD.

a. Product Conversion Costs

Product conversion costs are investments in research, development, testing, marketing, and other non-capitalized costs necessary to make product designs comply with the new or amended energy conservation standard.DOE based its estimates of the product conversion costs that would be required to meet each TSL on information obtained from manufacturer interviews, the engineering analysis, the NIA shipment analysis, and market information about the number of models and stock-keeping units (SKUs) each major manufacturer supports. This methodology, described in full in the April 2011 NOPR (76 FR 20090, 20136 (April 11, 2011)), centers on an assessment of the number of models and SKUs manufacturers will need to upgrade to meet new and amended standards. DOE applied a per-model and per-SKU cost to every product currently offered by manufacturers that does not meet the analyzed standard levels.

Several stakeholders questioned this methodology, arguing that DOE's assumption that manufacturers would upgrade all models that do not currently meet existing standards leads to overstated conversion cost estimates. In reality, manufacturers would not upgrade non-compliant models in product categories where they already offer similar compliant models. (NEEA and NPCC, No. 44 at pp. 7–8; CA Utilities, No. 45 at pp. 7–8) Similarly, NEEA and NPCC stated that manufacturers may not upgrade all non-compliant product lines as they shift resources away from fluorescent lighting toward emerging technologies such as solid-state lighting. (NEEA and NPCC, No. 44 at p. 8)

In contrast, manufacturers argued that full product line upgrades would be necessary to compete. GE explained that manufacturers must upgrade non-compliant models even in categories in which compliant models currently exist because today's high efficiency products generally bundle additional premium features at a higher cost. These premium features, such as Type CC protection, cold temperature rating, case size, and lamp striation control, are detailed in the April 2011 NOPR. 76 FR 20090, 20108–9 (April 11, 2011). To remain competitive, manufacturers would need to offer compliant products stripped of these premium features to the cost-conscious OEM channels. (GE, Public Meeting Transcript, No. 43 at p. 217) Philips emphasized that manufacturers cannot simply ignore the ballast market by choosing not to make the necessary investments to meet today's standards because it represents an important part of the lighting business. (Philips, Public Meeting Transcript, No. 43 at pp. 213–4)

Although DOE's max tech efficiency levels do not preclude ballasts with premium features, DOE agrees that competition in the OEM channel would force manufacturers to offer a low-cost product at the new baseline standard level. The large fixture manufacturers that compose the OEM channel are price-sensitive, and their large orders afford them substantial buying power. Their business is valuable to the ballast industry because the manufacturers rely on these high-volume orders to improve plant utilization and lower fixed costs per unit for all models. As such, DOE does not predict that large ballast manufacturers can afford to ignore the demand for these commoditized [52] products. DOE also finds it unreasonable to assume that manufacturers would forego investment in the ballast market due to a shifting focus on emerging technologies because ballast sales currently generate significant revenue for these companies. For these reasons, DOE has not adjusted its methodology for determining the number of models that would need to be upgraded in response to standards.

b. Capital Conversion Costs

Capital conversion costs are investments in property, plant, and equipment necessary to adapt or change existing production facilities such that new product designs can be fabricated and assembled. Estimates for capital conversion costs varied greatly from manufacturer to manufacturer, as manufacturers anticipated different paths to compliance based on the modernity, flexibility, and level of automation of the equipment already existing in their factories. However, all manufacturers DOE interviewed indicated that capital costs would be relatively moderate compared to the required engineering costs. 76 FR 20090, 20136 (April 11, 2011).

2. Markup Scenarios

For the MIA, DOE modeled two standards-case markup scenarios to represent the uncertainty regarding the potential impacts on prices and profitability for manufacturers following the implementation of amended energy conservation standards: (1) A preservation of operating profit markup scenario, and (2) a two-tier markup scenario. These scenarios lead to

[52] In this final rule, we define 'commoditized' to mean that a large number of products are produced by many manufacturers, such that the products are differentiated only by price.

different markups values, which, when applied to the inputted MPCs, result in varying revenue and cash flow impacts.

The preservation of operating profit markup scenario assumes that manufacturers are able to maintain the base-case total operating profit in absolute dollars in the standards case, despite higher product costs and investment. DOE adjusted the manufacturer markups in the GRIM at each TSL to yield approximately the same earnings before interest and taxes in the standards case in the year after the compliance date of the new and amended standards as in the base case. The preservation of operating profit markup scenario represents the upper bound of industry profitability following amended energy conservation standards. Under this scenario, while manufacturers are not able to yield additional operating profit from higher production costs and the investments required to comply with the new and amended energy conservation standard, they are able to maintain the same operating profit in the standards case as in the base case.

DOE also modeled a lower bound profitability scenario with the two-tier markup scenario. In this scenario, DOE assumed that the markup on fluorescent lamp ballasts varies according to two efficiency tiers in both the base case and the standards case. DOE used information from MIA interviews to estimate markups for fluorescent lamp ballasts under a two-tier pricing strategy in the base case. In the standards case, DOE modeled the situation in which portfolio reduction squeezes the margin of higher-efficiency products as they become the new baseline, presumably high-volume products. 76 FR 20090, 20137 (April 11, 2011).

3. Other Key GRIM Inputs

Key inputs to the GRIM characterize the fluorescent lamp ballast industry cost structure, investments, shipments, and markups. For today's final rule, DOE made several updates to the GRIM to reflect changes in these inputs. These updates do not represent changes in methodology from the April 2011 NOPR. Specifically, DOE incorporated changes made in the engineering analysis and NIA, including updates to the MPCs, shipment forecasts, and shipment efficiency distributions. These updated inputs affected the values calculated for the conversion costs and markups described above, as well as the INPV results presented in section VII.B.2.

4. Other Comments From Interested Parties

The following section discusses a number of other comments DOE received on the April 2011 NOPR MIA methodology.

a. Fixture Redesigns for Ballast Can Size Changes

Several interested parties commented that new and amended standards could drive larger ballast designs, which would result in product redesign and tooling costs for fixture manufacturers because fixtures are built for a particular ballast can size. NEMA stated that increasing efficiency by employing additional circuitry to reduce variation would drive larger case sizes. (NEMA, No 47 at p. 9) At the same time, the market has trended over time toward the use of smaller can sizes (from the standard can to the A-can and, most recently, from the A-can to the N-can). Larger can sizes would reverse this trend and cost fixture manufacturers tens of millions of dollars each, according to NEMA and Acuity Brands. Accordingly, these fixture redesign costs should be included in DOE's analysis. (NEMA, Public Meeting Transcript, No. 43 at pp. 33–4, 36–7; Acuity Brands, Public Meeting Transcript, No. 43 at pp. 171–2)

DOE recognizes that the fluorescent lamp ballast market has trended over time toward the use of smaller can sizes. For today's final rule, as discussed in section V.B.5.a, DOE is not analyzing any efficiency levels that would eliminate manufacturers' ability to meet standard levels with the smaller N-cans. DOE has accounted for sources of variation and compliance certification requirements, as described in section V.B.4, and does not project that ballasts will grow in size in response to standards. As such, fixture manufacturers will not incur product redesign and tooling costs to accommodate larger ballasts.

b. Potential Benefits to Ballast Manufacturers

ASAP noted that energy conservation standards for fluorescent lamp ballasts could accelerate the adoption of emerging technologies. Because ballast manufacturers often also offer these emerging technologies and can typically command higher margins on these emerging technology products, ballast manufacturers could be less affected by standards than estimated by DOE. (ASAP, Public Meeting Transcript, No. 43 at pp. 209–11)

As addressed in response to comments in the April 2011 NOPR (76 FR 20090, 20138 (April 11, 2011)), the potential exists for the market to increasingly migrate from traditional fixed light output fluorescent lamp ballasts to alternate technologies such as LEDs and dimming ballasts. DOE therefore models the emerging technologies shipment scenario as described in section V.F.1.c and in chapter 10 of the TSD. This market shift to emerging technologies occurs in the base case. That is, the shift is not standards-induced. DOE excludes the revenue from substitute technologies earned by manufacturers who produce ballasts in the GRIM because the revenue stream would be present in both the base case and the standards case, resulting in no impact on the change in INPV.

c. Opportunity Cost of Investments

NEMA and Philips stated that the TSL proposed in the April 2011 NOPR (76 FR 20090, 20166–9 (April 11, 2011)) would have a high opportunity cost due to the limited capital for investment and R&D. Any investments incurred to meet amended ballast standards would reflect foregone investments in emerging technologies such as solid state lighting and controls, and reduced wattage lamp and ballast systems, which the industry believes offer both better prospects for market growth and greater potential for energy savings than traditional fixed-light-output fluorescent lamp ballasts. (Philips, Public Meeting Transcript, No. 43 at pp. 212–3; NEMA, Public Meeting Transcript, No. 43 at pp. 40–1; NEMA, No. 47 at pp. 9, 11) Specifically, NEMA argued that the investments necessary to meet new and amended ballast standards would be better spent developing new technologies that can save far more energy than the 2 to 3 percent additional energy savings this standard would generate. (NEMA, No. 52 at p. 10) NEMA also stated that the proposed rule provided no clear incentive for manufacturers to comply with standards by making already highly efficient products even more efficient. (NEMA, No. 47 at p. 9)

DOE recognizes that there is an opportunity cost associated with any investment, and agrees that manufacturers would need to spend capital to meet today's standard that they would not have to spend in the base case. As a result, manufacturers must determine the extent to which they will balance investment in the traditional ballast market with that in emerging technologies or other ventures. DOE includes the product and capital conversion costs necessary to meet today's standard in its analysis.

d. Component Availability

OSI stated that there are currently long lead times for many electronic components. As DOE standards push the fluorescent lamp ballast industry to higher efficiency components, manufacturers will have limited choices in what components they are able to receive from suppliers, causing longer product lead times and decreased product availability. (OSI, Public Meeting Transcript, No. 43 at p. 65)

DOE recognized this component shortage in the April 2011 NOPR (76 FR 20090, 20139 (April 11, 2011)), but DOE projects limited component availability to be a relatively short term phenomenon arising from the capacity reduction that occurred in the recent recession and that component suppliers will ultimately adjust. DOE addresses this issue again in full in section VII.B.2.c of today's notice.

e. Impact on Competition

NEMA stated that manufacturers may lose their ability to differentiate their products because they will need to remove premium features to meet price pressure and proposed standard levels. This would force all manufacturers to offer the same basic product. NEMA states that DOE should ensure that manufacturers are able to offer products above the standard in order to differentiate themselves. (NEMA, No. 47 at p. 9) NEEP, while agreeing that high efficiency ballasts may be commoditized by this standard, states that manufacturers will retain opportunities for differentiation by focusing on dimming ballasts and controls. (NEEP, No. 49 at pp. 3–4)

DOE agrees that ballast manufacturers may not be able to maintain today's margins after standards become effective, particularly in the short run, as demonstrated by the markup scenarios described in section V.H.2. DOE disagrees, however, that manufacturers will no longer be able to differentiate themselves. For some minimally compliant products, DOE agrees with manufacturers that price competition will play a large role in the market, as is currently the case. Manufacturers may continue to differentiate in domains other than price, including premium features such as Type CC protection, cold temperature rating, case size, and lamp striation control. Because of this effort to differentiate, as discussed in the section V.H.1, DOE included costs associated with upgrading non-compliant products, even when a compliant product already exists in the category. Therefore, DOE believes NEMA's concerns are accounted for in DOE's analysis.

NEMA stated that manufacturers may not be able to complete the redesigns needed to meet the max tech levels proposed in the April 2011 NOPR (76 FR 20090 (April 11, 2011)). (NEMA, No. 47 at p. 9) NEEP, however, believes that by setting efficiency levels such that a select subset of existing NEMA Premium ballasts qualify at today's standard levels, the market would not be faced with a shortage of qualifying products and major shift in R&D resources. (NEEP, No. 49 at p. 2)

At TSL 3A, the level promulgated in today's final rule, DOE projects that 38 percent of shipments already meet the standard. The reconciliation of the DOE and NEMA test data and the substantial share of shipments at the proposed level indicate that the industry will be able to meet market demand by the compliance date.

5. Manufacturer Interviews

DOE interviewed manufacturers representing more than 90 percent of fluorescent lamp ballast sales. These interviews were in addition to those DOE conducted as part of the engineering analysis. DOE outlined the key issues for the rulemaking for manufacturers in the NOPR. 76 FR 20090, 20139–40 (April 11, 2011). DOE considered the information received during these interviews in the development of the NOPR and this final rule.

6. Sub-Group Impact Analysis

During the NOPR phase, DOE identified two sub-groups for a separate impact analysis—small manufacturers and sign ballast manufacturers. DOE describes the impacts on small manufacturers in section VIII.B and the impacts on sign ballast manufacturers in section VII.B.2.d.

I. Employment Impact Analysis

DOE considers employment impacts in the domestic economy as one factor in selecting a standard. Employment impacts consist of direct and indirect impacts. Direct employment impacts are any changes in the number of employees working for manufacturers of the appliance products that are the subject of this rulemaking, their suppliers, and related service firms. The MIA addresses the direct employment impacts that concern ballast manufacturers in section VII.B.2.b. Indirect employment impacts are changes in employment within the larger economy that occur due to the shift in expenditures and capital investment caused by the purchase and operation of more efficient products, and are addressed in this section.

The indirect employment impacts of standards consist of the net jobs created or eliminated in the national economy, outside of the manufacturing sector being regulated, due to: (1) Reduced spending on energy by end users; (2) reduced spending on new energy supplies by the utility industry; (3) increased spending on new products to which the new standards apply; and (4) the effects of those three factors throughout the economy. DOE expects the net monetary savings from standards to be redirected to other forms of economic activity, and expects these shifts in spending and economic activity to affect the demand for labor in the short term.

One method for assessing the possible effects of such shifts in economic activity on the demand for labor is to compare sector employment statistics developed by the Labor Department's Bureau of Labor Statistics (BLS). (Data on industry employment, hours, labor compensation, value of production, and the implicit price deflator for output for these industries are available upon request by calling the Division of Industry Productivity Studies ((202) 691–5618) or by sending a request by email to *dipsweb@bls.gov*. These data are also available at *http://www.bls.gov/news.release/prin1.nr0.htm*.) The BLS regularly publishes its estimates of the number of jobs per million dollars of economic activity in different sectors of the economy, as well as the jobs created elsewhere in the economy by this same economic activity. Data from BLS indicate that expenditures in the utility sector generally create fewer jobs (both directly and indirectly) than expenditures in other sectors of the economy. There are many reasons for these differences, including wage differences and the fact that the utility sector is more capital intensive and less labor intensive than other sectors. See Bureau of Economic Analysis, Regional Multipliers: A User Handbook for the Regional Input-Output Modeling System (RIMS II), Washington, DC, U.S. Department of Commerce, 1992.

Energy conservation standards have the effect of reducing consumer utility bills. Because reduced consumer expenditures for energy likely lead to increased expenditures in other sectors of the economy, the general effect of efficiency standards is to shift economic activity from a less labor-intensive sector (*i.e.,* the utility sector) to more labor-intensive sectors (*e.g.,* the retail and manufacturing sectors). Thus, based on the BLS data alone, DOE's analysis shows that net national employment

will increase due to shifts in economic activity resulting from new and amended standards for ballasts.

In developing today's adopted standards, DOE estimated indirect national employment impacts using an input-output (I–O) model of the U.S. economy called Impact of Sector Energy Technologies (ImSET), version 3.1.1. ImSET is a spreadsheet model of the U.S. economy that focuses on 187 sectors most relevant to industrial, commercial, and residential building energy use. (Roop, J.M., M.J. Scott, and R.W. Schultz, *ImSET 3.1: Impact of Sector Energy Technologies* (PNNL-18412 Pacific Northwest National Laboratory) (2009). Available at *http://www.pnl.gov/main/publications/external/technical_reports/PNNL-18412.pdf*.) ImSET is a special purpose version of the ''U.S. Benchmark National Input-Output'' model, designed to estimate the national employment and income effects of energy-saving technologies. The ImSET software includes a computer-based I–O model with structural coefficients to characterize economic flows among the 187 sectors. ImSET's national economic I–O structure is based on a 2002 U.S. benchmark table (Stewart, R.L., J.B. Stone, and M.L. Streitwieser, ''U.S. Benchmark Input-Output Accounts, 2002,'' *Survey of Current Business* (Oct. 2007)), specially aggregated to the 187 sectors. DOE estimated changes in expenditures using the NIA spreadsheet. Using ImSET, DOE estimated the net national, indirect-employment impacts on employment by sector of the trial standard levels for ballasts.

DOE notes that ImSET is not a general equilibrium forecasting model, and understands the uncertainties involved in projecting employment impacts, especially changes in the later years of the analysis.[4] Because ImSET does not incorporate price changes, the employment effects predicted by ImSET may over-estimate actual job impacts over the long run for this rule. Because ImSET predicts small job impacts resulting from this rule, regardless of these uncertainties, the actual job impacts are likely to be negligible in the overall economy. DOE may consider the use of other modeling approaches for examining long run employment impacts.

DOE also notes that the employment impacts estimated with ImSET for the entire economy differ from the employment impacts in the lighting manufacturing sector estimated in Chapter 13 using the Government Regulatory Impact Model (GRIM). The methodologies used and the sectors analyzed in the ImSET and GRIM models are different.

DOE received two comments on the April 2011 NOPR, inquiring whether DOE's employment analysis accounted for effects on ballast manufacturer employment, and if sector-specific results could be extracted from the ImSET model output. (Acuity Brands, Public Meeting Transcript, No. 43 at p. 229; Philips, Public Meeting Transcript, No. 43 at p. 227.) As discussed previously in this section, DOE's employment analysis models national effects on indirect employment (excluding ballast manufacturers) due to shifts in expenditures and capital investment caused by the purchase and operation of more efficient appliances. As previously noted, the MIA addresses direct employment impacts on ballast manufacturers in section VII.B.2.b.

DOE notes that the indirect employment numbers generated by ImSET are an estimate of the job impacts of the projected national energy and cost savings resulting from new or amended standards. These calculated impacts assume that the 187 sectors in the ImSET model are unchanged from the time that the I–O parameters were estimated (last updated in 2008 using year 2002 Economic Census data). As noted in the ImSET documentation, actual job creation will depend on future labor market supply conditions and macroeconomic policy.

DOE reviewed current ImSET sectoral details and identified one economic sector that corresponds with lighting product manufacturers, excluding lamp bulb and related parts (sector S111, Lighting Fixture Manufacturing). While this sector could encompass some ballast manufacturers, DOE notes that it is not exclusively representative of ballasts. Further, while ImSET can produce gross product impacts (in dollars) by sector, it does not produce sector-specific employment figures. Rather, ImSET characterizes economic flows among and interactions between 187 sectors in the model. Producing sector-specific employment figures would require DOE to artificially constrain its ImSET input data, which could reduce the meaningfulness of the results. DOE therefore did not calculate sector S111 employment figures, and retained its NOPR employment analysis approach for this final rule.

For more details on the employment impact analysis, see chapter 15 of the final rule TSD.

J. Utility Impact Analysis

The utility impact analysis includes estimates of the effects of the adopting new or amended standards on the utility industry. For this analysis, DOE used the NEMS–BT model to generate forecasts of electricity consumption, electricity generation by plant type, and electricity generating capacity by plant type that would result from each TSL. The estimated impacts of a standard are estimated to be the differences between values forecasted by NEMS–BT and the values in the *AEO2010* reference case.

In response to the April 2011 NOPR, NEEA, NPCC and NEEP commented that DOE did not consider the avoided costs of power plant construction corresponding to the avoided generation capacity from new or amended standards. By NEEA and NPCC's estimates, the present value cost of new generation capacity to supply the cumulative energy savings at TSL 3 would nearly equal DOE's cumulative NPV at TSL 3 (which excludes avoided power plant and infrastructure construction). NEEA and NPCC further suggested that DOE examine the difference in the value of total electricity sales between the NEMS–BT reference case and standards level cases, which could serve as a proxy for the economic value of the standard level to all electricity consumers. (NPCC, Public Meeting Transcript, No. 43 at p. 223; NEEA and NPCC, No. 44 at pp. 9–10) NEEP also commented that decreased demand is shown to drive energy prices down, benefiting consumers in general. (NEEP, No. 49 at p. 4)

DOE acknowledges that the aggregate economic benefits from avoided construction of new generating capacity and infrastructure are potentially large. However, there may be negative effects on some of the actors involved in electricity supply, particularly power plant providers and fuel suppliers. There is also uncertainty about the extent to which the benefits for electricity users from reduced electricity prices would be a transfer from actors involved in electricity supply to electricity consumers. DOE also takes under advisement the guidance provided by the Office of Management and Budget (OMB) to Federal agencies on identifying and measuring benefits and costs in its regulatory analyses (OMB Circular A–4, section E, September 17, 2003). Specifically, at page 38, Circular A–4 instructs that transfers should be excluded from the estimates of the benefits and costs of a regulation. DOE applied this approach for the utility impact analysis in the April 2011 NOPR, as well as in this final rule.

DOE is continuing to investigate the extent to which projected changes in electricity prices that result from standards represent a net economic gain

to the nation. In response to the comments discussed in this section, DOE included the estimated effects of adopted standards on electricity prices and the cumulative NPV of resulting savings in electricity expenditures in the TSD. DOE also included in the TSD representative costs of avoided electricity generation capacity by fuel type, although these costs are provided for illustrative purposes only. For more details on the utility impact analysis, see chapter 14 of the final rule TSD.

K. Environmental Assessment

Pursuant to the National Environmental Policy Act of 1969 and the requirements of DOE Order 451.1B: NEPA Compliance Program, DOE has prepared an environmental assessment (EA) of the impacts of the new and amended standards for ballasts in this final rule, which it has included as chapter 16 of the final rule TSD. DOE found that the environmental effects associated with the standards for ballasts were not significant. Therefore, DOE is issuing a Finding of No Significant Impact (FONSI), pursuant to NEPA, the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and DOE's regulations for compliance with NEPA (10 CFR part 1021). The FONSI is available in the docket for this rulemaking.

In the EA, DOE estimated the reduction in power sector emissions of CO_2, NO_X, and Hg using the NEMS–BT computer model. In the EA, NEMS–BT is run similarly to the AEO NEMS, except that ballast energy use is reduced by the amount of energy saved (by fuel type) due to each TSL. The inputs of national energy savings come from the NIA spreadsheet model, while the output is the forecasted physical emissions. The net benefit of each TSL in today's final rule is the difference between the forecasted emissions estimated by NEMS–BT at each TSL and the *AEO2010* Reference Case. NEMS–BT tracks CO_2 emissions using a detailed module that provides results with broad coverage of all sectors and inclusion of interactive effects.

Sulfur dioxide (SO_2) emissions from affected electricity generating units (EGUs) are subject to nationwide and regional emissions cap-and-trade programs, and DOE has preliminarily determined that these programs create uncertainty about the potential amended standards' impact on SO_2 emissions. Title IV of the Clean Air Act sets an annual emissions cap on SO_2 for affected EGUs in the 48 contiguous States and the District of Columbia (DC). SO_2 emissions from 28 eastern states and DC are also limited under the Clean Air Interstate Rule (CAIR; 70 FR 25162 (May 12, 2005)), which created an allowance-based trading program. Although CAIR was remanded to the Environmental Protection Agency (EPA) by the U.S. Court of Appeals for the District of Columbia Circuit (DC Circuit) (see *North Carolina* v. *EPA,* 550 F.3d 1176 (DC Cir. 2008)), it remained in effect temporarily, consistent with the DC Circuit's earlier opinion in *North Carolina* v. *EPA,* 531 F.3d 896 (DC Cir. 2008). On July 6, 2010, EPA issued the Transport Rule proposal, a replacement for CAIR (75 FR 45210 (Aug. 2, 2010)), and on July 6, 2011 EPA issued the final Transport Rule, entitled the Cross-State Air Pollution Rule. 76 FR 48208 (August 8, 2011). (*http://www.epa.gov/crossstaterule/*). Because the *AEO2010* NEMS used for today's final rule assumes the implementation of CAIR, DOE has not been able to take into account the effects of the Transport Rule for this rulemaking.[53]

The attainment of emissions caps is typically flexible among EGUs and is enforced through the use of emissions allowances and tradable permits. Under existing EPA regulations, any excess SO_2 emissions allowances resulting from the lower electricity demand caused by the imposition of an efficiency standard could be used to permit offsetting increases in SO_2 emissions by any regulated EGU. However, if the new and amended standards resulted in a permanent increase in the quantity of unused emissions allowances, there would be an overall reduction in SO_2 emissions from the standards. While there remains some uncertainty about the ultimate effects of efficiency standards on SO_2 emissions covered by the existing cap-and-trade system, the NEMS–BT modeling system that DOE uses to forecast emissions reductions currently indicates that no physical reductions in power sector emissions would occur for SO_2.

As discussed above, the *AEO2010* NEMS used for today's final rule assumes the implementation of CAIR, which established a cap on NO_X emissions in 28 eastern states and the District of Columbia. With CAIR in effect, the energy conservation standards for ballasts are expected to have little or no physical effect on NO_X emissions in those states covered by CAIR, for the same reasons that they may have little effect on SO_2 emissions. However, the adopted standards would be expected to reduce NO_X emissions in the 22 states not affected by CAIR. For these 22 states, DOE used the NEMS–BT to estimate NO_X emissions reductions from the standards considered in today's final rule.

Similar to emissions of SO_2 and NO_X, future emissions of Hg would have been subject to emissions caps. In May 2005, EPA issued the Clean Air Mercury Rule (CAMR). 70 FR 28606 (May 18, 2005). CAMR would have permanently capped emissions of Hg for new and existing coal-fired power plants in all states by 2010. However, on February 8, 2008, the DC Circuit issued a decision in *New Jersey* v. *Environmental Protection Agency,* 517 F.3d 574 (DC Cir. 2008), in which it vacated CAMR. EPA has decided to develop emissions standards for power plants under Section 112 of the Clean Air Act, consistent with the DC Circuit's opinion on CAMR. See *http://www.epa.gov/air/mercuryrule/pdfs/certpetition_withdrawal.pdf.* Pending EPA's forthcoming revisions to the rule, DOE is excluding CAMR from its environmental assessment. In the absence of CAMR, a DOE standard would likely reduce Hg emissions and DOE used NEMS–BT to estimate these reductions. However, DOE continues to review the impact of rules that reduce energy consumption on Hg emissions, and may revise its assessment of Hg emission reductions in future rulemakings.

L. Monetizing Carbon Dioxide and Other Emissions Impacts

As part of the development of this final rule, DOE considered the estimated monetary benefits likely to result from the reduced emissions of CO_2 and NO_X that are expected to result from each of the TSLs considered. In order to make this calculation similar to the calculation of the NPV of consumer benefit, DOE considered the reduced emissions expected to result over the lifetime of products shipped in the forecast period for each TSL. This section summarizes the basis for the monetary values used for each of these emissions and presents the values considered in this rulemaking.

For today's final rule, DOE is relying on a set of values for the SCC that was developed by an interagency process. A summary of the basis for these values is provided in the following sections, and a more detailed description of the methodologies used is provided as an appendix to chapter 17 of the final rule TSD.

1. Social Cost of Carbon

Under section 1(b) of Executive Order 12866, agencies must, to the extent permitted by law, ''assess both the costs

[53] DOE notes that future iterations of the NEMS–BT model will ncorporate any changes necessitated by issuance of the Transport Rule.

and the benefits of the intended regulation and, recognizing that some costs and benefits are difficult to quantify, propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs.'' The purpose of the SCC estimates presented here is to allow agencies to incorporate the monetized social benefits of reducing CO_2 emissions into cost-benefit analyses of regulatory actions that have small, or ''marginal,'' impacts on cumulative global emissions. The estimates are presented with an acknowledgement of the many uncertainties involved and with a clear understanding that they should be updated over time to reflect increasing knowledge of the science and economics of climate impacts.

As part of the interagency process that developed these SCC estimates, technical experts from numerous agencies met on a regular basis to consider public comments, explore the technical literature in relevant fields, and discuss key model inputs and assumptions. The main objective of this process was to develop a range of SCC values using a defensible set of input assumptions grounded in the existing scientific and economic literatures. In this way, key uncertainties and model differences transparently and consistently inform the range of SCC estimates used in the rulemaking process.

a. Monetizing Carbon Dioxide Emissions

The SCC is an estimate of the monetized damages associated with an incremental increase in carbon emissions in a given year. It is intended to include (but is not limited to) changes in net agricultural productivity, human health, property damages from increased flood risk, and the value of ecosystem services. Estimates of the SCC are provided in dollars per metric ton of CO_2.

When attempting to assess the incremental economic impacts of CO_2 emissions, the analyst faces a number of serious challenges. A recent report from the National Research Council [54] points out that any assessment will suffer from uncertainty, speculation, and lack of information about (1) Future emissions of greenhouse gases, (2) the effects of past and future emissions on the climate system, (3) the impact of changes in climate on the physical and biological environment, and (4) the translation of these environmental impacts into economic damages. As a result, any effort to quantify and monetize the harms associated with climate change will raise serious questions of science, economics, and ethics and should be viewed as provisional.

Despite the serious limits of both quantification and monetization, SCC estimates can be useful in estimating the social benefits of reducing CO_2 emissions. Consistent with the directive in Executive Order 12866 quoted previously in this section, the purpose of the SCC estimates presented here is to make it possible for Federal agencies to incorporate the social benefits from reducing CO_2 emissions into cost-benefit analyses of regulatory actions that have small, or ''marginal,'' impacts on cumulative global emissions. Most Federal regulatory actions can be expected to have marginal impacts on global emissions.

For such policies, the agency can estimate the benefits from reduced (or costs from increased) emissions in any future year by multiplying the change in emissions in that year by the SCC value appropriate for that year. The net present value of the benefits can then be calculated by multiplying each of these future benefits by an appropriate discount factor and summing across all affected years. This approach assumes that the marginal damages from increased emissions are constant for small departures from the baseline emissions path, an approximation that is reasonable for policies that have effects on emissions that are small relative to cumulative global CO_2 emissions. For policies that have a large (non-marginal) impact on global cumulative emissions, there is a separate question of whether the SCC is an appropriate tool for calculating the benefits of reduced emissions. This concern is not applicable to this notice, and DOE does not attempt to answer that question here.

At the time of the preparation of this notice, the most recent interagency estimates of the potential global benefits resulting from reduced CO_2 emissions in 2010, expressed in 2010$, were $4.9, $22.3, $36.5, and $67.6 per metric ton avoided. For emissions reductions that occur in later years, these values grow in real terms over time. Additionally, the interagency group determined that a range of values from 7 percent to 23 percent should be used to adjust the global SCC to calculate domestic effects,[55] although preference is given to consideration of the global benefits of reducing CO_2 emissions.

It is important to emphasize that the interagency process is committed to updating these estimates as the science and economic understanding of climate change and its impacts on society improves over time. Specifically, the interagency group has set a preliminary goal of revisiting the SCC values within 2 years or at such time as substantially updated models become available, and to continue to support research in this area. In the meantime, the interagency group will continue to explore the issues raised by this analysis and consider public comments as part of the ongoing interagency process.

b. Social Cost of Carbon Values Used in Past Regulatory Analyses

To date, economic analyses for Federal regulations have used a wide range of values to estimate the benefits associated with reducing CO_2 emissions. In the final model year 2011 CAFE rule, the U.S. Department of Transportation (DOT) used both a ''domestic'' SCC value of $2 per ton of CO_2 and a ''global'' SCC value of $33 per ton of CO_2 for 2007 emission reductions (in 2007$), increasing both values at 2.4 percent per year.[56] DOT also included a sensitivity analysis at $80 per ton of CO_2. See *Average Fuel Economy Standards Passenger Cars and Light Trucks Model Year 2011,* 74 FR 14196 (March 30, 2009) (Final Rule); Final Environmental Impact Statement Corporate Average Fuel Economy Standards, Passenger Cars and Light Trucks, Model Years 2011–2015 at 3–90 (Oct. 2008) (Available at: *http://www.nhtsa.gov/fuel-economy*). A domestic SCC value is meant to reflect the value of damages in the United States resulting from a unit change in CO_2 emissions, while a global SCC value is meant to reflect the value of damages worldwide.

A 2008 regulation proposed by DOT assumed a domestic SCC value of $7 per ton of CO_2 (in 2006$) for 2011 emission reductions (with a range of $0–$14 for sensitivity analysis), also increasing at 2.4 percent per year. See *Average Fuel Economy Standards, Passenger Cars and Light Trucks, Model Years 2011–2015,* 73 FR 24352 (May 2, 2008) (Proposed Rule); Draft Environmental Impact Statement Corporate Average Fuel Economy Standards, Passenger Cars and Light Trucks, Model Years 2011–2015 at 3–58 (June 2008) (Available at: *http://www.nhtsa.gov/fuel-economy*). A regulation for

[54] National Research Council. *Hidden Costs of Energy: Unpriced Consequences of Energy Production and Use.* National Academies Press: Washington, DC (2009).

[55] It is recognized that this calculation for domestic values is approximate, provisional, and highly speculative. There is no a priori reason why domestic benefits should be a constant fraction of net global damages over time.

[56] Throughout this section, references to tons of CO_2 refer to metric tons.

packaged terminal air conditioners and packaged terminal heat pumps finalized by DOE in October of 2008 used a domestic SCC range of $0 to $20 per ton CO_2 for 2007 emission reductions (in 2007$). 73 FR 58772, 58814 (Oct. 7, 2008) In addition, EPA's 2008 Advance Notice of Proposed Rulemaking on Regulating Greenhouse Gas Emissions Under the Clean Air Act identified what it described as ''very preliminary'' SCC estimates subject to revision. 73 FR 44354 (July 30, 2008). EPA's global mean values were $68 and $40 per ton CO_2 for discount rates of approximately 2 percent and 3 percent, respectively (in 2006$ for 2007 emissions).

In 2009, an interagency process was initiated to offer a preliminary assessment of how best to quantify the benefits from reducing CO_2 emissions. To ensure consistency in how benefits are evaluated across agencies, the Administration sought to develop a transparent and defensible method, specifically designed for the rulemaking process, to quantify avoided climate change damages from reduced CO_2 emissions. The interagency group did not undertake any original analysis. Instead, it combined SCC estimates from the existing literature to use as interim values until a more comprehensive analysis could be conducted. The outcome of the preliminary assessment by the interagency group was a set of five interim values: global SCC estimates for 2007 (in 2006$) of $55, $33, $19, $10, and $5 per ton of CO_2. These interim values represent the first sustained interagency effort within the U.S. government to develop an SCC for use in regulatory analysis. The results of this preliminary effort were presented in several proposed and final rules and were offered for public comment in connection with proposed rules, including the joint EPA–DOT fuel economy and CO_2 tailpipe emission proposed rules.

c. Current Approach and Key Assumptions

Since the release of the interim values, the interagency group reconvened on a regular basis to generate improved SCC estimates, which were considered for this final rule. Specifically, the group considered public comments and further explored the technical literature in relevant fields. The interagency group relied on three integrated assessment models commonly used to estimate the SCC: the FUND, DICE, and PAGE models.[57] These models are frequently cited in the peer-reviewed literature and were used in the last assessment of the Intergovernmental Panel on Climate Change. Each model was given equal weight in the SCC values that were developed.

Each model takes a slightly different approach to model how changes in emissions result in changes in economic damages. A key objective of the interagency process was to enable a consistent exploration of the three models while respecting the different approaches to quantifying damages taken by the key modelers in the field. An extensive review of the literature was conducted to select three sets of input parameters for these models: climate sensitivity, socio-economic and emissions trajectories, and discount rates. A probability distribution for climate sensitivity was specified as an input into all three models. In addition, the interagency group used a range of scenarios for the socio-economic parameters and a range of values for the discount rate. All other model features were left unchanged, relying on the model developers' best estimates and judgments.

The interagency group selected four SCC values for use in regulatory analyses. Three values are based on the average SCC from three integrated assessment models, at discount rates of 2.5, 3, and 5 percent. The fourth value, which represents the 95th percentile SCC estimate across all three models at a 3-percent discount rate, is included to represent higher-than-expected impacts from temperature change further out in the tails of the SCC distribution. For emissions (or emission reductions) that occur in later years, these values grow in real terms over time, as depicted in Table V.8.

TABLE V.8—SOCIAL COST OF CO_2, 2010–2050

[In 2007 dollars per metric ton]

	Discount rate			
	5% Avg	3% Avg	2.5% Avg	3% 95th
2010	4.7	21.4	35.1	64.9
2015	5.7	23.8	38.4	72.8
2020	6.8	26.3	41.7	80.7
2025	8.2	29.6	45.9	90.4
2030	9.7	32.8	50.0	100.0
2035	11.2	36.0	54.2	109.7
2040	12.7	39.2	58.4	119.3
2045	14.2	42.1	61.7	127.8
2050	15.7	44.9	65.0	136.2

It is important to recognize that a number of key uncertainties remain, and that current SCC estimates should be treated as provisional and revisable since they will evolve with improved scientific and economic understanding. The interagency group also recognizes that the existing models are imperfect and incomplete. As the National Research Council report mentioned in section V.L.1.a points out, there is tension between the goal of producing quantified estimates of the economic damages from an incremental ton of carbon and the limits of existing efforts to model these effects. There are a number of concerns and problems that should be addressed by the research community, including research programs housed in many of the Federal agencies participating in the interagency process to estimate the SCC.

DOE recognizes the uncertainties embedded in the estimates of the SCC used for cost-benefit analyses. As such, DOE and others in the U.S. Government intend to periodically review and reconsider those estimates to reflect increasing knowledge of the science and economics of climate impacts, as well as

[57] The models are described in appendix 16–A of the final rule TSD.

improvements in modeling. In this context, statements recognizing the limitations of the analysis and calling for further research take on exceptional significance.

In summary, in considering the potential global benefits resulting from reduced CO_2 emissions, DOE used the most recent values identified by the interagency process, adjusted to 2010$ using the GDP price deflator. For each of the four cases specified, the values used for emissions 2010 were $4.9, $22.3, $36.5, and $67.6 per metric ton avoided (values expressed in 2010$).[58] To monetize the CO_2 emissions reductions expected to result from new and amended standards for ballasts, DOE used the values identified in Table A1 of the ''Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866,'' which is reprinted in appendix 17A of the final rule TSD, appropriately adjusted to 2010$. To calculate a present value of the stream of monetary values, DOE discounted the values in each of the four cases using the specific discount rate that had been used to obtain the SCC values in each case.

2. Valuation of Other Emissions Reductions

DOE investigated the potential monetary benefit of reduced NO_X emissions from the TSLs it considered. As noted in the previous section, DOE has taken into account how new or amended energy conservation standards would reduce NO_X emissions in those 22 states that are not affected by the CAIR. DOE estimated the monetized value of NO_X emissions reductions resulting from the standard levels considered for today's final rule based on environmental damage estimates found in the relevant scientific literature. Available estimates suggest a very wide range of monetary values, ranging from $370 per ton to $3,800 per ton of NO_X from stationary sources, measured in 2001$ (equivalent to a range of $450 to $4,623 per ton in 2010$).[59] In accordance with guidance from the U.S. Office of Management and Budget (OMB), DOE conducted two calculations of the monetary benefits derived using each of the economic values used for NO_X, one using a real discount rate of 3 percent and another using a real discount rate of 7 percent.[60]

DOE is aware of multiple agency efforts to determine the appropriate range of values used in evaluating the potential economic benefits of reduced Hg emissions. DOE has decided to await further guidance regarding consistent valuation and reporting of Hg emissions before it once again monetizes Hg emissions in its rulemakings.

VI. Other Issues for Discussion

A. Proposed Standard Levels in April 2011 NOPR

In the April 2011 NOPR, DOE proposed to adopt the max tech level, which represented the highest level that was technologically feasible for a sufficient diversity of products (spanning several ballast factors, numbers of lamps per ballast, and types of lamps operated). DOE received several comments supporting the proposed standard levels. NEEP commented that assuming the test data discrepancy between DOE's and NEMA's data is resolved, the proposed standards would greatly benefit the Northeast region of the United States where energy prices are typically higher than the rest of the country, increasing the magnitude of life cycle cost savings for those consumers. They also observed that locking in strong efficiency levels for ballasts would complement the strong fluorescent lamp standards that are set to take effect on July 14, 2012. NEEP added that the NOPR proposal would help the Northeast region meet its energy savings and emission reduction goals including those set forward in Massachusetts' Global Warming Solutions Act of 2008. (NEEP, No. 49 at pp. 2–4)

EEI also supported the proposed standards and agreed they would be cost effective for the vast majority of commercial consumers based on the analysis and data put forward in the April 2011 NOPR. (EEI, No. 48 at p. 1)

In addition to the above feedback, DOE also received several comments that disagreed with the proposed standard levels. These comments are discussed in more detail in the following paragraphs.

NEMA disagreed with DOE's proposal to adopt the max tech efficiency levels. NEMA stated that, even when using DOE data, very few products met the proposed minimum BLE requirements. For example, only one residential, T5SO, and T5HO ballast met DOE's proposed standard levels. NEMA commented that the DOE is therefore using only one product to develop a rule. (NEMA, Public Meeting Transcript, No. 43 at p. 29–32) NEMA analyzed its own dataset and suggested an alternative level that allowed the majority of manufacturers' NEMA Premium products, which represent their most efficient product offerings. NEMA noted that although it is not shown in the submitted data, several products they manufacture are not NEMA Premium products and therefore would not meet their proposal. At a minimum, NEMA requested that two manufacturers' complete product lines be able to meet the standard levels. NEMA also added that they would support a proposal that does not create limited availability, disruption in the market, or extreme R&D redesign costs. (NEMA, Public Meeting Transcript, No. 43 at p. 41–5; NEMA, No. 47 at p. 6)

ASAP disagreed with NEMA's recommendation that all manufacturers' high efficiency products should meet the highest level. ASAP noted that based on the DOE data, there were two products that were compliant in each class. ASAP therefore approved of DOE's decision to adopt the max tech level. (ASAP, Public Meeting Transcript, No. 43 at p. 50–1; ASAP, No. 46 at p. 1) NEEP agreed and supported the result that only a subset of NEMA Premium products met the proposed standard. (NEEP, No. 49 at p. 1–2) CA Utilities also agreed that all products with a NEMA Premium designation should not meet the proposed standard because NEMA Premium covers a range of efficiency with some ballasts only meeting TSL1 or TSL2 as analyzed in the April 2011 NOPR. They noted that they reviewed the data and found that there is at least one product for each specific utility that meets the standard, though all manufacturers may not have an offering for each utility. (CA Utilities, Public Meeting Transcript, No. 43 at p. 62–3; CA Utilities, No. 45 at p. 4; CA Utilities, No. 58 at p. 3)

In response to the August 2011 NODA, NEMA recommended adopting lower efficiency levels for several of the product classes. NEMA recommended adopting EL2 instead of EL3 for the IS/RS and PS product classes because the incremental cost of product redesign at EL3 is not outweighed by the incremental energy savings between EL2 and EL3. NEMA added that at EL2, manufacturers would focus on retiring non-compliant products and improving existing product lines rather than redesigning a large number of models. (NEMA, No. 56 at p. 3)

For the same reasons, NEMA recommended adopting EL2 for the 8-foot HO IS/RS product class. They noted

[58] Table A1 presents SCC values through 2050. For DOE's calculation, it derived values after 2050 using the 3-percent per year escalation rate used by the interagency group.

[59] For additional information, refer to U.S. Office of Management and Budget, Office of Information and Regulatory Affairs, *2006 Report to Congress on the Costs and Benefits of Federal Regulations and Unfunded Mandates on State, Local, and Tribal Entities,* Washington, DC.

[60] OMB, Circular A–4: Regulatory Analysis (Sept. 17, 2003).

that the energy savings at EL2 are similar to those achieved at EL3 (the level proposed in the April 2011 NOPR), but EL3 imposes much greater costs on manufacturers. (NEMA, No. 56 at p. 3)

Finally, NEMA recommended EL1 as the standard level for residential ballasts because linear fluorescent technology is more efficient and cost-effective than other traditional technologies and therefore it does not make sense to increase the cost burden on this price-sensitive market. (NEMA, No. 47 at p. 4; NEMA, No. 56 at p. 3) EEI also commented on residential ballasts, stating that although they generally agreed with the proposed standard levels, they were concerned about the impacts of the standards on some residential consumers. EEI noted that according to the NOPR proposal, relative to the T8 baseline, 100 percent of consumers have increased life-cycle costs. 76 FR 20090, 20146 (April 11, 2011). (EEI, No. 48 at p. 2)

DOE determines efficiency levels as described in section V.B.5, and then assesses the impacts, including those on manufacturers and industry competition. DOE acknowledges that conversion costs increase at higher efficiency levels, but also notes that higher levels result in increased energy savings and NPV for the nation and increased LCC savings for consumers. Although each efficiency level may not allow a full product line from every manufacturer, DOE has concluded that, for the levels it is adopting in this final rule, the benefits outweigh the burdens. See section VII.C.2 for more details.

B. Universal Versus Dedicated Input Voltage

NEMA also expressed concern that the proposed standards may eliminate universal voltage ballasts from the market. NEMA commented that although dedicated voltage ballasts are more efficient, consumers demand universal voltage instead of dedicated voltage products. NEMA stated that manufacturers may need to shift back to the more efficient dedicated voltage products to meet the proposed standards. This shift away from universal voltage would go against industry and consumer demand. (NEMA, Public Meeting Transcript, No. 43 at p. 36) NEEA and NPCC commented that their data assessment strongly suggested ballast efficiency does not vary consistently by input voltage, and that universal voltage ballasts can be as efficient as, or more efficient than, fixed input voltage ballasts in any individual product class and utility category. (NEEA and NPCC, No. 44 at p. 3) CA Utilities also stated that based on experience and review of DOE's test data, they found no indication that universal voltage ballasts are consistently less efficient than dedicated voltage ballasts and that therefore universal and dedicated voltage ballasts should be held to the same standard levels. (NEMA, No. 56 at p. 3; CA Utilities, No. 45 at p. 6)

DOE agrees with the CA Utilities that test data shows universal voltage ballasts to be as efficient or more efficient than dedicated input voltage ballasts. DOE also recognizes that there is significant market demand for universal voltage fluorescent lamp ballasts. In both the April 2011 NOPR and this final rule, DOE's max tech efficiency levels are met by universal voltage ballasts. For the IS/RS product class, 80 percent (37 out of 46) of ballasts that meet the proposed standard are universal voltage ballasts; for the PS product class, over 95 percent (20 out of 21) are universal voltage ballasts. Therefore, DOE does not believe the final rule prohibits the manufacture and sale of universal voltage products.

C. Implementation of Adopted Standard Levels

In the April 2011 NOPR, DOE proposed that standards for all covered ballasts require compliance three years following publication of the final rule in the **Federal Register**. P.R. China noted that, for several product classes, DOE proposed increasing efficiency requirements by a large percentage and that adapting to the proposed standards could create a large burden on manufacturers. P.R. China suggested that DOE gradually phase in standards, transitioning from the lowest considered efficiency level through the higher efficiency levels to reach the proposed standard. P.R. China stated that this approach is internationally accepted and would ease the initial burden placed on manufacturers. (P.R. China, No. 51 at p. 3)

DOE acknowledges that for certain ballast types the standards adopted represent a large increase in efficiency relative to existing standards or the analyzed baseline. However, as described in section *VII.C.2,* DOE analyzed the burden on manufacturers pursuant to 42 U.S.C. 6295(o) and determined that it was outweighed by the benefits of the rule to consumers and the nation.

VII. Analytical Results and Conclusions

A. Trial Standard Levels

DOE analyzed the benefits and burdens of the TSLs developed for today's final rule. Table VII.1 presents the trial standard levels and the corresponding product class efficiency levels for all product classes. See the engineering analysis in section V.B.5 of this final rule for a more detailed discussion of the efficiency levels.

TABLE VII.1—TRIAL STANDARD LEVELS

Product class	TSL 1	TSL 2	TSL 3A	TSL 3B
IS and RS ballasts (not classified as residential) that operate	EL1	EL2	EL3	EL3
4-foot MBP lamps				
2-foot U-shaped lamps				
8-foot slimline lamps				
PS ballasts (not classified as residential) that operate	EL1	EL2	EL3	EL3
4-foot MBP lamps				
2-foot U-shaped lamps				
4-foot MiniBP SO lamps				
4-foot MiniBP HO lamps				
IS and RS ballasts (not classified as sign ballasts) that operate: 8-foot HO lamps	EL1	EL2	EL2	EL3
PS ballasts (not classified as sign ballasts) that operate: 8-foot HO lamps	EL1	EL2	EL2	EL3
Sign ballasts that operate: 8-foot HO lamps	EL1	EL1	EL1	EL1
IS and RS residential ballasts that operate	EL1	EL1	EL1	EL2
4-foot MBP lamps				
2-foot U-shaped lamps				
8-foot slimline lamps				
PS residential ballasts that operate	EL1	EL1	EL1	EL2

TABLE VII.1—TRIAL STANDARD LEVELS—Continued

Product class	TSL 1	TSL 2	TSL 3A	TSL 3B
4-foot MBP lamps				
2-foot U-shaped lamps				

In this section, DOE presents the analytical results for the TSLs of the product classes that DOE analyzed directly (the ''representative product classes''). DOE scaled the standards for these representative product classes to create standards for other product classes that were not directly analyzed (the 8-foot HO PS and residential PS product classes), as set forth in chapter 5 of the final rule TSD.

TSL 1, which would set energy conservation standards at EL1 for all product classes, would eliminate the majority of currently available 4-foot MBP T12 RS (commercial and residential), low-efficiency 4-foot MBP T8 PS, magnetic 8-foot HO, and magnetic sign ballasts. Based on these impacts, TSL 1 would likely cause a migration from 4-foot MBP T12 RS ballasts (both commercial and residential) to 4-foot MBP T8 IS ballasts. TSL 1 also prevents inefficient T5 standard output and high output ballasts from becoming prevalent in future years. DOE would not anticipate any impact of TSL 1 on consumers of 8-foot slimline ballasts.

TSL 2 would establish energy conservation standards at EL2 for the IS/RS, PS, and 8-foot HO IS/RS product classes. This level would likely eliminate low efficiency two-lamp 4-foot MBP T8 IS commercial ballasts and the least efficient T12 8-foot slimline ballasts, causing a migration toward high efficiency two lamp 4-foot MBP T8 IS ballasts and 8-foot T8 slimline ballasts. DOE does not anticipate any impact of TSL 2 on four-lamp 4-foot MBP T8 IS ballast consumers. For PS ballasts, high-efficiency 4-foot MBP T8 ballasts and high-efficiency T5 standard output and high output ballasts are required at TSL 2. For the 8-foot HO IS/RS product class, this level would likely result in the elimination of the majority of current T12 electronic ballasts, but can be met with T8 electronic ballasts. As with TSL 1, TSL 2 would continue to use EL1 for the residential IS/RS product class, eliminating currently available 4-foot MBP T12 RS ballasts, but allowing higher efficiency T8 residential ballasts. In addition, the sign ballast efficiency level remains unchanged from TSL1.

TSL 3A would establish energy conservation standards at the maximum technologically feasible level for all product classes except for residential and 8-foot HO IS/RS product classes. As with TSL 2, the 8-foot HO IS/RS product class at TSL 3A results in the elimination of current T12 electronic ballasts, but can be met with T8 electronic ballasts. Consistent with TSLs 1 and 2, TSL 3A also requires EL1 for the residential IS/RS product class. This TSL represents the most stringent efficiency requirements where a positive LCC savings for each representative product class is maintained.

TSL 3B represents the maximum technologically feasible level for all product classes. This level would establish energy conservation standards at EL1 for sign ballasts, EL2 for residential IS/RS product classes, and EL3 for the commercial IS/RS and PS, and 8-foot HO IS/RS product classes. TSL 3B represents the highest EL analyzed in all representative product classes and is the max tech TSL. Ballasts that meet TSL 3B represent the most efficient models tested by DOE in their respective representative product classes.

B. Economic Justification and Energy Savings

1. Economic Impacts on Individual Consumers

a. Life-Cycle Cost and Payback Period

Consumers affected by new or amended standards usually experience higher purchase prices and lower operating costs. Generally, these effects on individual consumers are best summarized by changes in LCCs and by the payback period. DOE calculated the LCC and PBP values for the potential standard levels considered in this rulemaking to provide key inputs for each TSL. These values are reported by product class in Table VII.12 through Table VII.15. Each table includes the average total LCC and the average LCC savings, as well as the fraction of product consumers for which the LCC will either decrease (net benefit), or increase (net cost) relative to the baseline case. In limited cases, a more efficient (*i.e.,* higher BLE) ballast will have a higher total LCC and lower LCC savings than a less efficient ballast (*e.g.,* EL3 versus EL2 in Table VII.9). This is because the higher-EL ballast has a higher BF and system input power, resulting in higher operating costs than for the lower-EL ballast. The last column in each table contains the median PBPs for the consumer purchasing a design compliant with the TSL. Negative PBP values indicate a reduction of both operating costs and installed costs (*i.e.,* there is no purchase price increment for the consumer to recover). Entries of ''N/A'' indicate standard levels that do not reduce operating costs, which prevents the consumer from recovering the increased purchase cost. This scenario did not occur at any of the standard levels adopted by DOE in today's final rule.

The results for each TSL are presented relative to the energy use distribution in the base case (no amended standards), based on energy consumption under conditions of actual product use. The rebuttable presumption PBP is based on test values under conditions prescribed by the DOE test procedure, as required by EPCA. (42 U.S.C. 6295(o)(2)(B)(iii))

TABLE VII.2—PRODUCT CLASS 1—IS AND RS BALLASTS THAT OPERATE TWO 4-FOOT MBP LAMPS (COMMERCIAL, T12 BASELINE): LCC AND PBP RESULTS

Trial standard level	Efficiency level	Life-cycle cost 2010$			Life-cycle cost savings			Median payback period* *years*
		Installed cost	Discounted operating cost	LCC	Average savings *2010$*	Percent of consumers that experience		
						Net cost	Net benefit	
Event I: Replacement								
	Baseline	64	247	311	.....	.....	.....	.....
1	1	57	225	282	29	0	100	−3.35
2	2	59	218	277	34	0	100	−1.66
3A, 3B	3	60	214	274	37	0	100	−1.30
Event II: New Construction/Renovation								
	Baseline	67	247	314	.....	.....	.....	.....
1	1	59	222	281	32	0	100	−2.97
2	2	62	213	275	39	0	100	−1.43
3A, 3B	3	62	211	273	40	0	100	−1.19

* Negative PBP values indicate standards that reduce operating costs and installed costs.

TABLE VII.3—PRODUCT CLASS 1—IS AND RS BALLASTS THAT OPERATE TWO 4-FOOT MBP LAMPS (COMMERCIAL, T8 BASELINE): LCC AND PBP RESULTS

Trial standard level	Efficiency level	Life-cycle cost 2010$			Life-cycle cost savings			Median payback period* *years*
		Installed cost	Discounted operating cost	LCC	Average savings *2010$*	Percent of consumers that experience		
						Net cost	Net benefit	
Event I: Replacement								
1	Baseline/1	56	225	281	.....	.....	.....	.....
2	2	59	218	277	5	0	100	3.62
3A, 3B	3	59	214	273	8	0	100	2.86
Event II: New Construction/Renovation								
1	Baseline/1	58	225	283	.....	.....	.....	.....
2	2	61	216	277	7	0	100	2.76
3A, 3B	3	62	214	275	8	0	100	2.74

TABLE VII.4—PRODUCT CLASS 1—IS AND RS BALLASTS THAT OPERATE FOUR 4-FOOT MBP LAMPS: LCC AND PBP RESULTS

Trial standard level	Efficiency level	Life-cycle cost 2010$			Life-cycle cost savings			Median payback period *years*
		Installed cost	Discounted operating cost	LCC	Average savings *2010$*	Percent of consumers that experience		
						Net cost	Net benefit	
Event I: Replacement								
1, 2	Baseline/2	78	412	490	.....	.....	.....	.....
3A, 3B	3	81	403	484	7	0	100	2.65
Event II: New Construction/Renovation								
1, 2	Baseline/2	81	412	493	.....	.....	.....	.....
3A, 3B	3	83	406	490	3	0	100	4.43

TABLE VII.5—PRODUCT CLASS 1—IS AND RS BALLASTS THAT OPERATE TWO 8-FOOT SLIMLINE LAMPS (T12 BASELINE): LCC AND PBP RESULTS

Trial standard level	Efficiency level	Life-cycle cost 2010$			Life-cycle cost savings			Median payback period* *years*
		Installed cost	Discounted operating cost	LCC	Average savings *2010$*	Percent of consumers that experience		
						Net cost	Net benefit	
Event I: Replacement								
1	Baseline/1	90	457	547	.....	.....	.....	.....
2	2	90	432	521	26	0	100	−0.12
3A, 3B	3	90	425	514	33	0	100	0.01
Event II: New Construction/Renovation								
1	Baseline/1	92	457	549	.....	.....	.....	.....
2	2	92	440	532	17	0	100	−0.17
3A, 3B	3	92	435	527	22	0	100	0.01

* Negative PBP values indicate standards that reduce operating costs and installed costs.

TABLE VII.6—PRODUCT CLASS 1—IS AND RS BALLASTS THAT OPERATE TWO 8-FOOT SLIMLINE LAMPS (T8 BASELINE): LCC AND PBP RESULTS

Trial standard level	Efficiency level	Life-cycle cost 2010$			Life-cycle cost savings			Median payback period *years*
		Installed cost	Discounted operating cost	LCC	Average savings *2010$*	Percent of consumers that experience		
						Net cost	Net benefit	
Event I: Replacement								
1, 2	Baseline/2	90	432	522	.....	.....	.....	.....
3A, 3B	3	91	425	515	7	0	100	0.46
Event II: New Construction/Renovation								
1, 2	Baseline/2	93	432	524	.....	.....	.....	.....
3A, 3B	3	93	426	519	5	0	100	0.61

TABLE VII.7—PRODUCT CLASS 2—PS BALLASTS THAT OPERATE TWO 4-FOOT MBP LAMPS: LCC AND PBP RESULTS

Trial standard level	Efficiency level	Life-cycle cost 2010$			Life-cycle cost savings			Median payback period *years*
		Installed cost	Discounted operating cost	LCC	Average savings *2010$*	Percent of consumers that experience		
						Net cost	Net benefit	
Event I: Replacement								
	Baseline	59	205	263	.....	.....	.....	.....
1, 2	2	60	191	251	12	0	100	1.09
3A, 3B	3	60	188	249	15	0	100	1.25
Event II: New Construction/Renovation								
	Baseline	61	205	266	.....	.....	.....	.....
1, 2	2	62	191	253	13	0	100	1.09
3A, 3B	3	63	189	252	14	0	100	1.26

TABLE VII.8—PRODUCT CLASS 2—PS BALLASTS THAT OPERATE FOUR 4-FOOT MBP LAMPS: LCC AND PBP RESULTS

Trial standard level	Efficiency level	Life-cycle cost 2010$			Life-cycle cost savings			Median payback period *years*
		Installed cost	Discounted operating cost	LCC	Average savings *2010$*	Percent of consumers that experience		
						Net cost	Net benefit	
Event I: Replacement								
	Baseline	77	375	452	.....	.....	.....	.....
1	1	81	373	454	−2	100	0	20.52
2, 3A, 3B	3	83	363	446	6	1	99	6.00
Event II: New Construction/Renovation								
	Baseline	79	2375	454	.....	.....	.....	.....
1	1	83	342	425	29	0	100	1.43
2, 3A, 3B	3	85	334	419	35	0	100	1.76

TABLE VII.9—PRODUCT CLASS 2—PS BALLASTS THAT OPERATE TWO 4-FOOT MINIBP SO LAMPS: LCC AND PBP RESULTS

Trial standard level	Efficiency level	Life-cycle cost 2010$			Life-cycle cost savings			Median payback period *years*
		Installed cost	Discounted operating cost	LCC	Average savings *2010$*	Percent of consumers that experience		
						Net cost	Net benefit	
Event I: Replacement								
	Baseline	64	268	332	.....	.....	.....	.....
1	1	64	251	315	18	0	100	0.05
2	2	66	240	306	27	0	100	0.55
3A, 3B	3	70	252	322	10	0	100	3.82
Event II: New Construction/Renovation								
	Baseline	66	268	335	.....	.....	.....	.....
1	1	67	251	317	18	0	100	0.05
2	2	68	248	316	18	0	100	0.78
3A, 3B	3	73	242	315	19	0	100	2.41

TABLE VII.10—PRODUCT CLASS 2—PS BALLASTS THAT OPERATE TWO 4-FOOT MINIBP HO LAMPS: LCC AND PBP RESULTS

Trial standard level	Efficiency level	Life-cycle cost 2010$			Life-cycle cost savings			Median payback period *years*
		Installed cost	Discounted operating cost	LCC	Average savings *2010$*	Percent of consumers that experience		
						Net cost	Net benefit	
Event I: Replacement								
	Baseline	64	357	421	.....	.....	.....	.....
1	1	68	326	395	26	0	100	1.05
2	2	71	318	389	32	0	100	1.40
3A, 3B	3	74	319	393	28	0	100	2.03
Event II: New Construction/Renovation								
	Baseline	67	357	423	.....	.....	.....	.....
1	1	71	326	397	26	0	100	1.05
2	2	74	323	397	26	0	100	1.63
3A, 3B	3	77	321	397	26	0	100	2.13

TABLE VII.11—PRODUCT CLASS 3—IS AND RS BALLASTS THAT OPERATE TWO 8-FOOT HO LAMPS (T12 BASELINE): LCC AND PBP RESULTS

Trial standard level	Efficiency level	Life-cycle cost 2010$			Life-cycle cost savings			Median payback period* *years*
		Installed cost	Discounted operating cost	LCC	Average savings *2010$*	Percent of consumers that experience		
						Net cost	Net benefit	
Event I: Replacement								
	Baseline	116	631	747	.....	.....	.....	.....
1	1	111	571	682	65	0	100	−0.66
2, 3A	2	97	420	517	230	0	100	−0.69
3B	3	101	413	514	233	0	100	−0.53
Event II: New Construction/Renovation								
	Baseline	119	631	750	.....	.....	.....	.....
1	1	114	590	704	46	0	100	−0.98
2, 3A	2	99	517	616	134	0	100	−1.26
3B	3	103	513	616	134	0	100	−0.97

* Negative PBP values indicate standards that reduce operating costs and installed costs.

TABLE VII.12—PRODUCT CLASS 3—IS AND RS BALLASTS THAT OPERATE TWO 8-FOOT HO LAMPS (T8 BASELINE): LCC AND PBP RESULTS

Trial standard level	Efficiency level	Life-cycle cost 2010$			Life-cycle cost savings			Median payback period *years*
		Installed cost	Discounted operating cost	LCC	Average savings *2010$*	Percent of consumers that experience		
						Net cost	Net benefit	
Event I: Replacement								
1, 2, 3A	Baseline/2	94	420	514	.....	.....	.....	.....
3B	3	98	413	511	3	3	97	4.57
Event II: New Construction/Renovation								
1, 2, 3A	Baseline/2	96	420	517	.....	.....	.....	.....
3B	3	100	417	517	−1	84	16	9.50

TABLE VII.13—PRODUCT CLASS 5—SIGN BALLASTS THAT OPERATE FOUR 8-FOOT HO LAMPS: LCC AND PBP RESULTS

Trial standard level	Efficiency level	Life-cycle cost 2010$			Life-cycle cost savings			Median payback period* *years*
		Installed cost	Discounted operating cost	LCC	Average savings *2010$*	Percent of consumers that experience		
						Net cost	Net benefit	
Event I: Replacement								
	Baseline	164	1,483	1,646	.....	.....	.....	.....
1, 2, 3A, 3B	1	157	1,086	1,244	403	0	100	−0.16
Event II: New Construction/Renovation								
	Baseline	166	1,483	1,649	.....	.....	.....	.....
1, 2, 3A, 3B	1	160	1,239	1,398	251	0	100	−0.26

* Negative PBP values indicate standards that reduce operating costs and installed costs.

TABLE VII.14—PRODUCT CLASS 6—IS AND RS BALLASTS THAT OPERATE TWO 4-FOOT MBP LAMPS (RESIDENTIAL, T12 BASELINE): LCC AND PBP RESULTS

Trial standard level	Efficiency level	Life-cycle cost 2010$			Life-cycle cost savings			Median payback period* *years*
		Installed cost	Discounted operating cost	LCC*	Average savings *2010$*	Percent of consumers that experience		
						Net cost	Net benefit	
Event I: Replacement								
	Baseline	53	71	124	.....	.....	.....	.....
1, 2, 3A	1	46	56	102	21	0	100	−5.46
3B	2	47	58	105	19	0	100	−4.92
Event II: New Construction/Renovation								
	Baseline	55	71	126	.....	.....	.....	.....
1, 2, 3A	1	48	63	111	15	0	100	−9.45
3B	2	49	61	110	16	0	100	−6.35

* Negative PBP values indicate standards that reduce operating costs and installed costs.

TABLE VII.15—PRODUCT CLASS 6—IS AND RS BALLASTS THAT OPERATE TWO 4-FOOT MBP LAMPS (RESIDENTIAL, T8 BASELINE): LCC AND PBP RESULTS

Trial standard level	Efficiency level	Life-cycle cost 2010$			Life-cycle cost savings			Median payback period* *years*
		Installed cost	Discounted operating cost	LCC*	Average savings *2010$*	Percent of consumers that experience		
						Net cost	Net benefit	
Event I: Replacement								
1, 2, 3A	Baseline/1	45	56	101	.....	.....	.....	.....
3B	2	46	58	104	−2	100	0	N/A
Event II: New Construction/Renovation								
1, 2, 3A	Baseline/1	47	56	104	.....	.....	.....	.....
3B	2	49	55	103	1	27	73	8.18

* Entries of "N/A" indicate standard levels that do not reduce operating costs.

b. Consumer Sub-Group Analysis

Using the LCC spreadsheet model, DOE determined the impact of the trial standard levels on the following consumer sub-groups: low-income consumers, institutions of religious worship, and institutions that serve low-income populations. Representative ballast designs used in the industrial sector (*e.g.,* ballasts operating HO lamps) are not typically used by the identified sub-groups, and were not included in the sub-group analysis. Similarly, DOE assumed that low-income consumers use residential ballasts only, and did not include commercial ballast designs in the LCC analysis for this sub-group. DOE assumed that institutions of religious worship and institutions that serve low-income populations use commercial ballasts only, and did not include residential ballast designs in the sub-group analysis.

DOE adjusted inputs to the LCC model to reflect conditions faced by the identified subgroups. For low-income consumers, DOE adjusted electricity prices to represent rates typically paid by consumers living below the poverty line. DOE assumed that institutions of religious worship have lower annual operating hours than the commercial sector average used in the main LCC analysis. For institutions serving low-income populations, DOE assumed that the majority of these institutions are small nonprofits, and used a higher discount rate of 10.7 percent (versus 6.9 percent for the main commercial sector analysis).

Table VII.16 through Table VII.25 shows the LCC impacts and payback periods for identified sub-groups that purchase ballasts. Negative PBP values indicate standards that reduce operating costs and installed costs. Entries of "N/A" indicate standard levels that do not reduce operating costs. In general, the average LCC savings for the identified sub-groups at the considered efficiency levels exhibited the same trends and relationships as the averages for all consumers.

TABLE VII.16—PRODUCT CLASS 1—IS AND RS BALLASTS THAT OPERATE TWO 4-FOOT MBP LAMPS (COMMERCIAL, T12 BASELINE): LCC AND PBP SUB-GROUP RESULTS

Trial standard level	Efficiency level	Life-cycle cost 2010$			Life-cycle cost savings *			Median payback period ** *years*
		Installed cost	Discounted operating cost	LCC	Average savings *2010$*	Percent of consumers that experience		
						Net cost	Net benefit	
Sub-Group: Institutions of Religious Worship								
Event I: Replacement								
	Baseline	64	195	260	.....	.....	.....	.....
1	1	57	178	235	25	0	100	−5.81
2	2	59	173	232	28	0	100	−2.89
3A, 3B	3	60	170	230	30	0	100	−2.26
Event II: New Construction/Renovation								
	Baseline	67	195	262	.....	.....	.....	.....
1	1	59	176	235	27	0	100	−5.16
2	2	62	169	231	32	0	100	−2.48
3A, 3B	3	62	167	229	33	0	100	−2.06
Sub-Group: Institutions Serving Low-Income Populations								
Event I: Replacement								
	Baseline	64	209	273	.....	.....	.....	.....
1	1	57	191	247	26	0	100	−3.35
2	2	59	185	244	29	0	100	−1.66
3A, 3B	3	60	181	241	32	0	100	−1.30
Event II: New Construction/Renovation								
	Baseline	67	209	276	.....	.....	.....	.....
1	1	59	188	247	28	0	100	−2.97
2	2	62	180	242	34	0	100	−1.43
3A, 3B	3	62	179	241	35	0	100	−1.19

* See Table VII.2 for average LCC savings for all consumers.
** Negative PBP values indicate standards that reduce operating costs and installed costs.

TABLE VII.17—PRODUCT CLASS 1—IS AND RS BALLASTS THAT OPERATE TWO 4-FOOT MBP LAMPS (COMMERCIAL, T8 BASELINE): LCC AND PBP SUB-GROUP RESULTS

Trial standard level	Efficiency level	Life-cycle cost 2010$			Life-cycle cost savings*			Median payback period *years*
		Installed cost	Discounted operating cost	LCC	Average savings *2010$*	Percent of consumers that experience		
						Net cost	Net benefit	
Sub-Group: Institutions of Religious Worship								
Event I: Replacement								
1	Baseline/1	56	178	234	.....	.....	.....	.....
2	2	59	173	231	3	1	99	6.28
3A, 3B	3	59	170	229	6	0	100	4.96
Event II: New Construction/Renovation								
1	Baseline/1	58	178	237	.....	.....	.....	.....
2	2	61	171	232	5	0	100	4.79
3A, 3B	3	62	169	231	6	0	100	4.75
Sub-Group: Institutions Serving Low-Income Populations								
Event I: Replacement								
1	Baseline/1	56	191	246	.....	.....	.....	.....
2	2	59	185	243	3	1	99	3.62
3A, 3B	3	59	181	240	6	0	100	2.86

TABLE VII.17—PRODUCT CLASS 1—IS AND RS BALLASTS THAT OPERATE TWO 4-FOOT MBP LAMPS (COMMERCIAL, T8 BASELINE): LCC AND PBP SUB-GROUP RESULTS—Continued

Trial standard level	Efficiency level	Life-cycle cost 2010$			Life-cycle cost savings*			Median payback period *years*
		Installed cost	Discounted operating cost	LCC	Average savings *2010$*	Percent of consumers that experience		
						Net cost	Net benefit	
Event II: New Construction/Renovation								
1	Baseline/1	58	191	249	.....	.....	.....	.....
2	2	61	183	244	5	0	100	2.76
3A, 3B	3	62	181	242	7	0	100	2.74

* See Table VII.3 for average LCC savings for all consumers.

TABLE VII.18—PRODUCT CLASS 1—IS AND RS BALLASTS THAT OPERATE FOUR 4-FOOT MBP LAMPS: LCC AND PBP RESULTS: LCC AND PBP SUB-GROUP RESULTS

Trial standard level	Efficiency level	Life-cycle cost 2010$			Life-cycle cost savings*			Median payback period *years*
		Installed cost	Discounted operating cost	LCC	Average savings *2010$*	Percent of consumers that experience		
						Net cost	Net benefit	
Sub-Group: Institutions of Religious Worship								
Event I: Replacement								
1, 2	Baseline/2	78	326	405	.....	.....	.....	.....
3A, 3B	3	81	319	400	5	0	100	4.61
Event II: New Construction/Renovation								
1, 2	Baseline/2	81	326	407	.....	.....	.....	.....
3A, 3B	3	83	322	405	2	10	90	7.69
Sub-Group: Institutions Serving Low-Income Populations								
Event I: Replacement								
1, 2	Baseline/2	78	349	427	.....	.....	.....	.....
3A, 3B	3	81	341	422	5	0	100	2.65
Event II: New Construction/Renovation								
1, 2	Baseline/2	81	349	429	.....	.....	.....	.....
3A, 3B	3	83	344	427	2	4	96	4.43

* See Table VII.4 for average LCC savings for all consumers.

TABLE VII.19—PRODUCT CLASS 1—IS AND RS BALLASTS THAT OPERATE TWO 8-FOOT SLIMLINE LAMPS (T12 BASELINE): LCC AND PBP SUB-GROUP RESULTS

Trial standard level	Efficiency level	Life-cycle cost 2010$			Life-cycle cost savings *			Median payback period * * *years*
		Installed cost	Discounted operating cost	LCC	Average savings *2010$*	Percent of consumers that experience		
						Net cost	Net benefit	
Sub-Group: Institutions of Religious Worship								
Event I: Replacement								
1	Baseline/1	90	362	452	.....	.....	.....	.....
2	2	90	342	431	20	0	100	−0.20
3A, 3B	3	90	336	426	26	0	100	−0.01

TABLE VII.19—PRODUCT CLASS 1—IS AND RS BALLASTS THAT OPERATE TWO 8-FOOT SLIMLINE LAMPS (T12 BASELINE): LCC AND PBP SUB-GROUP RESULTS—Continued

Trial standard level	Efficiency level	Life-cycle cost 2010$			Life-cycle cost savings *			Median payback period ** *years*
		Installed cost	Discounted operating cost	LCC	Average savings *2010$*	Percent of consumers that experience		
						Net cost	Net benefit	
Event II: New Construction/Renovation								
1	Baseline/1	92	362	454	.....	.....	.....	.....
2	2	92	348	441	14	0	100	−0.30
3A, 3B	3	92	344	436	18	0	100	−0.02
Sub-Group: Institutions Serving Low-Income Populations								
Event I: Replacement								
1	Baseline/1	90	387	477	.....	.....	.....	.....
2	2	90	365	455	22	0	100	−0.12
3A, 3B	3	90	359	449	28	0	100	0.01
Event II: New Construction/Renovation								
1	Baseline/1	92	387	479	.....	.....	.....	.....
2	2	92	372	465	15	0	100	−0.17
3A, 3B	3	92	368	460	19	0	100	0.01

* See Table VII.5 for average LCC savings for all consumers.
** Negative PBP values indicate standards that reduce operating costs and installed costs.

TABLE VII.20—PRODUCT CLASS 1—IS AND RS BALLASTS THAT OPERATE TWO 8-FOOT SLIMLINE LAMPS (T12 BASELINE): LCC AND PBP SUB-GROUP RESULTS

Trial standard level	Efficiency level	Life-cycle cost 2010$			Life-cycle cost savings *			Median payback period *years*
		Installed cost	Discounted operating cost	LCC	Average savings *2010$*	Percent of consumers that experience		
						Net cost	Net benefit	
Sub-Group: Institutions of Religious Worship								
Event I: Replacement								
1, 2	Baseline/2	90	342	432	.....	.....	.....	.....
3A, 3B	3	91	336	427	5	0	100	0.80
Event II: New Construction/Renovation								
1, 2	Baseline/2	93	342	434	.....	.....	.....	.....
3A, 3B	3	93	337	430	4	0	100	1.05
Sub-Group: Institutions Serving Low-Income Populations								
Event I: Replacement								
1, 2	Baseline/2	90	365	456	.....	.....	.....	.....
3A, 3B	3	91	359	450	6	0	100	0.46
Event II: New Construction/Renovation								
1, 2	Baseline/2	93	365	458	.....	.....	.....	.....
3A, 3B	3	93	361	454	4	0	100	0.61

* See Table VII.6 for average LCC savings for all consumers.

TABLE VII.21—PRODUCT CLASS 2—PS BALLASTS THAT OPERATE TWO 4-FOOT MBP LAMPS: LCC AND PBP SUB-GROUP RESULTS

Trial standard level	Efficiency level	Life-cycle cost 2010$			Life-cycle cost savings *			Median payback period *years*
		Installed cost	Discounted operating cost	LCC	Average savings *2010$*	Percent of consumers that experience		
						Net cost	Net benefit	
Sub-Group: Institutions of Religious Worship								
Event I: Replacement								
	Baseline	59	149	208	.....	.....	.....	.....
1, 2	2	60	139	199	9	0	100	1.90
3A, 3B	3	60	137	198	10	0	100	2.16
Event II: New Construction/Renovation								
	Baseline	61	149	210	.....	.....	.....	.....
1, 2	2	62	139	201	9	0	100	1.89
3A, 3B	3	63	137	200	10	0	100	2.19
Sub-Group: Institutions Serving Low-Income Populations								
Event I: Replacement								
	Baseline	59	163	222	.....	.....	.....	.....
1, 2	2	60	152	212	10	0	100	1.09
3A, 3B	3	60	150	211	11	0	100	1.25
Event II: New Construction/Renovation								
	Baseline	61	163	225	.....	.....	.....	.....
1, 2	2	62	152	215	10	0	100	1.09
3A, 3B	3	63	151	213	11	0	100	1.26

* See Table VII.7 for average LCC savings for all consumers.

TABLE VII.22—PRODUCT CLASS 2—PS BALLASTS THAT OPERATE FOUR 4-FOOT MBP LAMPS: LCC AND PBP SUB-GROUP RESULTS

Trial standard level	Efficiency level	Life-cycle cost 2010$			Life-cycle cost savings *			Median payback period *years*
		Installed cost	Discounted operating cost	LCC	Average savings *2010$*	Percent of consumers that experience		
						Net cost	Net benefit	
Sub-Group: Institutions of Religious Worship								
Event I: Replacement								
	Baseline	77	273	350	.....	.....	.....	.....
1	1	81	272	352	−2	100	0	35.63
2, 3A, 3B	3	83	265	347	3	80	20	10.41
Event II: New Construction/Renovation								
	Baseline	79	273	353	.....	.....	.....	.....
1	1	83	249	332	20	0	100	2.48
2, 3A, 3B	3	85	243	329	24	0	100	3.06
Sub-Group: Institutions Serving Low-Income Populations								
Event I: Replacement								
	Baseline	77	299	376	.....	.....	.....	.....
1	1	81	298	378	−2	100	0	20.52
2, 3A, 3B	3	83	290	373	4	19	81	6.00
Event II: New Construction/Renovation								
	Baseline	79	299	379	.....	.....	.....	.....
1	1	83	273	356	22	0	100	1.43

TABLE VII.22—PRODUCT CLASS 2—PS BALLASTS THAT OPERATE FOUR 4-FOOT MBP LAMPS: LCC AND PBP SUB-GROUP RESULTS—Continued

Trial standard level	Efficiency level	Life-cycle cost 2010$			Life-cycle cost savings *			Median payback period *years*
		Installed cost	Discounted operating cost	LCC	Average savings *2010$*	Percent of consumers that experience		
						Net cost	Net benefit	
2, 3A, 3B	3	85	267	352	27	0	100	1.76

* See Table VII.8 for average LCC savings for all consumers.

TABLE VII.23—PRODUCT CLASS 2—PS BALLASTS THAT OPERATE TWO 4-FOOT MINIBP SO LAMPS: LCC AND PBP SUB-GROUP RESULTS

Trial standard level	Efficiency level	Life-cycle cost 2010$			Life-cycle cost savings *			Median payback period *years*
		Installed cost	Discounted operating cost	LCC	Average savings *2010$*	Percent of consumers that experience		
						Net cost	Net benefit	
Sub-Group: Institutions of Religious Worship								
Event I: Replacement								
	Baseline	64	212	276	.....	.....	.....	.....
1	1	64	198	263	14	0	100	0.09
2	2	66	190	256	21	0	100	0.95
3A, 3B	3	70	199	270	7	1	99	6.63
Event II: New Construction/Renovation								
	Baseline	66	212	279	.....	.....	.....	.....
1	1	67	198	265	14	0	100	0.09
2	2	68	197	265	14	0	100	1.35
3A, 3B	3	73	192	265	14	0	100	4.19
Sub-Group: Institutions Serving Low-Income Populations								
Event I: Replacement								
	Baseline	64	227	291	.....	.....	.....	.....
1	1	64	212	276	15	0	100	0.05
2	2	66	203	269	22	0	100	0.55
3A, 3B	3	70	213	284	7	2	98	3.82
Event II: New Construction/Renovation								
	Baseline	66	227	294	.....	.....	.....	.....
1	1	67	212	279	15	0	100	0.05
2	2	68	210	278	15	0	100	0.78
3A, 3B	3	73	205	278	15	0	100	2.41

* See Table VII.9 for average LCC savings for all consumers.

TABLE VII.24—PRODUCT CLASS 6—IS AND RS BALLASTS THAT OPERATE TWO 4-FOOT MBP LAMPS (RESIDENTIAL, T12 BASELINE): LCC AND PBP SUB-GROUP RESULTS

Trial standard level	Efficiency level	Life-cycle cost 2010$			Life-cycle cost savings *			Median payback period ** *years*
		Installed cost	Discounted operating cost	LCC	Average savings *2010$*	Percent of consumers that experience		
						Net cost	Net benefit	
Sub-Group: Low-Income Consumers								
Event I: Replacement								
	Baseline	53	71	124	.....	.....	.....	.....
1, 2, 3A	1	46	57	102	21	0	100	−5.46
3B	2	47	58	105	19	0	100	−4.92

TABLE VII.24—PRODUCT CLASS 6—IS AND RS BALLASTS THAT OPERATE TWO 4-FOOT MBP LAMPS (RESIDENTIAL, T12 BASELINE): LCC AND PBP SUB-GROUP RESULTS—Continued

Trial standard level	Efficiency level	Life-cycle cost 2010$			Life-cycle cost savings *			Median payback period ** *years*
		Installed cost	Discounted operating cost	LCC	Average savings *2010$*	Percent of consumers that experience		
						Net cost	Net benefit	
Event II: New Construction/Renovation								
	Baseline	55	71	126	.....	.....	.....	.....
1, 2, 3A	1	48	63	111	15	0	100	−9.45
3B	2	49	61	110	16	0	100	−6.35

* See Table VII.14 for average LCC savings for all consumers.
** Negative PBP values indicate standards that reduce operating costs and installed costs.

TABLE VII.25—PRODUCT CLASS 6—IS AND RS BALLASTS THAT OPERATE TWO 4-FOOT MBP LAMPS (RESIDENTIAL, T8 BASELINE): LCC AND PBP SUB-GROUP RESULTS

Trial standard level	Efficiency level	Life-cycle cost 2010$			Life-cycle cost savings *			Median payback period ** *years*
		Installed cost	Discounted operating cost	LCC	Average savings *2010$*	Percent of consumers that experience		
						Net cost	Net benefit	
Sub-Group: Low-Income Consumers								
Event I: Replacement								
1, 2, 3A	Baseline/1	45	57	101	.....	.....	.....	.....
3B	2	46	58	104	−2	100	0	N/A
Event II: New Construction/Renovation								
1, 2, 3A	Baseline/1	47	57	104	.....	.....	.....	.....
3B	2	49	55	103	1	27	73	8.18

* See Table VII.15 for average LCC savings for all consumers.
** Entries of "N/A" indicate standard levels that do not reduce operating costs.

c. Rebuttable Presumption Payback

As discussed in section IV.D.2, EPCA provides a rebuttable presumption that an energy conservation standard is economically justified if the increased purchase cost for a product that meets the standard is less than three times the value of the first-year energy savings resulting from the standard. DOE's LCC and PBP analyses generate values for calculating the payback period for consumers affected by potential energy conservation standards. This includes, but is not limited to, the 3-year payback period contemplated under the rebuttable presumption test discussed in section IV.D.2. DOE, however, routinely conducts an economic analysis that considers the full range of impacts—including those on consumers, manufacturers, the Nation, and the environment—as required under 42 U.S.C. 6295(o)(2)(B)(i).

For this final rule, DOE calculated a rebuttable presumption payback period for each TSL. DOE used discrete values rather than distributions for inputs and, as required by EPCA, made the calculations using the applicable DOE test procedures for ballasts. DOE then calculated a single rebuttable presumption payback value, rather than a distribution of payback periods, for each TSL. Table VII.26 shows the rebuttable presumption payback periods that are less than 3 years. Negative PBP values indicate standards that reduce operating costs and installed costs.

While DOE examined the rebuttable-presumption criterion, it also considered a more comprehensive analysis of the economic impacts of these levels to determine whether the standard levels considered for today's rule are economically justified pursuant to 42 U.S.C. 6295(o)(2)(B)(i). The results of this analysis serve as the basis for DOE to evaluate the economic justification for a potential standard level (thereby supporting or rebutting the results of any preliminary determination of economic justification).

Table VII.26 Ballast Efficiency Levels With Rebuttable Payback Period Less Than Three Years

Product Class	Efficiency Level	Mean Payback Period* years	
		Event I: Replacement	Event II: New Construction / Renovation
IS and RS ballasts (not classified as residential) that operate:			
Two 4-foot MBP lamps (T12 baseline)	1	-3.19	-2.82
	2	-1.57	-1.34
	3	-1.22	-1.11
Two 4-foot MBP lamps (T8 baseline)	2		2.55
	3	2.64	2.53
Four 4-foot MBP lamps	3	2.46	
Two 8-foot slimline lamps (T12 baseline)	2	-0.11	-0.16
	3	0.01	0.01
Two 8-foot slimline lamps (T8 baseline)	3	0.43	0.56
PS ballasts (not classified as residential) that operate:			
Two 4-foot MBP lamps	1, 2	1.01	1.01
	3	1.15	1.17
Four 4-foot MBP lamps	1		1.32
	3		1.63
Two 4-foot MiniBP SO lamps	1	0.05	0.05
	2	0.50	0.72
	3		2.23
Two 4-foot MiniBP HO lamps	1	1.07	1.07
	2	1.42	1.66
	3	2.06	2.17
IS and RS ballasts (not classified as sign ballasts) that operate:			
Two 8-foot HO lamps (T12 baseline)	1	-0.67	-1.00
	2	-0.72	-1.32
	3	-0.55	-1.01
Sign Ballasts that operate:			
Four 8-foot HO lamps	1, 2, 3	-0.15	-0.24
IS and RS residential ballasts that operate:			
Two 4-foot MBP lamps (T12 baseline)	1	-5.14	-8.98
	2	-4.63	-6.01

* Negative PBP values indicate standards that reduce operating costs and installed costs.

2. Economic Impacts on Manufacturers

For the MIA in the April 2011 NOPR, DOE used changes in INPV to compare the direct financial impacts of different TSLs on manufacturers. 76 FR 20090, 20156–61 (April 11, 2011). DOE used the GRIM to compare the INPV of the base case (no new or amended energy conservation standards) to that of each TSL. The INPV is the sum of all net cash flows discounted by the industry's cost of capital (discount rate) to the base year. The difference in INPV between the base case and the standards case is an estimate of the economic impacts that implementing that standard level would have on the entire fluorescent ballast industry. For today's final rule, DOE continues to use the methodology presented in the NOPR (76 FR 20090,

20134–5 (April 11, 2011)) and in section V.H.

a. Industry Cash-Flow Analysis Results

Table VII.27 and Table VII.28 depict the financial impacts on manufacturers (represented by changes in INPV) and the conversion costs DOE estimates manufacturers would incur at each TSL. The two tables show two sets of INPV impacts: Table VII.27 reflects the lower (less severe) bound of impacts and Table VII.28 represents the upper bound. To evaluate this range of cash-flow impacts on the fluorescent lamp ballast industry, DOE modeled two different scenarios using different markup assumptions. These assumptions correspond to the bounds of a range of market responses that DOE anticipates could occur in the standards case (*i.e.,* where new and amended energy conservation standards apply). Each of the two scenarios results in a unique set of cash flows and corresponding industry value at each TSL. The April 2011 NOPR (76 FR 20090, 20156 (April 11, 2011)) discusses each of these scenarios in full, and they are also presented in chapter 13 of the TSD.

TABLE VII.27—MANUFACTURER IMPACT ANALYSIS FOR FLUORESCENT LAMP BALLASTS—PRESERVATION OF OPERATING PROFIT MARKUP, EXISTING TECHNOLOGIES, AND SHIFT SHIPMENT SCENARIO

	Units	Base case	Trial standard level			
			1	2	3A	3B
INPV	(2010$ millions)	1,219	1,199	1,176	1,144	1,141
Change in INPV	(2010$ millions)		(19.6)	(42.4)	(74.5)	(77.6)
	(%)		−1.6%	−3.5%	−6.1%	−6.4%
Product Conversion Costs.	(2010$ millions)		5	18	46	48
Capital Conversion Costs.	(2010$ millions)		11	20	28	29
Total Conversion Costs.	(2010$ millions)		17	38	74	78

TABLE VII.28—MANUFACTURER IMPACT ANALYSIS FOR FLUORESCENT LAMP BALLASTS—TWO-TIER MARKUP, EMERGING TECHNOLOGIES, AND ROLL-UP SHIPMENT SCENARIO

	Units	Base case	Trial standard level			
			1	2	3A	3B
INPV	(2010$ millions)	733	616	545	464	431
Change in INPV	(2010$ millions)		(116.4)	(188.0)	(268.6)	(301.2)
	(%)		−15.9%	−25.7%	−36.7%	−41.1%
Product Conversion Costs.	(2010$ millions)		5	18	46	48
Capital Conversion Costs.	(2010$ millions)		11	20	28	29
Total Conversion Costs.	(2010$ millions)		17	38	74	78

TSL 1 represents EL1 for all five representative product classes. At TSL 1, DOE estimates impacts on INPV to range from −$19.6 million to −$116.4 million, or a change in INPV of −1.6 percent to −15.9 percent. At this level, industry free cash flow [61] is estimated to decrease by approximately 12 percent to $43.4 million, compared to the base-case value of $49.3 million in the year leading up to the energy conservation standards.

The INPV impacts at TSL 1 are relatively minor, in part because the vast majority of shipments already meet EL1. DOE estimates that in 2014, the year in which compliance with the new and amended standards will be required, over 99 percent of the IS/RS product class shipments, 73 percent of the PS product class shipments, 98 percent of the 8-foot HO IS/RS product class shipments, 64 percent of the sign ballast product class shipments, and 96 percent of the residential IS/RS product class shipments would meet EL1 or higher in the base case. The majority of shipments at baseline efficiency levels that would need to be converted at TSL 1 are 2-lamp and 4-lamp 4ft MBP PS ballasts, 4-lamp sign ballasts, and 2-lamp 4-foot MBP IS/RS residential ballasts.

Because most fluorescent lamp ballast shipments already meet the efficiency levels analyzed at TSL 1, DOE expects conversion costs to be small compared to the industry value. DOE estimates product conversion costs of $5 million due to the research, development, testing, and certification costs needed to upgrade product lines that do not meet TSL 1. For capital conversion costs, DOE estimates $11 million for the industry, largely driven by the cost of converting all magnetic sign ballast production lines to electronic sign ballast production lines.

Under the preservation of operating profit markup scenario, impacts on manufacturers are marginally negative because, while manufacturers earn the same operating profit as is earned in the base case for 2015 (the year following the compliance date of amended standards), they face $17 million in conversion costs. INPV impacts on manufacturers are not as significant under this scenario as in other scenarios because most shipments already meet TSL 1 and the shift shipment scenario moves products beyond the eliminated baseline to higher-price (and higher gross profit) levels. This results in a shipment-weighted average MPC increase of 6 percent applied to a

[61] Industry free cash flow is the operating cash flow minus capital expenditures.

growing market over the analysis period.

Shipments under the existing technologies scenario are nearly three and a half times greater than shipments under the emerging technologies scenario by the end of the analysis period. At TSL 1, the moderate price increase applied to a large quantity of shipments lessens the impact of the minor conversion costs estimated at TSL 1, resulting in slightly negative impacts at TSL 1 under the preservation of operating profit markup scenario.

Under the two-tier markup scenario, manufacturers are not able to fully pass on additional costs to consumers and are not guaranteed base-case operating profit levels. Rather, products that once earned a higher-than-average markup at EL1 become commoditized once baseline products are eliminated at TSL 1. Thus, the average markup drops below the base-case average markup (which is equal to the flat manufacturer markup of 1.4). Because shipments above the baseline do not shift to higher efficiencies with greater costs under the roll-up scenario, the shipment-weighted average MPC does not significantly increase. A lower average markup of 1.38 and $17 million in conversion costs results in more negative impacts at TSL 1 under the two-tier markup scenario. These impacts increase on a percentage basis under the emerging technologies scenario relative to the existing technologies scenario because the base-case INPV against which changes are compared is nearly 40 percent lower.

TSL 2 represents EL1 for the sign ballast and residential IS/RS product classes. For the IS/RS, PS, and 8-foot HO IS/RS product classes, TSL 2 represents EL2. At TSL 2, DOE estimates impacts on INPV to range from −$42.4 million to −$188.0 million, or a change in INPV of −3.5 percent to −25.7 percent. At this level, industry free cash flow is estimated to decrease by approximately 26 percent to $36.6 million, compared to the base-case value of $49.3 million in the year leading up to the energy conservation standards.

Because the sign ballast and residential IS/RS product classes remain at EL1 at TSL 2, the additional impacts at TSL 2 relative to TSL 1 result only from increasing the IS/RS, PS, and 8-foot HO IS/RS product classes to EL2. At TSL 2, DOE estimates that 63 percent of the IS/RS product class shipments, 19 percent of the PS product class shipments, and 89 percent of the 8-foot HO IS/RS product class shipments would meet EL2 or higher in the base case. Since the 8-foot HO IS/RS product class represents only 0.1 percent of the fluorescent lamp ballast market, the vast majority of impacts at TSL 2 relative to TSL 1 result from changes in the IS/RS and PS product classes.

At TSL 2, conversion costs remain small compared to the industry value. Product conversion costs increase to $18 million due to the increase in the number of product lines within the IS/RS and PS product classes that would need to be redesigned at TSL 2. Capital conversion costs grow to $20 million at TSL 2 because manufacturers would need to invest in additional testing equipment and convert some production lines.

Under the preservation of operating profit markup scenario, INPV impacts are negative because manufacturers are not able to fully pass on higher product costs to consumers. The shipment-weighted average MPC increases by 9 percent compared to the baseline MPC, but this increase does not generate enough cash flow to outweigh the $38 million in conversion costs at TSL 2, resulting in a −3.5 percent change in INPV at TSL 2 compared to the base case.

Under the two-tier markup scenario, more products are commoditized to a lower markup at TSL 2. The impact of this lower average markup of 1.36 outweighs the impact of a 6 percent increase in shipment-weighted average MPC, resulting in a negative change in INPV at TSL 2. The $38 million in conversion costs further erodes profitability, and the lower base case INPV against which the change in INPV is compared under the emerging technologies scenario increases INPV impacts on a percentage basis.

TSL 3A represents EL1 for the sign ballasts and residential IS/RS product classes, EL2 for the 8-foot HO IS/RS product class, and EL3 for the IS/RS and PS product classes. At TSL 3A, DOE estimates impacts on INPV to range from −$74.5 million to −$268.6 million, or a change in INPV of −6.1 percent to −36.7 percent. At this level, industry free cash flow is estimated to decrease by approximately 48 percent to $25.8 million, compared to the base-case value of $49.3 million in the year leading up to the energy conservation standards.

Because the sign ballast and residential IS/RS product classes remain at EL1 and the 8-foot HO IS/RS product class remains at EL2 for TSL 3A, the additional impacts at TSL 3A relative to TSL 2 result only from increasing the IS/RS and PS product classes to EL3. At TSL 3A, DOE estimates that 21 percent of the IS/RS product class shipments and 7 percent of the PS product class shipments would meet the efficiency levels contained in TSL 3A or higher in the base case.

At TSL 3A, product conversion costs increase to $46 million because far more product lines within the IS/RS, and PS product classes would need to be redesigned at TSL 3A than TSL 2. Capital conversion costs rise to $28 million at TSL 3A because manufacturers would need to invest in equipment such as surface-mount device placement machinery and solder machines to convert production lines for the manufacturing of more efficient ballasts.

Under the preservation of operating profit markup scenario, INPV decreases by 6.1 percent at TSL 3A compared to the base case. The shipment-weighted average MPC increases by 17 percent, but manufacturers are not able to pass on the full amount of these higher costs to consumers. This MPC increase is outweighed by the $74 million in conversion costs at TSL 3A.

Under the two-tier markup scenario, at TSL 3A, products are commoditized to a lower markup to an even greater extent than under the preservation of operating profit markup scenario. The impact of this lower average markup of 1.33 outweighs the impact of a 15 percent increase in shipment-weighted average MPC, resulting in a negative change in INPV at TSL 3A compared to TSL 2. Profitability is further reduced by the $74 million in conversion costs and the lower base-case INPV over which change in INPV is compared under the emerging technologies scenario.

TSL 3B represents EL1 for the sign ballast product class, EL2 for the residential IS/RS product class, and EL3 for the IS/RS, PS, and 8-foot HO IS/RS product classes. At TSL 3B, DOE estimates impacts on INPV to range from −$77.6 million to −$301.2 million, or a change in INPV of −6.4 percent to −41.1 percent. At this level, industry free cash flow is estimated to decrease by approximately 50 percent to $24.7 million, compared to the base-case value of $49.3 million in the year leading up to the energy conservation standards.

Because the sign ballast product class remains at EL1 and the IS/RS and PS product classes remain at EL3 for TSL 3B, the additional impacts at TSL 3B relative to TSL 3A result only from increasing the 8-foot HO IS/RS product class to EL3 and the residential IS/RS product class to EL2. At TSL 3B, DOE estimates that 2 percent of the 8-foot HO IS/RS product class shipments and 23 percent of the residential IS/RS product class shipments would meet the efficiency levels contained in TSL 3B in the base case.

At TSL 3B, conversion costs are slightly greater compared to TSL 3A. Product and capital conversion costs increase to $48 million and $29 million, respectively, because more product lines would need to be redesigned and upgraded at TSL 3B.

Under the preservation of operating profit markup scenario, INPV decreases by 6.4 percent at TSL 3B compared to the base case, which is slightly greater than the percentage impact at TSL 3A. The shipment-weighted average MPC increases by over 17 percent, but manufacturers are not able to pass on the full amount of these higher costs to consumers. This slight MPC increase is outweighed by the $78 million in conversion costs at TSL 3B.

Under the two-tier markup scenario, at TSL 3B, products are commoditized to a lower markup to the greatest extent of any TSL analyzed. The impact of this lower average markup of 1.33 outweighs the impact of a 17 percent increase in shipment-weighted average MPC, resulting in a negative change in INPV at TSL 3B compared to TSL 3A. Profitability is further reduced by the $78 million in conversion costs and the lower base-case INPV over which change in INPV is compared under the emerging technologies scenario.

b. Impacts on Employment

DOE typically presents modeled quantitative estimates of the potential changes in production employment that could result from new and amended energy conservation standards. However, for this rulemaking, DOE determined that none of the major manufacturers, which comprise more than 90 percent of the market, have domestic fluorescent lamp ballast production. Although a few niche manufacturers have relatively limited domestic production, based on interviews, DOE has identified very few domestic production employees in the United States. Because many niche manufacturers did not respond to interview requests or submit comments on domestic employment impacts, DOE is unable to fully quantify domestic production employment impacts. Therefore, while DOE qualitatively discusses potential employment impacts below, DOE did not model direct employment impacts explicitly because the results would not be meaningful given the very low number of domestic production employees.

Based on interviews, DOE projects that significant direct employment impacts would occur only in the event that one or more businesses exit the market due to new standards. Discussions with manufacturers indicated that, at the highest efficiency levels (TSL 3A and TSL 3B), some small manufacturers will be faced with the decision of whether or not to make the investments necessary to remain in the market based on their current technical capabilities. In general, however, DOE projects that TSL 3A, the level adopted in today's final rule, will not have significant adverse impacts on domestic employment because achieving these levels is within the expertise of most manufacturers, including small manufacturers, due to the lack of intellectual property restrictions and similarity of products among manufacturers.

In summary, given the low number of production employees and the low likelihood that manufacturers would exit the market at the efficiency levels adopted in today's final rule, DOE does not expect a significant impact on direct employment following new and amended energy conservation standards.

DOE notes that the direct employment impacts discussed here are independent of the indirect employment impacts from the broader U.S. economy, which are documented in chapter 15, Employment Impact Analysis, of the TSD.

c. Impacts on Manufacturing Capacity

Manufacturers stated that new and amended energy conservation standards could harm manufacturing capacity due to the current component shortage discussed in the April 2011 NOPR (76 FR 20090, 20139 (April 11, 2011)). At present, manufacturers are struggling to produce enough fluorescent lamp ballasts to meet demand because of a worldwide shortage of electrical components. The components most affected by this shortage are premium high-efficiency parts, for which demand would increase even more following new and amended energy conservation standards. In the near term this increased demand might exacerbate the component shortage, thereby impacting manufacturing capacity. While DOE recognizes that the component shortage is currently a significant issue for manufacturers, DOE projects it to be a relatively short-term phenomenon to which component suppliers will ultimately adjust. According to manufacturers, suppliers have the ability to ramp up production to meet ballast component demand by the compliance date of new and amended standards, but those suppliers have hesitated to invest in additional capacity due to economic uncertainty and skepticism about the sustainability of demand. The state of the macroeconomic environment through 2014 will likely affect the duration of the component shortage. Mandatory standards, however, could create more certainty for suppliers about the eventual demand for these components. Additionally, the components at issue are not new technologies; rather, they have simply not historically been demanded in large quantities by ballast manufacturers. DOE received no comments or additional information indicating that its conclusions related to the component shortage issue were incorrect and therefore reiterates these conclusions for today's final rule.

d. Impacts on Sub-Groups of Manufacturers

As discussed in the April 2011 NOPR (76 FR 20090, 20135 (April 11, 2011)), using average cost assumptions to develop an industry cash-flow estimate may be inadequate to assess differential impacts among manufacturer sub-groups. DOE used the results of the industry characterization to group ballast manufacturers exhibiting similar characteristics. DOE identified two sub-groups that would experience differential impacts: Small manufacturers and sign ballast manufacturers, many of whom are also small manufacturers. For a discussion of the impacts on the small manufacturer sub-group, see the Regulatory Flexibility Analysis in section VIII.B and chapter 13 of the TSD.

DOE is not presenting results under the two-tier markup scenario for sign ballasts because it did not observe a two-tier effect in the sign ballast market. Electronic ballasts at EL1 command neither a higher price nor a higher markup in the base case. Additionally, roll-up and shift scenarios do not have separate impacts for sign ballasts because there are no higher ELs above the new baseline to which products could potentially shift in the standards case. As such, Table VII.29 and Table VII.30 present the cash-flow analysis results under the preservation of operating profit markup and roll-up shipment scenarios with existing or emerging technologies for sign ballast manufacturers.

TABLE VII.29—MANUFACTURER IMPACT ANALYSIS FOR SIGN BALLASTS—PRESERVATION OF OPERATING PROFIT MARKUP, EXISTING TECHNOLOGIES, AND ROLL-UP SHIPMENT SCENARIO

	Units	Base case	Trial standard level			
			1	2	3A	3B
INPV	(2010$ millions)	142	138	138	138	138
Change in INPV	(2010$ millions)		(4.2)	(4.2)	(4.2)	(4.2)
	(%)		−2.9%	−2.9%	−2.9%	−2.9%
Product Conversion Costs	(2010$ millions)		2	2	2	2
Capital Conversion Costs	(2010$ millions)		6	6	6	6
Total Conversion Costs	(2010$ millions)		8	8	8	8

TABLE VII.30—MANUFACTURER IMPACT ANALYSIS FOR SIGN BALLASTS—PRESERVATION OF OPERATING PROFIT MARKUP, EMERGING TECHNOLOGIES, AND ROLL-UP SHIPMENT SCENARIO

	Units	Base case	Trial standard level			
			1	2	3A	3B
INPV	(2010$ millions)	116	111	111	111	111
Change in INPV	(2010$ millions)		(5.1)	(5.1)	(5.1)	(5.1)
	(%)		−4.4%	−4.4%	−4.4%	−4.4%
Product Conversion Costs	(2010$ millions)		2	2	2	2
Capital Conversion Costs	(2010$ millions)		6	6	6	6
Total Conversion Costs	(2010$ millions)		8	8	8	8

For the sign ballast product class, DOE analyzed only one efficiency level; thus, the results are the same at each TSL. TSLs 1 through 3B represent EL1 for the sign ballast product class. At TSLs 1 through 3B, DOE estimates impacts on INPV to range from −$4.2 million to −$5.1 million, or a change in INPV of −2.9 percent to −4.4 percent. At these levels, industry free cash flow is estimated to decrease by approximately 38 percent to $4.9 million, compared to the base-case value of $7.9 million in the year leading up to the energy conservation standards.

As shown by the results, DOE expects sign ballast manufacturers overall to face small negative impacts under TSLs 1 through 3B. DOE estimates that 64 percent of the sign ballast product class shipments would meet EL1 in the base case. Many manufacturers already produce electronic sign ballasts, which is the design option represented by EL1. Many other manufacturers, however, produce only magnetic T12 sign ballasts and therefore would face significant capital exposure in moving from magnetic to electronic ballasts to meet TSLs 1 through 3B. For that reason, DOE estimates relatively high capital conversion costs of $6 million for sign ballast manufacturers. Product redesign and testing costs are expected to total $2 million for sign ballasts. DOE notes that small sign ballast manufacturers, particularly those who would be required to move from magnetic to electronic sign ballasts as a result of today's standards, may apply to DOE for an exemption from the standard pursuant to 42 U.S.C. 6295(t). The process applicants must follow to request an exemption and DOE's process for making a decision on a particular request are set forth in DOE's regulations at 10 CFR 430 Subpart E.

Unlike most product classes, sign ballasts are expected to decrease rather than increase in price moving from baseline to EL1 by a shipment-weighted average decrease in MPC of over 4 percent. This is because electronic ballasts are a cheaper alternative to magnetic ballasts, even though the industry has not yet fully moved toward electronic production. During interviews, manufacturers stated that consumers were reluctant to convert to electronic ballasts even though there were no technical barriers to doing so. Under the preservation of operating profit markup scenario, however, manufacturers are able to maintain the base-case operating profit for the year following the compliance date of new and amended standards despite lower production costs, so the average markup increases slightly to 1.41 to account for the decrease in MPC. Despite this markup increase, revenue is lower at TSLs 1 through 3B than in the base case because of the lower average unit price and the $8 million in conversion costs. When the preservation of operating profit markup is combined with the existing technologies scenario rather than the emerging technologies scenario, the impact of this maximized revenue per unit is greatest because it is applied to a larger total quantity of shipments.

e. Cumulative Regulatory Burden

While any one regulation may not impose a significant burden on manufacturers, the combined effects of recent or impending regulations may have serious consequences for some manufacturers, groups of manufacturers, or an entire industry. Assessing the impact of a single regulation may overlook this cumulative regulatory burden. In addition to energy conservation standards, other regulations can significantly affect manufacturers' financial operations. Multiple regulations affecting the same manufacturer can strain profits and lead companies to abandon product lines or markets with lower expected future returns than competing products. For these reasons, DOE conducts an analysis of cumulative regulatory burden as part of its rulemakings pertaining to appliance efficiency.

During previous stages of this rulemaking, DOE identified a number of requirements, in addition to new and amended energy conservation standards for ballasts, that manufacturers of these products will face for products and equipment they manufacture within approximately 3 years prior to and 3 years after the anticipated compliance date of the new and amended standards. DOE discusses these and other

requirements, including the energy conservation standards for lamps that take effect beginning in 2012 (74 FR 34080 (July 14, 2009) and U.S.C. 6295 (i)(1)(A)), in its full cumulative regulatory burden analysis in chapter 13 of the TSD.

In written comments on the NOPR, NEMA expressed concern that DOE has not accounted for other legislation that would increase costs. (NEMA, No. 47 at p. 9) While it is not clear to which other legislation NEMA is referring, DOE does take into account the cost of compliance with other published Federal energy conservation standards, such as the 2009 lamps rule. DOE does not include the impacts of standards that have not yet been finalized, however, because any impacts of such standards would be speculative. The cumulative regulatory impact analysis is discussed in more detail in chapter 13 of the TSD. In response to the September 2011 NODA, NEMA also noted that President Obama stated an objective in a September 8, 2011 speech of reducing regulatory burden on manufacturers. (NEMA, No. 56 at p. 3) DOE acknowledges the President's objective of reducing regulatory burden and, as required by EPCA, ensures that each of its energy conservation standards is economically justified. DOE has analyzed the various TSLs considered in this rulemaking and believes that the burdens of today's rulemaking are outweighed and justified by the benefits of the rule, as described in section VII.C.2.

3. National Impact Analysis

a. Significance of Energy Savings

To estimate the energy savings through 2043 attributable to potential energy conservation standards for ballasts, DOE compared the energy consumption of these products under the base case to their anticipated energy use under each TSL. Table VII.31 presents DOE's forecasts of the national energy savings for each TSL, for the existing and emerging technologies shipment scenarios that represent the maximum and minimum energy savings resulting from all the scenarios analyzed. Chapter 11 of the final rule TSD describes these estimates in more detail.

TABLE VII.31—SUMMARY OF CUMULATIVE NATIONAL ENERGY SAVINGS FOR BALLASTS

[2014–2043]

Trial standard level	Product class	National energy savings *quads*	
		Existing technologies, shift	Emerging technologies, roll-up
1	IS and RS ballasts (not classified as residential) that operate:		
	Two 4-foot MBP lamps	1.19	0.001
	Four 4-foot MBP lamps	0	0
	Two 8-foot slimline lamps	0	0
	PS ballasts (not classified as residential) that operate:		
	Two 4-foot MBP lamps	0.27	0.13
	Four 4-foot MBP lamps	0.27	0.10
	Two 4-foot MiniBP SO lamps	0.43	0.16
	Two 4-foot MiniBP HO lamps	0.25	0.23
	IS and RS ballasts (not classified as sign ballasts) that operate:		
	Two 8-foot HO lamps	0.04	0.04
	Sign ballasts that operate:		
	Four 8-foot HO lamps	0.92	0.69
	IS and RS residential ballasts that operate:		
	Two 4-foot MBP lamps	0.13	0.01
	Total (TSL1)	3.50	1.36
2	IS and RS ballasts (not classified as residential) that operate:		
	Two 4-foot MBP lamps	1.19	0.42
	Four 4-foot MBP lamps	0	0
	Two 8-foot slimline lamps	0.02	0.001
	PS ballasts (not classified as residential) that operate:		
	Two 4-foot MBP lamps	0.27	0.13
	Four 4-foot MBP lamps	0.33	0.13
	Two 4-foot MiniBP SO lamps	0.78	0.25
	Two 4-foot MiniBP HO lamps	0.43	0.39
	IS and RS ballasts (not classified as sign ballasts) that operate:		
	Two 8-foot HO lamps	0.04	0.04
	Sign ballasts that operate:		
	Four 8-foot HO lamps	0.92	0.69
	IS and RS residential ballasts that operate:		
	Two 4-foot MBP lamps	0.13	0.01
	Total (TSL2)	4.10	2.05
3A	IS and RS ballasts (not classified as residential) that operate:		
	Two 4-foot MBP lamps	1.44	0.55
	Four 4-foot MBP lamps	0.31	0.12
	Two 8-foot slimline lamps	0.02	0.02
	PS ballasts (not classified as residential) that operate:		
	Two 4-foot MBP lamps	0.30	0.14
	Four 4-foot MBP lamps	0.33	0.13
	Two 4-foot MiniBP SO lamps	1.51	0.51
	Two 4-foot MiniBP HO lamps	0.56	0.52

TABLE VII.31—SUMMARY OF CUMULATIVE NATIONAL ENERGY SAVINGS FOR BALLASTS—Continued

[2014–2043]

Trial standard level	Product class	National energy savings *quads*	
		Existing technologies, shift	Emerging technologies, roll-up
	IS and RS ballasts (not classified as sign ballasts) that operate:		
	Two 8-foot HO lamps	0.04	0.04
	Sign ballasts that operate:		
	Four 8-foot HO lamps	0.92	0.69
	IS and RS residential ballasts that operate:		
	Two 4-foot MBP lamps	0.13	0.01
	Total (TSL3A)	5.55	2.74
3B	IS and RS ballasts (not classified as residential) that operate:		
	Two 4-foot MBP lamps	1.44	0.55
	Four 4-foot MBP lamps	0.31	0.12
	Two 8-foot slimline lamps	0.02	0.02
	PS ballasts (not classified as residential) that operate:		
	Two 4-foot MBP lamps	0.30	0.14
	Four 4-foot MBP lamps	0.33	0.13
	Two 4-foot MiniBP SO lamps	1.51	0.51
	Two 4-foot MiniBP HO lamps	0.56	0.52
	IS and RS ballasts (not classified as sign ballasts) that operate:		
	Two 8-foot HO lamps	0.04	0.04
	Sign ballasts that operate:		
	Four 8-foot HO lamps	0.92	0.69
	IS and RS residential ballasts that operate:		
	Two 4-foot MBP lamps	0.13	0.12
	Total (TSL3B)	5.56	2.86

b. Net Present Value of Consumer Costs and Benefits

DOE estimated the cumulative NPV to the nation of the total costs and savings for consumers that would result from particular standard levels for ballasts. In accordance with the OMB's guidelines on regulatory analysis (OMB Circular A–4, section E, September 17, 2003), DOE calculated NPV using both a 7-percent and a 3-percent real discount rate. The 7-percent rate is an estimate of the average before-tax rate of return to private capital in the U.S. economy, and reflects the returns to real estate and small business capital as well as corporate capital. DOE used this discount rate to approximate the opportunity cost of capital in the private sector, because recent OMB analysis has found the average rate of return to capital to be near this rate. In addition, DOE used the 3-percent rate to capture the potential effects of standards on private consumption (*e.g.,* through higher prices for products and the purchase of reduced amounts of energy). This rate represents the rate at which society discounts future consumption flows to their present value. This rate can be approximated by the real rate of return on long-term government debt (*i.e.,* yield on Treasury notes minus annual rate of change in the Consumer Price Index), which has averaged about 3 percent on a pre-tax basis for the last 30 years.

Table VII.32 shows the consumer NPV results for each TSL DOE considered for ballasts, using both a 7-percent and a 3-percent discount rate. This table presents the results of the two shipment scenarios that represent the maximum and minimum NPV resulting from all the scenarios analyzed. Zero values indicate product types with zero energy savings at a particular TSL, *i.e.,* the corresponding efficiency level is a baseline design. See chapter 11 of the final rule TSD for more detailed NPV results.

TABLE VII.32—SUMMARY OF CUMULATIVE NET PRESENT VALUE FOR BALLASTS (2014–2043)

Trial standard level	Product class	Net present value *billion 2010$*			
		Existing technologies, shift		Emerging technologies, roll-up	
		7 Percent discount rate	3 Percent discount rate	7 Percent discount rate	3 Percent discount rate
1	IS and RS ballasts (not classified as residential) that operate:				
	Two 4-foot MBP lamps	2.33	5.20	0.01	0.01
	Four 4-foot MBP lamps	0	0	0	0
	Two 8-foot slimline lamps	0	0	0	0
	PS ballasts (not classified as residential) that operate:				
	Two 4-foot MBP lamps	0.77	1.40	0.51	0.78
	Four 4-foot MBP lamps	0.61	1.35	0.30	0.58

TABLE VII.32—SUMMARY OF CUMULATIVE NET PRESENT VALUE FOR BALLASTS (2014–2043)—Continued

Trial standard level	Product class	Net present value *billion 2010$*			
		Existing technologies, shift		Emerging technologies, roll-up	
		7 Percent discount rate	3 Percent discount rate	7 Percent discount rate	3 Percent discount rate
	Two 4-foot MiniBP SO lamps	1.11	2.45	0.57	1.02
	Two 4-foot MiniBP HO lamps	0.42	0.88	0.42	0.88
	IS and RS ballasts (not classified as sign ballasts) that operate two 8-foot HO lamps.	0.11	0.12	0.10	0.12
	Sign ballasts that operate four 8-foot HO lamps	2.94	5.55	2.52	4.62
	IS and RS residential ballasts that operate two 4-foot MBP lamps.	0.22	0.49	0.16	0.27
	Total (TSL1)	8.52	17.43	4.59	8.28
2	IS and RS ballasts (not classified as residential) that operate:				
	Two 4-foot MBP lamps	2.33	5.20	1.08	2.15
	Four 4-foot MBP lamps	0	0	0	0
	Two 8-foot slimline lamps	0.05	0.10	0.01	0.01
	PS ballasts (not classified as residential) that operate:				
	Two 4-foot MBP lamps	0.77	1.40	0.51	0.78
	Four 4-foot MBP lamps	0.73	1.61	0.37	0.72
	Two 4-foot MiniBP SO lamps	1.33	3.09	0.68	1.31
	Two 4-foot MiniBP HO lamps	0.42	0.94	0.43	0.94
	IS and RS ballasts (not classified as sign ballasts) that operate two 8-foot HO lamps.	0.11	0.13	0.11	0.13
	Sign ballasts that operate four 8-foot HO lamps	2.94	5.55	2.52	4.62
	IS and RS residential ballasts that operate two 4-foot MBP lamps.	0.22	0.49	0.16	0.27
	Total (TSL2)	8.91	18.50	5.85	10.92
3A	IS and RS ballasts (not classified as residential) that operate:				
	Two 4-foot MBP lamps	2.83	6.31	1.44	2.86
	Four 4-foot MBP lamps	0.46	1.06	0.25	0.52
	Two 8-foot slimline lamps	0.05	0.10	0.05	0.10
	PS ballasts (not classified as residential) that operate:				
	Two 4-foot MBP lamps	0.84	1.54	0.56	0.87
	Four 4-foot MBP lamps	0.73	1.61	0.37	0.72
	Two 4-foot MiniBP SO lamps	1.52	3.89	0.85	1.87
	Two 4-foot MiniBP HO lamps	0.36	0.87	0.36	0.87
	IS and RS ballasts (not classified as sign ballasts) that operate two 8-foot HO lamps.	0.11	0.13	0.11	0.13
	Sign ballasts that operate four 8-foot HO lamps	2.94	5.55	2.52	4.62
	IS and RS residential ballasts that operate two 4-foot MBP lamps.	0.22	0.49	0.16	0.27
	Total (TSL3A)	10.06	21.55	6.67	12.84
3B	IS and RS ballasts (not classified as residential) that operate:				
	Two 4-foot MBP lamps	2.83	6.31	1.44	2.86
	Four 4-foot MBP lamps	0.46	1.06	0.25	0.52
	Two 8-foot slimline lamps	0.05	0.10	0.05	0.10
	PS ballasts (not classified as residential) that operate:				
	Two 4-foot MBP lamps	0.84	1.54	0.56	0.87
	Four 4-foot MBP lamps	0.73	1.61	0.37	0.72
	Two 4-foot MiniBP SO lamps	1.52	3.89	0.85	1.87
	Two 4-foot MiniBP HO lamps	0.36	0.87	0.36	0.87
	IS and RS ballasts (not classified as sign ballasts) that operate two 8-foot HO lamps.	0.11	0.13	0.11	0.13
	Sign ballasts that operate four 8-foot HO lamps	2.94	5.55	2.52	4.62
	IS and RS residential ballasts that operate two 4-foot MBP lamps.	0.23	0.50	0.23	0.50
	Total (TSL3B)	10.06	21.56	6.73	13.07

c. Impacts on Employment

DOE estimated the indirect employment impacts of potential standards on the economy in general, assuming that energy conservation standards for ballasts would reduce energy bills for ballast users and the resulting net savings would be redirected to other forms of economic activity. DOE used an I–O model of the U.S. economy to estimate these effects including the demand for labor as described in section V.I .

The I–O model results suggest that today's adopted standards are likely to increase the net labor demand. The gains, however, would most likely be small relative to total national employment, and neither the BLS data nor the input/output model DOE uses includes the quality or wage level of the jobs. As discussed in section VII.B.2.b, the major manufacturers interviewed for this rulemaking indicate they have no domestic ballast production. New and amended standards for ballasts therefore will not have a significant impact on the limited number of production workers directly employed by ballast manufacturers in the U.S.

Table VII.33—presents the estimated net indirect employment impacts from the TSLs that DOE considered in this rulemaking. See chapter 15 of the final rule TSD for more detailed results.

TABLE VII.33–NET CHANGE IN JOBS FROM INDIRECT EMPLOYMENT EFFECTS UNDER BALLAST TSLS

Analysis period year	Trial standard level	Net national change in jobs (thousands)	
		Existing technologies, shift	Emerging technologies, roll-up
2020	1	2.5	1.9
	2	2.3	2.1
	3A	2.2	2.1
	3B	2.2	2.2
2043	1	52.2	17.2
	2	57.1	24.2
	3A	73.8	30.7
	3B	73.9	34.3

4. Impact on Utility or Performance of Products

As presented in section IV.D.1.d of this final rule, DOE concluded that none of the TSLs considered in this final rule would reduce the utility or performance of the products under consideration in this rulemaking. Furthermore, manufacturers of these products currently offer ballasts that meet or exceed the adopted standards. (42 U.S.C. 6295(o)(2)(B)(i)(IV))

5. Impact of Any Lessening of Competition

As discussed in the April 2011 NOPR, and in section IV.D.1.e of this final rule, DOE considers any lessening of competition likely to result from standards; the Attorney General determines the impact, if any, of any such lessening of competition.

DOJ concluded that the standards contained in the proposed rule could possibly impact competition. Depending on the investment required and the opportunity for business expansion, DOJ found it is not clear how quickly current manufacturers could comply with new standards. DOE considered these comments and notes that TSL 3A, the level adopted in today's rule, would impact manufacturers to a lesser extent than the TSL 3 proposed in the April 2011 NOPR. Specifically, TSL 3A contains lower standards for residential and 8-foot HO product classes than the previously proposed TSL 3. Therefore, DOE does not expect that TSL 3A will raise competitive issues. For all product classes analyzed, DOE found that multiple manufacturers offered products at TSL 3A and any product modifications needed to reach TSL 3A do not require proprietary technology.

6. Need of the Nation To Conserve Energy

An improvement in the energy efficiency of the products subject to this final rule is likely to improve the security of the nation's energy system by reducing overall demand for energy. Reduced electricity demand may also improve the reliability of the electricity system. As a measure of this reduced demand, Table VII.34 presents the estimated reduction in generating capacity in 2043 for the TSLs that DOE considered in this rulemaking.

TABLE VII.34—ESTIMATED REDUCTION IN ELECTRICITY GENERATING CAPACITY IN 2043 UNDER BALLAST TSLS

Trial standard level	Reduction in electric generating capacity *Gigawatts*	
	Existing technologies, shift	Emerging technologies, roll-up
1	3.8	1.4
2	4.6	2.2
3A	6.4	3.0
3B	6.4	3.1

Energy savings from new and amended standards for ballasts could also produce environmental benefits in the form of reduced emissions of air pollutants and GHGs associated with electricity production. Table VII.35 provides DOE's estimate of cumulative CO_2, NO_X, and Hg emissions reductions projected to result from the TSLs considered in this rulemaking. DOE reports annual CO_2, NO_X, and Hg emissions reductions for each TSL in

the environmental assessment of in chapter 16 the final rule TSD.

TABLE VII.35—SUMMARY OF EMISSIONS REDUCTION ESTIMATED FOR BALLAST TSLS (CUMULATIVE FOR 2014 THROUGH 2043)

Trial standard level	Cumulative reduction in emissions (2014 through 2043)					
	Existing technologies, shift			Emerging technologies, roll-up		
	CO_2 *Mt*	NO_X *kt*	Hg *t*	CO_2 *Mt*	NO_X *kt*	Hg *t*
1	64	23	0.88	13	10	0.18
2	76	28	1.05	20	16	0.29
3A	106	39	1.47	27	22	0.40
3B	106	39	1.47	29	23	0.42

As discussed in section V.K, DOE did not report SO_2 emissions reductions from power plants because there is uncertainty about the effect of energy conservation standards on the overall level of SO_2 emissions in the United States due to SO_2 emissions caps. DOE also did not include NO_X emissions reduction from power plants in States subject to CAIR because an energy conservation standard would not affect the overall level of NO_X emissions in those States due to the emissions caps mandated by CAIR.

As part of the analysis for this final rule, DOE estimated monetary benefits likely to result from the reduced emissions of CO_2 and NO_X that DOE estimated for each of the TSLs considered. As discussed in section V.L.1, DOE used values for the SCC developed by an interagency process. The four values for CO_2 emissions reductions resulting from that process (for emissions in 2010, expressed in 2010$) are $4.9/ton (the average value from a distribution that uses a 5-percent discount rate), $22.3/ton (the average value from a distribution that uses a 3-percent discount rate), $36.5/ton (the average value from a distribution that uses a 2.5-percent discount rate), and $67.6/ton (the 95th-percentile value from a distribution that uses a 3-percent discount rate). These values correspond to the value of emission reductions in 2010; the values for later years are higher due to increasing damages as the magnitude of climate change increases. For each TSL, DOE calculated the global present values of CO_2 emissions reductions, using the same discount rate as was used in the studies upon which the dollar-per-ton values are based. DOE calculated domestic values as a range from 7 percent to 23 percent of the global values.

DOE is well aware that scientific and economic knowledge about the contribution of CO_2 and other GHG emissions to changes in the future global climate and the potential resulting damages to the world economy continues to evolve rapidly. Thus, any value placed in this rulemaking on reducing CO_2 emissions is subject to change. DOE, together with other Federal agencies, will continue to review various methodologies for estimating the monetary value of reductions in CO_2 and other GHG emissions. This ongoing review will consider the comments on this subject that are part of the public record for this and other rulemakings, as well as other methodological assumptions and issues. However, consistent with DOE's legal obligations, and taking into account the uncertainty involved with this particular issue, DOE has included in this final rule the most recent values and analyses resulting from the ongoing interagency review process.

DOE also estimated a range for the cumulative monetary value of the economic benefits associated with NO_X and Hg emissions reductions anticipated to result from amended ballast standards. Estimated monetary benefits for CO_2, NO_X and Hg emission reductions are detailed in chapter 17 of the final rule TSD.

The NPV of the monetized benefits associated with emissions reductions can be viewed as a complement to the NPV of the consumer savings calculated for each TSL considered in this rulemaking. Table VII.36 shows an example of the calculation of the combined NPV including benefits from emissions reductions for the case of TSL 3A for ballasts. The CO_2 values used in the table correspond to the four scenarios for the valuation of CO_2 emission reductions presented in section V.L.1.

TABLE VII.36—ADDING NET PRESENT VALUE OF CONSUMER SAVINGS TO PRESENT VALUE OF MONETIZED BENEFITS FROM CO_2 AND NO_X EMISSIONS REDUCTIONS AT TSL 3A FOR BALLASTS

[Existing Technologies, Shift]

Category	Present value *billion 2010$*	Discount rate %
Benefits		
Operating Cost Savings	15.1	7
	31.5	3
CO_2 Reduction Monetized Value (at $4.9/Metric Ton)*	0.40	5
CO_2 Reduction Monetized Value (at $22.3/Metric Ton)*	2.01	3
CO_2 Reduction Monetized Value (at $36.5/Metric Ton)*	3.38	2.5
CO_2 Reduction Monetized Value (at $67.6/Metric Ton)*	6.12	3
NO_X Reduction Monetized Value (at $2,537/Ton)*	0.03	7
	0.06	3
Total Monetary Benefits **	17.1	7

TABLE VII.36—ADDING NET PRESENT VALUE OF CONSUMER SAVINGS TO PRESENT VALUE OF MONETIZED BENEFITS FROM CO_2 AND NO_X EMISSIONS REDUCTIONS AT TSL 3A FOR BALLASTS—Continued

[Existing Technologies, Shift]

Category	Present value *billion 2010$*	Discount rate %
	33.5	3
Costs		
Total Incremental Installed Costs	5.05 9.91	7 3
Net Benefits/Costs		
Including CO_2 and NO_X**	12.1 23.6	7 3

* The CO_2 values represent global monetized values (in 2010$) of the social cost of CO_2 emissions in 2010 under several scenarios. The values of $4.9, $22.3, and $36.5 per metric ton are the averages of SCC distributions calculated using 5-percent, 3-percent, and 2.5-percent discount rates, respectively. The value of $67.6/t represents the 95th percentile of the SCC distribution calculated using a 3-percent discount rate. The value for NO_X (in 2010$) is the average of the low and high values used in DOE's analysis. See section V.L.2 for details.

** Total Benefits for both the 3-percent and 7-percent cases are derived using the SCC value calculated at a 3-percent discount rate, which is $22.3/t in 2010 (in 2010$).

Although adding the value of consumer savings to the values of emission reductions would provide a valuable perspective, the following should be considered: (1) the national consumer savings are domestic U.S. consumer monetary savings found in market transactions, while the values of emissions reductions are based on estimates of marginal social costs, which, in the case of CO_2, are based on a global value; and (2) the assessments of consumer savings and emission-related benefits are performed with different computer models, leading to different timeframes for analysis. For ballasts, the present value of national consumer savings is measured for the period in which units shipped (2014–2043) continue to operate. However, the time frames of the benefits associated with the emission reductions differ. For example, the value of CO_2 emissions reductions reflects the present value of all future climate-related impacts due to emitting a ton of CO_2 in that year, out to 2300. Chapter 17 of the final rule TSD presents calculations of the combined NPV including benefits from emissions reductions for each TSL.

C. Conclusions

EPCA requires that any new or amended energy conservation standard for any type (or class) of covered product be designed to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) In determining whether a standard is economically justified, the Secretary must determine whether the benefits of the standard exceed its burdens after considering, to the greatest extent practicable, the seven statutory factors discussed previously. (42 U.S.C. 6295(o)(2)(B)(i)) The new or amended standard must also result in a significant conservation of energy. (42 U.S.C. 6295(o)(3)(B))

DOE considered the impacts of standards at each trial standard level, beginning with the maximum technologically feasible level, to determine whether that level met the evaluation criteria. If the max tech level was not justified, DOE then considered the next most efficient level and undertook the same evaluation until it reached the highest efficiency level that is both technologically feasible and economically justified and saves a significant amount of energy.

DOE discusses the benefits and/or burdens of each trial standard level in the following sections. DOE bases its discussion on quantitative analytical results for each trial standard level (presented in section VII.A) such as national energy savings, net present value (discounted at 7 and 3 percent), emissions reductions, industry net present value, life-cycle cost, and consumers' installed price increases. Beyond the quantitative results, DOE also considers other burdens and benefits that affect economic justification, including how technological feasibility, manufacturer costs, and impacts on competition may affect the economic results presented.

To aid the reader as DOE discusses the benefits and burdens of each trial standard level, DOE has included the following tables that present a summary of the results of DOE's quantitative analysis for each TSL. These include the impacts on identifiable subgroups of consumers, specifically low-income households, institutions of religious worship, and institutions that serve low-income populations, who may be disproportionately affected by an amended national standard. Section VII.B.1 presents the estimated impacts of each TSL for these subgroups.

TABLE VII.37—SUMMARY OF RESULTS FOR BALLASTS

[Existing Technologies, Shift]

Category	TSL 1	TSL 2	TSL 3A	TSL 3B
National Energy Savings (quads)	3.50	4.10	5.55	5.56
NPV of Consumer Benefits (2010$ billion)				
3% discount rate	17.43	18.50	21.55	21.56

TABLE VII.37—SUMMARY OF RESULTS FOR BALLASTS—Continued

[Existing Technologies, Shift]

Category	TSL 1	TSL 2	TSL 3A	TSL 3B
7% discount rate	8.52	8.91	10.06	10.06
Industry Impacts				
Industry NPV (2010$ million)	1,199	1,176	1,144	1,141
Industry NPV (% change)	−1.6%	−3.5%	−6.1%	−6.4%
Cumulative Emissions Reduction				
CO_2 (Mt)	64	76	106	106
NO_X (kt)	23	28	39	39
Hg (t)	0.88	1.05	1.47	1.47
Value of Cumulative Emissions Reduction				
CO_2 (2010$ billion)*	0.24 to 3.68	0.29 to 4.40	0.40 to 6.12	0.40 to 6.13
NO_X—3% discount rate (2010$ million)	35	41	58	58
NO_X—7% discount rate (2010$ million)	18	22	31	31
Mean LCC Savings (replacement event, per ballast) (2010$)**				
IS and RS ballasts (not classified as residential) that operate: Two 4-foot MBP lamps. Four 4-foot MBP lamps. Two 8-foot slimline lamps.	29	5 to 34	7 to 37	7 to 37
PS ballasts (not classified as residential) that operate: Two 4-foot MBP lamps. Four 4-foot MBP lamps. Two 4-foot MiniBP SO lamps. Two 4-foot MiniBP HO lamps.	−2 to 26:	6 to 32	6 to 28	6 to 28
IS and RS ballasts (not classified as sign ballasts) that operate two 8-foot HO lamps	65	230	230	3 to 233
Sign ballasts that operate four 8-foot HO lamps	403	403	403	403
IS and RS residential ballasts that operate two 4-foot MBP lamps	21	21	21	−2 to 19
Median PBP (replacement event)* (years)**				
IS and RS ballasts (not classified as residential) that operate: Two 4-foot MBP lamps. Four 4-foot MBP lamps. Two 8-foot slimline lamps.	−3.35	−1.66 to 3.62	−1.30 to 2.86	−1.30 to 2.86
PS ballasts (not classified as residential) that operate: Two 4-foot MBP lamps. Four 4-foot MBP lamps. Two 4-foot MiniBP SO lamps. Two 4-foot MiniBP HO lamps.	0.05 to 20.52	0.55 to 6.00	1.25 to 6.00	1.25 to 6.00
IS and RS ballasts (not classified as sign ballasts) that operate two 8-foot HO lamps.	−0.66	−0.69	−0.69	−0.53 to 4.57
Sign ballasts that operate four 8-foot HO lamps	−0.16	−0.16	−0.16	−0.16
IS and RS residential ballasts that operate two 4-foot MBP lamps	−5.46	−5.46	−5.46	−4.92
Distribution of Consumer LCC Impacts (see Table VII.16 through Table VII.23)				
Generation Capacity Reduction (GW)†	3.82	4.56	6.35	6.35
Employment Impacts				
Indirect Domestic Jobs (thousands)†	52	57	74	74

* Range of the economic value of CO_2 reductions is based on estimates of the global benefit of reduced CO_2 emissions.
** For LCCs, a negative value means an increase in LCC by the amount indicated.
*** For PBPs, negative values indicate standards that reduce operating costs and installed costs; "N/A" indicates standard levels that do not reduce operating costs.
† Changes in 2043.

TABLE VII.38—SUMMARY OF RESULTS FOR BALLASTS

[Emerging Technologies, Roll-up]

Category	TSL 1	TSL 2	TSL 3A	TSL 3B
National Energy Savings (quads)	1.36	2.05	2.74	2.86

TABLE VII.38—SUMMARY OF RESULTS FOR BALLASTS—Continued

[Emerging Technologies, Roll-up]

Category	TSL 1	TSL 2	TSL 3A	TSL 3B
NPV of Consumer Benefits (2010$ billion)				
3% discount rate	8.28	10.92	12.84	13.07
7% discount rate	4.59	5.85	6.67	6.73
Industry Impacts				
Industry NPV (2010$ million)	616	545	464	431
Industry NPV (% change)	−15.9%	−25.7%	−36.7%	−41.1%
Cumulative Emissions Reduction				
CO_2 (Mt)	13	20	27	29
NO_X (kt)	10	16	22	23
Hg (t)	0.18	0.29	0.40	0.42
Value of Cumulative Emissions Reduction				
CO_2 (2010$ billion) *	0.06 to 0.80	0.09 to 1.27	0.12 to 1.75	0.13 to 1.84
NO_X–3% discount rate (2010$ million)	13	21	29	30
NO_X–7% discount rate (2010$ million)	6	10	13	14
Mean LCC Savings (replacement event, per ballast) ** (2010$)				
IS and RS ballasts (not classified as residential) that operate Two 4-foot MBP lamps. Four 4-foot MBP lamps. Two 8-foot slimline lamps.	29	5 to 34	7 to 37	7 to 37
PS ballasts (not classified as residential) that operate Two 4-foot MBP lamps. Four 4-foot MBP lamps. Two 4-foot MiniBP SO lamps. Two 4-foot MiniBP HO lamps.	−2 to 26	6 to 32	6 to 28	6 to 28
IS and RS ballasts (not classified as sign ballasts) that operate Two 8-foot HO lamps.	65	230	230	3 to 233
Sign ballasts that operate Four 8-foot HO lamps	403	403	403	403
IS and RS residential ballasts that operate Two 4-foot MBP lamps	21	21	21	−2 to 19
Median PBP (replacement event)* (years)**				
IS and RS ballasts (not classified as residential) that operate Two 4-foot MBP lamps. Four 4-foot MBP lamps. Two 8-foot slimline lamps.	−3.35	−1.66 to 3.62	−1.30 to 2.86	−1.30 to 2.86
PS ballasts (not classified as residential) that operate Two 4-foot MBP lamps. Four 4-foot MBP lamps. Two 4-foot MiniBP SO lamps. Two 4-foot MiniBP HO lamps.	0.05 to 20.52	0.55 to 6.00	1.25 to 6.00	1.25 to 6.00
IS and RS ballasts (not classified as sign ballasts) that operate Two 8-foot HO lamps.	−0.66	−0.69	−0.69	−0.53 to 4.57
Sign ballasts that operate Four 8-foot HO lamps	−0.16	−0.16	−0.16	−0.16
IS and RS residential ballasts that operate Two 4-foot MBP lamps	−5.46	−5.46	−5.46	−4.92
Distribution of Consumer LCC Impacts (see Table VII.16 through Table VII.23)				
Generation Capacity Reduction (GW) †	1.37	2.18	2.99	3.14
Employment Impacts				
Indirect Domestic Jobs (thousands)†	17	24	31	34

* Range of the economic value of CO_2 reductions is based on estimates of the global benefit of reduced CO_2 emissions.

** For LCCs, a negative value means an increase in LCC by the amount indicated.

*** For PBPs, negative values indicate standards that reduce operating costs and installed costs; "N/A" indicates standard levels that do not reduce operating costs.

† Changes in 2043.

DOE also notes that the economics literature provides a wide-ranging discussion of how consumers trade off upfront costs and energy savings in the absence of government intervention. Much of this literature attempts to

explain why consumers undervalue energy efficiency improvements. This undervaluation suggests that regulation that promotes energy efficiency can produce significant net private gains (as well as producing social gains by, for example, reducing pollution). There is evidence that consumers undervalue future energy savings as a result of: (1) A lack of information, (2) a lack of sufficient salience of the long-term or aggregate benefits, (3) a lack of sufficient savings to warrant delaying or altering purchases (*e.g.,* an inefficient ventilation fan in a new building or the delayed replacement of a water pump), (4) excessive focus on the short term, in the form of inconsistent weighting of future energy cost savings relative to available returns on other investments, (5) computational or other difficulties associated with the evaluation of relevant tradeoffs, and (6) a divergence in incentives (*e.g.,* renter versus owner; builder versus purchaser). Other literature indicates that with less than perfect foresight and a high degree of uncertainty about the future, consumers may trade off investments in efficiency at a higher than expected rate between current consumption and uncertain future energy cost savings.

In its current regulatory analysis, DOE includes potential changes in the benefits and costs of a regulation due to changes in consumer purchase decisions in two ways. First, if consumers forego a purchase of a product in the standards case, it decreases sales for product manufacturers and the cost to manufacturers is included in the MIA. Second, DOE accounts for energy savings attributable only to products used by consumers in the standards case; if a regulatory option decreases the number of products used by consumers, this decreases the potential energy savings from an energy conservation standard. DOE provides detailed estimates of shipments and changes in the volume of product purchases under standards in chapter 10 of the TSD. However, DOE's current analysis does not explicitly control for differences in consumer preferences, preferences across subcategories of products or specific features, or consumer price sensitivity varying with household income (Reiss and White 2004).

While DOE is not prepared at present to provide a fuller quantifiable framework for estimating the benefits and costs of changes in consumer purchase decisions due to an energy conservation standard, DOE has posted a paper that discusses the issue of consumer welfare impacts of appliance energy efficiency standards, and potential enhancements to the methodology by which these impacts are defined and estimated in the regulatory process.[62] DOE is committed to developing a framework that can support empirical quantitative tools for improved assessment of the consumer welfare impacts of appliance standards. DOE welcomes comments on how to more fully assess the potential impact of energy conservation standards on consumer choice and how to quantify this impact in its regulatory analysis in future rulemakings.

1. Trial Standard Level 3B

DOE first considered the most efficient level, TSL 3B, which would save an estimated 2.9 to 5.6 quads of energy through 2043. For the nation as a whole, TSL 3B would have a net savings of $6.7 billion–$10.1 billion at a 7-percent discount rate, and $13.1 billion–$21.6 billion at a 3-percent discount rate. The emissions reductions at TSL 3B are estimated at 29–106 million metric tons (Mt) of CO_2, 23–39 kilotons (kt) of NO_X, and 0.42–1.47 tons of Hg. Total generating capacity in 2043 is estimated to decrease compared to the reference case by 3.14–6.35 gigawatts under TSL 3B. As seen in section VII.B.1, while consumers of most representative ballast types have available ballast designs which result in positive LCC savings, ranging from $2.77–$402.86, some consumers experience negative LCC savings at TSL 3B. Consumers that experience negative LCC savings, ranging from −$1 to −$2, are those that currently have a 2-lamp 8-foot HO T8 ballast (for the new construction/renovation event) or a 2-lamp 4-foot MBP T8 ballast in the residential sector (for the replacement event). The projected change in industry value would range from a decrease of $77.6 million to a decrease of $301.2 million, or a net loss of 6.4 percent to a net loss of 41.1 percent in INPV.

DOE based TSL 3B on the most efficient commercially available products for each representative ballast type analyzed. This TSL represents the highest efficiency level that is technologically feasible for a diversity of products (spanning several ballast factors, number of lamps per ballast, and types of lamps operated) within each product class.

After carefully considering the analysis and weighing the benefits and burdens of TSL 3B, the Secretary has reached the following conclusion: At TSL 3B, the benefits of energy savings, emissions reductions (both in physical reductions and the monetized value of those reductions), and the positive net economic savings to the nation would be outweighed by the economic burden on consumers (of residential T8 ballasts and 8-foot HO T8 ballasts) and the large product and capital conversion costs that could result in a large reduction in INPV for manufacturers. Consequently, the Secretary has concluded that trial standard level 3B is not economically justified.

2. Trial Standard Level 3A

DOE next considered TSL 3A, which would save an estimated 2.7 to 5.6 quads of energy through 2043—a significant amount of energy. For the nation as a whole, TSL 3A would have a net savings of $6.7 billion–$10.1 billion at a 7-percent discount rate, and $12.8 billion–$21.6 billion at a 3-percent discount rate. The emissions reductions at TSL 3A are estimated at 27–106 Mt of CO_2, 22–39 kt of NO_X, and 0.40–1.47 tons of Hg. Total generating capacity in 2043 is estimated to decrease compared to the reference case by 2.99–6.35 gigawatts under TSL 3A. As seen in section VII.B.1, TSL 3A results in positive LCC savings for all representative ballast types, ranging from $6–$403. The projected change in industry value would range from a decrease of $74.5 million to a decrease of $268.6 million, or a net loss of 6.1 percent to a net loss of 36.7 percent in INPV.

DOE based TSL 3A on the most efficient commercially available products for each representative ballast type analyzed except for IS/RS ballasts in the residential sector and 8-foot HO ballasts. This TSL represents the highest efficiency level for a diversity of products (spanning several ballast factors, number of lamps per ballast, and types of lamps operated) at which consumers of all ballasts types, including those consumers with T8 residential or 8-foot HO systems, experience positive LCC savings.

After considering the analysis, comments on the analysis, and the benefits and burdens of TSL 3A, the Secretary has reached the following conclusion: TSL 3A offers the maximum improvement in efficiency that is technologically feasible and economically justified, and will result in significant conservation of energy. The Secretary has reached the conclusion that the benefits of energy savings, emissions reductions (both in physical reductions and the monetized value of those reductions), the positive net economic savings to the nation, and

[62] Alan Sanstad, Notes on the Economics of Household Energy Consumption and Technology Choice. Lawrence Berkeley National Laboratory. 2010. *http://www1.eere.energy.gov/buildings/appliance_standards/pdfs/consumer_ee_theory.pdf.*

positive life-cycle cost savings would outweigh the reduction in INPV for manufacturers. Therefore, DOE adopts the energy conservation standards for ballasts at TSL 3A.

D. Backsliding

As discussed in section II.A, EPCA contains what is commonly known as an ''anti-backsliding'' provision, which mandates that the Secretary not prescribe any amended standard that either increases the maximum allowable energy use or decreases the minimum required energy efficiency of a covered product. (42 U.S.C. 6295(o)(1)) Because DOE is evaluating amended standards in terms of ballast luminous efficiency, DOE converted the existing BEF standards to BLE to verify that the adopted standards did not constitute backsliding. The following describes how DOE completed this comparison.

Ballast efficacy factor is defined as ballast factor divided by input power times 100. Ballast factor, in turn, is currently defined as the test system light output divided by a reference system light output. As mentioned in section IV.A, the active mode test procedure SNOPR proposed a new method for calculating ballast factor. 75 FR 71570, 71577–8 (November 24, 2010). The new methodology entails measuring the lamp arc power of the test system and dividing it by the lamp arc power of the reference system. Because this new method calculates a ballast factor equivalent to the existing method, DOE finds that this definition can be incorporated into the equation for BEF. After this substitution, BEF can be converted to BLE by dividing by 100 and multiplying by the appropriate reference arc power. Table VII.39 contains the existing standard in terms of BEF, the existing standard in terms of BLE, and the adopted standard in terms of BLE.

TABLE VII.39—EXISTING FEDERAL BEF STANDARDS AND THE CORRESPONDING BLE

Application for operation of	BEF Standard	*Equivalent BLE*		*Adopted BLE*
		Low freq	*High freq*	*Standard**
One F40T12 lamp	2.29	0.831	0.832	0.875
Two F40T12 lamps	1.17	0.849	0.850	0.899
Two F96T12 lamps	0.63	0.888	0.897	0.918
Two F96T12/HO lamps	0.39	0.777	0.780	0.886
One F34T12 lamp	2.61	0.777	0.778	0.809
Two F34T12 lamps	1.35	0.804	0.805	0.841
Two F96T12/ES lamps	0.77	0.876	0.884	0.913
Two F96T12/HO/ES lamps	0.42	0.711	0.713	0.881

* For ballast types that could be in more than one product class, this table presents the lowest standard the ballast would be required to meet. For example, 8-foot HO ballasts can have a PS starting method in addition to IS or RS. Therefore, DOE presents the standard for the PS product class as it is the lowest.

As seen in Table VII.39, the standards adopted in this final rule are higher than the existing standards, regardless of low or high frequency operation. As such, the adopted standards do not decrease the minimum required energy efficiency of the covered products and therefore do not violate the anti-backsliding provision in EPCA.

VIII. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

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

(1) There is a lack of consumer information and/or information processing capability about energy efficiency opportunities in lighting market.

(2) There is asymmetric information (one party to a transaction has more and better information than the other) and/or high transactions costs (costs of gathering information and effecting exchanges of goods and services).

(3) There are external benefits resulting from improved energy efficiency of fluorescent lamp ballasts that are not captured by the users of such equipment. These benefits include externalities related to environmental protection and energy security that are not reflected in energy prices, such as reduced emissions of greenhouse gases.

In addition, DOE has determined that today's regulatory action is an ''economically significant regulatory action'' under section 3(f)(1) of Executive Order 12866. Accordingly, section 6(a)(3) of the Executive Order requires that DOE prepare a regulatory impact analysis (RIA) on today's rule and that the Office of Information and Regulatory Affairs (OIRA) in the OMB review this rule. DOE presented to OIRA for review the draft rule and other documents prepared for this rulemaking, including the RIA, and has included these documents in the rulemaking record. The assessments prepared pursuant to Executive Order 12866 can be found in the technical support document for this rulemaking.

DOE has also reviewed this regulation pursuant to Executive Order 13563, issued on January 18, 2011 (76 FR 3281, Jan. 21, 2011). EO 13563 is supplemental to and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, agencies are required by Executive Order 13563 to: (1) Propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the

desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public.

DOE emphasizes as well that Executive Order 13563 requires agencies ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' In its guidance, the Office of Information and Regulatory Affairs has emphasized that such techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.'' For the reasons stated in the preamble, DOE finds that today's final rule is consistent with these principles, including the requirement that, to the extent permitted by law, agencies adopt a regulation only upon a reasoned determination that its benefits justify its costs and select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) for any rule that by law must be proposed for public comment, and a final regulatory flexibility analysis (FRFA) for any such rule that an agency adopts as a final rule, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's Web site (*http://www.gc.doe.gov*). DOE reviewed the April 2011 NOPR and today's final rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003.

As presented and discussed in the following sections, the FRFA describes potential impacts on small manufacturers associated with the required product and capital conversion costs at each TSL and discusses alternatives that could minimize these impacts. Chapter 13 of the TSD contains more information about the impact of this rulemaking on manufacturers.

1. Statement of the Need for, and Objectives of, the Rule

The reasons why DOE is establishing the standards in today's final rule and the objectives of these standards are provided elsewhere in the preamble and not repeated here.

2. Summary of and Responses to the Significant Issues Raised by the Public Comments, and a Statement of Any Changes Made as a Result of Such Comments

This FRFA incorporates the IRFA and public comments received on the IRFA and the economic impacts of the rule. DOE provides responses to these comments in the discussion below on the compliance impacts of the rule and elsewhere in the preamble. DOE modified the standards adopted in today's final rule in response to comments received, including those from small businesses, as described in the preamble.

3. Description and Estimated Number of Small Entities Regulated

a. Methodology for Estimating the Number of Small Entities

For manufacturers of fluorescent lamp ballasts, the Small Business Administration (SBA) has set a size threshold, which defines those entities classified as ''small businesses'' for the purposes of the statute. DOE used the SBA's small business size standards to determine whether any small entities would be subject to the requirements of the rule. 65 FR 30836, 30848 (May 15, 2000), as amended at 65 FR 53533, 53544 (Sept. 5, 2000) and codified at 13 CFR part 121. The size standards are listed by NAICS code and industry description and are available at *http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sstd_tablepdf.pdf*. Fluorescent lamp ballast manufacturing is classified under NAICS 335311, ''Power, Distribution and Specialty Transformer Manufacturing.'' The SBA sets a threshold of 750 employees or less for an entity to be considered as a small business for this category.

In the April 2011 NOPR, DOE identified approximately 10 small businesses that produce covered products and can be considered small business manufacturers. 76 FR 20090, 20171 (April 11, 2011). Radionic disagreed with this estimate, stating that they are the only domestic ballast manufacturer, and noted that they were not contacted by DOE. (Radionic, No. 36 at p. 1) During its analysis for the NOPR, DOE identified Radionic as a small business manufacturer that could potentially be affected by new or amended standards. Radionic was included in DOE's estimate of ten small manufacturers, which also includes U.S. manufacturers with foreign production. DOE contacted Radionic and received a survey response during the NOPR analysis period. Two other small businesses consented to being interviewed during the MIA interviews. DOE also obtained information about small business impacts while interviewing large manufacturers.

b. Fluorescent Lamp Ballast Industry Structure

Four major manufacturers with non-domestic production supply the vast majority of the marketplace. None of the four major manufacturers is considered a small business. The remaining market share is held by foreign manufacturers and several smaller domestic companies with very small market shares. Even for these U.S.-operated firms, most production is outsourced to overseas vendors or captive overseas manufacturing facilities. Some very limited production takes place in the United States—mostly magnetic ballasts for specialty applications. DOE is unaware of any fluorescent lamp ballast companies, small or large, that produce only domestically. See chapter 3 of the final rule TSD for further details on the fluorescent lamp ballast market.

c. Comparison Between Large and Small Entities

The four large manufacturers typically offer a much wider range of designs of covered ballasts than small manufacturers. Ballasts can be designed, or optimized, to operate different lamp lengths and numbers of lamps under various start methods, often in combination with various additional features. Large manufacturers typically offer many SKUs per product line to meet this wide range of potential specifications. Generally, one product family shares some fundamental characteristic (*i.e.,* lamp diameter, number of lamps, etc.) and hosts a large number of SKUs that are manufactured with minor variations on the same product line. Some product lines, such as the 4-foot MBP IS ballast, are manufactured in high volumes, while other products may be produced in much lower volumes but can help manufacturers meet their customers' specific needs and provide higher margin opportunities. For their part, small manufacturers generally do not have the volume to support as wide a range of products.

Beyond variations in ballast types and features, the large manufacturers also

offer multiple tiers of efficiency, typically including a baseline efficiency product and a high-efficiency product within the same family. On the other hand, some small manufacturers frequently only offer one efficiency level in a given product class to reduce the number of SKUs and parts they must maintain. This strategy is important to small-scale manufacturers because many product development costs (*e.g.,* testing, certification, and marketing) are relatively fixed per product line.

Small manufacturers are able to compete in the fluorescent lamp ballast industry despite the dominance of the four major manufacturers due, in large part, to the fragmented nature of the fixture industry. The largest four fixture manufacturers comprise about 60 percent of the industry, while as many as 200 smaller fixture manufacturers have the remaining share. Many small ballast manufacturers have developed relationships with these small fixture manufacturers, whose production volumes may not be attractive to the larger players. The same structure applies to the electrical distributor market—while small ballast manufacturers often cannot compete for the business of the largest distributors, they are able to successfully target small distributors, often on a regional basis.

Lastly, like the major manufacturers, small manufacturers usually offer products in addition to those fluorescent lamp ballasts covered by this rulemaking, such as dimming ballasts, LED drivers, and compact fluorescent ballasts.

4. Description and Estimate of Compliance Requirements

Several manufacturers commented on the potential impacts of energy conservation standards on small fluorescent lamp ballast manufacturers. Radionic noted that small manufacturers would be burdened because they have fewer engineering resources and less capital to deploy toward redesign and UL testing compared to large manufacturers and suggested that consideration for exemption be given to small manufacturers. (Radionic, No. 36 at p. 1) In contrast, Lutron stated that they believe that the impacts of new and amended standards for fluorescent lamp ballasts would be negligible for small manufacturers because small manufacturers would concentrate in areas such as emerging technologies—where there is potential for growth and high margins—rather than try to compete with large manufacturers in a high-volume, traditional ballast market. (Lutron, Public Meeting Transcript, No. 43 at p. 207) Philips agreed that small manufacturers do not have a significant presence in the traditional ballast market. Philips noted, however, that many sign ballast manufacturers, who are also small manufacturers, may be adversely affected by the switch from magnetic to electronic sign ballasts driven by proposed standards, which may force sign ballast manufacturers to source their ballasts. (Philips, Public Meeting Transcript, No. 43 at pp. 208–9)

Small manufacturers have the potential to be significantly affected by this rule for the reasons suggested by Radionic. Most small ballast manufacturers, however, would be able to remain viable by focusing on niche markets or emerging technologies. DOE details its conclusions on the impacts on and expected responses of small manufacturers below.

Additionally, because sign ballast manufacturers may be differentially impacted by today's standards, DOE analyzed sign ballasts as a manufacturer subgroup in section VII.B.2.d. DOE made several attempts to contact sign ballast manufacturers for interviews but was unable to speak directly to any of the manufacturers who specialize in sign ballasts. As such, DOE's subgroup analysis was developed based on information obtained from interviews with large manufacturers and from manufacturer Web sites.

At TSL3A, the level adopted in today's final rule, DOE estimates capital conversion costs of $0.3 million and product conversion costs of $1.0 million for a typical small manufacturer, compared to capital and product conversion costs of $6.3 million and $9.7 million, respectively, for a typical large manufacturer. These costs and their impacts are described in detail in the following sections.

a. Capital Conversion Costs

Those small manufacturers DOE interviewed did not expect increased capital conversion costs to be a major concern because most of them source all or the majority of their products from Asia. Those that source their products would likely not make the direct capital investments themselves. Small manufacturers experience the impact of sourcing their products through a higher cost of goods sold, and thus a lower operating margin, as compared to large manufacturers. The capital costs estimated are largely associated with those small manufacturers producing magnetic ballasts. DOE estimates capital costs of approximately $0.3 million for a typical small manufacturer at TSL 3A, based on the cost of converting magnetic production lines, such as sign ballasts, to electronic production lines.

Another challenge facing the industry is the component shortage discussed in the section V.H.4.d. As with large manufacturers, the component shortage is a significant issue for small manufacturers, but some small manufacturers stated that the shortage does not differentially impact them. At times, they actually can obtain components more easily than large manufacturers. Because their volumes are lower, they generally pay higher prices for parts than their larger competitors, which incentivizes suppliers to fill small manufacturers' orders relatively quickly. The lower-volume orders also allow small manufacturers to piggyback off the orders for certain components that are used throughout the consumer electronics industry.

b. Product Conversion Costs

While capital conversion costs were not a large concern to the small manufacturers DOE interviewed, product conversion costs could adversely impact small manufacturers at TSL 3A, the level adopted in today's final rule. To estimate the differential impacts of the adopted standard on small manufacturers, DOE compared their cost of compliance with that of the major manufacturers. First, DOE examined the number of basic models and SKUs available from each manufacturer to determine an estimate for overall compliance costs. The number of basic models and SKUs attributed to each manufacturer is based on information obtained during manufacturer interviews and an examination of the different models advertised by each on company Web sites. DOE assumed that the product conversion costs required to redesign basic models and test and certify all SKUs to meet the standard levels presented in today's final rule would be lower per model and per SKU for small manufacturers, as detailed below. (A full description of DOE's methodology for developing product conversion costs is found in section V.H.1.a and in chapter 13 of the final rule TSD.) Table VIII.1 compares the estimated product conversion costs of a typical small manufacturer as a percentage of their annual R&D expense to those of a typical large manufacturer.

TABLE VIII.1—COMPARISON OF A TYPICAL SMALL AND LARGE MANUFACTURER'S PRODUCT CONVERSION COSTS TO ANNUAL R&D EXPENSE

	Large manufacturer		Small manufacturer	
	Product conversion costs for a typical large manufacturer (2010$ millions)	Product conversion costs as a percentage of annual R&D expense	Product Conversion costs for a typical small manufacturer (2010$ millions)	Product Conversion costs as a percentage of annual R&D expense
Baseline	$0.00	0	$0.00	0
TSL 1	1.41	16	0.14	38
TSL 2	6.15	71	0.63	163
TSL 3A	9.68	111	0.99	257
TSL 3B	12.53	144	1.28	333

Based on discussions with manufacturers, DOE estimated that the cost to fully redesign every ballast model for large manufacturers is approximately $120,000 per model and the cost to test and certify every SKU is approximately $20,000 per SKU. A typical major manufacturer offers approximately 80 basic covered models and 300 SKUs. Based on DOE's GRIM analysis, a typical major manufacturer has an annual R&D expense of $8.7 million. Because not all products would need to be redesigned at TSL 3A, DOE estimates $9.7 million in product conversion costs for a typical major manufacturer at TSL 3A (compared to $15.6 million if all products had to be fully redesigned), which represents 111 percent of its annual R&D expense. This means that a typical major manufacturer could redesign its products in just over a year if it were to devote its entire R&D budget for fluorescent lamp ballasts to product redesign and could retain the engineering resources.

DOE's research indicated that a typical small manufacturer offers approximately 50 basic covered models and 100 SKUs. However, based on manufacturer interviews, DOE does not believe that small manufacturers would incur the same level of costs per model and SKU as large manufacturers. Small manufacturers would not be as likely to redesign models in-house as large manufacturers. Instead, they would source and rebrand products from overseas manufacturers who supply their ballasts. As a result, DOE assumed a lower R&D investment, in absolute dollars, per model. Because their products are effectively sourced, DOE projects smaller manufacturers would face a higher level of cost of goods sold (*i.e.,* a higher MPC). Therefore, in a competitive environment, small manufacturers would earn a lower markup than their larger peers and consequently operate at lower margins. Small manufacturers would also have to test and certify every SKU they offer, but they would not conduct the same extent of pilot runs and internal testing as large manufacturers because less production takes place in internal factories. As such, DOE estimates that small manufacturers' testing and certification costs are expected to be $10,000 per SKU for UL and other certifications. Thus, the product conversion costs for a typical small manufacturer could total $1.6 million. Because not all products would need to be fully redesigned at TSL 3A, however, DOE estimates product conversion costs of $1.0 million at TSL 3A. Based on scaling GRIM results to an average small-manufacturer market share of 1.0 percent, DOE assumed that a small manufacturer has an annual R&D expense of $0.4 million, so the estimated product conversion costs at TSL 3A would represent 257 percent of its annual R&D expense. This means that a typical small manufacturer could redesign its products within the three year compliance period if it were to devote its entire R&D budget for fluorescent lamp ballasts to product redesign and could retain the engineering resources.

c. Summary of Compliance Impacts

Although the conversion costs required can be considered substantial for all companies, the impacts could be relatively greater for a typical small manufacturer because of much lower production volumes and the relatively fixed nature of the R&D resources required per model. Table VIII.2 compares the total conversion costs of a typical small manufacturer as a percentage of annual revenue and earnings before interest and taxes (EBIT) to those of a typical large manufacturer.

TABLE VIII.2—COMPARISON OF A TYPICAL SMALL AND LARGE MANUFACTURER'S TOTAL CONVERSION COSTS TO ANNUAL REVENUE AND EBIT

	Large Manufacturer			Small Manufacturer		
	Total conversion costs for a typical large mfr. (2010$ millions)	Total conversion costs as a percentage of annual revenue	Total conversion costs as a percentage of annual EBIT	Total conversion costs for a typical small mfr. (2010$ millions)	Total conversion costs as a percentage of annual revenue	Total conversion costs as a percentage of annual EBIT
Baseline	$0.00	0	0	$0.00	0	0
TSL 1	3.99	2	21	0.26	2	37
TSL 2	10.68	5	55	0.83	8	119
TSL 3A	16.02	7	82	1.27	12	182
TSL 3B	19.14	8	99	1.58	15	226

As seen in Table VIII.2, the impacts for a typical small manufacturer are relatively greater than for a large manufacturer at TSL 3A. Total conversion costs represent 182 percent of annual EBIT for a typical small manufacturer compared to 82 percent of annual EBIT for a typical large manufacturer. DOE believes these

estimates reflect a worst-case scenario because they assume small manufacturers would redesign all proprietary models immediately, and not take advantage of the industry's supply chain dynamics or take other steps to mitigate the impacts. DOE anticipates, however, that small manufacturers would take several steps to mitigate the costs required to meet new and amended energy conservation standards.

At TSL 3A, it is more likely that ballast manufacturers would temporarily reduce the number of SKUs they offer as in-house designs to keep their product conversion costs at manageable levels in the years preceding the compliance date. As noted previously, the typical small manufacturer business model is not predicated on the supply of a wide range of models and specifications. Small manufacturers frequently either focus on a few niche markets or on customers seeking only basic, low-cost solutions. They therefore can satisfy the needs of their customers with a smaller product portfolio than large manufacturers who often compete on brand reputation and the ability to offer a full product offering. As such, DOE believes that under the adopted standards small businesses would likely selectively upgrade existing product lines to offer products that are in high demand or offer strategic advantage. Small manufacturers could then spread out further investments over a longer time period by upgrading some product lines prior to the compliance date while sourcing others until resources allow—and the market supports—in-house design. Furthermore, while the initial redesign costs are relatively large, the estimates assume small manufacturers would bring compliant ballasts to market in concert with large manufacturers. There is a possibility some small manufacturers would conserve resources by waiting to upgrade certain products until new compliant baseline designs become available or their in-house development is less resource-intensive. The commonality of many consumer electronics components, designs, and products fosters considerable sharing of experience throughout the electronics supply chain, particularly when unrestricted by proprietary technologies. DOE did not find any intellectual property restrictions that would prevent small manufacturers from making the technologies necessary to meet today's adopted levels.

5. Steps Taken to Minimize Impacts on Small Entities and Reasons Why Other Significant Alternatives to Today's Final Rule Were Rejected

DOE modified the standards established in today's final rule from those proposed in the April 2011 NOPR as discussed previously and based on comments and additional test data received from interested parties. These modifications include a separate product class for residential ballasts, which establishes less stringent standards for these ballasts than the NOPR, and new standard equations for all product classes.

The previous discussion also analyzes impacts on small businesses that would result from the other TSLs DOE considered. Though TSLs lower than the adopted TSL are expected to reduce the impacts on small entities, DOE is required by EPCA to establish standards that achieve the maximum improvement in energy efficiency that are technically feasible and economically justified, and result in a significant conservation of energy. Thus DOE rejected the lower TSLs.

In addition to the other TSLs being considered, the TSD includes a regulatory impact analysis in chapter 18. For fluorescent lamp ballasts, this report discusses the following policy alternatives: (1) No standard, (2) consumer rebates, (3) consumer tax credits, (4) manufacturer tax credits, and (5) early replacement. DOE does not intend to consider these alternatives further because they are either not feasible to implement, or not expected to result in energy savings as large as those that would be achieved by the standard levels under consideration. Thus, DOE rejected these alternatives and is adopting the standards set forth in this rulemaking.

DOE notes that small manufacturers, particularly those small sign ballast manufacturers who would be required to move from magnetic to electronic sign ballasts as a result of today's standards, may apply to DOE for an exemption from the standard pursuant to 42 U.S.C. 6295(t). The process applicants must follow to request an exemption and DOE's process for making a decision on a particular request are set forth in DOE's regulations at 10 CFR 430 Subpart E.

C. Review Under the Paperwork Reduction Act

Manufacturers of fluorescent lamp ballasts must certify to DOE that their products comply with any applicable energy conservation standards. In certifying compliance, manufacturers must test their products according to the DOE test procedures for fluorescent lamp ballasts, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including fluorescent lamp ballasts. (76 FR 12422 (March 7, 2011). The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 20 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act of 1969

DOE prepared an EA of the impacts of the new and amended rule pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and DOE's regulations for compliance with the National Environmental Policy Act of 1969 (10 CFR part 1021). This assessment includes an examination of the potential effects of emission reductions likely to result from the rule in the context of global climate change, as well as other types of environmental impacts. The EA has been incorporated into the final rule TSD as chapter 16. Before issuing this final rule for fluorescent lamp ballasts, DOE considered public comments and issued a FONSI as part of a final EA.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism.'' 64 FR 43255 (Aug. 10, 1999) imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the

States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of today's final rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

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

G. Review Under the Unfunded Mandates Reform Act of 1995

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

DOE has concluded that this final rule would likely require expenditures of $100 million or more on the private sector. Such expenditures may include: (1) Investment in research and development and in capital expenditures by fluorescent lamp ballasts manufacturers in the years between the final rule and the compliance date for the new standards, and (2) incremental additional expenditures by consumers to purchase higher-efficiency fluorescent lamp ballasts, starting at the compliance date for the applicable standard.

Section 202 of UMRA authorizes a Federal agency to respond to the content requirements of UMRA in any other statement or analysis that accompanies the final rule. 2 U.S.C. 1532(c). The content requirements of section 202(b) of UMRA relevant to a private sector mandate substantially overlap the economic analysis requirements that apply under section 325(o) of EPCA and Executive Order 12866. The **SUPPLEMENTARY INFORMATION** section of the notice of final rulemaking and the ''Regulatory Impact Analysis'' section of the TSD for this final rule respond to those requirements.

Under section 205 of UMRA, DOE is obligated to identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a written statement under section 202 is required. 2 U.S.C. 1535(a). DOE is required to select from those alternatives the most cost-effective and least burdensome alternative that achieves the objectives of the rule unless DOE publishes an explanation for doing otherwise, or the selection of such an alternative is inconsistent with law. As required by 42 U.S.C. 6295(g), today's final rule would establish energy conservation standards for fluorescent lamp ballasts that are designed to achieve the maximum improvement in energy efficiency that DOE has determined to be both technologically feasible and economically justified. A full discussion of the alternatives considered by DOE is presented in the ''Regulatory Impact Analysis'' section of the TSD for today's final rule.

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

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

I. Review Under Executive Order 12630

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

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

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

K. Review Under Executive Order 13211

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

DOE has concluded that today's regulatory action, which sets forth energy conservation standards for fluorescent lamp ballasts, is not a significant energy action because the new and amended standards are not likely to have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects on the final rule.

L. Review Under the Information Quality Bulletin for Peer Review

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

In response to OMB's Bulletin, DOE conducted formal in-progress peer reviews of the energy conservation standards development process and analyses and has prepared a Peer Review Report pertaining to the energy conservation standards rulemaking analyses. Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. The ''Energy Conservation Standards Rulemaking Peer Review Report'' dated February 2007 has been disseminated and is available at the following Web site: *http://www1.eere.energy.gov/buildings/appliance_standards/peer_review.html*.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule prior to its effective date. The report will state that it has been determined that the rule is a ''major rule'' as defined by 5 U.S.C. 804(2).

IX. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of today's final rule.

List of Subjects in 10 CFR Part 430

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

Issued in Washington, DC, on October 20, 2011.

Henry Kelly,

Acting Assistant Secretary of Energy, Energy Efficiency and Renewable Energy.

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

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

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

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

■ 2. Section 430.2 is amended by adding the definition of ''ballast luminous efficiency'' in alphabetical order to read as follows:

§ 430.2 Definitions.

* * * * *

Ballast luminous efficiency means the total fluorescent lamp arc power divided by the fluorescent lamp ballast input power multiplied by the appropriate frequency adjustment factor, as defined in Appendix Q1 of subpart B of this part.

* * * * *

■ 3. Appendix Q to subpart B of part 430 is amended by adding introductory text after the heading to read as follows:

Appendix Q to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Fluorescent Lamp Ballasts

Comply with Appendix Q until November 14, 2014. After this date, all fluorescent lamp ballasts shall be tested using the provisions of Appendix Q1.

* * * * *

■ 4. Appendix Q1 to subpart B of part 430 is amended by adding introductory text after the heading to read as follows:

Appendix Q1 to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Fluorescent Lamp Ballasts

Comply with Appendix Q1 beginning November 14, 2014. Prior to this date, all fluorescent lamp ballasts shall be tested using the provisions of Appendix Q.

* * * * *

■ 5. Section 430.32 is amended by:

■ a. Revising paragraph (m)(1) introductory text.

■ b. Adding paragraphs (m)(8), (m)(9), and m(10).

The revision and additions read as follows:

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

* * * * *

(m)(1) *Fluorescent lamp ballasts (other than specialty application mercury vapor lamp ballasts).* Except as provided in paragraphs (m)(2), (m)(3), (m)(4), (m)(5), (m)(6), (m)(7), (m)(8), (m)(9), and (m)(10) of this section, each fluorescent lamp ballast—

* * * * *

(8) Except as provided in paragraph (m)(9) of this section, each fluorescent lamp ballast—

(i) Manufactured on or after November 14, 2014;

(ii) Designed—

(A) To operate at nominal input voltages at or between 120 and 277 volts;

(B) To operate with an input current frequency of 60 Hertz; and

(C) For use in connection with fluorescent lamps (as defined in § 430.2)

(iii) Shall have—

(A) A power factor of 0.9 or greater except for those ballasts defined in paragraph (m)(8)(iii)(B) of this section;

(B) A power factor of 0.5 or greater for residential ballasts, which are defined in (m)(8)(vi) of this section;

(C) A ballast luminous efficiency not less than the following:

BLE = A/(1+B*average total lamp arc power ∧ −C) Where A, B, and C are as follows:

Description	A	B	C
Instant start and rapid start ballasts (not classified as residential) that are designed to operate	0.993	0.27	0.25
4-foot medium bipin lamps.			
2-foot U-shaped lamps.			
8-foot slimline lamps.			
Programmed start ballasts (not classified as residential) that are designed to operate	0.993	0.51	0.37
4-foot medium bipin lamps.			
2-foot U-shaped lamps.			
4-foot miniature bipin standard output lamps.			
4-foot miniature bipin high output lamps.			
Instant start and rapid start ballasts (not classified as sign ballasts) that are designed to operate 8-foot high output lamps.	0.993	0.38	0.25
Programmed start ballasts (not classified as sign ballasts) that are designed to operate 8-foot high output lamps.	0.973	0.70	0.37
Sign ballasts that operate 8-foot high output lamps	0.993	0.47	0.25
Instant start and rapid start residential ballasts that operate	0.993	0.41	0.25
4-foot medium bipin lamps.			
2-foot U-shaped lamps.			
8-foot slimline lamps.			
Programmed start residential ballasts that are designed to operate	0.973	0.71	0.37
4-foot medium bipin lamps.			
2-foot U-shaped lamps.			

(iv) Instant start, rapid start, and programmed start are defined in Appendix Q1 of subpart B of this part. Average total lamp arc power is as defined and measured in accordance with Appendix Q1 of subpart B of this part.

(v) Sign ballasts have an Underwriters Laboratories Inc. Type 2 rating and are designed, labeled, and marketed for use in outdoor signs.

(vi) Residential ballasts meet FCC consumer limits as set forth in 47 CFR part 18 and are designed and labeled for use in residential applications.

(9) The standards described in paragraph (m)(8) of this section do not apply to:

(i) A ballast that is designed for dimming to 50 percent or less of the maximum output of the ballast except for those specified in m(10); and

(ii) A low frequency ballast (as defined in Appendix Q1 to subpart of this part) that:

(A) Is designed to operate T8 diameter lamps;

(B) Is designed, labeled, and marketed for use in EMI-sensitive environments only;

(C) Is shipped by the manufacturer in packages containing 10 or fewer ballasts; and

(iii) A programmed start ballast that operates 4-foot medium bipin T8 lamps and delivers on average less than 140 milliamperes to each lamp.

(10) Each fluorescent lamp ballast—

(i) Manufactured on or after November 14, 2014;

(ii) Designed—

(A) To operate at nominal input voltages of 120 or 277 volts;

(B) To operate with an input current frequency of 60 Hertz; and

(C) For use in connection with fluorescent lamps (as defined in § 430.2);

(D) For dimming to 50 percent or less of the maximum output of the ballast

(iii) Shall have—

(A) A power factor of 0.9 or greater except for those ballasts defined in paragraph (m)(8)(iii)(B) of this section;

(B) A power factor of 0.5 or greater for residential ballasts, which meet FCC Part B consumer limits and are designed and labeled for use only in residential applications;

(C) A ballast luminous efficiency of not less than the following:

Designed for the operation of	Ballast input voltage	Total nominal lamp watts	Ballast luminous efficiency	
			Low frequency ballasts	High frequency ballasts
One F34T12 lamp	120/277	34	0.777	0.778
Two F34T12 lamps	120/277	68	0.804	0.805
Two F96T12/ES lamps	120/277	120	0.876	0.884
Two F96T12HO/ES lamps	120/277	190	0.711	0.713

* * * * *

[FR Doc. 2011–28451 Filed 11–10–11; 8:45 am]

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FEDERAL REGISTER

Vol. 76 Monday,

No. 219 November 14, 2011

Part III

The President

Proclamation 8752—World Freedom Day, 2011

Federal Register
Vol. 76, No. 219
Monday, November 14, 2011

Presidential Documents

Title 3—

The President

Proclamation 8752 of November 8, 2011

World Freedom Day, 2011

By the President of the United States of America

A Proclamation

On November 9, 1989, the German people broke through a barrier that divided their nation, demonstrating no wall is strong enough to hold back the rising tide of human liberty. There could be no clearer rebuke of tyranny, nor a stronger affirmation of freedom. On World Freedom Day, we commemorate the fall of the Berlin Wall, celebrate the resilience of the human spirit, and stand with all those who live in the darkness of oppression and believe in the hope of a brighter day.

This pivotal moment in the global march toward liberty heralded a new era in Europe and around the world. Today, we once again find ourselves at a crossroads of history as a wave of democratic movements sweeps away oppressive dictatorships in the Middle East and North Africa.

Just as the United States supported the aspirations of those who emerged from behind the Iron Curtain, we continue to stand with all who seek their universal rights and reach for a future that offers dignity, justice, equality, personal freedom, and greater economic opportunity. Recent developments in the Middle East and North Africa remind us that the pursuit of liberty endures. As people around the world embrace the cause of human freedom, they take steps toward a more stable and prosperous future.

Today, we pay tribute to the brave individuals who, despite all risks, tear down barriers that obstruct democracy and justice for all. Let us keep in our thoughts those who still live under totalitarian regimes, and let us honor their courage to hold fast to the promise of a better future. On World Freedom Day, we renew our commitment to all who believe—even in the face of cynicism, doubt, and oppression—that walls truly can come down.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 9, 2011, as World Freedom Day. I call upon the people of the United States to observe this day with appropriate ceremonies and activities, reaffirming our dedication to freedom and democracy.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of November, in the year of our Lord two thousand eleven, and of the Independence of the United States of America the two hundred and thirty-sixth.

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