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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 55 and 81

[Docket No. 00–108–11]

RIN 0579–AB35

Chronic Wasting Disease Herd Certification Program and Interstate Movement of Farmed or Captive Deer, Elk, and Moose

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are adopting as a final rule, with two miscellaneous changes, an interim final rule that established a herd certification program to control chronic wasting disease (CWD) in farmed or captive cervids in the United States. The interim final rule specifically requested comment on our policy that our CWD regulations set minimum requirements for the interstate movement of farmed or captive deer, elk, and moose but will not preempt State or local laws or regulations that are more restrictive than our regulations. This document responds to comments we received on that policy. The interim final rule was necessary to help to control the incidence of CWD in farmed or captive cervid herds and prevent its spread.

DATES: Effective on April 29, 2014, we are adopting as a final rule the interim final rule published at 77 FR 35542–35571 on June 13, 2012. The amendments in this final rule are also effective April 29, 2014.

FOR FURTHER INFORMATION CONTACT: Dr. Patrice Klein, Senior Staff Veterinarian, Sheep, Goat, Cervid & Equine Health Center, Surveillance, Preparedness, and Response Services, Veterinary Services, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737–1231; (301) 851–3435.

SUPPLEMENTARY INFORMATION:

Background

Chronic wasting disease (CWD) is a transmissible spongiform encephalopathy of cervids (members of Cervidae, the deer family) that, as of May 2011, has been found only in wild and captive animals in North America and in captive animals in the Republic of Korea. First recognized as a clinical ''wasting'' syndrome in 1967, the disease is typified by chronic weight loss leading to death. Species currently known to be susceptible to CWD via natural routes of transmission include Rocky Mountain elk, mule deer, white-tailed deer, black-tailed deer, sika deer, and moose.

In the United States, as of April 2013, CWD has been confirmed in wild deer and elk in 18 States and in 40 farmed elk herds, 19 farmed white-tailed deer herds, and 1 farmed red deer herd in 13 States. The disease was first detected in U.S. farmed elk in 1997. It was also diagnosed in a wild moose in Colorado in 2005.

The presence of CWD in cervids causes significant economic and market losses to U.S. producers. Canada prohibits the importation of elk from Colorado and Wyoming and now requires that other cervids be accompanied by a certificate stating that CWD has not been diagnosed in the herd of origin. The Republic of Korea has suspended the importation of deer and elk and their products from the United States and Canada. The domestic prices for elk and deer have also been severely affected by fear of CWD.

To help producers avoid the losses caused by CWD infection and risk, we determined that it was necessary to establish a program that would actively identify herds infected with CWD and allow producers to manage these herds in a way that will prevent further spread of CWD. Specifically, on July 21, 2006, we published a final rule in the **Federal Register** (71 FR 41682–41707, Docket No. 00–108–3; ''the July 2006 final rule'') that established the Chronic Wasting Disease Herd Certification Program in 9 CFR subchapter B, part 55. (That part had previously contained only regulations related to the payment of indemnity to the owners of CWD-positive captive herds who voluntarily depopulate their herds.)

Under the July 2006 final rule, owners of deer, elk, and moose herds who choose to participate have to follow the program requirements of a cooperative State-Federal program for animal identification, testing, herd management, and movement of animals into and from herds. The July 2006 final rule also amended 9 CFR subchapter C by establishing a new part 81 containing interstate movement requirements designed to prevent the spread of CWD through the movement of farmed or captive deer, elk, or moose.

After publication of the July 2006 final rule, but before its effective date, the Animal and Plant Health Inspection Service (APHIS) received three petitions requesting reconsideration of several requirements of the rule. On September 8, 2006, we published a notice in the **Federal Register** (71 FR 52983, Docket No. 00–108–4) that delayed the effective date of the CWD final rule while APHIS considered those petitions. On November 3, 2006, we published another notice in the **Federal Register** (71 FR 64650–64651, Docket No. 00–108–5) that described the nature of the petitions and made the petitions available for public review and comment, with a comment period closing date of December 4, 2006. We subsequently extended that comment period until January 3, 2007, in a **Federal Register** notice published on November 21, 2006 (71 FR 67313, Docket No. 00–108–6).

We received 77 comments by that date. They were from cervid producer associations, individual cervid producers, State animal health agencies, State wildlife agencies, and others. We carefully considered the petitions and the public comments received in response to them.

On March 31, 2009, we published in the **Federal Register** (74 FR 14495–14506, Docket No. 00–108–7; ''the March 2009 proposed rule'') a proposal to amend the July 2006 final rule. Specifically, we proposed to recognize State bans on the entry of farmed or captive cervids for reasons unrelated to CWD, increase to 5 the number of years an animal must be monitored for CWD before it may be moved interstate; restrict the interstate movement of cervids that originated from herds in proximity to a CWD outbreak; change

herd inventory procedures; prohibit the addition of animals to CWD-positive, -suspect, and -exposed herds; require States to conduct wildlife surveillance for CWD as part of their Approved State CWD Herd Certification Programs; provide for optional confirmatory DNA testing of CWD-positive samples; and make several other changes.

On June 13, 2012, we published in the **Federal Register** (77 FR 35542–35571, Docket No. 00–108–8; ''the June 2012 interim final rule'') an interim final rule [1] that set an effective date of August 13, 2012 for the July 2006 final rule, with amendments as discussed in the March 2009 proposed rule and the June 2012 interim final rule itself. The interim final rule also set a compliance date of December 10, 2012, for the interstate movement provisions in 9 CFR part 81, to give States and producers time to come into compliance with the herd certification program requirements in 9 CFR part 55.

In the June 2012 interim final rule, we specifically requested comments only on our policy with respect to preemption of State and local laws and regulations regarding CWD. Comments on issues other than preemption will not be addressed in this document, as the June 2012 interim final rule finalized the other provisions of the regulations. However, we are considering comments submitted on those other provisions for potential future rulemaking.

Both the July 2006 final rule and the March 2009 proposed rule indicated that we would preempt State and local laws and regulations that were more restrictive than our regulations. However, in reviewing the comments on the March 2009 proposed rule, we decided that it would be more appropriate that our regulations not preempt State and local laws and regulations that are more stringent than our regulations. We provided one exception, which is that cervids that are eligible to move interstate may transit a State that bans or restricts the entry of such animals en route to another State, under certain conditions.

We solicited comments concerning the preemption issue for 30 days ending July 13, 2012. We reopened and extended the deadline for comments until August 13, 2012, in a document published in the **Federal Register** on July 20, 2012 (77 FR 42625, Docket No. 00–108–9). We received 199 comments by that date. They were from interested members of the public, producers, researchers, and representatives of State and foreign governments. They are discussed below by topic.

Support for Previous Preemption Policy

Some commenters stated that APHIS regulations should preempt all State and local regulations with respect to CWD, thus ensuring that State and local laws and regulations could not be more restrictive than APHIS' regulations. Some of these commenters stated that States may use this discretion to impose stricter regulations than are justified, meaning that owners of farmed and captive cervids could not engage in interstate commerce even though they had met the requirements of the Federal CWD program.

We decided to allow State and local laws and regulations with respect to CWD to be more restrictive than our regulations for multiple reasons. One of those reasons is that it is more difficult to determine with certainty what restrictions are justified for CWD than for other diseases, given our relative lack of knowledge about CWD. Importantly, there is no conclusive knowledge about how CWD may be transmitted between wild cervid populations and farmed and captive cervids. Other gaps in the available science about CWD also impair our ability to achieve eradication of CWD, including the lack of certainty regarding the disease status of individual live animals and the lack of knowledge regarding effective cleaning and disinfection measures for premises on which CWD has been found. (For example, no cleaning and disinfection measures have been proven to effectively address the persistence of CWD in substrates.) This makes it more difficult to determine what restrictions may be justified. Recognizing this uncertainty, we have determined that it is appropriate to allow States to impose more restrictive requirements with respect to CWD, based on their interpretation of the available evidence and on local conditions.

One commenter stated that a purpose of the Federal CWD rules should be to establish national uniformity in disease regulation. Allowing States to impose more restrictive regulations undermines the Federal rule and essentially negates it. The commenter expressed particular concern about the difficulties that will arise regarding testing for CWD and herd compliance for interstate movement.

We recognize that our preemption policy will not ensure national uniformity in CWD regulation; indeed, many States impose restrictions that go beyond APHIS' CWD regulations. However, the decision not to preempt more restrictive State and local laws and regulations was also based on the fact that our goal for the CWD program has changed. As discussed in the June 2012 interim final rule, the objective of our regulations is now to control the incidence of CWD in farmed and captive cervids and prevent the interstate spread of the disease, rather than eliminating CWD in farmed and captive cervids. Eliminating CWD from farmed and captive cervids is not practical given the persistence of CWD in wild cervid populations and the lack of knowledge about the disease discussed earlier. However, States may decide that a higher level of protection is appropriate in their State, and allowing States to establish more restrictive laws and regulations on farmed and captive cervids recognizes that States may want to establish a higher level of protection against the disease than the Federal program is designed to provide.

It is important to keep in mind, both with respect to the comments discussed above and those discussed later in this document, that the CWD program was only established in the June 2012 interim final rule, although the effort to establish the program goes back further. Changing conditions, new knowledge about CWD, or our experience administering the program could all lead APHIS to determine that a change in our preemption policy is necessary. We will continue to consider this issue as we implement the CWD program.

Opposition to Allowing Farmed or Captive Cervids To Move Through States and Localities With More Restrictive Laws or Regulations

As noted earlier, we made an exception to our policy of allowing State and local laws and regulations to be more restrictive than APHIS' regulations to provide conditions for the interstate movement of farmed or captive cervids through a State or locality. These conditions preempt State and local laws and regulations that would otherwise apply to such movement through a State or locality. The conditions for such movement are:

- The farmed or captive deer, elk, or moose must be eligible to move interstate under § 81.3. This section requires animals that move interstate to be from herds that are Certified as low risk for CWD, to be from wild populations that have been documented to be low risk for CWD, or to be moved directly to slaughter. It also provides for movement of research animals under permit, which will only be issued if the movement authorized will not result in the interstate dissemination of CWD.

[1] To view the interim final rule and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2006-0118.*

• The farmed or captive deer, elk, or moose must meet the entry requirements of the destination State listed on the certificate or permit accompanying the animal.

• Except in emergencies, the farmed or captive deer, elk, or moose must not be unloaded until their arrival at their destination. Emergencies might include a breakdown of the vehicle transporting the deer, elk, or moose or weather conditions that make it impossible or extremely unsafe for a vehicle to continue along its scheduled itinerary.

Some commenters stated that States should have the authority to further regulate or ban the transit of farmed or captive cervids through a State en route to another State.

Three commenters stated that movement of farmed or captive cervids through a State introduces risk and would potentially affect State efforts to exclude or eradicate CWD. One stated that State and local authorities know the risks and resources within their jurisdictions and are more suited to protect their resources beyond the protection afforded by a national program if required. Another stated that it is the prerogative of each State to determine the level of risk it is willing to accept with respect to CWD. One commenter stated that the interim rule stated that interstate movement is a low risk with limited exceptions, and asked what the exceptions are.

While there may be some risk associated with the movement of farmed or captive cervids through a State en route to another State, the available evidence indicates that the risk is low in all circumstances. As discussed in the June 2012 interim final rule, the available science suggests that CWD is not highly infectious. In addition, the regulations in § 81.3 limit the interstate movement of farmed or captive cervids to animals from herds that have achieved Certified status as being low-risk for CWD, with certain exceptions for specific movements as noted earlier.

As discussed in the June 2012 interim final rule, not providing for movement through States that ban or further restrict the entry of farmed or captive deer, elk, or moose would also raise several issues. The rerouting required to avoid such States may make transportation of farmed or captive cervids economically unfeasible. Even if such transportation is economically feasible, the additional time necessary to traverse a lengthy route may raise animal health or welfare issues for the cervids being transported; the cervids would need regular water, feed, and rest, as required for all livestock under the Twenty-Eight Hour Law (49 U.S.C. 80502). Captive cervids that needed to be offloaded for such purposes would not be easy to confine and to reload onto a conveyance. Several commenters on the interim final rule agreed that circuitous routing around States that ban or restrict movement raises both economic and animal welfare concerns.

Given the low risk associated with this type of movement, and the concerns that not allowing such movement raises, we have determined that it is appropriate to provide for the movement of farmed or captive cervids through States and localities whose laws or regulations on the movement of captive cervids are more restrictive than the regulations in part 81.

One commenter stated that the preemption policy does not take into account States' legitimate concerns for captive cervid escapes through emergency unloading and accidents.

As noted earlier, the regulations require farmed or captive cervids moved through a State to be eligible for interstate movement under part 81, and thus to be low risk for CWD. We do not believe the risk of allowing movement through a State outweighs the economic and animal welfare benefits described earlier.

Two commenters stated that preempting State and local laws and regulations regarding the movement of farmed or captive cervids through a State or locality en route to another State was not within APHIS' authority under the Animal Health Protection Act (AHPA, 7 U.S.C. 8301 *et seq*). One commenter elaborated that the AHPA gives the Secretary of Agriculture the authority to prohibit or restrict the movement in interstate commerce of any animal, if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction or dissemination of any pest or disease of livestock. The commenter stated that the June 2012 interim final rule does not prohibit or restrict movement in interstate commerce as authorized by the AHPA.

Prior to August 13, 2012, when the June 2012 interim final rule became effective, there had been no Federal regulation of the interstate movement of farmed or captive cervids. The regulations in part 81, which the interim final rule added to 9 CFR chapter I, restrict the movement in interstate commerce of farmed or captive cervids, including the interstate movement of farmed or captive cervids through a State. As noted earlier, such movement may only occur in accordance with certain requirements.

The provisions allowing for interstate movement through a State were promulgated with the AHPA in mind. In 7 U.S.C. 8301, Congress found that the prevention, detection, control, and eradication of diseases and pests of animals are essential to protect animal health, and that regulation is also necessary to prevent and eliminate burdens on interstate commerce, among other things. Given the low risk associated with the movement through a State of farmed or captive cervids that meet the other requirements in 9 CFR part 81, we believe we have appropriately balanced our duties under the AHPA to prevent and control CWD and to prevent and eliminate burdens on interstate commerce.

Additional Restrictions on Movement Through a State or Locality

Some commenters asked whether States and localities could impose additional restrictions on the interstate movement of farmed or captive cervids through a State or locality, beyond those listed in § 81.5.

Two commenters, both State fish and wildlife agencies, requested that we amend § 81.5 to allow for State approval of transport of cervids through a State. One of these commenters stated that the commenter's State bans all transportation of cervids through the State except under a permit issued by that agency. The commenter stated that the intent of the permit was not to impede transit of cervids but to ensure that animals are properly secured during transport, all documentation is valid, and that the route taken through the State is as efficient and expeditious as possible. A third commenter asked whether a State could require a permit or an inspection of cervids moving through a State, or a fee for movement of farmed or captive cervids through a State.

A State could use any kind of permit or inspection requirement as a *de facto* ban on the interstate movement of farmed or captive cervids through the State. For this reason, adding such a provision to § 81.5 could be counterproductive to the goal of facilitating interstate movement that poses a low risk. However, we encourage persons moving farmed or captive cervids through a State to notify the States through which the movement will occur.

Since a State cannot require permits or inspections for cervids moved through their State en route to another State, as this would obstruct transiting that State, we assume that fees specific to the interstate movement of farmed or captive cervids through a State would not be necessary, as they are not for other livestock.

Two commenters recommended that we add requirements to address the potential escape of urine and feces from conveyances being used to move farmed or captive cervids interstate. One commenter stated that research has demonstrated that CWD can be transmitted by environmental transmission, and prions are excreted in the urine and feces of infected animals. The other commenter recommended that we also require decontamination for all transport vehicles and equipment that cross state lines and transporter recordkeeping to allow traceback of all live animals.

We do not consider these requirements to be necessary to mitigate the low risk associated with the movement through a State of farmed or captive cervids that are eligible for interstate movement under 9 CFR part 81. Such farmed or captive cervids are already at low risk for CWD. Wild cervids are unlikely to receive sustained exposure from urine or feces that inadvertently escapes a cervid transport vehicle moving on an interstate highway, for example. Decontamination of transport vehicles and equipment could be required by the receiving State after the animals have been offloaded at their destination. If the commenter is referring to decontamination during transport of a vehicle loaded with animals before the vehicle enters a State en route to its final destination, that would require unloading the cervids, which would potentially pose a greater risk of escape and may affect the welfare of the animals. Finally, all farmed or captive cervids moved interstate are required to be identified in accordance with § 81.2, which requires two forms of animal identification, one of which is official. Under § 81.4, the animal identification must be included on the certificate that accompanies the farmed or captive cervids moved interstate. These requirements allow for any traceback that should be necessary.

Federal CWD Herd Certification Program

In the first sentence of paragraph (b) of § 55.22, the July 2006 final rule provided for direct enrollment in the Federal CWD Herd Certification Program by owners as follows:

> Any owner of a farmed or captive deer, elk, or moose herd may apply to enroll in the CWD Herd Certification Program by sending a written request to the appropriate State agency, or to the veterinarian in charge if no Approved State CWD Herd Certification Program exists in the herd's State.

The June 2012 interim final rule amended this sentence to indicate that direct enrollment by herd owners in the Federal CWD Herd Certification Program would be subject to the availability of Federal funds. Such appropriated funding is not currently available.

Three commenters expressed concern about what they perceived to be the preemptive effects of this provision. They stated that it conflicted with the overall policy of allowing States and localities to establish more restrictive regulations for CWD. Two of the commenters also stated that the decision to implement a herd certification program should be at the State's discretion and no private individual should be granted the flexibility to circumvent State authority. One stated that it is unlikely that appropriated funds will be available. One of these commenters, however, stated that if the provision serves to qualify a cervid owner to export deer to another State that permits it, the commenter's State fish and wildlife agency could assist the cervid owner to meet requirements necessary to enroll individually into the herd certification program.

The last of the comments is closest to the intent of the provision. If a State prohibits cervid farming, our regulations will not preempt that law. Rather, this provision addresses the specific situation of a State that allows cervids to be farmed but does not provide a State CWD Herd Certification Program in which herd owners can participate. In such a case, a herd owner could apply to the Federal CWD Herd Certification Program, subject to the availability of Federal funding. We do not believe that the provision is ambiguous, as a person could not own a herd of cervids in a State where farming cervids was prohibited; the provision could only apply if a herd owner, operating legally in a State, had no State CWD Herd Certification Program to which he or she could apply.

It is important to provide this option because only farmed or captive cervid herds that have reached Certified status under an approved herd certification program are eligible for interstate movement under 9 CFR part 81; if no herd certification program is available in a State, no farmed cervids can be moved interstate from that State.

Wild Cervids

Both the July 2006 final rule and the June 2012 interim final rule included requirements for the interstate movement of wild cervids. Specifically, paragraph (b) of § 81.3 requires captive cervids captured from a wild population for interstate movement and release to be accompanied by a certificate stating that the source population has been determined to be low risk for CWD, based on a CWD surveillance program in wild cervid populations that is approved by the State Government of the receiving State and by APHIS.

One commenter stated that this provision preempts the authority of States to control the movement of wild cervids.

As noted in the Background section of the June 2012 interim final rule, the Federal CWD regulations indeed set minimum standards for CWD control. We believe that these are the minimum standards necessary to have an effective CWD control program. The movement of wild cervids captured for interstate movement and release could easily spread CWD. As a result, we have determined that it is necessary to impose minimum restrictions on this movement.

Miscellaneous Changes

In the June 2012 interim final rule, we described how the goal of the CWD program had shifted from the elimination of CWD from farmed and captive cervids in the United States to controlling the incidence of CWD in farmed and captive cervids and preventing the interstate spread of CWD. In § 55.1, the definition of *herd plan,* established in a previous action, indicates that a herd plan sets out the steps to be taken to eradicate CWD from a CWD-positive herd, among other things. Completion of a herd plan is required to allow a herd enrolled in the Federal CWD herd certification program to reenroll in the program after it has been determined to be positive for or exposed to CWD. However, as the goal of the CWD program is no longer to eliminate CWD from farmed and captive cervids, the term ''eradicate'' may not be appropriate; in some cases, a herd plan may seek to control CWD within the herd, without necessarily depopulating the whole herd. For this reason, we are amending the definition of *herd plan* to indicate that such a plan will set out the steps to be taken to control the spread of CWD from a CWD-positive herd.

Under § 81.3, cervids moved directly to slaughter must, among other things, be moved to a recognized slaughtering establishment. We did not include in the June 2012 interim final rule a definition of the term ''recognized slaughtering establishment.'' This omission could cause confusion. Accordingly, we are adding a definition of *recognized slaughtering establishment* to § 81.1, which reads ''An establishment where slaughtering operations are regularly carried out under Federal or State inspection and which has been approved by the Animal

and Plant Health Inspection Service to receive animals for slaughter.'' This definition is taken from the regulations governing the importation of ruminants in § 93.400 and is consistent with the intended meaning of the term in § 81.3.

Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim final rule as a final rule, with the changes discussed in this document.

This action also affirms the information contained in the interim rule concerning Executive Orders 12866, 13563, 12372, and 12988 and the Paperwork Reduction Act.

Further, this action has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

This final rule follows an interim final rule that established a Federal herd certification program for CWD and put in place interstate movement restrictions to prevent CWD from spreading interstate. The interim final rule specifically requested comments only on the issue of our new preemption policy.

In accordance with 5 U.S.C. 604, we have performed a final regulatory flexibility analysis, which is summarized below, regarding the economic effects of this rule on small entities. Copies of the full analysis are available on the Regulations.gov Web site (see footnote 1 in this document for a link to Regulations.gov) or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

This final rule affirms prior regulatory actions that established a voluntary herd certification program for the control of CWD in farmed or captive cervids (deer, elk, and moose) in the United States. The program regulations include CWD monitoring and testing requirements, and set minimal requirements for interstate movement that will not preempt more restrictive State or local laws or regulations. At present, herd owners' interstate marketing decisions may need to account for dissimilar State CWD certification regulations.

Herd owners who choose to participate in the herd certification program will have to meet program requirements for animal identification, testing, and herd management. Other than for cervids moving to slaughter or for research, those that move interstate must be from Certified herds that have been monitored for a period of at least 5 years and that have not been epidemiologically linked to herds where CWD has been diagnosed, or captured from a wild cervid population that has been documented to be low risk for CWD based on a surveillance program.

Some herd owners may be adversely affected by the 5-year monitoring requirement for interstate movement; however, available research indicates that this minimum period of monitoring is necessary to provide an adequate level of protection against the spread of CWD. Most researchers agree that CWD manifests itself within 5 years if the disease is present in a herd of farmed or captive cervids. Many herd owners have been participating in State-level CWD herd certification programs for at least 5 years and will have met this requirement as a result of being enrolled in a State program that becomes an Approved State Herd Certification Program in the national CWD herd certification program.

Producers who participate in the herd certification program will be required to maintain a complete inventory of their herds, with verification by APHIS or State officials. A physical inventory of the animals will be required at the time a herd is enrolled in a CWD certification program and thereafter the animals will need to be physically assembled for inventory within 3 years of the last physical inventory. An annual herd inventory—including a review of owner records and an observation of the herd's unrestrained animals in a viewable, enclosed area—will continue to be required, but the animals will not necessarily need to be physically assembled and restrained.

The inventory cost is estimated to average about $25 to $30 per deer or elk, including the animals' physical inventory once every 3 years and use of eartags for identification. (We do not know of any farmed or captive moose herds.) Values of farmed or captive deer and elk range widely, depending on the type of animal and market conditions. Based on average per animal values of $2,000 for deer and $2,200 for elk, annual inventory costs are estimated to average less than 2 percent of the value of farmed or captive deer and elk.

All on-farm cervid mortalities and any cervids on herd inventories sent to slaughter and hunt facilities must be tested to achieve certified status. Thereafter, all on-farm mortalities of Certified cervids will be required to be tested for CWD to maintain Certified status. There also will be optional confirmatory DNA test provisions for animals that test CWD-positive. CWD testing will entail submission of the carcass or whole head for tissue sampling and testing, or collection of the tissue samples by State officials, APHIS employees, accredited veterinarians, or State-certified or -designated CWD sample collectors. The estimated cost is about $150 per sample, equivalent to about 8 percent of the average value of a farmed or captive deer and about 7 percent of the average value of a farmed or captive elk. CWD testing of cervids is recognized by APHIS, the States, and cervid herd owners as essential to successful control of this disease. Owners who choose confirmatory DNA testing will consider it a benefit, as evidenced by their payment for this voluntary, optional test.

Most cervid operations are small entities. The rule will have a positive overall economic impact on affected entities large and small, and for the U.S. cervid industries generally, in controlling the spread of CWD and facilitating interstate and international trade in cervids and cervid products.

List of Subjects

9 CFR Part 55

Animal diseases, Cervids, Chronic wasting disease, Deer, Elk, Indemnity payments, Moose.

9 CFR Part 81

Animal diseases, Cervids, Deer, Elk, Moose, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, the interim final rule amending 9 CFR parts 55 and 81 that was published at 77 FR 35542–35571 on June 13, 2012, is adopted as a final rule with the following changes:

PART 55—CONTROL OF CHRONIC WASTING DISEASE

■ 1. The authority citation for part 55 continues to read as follows:

Authority: 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

§ 55.1 [Amended]

■ 2. In § 55.1, the definition of *herd plan* is amended by removing the word ''eradicate'' and adding the words ''control the spread of'' in its place.

PART 81—CHRONIC WASTING DISEASE IN DEER, ELK, AND MOOSE

■ 3. The authority citation for part 81 continues to read as follows:

Authority: 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

■ 4. In § 81.1, a new definition of *recognized slaughtering establishment* is added in alphabetical order to read as follows:

§ 81.1 Definitions.

* * * * *

Recognized slaughtering establishment. An establishment where slaughtering operations are regularly carried out under Federal or State inspection and which has been approved by the Animal and Plant Health Inspection Service to receive animals for slaughter.

Done in Washington, DC, this 24th day of April 2014.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2014–09714 Filed 4–28–14; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

9 CFR Part 201

Scales; Accurate Weights, Repairs, Adjustments or Replacements After Inspection

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Direct final rule.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) Packers and Stockyards Program (PSP) is incorporating by reference ''2013 edition of the NIST Handbook 44'' and to require that the scales used by stockyard owner, market agencies, dealers, packers, and live poultry dealers to weigh livestock, livestock carcasses, live poultry, or feed for the purpose of purchase, sales acquisitions, payment, or settlement meet applicable requirements of the 2013 edition of the NIST Handbook 44.

DATES: This rule is effective June 30, 2014. The incorporation by reference of certain publications in this rule is approved by the Director of the Federal Register as of June 30, 2014. Comments are due May 29, 2014. If adverse comments are received, GIPSA will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: We invite you to submit comments on this direct final rule by any of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- Mail: Send hardcopy written comments to Irene Omade, GIPSA, USDA, 1400 Independence Avenue SW., Room 2530–S, Washington, DC 20250.
- Hand Delivery or Courier: Deliver comments to Irene Omade, GIPSA, USDA, 1400 Independence Avenue SW., Room 2530–S, Washington, DC 20250.
- Fax: Send comments by facsimile transmission to: (202) 690–2173.

Instructions: All comments will become a matter of public record and should be identified as ''NIST Handbook 44 IBF Comments,'' making reference to the date and page number of this issue of the **Federal Register**. Comments will be available for public inspection at *http://www.regulations.gov* and in the above office during regular business hours (7 CFR 1.27(b)). Please contact the GIPSA Management and Budget Services at (202) 720–8479 to make an appointment to read the comments received.

FOR FURTHER INFORMATION CONTACT: S. Brett Offutt, Director, Policy and Litigation Division by Email at *s.brett.offutt@usda.gov,* or by telephone at (202) 720–7363.

SUPPLEMENTARY INFORMATION:

Background

The Grain Inspection, Packers and Stockyards Administration (GIPSA) enforces the Packers and Stockyards Act (P&S Act) and those regulations necessary to carry out provisions of the P&S Act. The regulated entities are stockyard owners, swine contractors, market agencies, dealers, packers, and live poultry dealers. GIPSA issued regulations covering devices that regulated entities use for weighing and grading livestock and poultry. The purpose for these regulations is to ensure fairness and accuracy in the determination of prices the regulated entities pay for livestock and poultry.

Title 9, CFR 201.71(a) incorporates by reference the National Institute of Standards and Technology (NIST) Handbook 44 to regulate devices used by regulated entities to weigh or grade livestock or poultry. Currently, 9 CFR 201.71(a) incorporates by reference the 2009 edition of NIST Handbook 44, ''Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices.'' The 2009 edition included the ''tentative'' status of code to regulate the weighing and measuring devices used by regulated entities. In July 2012, the National Conference on Weights and Measures took action to change the ''tentative'' code to ''permanent''. Since the ''tentative'' code has become ''permanent'' in the 2013 edition of Handbook 44, effective January 1, 2013, GIPSA is amending 9 CFR 201.71(a) to incorporate by reference the 2013 edition of Handbook 44.

Direct Final Action

Pursuant to 5 U.S.C 553, it is found and determined upon good cause that it is impracticable, unnecessary, and contrary to public interest to give preliminary notice prior to putting this direct final rule in effect because GIPSA regularly updates this section of the P&S Act regulations to incorporate by reference NIST Handbook 44. Further, GIPSA views this action as noncontroversial and anticipates no adverse public comment. This rule will be effective, as published in this document, 30 days after the date of publication in the **Federal Register**, unless GIPSA receives written adverse comments or written notice of intent to submit adverse comments within 30 days of the date of publication of this rule in the **Federal Register**. Adverse comments are considered to be those comments that suggest the rule should not be adopted or suggest the rule should be changed.

If GIPSA receives written adverse comments or written notice of intent to submit adverse comments, we will publish a notice in the **Federal Register** withdrawing this rule before the effective date. GIPSA will then publish a proposed rule for public comment. Following the close of that comment period, the comments will be considered thoughtfully, and a final rule addressing the comments will be published.

Executive Order 12866 and Regulatory Flexibility Act

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

Pursuant to the requirements set forth in the Regulatory Flexibility Act (5 U.S.C. 601–612), GIPSA has determined that this rule will not have a significant economic impact on a substantial number of small entities. GIPSA has determined that most regulated entities are complying with the current 2013 edition of Handbook 44 since State weights and measures departments already impose the standards. Since regulated entities are required under States law to comply with NIST Handbook 44, there are no new costs or burden to comply with those standards.

Executive Order 12988

This direct final rule has been reviewed under Executive Order 12988, Civil Justice Reform. These actions are not intended to have retroactive effect. This direct final rule would not preempt any State or local laws, or regulations,

or policies unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this direct final rule.

Paperwork Reduction Act

This rule does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). It does not involve collection of new or additional information by the federal government.

E-Government Act Compliance

GIPSA 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.

List of Subjects in 7 CFR Part 201

Swine, Hogs, Incorporation by reference, Livestock, Measurement standards.

For reasons set forth in the preamble, 9 CFR part 201 is amended as follows:

PART 201—REGULATIONS UNDER THE PACKERS AND STOCKYARDS ACT

■ 1. The authority citation for part 201 continues to read as follows:

Authority: 7 U.S.C. 181–229c.

■ 2. In § 201.71, paragraph (a) is revised to read as follows:

§ 201.71 Scales; accurate weights, repairs, adjustments or replacements after inspection.

(a) All scales used by stockyard owners, swine contractors, market agencies, dealers, packers, and live poultry dealers to weigh livestock, livestock carcasses, live poultry, or feed for the purpose of purchase, sale acquisition, payment, or settlement shall be installed, maintained, and operated to ensure accurate weights. Such scales shall meet applicable requirements contained in section 5.59, Electronic Livestock, Meat, and Poultry Evaluation Systems and/or Devices, pages 5–85 and 5–86 of the ''U.S. Department of Commerce, National Institute of Standards and Technology, Specifications, Tolerances, and other Technical Requirements for Weighing and Measuring Devices (NIST Handbook 44), 2013 edition'' which is hereby incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register**. All approved material is available for inspection at USDA, GIPSA, P&SP, 1400 Independence Ave. SW., Washington, DC 20250, 202–720–7363 and is for sale by the National Conference of Weights and Measures (NCWM), 1135 M Street, Suite 110, Lincoln, Nebraska, 68508. Information on this material may be obtained from NCWM by calling 402–434–4880, by emailing *nfo@ncwm.net,* or on the Internet at *http://www.nist.gov/owm.* It is also available for inspection at the National Archives and Records Administration (NARA). For more information on the availability of this material at NARA, call 202–741–6030 or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

* * * * *

Larry Mitchell,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 2014–09655 Filed 4–28–14; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0425; Directorate Identifier 2012–NM–224–AD; Amendment 39–17815; AD 2014–07–01]

RIN 2120–AA64

Airworthiness Directives; the Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 747 airplanes. This AD was prompted by reports of cracking in particular areas of the bulkhead structure at body station (BS) 2598. This AD requires repetitive inspections, including post-repair and post-modification inspections, for cracking in the bulkhead structure at BS 2598; certain one-time inspections of certain fasteners and support frame modifications on certain airplanes; related investigative and corrective actions, if necessary; and an interim modification that would terminate certain repetitive inspections. We are issuing this AD to detect and correct fatigue cracking of the BS 2598 bulkhead structure, which could adversely affect the structural integrity of the bulkhead and the horizontal stabilizer support structure, and result in loss of controllability of the airplane.

DATES: This AD is effective June 3, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of June 3, 2014

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–0425; 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 address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Nathan Weigand, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6428; fax: 425–917–6590; email: *nathan.p.weigand@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 747 airplanes. The SNPRM published in the **Federal Register** on January 2, 2014 (79 FR 65). We preceded the SNPRM with a notice of proposed rulemaking (NPRM) that published in the **Federal Register** on May 28, 2013 (78 FR 31867).

The NPRM proposed to require repetitive inspections for cracking in the bulkhead splice fitting, frame supports, forward and aft inner chords, and floor support; an inspection for cracking in the bulkhead upper web, doubler, and bulkhead lower web, and corrective actions if necessary; and repetitive post-repair inspections of the support frame, and corrective actions, if necessary. For certain airplanes, the NPRM proposed to require:

- Inspections for cracking in the repaired area of the bulkhead, and corrective actions if necessary;
- A support frame modification and inspections, and related investigative and corrective actions, if necessary;
- Repetitive post-repair inspections of the support frame and inspections for cracking in the hinge support, and related investigative and corrective actions if necessary;
- A one-time inspection of the frame web and upper shear deck (floor support) chord aft side for fasteners; and a one-time inspection of the upper forward inner chord, frame support fitting, and splice fitting for the installation of certain fasteners; and related investigative and corrective actions if necessary;
- A one-time inspection of the upper forward inner chord, frame support fitting, and splice fitting for the installation of certain fasteners; a one-time inspection for any repair installed on the left and right side of the aft inner chord; and related investigative and corrective actions, if necessary; and
- A one-time inspection of the support frame outer chord for cracking, and repair if necessary.

The NPRM was prompted by reports of cracking in the forward and aft inner chord of the BS 2598 bulkhead near the upper corners of the cutout for the horizontal stabilizer rear spar, and cracking in the bulkhead upper and lower web panels near the inner chord to shear deck connection.

The SNPRM proposed to add an optional terminating action for certain inspections and expand the inspection area for certain surface and open-hole high frequency eddy current (HFEC) inspections. We are issuing this AD to detect and correct fatigue cracking of the BS 2598 bulkhead structure, which could adversely affect the structural integrity of the bulkhead and the horizontal stabilizer support structure, and result in loss of controllability of the airplane.

Comments

We gave the public the opportunity to participate in developing this AD. We have considered the comment received. Boeing supported the SNPRM (79 FR 65, January 2, 2014).

Conclusion

We reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting this AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the SNPRM (79 FR 65, January 2, 2014) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the SNPRM (79 FR 65, January 2, 2014).

Costs of Compliance

We estimate that this AD affects 184 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Bulkhead (support frame) inspection	49 work-hours × $85 per hour = $4,165 per inspection cycle.	$0	$4,165 per inspection cycle.	$766,360 per inspection cycle.
Support frame modification	315 work-hours × $85 per hour = $26,775	0	26,775	Up to $4,926,600.
Support frame upper corner fastener inspection.	16 work-hours × $85 per hour = $1,360	0	1,360	Up to $250,240.
Support frame post-modification/post repair inspection.	200 work hours × $85 per hour = $17,000	0	17,000	3,128,000.

We estimate the following costs to do any necessary interim modification that would be required based on the results of inspection of the bulkhead specified in paragraph (g) of this AD. We have no way of determining the number of aircraft that might need this interim modification:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Interim modification	4 work-hours × $85 per hour = $340	$0	$340

We have received no definitive data that would enable us to provide a cost estimate for the corrective actions specified in this AD.

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):

2014–07–01 The Boeing Company: Amendment 39–17815; Docket No. FAA–2013–0425; Directorate Identifier 2012–NM–224–AD.

(a) Effective Date

This AD is effective June 3, 2014.

(b) Affected ADs

This AD affects AD 2010–14–07, Amendment 39–16352 (75 FR 38001, July 1, 2010).

(c) Applicability

This AD applies to The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by reports of cracking in particular areas of the bulkhead structure at body station (BS) 2598. We are issuing this AD to detect and correct fatigue cracking of the BS 2598 bulkhead structure, which could adversely affect the structural integrity of the bulkhead and the horizontal stabilizer support structure, and result in loss of controllability of the airplane.

(f) Compliance

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

(g) Inspections of the Bulkhead (Support Frame)

For airplanes on which the bulkhead (support frame) modification specified in Boeing Service Bulletin 747–53A2473 or Boeing Alert Service Bulletin 747–53A2837 has not been done, and on which an interim modification or aft inner chord repair specified in Boeing Alert Service Bulletin 747–53A2427 has not been done: At the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013, except as provided by paragraph (m)(1), (m)(2), or (m)(3) of this AD, as applicable, do an open-hole and surface high frequency eddy current (HFEC) inspection for cracking in the bulkhead (support frame), which includes the bulkhead splice fitting, frame supports, forward and aft inner chords, floor supports, and upper and lower web panels; do a surface HFEC inspection for cracking in the bulkhead upper web assembly; do an open-hole and surface HFEC inspection for cracking in the bulkhead lower web assembly; and do all applicable corrective actions; in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013, except as required by paragraphs (h), (m)(4), (m)(5), and (m)(6) of this AD. Do all applicable corrective actions before further flight. Repeat the applicable inspections, thereafter, at the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013. Doing the modification required by paragraph (j) of this AD terminates the repetitive inspections required by this paragraph.

(h) Interim Modification

For airplanes in Groups 1 and 2, as identified in Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013, on which no cracking was found during any inspection required by paragraph (g) of this AD: At the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013, except as provided by paragraph (m)(2) of this AD, do the interim modification, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013. Doing the interim modification terminates the repetitive inspections required by paragraph (g) of this AD in the area of the modification only. The repetitive inspections of the bulkhead lower web, as specified in paragraph (g) of this AD, must be done. If the aft inner chord repair or upper web repair specified in Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013, has been accomplished, an interim modification on the side of the airplane that has the repair is not required by this paragraph.

(i) Post-Repair Inspection or Post-Interim Modification Inspection

For airplanes on which an interim modification, aft inner chord repair, or upper web repair has been done, as specified in paragraph (g) or (h) of this AD: At the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013, except as specified in paragraph (m)(1), (m)(2), or (m)(3) of this AD, as applicable, do the actions specified in paragraphs (i)(1) and (i)(2) of this AD, and all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013, except as required by paragraph (m)(4) of this AD. Do all applicable corrective actions before further flight. Repeat the inspections thereafter at the applicable intervals specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013. Doing the modification required by paragraph (j) of this AD terminates the repetitive inspections required by this paragraph.

(1) Do forward side surface HFEC inspections for cracking of the bulkhead forward inner chord, splice fitting, and frame support.

(2) Do surface and open-hole HFEC inspections for cracking in the repaired and modified areas of the bulkhead, as applicable.

(j) Bulkhead (Support Frame) Modification and Inspections

For airplanes on which the bulkhead (support frame) modification, as specified in Boeing Service Bulletin 747–53A2473 has not been done as of the effective date of this AD: At the applicable time specified in tables 2 and 3 of paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011, do the bulkhead (support frame) modification and inspections and all applicable related investigative and corrective actions; in accordance with steps 3.B.3., 3.B.4., and 3.B.5. of the Accomplishment Instructions of Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011, except as required by paragraph (m)(4) of this AD. Do all applicable related investigative and corrective actions before further flight. Doing the modification in this paragraph terminates the inspections required by paragraphs (g) and (i) of this AD.

(k) Post-Modification Inspections

(1) For airplanes on which the bulkhead (support frame) modification, as specified in Boeing Service Bulletin 747–53A2473 has been done: Except as provided by paragraphs (m)(7) and (m)(8) of this AD, at the applicable

time specified in tables 6, 7, 8, and 9 of paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011, do support frame post-modification inspections, and open-hole HFEC inspections for cracking in the hinge support, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011, except as required by paragraph (m)(4) of this AD. Do all applicable related investigative and corrective actions before further flight. Repeat the inspections thereafter at the applicable times specified in tables 6, 7, 8, and 9 of paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011.

(2) For airplanes on which the support frame modification, as specified in Boeing Service Bulletin 747–53A2473, Revision 1, dated February 20, 2007 (which is not incorporated by reference in this AD), has been done: Except as specified in paragraphs (m)(7) and (m)(8) of this AD, at the applicable time specified in tables 4 and 5 of paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011, do a one-time general visual inspection of the frame web and upper shear deck (floor support) chord aft side for fasteners that were installed as part of an inner chord repair removal; and a one-time general visual inspection of the upper forward inner chord, frame support fitting, and splice fitting for the installation of certain fasteners; and do all applicable related investigative and corrective actions; in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011, except as required by paragraph (m)(4) of this AD. Do all applicable related investigative and corrective actions at the applicable times specified in tables 4 and 5 of paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011.

(3) For airplanes on which the support frame modification, as specified in Boeing Service Bulletin 747–53A2473, dated March 24, 2005 (which was incorporated by reference in AD 2006–05–06, Amendment 39–14503 (71 FR 12125, March 9, 2006)), has been done: Except as specified in paragraphs (m)(7) and (m)(8) of this AD, at the applicable time specified in tables 5 and 10 of paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011, do a one-time general visual inspection of the upper forward inner chord, frame support fitting, and splice fitting for the installation of certain fasteners; a one-time general visual inspection for any repair installed on the left and right side of the aft inner chord; and do all applicable related investigative and corrective actions; in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011, except as required by paragraph (m)(4) of this AD. Do all applicable related investigative and corrective actions at the applicable times specified in tables 5 and 10 of paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011.

(4) For airplanes on which a post-modification inspection was done using paragraph 3.B.8. of Part 1 of the Accomplishment Instructions of Boeing Service Bulletin 747–53A2473, Revision 3, dated July 14, 2011 (which is not incorporated by reference in this AD): Except as required by paragraphs (m)(7) and (m)(8) of this AD, at the applicable time in table 11 of paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011, do a one-time surface HFEC inspection of the support frame outer chord for cracking, in accordance with Part 1 of the Accomplishment Instructions of Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011. If any cracking is found, repair before further flight, using a method approved in accordance with the procedures specified in paragraph (q) of this AD.

(l) Post-Modification and Post-Repair Inspections

For airplanes on which cracking was found during a post-modification inspection and was repaired by doing the installation of an upper or lower corner post-modification web crack repair, as specified in Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011: At the applicable times specified in tables 6 and 8 of paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011, do a bulkhead (support frame) post-repair inspection, and do all applicable corrective actions, in accordance with paragraph a., b., or c. of Part 4 of paragraph 3.B.8 of the Accomplishment Instructions of Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011, as applicable, except as required by paragraph (m)(4) of this AD. Repeat the inspection, thereafter, at the applicable times specified in tables 6 and 8 of paragraph 1.E., ''Compliance,'' of Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011.

(m) Exceptions to Service Information

(1) Where Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013, specifies a compliance time after ''the date on Revision 2 of this service bulletin,'' this AD requires compliance within the specified compliance time after August 28, 2001 (the effective date of AD 2001–15–03, Amendment 39–12337 (66 FR 38365, July 24, 2001)).

(2) Where Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013, specifies a compliance time after ''the date on Revision 4 of this service bulletin,'' this AD requires compliance within the specified compliance time after August 5, 2010 (the effective date of AD 2010–14–07, Amendment 39–16352 (75 FR 38001, July 1, 2010)).

(3) Where Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013, specifies a compliance time ''after the date on the respective service bulletin revision'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(4) If any cracking is found during any inspection required by this AD, and Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013; or Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011; specifies to contact Boeing for appropriate action: Before further flight, repair the crack using a method approved in accordance with the procedures specified in paragraph (q) of this AD.

(5) If, during any inspection required by paragraph (g) of this AD, any cracking is found in the bonded web doubler, before further flight, repair using a method approved in accordance with the procedures specified in paragraph (q) of this AD.

(6) Where Part 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013, specifies accomplishing inspections for cracking in the forward and aft inner chords, splice fittings, floor supports, and upper and lower web panels, this AD also requires doing an open-hole HFEC inspection of the bonded web doubler if present.

(7) Where Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011, specifies a compliance time ''after the date on Revision 2 of this service bulletin,'' this AD requires compliance within the specified compliance time as of August 5, 2010 (the effective date of AD 2010–14–07, Amendment 39–16352 (75 FR 38001, July 1, 2010)).

(8) Where Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011, specifies a compliance time ''after the date on Revision 3 of this service bulletin,'' or ''after the date on Revision 4 of this service bulletin,'' this AD requires compliance within the specified compliance time ''after the effective date of this AD.''

(n) Optional Terminating Modification

Accomplishing the modification of the bulkhead at BS 2598 in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2837, dated July 13, 2012, terminates the requirements of paragraphs (g), (h), (i), (j), (k), and (l) of this AD, except where Boeing Alert Service Bulletin 747–53A2837, dated July 13, 2012, specifies to contact Boeing for appropriate action: Before further flight, repair the crack using a method approved in accordance with the procedures specified in paragraph (q) of this AD.

(o) Terminating Action for Certain Requirements of AD 2010–14–07, Amendment 39–16352 (75 FR 38001, July 1, 2010)

(1) Accomplishing the inspections, repairs, and modification in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011, is an acceptable terminating action for the corresponding inspections, repairs, and modification at the BS 2598 support frame required by paragraphs (i), (j), (k), (1), (m), (n), (o), (p), (q), (r), (s), (t), (u), and (v) of AD 2010–14–07, Amendment 39–16352 (75 FR 38001, July 1, 2010). Where Boeing Service Bulletin 747–

53A2473, Revision 4, dated December 1, 2011, specifies to contact Boeing for repair instructions, the repair instructions must be approved in accordance with the procedures specified in paragraph (q) of this AD. All provisions of AD 2010–14–07 that are not specifically referenced in this paragraph remain fully applicable and must be complied with.

(2) Accomplishing the inspections, repairs, and interim modification in accordance with Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013, is an acceptable terminating action for the corresponding inspections, repairs and interim modification at the BS 2598 bulkhead required by paragraphs (i), (j), (o), (s), (t), (u), and (v) of AD 2010–14–07, Amendment 39–16352 (75 FR 38001, July 1, 2010). Where Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013, specifies to contact Boeing for repair data, the repair data must be approved in accordance with the procedures specified in paragraph (q) of this AD. All provisions of AD 2010–14–07 that are not specifically referenced in this paragraph remain fully applicable and must be complied with.

(p) Credit for Previous Actions

This paragraph provides credit for the actions required by paragraphs (g), (h), (i), and (n)(2) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 747–53A2427, Revision 6, dated July 14, 2011, provided that the additional actions added in Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013, are done within the applicable compliance times specified in paragraphs (g), (h), and (i) of this AD. Boeing Alert Service Bulletin 747–53A2427, Revision 6, dated July 14, 2011, is not incorporated by reference in this AD.

(q) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle 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 paragraph (r)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(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.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) Related portions or applicable paragraphs of AMOCs approved previously in accordance with AD 2010–14–07, Amendment 39–16352 (75 FR 38001, July 1, 2010), are approved as AMOCs for the corresponding provisions of paragraphs (g), (h), (i), (j), (k), and (l) of this AD. All new actions specified in paragraphs (g), (h), (i), (j), (k), and (l) of this AD that are not identified in a previously approved AMOC must still be done.

(r) Related Information

(1) For more information about this AD, contact Nathan Weigand, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle ACO, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6428; fax: 425–917–6590; email: *nathan.p.weigand@faa.gov.*

(2) Service information identified in this AD that is not incorporated by reference in this AD may be viewed at the addresses specified in paragraphs (s)(3) and (s)(4) of this AD.

(s) Material Incorporated by Reference

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

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Boeing Alert Service Bulletin 747–53A2427, Revision 7, dated July 19, 2013.

(ii) Boeing Service Bulletin 747–53A2473, Revision 4, dated December 1, 2011.

(iii) Boeing Alert Service Bulletin 747–53A2837, dated July 13, 2012.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.*

(4) You may view this service information at FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference 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.*

Issued in Renton, Washington, on March 17, 2014.

Dionne Palermo,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–07339 Filed 4–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0020; Directorate Identifier 2013–CE–039–AD; Amendment 39–17821; AD 2014–07–07]

RIN 2120–AA64

Airworthiness Directives; British Aerospace (Operations) Limited Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are superseding an airworthiness directive (AD) 87–02–04 for British Aerospace (Operations) Limited Model HP.137 Jetstream MK.1, Jetstream Series 200, and Jetstream Series 3101 airplanes. 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 cracking of the forward main landing gear yoke pintle resulting from corrosion pits leading to stress corrosion. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective June 3, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of June 3, 2014.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0020; or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this AD, contact BAE Systems (Operations) Ltd, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; phone: +44 1292 675207, fax: +44 1292 675704; email: *RApublications@baesystems.com;* Internet: *http://www.jetstreamcentral.com.* You may view this 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.

FOR FURTHER INFORMATION CONTACT
Taylor Martin, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4138; fax: (816) 329–4090; email: *taylor.martin@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to add an AD that would apply to British Aerospace (Operations) Limited Model HP 137 Jetstream MK1, Jetstream Series 200, and Jetstream Series 3101 airplanes. The NPRM was published in the **Federal Register** on January 15, 2014 (79 FR 2593), and proposed to supersede AD 87–02–04, Amendment 39–5497 (51 FR 47211, December 31, 1986).

The NPRM (79 FR 2593, January 15, 2014) proposed to correct an unsafe condition for the specified products and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country. The MCAI states that:

Prompted by occurrences of the main landing gear (MLG) yoke pintle housing cracking, the United Kingdom Civil Aviation Authority (UK CAA) issued AD G–003–01–86 to require repetitive inspections to identify any crack in the yoke pintle housing on MLG fitted to Jetstream 3100 aeroplanes in accordance with BAE Systems (Operations) Ltd Service Bulletin (SB) 32–A–JA851226, and depending on findings, corrective action. After that AD was issued, an occurrence of Jetstream 3100 MLG failure was reported after landing. The subsequent investigation revealed stress corrosion cracking of the MLG yoke pintle housing as a root cause of the MLG failure. Furthermore, the investigation report recommended a review of the effectiveness of UK CAA AD G–003–01–86 in identifying cracks in the yoke pintle housing on MLG fitted to Jetstream 3100 aeroplanes.

Degradation of the surface protection by abrasion can occur when the forward face of the yoke pintle rotates against the pintle bearing, which introduces corrosion pits and, consequently, stress corrosion cracking.

This condition, if not detected and corrected, could lead to structural failure of the MLG, possibly resulting in loss of control of the aeroplane during take-off or landing runs.

To provide protection of the affected area of the MLG assembly spigot housing, BAE Systems (Operations) Ltd issued SB 32–JM7862 to provide instructions for installation of a protective washer, fitted at the forward spigot on both, left hand (LH) and right hand (RH), MLG. Consequently, BAE Systems (Operations) Ltd issued SB 32–A–JA851226 at Revision 5 to provide additional accomplishment instructions for Non-destructive testing inspection (NDT) of MLG equipped with the protective washer installed in accordance with BAE Systems (Operations) Ltd SB 32–JM7862 and to introduce reference to MLG manufacturer APPH Ltd SB 32–19 at Revision 4, providing instructions for re-protection of the yoke pintle.

For the reasons described above, this AD retains the requirements of AD G–003–01–86, which is superseded, and requires implementation of revised inspection requirements, and depending on findings, corrective action. This AD introduces an optional modification, which constitutes terminating action for the inspections required by this AD.

The MCAI can be found in the AD docket on the Internet at: *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0020-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

We reviewed the relevant data and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (79 FR 2593, January 15, 2014) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

Costs of Compliance

We estimate that this AD will affect 44 products of U.S. registry. We also estimate that it would take about 14 work-hours per product to comply with the inspection requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of this AD on U.S. operators to be $52,360, or $1,190 per product.

In addition, we estimate that any necessary follow-on actions would take about 10 work-hours and require parts costing $5,000, for a cost of $5,850 per product for repairs. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

We determined that this 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),

(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.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0020; 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 the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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 removing Amendment 39–5497 (51 FR 47211, December 31, 1986) and adding the following new AD:

2014–07–07 British Aerospace (Operations) Limited: Amendment 39–17821; Docket No. FAA–2014–0020; Directorate Identifier 2013–CE–039–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective June 3, 2014.

(b) Affected ADs

This AD supersedes AD 87–02–04, Amendment 39–5497 (51 FR 47211, December 31, 1986.

(c) Applicability

This AD applies to British Aerospace (Operations) Limited Model HP.137 Jetstream Mk.1, Jetstream Series 200, and Jetstream Series 3101 airplanes, all serial numbers, certificated in any category.

(d) Subject

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

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated 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 cracking of the forward main landing gear (MLG) yoke pintle that resulted from corrosion pits leading to stress corrosion. We are issuing this AD to prevent failure of the MLG, which could result in loss of control of the airplane during take-off or landing.

(f) Actions and Compliance

Unless already done, do the following actions specified in paragraphs (f)(1) through (f)(11) of this AD:

(1) *For airplanes that were affected by AD 87–02–04, Amendment 39–5497 (51 FR 47211, December 31, 1986):* At the next 1,200 MLG flight cycle repetitive inspection that would have been required by AD 87–02–04 or within the next 12 months after the last 1,200 MLG flight cycle repetitive inspection that would have been required by AD 87–02–04, whichever occurs first, and repetitively thereafter at intervals not to exceed 1,200 MLG flight cycles or 12 months, whichever occurs first, do a nondestructive testing (NDT) inspection of each MLG assembly cylinder attachment spigot housing following the Accomplishment Instructions in APPH Ltd. Service Bulletin No. 32–19, Revision 4, dated April 3, 2013, and British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–A–JA851226, Revision 5, dated April 30, 2013.

(2) *For airplanes that were not affected by AD 87–02–04, Amendment 39–5497 (51 FR 47211, December 31, 1986):* Within the next 300 MLG flight cycles after June 3, 2014 (the effective date of this AD) or within the next 3 months after June 3, 2014 (the effective date of this AD) or at the next overhaul of the MLG after June 3, 2014 (the effective date of this AD), whichever occurs first, and repetitively thereafter at intervals not to exceed 1,200 MLG flight cycles or 12 months, whichever occurs first, do a NDT inspection of each MLG assembly cylinder attachment spigot housing following the Accomplishment Instructions in APPH Ltd. Service Bulletin No. 32–19, Revision 4, dated April 3, 2013, and British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–A–JA851226, Revision 5, dated April 30, 2013.

(3) *For all airplanes:* Within 300 landings after a heavy or abnormal landing, conduct a NDT inspection of each MLG assembly cylinder attachment spigot following Accomplishment Instructions in APPH Ltd. Service Bulletin No. 32–19, Revision 4, dated April 3, 2013, and British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–A–JA851226, Revision 5, dated April 30, 2013.

(4) *For all airplanes:* If any crack is found during any inspection required in paragraphs (f)(1), (f)(2), or (f)(3) of this AD, before further flight, take all necessary corrective actions following the Accomplishment Instructions in APPH Ltd. Service Bulletin No. 32–19, Revision 4, dated April 3, 2013, and British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–A–JA851226, Revision 5, dated April 30, 2013.

(5) *For all airplanes:* Within 300 MLG flight cycles or 3 months, whichever occurs first after each NDT inspection required in paragraph (f)(1) or (f)(2) of this AD, as applicable, and repetitively thereafter at intervals not to exceed 300 MLG flight cycles or 3 months, whichever occurs first, do a visual inspection of each MLG following the Accomplishment Instructions in APPH Ltd. Service Bulletin No. 32–19, Revision 4, dated April 3, 2013, and British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–A–JA851226, Revision 5, dated April 30, 2013.

(6) *For all airplanes:* If any discrepancy is found during any visual inspection required in paragraph (f)(5) of this AD, before further flight, take all necessary corrective actions following the Accomplishment Instructions in APPH Ltd. Service Bulletin No. 32–19, Revision 4, dated April 3, 2013, and British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–A–JA851226, Revision 5, dated April 30, 2013.

(7) *For all airplanes with a MLG incorporating a microswitch hole:* Within the next 10,600 MLG flight cycles since new and repetitively thereafter at intervals not to exceed 1,200 MLG flight cycles, do a NDT inspection of each MLG microswitch hole following the Accomplishment Instructions in APPH Ltd. Service Bulletin No. 32–40, Revision 1, dated February 2003, and Part C, paragraph (2)(b) of British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–A–JA851226, Revision 5, dated April 30, 2013.

(8) *For all airplanes:* If any crack is found during any NDT inspection required in paragraph (f)(7) of this AD, before further flight, take all necessary corrective actions following the Accomplishment Instructions in APPH Ltd. Service Bulletin No. 32–40, Revision 1, dated February 2003, and British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–A–JA851226, Revision 5, dated April 30, 2013.

(9) *For all airplanes:* Doing all necessary corrective actions required in paragraphs (f)(4), (f)(6), and (f)(8) of this AD does not constitute terminating action for the inspections required by this AD.

(10) *For all airplanes:* Modification of each MLG cylinder following Jetstream Service Bulletin 32–JA880340, original issue, dated January 6, 1989, constitutes terminating action for the inspections required by this AD for that MLG.

(11) *For all airplanes:* The compliance times in paragraphs (f)(2), (f)(3), (f)(5), and (f)(7) of this AD are presented in flight cycles (landings). If the total flight cycles have not been kept, multiply the total number of airplane hours time-in-service (TIS) by 0.75 to calculate the cycles. For the purposes of this AD:

(i) 100 hours TIS × .75 = 75 cycles; and

(ii) 1,000 hours TIS × .75 = 750 cycles.

(g) Credit for Actions Done in Accordance With Previous Service Information

This AD allows credit for the initial inspection required in paragraph (f)(7) of this AD if done before June 3, 2014 (the effective date of this AD) following APPH Ltd. Service Bulletin 32–40, at Initial Issue dated June 21, 1989.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Taylor Martin, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4138; fax: (816) 329–4090; email: *taylor.martin@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) Airworthy Product: For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) Reporting Requirements: For any reporting requirement in this AD, a federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that

collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(i) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2013–0208, dated September 10, 2013, for related information. The MCAI can be found in the AD docket on the Internet at: *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0020-0002.* For availability information about APPH Ltd. Service Bulletin 32–40, at Initial Issue dated June 21, 1989, which is not incorporated by reference, use the contact information in paragraphs (j)(4) and (j)(5).

(j) Material Incorporated by Reference

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

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) APPH Ltd. Service Bulletin No. 32–19, Revision 4, dated April 3, 2013.

(ii) APPH Ltd. Service Bulletin No. 32–40, Revision 1, dated February 2003.

(iii) British Aerospace Jetstream Series 3100 & 3200 Service Bulletin 32–A–JA851226, Revision 5, dated April 30, 2013.

(iv) Jetstream Service Bulletin 32–JA880340, original issue, dated January 6, 1989.

(3) For British Aerospace (Operations) Limited and Jetstream service information identified in this AD, contact BAE Systems (Operations) Ltd, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; phone: +44 1292 675207, fax: +44 1292 675704; email: *RApublications@baesystems.com;* Internet: *http://www.jetstreamcentral.com.*

(4) For APPH Ltd. service information identified in this AD, contact APPH Ltd. Engineering Division, Unit 1, Pembroke Court, Chancellor Road, Manor Park, Runcorn, Cheshire, WA7 1TG, England; phone: +44 01928 532600; fax: +44 01928 579626; Internet: *http://apph.com/contact-us/customer-support/.*

(5) You may view this service information at 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.

(6) You may view this service information that is incorporated by reference 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.*

Issued in Kansas City, Missouri, on April 4, 2014.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–09540 Filed 4–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0233; Directorate Identifier 2014–NM–053–AD; Amendment 39–17825; AD 2014–08–01]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; request for comments.

SUMMARY: We are superseding Airworthiness Directive (AD) 2014–03–08 for all Airbus Model A318, A319, A320, and A321 series airplanes. AD 2014–03–08 required an inspection to determine the part number of the interconnecting struts installed on the wings, identifying the part number and the serial number of the associated target and proximity sensor if applicable, and replacing or re-identifying the flap interconnecting strut if applicable. This new AD corrects a typographical error that affects the definition of a serviceable interconnecting strut. This AD was prompted by a report that an investigation showed that when a certain combination of a target/proximity sensor serial number is installed on a flap interconnecting strut, a ''target FAR'' signal cannot be detected when it reaches the mechanical end stop of the interconnecting strut. We are issuing this AD to detect and correct a latent failure of the flap down drive disconnection due to an already-failed interconnecting strut sensor, which could result in asymmetric flap panel movement and consequent loss of control of the airplane.

DATES: This AD becomes effective May 14, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 26, 2014 (79 FR 9398, February 19, 2014).

We must receive comments on this AD by June 13, 2014.

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0233; 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 in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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

SUPPLEMENTARY INFORMATION:

Discussion

On January 22, 2014, we issued AD 2014–03–08, Amendment 39–17745 (79 FR 9398, February 19, 2014). AD 2014–03–08 applied to all Airbus Model A318, A319, A320, and A321 series

airplanes. AD 2014–03–08 was prompted by a report that an investigation showed that when a certain combination of a target/proximity sensor serial number is installed on a flap interconnecting strut, a ''target FAR'' signal cannot be detected when it reaches the mechanical end stop of the interconnecting strut. AD 2014–03–08 required an inspection to determine the part number of the interconnecting struts installed on the wings, identifying the part number and the serial number of the associated target and proximity sensor if applicable, and replacing or re-identifying the flap interconnecting strut if applicable. We issued AD 2014–03–08 to detect and correct a latent failure of the flap down drive disconnection due to an already-failed interconnecting strut sensor, which could result in asymmetric flap panel movement and consequent loss of control of the airplane.

Since we issued AD 2014–03–08, Amendment 39–17745 (79 FR 9398, February 19, 2014), we identified a typographical error that affects the definition of a serviceable interconnecting strut.

FAA's Determination and Requirements of This AD

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

This new AD merely corrects a typographical error that affects the definition of a serviceable interconnecting strut. The requirements of this AD are substantially similar to the requirements of superseded AD 2014–03–08, Amendment 39–17745, (79 FR 9398, February 19, 2014). Therefore, we find that notice and opportunity for prior public comment are unnecessary 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 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–2014–0233; Directorate Identifier 2014–NM–053–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 affects 755 airplanes of U.S. registry.

The actions that were required by AD 2014–03–08, Amendment 39–17745 (79 FR 9398, February 19, 2014), and are retained in this AD take about 8 work-hours per product, at an average labor rate of $85 per work-hour. Required parts cost about $0 per product. Based on these figures, the estimated cost of the actions that were required by AD 2014–03–08 is $680 per product.

In addition, we estimate that any necessary follow-on actions would take about 10 work-hours and require parts costing $0, for a cost of $850 per product. We have no way of determining the number of aircraft that might need this action.

The new requirements of this AD add no additional economic burden.

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 that 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);
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 removing airworthiness directive (AD) 2014–03–08, Amendment 39–17745 (79 FR 9398, February 19, 2014), and adding the following new AD:

2014–08–01 Airbus: Amendment 39–17825. Docket No. FAA–2014–0233; Directorate Identifier 2014–NM–053–AD.

(a) Effective Date

This AD becomes effective May 14, 2014.

(b) Affected ADs

This AD supersedes AD 2014–03–08, Amendment 39–17745 (79 FR 9398, February 19, 2014).

(c) Applicability

This AD applies to all Airbus Model A318–111, –112, –121, and –122 airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–111, –211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, –131,

–211, –212, –213, –231, and –232 airplanes; certificated in any category; all manufacturer serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight controls.

(e) Reason

This AD was prompted by a report that an investigation showed that when a certain combination of a target/proximity sensor serial number is installed on a flap interconnecting strut, a ''target FAR'' signal cannot be detected when reaching the mechanical end stop of the interconnecting strut. We are issuing this AD to detect and correct a latent failure of the flap down drive disconnection due to an already-failed interconnecting strut sensor, which could result in asymmetric flap panel movement and consequent loss of control of the airplane.

(f) Compliance

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

(g) Retained Inspection To Determine the Part Number of the Interconnecting Struts

This paragraph restates the requirements of AD 2014–03–08, Amendment 39–17745 (79 FR 9398, February 19, 2014), with a corrected typographical error in paragraph (g)(2)(i) of this AD that affects the definition of a serviceable interconnecting strut. Within 8,000 flight hours after March 26, 2014 (the effective date of AD 2014 03–08), inspect to determine the part number of the interconnecting struts installed on both the left-hand (LH) and right-hand (RH) wings of the airplane, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–27–1206, Revision 01, dated October 10, 2011. A review of the airplane maintenance records is acceptable for determining the part number of the installed interconnecting struts, in lieu of the inspection, if the part number of the installed interconnecting struts, and the part number and the serial number of the associated target and proximity sensor, can be conclusively determined from that review.

(1) Airplanes on which Airbus Modification 27956 has been embodied in production, and on which no interconnecting strut has been replaced with a strut having a part number specified in figure 1 to paragraph (g) of this AD since the airplane's first flight: No further work is required by paragraph (g) of this AD.

(2) If, during the inspection required by the introductory text of paragraph (g) of this AD, any interconnecting strut is installed with a part number specified in figure 1 to paragraph (g) of this AD: Within 8,000 flight hours after March 26, 2014 (the effective date of AD 2014 03–08, Amendment 39–17745 (79 FR 9398, February 19, 2014)), determine the part number and the serial number of the associated target and proximity sensor.

(i) For airplanes having conditions specified in paragraphs (g)(2)(i)(A), (g)(2)(i)(B), (g)(2)(i)(C), and (g)(2)(i)(D) of this AD: Before further flight, replace the interconnecting strut with a serviceable unit, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–27–1206, Revision 01, dated October 10, 2011. For the purposes of this AD, a serviceable interconnecting strut is a unit which has been determined to be in compliance with the requirements of this AD.

(A) A target part number (P/N) ABS0121–13 or P/N 8–536–01; and

(B) A target serial number lower than 1600, or a target serial number that is unreadable; and

(C) A proximity sensor having P/N ABS0121–31 or P/N 8–372–04; and

(D) A proximity sensor having a serial number between C59198 and C59435, or a serial number (S/N) C500000 or higher.

(ii) For a target having S/N 1600 or higher and target P/N ABS0121–13 or P/N 8–536–01: Within 8,000 flight hours after March 26, 2014 (the effective date of AD 2014 03–08, Amendment 39–17745 (79 FR 9398, February 19, 2014), re-identify the interconnecting strut, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–27–1206, Revision 01, dated October 10, 2011.

FIGURE 1 TO PARAGRAPH (g) OF THIS AD—INTERCONNECTING STRUT PART NOS.

Interconnecting strut part Nos.
D5757030500000
D5757030500100
D5757030500200
D5757030500600
D5757030500800
D5757030501000
D5757030501200
D5757032200000

(h) Retained Parts Installation Prohibition

This paragraph restates the requirements of AD 2014–03–08, Amendment 39–17745 (79 FR 9398, February 19, 2014). As of March 26, 2014 (the effective date of AD 2014 03–08), no person may install an interconnecting strut with a part number specified in figure 1 to paragraph (g) of this AD, on any airplane, except for parts identified in paragraph (g)(2)(ii) of this AD, provided that the actions in paragraph (g)(2)(ii) are done.

(i) Credit for Previous Actions

This paragraph provides credit for the actions required by paragraph (g) of this AD, if those actions were performed before March 26, 2014 (the effective date of AD 2014 03–08, Amendment 39–17745 (79 FR 9398, February 19, 2014)), using Airbus Service Bulletin A320–27–1206, dated January 28, 2011, and if additional work has been accomplished using Airbus Service Bulletin A320–27–1206, Revision 01, dated October 10, 2011. Airbus Service Bulletin A320–27–1206, dated January 28, 2011, is not incorporated by reference in this AD.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

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

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or its delegated agent, or the DAH with a State of Design Authority's design organization approval, as applicable). You are required to assure the product is airworthy before it is returned to service.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency Airworthiness Directive 2012–0012, dated January 23, 2012, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0233.

(2) Service information identified in this AD that is not incorporated by reference may be obtained at the addresses specified in paragraphs (l)(4) and (l)(5) of this AD.

(l) Material Incorporated by Reference

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

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(3) The following service information was approved for IBR on March 26, 2014 (79 FR 9398, February 19, 2014).

(i) Airbus Service Bulletin A320–27–1206, Revision 01, dated October 10, 2011.

(ii) Reserved.

(4) For service information identified in this AD, contact Airbus, Airworthiness Office—EAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.*

(5) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(6) You may view this service information that is incorporated by reference 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.*

Issued in Renton, Washington, on April 7, 2014.

John P. Piccola,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–09623 Filed 4–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0690; Directorate Identifier 2013–NM–088–AD; Amendment 39–17835; AD 2014–08–11]

RIN 2120–AA64

Airworthiness Directives; the Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2009–24–07 for certain the Boeing Company Model 737–600, –700, –700C, and –800 series airplanes. AD 2009–24–07 required repetitive lubrications of the right and left main landing gear (MLG) forward trunnion pins. AD 2009–24–07 also required an inspection for discrepancies of the transition radius of the MLG forward trunnion pins, and corrective actions if necessary. For certain airplanes, AD 2009–24–07 required repetitive detailed inspections for discrepancies (including finish damage, corrosion, pitting, and base metal scratches) of the transition radius of the left and right MLG trunnion pins, and corrective action if necessary. Replacing or overhauling the trunnion pins terminates the actions required by AD 2009–24–07. This new AD adds airplanes to the applicability of AD 2009–24–07. This AD was prompted by reports of corrosion protection damage to the forward trunnion pin on additional airplanes. We are issuing this AD to prevent stress corrosion cracking of the forward trunnion pins, which could result in fracture of the pins and consequent collapse of the MLG.

DATES: This AD is effective June 3, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 3, 2014.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–0690; 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 address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6440; fax: 425–917–6590; email: *nancy.marsh@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2009–24–07, Amendment 39–16095 (74 FR 62231, November 27, 2009). AD 2009–24–07 applied to certain The Boeing Company Model 737–600, –700, –700C, and –800 series airplanes. The NPRM published in the **Federal Register** on August 13, 2013 (78 FR 49229). The NPRM was prompted by reports of corrosion protection damage to the forward trunnion pin on additional airplanes. The NPRM proposed to continue to require repetitive lubrications of the right and left main landing gear (MLG) forward trunnion pins. The NPRM also proposed to continue to require an inspection for discrepancies of the transition radius of the MLG forward trunnion pins, and corrective actions if necessary. For certain airplanes, the NPRM proposed to continue to require repetitive detailed inspections for discrepancies (including finish damage, corrosion, pitting, and base metal scratches) of the transition radius of the left and right MLG trunnion pins, and corrective action if necessary. Replacing or overhauling the trunnion pins would terminate the actions required by AD 2009–24–07. The NPRM proposed to add airplanes to the applicability of AD 2009–24–07. We are issuing this AD to prevent stress corrosion cracking of the forward trunnion pins, which could result in fracture of the pins and consequent collapse of the MLG.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (78 FR 49229, August 13, 2013) and the FAA's response to each comment.

Concurrence With the NPRM (78 FR 49229, August 13, 2013)

Boeing stated that it concurs with the content of the NPRM (78 FR 49229, August 13, 2013).

Supplemental Type Certificate (STC) Winglet Comment

Aviation Partners Boeing stated that the installation of winglets per STC ST00830SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/408E012E008616A7862578880060456C?OpenDocument&Highlight=st00830se*) does not affect the accomplishment of the manufacturer's service instructions.

We have redesignated paragraph (c) of the NPRM (78 FR 49229, August 13, 2013) as paragraph (c)(1) of this AD, and added paragraph (c)(2) to this AD to state that installation of STC ST00830SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/408E012E008616A7862578880060456C?OpenDocument&Highlight=st00830se*) does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST00830SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17. For all other AMOC requests, the operator must request approval of an AMOC in accordance with the procedures specified in paragraph (l) of this AD.

Request for Clarification of Location of Trunnion Pins

Delta asked for clarification of the term ''trunnion pins'' as specified in the

NPRM (78 FR 49229, August 13, 2013). Delta stated that throughout the preamble of the NPRM, the subject pins are referred to as ''forward trunnion pins;'' however, in paragraphs (h) and (i) of the NPRM, the location is omitted and the term ''trunnion pins'' is used. Delta noted that since forward and aft trunnion pins are installed, failing to identify the affected pin as a ''forward trunnion pin'' adds a potential for errors.

We agree that the term ''trunnion pins'' should be clarified to include the pin location. We have changed paragraphs (h) and (i) of this final rule to specify ''forward trunnion pins.''

Request To Use Alternate Grease for Lubrication of the Forward Trunnion Pins

Delta asked that paragraph (g) of the NPRM (78 FR 49229, August 13, 2013) be changed to allow the use of Royco-11MS grease as an alternate to the BMS 3-33 grease specified in Boeing Special Attention Service Bulletin 737–32–1402, Revision 1, dated February 7, 2013. Delta stated that Royco-11MS is the standard grease used on Delta aircraft landing gear applications, and it would like to continue using this grease when lubricating the forward trunnion pins.

We do not agree to allow the use of an alternative type of grease. Approval of an operator's unique maintenance actions is dependent on its ability to provide acceptable data supporting the request. We would not provide such an approval to all operators via a change to the NPRM (78 FR 49229, August 13, 2013). However, we would consider this request for approval of unique maintenance practices in accordance with the procedures identified in paragraph (l) of this AD. We have made no change to this final rule in this regard.

Request To Further Clarify Certain Language

Ryanair (RYR) asked that clarification be provided to reflect new information it received from Boeing. RYR stated that the intent of paragraphs (g) and (h) of the NPRM (78 FR 49229, August 13, 2013) appears to be to require that the 30-day repetitive lubrication task continue until all repetitive inspections are completed, as stated in Notes (a) and (b) of paragraph 1.E., ''Compliance,'' of Boeing Special Attention Service Bulletin 737–32–1402, Revision 1, dated February 7, 2013. RYR received correspondence from Boeing stating that the 30-day lubrication task is terminated after accomplishing the first in-situ detailed inspection. RYR recommends the information from Boeing be included in the NPRM.

RYR has correctly interpreted the requirements in paragraphs (g) and (h) of this AD. However, we find that further clarification is necessary. If certain discrepancies are found during the detailed inspection of the forward trunnion pins, replacing the affected trunnion pins terminates the repetitive requirements in this AD. If no discrepancies are found during the detailed inspection of the forward trunnion pins, an additional lubrication of the left and right MLG forward trunnion is required, which terminates the repetitive requirements in this AD. If certain other discrepancies are found during the detailed inspection of the forward trunnion pins, the lubrications and detailed inspections must be repeated until overhaul or replacement of the affected trunnion pins.

Additionally, Boeing did not provide any new information or data to the FAA, nor are we aware of any intention to revise its service information. However, under the provisions of paragraph (l) of this AD, we may consider requests for approval of an alternative method of compliance (AMOC) if sufficient data are submitted to substantiate that terminating the repetitive lubrications after doing the first detailed inspection would provide an acceptable level of safety. In light of these factors, we have made no change to this final rule.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD with the changes described previously. We also determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

Costs of Compliance

We estimate that this AD affects 431 airplanes of U.S. registry.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per product	Number of U.S.-registered airplanes	Fleet cost
Repetitive lubrications ..	1	$85	$0	$85 per lubrication	431	$36,635 per lubrication.
Repetitive inspections ..	8	85	0	$680 per inspection cycle.	431	$293,080 per inspection cycle.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this AD.

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 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 removing Airworthiness Directive (AD) 2009–24–07, Amendment 39–16095 (74 FR 62231, November 27, 2009), and adding the following new AD:

2014–08–11 Boeing: Amendment 39–17835; Docket No. FAA–2013–0690; Directorate Identifier 2013–NM–088–AD.

(a) Effective Date

This AD is effective June 3, 2014.

(b) Affected ADs

This AD supersedes AD 2009–24–07, Amendment 39–16095 (74 FR 62231, November 27, 2009).

(c) Applicability

(1) This AD applies to The Boeing Company Model 737–600, –700, –700C, –800 and –900 series airplanes, certificated in any category; as identified in Boeing Special Attention Service Bulletin 737–32–1402, Revision 1, dated February 7, 2013.

(2) Installation of Supplemental Type Certificate (STC) ST00830SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/408E012E008616A7862578880060456C?OpenDocument&Highlight=st00830se*) does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST00830SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report that the protective finishes on the forward trunnion pins for the left and right MLG might have been damaged during final assembly. We are issuing this AD to prevent stress corrosion cracking of the forward trunnion pins, which could result in fracture of the pins and consequent collapse of the MLG.

(f) Compliance

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

(g) Repetitive Lubrications

At the applicable compliance time specified in paragraph 1.E., ''Compliance,'' of Boeing Special Attention Service Bulletin 737–32–1402, Revision 1, dated February 7, 2013, except as required by paragraph (j) of this AD: Lubricate the left and right MLG forward trunnion pins, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–32–1402, Revision 1, dated February 7, 2013. Repeat the lubrication thereafter at the applicable time specified in paragraph 1.E., ''Compliance,'' until all applicable requirements of paragraph (h) of this AD have been accomplished.

(h) Inspection

At the applicable compliance time specified in paragraph 1.E., ''Compliance,'' of Boeing Special Attention Service Bulletin 737–32–1402, Revision 1, dated February 7, 2013, except as required by paragraph (j) of this AD: Except as provided by paragraph (i) of this AD, do a detailed inspection for discrepancies (including finish damage, corrosion, pitting, and base metal scratches) of the transition radius of the left and right MLG forward trunnion pins, and do all applicable repetitive inspections and related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–32–1402, Revision 1, dated February 7, 2013. Accomplishing the detailed inspections (initial and repetitive) and all applicable corrective actions specified in this paragraph terminates the repetitive lubrication requirements of paragraph (g) of this AD.

(i) Optional Terminating Action

Overhauling or replacing a forward trunnion pin, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–32–1402, Revision 1, dated February 7, 2013, ends the repetitive lubrication requirements of paragraph (g) of this AD, and the actions required by paragraph (h) of this AD, for that forward trunnion pin only.

(j) Exception to Service Information Specifications

Where Boeing Special Attention Service Bulletin 737–32–1402, Revision 1, dated February 7, 2013, specifies a compliance time ''from the date of Revision 1 of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(k) Credit for Previous Actions

This paragraph provides credit for the actions required by this AD, if those actions were performed before the effective date of this AD using Boeing Special Attention Service Bulletin 737–32–1402, dated August 6, 2008, which was incorporated by reference in AD 2009–24–07, Amendment 39–16095 (74 FR 62231, November 27, 2009).

(l) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle 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 paragraph (m)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(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.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes ODA that has been authorized by the Manager, Seattle ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) AMOCs approved previously for AD 2009–24–07, Amendment 39–16095 (74 FR 62231, November 27, 2009), are approved as AMOCs for the corresponding provisions of paragraphs (g) and (h) of this AD.

(m) Related Information

(1) For more information about this AD, contact Nancy Marsh, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6440; fax: 425–917–6590; email: *nancy.marsh@faa.gov.*

(2) Service information identified in this AD that is not incorporated by reference in this AD may be obtained at the addresses specified in paragraphs (n)(3) and (n)(4) of this AD.

(n) Material Incorporated by Reference

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

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Boeing Special Attention Service Bulletin 737–32–1402, Revision 1, dated February 7, 2013.

(ii) Reserved.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.*

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference 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.*

Issued in Renton, Washington, on April 14, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–09309 Filed 4–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0837; Directorate Identifier 2013–NM–112–AD; Amendment 39–17832; AD 2014–08–08]

RIN 2120–AA64

Airworthiness Directives; the Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 737–200, –200C, –300, –400, and –500 series airplanes. This AD was prompted by reports of cracking found in the skin at the lower aft corner of the forward entry doorway on airplanes that do not have an airstair door cutout. This AD requires repetitive inspections for cracking in the lower corners of the forward entry doorway on airplanes that do not have an airstair door cutout, and repair if necessary. We are issuing this AD to detect and correct cracking in the lower corners of the forward entry doorway, which could lead to crack progression and consequent rapid decompression of the airplane.

DATES: This AD is effective June 3, 2014

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 3, 2014.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–0837; 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 address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Alan Pohl, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6450; fax: 425–917–6590; email: *alan.pohl@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 737–200, –200C, –300, –400, and –500 series airplanes. The NPRM published in the **Federal Register** on October 2, 2013 (78 FR 60807). The NPRM was prompted by reports of cracking found in the skin at the lower aft corner of the forward entry doorway on airplanes that do not have an airstair door cutout. The NPRM proposed to require repetitive inspections for cracking in the lower corners of the forward entry doorway on airplanes that do not have an airstair door cutout, and repair if necessary. We are issuing this AD to detect and correct cracking in the lower corners of the forward entry doorway, which could lead to crack progression and consequent rapid decompression of the airplane.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (78 FR 60807, October 2, 2013) and the FAA's response to each comment.

Support for the Proposed Requirements

Boeing stated that it concurs with the proposed requirements.

Statement Regarding Effect of Winglets on Accomplishment of AD Requirements

Aviation Partners Boeing stated that the installation of winglets per APB Supplemental Type Certificate (STC) ST01219SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/be866b732f6cf31086257b9700692796/$FILE/ST01219SE.pdf*) does not affect the accomplishment of the manufacturer's service instructions.

We agree. We have redesignated paragraph (c) of the NPRM (78 FR 60807, October 2, 2013) as paragraph (c)(1) and added paragraph (c)(2) to this final rule to state that installation of APB STC ST01219SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/be866b732f6cf31086257b9700692796/$FILE/ST01219SE.pdf*) does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which APB STC ST01219SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of section 39.17 of the Federal Aviation Regulations (14 CFR 39.17).

Request To Allow Credit for Previously Accomplished Repairs

Alaska Airlines (ASA) requested that we revise the NPRM (78 FR 60807, October 2, 2013) to allow credit for previously accomplished repairs. ASA stated that it has already installed repairs in the specified area using FAA- and Boeing-approved data on some of its airplanes. ASA did not provide details for any specific repair.

We do not agree to allow credit for unspecified repairs. ASA did not provide criteria for evaluating existing repairs or for demonstrating how such repairs would comply with the requirements of this AD. However, once we issue this AD, any person may request approval of an existing repair as an AMOC under the provisions of paragraph (j) of this AD. We have not changed this final rule in this regard.

Request To Allow Certain Terminating Repairs for Certain Airplanes

Southwest Airlines (SWA) requested that certain structural repairs specified in Part 2 of the Work Instructions of Boeing Alert Service Bulletin 737–53A1329, dated June 4, 2013, terminate both the initial and repetitive inspections required by paragraph (g) of the NPRM (78 FR 60807, October 2, 2013). SWA pointed out that Boeing

Alert Service Bulletin 737–53A1329, dated June 4, 2013, states that certain repairs provided in Part 2 of the Work Instructions terminate both the initial and the repetitive inspections specified in that service bulletin for Group 3 airplanes.

We agree that the structural repairs specified in Part 2 of the Work Instructions of Boeing Alert Service Bulletin 737–53A1329, dated June 4, 2013, terminate both the initial and repetitive inspections required for Group 3 airplanes identified in that service bulletin. We have revised paragraph (h) of this final rule to specify that both the initial and repetitive inspections are terminated by the specified repairs for Group 3 airplanes.

Request To Consider Certain STC Modifications as an AMOC With This AD

ASA requested that modifications per STC ST03387AT (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/bd126e373ba4c5da86257a79006f31bf/$FILE/ST03387AT.pdf*) and STC SA2969SO (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/2a10f5d4090a534686257a79006f0f97/$FILE/SA2969SO.pdf*) be considered as an AMOC for the requirements of this AD. ASA noted that it has passenger/cargo configured airplanes that have been modified per these STCs.

We disagree with the commenter's request. ASA did not demonstrate how these modifications would address the identified unsafe condition. We also need to clarify the AMOC process. AMOCs provide an alternative method of compliance to the methods required to be used in the associated AD. An AMOC is issued only after an AD has been issued and only after data are provided to show that the proposed solution is complete and addresses the unsafe condition. However, once we issue this AD, any person may request approval of an AMOC under the provisions of paragraph (j) of this AD.

Request To Delegate Repair Approval Authority to the Manufacturer

SWA requested that AMOC authority be granted to the manufacturer for existing repairs approved previously using FAA Form 8100–9, ''Statement of Compliance with Airworthiness Standards.'' SWA provided no justification for this request.

We do not agree that a change to this final rule is necessary in this regard. Paragraph (j)(3) of this AD already delegates the authority to approve an AMOC for any repair required by this AD to the Boeing Commercial Airplanes Organization Designation Authorization, as long as the repair meets the certification basis of the airplane and the approval specifically refers to this AD. We have made no change to this final rule in this regard.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD with the changes described previously and minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (78 FR 60807, October 2, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 60807, October 2, 2013).

Costs of Compliance

We estimate that this AD affects 376 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection of the lower corners of the forward entry doorway (Groups 2 and 3 airplanes) [1].	5 work-hours × $85 per hour = $425, per inspection cycle.	$0	$425, per inspection cycle.	$159,800, per inspection cycle.

[1] We have received no definitive data that would enable us to provide cost estimates for the inspection on Group 1 airplanes.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this AD.

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):

2014–08–08 The Boeing Company: Amendment 39–17832; Docket No. FAA–2013–0837; Directorate Identifier 2013–NM–112–AD.

(a) Effective Date

This AD is effective June 3, 2014.

(b) Affected ADs

For The Boeing Company Model 737–300, –400, and –500 series airplanes: Certain requirements of AD 2008–09–13, Amendment 39–15494 (73 FR 24164, May 2, 2008), may be affected by certain requirements of this AD.

(c) Applicability

(1) This AD applies to The Boeing Company Model 737–200, –200C, –300, –400, and –500 series airplanes, certificated in any category, without an airstair door cutout, as identified in Boeing Alert Service Bulletin 737–53A1329, dated June 4, 2013.

(2) Installation of Supplemental Type Certificate (STC) ST01219SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/be866b732f6cf31086257b9700692796/$FILE/ST01219SE.pdf*) does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01219SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of section 39.17 of the Federal Aviation Regulations (14 CFR 39.17).

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by reports of cracking found in the skin at the lower aft corner of the forward entry doorway on airplanes that do not have an airstair door cutout. We are issuing this AD to detect and correct cracking in the lower corners of the forward entry doorway, which could lead to crack progression and consequent rapid decompression of the airplane.

(f) Compliance

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

(g) Repetitive Inspections

Except as provided by paragraph (i)(1) of this AD, at the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1329, dated June 4, 2013, do the actions specified in paragraph (g)(1) or (g)(2) of this AD, as applicable.

(1) For Group 1 airplanes, as identified in Boeing Alert Service Bulletin 737–53A1329, dated June 4, 2013: Except as provided by paragraph (i)(2) of this AD, inspect the lower corners of the forward entry doorway for cracking, using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(2) For Group 2 and Group 3 airplanes, as identified in Boeing Alert Service Bulletin 737–53A1329, dated June 4, 2013: At the forward entry doorway lower forward and aft corners, as applicable, do an internal detailed inspection of the skin assembly and bear strap, an internal high frequency eddy current (HFEC) inspection of the bear strap, and external detailed and HFEC inspections of the skin assembly for cracking, in accordance with Part 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1329, dated June 4, 2013. If no cracking is found during any inspection required by this paragraph: Except as provided by paragraph (i)(1) of this AD, repeat the applicable inspections at the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1329, dated June 4, 2013.

(h) Repair

(1) If any cracking is found during any inspection required by paragraph (g) of this AD: For Group 3 airplanes with cracking at the aft lower corner of the forward entry doorway, before further flight, repair in accordance with Part 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1329, dated June 4, 2013. Accomplishment of this repair terminates the initial and repetitive inspections required by this AD in the area common to the repair for Group 3 airplanes only. For all other cracking found, before further flight, repair using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(2) Installation of a repair approved in accordance with paragraph (j) of this AD terminates the repetitive inspections required by this AD for the repaired area only.

(i) Exceptions to Service Information Specifications

(1) Where Boeing Alert Service Bulletin 737–53A1329, dated June 4, 2013, specifies a compliance time ''after the original issue date of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(2) Although Boeing Alert Service Bulletin 737–53A1329, dated June 4, 2013, specifies contacting Boeing for information on certain inspections and repairs, this AD requires that those actions be done by using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle 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 paragraph (k) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(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.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by The Boeing Commercial Airplanes Organization Designation Authorization that has been authorized by the Manager, Seattle ACO to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(k) Related Information

For more information about this AD, contact Alan Pohl, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6450; fax: 425–917–6590; email: *alan.pohl@faa.gov.*

(l) Material Incorporated by Reference

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

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Boeing Alert Service Bulletin 737–53A1329, dated June 4, 2013.

(ii) Reserved.

(3) For The Boeing Company service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.*

(4) You may view this service information at FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference 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.*

Issued in Renton, Washington, on April 14, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–08987 Filed 4–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0255; Directorate Identifier 2014–NM–056–AD; Amendment 39–17840; AD 2014–09–05]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Airbus Model A330–200 and –300 series airplanes, and Model A340–200 and –300 series airplanes. This AD requires repetitive inspections of certain sidestay upper cardan pins of the main landing gear (MLG), and associated nuts and retainer assemblies, and pin replacement if necessary. This AD also provides for an optional measurement of the cardan pin clearance dimensions (gap check) and corrective actions if necessary, which would terminate the repetitive inspections. This AD was prompted by a report of a sidestay upper cardan pin of the MLG migrating out of position. We are issuing this AD to detect and correct migration of the sidestay upper cardan pin, which could result in disconnection of the sidestay upper arm from the airplane structure, and could result in a landing gear collapse and consequent damage to the airplane and injury to occupants.

DATES: This AD becomes effective May 14, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 14, 2014.

We must receive comments on this AD by June 13, 2014.

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

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

For service information identified in this AD, contact Airbus SAS—Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330–A340@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0255; 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 in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149.

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 2014–0066, (correction) dated March 20, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus Model A330–200 and –300 series airplanes, and Model A340–200 and –300 series airplanes. The MCAI states:

> An A330 aeroplane equipped with Basic (main landing gear) MLG was rolling out after landing when it experienced a nose wheel steering fault (unrelated to the safety subject addressed by this [EASA] AD), which resulted in the crew stopping the aeroplane on the taxiway after vacating the runway.
>
> The subsequent investigation revealed that the right-hand MLG sidestay upper cardan pin had migrated out of position. The sidestay upper cardan nut and retainer were found in the landing gear bay detached from the upper cardan pin. The nut and the retainer were still bolted together.
>
> This condition, if not detected and corrected, could lead to a complete migration of the sidestay upper cardan pin and a disconnection of the sidestay upper arm from the aeroplane structure, possibly resulting in MLG collapse with consequent damage to the aeroplane and injury to occupants.
>
> To address this potential condition, Airbus published Alert Operators Transmission (AOT) A32L003–14, providing inspection instructions.
>
> For the reasons described above, this [EASA] AD requires accomplishment of repetitive [detailed inspections for visible chrome] of the MLG upper cardan pin, nut and retainer [and pin replacement if necessary. This [EASA] AD also requires accomplishment of a gap check between wing rear spar fitting lugs and the bush flanges [and corrective actions if necessary. Corrective actions include repair or replacement of the cardan pin assembly].

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0255.

Relevant Service Information

Airbus has issued Airbus Alert Operators Transmission (AOT) A32L003–14, dated March 10, 2014, including Appendices 1, 2, and 3 (the issue date is not specified on the appendices). The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

Differences Between This AD and the MCAI

Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency Airworthiness Directive 2014–0066, (correction) dated March 20, 2014, specifies that accomplishment of the gap check and corrective actions constitute terminating action for the AD. We consider the replacement of the cardan pin assembly as specified in paragraph (g)(3) to be terminating action for the repetitive inspections required by this AD.

FAA's Determination and Requirements of This AD

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

develop on other products of these same type designs.

FAA's 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 migration of the sidestay upper cardan pin and disconnection of the sidestay upper arm from the airplane structure, could result in a landing gear collapse and consequent damage to the airplane and injury to occupants. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

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–2014–0255; Directorate Identifier 2014–NM–056–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 based on those comments.

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

Interim Action

This AD is considered to be interim action. We are currently considering requiring a measurement of the cardan pin clearance dimensions (gap check) to determine that no gap exists between wing rear spar fitting lugs and the associated bush flanges of the left-hand and right-hand main landing gear (MLG), and applicable corrective actions, which will constitute terminating action for the repetitive inspections required by this AD action. However, the planned compliance time for the measurement would allow enough time to provide notice and opportunity for prior public comment on the merits of the measurement and applicable corrective actions.

Costs of Compliance

We estimate that this AD affects 83 airplanes of U.S. registry.

We also estimate that it will take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $7,055, or $85 per product.

In addition, we estimate that any necessary follow-on actions will take about 4 work-hours and require parts costing $7,530, for a cost of $7,870 per product. We have no way of determining the number of aircraft that might need these actions.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this AD is 2120–0056. The paperwork cost associated with this AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at 800 Independence Ave. SW., Washington, DC 20591, ATTN: Information Collection Clearance Officer, AES–200.

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 that 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);
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):

2014–09–05 Airbus: Amendment 39–17840. Docket No. FAA–2014–0255; Directorate Identifier 2014–NM–056–AD.

(a) Effective Date

This AD becomes effective May 14, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the airplanes identified in paragraphs (c)(1) and (c)(2) of this AD, certificated in any category.

(1) Airbus Model A330–201, A330–202, A330–203, A330–223, A330–243, A330–301, A330–302, A330–303, A330–321, A330–322, A330–323, A330–341, A330–342, and A330–343 airplanes, all manufacturer serial numbers (MSNs), equipped with basic (201252 series) main landing gear (MLG), or growth (201490 series) MLG.

(2) Airbus Model A340–211, A340–212, A340–213, A340–311, A340–312, and A340–

313 airplanes, all MSNs, equipped with basic (201252 series) MLG or growth (201490 series) MLG.

(d) Subject

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

(e) Reason

This AD was prompted by a report of a sidestay upper cardan pin of the MLG migrating out of position. We are issuing this AD to detect and correct migration of the sidestay upper cardan pin, which could result in disconnection of the sidestay upper arm from the airplane structure, and which could result in a landing gear collapse and consequent damage to the airplane and injury to occupants.

(f) Compliance

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

(g) Repetitive Detailed Inspections

(1) For airplanes identified in paragraphs (g)(1)(i) and (g)(1)(ii) of this AD on which the affected MLG has exceeded 8 years since first overhaul, as of the effective date of this AD, except those MLG that have had a second overhaul: Within 30 days after the effective date of this AD, accomplish a detailed inspection for visible chrome of each affected MLG sidestay upper cardan pin, and associated nut and retainer assembly, in accordance with the instructions of Airbus Alert Operators Transmission (AOT) A32L003–14, dated March 10, 2014, including Appendices 1, 2, and 3 (the issue date is not specified on the appendices).

(i) Airplanes equipped with any MLG sidestay upper cardan pin subassembly part number (P/N) 201267202 (on 201252 series MLG).

(ii) Airplanes equipped with any MLG sidestay upper cardan pin subassembly P/N 201483202 (on 201490 series MLG).

(2) If, during any inspection required by paragraph (g)(1) of this AD, no pin chrome is visible inboard of the wing rear spar fitting lug, repeat the detailed inspection for visible chrome specified in paragraph (g)(1) of this AD, thereafter at intervals not to exceed 10 days.

(3) If, during any inspection required by paragraphs (g)(1) or (g)(2) of this AD, pin chrome is visible inboard of the wing rear spar fitting lug, before further flight, replace the affected cardan pin assembly, in accordance with the instructions of Airbus AOT A32L003–14, dated March 10, 2014, including Appendices 1, 2, and 3 (the issue date is not specified on the appendices). Replacement of the affected cardan pin assembly terminates the need for repetitive inspections required by paragraph (g)(2) of this AD.

Note 1 to paragraph (g) of this AD: MLG sidestay upper cardan pin subassembly P/N 201267202 (found in Airbus Illustrated Parts Catalogue (IPC) as item 32–11–18–01) includes the cardan pin P/N 201267600. MLG sidestay upper cardan pin subassembly P/N 201483202 (found in Airbus IPC as item 32–11–18–01) includes the cardan pin P/N 201483600.

(h) Optional Terminating Action—Gap Check

Measuring the cardan pin clearance dimensions (gap check) and doing the applicable corrective action specified in paragraph (h)(1) or (h)(2) of this AD terminates the repetitive inspections required by paragraphs (g)(1) and (g)(2) of this AD for that sidestay upper cardan pin, nut, and retainer only. The measurement must be done in accordance with the instructions of Airbus AOT A32L003–14, dated March 10, 2014, including Appendices 1, 2, and 3 (the issue date is not specified on the appendices).

(1) If the total clearance dimension (gap check result) is equal to or greater than 1.5 mm, replace the cardan pin assembly, in accordance with Airbus AOT A32L003–14, dated March 10, 2014, including Appendices 1, 2, and 3 (the issue date is not specified on the appendices).

(2) If the total clearance dimension (gap check) is less than 1.5 mm but greater than 0.6 mm, do the actions specified in paragraphs (h)(2)(i) and (h)(2)(ii) of this AD.

(i) Send the information (Appendix 2 proforma, photographs, and the movement traceability sheet) specified in paragraph 4.2.3, ''Findings'' of Airbus AOT A32L003–14, dated March 10, 2014, including Appendices 1, 2, and 3, to Airbus at the address specified in Appendix 2 of Airbus AOT A32L003–14, dated March 10, 2014.

(ii) Repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or European Aviation Safety Agency (EASA) (or its delegated agent, or the Design Approval Holder with EASA's design organization approval, as applicable).

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they were approved by the State of Design Authority (or its delegated agent, or the DAH with a State of Design Authority's design organization approval, as applicable). You are required to ensure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(j) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency Airworthiness Directive 2014–0066, (correction) dated March 20, 2014, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0255.

(k) Material Incorporated by Reference

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

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Airbus Alert Operators Transmission (AOT) A32L003–14, dated March 10, 2014, including Appendices 1, 2, and 3 (the issue date is not specified on the appendices).

(ii) Reserved.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com.*

(4) You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may view this service information that is incorporated by reference 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.*

Issued in Renton, Washington, on April 16, 2014.

Michael J. Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–09412 Filed 4–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0164; Directorate Identifier 2013–NE–10–AD; Amendment 39–17834; AD 2014–08–10]

RIN 2120–AA64

Airworthiness Directives; Austro Engine GmbH Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding airworthiness directive (AD) 2013–14–08 for all Austro Engine GmbH model E4 engines. AD 2013–14–08 required removing from service certain part number (P/N) waste gate controllers. This AD requires removing certain additional P/N waste gate controllers from service. This AD was prompted by several reports of power loss events due to fracture of the waste gate controller lever. We are issuing this AD to prevent failure of the waste gate controller lever, which could lead to damage to one or more engines, loss of thrust control, and damage to the airplane.

DATES: This AD is effective June 3, 2014.

ADDRESSES: For service information identified in this AD, contact Austro Engine GmbH, Rudolf-Diesel-Strasse 11, A–2700 Weiner Neustadt, Austria; phone: +43 2622 23000; fax: +43 2622 23000–2711; Internet: *www.austroengine.at.* You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–0164; 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 mandatory continuing airworthiness information (MCAI), the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Wego Wang, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7134; fax: 781–238–7199; email: *wego.wang@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2013–14–08, Amendment 39–17513 (78 FR 42677, July 17, 2013), (''AD 2013–14–08''). AD 2013–14–08 applied to the specified products. The NPRM published in the **Federal Register** on January 10, 2014 (79 FR 1774). The NPRM proposed to continue to require removal from service of certain P/N waste gate controllers. The NPRM also proposed that, based on additional in-service failures, additional P/N waste gate controllers no longer be eligible for installation.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (79 FR 1774, January 10, 2014).

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting this AD as proposed.

Costs of Compliance

We estimate that this AD affects 128 engines installed on airplanes of U.S. registry. We also estimate that it will take about 0.5 hours per engine to comply with this AD. The average labor rate is $85 per hour. Required parts cost about $231 per engine. Based on these figures, we estimate the total cost of this AD to U.S. operators to be $35,008.

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 to the extent that it justifies making a regulatory distinction, 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 part 39 of the Federal Aviation Regulations (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) 2013–14–08, Amendment 39–17513 (78 FR 42677, July 17, 2013) and adding the following new AD:

2014–08–10 Austro Engine GmbH Engines: Amendment 39–17834; Docket No.

FAA–2013–0164; Directorate Identifier 2013–NE–10–AD.

(a) Effective Date

This AD is effective June 3, 2014.

(b) Affected ADs

This AD supersedes AD 2013–14–08, Amendment 39–17513 (78 FR 42677, July 17, 2013).

(c) Applicability

This AD applies to all Austro Engine GmbH model E4 engines, with a waste gate controller, part number (P/N) E4A–41–120–000, Revision 060 or lower revision; or a waste gate controller, P/N E4B–41–120–000, Revision 010 or lower revision, installed.

(d) Unsafe Condition

This AD was prompted by engine power loss events due to fracture of the waste gate controller lever. We are issuing this AD to prevent failure of the waste gate controller lever, which could lead to damage to one or more engines, loss of thrust control, and damage to the airplane.

(e) Compliance

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

(2) At the next maintenance action for any reason, or within 110 flight hours after the effective date of this AD, or within three months after the effective date of this AD, whichever occurs first, remove from service waste gate controller, P/N E4A–41–120–000, Revision 060 or lower revision, and waste gate controller, P/N E4B–41–120–000, Revision 010 or lower revision.

(f) Installation Prohibition

After the effective date of this AD, do not install any waste gate controller, P/N E4A–41–120–000, Revision 060 or lower revision, or waste gate controller, P/N E4B–41–120–000, Revision 010 or lower revision, onto any engine, or approve for return to service any engine that has either waste gate controller installed.

(g) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request.

(h) Related Information

(1) For more information about this AD, contact Wego Wang, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7134; fax: 781–238–7199; email: *wego.wang@faa.gov.*

(2) Refer to MCAI European Aviation Safety Agency AD 2013–0213, dated September 13, 2013, for more information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0164-0002.*

(3) Austro Engine Mandatory Service Bulletin No. MSB–E4–007/6, Revision 6, dated September 18, 2013, which is not incorporated by reference in this AD, can be obtained from Austro Engine GmbH, using the contact information in paragraph (h)(4) of this AD.

(4) For service information identified in this AD, contact Austro Engine GmbH, Rudolf-Diesel-Strasse 11, A–2700 Weiner Neustadt, Austria; phone: +43 2622 23000; fax: +43 2622 23000–2711; Internet: *www.austroengine.at.*

(5) You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

(i) Material Incorporated by Reference

None.

Issued in Burlington, Massachusetts, on April 15, 2014.

Ann C. Mollica,

Acting Assistant Directorate Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2014–09349 Filed 4–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0267]

Drawbridge Operation Regulation; Inner Harbor Navigational Canal, New Orleans, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Coast Guard has issued a temporary deviation from the regulation governing the operation of the SR 46 (St. Claude Avenue) bridge across the Inner Harbor Navigation Canal, mile 0.5 (GIWW mile 6.2 East of Harvey Lock) in New Orleans, Orleans Parish, Louisiana. This deviation provides for the bridge to remain closed to navigation for 24 consecutive hours within an eight day window of opportunity to conduct scheduled maintenance to the drawbridge.

DATES: This deviation is effective from 6 a.m. on May 10, 2014, through 6 a.m. on May 18, 2014.

ADDRESSES: The docket for this deviation, [USCG–2014–0267] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Jim Wetherington, Bridge Administration Branch, Coast Guard, telephone (504) 671–2128, email *james.r.wetherington@uscg.mil.* If you have questions on viewing the docket, call Cheryl F. Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Board of Commissioners of the Port of New Orleans has requested a temporary deviation in order to perform maintenance on the operating strut guides of the bridge. These repairs are necessary for the continued operation of the bridge. This deviation allows the draw of the St. Claude Avenue bascule bridge across the Inner Harbor Navigation Canal, mile 0.5 (GIWW mile 6.2 East of Harvey Lock), to remain closed to navigation for 24 consecutive hours between 6 a.m. on Saturday, May 10, 2014 and 6 a.m. Sunday, May 11, 2014. Work on the bridge will begin at 6 a.m. on Saturday, May 10, 2014. If for any reason, the work cannot be accomplished on May 10 and 11, 2014, the work will be postponed for one week and the same schedule will be used beginning at 6 a.m. on Saturday, May 17, 2014 and continuing through 6 a.m. Sunday, May 18, 2014.

Broadcast Notice to Mariners will be used to update mariners of any changes in this deviation.

The bascule bridge has a vertical clearance of 1 foot above high water in the closed-to-navigation position. Navigation on the waterway consists mainly of tugs with tows and some ships. The bridge normally opens to pass navigation an average of eight times during the deviation period. In accordance with 33 CFR 117.458(a), the draw of the bridge shall open on signal; except that, from 6:30 a.m. to 8:30 a.m. and from 3:30 p.m. to 5:45 p.m., Monday through Friday, except federal holidays, the draw need not open for the passage of vessels. Normally, the draw is required to open at any time for a vessel in distress. However, the bridge will not be able to open for emergencies during the closure period. No alternate routes are available.

The Port and the Coast Guard have coordinated the closure with waterway users, industry, and other Coast Guard units. These dates and this schedule were chosen to minimize the significant effects on vessel traffic.

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

Dated: April 14, 2014.

David M. Frank,

Bridge Administrator.

[FR Doc. 2014–09729 Filed 4–28–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2014–0174]

RIN 1625–AA00

Safety Zone: Giants Enterprises Fireworks Display, San Francisco Bay, San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the navigable waters of the San Francisco Bay near AT&T Park in support of Giants Enterprises Fireworks Display on May 21, 2014. This safety zone is established to ensure the safety of participants and spectators from the dangers associated with pyrotechnics. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zone without permission of the Captain of the Port or his designated representative.

DATES: This rule is effective on May 21, 2014. This rule will be enforced from 11 a.m. to 11 p.m. on May 21, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2014–0174. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Junior Grade William J. Hawn, U.S. Coast Guard Sector San Francisco; telephone (415) 399–7442 or email at *D11-PF-MarineEvents@uscg.mil*. If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Regulatory History and 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(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**. The Coast Guard received the information about the fireworks display on March 7, 2014, and the fireworks display would occur before the rulemaking process would be completed. Because of the dangers posed by the pyrotechnics used in this fireworks display, the safety zone is necessary to provide for the safety of event participants, spectators, spectator craft, and other vessels transiting the event area. For the safety concerns noted, it is in the public interest to have these regulations in effect during the event.

B. Basis and Purpose

The legal basis for the proposed rule is 33 U.S.C 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, 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to establish safety zones.

Giants Enterprises will sponsor the Giants Enterprises Fireworks Display on May 21, 2014, near Pier 48 in San Francisco, CA in approximate position 37°46′40″ N, 122°22′58″ W (NAD83) as depicted in National Oceanic and Atmospheric Administration (NOAA) Chart 18650. This safety zone establishes a temporary restricted area on the waters 100 feet surrounding the fireworks barge during the loading, transit and arrival of the pyrotechnics from the loading site to the launch site and until the commencement of the fireworks display. Upon the commencement of the fireworks display, the safety zone will increase in size and encompass the navigable waters around the fireworks barge within a radius of 700 feet. The fireworks display is meant for entertainment purposes. This restricted area around the fireworks barge is necessary to protect spectators, vessels, and other property from the hazards associated with pyrotechnics.

C. Discussion of the Final Rule

The Coast Guard will enforce a safety zone in navigable waters around and under a fireworks barge within a radius of 100 feet during the loading, transit, and arrival of the fireworks barge to the display location and until the start of the fireworks display. From 11 a.m. until 10 p.m. on May 21, 2014, the fireworks barge will be loading pyrotechnics at Pier 50 in San Francisco, CA. From 10 p.m. to 10:10 p.m. on May 21, 2014 the loaded fireworks barge will transit from Pier 50 to the launch site near Pier 48 in approximate position 37°46′40″ N, 122°22′58″ W (NAD 83) where it will remain until the commencement of the fireworks display. Upon the commencement of the 10-minute fireworks display, scheduled to begin at 10:50 p.m. on May 21, 2014, the safety zone will increase in size and encompass the navigable waters around and under the fireworks barge within a radius of 700 feet in approximate position 37°46′40″ N, 122°22′58″ W (NAD 83) for the Giants Enterprises Fireworks Display. At the conclusion of the fireworks display the safety zone shall terminate.

The effect of the temporary safety zone will be to restrict navigation in the vicinity of the launch site until the conclusion of the scheduled display. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the restricted area. These regulations are needed to keep spectators and vessels away from the immediate vicinity of the launch site to ensure the safety of participants, spectators, and transiting vessels.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

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

We expect the economic impact of this rule will not rise to the level of necessitating a full Regulatory Evaluation. The safety zone is limited in duration, and is limited to a narrowly tailored geographic area. In addition, although this rule restricts access to the waters encompassed by the safety zone, the effect of this rule will not be significant because the local waterway users will be notified via public Broadcast Notice to Mariners to ensure the safety zone will result in minimum impact. The entities most likely to be affected are waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

This rule may affect owners and operators of waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities and sightseeing. This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. This safety zone would be activated, and thus subject to enforcement, for a limited duration. When the safety zone is activated, vessel traffic could pass safely around the safety zone. The maritime public will be advised in advance of this safety zone via Broadcast Notice to Mariners.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone of limited size and duration. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant

Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3707; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T11–630 to read as follows:

§ 165.T11–630 Safety zone; Giants Enterprises Fireworks Display, San Francisco Bay, San Francisco, CA.

(a) *Location.* This temporary safety zone is established in the navigable waters of the San Francisco Bay near Pier 48 in San Francisco, CA as depicted in National Oceanic and Atmospheric Administration (NOAA) Chart 18650. From 11 a.m. until 10:50 p.m. on May 21, 2014, the temporary safety zone applies to the nearest point of the fireworks barge within a radius of 100 feet during the loading, transit, and arrival of the fireworks barge from Pier 50 to the launch site near Pier 48 in approximate position 37°46′40″ N, 122°22′58″ W (NAD83). From 10:50 p.m. until 11 p.m. on May 21, 2014, the temporary safety zone will increase in size and encompass the navigable waters around and under the fireworks barge in approximate position 37°46′40″ N, 122°22′58″ W (NAD83) within a radius of 700 feet.

(b) *Enforcement Period.* The zone described in paragraph (a) of this section will be enforced from 11 a.m. through 11 p.m. on May 21, 2014. The Captain of the Port San Francisco (COTP) will notify the maritime community of periods during which this zone will be enforced via Broadcast Notice to Mariners in accordance with 33 CFR 165.7.

(c) *Definitions.* As used in this section, ''designated representative'' means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer on a Coast Guard vessel or a Federal, State, or local officer designated by or assisting the COTP in the enforcement of the safety zone.

(d) *Regulations.* (1) Under the general regulations in 33 CFR Part 165, Subpart C, entry into, transiting or anchoring within this safety zone is prohibited unless authorized by the COTP or a designated representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or a designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or a designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or a designated representative. Persons and vessels may request permission to enter the safety zone on VHF–23A or through the 24-hour Command Center at telephone (415) 399–3547.

Dated: April 11, 2014.

Gregory G. Stump,

Captain, U.S. Coast Guard, Captain of the Port San Francisco.

[FR Doc. 2014–09722 Filed 4–28–14; 8:45 am]

BILLING CODE 9110–04–P

POSTAL REGULATORY COMMISSION

39 CFR Part 3001

[Docket No. RM2013–1; Order No. 1742]

Revisions to Rules of Practice; Corrections

AGENCY: Postal Regulatory Commission.

ACTION: Correcting amendments.

SUMMARY: The Postal Regulatory Commission published a document in the **Federal Register** on June 18, 2013 (78 FR 36434) revising certain Commission rules of practice. That document inadvertently omits the word ''except'' in the introductory text of 39 CFR 3001.7(b). In addition, an amendatory instruction led to the unintended omission of § 3001.7(b)(1) through (b)(5) in the Code of Federal Regulations. This document corrects the final regulations by restoring the omitted elements, consistent with the scope and intent of Order No. 1742.

DATES: *Effective:* April 29, 2014 and is applicable beginning June 18, 2013.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, 202–789–6820.

SUPPLEMENTARY INFORMATION: This document reflects technical amendments based on a review of the consistency of Order No. 1742 as issued with the codification of the Commission's rules in title 39, Code of Federal Regulations.

List of Subjects in 39 CFR Part 3001

Administrative practice and procedure, Freedom of information, Postal Service, Sunshine Act.

Accordingly, 39 CFR part 3001 is corrected by making the following correcting amendments:

PART 3001—RULES OF PRACTICE AND PROCEDURE

■ 1. The authority citation for part 3001 continues to read as follows:

Authority: 39 U.S.C. 404(d); 503; 504; 3661.

Subpart A—Rules of General Applicability

■ 2. In § 3001.7, revise paragraph (b) to read as follows:

§ 3001.7 Ex parte communications.

* * * * *

(b) *Prohibition.* In any agency proceeding conducted under section 3661 of the Act; noticed and set for hearing by the Commission pursuant to §§ 3001.17 and 3001.18(a); or any proceeding conducted pursuant to part 3025 of this chapter except to the extent required for the disposition of ex parte matters as authorized by law:

(1) Interested persons outside the Commission and non-decision-making Commission personnel shall not make or knowingly cause to be made to any Commission decision-making personnel ex parte communications relevant to the merits of the proceeding;

(2) Commission decision-making personnel shall not make or knowingly cause to be made to any interested person outside the Commission or to non-decision-making Commission personnel ex parte communications relevant to the merits of the proceeding;

(3) Commission decision-making personnel who receive ex parte communications relevant to the merits of the proceeding shall decline to listen to such communications and explain that the matter is pending for determination. Any recipient thereof shall advise the communicator that he/she will not consider the communication and shall promptly and fully inform the Commission in writing

of the substance of and the circumstances attending the communication, so that the Commission will be able to take appropriate action.

(4) Commission decision-making personnel who receive, or who make or knowingly cause to be made, communications prohibited by this paragraph shall place on the public record of the proceeding:

(i) All such written communications;

(ii) Memoranda stating the substance of all such oral communications; and

(iii) All written responses, and memoranda stating the substance of all oral responses, to the materials described in paragraphs (b)(4)(i) and (b)(4)(ii) of this section.

(5) Requests for an opportunity to rebut, on the record, any facts or contentions contained in an ex parte communication which have been placed on the public record of the proceeding pursuant to paragraph (b)(4) of this section may be filed in writing with the Commission. The Commission will grant such requests only where it determines that the dictates of fairness so require. Generally, in lieu of actually receiving rebuttal material, the Commission will direct that the alleged factual assertion and the proposed rebuttal be disregarded in arriving at a decision.

* * * * *

Shoshana M. Grove,

Secretary.

[FR Doc. 2014–09797 Filed 4–28–14; 8:45 am]

BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2014–0179; FRL–9910–04–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Control of Volatile Organic Compound Emissions From Mondelēz Global LLC, Inc.—Richmond Bakery Located in Henrico County, Virginia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the Commonwealth of Virginia's State Implementation Plan (SIP). The revisions consist of a Federally enforceable state operating permit containing terms and conditions for the control of volatile organic compound (VOC) emissions from the Mondelēz Global LLC, Inc. (Mondelēz)—Richmond Bakery located in Henrico County, Virginia. EPA is approving these revisions for the purpose of meeting the requirements for reasonably available control technology (RACT) in order to implement the maintenance plan for the Richmond 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS) maintenance area in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on June 30, 2014 without further notice, unless EPA receives adverse written comment by May 29, 2014. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2014–0179 by one of the following methods:

A. *www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. Email: *fernandez.cristina@epa.gov.*

C. Mail: EPA–R03–OAR–2014–0179, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2014–0179. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Irene Shandruk, (215) 814–2166, or by email at *shandruk.irene@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On February 14, 2014, the Commonwealth of Virginia submitted a formal revision to its SIP. The SIP revision consists of a Federally enforceable state operating permit containing terms and conditions for the control of VOC emissions from the Mondelēz—Richmond Bakery located in Henrico County, Virginia. The submittal is for the purpose of meeting the requirements for RACT in order to implement the maintenance plan for the Richmond 1997 8-hour ozone NAAQS maintenance area.

RACT is the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available with the consideration of technological and economic feasibility. The VOC RACT regulations that apply to source categories of VOCs are generally those VOC RACT regulations adopted by a state based upon Control Technique Guideline (CTG) documents issued by EPA. Major sources of VOCs that are

subject to RACT, but that are not covered by a regulation adopted by a state pursuant to a CTG are referred to as non-CTG VOC RACT sources. When the Richmond area was originally designated as an ozone nonattainment area under the 1-hour standard, it was classified as moderate and thereby had to meet the non-CTG RACT requirements of section 182 of the CAA. As part of the 1-hour ozone attainment plan, one of the sources located in the area identified as being subject to non-CTG RACT was Kraft Foods (now Mondelēz). Cookies and crackers are produced at this plant. The sources of VOC emissions at this plant are ovens for baking the dough, and oil treatment facilities.

The Mondelēz bakery located in Henrico County, Virginia underwent RACT analysis, and a Federally enforceable state operating permit was issued to the facility, which became effective on April 24, 1991. The permit was then submitted to EPA as a SIP revision, and approved into the Commonwealth's SIP on March 6, 1992 (57 FR 8080).

On September 22, 2004, under the 1997 8-hour ozone standard, the Richmond area was classified as a marginal nonattainment area. On September 20, 2006, the Virginia Department of Environmental Quality (VADEQ) formally submitted a request to redesignate the Richmond area from nonattainment to attainment for the 1997 8-hour ozone NAAQS. On September 25, 2006, the VADEQ submitted a maintenance plan for the Richmond area as a SIP revision to ensure continued attainment. The redesignation request and maintenance plan were approved on June 1, 2007 (72 FR 30485). Section 107(d)(3)(E) of the CAA stipulates that for an area to be redesignated, EPA must approve a maintenance plan that meets the requirements of section 175A. All applicable nonattainment area requirements remain in place. The plan includes a demonstration that emissions will remain within the 2005 levels for a 10-year period by keeping in place key elements of the current Federal and state regulatory programs, including case-by-case RACT requirements for the area. Because the Richmond area in which this facility is located has continuously been classified as either a nonattainment or a maintenance area, the RACT requirements remain in effect.

II. Summary of SIP Revision

In 2012, Mondelēz made modifications to its process that necessitated revisions to its RACT permit. The most notable change is in the ownership of the company which changed from Kraft Food Global Inc. to Mondelēz Global LLC, Inc. The revised permit consists of 20 conditions and changes that were made throughout the permit. They include the following changes: Mondelēz needed to update the aging VOC emission control equipment for Oven 1 from a catalytic thermal oxidizer (CTO) to a regenerative thermal oxidizer (RTO) which maintains the same VOC emissions control efficiency of 95 percent (%); propane is no longer listed as a fuel option and instead natural gas is the only fuel option available for Ovens 1 through 9; and references to sponge dough and straight dough were changed to yeast dough and non-yeast dough respectively. Also, the criteria for the permanent total enclosure (PTE) are now in the permit. Previously, the PTE provisions were found in the appendix. Additionally, certain conditions and regulatory references have been removed because they are either no longer applicable or for purposes of providing clarity to the permit. None of these revisions result in any changes in operations or emissions increases of VOCs. A more detailed description of the state submittal and EPA's evaluation can be found in the Technical Support Document (TSD) with Docket ID No. EPA–R03–OAR–2014–0179 prepared in support of this rulemaking action.

III. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information that: (1) Are generated or developed before the commencement of a voluntary environmental assessment; (2) are prepared independently of the assessment process; (3) demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege Law, Va. Code § 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by Federal law to maintain program delegation, authorization or approval,'' since Virginia must ''enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts. . . .'' The opinion concludes that ''[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval.'' Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by Federal law,'' any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity.''

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the Federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the CAA, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state

enforcement effort. In addition, citizen enforcement under section 304 of the CAA is likewise unaffected by this, or any, state audit privilege or immunity law.

IV. Final Action

EPA is approving revisions to the Commonwealth of Virginia's SIP that consist of a revised Federally enforceable state operating permit containing terms and conditions for the control of VOC emissions from the Mondelēz Global LLC, Inc.—Richmond Bakery located in Henrico County, Virginia. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on June 30, 2014 without further notice unless EPA receives adverse comment by May 29, 2014. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this 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 CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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.

B. Submission to Congress and the Comptroller General

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.

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 30, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking.

This rulemaking action approving Virginia's SIP revision consisting of a Federally enforceable State operating permit containing terms and conditions for the control of VOC from the Mondelēz Global LLC, Inc.—Richmond Bakery locates in Henrico County, Virginia may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: April 11, 2014.

W.C. Early,

Acting Regional Administrator, Region III.

40 CFR Part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTION PLANS

■ 1. The authority citation for 40 CFR part 52 continues to read as follows:

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

Subpart VV—Virginia

■ 2. In § 52.2420, the table in paragraph (d) is amended by removing the entry for Kraft Foods Global, Inc.—Richmond Bakery and adding an entry for Mondelēz Global LLC, Inc.—Richmond Bakery at the end of the table. The added text reads as follows:

§ 52.2420 Identification of plan.

* * * * *

(d) * * *

EPA-APPROVED SOURCE SPECIFIC REQUIREMENTS

Source name	Permit/order or registration No.	State effective date	EPA approval date	40 CFR part 52 citation
* * *	* *	*	*	*
Mondelēz Global LLC, Inc.—Richmond Bakery.	Registration No. 50703	2/14/14	4/29/14 [Insert page number where the document begins].	52.2420(d)(13).

* * * * *

[FR Doc. 2014–09658 Filed 4–28–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 00–168; DA 14–464]

Television Broadcasters; Online Political File Deadline

AGENCY: Federal Communications Commission.

ACTION: Compliance date deadline.

SUMMARY: The Media Bureau reminds television stations not affiliated with the top four national networks and those licensed to markets below the top 50 that they must begin to comply with the online political file rules on July 1, 2014.

DATES: Effective April 29, 2014. Deadline for compliance is July 1, 2014.

FOR FURTHER INFORMATION CONTACT: Kim Matthews, Media Bureau, Policy Division, 202–418–2154, or email at *kim.matthews@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Media Bureau's document in MM Docket No. 00–168, DA 14–464, released on April 4, 2014. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, 445 12th Street SW., Room CY–B402, Washington, DC 20554. This document will also be available via ECFS at *http://fjallfoss.fcc.gov/ecfs/.* Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format) by sending an email to *fcc504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

1. In the *Second Report and Order* in MM Docket Nos. 00–168 and 00–44, 77 FR 27631 (May 11, 2012),[1] the Commission required broadcast television stations to post their public files online in a Commission-hosted database rather than maintaining the files locally at their main studios.[2] With respect to political file documents that must be maintained in the public file, stations affiliated with the top four national networks (ABC, NBC, CBS, and Fox) licensed to serve communities in the top 50 Designated Market Areas (DMAs) were required to post political file documents online beginning August 2, 2012, but all other stations were exempted from posting their political file documents to their online public file until July 1, 2014.[3]

2. This document is a reminder to television stations not affiliated with the top four national networks and those licensed to markets below the top 50 that they must begin to comply on July 1, 2014.[4] As noted above, on that date stations that are currently exempt must start uploading new political file material on a going-forward basis.[5] These stations are not required to upload political files placed in their public file prior to July 1, 2014; however, they are required to retain those documents at the station until the end of the two-year retention period.[6] Given that these television stations have already been required to use the online public file for documents other than the political file since August 2, 2012, we do not expect them to have difficulty determining how to upload new political file documents to the online file.

3. Members of the public and broadcasters will find answers to Frequently Asked Questions (FAQs) on

[1] *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations, Extension of the Filing Requirement for Children's Television Programming Report, Second Report and Order,* 27 FCC Rcd 4535 (2012) (''*Second Report and Order*'').

[2] All permittees and licensees of a ''TV or Class A TV station'' in the commercial and noncommercial educational broadcast services must maintain a public inspection file, including a political file. *See* 47 CFR 73.3526(a)(2) and 73.3527(a)(2).

[3] See *Second Report and Order,* 77 FR at 27632, paragraph.3. On August 2, 2012, television stations that were not exempt were required to start uploading documents to the online file on a going-forward basis. With respect to public file documents other than political file material, stations were given six months, until February 4, 2013, to complete the process of uploading their existing public file. Id. at 4580–81, paragraph. 98. See also *Television Broadcast Stations Reminded of their Online Public Inspection File Obligations,* Public Notice, MM Docket Nos. 00–168 and 00–44, DA 12–2003, rel. Dec. 11, 2012. Stations are not required to upload their political files as they existed prior to the relevant deadline to the online database; rather, they are required only to upload new political file content on a going-forward basis. See *Second Report and Order,* 77 FR at 27632, paragraph 2 and at 27637, paragraph 33. Existing political file documents not required to be uploaded to the online file must continue to be maintained at the station, however, until the end of the two-year retention period. See 47 CFR 73.3526(e)(6) and 73.3527(e)(5).

[4] In the *Second Report and Order,* the Commission stated that, by July 1, 2013, the Media Bureau would issue a Public Notice seeking comment on the impact of the online posting requirement for the political file so that the Commission can consider whether any changes should be made to the requirement before it takes effect for other stations. See *Second Report and Order,* 77 FR at 27632, paragraph 3. Consistent with this commitment, the Media Bureau issued a Public Notice on June 25, 2013 seeking comment on, among other things, the experience of stations currently subject to the online political file requirement in posting their political files to the Commission-hosted database and the ability of stations that are currently exempt from the political posting requirement to comply with the July 1, 2014 deadline. *Media Bureau Seeks Comment on Online Political File and Petition for Reconsideration Filed by the Television Station Group,* Public Notice, MM Docket No. 00–168, DA 13–1440, 78 FR 41014, rel. June 25, 2013. The Media Bureau also sought comment on the Petition for Reconsideration filed by the Television Station Group which requests that the Commission reconsider the online political file requirement in the *Second Report and Order.* The Commission has not acted upon that Public Notice, or in any way altered the online political file requirement or the July 1, 2014 deadline for compliance by television stations that are currently exempt. Therefore, the requirement as codified—the July 1, 2014 compliance deadline for stations not subject to the 2012 deadline—still stands. 47 CFR 73.3526(b)(3).

[5] We also remind all television broadcasters subject to the political file rules that documents must be placed in, or uploaded to, the file as soon as possible. Section 73.1943(c) of the Commission's rules provides that records ''shall be placed in the political file as soon as possible and shall be retained for a period of two years. As soon as possible means immediately absent unusual circumstances.'' 47 CFR 73.1943(c).

[6] *See, supra,* note 3.

the FCC's Web site (*https://stations.fcc.gov/*) if they have questions. For further information, you can contact the Licensing Support Hotline at (877) 480–3201 option 2, (717) 338–2888, or (717) 338–2824 (TTY). The Hotline is available to assist with questions Monday through Friday 8:00 a.m. to 6:00 p.m. ET. You may also submit requests and report any errors or problems with the online sites at *https://esupport.fcc.gov/request.htm.* In order to provide better service, all calls to the Hotline are recorded.

Federal Communications Commission.

William T. Lake,

Chief, Media Bureau.

[FR Doc. 2014–09761 Filed 4–28–14; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 79, No. 82
Tuesday, April 29, 2014

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

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–144468–05]

RIN 1545–BE98

Disallowance of Partnership Loss Transfers, Mandatory Basis Adjustments, Basis Reduction in Stock of a Corporate Partner, Modification of Basis Allocation Rules for Substituted Basis Transactions, Miscellaneous Provisions; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of a notice of public hearing on proposed rulemaking.

SUMMARY: This document cancels a public hearing on proposed regulations that provide guidance on certain provisions of the American Jobs Creation Act of 2004 and conform the regulations to statutory changes in the Taxpayer Relief Act of 1997.

DATES: The public hearing originally scheduled for April 30, 2014 at 10 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Oluwafunmilayo Taylor of the Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration) at (202) 317–6901 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and a notice of public hearing that appeared in the **Federal Register** on Thursday, January 16, 2014 (79 FR 3042) announced that a public hearing was scheduled for April 30, 2014, at 10 a.m. in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. The subject of the public hearing is under section 721 of the Internal Revenue Code.

The public comment period for these regulations expired on April 16, 2014. The notice of proposed rulemaking and notice of public hearing instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of April 23, 2014, no one has requested to speak. Therefore, the public hearing scheduled for April 30, 2014 at 10 a.m. is cancelled.

Martin V. Franks,

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

[FR Doc. 2014–09699 Filed 4–24–14; 11:15 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2014–0179; FRL–9910–05-Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Control of Volatile Organic Compound Emissions From Mondelēz Global LLC, Inc.—Richmond Bakery Located in Henrico County, Virginia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve the State Implementation Plan (SIP) revisions submitted by the Commonwealth of Virginia. The revision consist of a revised Federally enforceable state operating permit containing terms and conditions for the control of volatile organic compound (VOC) emissions from the Mondelēz Global LLC, Inc. (Mondelēz)—Richmond Bakery located in Henrico County, Virginia. This SIP revision establishes reasonably available control technology (RACT) for the control of VOC emissions from Mondelēz—Richmond Bakery. In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A more detailed description of the state submittal and EPA's evaluation is included in the notice of direct final rulemaking and the Technical Support Document (TSD) prepared in support of this rulemaking action. The TSD is available on *www.regulations.gov* under Docket ID No. EPA–R03–OAR–2014–0179. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by May 29, 2014.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2014–0179 by one of the following methods:

A. *www.regulations.gov*. Follow the on-line instructions for submitting comments.

B. *Email: Fernandez.cristina@epa.gov*.

C. *Mail:* EPA–R03–OAR–2014–0179, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2014–0179. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov*, your email address will be automatically

captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Irene Shandruk, (215) 814–2166, or by email at *shandruk.irene@epa.gov*.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, entitled Control of Volatile Organic Compound Emissions from Mondelēz Global LLC, Inc.—Richmond Bakery located in Henrico County, Virginia, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: April 11, 2014.

W.C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2014–09657 Filed 4–28–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3100, 3400, and 3500

[LLWO320000.L13200000.PP0000]

RIN 1004–AE23

Waste Mine Methane Capture, Use, Sale, or Destruction

AGENCY: Bureau of Land Management, Interior.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Bureau of Land Management (BLM) requests comments and suggestions that might assist the agency in the establishment of a program to capture, use, or destroy waste mine methane that is released into the mine environment and the atmosphere as a direct consequence of underground mining operations on Federal leases for coal and other minerals.

DATES: We will accept comments and suggestions on the Advance Notice of Proposed Rulemaking (ANPR) until June 30, 2014.

ADDRESSES: You may submit comments and suggestions by any of the following methods:

Mail: U.S. Department of the Interior, Bureau of Land Management, 1849 C Street NW., Room 2134LM, Attention: WO–630, Washington, DC 20240–0001.

Personal or messenger delivery: U.S. Department of the Interior, Bureau of Land Management, 20 M Street SE., Room 2134LM, Attention: WO–630, Washington, DC 20003.

Federal eRulemaking Portal: http://www.regulations.gov.

Please include ''Attn: 1004–AE23'' in your comments, regardless of the form in which they are submitted.

FOR FURTHER INFORMATION CONTACT: For information on the substance of this Advance Notice, please contact William Radden-Lesage at (202) 912–7116. For information on procedural matters, please contact Jean Sonneman at (202) 912–7405. 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 individuals during business hours. FIRS is available 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Written comments or suggestions should be specific, explain the reasoning behind your comments and suggestions, and address the issues outlined in this Advance Notice. For comments and suggestions to be the most useful and most likely to influence decisions on the content of the proposed rule, they should be substantive, and facilitate the development and implementation of an environmentally responsible capture or destruction system for methane released in the development of federally owned mineral resources.

The BLM is particularly interested in receiving comments and suggestions about the topics listed in Section III of this Advance Notice. All communication on these topics should refer to RIN 1004–AE23 and may be submitted by any one of several methods listed under the **ADDRESSES** section of this Advance Notice.

Comments and suggestions received after the close of the comment period (see **DATES**) will not necessarily be considered or included in the Administrative Record for any future proposed rule. Likewise, comments and suggestions delivered to an address other than those listed above (see **ADDRESSES**) need not be considered or included in the Administrative Record for the proposed rule.

Comments, including names and street addresses of respondents, will be available for public review at the address listed under **ADDRESSES** for ''Personal or messenger delivery'' during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday, except holidays. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can 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.

II. Background

Coal, and some other leasable minerals, may naturally contain various concentrations of methane. Methane can be recovered from the coal or other mineralized seams without mining operations. The recovery of methane from coal seams without mining operations is known as coalbed methane recovery and is common in the United States (*http://www.epa.gov/cmop/accomplishments.html* and *http://www.eia.gov/dnav/ng/hist/rngr52nus_1a.htm*). For Federal lands, recovery of coalbed methane is authorized through an oil and gas lease under the Mineral

Leasing Act. However, in some cases coalbed methane development and extraction have not preceded mining, or not all of the methane was recovered, and through the process of mining, methane can be released from the coal or other mineralized seam into the mine environment and atmosphere. Methane in the mine environment can be a significant safety issue for underground miners in mining operations where the mine methane may concentrate in underground workings to explosive levels. It may also make the air deadly for miners to breathe. The Mine Safety and Health Administration (MSHA) is charged with regulating mine safety, including ventilation of underground mines for control of methane concentrations in the mine environment. (See 30 CFR part 75 for coal mines and 30 CFR part 57 for other types of mines.) The methane that is liberated into the mine environment as a direct result of mining operations is known as waste mine methane (WMM).

The BLM is considering establishing a system for the capture, use, sale, or destruction of WMM liberated from federally leased lands by active underground mines. The purposes of this Advance Notice are to summarize the general issues, and to ask you to inform us as we consider how to proceed.

A. Statutory Authority and Federal Policy

The provisions of the Mineral Leasing Act, 30 U.S.C. 181 *et seq.,* provide legal authority for the agency to address the capture, use, or destruction of waste mine methane.

Section 30 of the MLA, 30 U.S.C. 187, provides that: ''Each lease shall contain provisions for the purpose of insuring the exercise of reasonable diligence, skill, and care in the operation of said property; a provision that such rules for the safety and welfare of the miners and for the prevention of undue waste as may be prescribed by said Secretary shall be observed. . .''

Section 32 of the Mineral Leasing Act (MLA), 30 U.S.C. 189, states that the Secretary ''is authorized to prescribe necessary and proper rules and regulations and to do any and all things necessary to carry out and accomplish the purposes of'' the provisions of the Mineral Leasing Act governing coal leasing and other minerals specified under that Act. Further, Section 7(a) of the MLA, 30 U.S.C. 207, states that coal leases, in addition to including lease terms about the length of the primary term, annual rentals and royalties, ''shall include such other terms and conditions as the Secretary shall determine.'' Section 24 of the MLA, 30 U.S.C. 262, provides similar discretion to the Secretary with regard to sodium leases.

This statutory authority applies to federally owned minerals, including coal and methane, on approximately 700 million acres of Federal mineral estate.

These provisions provide the Secretary with broad authority to include terms and conditions in coal and other solid mineral leases that are designed to diminish the amount of WMM that is vented into the air from underground mining operations.

Section 7(a) of the MLA, 30 U.S.C. 207(a), also makes terms and conditions of the lease subject to readjustment at the end of a coal lease's primary term of 20 years and at the end of each 10-year period thereafter. Based on the readjustment authority, the BLM may readjust lease terms to both authorize and require lessees to capture otherwise vented WMM to use or sell. The BLM also has authority under the same section of the MLA to include such terms and conditions in new coal leases.

In addition, reducing WMM venting would reduce emissions of a potent greenhouse gas, consistent with the President's Climate Action Plan—Strategy to Reduce Methane Emissions (March 2014) and Secretarial Order 3289, Amendment No. 1 (''Addressing the Impacts of Climate Change on America's Water, Land, and other Natural and Cultural Resources,'' dated February 22, 2010).

B. Current Practice

At present, the following methods are used to remove WMM from active underground mines:

1. Methane drainage before mining. Vertical or horizontal wells are used to drain methane from the mineral deposit in advance of the mining. Traditional methane drainage before mining is similar to coalbed methane development, with vertical drilling from the earth's surface to intersect the methane producing seam and that functions independent of any underground mining operations. Coalbed methane development, and similarly methane drainage in advance of mining, is authorized for federally owned minerals through an oil and gas lease. While used less frequently, methane recovery can also be developed in advance of mining by horizontal drilling within the seam being developed from within an established underground mine. Because this type of methane recovery is induced by drilling and functions independently of the mining operation, recovery from Federal lands would require a Federal oil and gas lease and would not be considered waste mine methane. Under these circumstances, the anticipated concentrations of methane would be greater than 80 percent. A number of documents related to drainage and degasification techniques can be found at *http://www.epa.gov/cmop/resources/drain_degas.html*; or *http://www.rpsea.org/media/files/project/6cb39f9a/07122_27_ts_overview_current_coalbedf_methane_extraction_technologies_12_01_08_p.pdf*;

2. Methane drainage during mining. Vertical wells are used to drain gob (rubble) gas from closed and mined-out areas. As underground mining progresses, pressure build-up in the unmined supporting pillars and in surrounding rock will liberate methane entrapped in the rock which in turn needs to be vented for safety purposes. The majority of this methane is ventilated through a series of vertical ventilation wells that are drilled in advance of the mine. As a result of venting the methane, the mine environment is improved and kept safe for the miners. Methane that is vented by vertical ventilation wells for miner safety can be released to the atmosphere (currently the most common approach), destroyed by combustion in a flare, or captured for beneficial use or competitive sale. All of these methods must be done in a manner that preserves the safety of the miners. Anticipated methane concentrations from ventilation wells are expected to be less than 80 percent. This technology is described at the EPA–CMOP Web site (*http://www.epa.gov/cmop/docs/ggasrecpv.pdf*) or *http://www.unece.org/fileadmin/DAM/energy/se/pdfs/cmm/pub/BestPractGuide_MethDrain_es31.pdf*); or

3. Treatment of ventilation air methane (VAM). Methane released into the mine environment is diluted with large quantities of fresh air, and fans are used to exhaust the air from underground mines to the earth's surface. Methane can be released into the mine atmosphere from the seam being mined as well as from rock above and below the mine. Because methane in the mine environment can create an explosion hazard and reduce air quality for underground miners, dilution of the methane with large quantities of fresh air is necessary in order to mitigate the explosion risk and make the work place safe. Concentrations of methane are regularly monitored and must be maintained in accordance with MSHA standards. Because the VAM methane concentrations are typically less than one percent methane, it probably is not

worthwhile to collect VAM as an energy source. However, methane within the VAM can be oxidized by passing the air through a high-temperature grid known as a regenerative thermal or catalytic oxidizer, which will oxidize, or burn, low concentrations of methane. The greenhouse gas potential of the VAM is reduced by this oxidation process. The regenerative thermal or catalytic oxidizer technology is described at the EPA–CMOP Web site *http://www.epa.gov/cmop/docs/2012-VAM-update.pdf*.

Methane is emitted not only from underground coal mines, but also from active surface coal mines and post-mining operations, as well as abandoned or closed underground coal mines. In 2003, BLM established a policy to alleviate conflicts between coalbed methane development by federal oil and gas lessees and active surface coal mining by federal coal lessees. That policy has led to a reduction of methane emissions from some surface coal mines. Policy and Guidance on Conflicts between Coalbed Natural Gas (CBNG) and Surface Coal Mine Development in the Powder River Basin, BLM–WO–IM–2003–253 (Aug. 21, 2003). More background on mine methane can be found at the Environmental Protection Agency Coalbed Methane Outreach Program Web site at *http://www.epa.gov/cmop/*.

III. Description of Information Requested

General Questions

As an aid to establishing a safe and effective system for capture, use, sale, or disposal of WMM from Federal lands, we encourage members of the public to provide comments and suggestions on the following key components:

(1) Technologies and methods for capture, processing, use, transport of methane gas (by pipeline, railroad, or truck), or transmission of methane-generated electricity;

(2) Methane destruction as an alternative to productive use or release;

(3) Economics of capture, use, and destruction;

(4) Possible incentives that BLM could offer to encourage methane destruction, capture, or use; and

(5) Destruction of ventilation air methane.

The BLM is particularly interested in receiving comments on the following questions relating to policy or regulations it may develop concerning WMM capture, use, or destruction:

1. What steps might the Bureau take to reduce WMM emissions from mining on Federal lands?

2. What technologies and methods exist for the capture and use or destruction of high, medium, and low quality mine methane? What are the design, economic, and specific operational considerations of each technology or method?

3. What are the acquisition and operation costs for equipment and facilities that can be used for the capture, use, or destruction of WMM? Please also qualify your response with the size or capacity of the respective equipment you suggest.

4. What are the possible financial impacts of incentives for the capture, use, or destruction of WMM?

5. Would cooperative ventures or partnerships encourage methane capture and use, and how could the BLM assist with their formation?

6. What are the barriers to WMM capture on Federal land and how might the BLM reduce these barriers to facilitate methane capture and use:

a. From drainage wells?

b. From gob gas?

c. From ventilation air (ventilation air methane or VAM)?

7. Should WMM capture be mandated wherever technically and economically feasible and consistent with safe operating practices, or should BLM consider the use of incentives to encourage mine operators to invest capital for the acquisition of equipment and infrastructure required for the capture and use or destruction of WMM collected from Federal lands? To the extent the BLM may consider using incentives, including but not limited to royalty rate reductions, for methane gas or source minerals, or both, what incentive(s) would be most effective in achieving WMM capture objectives while balancing this objective with the need for transparency and a fair return to taxpayers from Federal mineral production?

8. What kinds of surface disturbances and environmental impacts might be caused by methane capture activities, including the installation of collection pipes, pumps, or other equipment?

9. Is there a reason to believe incentives for mine methane recovery from drainage wells would affect, either positively or negatively, mine safety or coal production and royalty revenues?

10. How should Best Practices for methane management on Federal lands be defined and in what ways should the BLM encourage Best Practices for methane management on Federal lands?

Feasibility

Other important considerations in developing a program for the capture of WMM are the economic impacts on prospective projects, impacts on the return to taxpayers from Federal leases, and potential offsetting effects on net methane emissions. Any shift in mining activities away from Federal lands and toward lands with fewer operating requirements could reduce the net emissions benefit of requiring WMM capture on Federal leases. There is also the potential for Federal royalty revenues and bonuses to be reduced. However, if operators could sell (or use on-site) the captured WMM, requiring capture may increase Federal royalty revenues. The BLM is interested in your thoughts and comments about these issues.

The BLM is also interested in your views on the technological and economic feasibility of various methods of reducing WMM emissions, including the following:

1. Abatement by Conversion to Carbon Dioxide or By Other Means. If there are no cost-effective end-uses for WMM (either on-site or off-site sales), methane destruction using a flare or oxidizer is preferred to releasing the WMM to the atmosphere. Conversion of methane into carbon dioxide and water through combustion or oxidation reduces the greenhouse potential of this waste gas. Carbon dioxide, also a greenhouse gas, is produced in the combustion of methane (whether through flaring or in a combined-cycle engine). However, based on the Global Warming Potential (GWP) (a measure of the climate impact of different gases that combines lifetime with radiative efficiency in the atmosphere), methane is many times more potent per pound than carbon dioxide.[1] In addition, the greenhouse potential of methane is 21 times that of carbon dioxide with a 12-year life in the atmosphere. *http://www.epa.gov/climatechange/ghgemissions/gases/ch4.html*. Also important to note is that most methane released into the atmosphere is eventually oxidized to carbon dioxide in any case.[2] Therefore, combustion of methane through flaring or other means has an order of magnitude lower impact

[1] Forster, P. et al. (2007) Changes in Atmospheric Constituents and in Radiative Forcing, In: Climate Change 2007. The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change [Solomon, S., D. Qin, M. Manning, Z. Chen, M. Marquis, K.B. Averyt, M. Tignor and H.L. Miller (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA.

[2] O. Boucher, P. Friedlingstein, B. Collins, K.P. Shine, The indirect global warming potential and global temperature change potential due to methane oxidation, Environ. Res. Lett. 4, 044007 (2009).

on climate than release of that methane unburned.

2. Processing for Pipeline Quality Gas—Methane is the principal component of natural gas, which is used for heating and industrial purposes. WMM may be contaminated with air (or other materials) to various degrees when it is released and collected. Contaminants may need to be removed from the methane before it can be sold as natural gas. A general reference concerning the upgrade of WMM to pipeline-quality gas is available from the EPA at *http://www.epa.gov/cmop/docs/red24.pdf*.

3. Other Mine Methane End Uses—New technologies and innovative use of existing technologies are always evolving. The BLM is also interested in receiving comments regarding other potential WMM reduction methods or technologies that could be applicable to its mineral leasing programs.

Please send or deliver comments to one of the addresses listed under **ADDRESSES**. Please refer to RIN 1004–AE23 in your correspondence.

Tommy P. Beaudreau,

Principal Deputy Assistant Secretary, Land and Minerals Management.

[FR Doc. 2014–09688 Filed 4–24–14; 11:15 am]

BILLING CODE 4310–84–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2014–0002; Internal Agency Docket No. FEMA–B–1021]

Proposed Flood Elevation Determinations for Dona Ana County, New Mexico and Incorporated Areas

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Federal Emergency Management Agency (FEMA) is withdrawing its proposed rule concerning proposed flood elevation determinations for Dona Ana County, New Mexico and Incorporated Areas.

DATES: This withdrawal is effective on April 29, 2014.

ADDRESSES: You may submit comments, identified by Docket No. FEMA–B–1021, 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: On November 24, 2008, FEMA published a proposed rulemaking at 73 FR 70948, proposing flood elevation determinations along one or more flooding sources in Dona Ana County, New Mexico. Because FEMA has or will be issuing a Revised Preliminary Flood Insurance Rate Map, and if necessary a Flood Insurance Study report, featuring updated flood hazard information, the proposed rulemaking is being withdrawn. A Notice of Proposed Flood Hazard Determinations will be published in the **Federal Register** and in the affected community's local newspaper.

Authority: 42 U.S.C. 4104; 44 CFR 67.4.

Dated: April 14, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2014–09746 Filed 4–28–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2014–0002; Internal Agency Docket No. FEMA–B–1068]

Proposed Flood Elevation Determinations for Natchitoches Parish, Louisiana, and Incorporated Areas

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Federal Emergency Management Agency (FEMA) is withdrawing its proposed rule concerning proposed flood elevation determinations for Natchitoches Parish, Louisiana, and Incorporated Areas.

DATES: This withdrawal is effective April 29, 2014.

ADDRESSES: You may submit comments, identified by Docket No. FEMA–B–1068, 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: On September 15, 2009, FEMA published a proposed rulemaking at 74 FR 47182, proposing flood elevation determinations along one or more flooding sources in Natchitoches Parish, Louisiana. FEMA is withdrawing the proposed rulemaking and is no longer proposing flood elevation determination changes along the flooding sources identified in the above-referenced rulemaking publication.

Authority: 42 U.S.C. 4104; 44 CFR 67.4.

Dated: April 14, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2014–09736 Filed 4–28–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2014–0002; Internal Agency Docket No. FEMA–B–7756]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed rule; correction.

SUMMARY: On January 16, 2008, the Federal Emergency Management Agency (FEMA) published in the **Federal Register** a proposed rule that included modified Base (1% annual-chance) Flood Elevations (BFEs) for the locations at the intersection with IH 440 and at the confluence with Palarm Creek along the Arkansas River in Pulaski County, Arkansas. FEMA is no longer proposing these flood elevation determination changes along the

Arkansas River as identified in the above-referenced rulemaking publication.

DATES: Comments pertaining to the Arkansas River BFEs for the locations at the intersection with IH 440 and at the confluence with Palarm Creek are to be submitted on or before May 29, 2014.

ADDRESSES: You may submit comments, identified by Docket No. FEMA–B–7756, 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: FEMA publishes proposed determinations of BFEs and modified BFEs for communities participating in the National Flood Insurance Program (NFIP), 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 minimum requirements. 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.

Correction

In the proposed rule published at 73 FR 2860, in the January 16, 2008, issue of the **Federal Register**, FEMA published a table under the authority of 44 CFR 67.4. The table, entitled ''Pulaski County, Arkansas, and Incorporated Areas'', listed locations of proposed modified flood elevation determinations for several flooding sources, including the Arkansas River. The proposed modifications listed for the Arkansas River should be removed from the table. FEMA is no longer proposing any flood elevation determination changes along the Arkansas River as identified in the above-referenced rulemaking publication.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: April 14, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2014–09747 Filed 4–28–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket ID FEMA–2014–0002; Internal Agency Docket No. FEMA–B–1323]

Proposed Flood Hazard Determinations for Prince George's County, Maryland, and Incorporated Areas

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Proposed Notice; withdrawal.

SUMMARY: The Federal Emergency Management Agency (FEMA) is withdrawing its proposed notice concerning proposed flood hazard determinations, which may include the addition or modification of any Base Flood Elevation, base flood depth, Special Flood Hazard Area boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps, and where applicable, in the supporting Flood Insurance Study reports for Prince George's County, Maryland, and Incorporated Areas.

DATES: This withdrawal is effective April 29, 2014.

ADDRESSES: You may submit comments, identified by Docket No. FEMA–B–1323, 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: On June 17, 2013, FEMA published a proposed notice at 78 FR 36213, proposing flood hazard determinations in Prince George's County, Maryland. FEMA is withdrawing the proposed notice.

Authority: 42 U.S.C. 4104; 44 CFR 67.4.

Dated: April 14, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2014–09743 Filed 4–28–14; 8:45 am]

BILLING CODE 9110–12–P

Notices

Federal Register

Vol. 79, No. 82

Tuesday, April 29, 2014

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

April 23, 2014.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by May 29, 2014 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725—17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Importation of Animals and Poultry, Animal and Poultry Products, Certain Animal Embryos, Semen, and Zoological Animals.

OMB Control Number: 0579–0040.

Summary of Collection: Title 21 U.S.C. authorizes sections 111, 114, 114a, 114–1, 115, 120, 121, 125, 126, 134a, 134f, and 134g of 21 U.S.C. These authorities permit the Secretary to prevent, control and eliminate domestic diseases such as brucellosis and tuberculosis, as well as to take actions to prevent and to manage exotic diseases such as foot-and-mouth disease and rinderpest. Disease prevention is the most effective method for maintaining a healthy animal population and enhancing the Animal and Plant Health Inspection Service (APHIS) ability to compete in exporting animals and animal products. To fulfill this mission APHIS must collect pertinent information from those individuals who import animals and poultry, animal and poultry products, zoological animals, or animal germplasm into the United States. APHIS will collect information using several forms.

Need and Use of the Information: APHIS will collect information from foreign animal health authorities as well as U.S. importers; foreign exporters; veterinarians and animal health technicians in other countries; State animal health authorities; shippers; owners and operators of foreign processing plants and farms; USDA-approved zoos, laboratories, and feedlots; private quarantine facilities; and other entities involved (directly or indirectly) in the importation of animal and poultry, animals and poultry products, zoological animals, and animal germplasm. The information includes such data as the last reported outbreak of a given animal disease in the region; the names of the exporter and importer of the animal commodities; the origins of the animals or animal products to be imported; the health status of the animals or the processing methods used to produce animal products to be imported; the destination of delivery in the United States; and whether the animals or animal products were temporarily offloaded in another country during transit to the United States. APHIS needs this information to help ensure that these imports do not introduce foreign animal diseases into the United States.

Description of Respondents: Business or other for-profit; Farms; Individuals and Households; Federal Governments; and State, Local, and Tribal Governments.

Number of Respondents: 1,278.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 31,923.

Animal and Plant Health Inspection Service.

Title: Blood and Tissue Collection at Slaughtering Establishments.

OMB Control Number: 0579–0212.

Summary of Collection: The Animal Health Protection Act (AHPA) of 2002 is the primary Federal law governing the protection of animal health. The law gives the Secretary of Agriculture broad authority to detect, control, or eradicate pest or diseases of livestock or poultry. The AHPA is contained in Title X, Subtitle E, Sections 10401–18 of Public Law 107–171, May 13, 2002, the Farm Security and Rural Investment Act of 2002. Veterinary Services, a program within USDA's Animal and Plant Health Inspection Service (APHIS), administers regulations governing the interstate movement of animals to prevent the dissemination of animal disease within the United States. These regulations are contained in title 9 CFR, subchapter C, Interstate Transportation of Animals (including poultry) and Animal Products, part 71. The regulations also address animal testing for disease surveillance. Disease surveillance activities are conducted at slaughtering and rendering facilities under listing agreements signed by Federal personnel and slaughter and rendering establishment owners and operators. An establishment is listed after it undergoes inspection to ensure that it meets facility and access requirements.

APHIS will collect information from these establishing using a listing agreement, correspondence regarding withdrawal of listing as well as appeals for denial or withdrawal of listing, and

VS Form 10–5, the Facility Inspection Report.

Need and Use of the Information: APHIS uses the signed listing agreement and VS Form 10–5 to establish a process for routine inspections of slaughter and rendering establishments before an outbreak of an emerging or foreign animal disease; this decreases the time needed to locate affected animals and to eradicate or control the spread of disease. Correspondence regarding withdrawal of listing, and appeals of denial or withdrawal of listing, help APHIS control this process. To date, APHIS has not had to use inspection and listing information because of an emerging or foreign animal disease, but has used it periodically for domestic program disease surveillance (such as for brucellosis in cattle and bison).

Description of Respondents: Business or other for-profit.

Number of Respondents: 1,925.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 1,605.

Animal and Plant Health Inspection Service

Title: Animal Disease Traceability.

OMB Control Number: 0579–0327.

Summary of Collection: The Animal Health Protection Act of 2002 (7 U.S.C. 8301–8317) is the primary Federal law governing the protection of animal health. The law gives the Secretary of Agriculture broad authority to detect, control, or eradicate pests or diseases of livestock or poultry. As part of its ongoing efforts to safeguard animal health, the U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) developed the Animal Disease Traceability (ADT) framework to provide a system that could provide for animal traceability. Traceability helps document the movement history of an animal throughout its life, including during an emergency response or for ongoing animal disease programs. States and Tribal Nations are able to establish the ability to trace animals moving interstate back to their State of origin.

APHIS made systems for animal disease traceability available to Tribal Nations for managing the issuance of unique location identification numbers, including the Standardized Premises Location System and a Tribal Premises Location System, which required completion and submission of Veterinary Services Form 1–63, Tribal Location Identification System Implementation Request. States, Tribes, and territories are responsible for implementing their own traceability systems that align with the framework and other activities to advance animal disease traceability. These systems, which the States and Tribes will describe in their long-term traceability plans, are referred to as ADT Road Maps. In addition, the ADT framework includes the National Uniform Eartagging System (NUES).

The previous name for this collection was ''Animal Disease Traceability; Tribal Nations Using Systems for Location Identification.'' However, based on the January 2013 final rule, there are other entities who must meet the animal disease traceability requirements; therefore, we are changing the name of this collection to ''Animal Disease Traceability.''

Need and Use of the Information: APHIS will use the information provided on VS 1–63 to contact States and Tribal Governments and help them use the premises registration system they selected. In addition, within the ADT Framework, the NUES gives nationally unique identification numbers for animals that need official identification. To distribute and use official identification Eartags, APHIS requires several information collection activities that are to be completed by Animal producers, market/buying station operators, feedlot operators, laboratory staff, device manufacturers, Dairy Herd Information Association officials, and slaughter plant personnel. If this information was not collected, APHIS' ability to address traceability needs would be significantly hampered.

Description of Respondents: State, Local, or Tribal Government; Businesses.

Number of Respondents: 273,645.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 839,600.

Animal and Plant Health Inspection Service

Title: Importation of Tomatoes with Stems from the Republic of Korea into the United States.

OMB Control Number: 0579–0371.

Summary of Collection: Under the Plant Protection Act (PPA, 7 U.S.C. 7701 *Et Seq.*), the Secretary of Agriculture is authorized to prohibit or restrict the importation, entry, or interstate movement of plants, plant products, and other articles to prevent the introduction of plant pests into the United States or their dissemination within the United States. As authorized by the PPA, the Animal and Plant Health Inspection Service (APHIS) regulates the importation of certain fruits and vegetables in accordance with the regulations contained in ''Subpart-Fruits and Vegetables'' (7 CFR 319.56 through 319.56–61). Under the regulations, tomatoes with stems from the Republic of Korea may be imported into the United States under certain conditions.

Need and Use of the Information: APHIS will use the following information collection activities to collect information: registered pest-exclusionary structure, monthly inspection of pest-exclusionary structures, records of trap placement, and a phytosanitary certificate with an additional declaration stating that the tomatoes were produced in accordance with the regulations.

Description of Respondents: Businesses or other for profit; 'Federal Government.

Number of Respondents: 3.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 7.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2014–09627 Filed 4–28–14; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

April 23, 2014.

The Department of Agriculture will submit the following information collection requirement(s) 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. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, Washington, DC; New Executive Office Building, 725—17th Street NW., Washington, DC, 20503. Commenters are encouraged to submit their

comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602.

Comments regarding these information collections are best assured of having their full effect if received by May 29, 2014. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Agricultural Marketing Service

Title: Local Food Marketing Directories and Survey.

OMB Control Number: 0581–NEW.

Summary of Collection: The Marketing Services Division of USDA's Agricultural Marketing Service identifies marketing opportunities, provides analysis to help take advantage of those opportunities and develops and evaluates solutions including improving direct-to-customer marketing activities. Section 203(a) of the Agricultural Marketing Act of 1946, (7 U.S.C. 1621–1627), as amended, directs and authorizes the Secretary of Agriculture ''to determine the needs and develop or assist in the development of plans for efficient facilities and methods of operating such facilities. In addition, the Farmer-to-Consumer Direct Marketing Act of 1976 supports USDA's work to enhance the effectiveness of direct marketing, such as the development of farmers markets, on-farm markets, CSA's and food hubs. On-farm markets, community supported agriculture (CSA) as well as food hubs comprise an integral part of the urban/farm linkage and have continued to rise in popularity, mostly due to the growing customer interest in obtaining fresh products directly from the farm.

Need and Use of the Information: On-farm markets, CSAs, and food hubs serve different parts of the food marketing chain, but all focus on the small-to-medium-sized agricultural producers. The survey will cover topics such as: characteristics and history of on-farm markets; CSAs and food hubs; types of products sold, including fresh, locally-grown farm products; location of the markets, special events, marketing methods, participation in federal programs designed to increase consumption of fresh fruits and vegetables. The data collected will be used to build three web-based directories and describe the characteristics of each and identify trends in their communities.

Description of Respondents: Farm operators that operate on-farm stores, operators of Community Supported Agriculture (CSA's), farm operations, and operators of food hubs.

Number of Respondents: 56,750.

Frequency of Responses: Annually.

Total Burden Hours: 355.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2014–09626 Filed 4–28–14; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

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

Agency: Bureau of Industry and Security (BIS).

Title: Five-Year Records Retention Requirement for Export Transactions and Boycott Actions.

OMB Control Number: 0694–0096.

Form Number(s): N/A.

Type of Request: Regular submission (extension of a currently approved information collection).

Number of Respondents: 1,800,412.

Average Hours per Response: 1 minute.

Burden Hours: 30,007.

Needs and Uses: All parties involved in export transactions and the U.S. party involved in a boycott action are required to maintain records of these activities for a period of five years. These records may be retained in an electronic format or in paper form and include export control documents and other documents described in Section 762 of the Export Administration Regulations (EAR). The five-year record retention period corresponds with the five-year statute of limitations for criminal actions brought under the International Emergency Economic Powers Act, the Export Administration Act of 1979 and predecessor acts, and the five-year statute for administrative compliance proceedings. Without this authority, potential violators could discard records demonstrating violations of the EAR prior to the expiration of the five-year statute of limitations.

Affected Public: Businesses and other for-profit organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain benefits.

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

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

Dated: April 23, 2014.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–09671 Filed 4–28–14; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

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

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: DOC National Environmental Policy Act Environmental Questionnaire and Checklist.

OMB Control Number: 0690–0028.

Form Number(s): NA.

Type of Request: Regular submission (revision and extension of a current information collection).

Number of Respondents: 1,000.

Average Hours per Response: 3 hours.

Burden Hours: 3,000.

Needs and Uses: This request is for revision and extension of a currently approved information collection.

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321–4347) and the Council on Environmental Quality's (CEQ) Regulations for Implementing NEPA (40 CFR 1500–1508) require that an environmental analysis be completed for all major federal actions significantly affecting the environment. NEPA applies only to the actions of federal agencies. Those actions may include a federal agency's decision to fund non-federal projects under grants and cooperative agreements. In order to determine NEPA compliance

requirements for a project receiving Department of Commerce (DOC) bureau-level funding, DOC must assess information which can only be provided by the applicant for federal financial assistance (grant). These include mainly grants to applicants for federal assistance and federal entities proposing construction or infrastructure projects. NEPA requires that a number of items be considered prior to funding and conducting any activity.

The Environmental Questionnaire and Checklist (EQC) provides federal financial assistance applicants and DOC staff with a tool to ensure that the necessary project and environmental information is obtained. The EQC was developed to collect data concerning potential environmental impacts and help educate the Federal reviewer about the project, streamline the collection of data, and maintain consistency in quality and quantity of information received. The EQC will allow for a more rapid review of infrastructure projects and facilitate DOC in evaluating the potential environmental impacts of a project and level of NEPA required. DOC staff will use the information provided in answers to the questionnaire to determine compliance requirements for NEPA and conduct subsequent NEPA analysis as needed. Information provided in the questionnaire may also be used for other regulatory review requirements associated with the proposed project, such as the National Historic Preservation Act.

Revision: The checklist is being revised to improve understanding and clarity of the questions.

Affected Public: $1,000 in miscellaneous costs ($5 x approximately 200 respondents who would mail attachments rather than emailing them).

Frequency: On occasion.

Respondent's Obligation: Required to obtain or maintain benefits.

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

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

Dated: April 23, 2014.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–09682 Filed 4–28–14; 8:45 am]

BILLING CODE 3510–NW–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

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

Agency: Office of the Secretary, Office of the Chief Information Officer.

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Control Number: 0690–0030.

Form Number(s): Not applicable.

Type of Request: Regular submission (extension of a currently approved information collection).

Number of Respondents: 244,710.

Average Hours per Response: 5 to 30 minutes for surveys; 1 to 2 hours for focus groups; 30 minutes to 1 hour for interviews (Other response times will depend on the type of information collected).

Burden Hours: 63,134.

Needs and Uses: Executive Order 12862 directs Federal agencies to provide service to the public that matches or exceeds the best service available in the private sector. In order to work continuously to ensure that the Department of Commerce (DOC) programs are effective and meet our customers' needs we use a generic clearance process to collect qualitative feedback on our service delivery. This collection of information is necessary to enable DOC to garner customer and stakeholder feedback in an efficient, timely manner, in accordance with our commitment to improving service delivery. 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.

Affected Public: Individuals or households; Businesses or other for-profit organizations; Not-for-profit institutions; State, Local or Tribal Government; Federal Government.

Frequency: One-time; Annually.

Respondent's Obligation: Voluntary.

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

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

Dated: April 23, 2014.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–09670 Filed 4–28–14; 8:45 am]

BILLING CODE 3510–17–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–815]

Light-Walled Rectangular Pipe and Tube From Turkey; Preliminary Results of Antidumping Duty Administrative Review; 2012–2013

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

SUMMARY: In response to a request from Yücel Boru ve Profil Endustrisi A.S. and Yücelboru Ihracat Ithalat ve Pazarlama A.S. (collectively, Yucel), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on light-walled rectangular pipe and tube from Turkey. The period of review (POR) is May 1, 2012, through April 30, 2013. We preliminarily find that Yucel did not make sales at prices below normal value (NV) during the POR. We invite interested parties to comment on these preliminary results.

DATES: *Effective Date:* April 29, 2014.

FOR FURTHER INFORMATION CONTACT: Mark Flessner or Robert James, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–6312 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise covered by the order is certain welded carbon quality light-walled steel pipe and tube, of rectangular (including square) cross section, having a wall thickness of less than 4 millimeters. The merchandise subject to the order is classified in the Harmonized Tariff Schedule of the United States at subheadings 7306.61.50.00 and 7306.61.70.60.

For a full description of the scope of the order, see the memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul

Piquado, Assistant Secretary for Enforcement and Compliance, entitled ''Light-Walled Rectangular Pipe and Tube from Turkey: Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review; 2012–2013'' (Preliminary Decision Memorandum), which is dated concurrently with this notice and is hereby incorporated by reference.[1] The Preliminary Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Methodology

The Department conducted this review in accordance with section 751(a)(2) of the Tariff Act of 1930, as amended (the Act). EP is calculated in accordance with section 772 of the Act. NV is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum.

Preliminary Results of the Review

As a result of this review, we preliminarily determine the following weighted-average dumping margin for the period May 1, 2012, through April 30, 2013:

Exporter or producer	Weighted-average dumping margin (percent)
Yücel Boru ve Profil Endustrisi A.S	0.00

Disclosure and Public Comment

The Department intends to disclose to interested parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice.[2] Pursuant to 19 CFR 351.309(c), interested parties may submit cases briefs no later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the date for filing case briefs.[3] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[4] Case and rebuttal briefs should be filed using IA ACCESS.[5]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via IA ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5:00 p.m. Eastern Standard Time within 30 days after the date of publication of this notice.[6] Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. If a request for a hearing is made, parties will be notified of the date and time of the hearing to be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

The Department intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in all written case briefs, within 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Assessment Rates

Upon completion of the administrative review, the Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries.[7] If Yucel's weighted-average dumping margin is not zero or *de minimis* in the final results of this review, we will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for an importer's examined sales and the total entered value of such sales in accordance with 19 CFR 351.212(b)(1). If Yucel's weighted-average dumping margin is zero or *de minimis* in the final results of review, or an importer-specific rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

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

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of light-walled rectangular pipe and tube from Turkey entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for Yucel will be the weighted-average dumping margin established in the final results of this administrative review except if the rate is *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment of the proceeding for the manufacturer of the merchandise; (4) the cash deposit rate for all other manufacturers or exporters will continue to be 27.04 percent *ad valorem,* the all-others rate established in the less-than-fair-value investigation.[8] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation

[1] A list of the topics discussed in the Preliminary Decision Memorandum appears in the Appendix to this notice.

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

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

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

[5] *See* 19 CFR 351.303.

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

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

[8] *See Notice of Antidumping Duty Order: Light-Walled Rectangular Pipe and Tube From Turkey,* 73 FR 31065 (May 30, 2008).

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

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

Dated: April 21, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

Summary
Background
Scope of the Order
Limited Home Market Reporting
Methodology
  Fair Value Comparisons
  Product Comparisons
  Determination of Comparison Method
  Date of Sale
  U.S. Price
  Normal Value
  Currency Conversion
Conclusion

[FR Doc. 2014–09758 Filed 4–28–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Infrastructure Business Development Mission to Morocco, Egypt, and Jordan December 3–11, 2014

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

Mission Description

The United States Department of Commerce, International Trade Administration is organizing an Executive-led Infrastructure Business Development Mission to Morocco, Egypt, and Jordan from December 3–11, 2014.

The purpose of the mission is to introduce U.S. firms and trade associations to Morocco, Egypt, and Jordan's rapidly expanding infrastructure markets and to assist U.S. companies to pursue export opportunities in these markets. The mission is intended to include representatives from U.S. companies and U.S. trade associations with members that provide infrastructure-related technologies, project managers and implementers, as well as companies with efficient energy equipment and technologies. The mission will visit three countries, Morocco, Egypt and Jordan, where the delegates will receive market briefings and participate in customized meetings with key port officials and prospective partners. Participants may also opt to receive briefings on opportunities and have meetings in the efficient energy infrastructure market in the West Bank for an additional cost.

Targeted sectors include:

- *Efficient Energy Technologies, Equipment and Services*
  - Electrical generating equipment
  - Gas and steam turbine units
  - Clean coal technology
  - Transmission and distribution equipment and services
  - Wind and solar energy technology and equipment
  - Products and services related to power industries and electricity grid
  - Compressed Natural Gas (CNG) and Liquefied Natural Gas (LNG) technologies and peripherals
- *Transportation Infrastructure and Equipment*
  - New and refurbished locomotives
  - New bulk car and other dedicated rolling fleets
  - Smart Signaling and operations' automation
  - Business model analysis
  - Strategic route design and network planning
  - Road/Freight Transport
  - Public Transport/Public Transit link
- *Water and Waste Treatment*
  - Water Demand Projects
  - Water Supply Projects
  - Wastewater technology
  - Sanitation equipment
  - Water desalination
- *Marine and Ports Infrastructure*
  - Dredging equipment
  - Conveyors
  - Freight handling equipment
  - Storage equipment
  - Cranes
  - Navigation equipment
  - Stevedoring
  - Warehousing
  - Cold storage facilities
- *Tourism and Building Construction*
  - Entertainment technology (Resorts and parks)
  - Pipeline equipment
  - Green Building Technologies
  - Utilities and Infrastructure

Although focused on the sectors above, the mission also will consider participation from companies in other appropriate sectors as space permits.

Commercial Setting

Governments across the Middle East and North Africa are increasingly aware that continual change is needed to meet the growing demand of a total population of 124.5 million (33m Morocco, 85m Egypt, 6.5m Jordan) for infrastructure expansion and upgrade. Infrastructure expansion in the region is expected to grow at an annual rate of 5–7% in 2014. Many of the region's governments have issued aggressive targets for infrastructure development in energy, transportation, aviation, ports, and water treatment, construction of housing, and roads & bridges, which could mean great opportunities for U.S. exporters.

Over the next few years, the private sector can play a big role in further realizing the potential in infrastructure projects throughout North Africa and the Levant. U.S. companies will benefit from exploring the market at early stages and introducing their advanced technologies. The governments of Morocco, Egypt, and Jordan are in various stages of tendering infrastructure projects. Several financial institutions have noted the growing appetite for investments in infrastructure and have developed tailored programs to meet the demand. The European Bank for Reconstruction and Development, Overseas Private Investment Corporation and the U.S. Trade and Development Agency are all exploring opportunities to invest in infrastructure projects in North Africa and the Levant.

Morocco

Morocco is solidifying its age-old position as a commercial bridge between Europe and West Africa, and modern infrastructure in the form of world-class ports, airports, and rail links are key to realizing this goal. Strategically located along the Strait of Gibraltar just a seven-hour flight from New York, NY and three hours from Paris, Morocco is seen more and more as a regional hub in North West Africa for transportation and business. Morocco's moderate Mediterranean climate on 2,750 miles (3,500 kilometers (km)) of coastline and its developing infrastructure make it an attractive location for business and leisure. To meet the domestic demand for infrastructure, the Moroccan government plans to invest, by 2015, more than $15 billion to upgrade its basic infrastructure. In addition, given Morocco's growing population and the economic importance of agriculture, a plethora of projects are underway in water technologies including

wastewater treatment, water distribution and irrigation. In addition, Morocco has announced plans to generate 47% of all power from efficient energy sources by 2020 including a national solar plan to generate 2 gigawatts (GW) by 2020.

The U.S.-Morocco FTA is one of the most comprehensive free trade agreements that the U.S. has ever negotiated. Morocco is the second Arab and first African nation to have an FTA with the U.S. The FTA provides U.S. exporters increased access to the Moroccan market by eliminating tariffs on more than 95 percent of consumer and industrial goods. It helps to level the playing field with European competition and provide enhanced protection for U.S. intellectual property. Moroccan officials have stated their view that the FTA is a catalyst to accelerate and reinforce the country's economic reform process by allowing greater competition and the formation of international partnerships in key sectors such as insurance and banking, and by greatly liberalizing the Moroccan textile and agricultural tariff structures.

Egypt

With a population of over 85 million and a GDP of $219 billion the Egyptian economy is one of the largest in the Arab World, and the second largest in the Middle East and North Africa region. The United States is Egypt's second largest bilateral trading partner, and Egypt is the fourth largest export market for U.S. products and services in the Middle East and North Africa region. In 2013, bilateral trade dropped to $6.8 billion as a result of a decline in Egyptian exports. Egypt continues to be a significant importer of American agricultural commodities, machinery, and equipment. Both foreign and Egyptian investors will find business opportunities in infrastructure development that will create demand for U.S. goods and technologies in the energy, transportation, and construction industries.

At the end of 2013, the Government of Egypt announced a $3.5 billion economic stimulus package targeting its infrastructure projects. Egypt's transitional government has been moving key infrastructure projects along in housing, transportation including the Suez Canal Regional Development Project, and energy. The Suez Canal Regional development is a mega project that is planned to transform the Suez Canal area into an international economic hub that will contribute to long term development. Project implementation is expected in late 2014/2015. Egypt plans to build over a million housing units and invest in roads, bridges, and airport projects. Egypt has also set an aggressive target of generating 20 percent of all power from wind, hydro and solar by 2020. Egypt is just one of 34 countries with significant enough solar and wind resources to develop atlases for both efficient energy sources. The Government of Egypt has also announced the construction of new water plants in Upper Egypt as part of the upgrading of this region.

Egypt possesses the fundamentals to become a business hub in North Africa and the Middle East region: great geographic location linking two continents, and abundance in young skilled human resources. In January 2014, Egypt's constitution was ratified by a majority vote through a referendum. Presidential elections are expected by early summer 2014 and parliamentary elections will follow shortly thereafter.

Jordan

The Jordanian Government continues to develop the country's infrastructure and spending on various projects to boost economic growth. The government developed a national transport strategy to upgrade the country's infrastructure and allow Jordan to capitalize on its natural geographical advantages. The transportation sector accounts for more than 10% of Jordan's gross domestic product (GDP) and is expected to grow at an annual rate of 6%. Jordan's $18 billion strategic energy plan is growing and developing rapidly. Jordan, with strong winds and sunny days, will invest $2.2 billion in efficient energy projects to increase its share in the energy mix to 10% by 2020.

Jordan is a market of 6.5 million people located in the heart of the Levant region. The Hashemite Kingdom is the first Arab country to sign an FTA with the United States. The friendship between Jordan and the U.S. is symbolized by the U.S.-Jordan Free Trade Agreement, which was fully implemented on January 1, 2010 eliminating the tariffs on virtually all products traded between the two countries. FTA benefits have resulted in increased trade between the U.S. and Jordan of 600 percent over ten years. In 2013, bilateral trade between the two countries was $3.1 billion.

Regionally, and particularly during the Arab Spring, Jordan has been very stable for business and international investment. Jordan has strong, cooperative relations with its neighbors and the wider international business community. Increasingly Jordan is becoming a regional hub for trade and business investment to neighboring countries including Iraq. U.S. companies are developing models for entry into the Iraq market using Jordan as a platform.

Jordan's modern infrastructure helps businesses navigate the world more quickly and comfortably and even though Jordan continues to face multiple exogenous shocks due to high import prices for oil and food and heightened regional political tensions, the Jordanian government intends to continue developing the country's infrastructure and spend on various projects to boost economic growth.

Best Prospects in Mission Targeted Sectors

Energy Technologies, Equipment and Services

Morocco

Morocco's energy development plan relies on a strategy where new energy technology updates play a key role and the Moroccan government has announced many initiatives dedicated to enhance their energy plan. Diversification and the reduction of the country's reliance on fuel oil led the Moroccan government to plan for the establishment of a re-gasification (LNG) terminal using natural gas. Morocco's natural gas plan aims at increasing the contribution of natural gas in its energy supply to 23% by the year 2020 (currently 0.36%). Once the natural gas plan is implemented, the independent power producers (IPPs) of Tahaddart, Al Wahda and Ain Beni Mathar, which use combined cycle technology, will be able to enhance their competitiveness by reducing their production costs. The regulatory framework, which is pending approval by the government, is the major barrier for any project in this sector. Biomass in Morocco has the potential of 950 megawatts (MW) based on abundant agricultural resources, including wide areas for livestock breeding (2.6 million cattle, 16.3 million sheep and 5.3 million goats). The Green Morocco Plan to boost agricultural production and new regulations for waste management represents an additional potential of 400MW by the year 2030. In 2002, the U.S. consortium (GESI-Edgeboro-SADAT) won a government tender for the management of the first controlled landfill in Fez. It plans to convert methane gas from the landfill into electricity to power all Fez public lighting.

While Morocco's wind power potential capacity is estimated at 6,000 MW, the existing installed capacity of Morocco's eight wind farms is limited to 487 MW. Four wind projects under construction are expected to provide an

installed capacity of 720 MW by 2015. Six wind farms of a total installed capacity of 1,000MW are in the tendering phase and expected to be implemented by 2020. In addition to the 2 gigawatt (GW) solar plant managed by the Moroccan Agency for Solar Energy (MASEN) to be completed by 2020, Morocco's Office of Electricity and Water launched 3 photovoltaic (PV) plants in the east of Morocco with capacities ranging between 10 and 25MW. MASEN's solar plan will require $9 billion in investment and will create a significant Moroccan solar industry, as well as establish leading research and development infrastructure for Africa. The current hydroelectric power capacity amounts to 1,770 MW. Among the 580 MW that is under construction, 12 hydroelectric plants will start producing 92 MW in 2016.

Furthermore, existing independent power producers (IPPs) are slated for extensions of their capacities. The capacity of the Ain Beni Mathar thermo-solar plant will be augmented from 230 MW to 450 MW. This project will optimize the consumption of gas proceeds of the Algerian pipelines. The Jorf Lasfar generation plant is also expected to add two-generation units to its existing four units.

Egypt

Egypt currently has an energy generation capacity of 3.1 gigawatts (GW) and requires 10% annual growth in energy generation to keep up with a growing population and demand. 96% of Egypt's current energy generation is supplied by oil and gas. Although Egypt must expand its' energy generation it is also exploring energy conservation and efficiency as well as seeking to diversify its' energy sources. In 2008, the Egyptian Supreme Energy Council approved the Egyptian Renewable Energy National Strategy to satisfy 20% of the generated electricity by 2020 using energy efficient technologies (Wind 12%, Hydro power 5.8%, and Solar 2.2%). In July 2012, the Egyptian Cabinet approved the Solar Energy plan to create a capacity of 3.5 GW by 2027. The plan includes 2.8 GW CSP and 700 MW PV. The strategy also lays out plans to generate 7.2 GW (12% of generated electricity) from wind by 2020. The plan suggests significant private sector involvement noting that the private sector will take the lead on 67% of the plan. Egypt has already begun issuing land grants for the development of wind and solar energy projects and project developers are identifying products and financing. Egypt must also explore energy efficiency technologies to promote rational use of their limited generation capacity.

Jordan

The Government of Jordan (GOJ) faces challenges in the energy sector. These include rising demand due to population growth, increased per capita consumption and a reduction in the availability of market priced fuel. Jordan imports 96 percent of its oil and gas, which accounts for almost 20 percent of the country's Gross Domestic Product (GDP). To resolve this crisis, the Jordanian Government approved in 2007 an $18 billion energy strategic plan to guide the country until 2020.

Jordan's $18 billion strategic energy plan continues to be implemented and adapted at a rapid pace. The plan covers all aspects of the energy sector from generation to transmission, and from conventional power to renewable and nuclear energy. Various plans are in progress to remedy the challenges addressed by this strategy. The Government of Jordan is therefore actively seeking development of energy sources including the use of the country's uranium, oil shale deposits, and solar and wind power.

Transportation Infrastructure and Equipment

Morocco

The Moroccan government continues to support spending on basic infrastructure where roads, railways, and airports have been among the assets to benefit from the stronger spending. Morocco values it high quality network of roads and aims to reach 1,800 km of highways in 2015 (1,416 in 2012), 1,300 km in 2016 of expressways (700 km in 2012) and 2,500 km of country roads by the end of 2014 (11,236 km in 2012). Moreover, improving transportation safety in some areas of Morocco will result in the implementation of tunnels and beltways, especially around the Atlas mountain areas. Currently, les Autoroutes du Maroc, a state owned company, has the monopoly of highway construction and operations. To enhance road expansion, the government is working on the liberalization of highway operations.

Morocco's railway network comprises 2,110 km of track, with 120 rail stations. Future development plans include the completion of the Tangier-Casablanca (370 Km) high-speed rail, to be implemented by 2015, and the studies for the Casablanca-Marrakesh high-speed line (230 km). This will require the creation of maintenance centers dedicated to high-speed rail activity. The Office National Des Chemins de Fer (ONCF) in charge of railway development and the sole railway operator intends to modernize rail lines and rail stations, as well as several regional rail networks around large urban centers, and is committed to developing logistics platforms close to its lines.

In order to support Morocco's ''2020 Vision'' tourism strategy, Morocco's Ministry of Transports and the Office de National des Aeroports (ONDA—in charge of Airports management and air traffic control) engaged in a development strategy that aims at strengthening the status of the Casablanca airport as an international hub towards and from Central and West Africa, and developing Marrakesh airport as a hub towards Europe and sustaining the development of airport infrastructure through airports extensions, modernizations and new constructions.

Current ONDA projects include: The extension of Nador airport ($40 million), the construction of new terminals at Marrakesh airport ($132 million) and Fes airport ($58 million), and the construction of new airports at Beni-Mellal ($20 million) and Zagora ($15 million). All projects are to be completed between September 2014 and December 2015. Future airport upgrades will include Essaoura, Oujda, and Al Hoceima.

Egypt

The Ministry of Transport is devoting significant planning and resources in enhancing various modes and systems of transport. It is developing an effective master plan that takes into consideration the current and future land use in correlation with the increase of passenger and freight movement. It is striving to maintain and develop transport networks, services, and infrastructure through investing capital into areas such as railways and high-speed railways, road networks, logistic centers and transport, tunneling and urban transport, and maritime transport. The main objective is to facilitate the movement of people and goods in a secure manner while connecting industrial hubs with consumer markets.

The Ministry of Transport has allocated $574.5 million for investments in roads and bridges in Upper Egypt as one of the top priorities for development of Upper Egypt. For example, a number of bridges will be built in Upper Egypt connecting the east and west sides of the Nile River at a total cost of $258.5 million.

Egypt's Ministry of Aviation is expected to move forward on several airport expansion projects including the

Cairo airport among others. The Ministry is also evaluating the possibility of sourcing electricity needs from renewable sources at Egypt's airports. Under the Ministry's purview, the Egyptian Holding Company for Airports and Air Navigation (ECHAAN), Cairo Airport Company, is also expected to issue a tender for the development of the Cairo Airport City project to be erected on 10 million square meters on the north eastern and south western sides of the Cairo Airport. The new development would include retailing areas, commercial shopping malls, logistics and a cargo terminal, hotels, and medical and recreational activities. The bidding model for projects is based on the Public-Private Partnerships, Build Operate Transfer, and Design-Build Operate Transfer arrangements. Total investment cost is $18 billion and opportunities for U.S. firms would include airport design, airport/aviation equipment, and consulting services in related fields such as aviation security, cargo management services, construction management and project management.

Jordan

The transportation sector in Jordan is comprised of passenger and cargo road transport, air transport, and sea transport. The transportation sector accounts for more than 10% of Jordan's GDP. It is growing at an annual rate of 6%.

As part of the Government initiative to reform the economy, and in light of the importance of the transportation sector, the Ministry of Transport (MOT) launched the National Transport Strategy for 2014–2020 that aims at making Jordan a regional hub for transport, upgrades railways to boost international trade, upgrades the country's infrastructure and regulatory reforms, and allows Jordan to capitalize on its natural geographical advantages.

The MOT's 2014 allocated budget is about $62.28 million with 95.8% focused on completing the existing networks; making the best use of the existing facilities; pursuing a multimodal approach; combining infrastructure investments and policies; protecting the environment and reducing negative impacts; and emphasizing the regional dimension. Jordan has excellent road connections connecting Jordan with neighboring countries. It has around 80,000 km of paved roads and highways. Since 2002, the Ministry of Public Works and Housing started implementation of its 25-year plan that aims to complete an extensive road network around the country. This includes building ring roads around major cities and development areas such as the capital of Amman as well as Salt and Irbid. Investments on road improvement and development are expected to reach more than $1.8 billion within the coming 25 years.

In addition, the Jordanian government prepared a railway master plan to build an entirely new standard-gauge railway network. A Light Railway project has been under study, which will connect Amman to Zarqa, totaling 26 km. The project is estimated to cost $330 million.

Water and Waste Treatment

Morocco

There have been substantial improvements in access to water supply, and to a lesser extent to sanitation, over the past twenty years in Morocco. However, challenges remain in this sector concerning wastewater treatment and access to water utilities in rural areas and in the poorest urban neighborhoods. To counter some of these issues, Morocco's National Office of Water and Electricity (ONEE) will spend $2.6 billion over the period 2014–2016, on water and waste treatment projects. During this period $1.5 billion will be used to secure drinking water supply in urban areas and facilitate urban, industrial and tourism development with an additional supply of more than 18.6 million cubic meters (m^3) of water. $516 million is earmarked for rural water supply solutions and the development of 80 rural water distribution centers with the goal of advancing Morocco's access to drinking water to 96% of the population. Furthermore, $576 million will be allocated for sewerage treatment centers in 40 cities to increase treatment capacity to 118,000 m^3 per day. External cooperation plays a major role in the Moroccan water and sanitation sector strategy and these projects provide an opportunity for U.S. firms to export their products and services to this market.

Egypt

Egypt suffers from a water shortage of more than 23 billion m^3 of water a year. Egypt receives 55.5 billion cubic meters of water from the Nile, which represents more than 95% of Egypt's water resources. It is forecasted that in 2025 the population of Egypt will increase to about 95 million from about 75 million in 2008, leading to a decrease in per capita water availability from 800 to 600 m^3 per year assuming that total water availability remains constant. Water resources management in modern Egypt is a complex process that involves multiple stakeholders who use water for irrigation, municipal and industrial water supply, hydropower generation and navigation. Egypt is aiming to reduce this gap by implementing water saving, sanitation, irrigation, and recycling of wastewater projects. The Egyptian government is currently considering feasibility studies from the governorates to determine priority irrigation projects, specifically the construction of pumping stations and drilling ground wells. This will allow the governorates to obtain the necessary loans to implement irrigation projects in their respective areas. The Egyptian government also formed a technical committee to re-evaluate the necessary investments to execute the West Delta projects to establish an agriculture canal from the Al-Nasser water channel to the lower Bahiri water channel and the railroad. This project would irrigate lands west of the Cairo-Alexandria desert road. Furthermore, Egypt will open bids to public and private sector companies for beautification projects along the western bank of the Nile. The projects include building sewage lines, public parks, cafeterias and recreation centers. As the Egyptian government is reestablished following Presidential and Parliamentary elections in mid-2014, U.S. firms will have the prime opportunity to present U.S. technologies and know-how during the early implementation phase of Egypt's water and waste treatment project operations.

Jordan

Water scarcity in Jordan continuously triggers demand for water conservation technology and management at all levels of use. Given Jordan's high population growth, limited renewable water resources, and deteriorating water quality, the effective management and efficient use of water resources is critical both at the household and nationwide levels. Treated wastewater is an important component of the Kingdom's water resources. Jordan will continue investment in infrastructure, focusing on reducing water system losses and wastewater treatment and reuse. Approximately 114 million m^3 of wastewater are treated each year in Jordan, and there are plans to double this to 240 million m^3 by 2020.

The Millennium Challenge Corporation (MCC) is a U.S. Government entity helping to improve Jordan's water security and environment. U.S. companies may bid on tenders as they are issued for the MCC's $275 million grant to the Government of Jordan. Furthermore, the government decided that the entire Jordan MCC Compact Agreement would

be in the water and wastewater sector. Those investments will concentrate on the areas of wastewater treatment and re-use, as well as leak reduction. Projects in the value of $400 million are expected to result from the Compact Agreement, which will create several sales opportunities for U.S. service providers.

The MCC's focus is on three integrated infrastructure project in Zarqa Governorate:

- The Water Network Project will improve the overall drinking water system efficiency in the governorate through the construction and rehabilitation of pump stations, reservoirs and hundreds of kilometers of water transmission and delivery pipes.
- The Wastewater Network Project is rehabilitating and extending hundreds of kilometers of sewer lines to urban areas in the governorate.
- The As-Samra Wastewater Treatment Plant Expansion Project (building on USAID investment) is expanding the capacity for high quality treatment of nearly all wastewater generated in Amman and Zarqa, creating new supplies of water that can be used in agriculture in the fertile Jordan Valley.

Marine and Ports Infrastructure

Morocco

Morocco has 15 commercial ports that generated 92.3 million tons in merchandise traffic in 2012. Major developers of ports are Agence National des Port (ANP) and Tangier-Med Special Agency (TMSA). Tangier-Med Port terminals 1 and 2 are operational. It is expected to reach full capacity by 2015, and annually to operate 8 million containers, 7 million passengers, 700,000 trucks, 2 million vehicles, and 10 million MT of oil products, becoming thus the largest transshipment port in Africa. After this successful project that transformed the economic conditions of the Tangier region, the government intends to develop six new fully integrated ports around Morocco (East/North-east/Kenitra-Casablanca/Doukkala-Abda/Souss-Tensift/South).

Egypt

The Suez Canal Area is located at the corridor between Asia and Europe playing a strategic role for world trade. The project is deemed as the first integrated and organized approach to utilize the economic potentials of this unique location. The government of Egypt is resolving to build on these opportunities presented by the Suez Canal history and work on transforming it into an international economic hub that shall contribute to long-term development. The Government of Egypt has allocated approximately $287 million to complete the feasibility studies for these infrastructure projects. These projects include the construction of four new seaports in the three provinces surrounding the canal, a new industrial zone west of the Gulf of Suez, and a ''technology valley'' in Ismailia that will host several technology projects.

The Egyptian government also has plans for infrastructure port projects, which will require heavy construction, freight handling equipment, dredging equipment, navigation systems, and safety measures. One example is the Red Sea Port Authority that is inviting foreign firms to participate in the construction, operation, and maintenance of marine jetty and a container terminal in Port of Safaga and Port of El Tor. In efforts to accommodate larger ships and upgrade the port through a dredging program, the Ministry of Transport has also allocated around $9 million to Damietta Port Authority. The East Port Said Port Authority is also seeking to expand and build new terminals.

Jordan

Jordan has a single sea outlet on the Gulf of Aqaba (Red Sea). Currently, the port is divided into three major areas under the government-owned Ports Corporation to complete the port transformation into a world-class business hub. The planned $3 billion investment in relocating the main port area, development of the area for commercial use, and the construction of a general cargo terminal in the southern zone is expected to finish in the year 2020.

Tourism and Building Construction

Morocco

Morocco is one of the world's most attractive and well-established tourism destinations. Trip Advisor ranked Moroccan city Marrakesh among the world's top 25 destinations in April 2014. The American Association of Travel Agents will hold its annual conference in Marrakesh in 2015. Morocco is the most stable country in North Africa and is already a well-established tourism destination especially for Europeans. With ongoing and probably long-term unrest in competing tourism markets in North Africa, Morocco is expected to experience higher volume in the short and medium term. However, recent reports indicate that the quality of Moroccan hotels and resorts is slipping. Given the importance of the sector to the Moroccan economy, we expect enhanced tourism construction projects and cultural renovations throughout the country will increase demand for U.S. project management expertise, construction equipment, and building systems.

Egypt

Tourism, as the largest earner of foreign exchange and employer of more than 10% of Egyptian workers, also offers strong possibilities. Expansions among the Red Sea resorts provide increasing opportunities for exporters of hotel equipment, environmental management services, and energy-efficiency technologies. Airports and other infrastructure being built to serve the new resorts also offer excellent prospects for U.S. exporters. Tourism along the Red Sea coast continues to grow, and the government is advocating development along the Mediterranean coast as well. These opportunities continue to attract U.S. project management expertise, building systems (including green building technologies) and equipment. There is a continuous need for U.S. products and services relevant to this sector. Some of the products include entertainment centers, hotel restaurant equipment, as well as maintenance systems and equipment.

Real estate development and construction also offers strong possibilities in the Egyptian market as the Egyptian population has recently seen a significant growth rate, which has led to an increased demand for residential construction. There is a high urbanization rate with a growing middle class that demands retail and commercial real estate. The Egyptian Ministry of Housing and Development has pledged to provide 1 million affordable housing units over the next five years. Over the next five years the government plans to increase the number of new cities from 27 to 59. In addition, numerous shopping centers and office parks are under construction to meet the middle class market demands. These developments provide an opportunity for U.S. firms to export their products and services relevant to urbanization and project management.

Jordan

The ''Green Building'' concept is growing in Jordan, which is poised to emerge as one of the region's leaders in ''Green Building'' design and construction. A significant shift in the developers' and customers' views towards ''green building'' design has been driven by massive media campaigns on environmental protection

spearheaded by both governments and private organization across the region. The real estate sector has witnessed various initiatives to support environmental compliance with local developers aggressively building properties designed to fulfill Leadership in Energy and Environmental Design (LEED) certification requirements. These developments provide an opportunity for U.S. firms to export their products and services relevant to ''Green Building''.

Optional West Bank Briefings and Meetings in Jordan

The Palestinian Territory imports around 92% of its electricity from Israel, with a small amount coming from Jordan and Egypt.

There is potential for the solar and wind energy sectors to make a systematic difference in the Palestinian economy. Research has been carried out on the ground in the West Bank, in consultation with the government, the private sector, academics, electricity distribution companies, and non-governmental organizations. Solar power is seen as having real potential in the West Bank in addition to wind power in some areas.

The energy sector in the West Bank and Gaza (Palestinian Territories) is the main driver for Palestinian economic growth and development. The electricity system in the West Bank and Gaza requires substantial upgrading and expansion to meet current demand. Some isolated villages do not have access to electricity, and others receive only partial service through diesel generators. Insufficient power supply is a serious impediment to growth. By 2020, infrastructure development, including upgrading the electricity network and establishing a solar energy power plant, will be an area for growth and investment. Good opportunities exist for U.S. exports of on-ground and rooftop solar PV panels and systems, solar PV street lighting systems, and small- and large-scale wind turbines. Good opportunities exist for investing in a Concentrated Solar Power (CSP) plant and biogas generation from landfills and animal waste.

Currently, the total demand for electricity in the West Bank and Gaza is estimated at 802 MW. Israel supplies 87% (700 MW) of the electric power used in the West Bank and Gaza. The four Palestinian electricity distribution companies purchase electricity from the Israel Electric Corporation (IEC), which they transmit over a grid owned by the IEC. The Gaza Power Generating Company (GPGC) generates 8% (65 MW) in Gaza, and Jordan and Egypt supply approximately 5% (37 MW) of the total electricity demand.

The Palestinian Authority encourages the development of solar and wind energies in the West Bank as alternative sources of energy. Accordingly, the Palestinian Energy Authority's efficient energy strategy is to generate 50% of power locally from gas-powered power plants, import 40% from neighboring countries (Israel, Egypt, and Jordan), and generate 10% from different efficient energy sources. During the first phase of the Palestinian energy strategy that will end in 2015, 25 MW of electricity will be generated from wind and solar energy sources. During the second phase; from 2016 until 2020, an additional 105 MW of energy will be generated from solar and wind energy sources. By 2020, 10% or 130 MW of efficient energy sources will depend 50% on solar energy (PV and CSP), 34% on wind energy (small scale wind projects and wind farms), and 17% on biogas (landfills and animal waste) energy.

By 2020, total investment cost in efficient energy projects is estimated to amount to $370 million. The World Bank, France, the Czech Republic, and Japan have financed most of the existing efficient energy projects. So far, Japan has financed a small-scale solar energy power plant in Jericho that generates 300 KW and the Czech Republic has financed a smaller solar energy project that currently generates 120 KW.

The solar and wind energy sector in the West Bank and Gaza is still in its infancy stage and there is a good opportunity for U.S. exports of solar and wind energy products and technologies. Over the next few years, good opportunities exist for establishing a solar energy power plant, importing solar PV panels and CSP solar energy equipment, small-scale and large-scale wind turbines, and biogas technologies to generate energy from solid waste landfills and animal waste. Funding for future efficient energy projects will come mainly from the EU, Japan and the World Bank.

Mission Goals

The mission will help participating firms and trade associations to gain market insights, make industry contacts, solidify business strategies, and advance specific projects, with the goal of increasing U.S. exports to Morocco, Egypt and Jordan. By participating in an official U.S. industry delegation, rather than traveling to Morocco, Egypt and Jordan on their own, U.S. companies will enhance their ability to secure meetings in those countries and gain greater exposure.

Mission Scenario

The business development mission will include one-on-one business appointments with pre-screened potential buyers, agents, distributors and joint venture partners; meetings with national and regional government officials, chambers of commerce, and business groups; and networking receptions for companies and trade associations representing companies interested in expansion into the North African and Middle Eastern markets. Meetings will be offered with government authorities that can address questions about policies, tariff rates, incentives, regulation, etc.

Timetable

Day of week	Date	Activity
Wednesday, Rabat, Morocco	Dec. 3rd	• Participants arrive to Rabat, Morocco. • Country briefing by U.S. Embassy staff on programs and opportunities in the infrastructure sector. • Evening Reception at the U.S. Ambassador's Residence.
Thursday, Rabat/Casablanca, Morocco	Dec. 4th	• Government meetings in Rabat, Morocco. • Late afternoon travel to Casablanca, Morocco (transportation cost included). • Evening Reception at the U.S. Consul General's Residence.
Friday, Casablanca, Morocco	Dec. 5th	• Business Meetings in Casablanca, Morocco.
Saturday, Cairo, Egypt	Dec. 6th	• Travel to Cairo, Egypt (a flight will be recommended).
Sunday, Cairo, Egypt	Dec. 7th	• Country briefing by U.S. Embassy staff on programs and opportunities in infrastructure. • Government meetings.

Day of week	Date	Activity
Monday, Cairo, Egypt	Dec. 8th	• Evening Reception at the U.S. Ambassador's Residence. • Business Meetings. • Evening travel to Jordan (a flight will be recommended).
Tuesday, Amman, Jordan	Dec. 9th	• Country briefing by U.S. Embassy staff on programs and opportunities in infrastructure sector. • Government meetings. • Evening Reception at the U.S. Ambassador's Residence.
Wednesday, Amman, Jordan	Dec. 10th	• Business meetings. • Evening; non-West Bank participants return to United States on own itinerary.
Thursday, (Optional), Amman, Jordan	Dec. 11th	• Briefing on opportunities on efficient energy infrastructure projects in the West Bank (in Amman, Jordan). • West Bank meetings (in Amman, Jordan).
Friday, Amman, Jordan/U.S.	Dec. 12th	• Return to United States on own itinerary.

* **Note:** The final schedule and potential site visits will depend on the availability of host government and business officials, specific goals of mission participants, and ground transportation.

Participation Requirements

All parties interested in participating in this executive-led trade mission must complete and submit an application package for consideration by the Department of Commerce. All applicants will be evaluated, on a rolling basis, on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. A minimum of 15 and maximum of 20 firms and/or trade associations or organizations will be selected to participate in the mission from the applicant pool.

Fees And Expenses

After a firm or trade association/organization has been selected to participate on the mission, a payment to the Department of Commerce in the form of a participation fee is required. The participation fee for the business development mission will be $3,000.00 for a small or medium-sized enterprise (SME) [1] and trade association/organization; and $5,000.00 for large firms. The fee for each additional firm representative (large firm or SME/trade association/trade organization) is $1,000. The cost for the West Bank optional meetings is not included and is $700 per SME and trade association/organization and $2,300 per large firm. The cost of transportation from Rabat, Morocco to Casablanca, Morocco has been included in the cost. Except as otherwise noted, expenses for travel, lodging, meals, and incidentals will be the responsibility of each mission participant. Interpreter services have been included for government meetings in Rabat; however additional interpretation services can be arranged by the Department of Commerce for additional cost for one-on-one business meetings in Casablanca if required. Delegation members will be able to take advantage of U.S. Embassy rates for hotel rooms.

Exclusions

The mission fee does not include any personal travel expenses such as lodging, most meals, local ground transportation (except as stated in the proposed timetable), and air transportation from the U.S. to the mission sites, between mission cities, and return to the United States. Business visas may be required. Government fees and processing expenses to obtain such visas are also not included in the mission costs. However, the U.S. Department of Commerce will provide instructions to each participant on the procedures required to obtain necessary business visas.

Conditions for Participation

Targeted mission participants are U.S. companies and trade associations/organizations providing infrastructure goods and services that have an interest in learning more about the North Africa and Middle East market. Target sectors holding high potential for U.S. exporters include firms with Efficient Energy Technologies, Equipment and Services; Transportation Infrastructure and Equipment; Water and Waste Treatment; Marine and Ports Infrastructure equipment and services; Tourism and Building Construction technologies and services.

An applicant must submit a completed and signed mission application and supplemental application materials, including adequate information on the company's products and/or services primary market objectives, and goals for participation. If the Department of Commerce receives an incomplete application, the Department may reject the application, request additional information, or take the lack of information into account when evaluating the applications.

Companies must provide certification of products and/or services being manufactured or produced in the United States or if manufactured/produced outside of the United States, the product/service is marketed under the name of a U.S. firm and have U.S. content representing at least 51 percent of the value of the finished good or service. In the case of a trade association or trade organization, the applicant must certify that, for each company to be represented by the trade association or trade organization, the products and services the represented company seeks to export are either produced in the United States or, if not, marketed under the name of a U.S. firm and have at least fifty-one percent U.S. content.

The following criteria will be evaluated in selecting participants:

- Relevance of the company's (or in the case of a trade association/organization, represented companies') business to the mission goals;
- Company's (or in the case of a trade association/organization, represented companies') market potential for business in Morocco, Egypt, and Jordan; and
- Provision of adequate information on the company's products and/or services, and communication of the company's (or in the case of a trade association/organization, represented companies') primary objectives.

Diversity of company size and location may also be considered during the review process.

[1] An SME is defined as a firm with 500 or fewer employees or that otherwise qualifies as a small business under SBA regulations (see *http://www.sba.gov/services/contracting opportunities/sizestandardstopics/index.html*). Parent companies, affiliates, and subsidiaries will be considered when determining business size. The dual pricing reflects the Commercial Service's user fee schedule that became effective May 1, 2008 (see *http://www.export.gov/newsletter/march2008/initiatives.html for additional information).*

Referrals from political organizations and any documents containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and not considered during the selection process.

Timeline For Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar (*http://export.gov/trademissions*) and other Internet Web sites, press releases to general and trade media, direct mail, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows. Recruitment for the mission will begin immediately and conclude no later than September 12, 2014. The U.S. Department of Commerce will review applications and make selection decisions on a rolling basis beginning June 16, 2014. Applications received after September 12, 2014, will be considered only if space and scheduling constraints permit.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD259

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS (Assistant Regional Administrator), has made a preliminary determination that an Exempted Fishing Permit (EFP) application contains all of the required information and warrants further consideration. This EFP would allow up to three commercial fishing vessels to conduct exploratory fishing in year-round groundfish closed areas (Closed Areas (CAs) I and II) for the purposes of obtaining fisheries dependent catch information. This research is being conducted by Atlantic Trawlers Fishing, Inc.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

DATES: Comments must be received on or before May 14, 2014.

ADDRESSES: You may submit written comments by any of the following methods:

- Email: *nmfs.gar.efp@noaa.gov.* Include in the subject line ''Comments on Exploratory Closed Area Fishing EFP.''
- Mail: John K. Bullard, Regional Administrator, NMFS, NE Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on Closed Area Exploratory Fishing EFP.''
- Fax: (978) 281–9135.

FOR FURTHER INFORMATION CONTACT: Brett Alger, Fisheries Management Specialist, 978–675–2153, *brett.alger@noaa.gov.*

SUPPLEMENTARY INFORMATION: In a proposed rule for Northeast Multispecies Sector vessels that would allow vessels using selective trawl gear into portions of year-round Georges Bank (GB) groundfish CAs I and II in fishing year (FY) 2014, NMFS announced interest in gathering catch data from these areas through EFPs (79 FR 14639, March 17, 2014). This would provide NMFS with fisheries dependent data from these areas, which have been closed to groundfish bottom trawling for nearly 20 years, to help inform whether to allow conditional access to CAs I and II to sector vessels through the sector exemption process. Data from vessels operating under an EFP would be used to characterize catch rates of target and non-target species in the CAs, as well as help inform industry on the economic feasibility of industry-funded monitoring for trips into CAs I and II in FY 2014. Atlantic Trawlers Fishing, Inc. submitted a complete application for an EFP to conduct commercial fishing activities that the regulations would otherwise restrict. The EFP would authorize three vessels to fish during the entire fishing year, and inside portions of groundfish CA I and CA II during specified times of the fishing year. Under this EFP, vessels would be allowed to use nets with codend mesh as small as 5.1-inch (13 cm) square mesh when fishing with a haddock separator or Ruhle trawl. In addition, for sampling purposes, vessels would be authorized to temporarily retain sub-legal fish, and fish in excess of possession limits. All under-size fish and fish in excess of possession limits would be discarded as soon as practicable following data collection.

The GB haddock fishery has historically been a specialized fishery where a sub-subset of groundfish fishery participants accounted for a large proportion of the landings. GB haddock are found across a wide range of depths, substrates and sub-areas of GB. The applicant notes that haddock behavior and movement patterns are highly variable; and that catchability is dictated by many environmental factors, including tide, current, moon phase, and diurnal cycles. These highly variable haddock catch rates pose a relatively high economic risk for vessels targeting this species, which would be further compounded by having to pay for an at-sea monitor. Due to the variable catch rates, the applicant states that a large portion of catch from a trip is often caught in one or two very large tows, and that successful haddock fishermen must spend significant time trying to locate haddock concentrations. Consequently, the applicant has stated that vessels must have consistent access to CAs I and II to effectively characterize target and non-target catch rates.

The EFP applicant seeks to address five objectives in this EFP as follows: (1) Generate data on the composition of catch, including presence and absence of target (e.g., GB haddock) and non-

target species; (2) test the effectiveness of utilizing gear comparable to the Canadian haddock fishery on Georges Bank (e.g., haddock separator trawl with 5.1 inch (13 cm) square mesh codend) to improve haddock selectivity, catch ratios, and improved annual catch limit (ACL) utilization rates; (3) collect data to examine the economic feasibility of an industry funded monitoring program for CA trips; (4) test the effectiveness of providing access to portions of the existing CAs for improving utilization rates of GB haddock; and (5) collect information from CAs I and II so that NMFS may conduct analyses to determine whether fishing can be allowed at a level of observer coverage of less than 100 percent, should an exemption be approved.

To fulfill these objectives, vessels would be accompanied by a technician with an at-sea-monitor certification, and would be required to fish with either a haddock separator trawl or a Ruhle trawl, fitted with either a 6-inch (15.2 cm) diamond mesh codend (currently allowed in the fishery) or a 5.1-inch (13-cm) square mesh codend. The applicant claims that the 5.1-inch (13-cm) square mesh codend will improve their ability to target legal-size haddock while maintaining the ability to filter out small non-target catch, including sub-legal haddock. All three vessels will be equipped with echo sounders that operate on multiple frequencies, which provide the capability of revealing fish size distribution and bottom hardness.

For CA I, vessels would be given access to all areas within CA1 that are not existing Habitat Management Areas or contained in the New England Fisheries Management Council's (Council) draft Omnibus Habitat Amendment as Habitat Management Area alternatives as of April 30, 2014, from the date that the EFP is issued, through February 15, 2015. NMFS has raised concerns about spawning in CA I from January 1 to February 15, but the applicant has requested access for this period to collect information to address questions about spawning fish.

In CA II, vessels would be given access to all areas within CA II that are not existing Habitat Management Areas or contained in the Council's draft Omnibus Habitat Amendment as Habitat Management Area alternatives as of April 30, 2014. Vessels would have access from the date that the EFP is issued, through June 15, 2014, and then from November 1, 2014 through February 15, 2015. Similar to CA I, NMFS has raised concerns about spawning in CA II from January 1 to February 15, but the applicant has requested access for this period to collect information to address questions about spawning fish. The dates for CA II access reflect an agreement between sector trawl fishermen and the lobster industry, which was developed in anticipation of sectors being granted CA II access through an exemption in FY 2013. The agreement was established to avoid gear conflicts between lobster and groundfish vessels. The applicant and members of the lobster industry remain concerned about gear conflicts that could arise from this, or any other EFP, that are accessing CA II. Therefore, the applicant would not access portions of CA II from June 15 through November 1, the time period that the lobster industry is allowed access.

The applicant requests issuance of the EFP for the entire fishing year in order to use a smaller mesh codend throughout the year, but access to the closed areas would be for only portions of the year. Fishing effort under the EFP would be heavily dependent upon operational decisions dictating whether to fish within CAs I and II, as compared to outside the areas. As previously described, the applicant has stated that the directed haddock fishery is highly dynamic and requires a high degree of mobility. If approved, the applicant has stated that the three participating vessels would focus on the directed haddock fishery throughout the study period, and makes tows both inside and outside the CAs on the same trip. Vessel tow duration would vary from 30 minutes to 3 hours and trawling would occur up to 18 hours per fishing day. An average trip duration would be seven days, consisting of five days fishing and two days steaming, and there would be an average of three trips total, per month. All legal sized fish will be landed and sold with all proceeds retained by the vessel owner. All three vessels are members of the Sustainable Harvest Sector (SHS) and all catch of allocated stocks (e.g., haddock, cod) would be accounted for under the annual catch entitlements (ACEs) of the SHS. If the SHS exceeds its ACE for an allocated stock, it would need to lease in additional ACE in order to continue fishing.

If approved, the applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: April 24, 2014.

Emily H. Menashes,

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

[FR Doc. 2014–09742 Filed 4–28–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD258

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permit

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

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator), has made a preliminary determination that an Exempted Fishing Permit application submitted by the Northeast Fisheries Science Center contains all of the required information and warrants further consideration. The Exempted Fishing Permit would exempt participating vessels from the following types of fishery regulations: Minimum fish size restrictions; fish possession limits; prohibited fish species, not including species protected under the Endangered Species Act; gear-specific fish possession restrictions for the purpose of collecting fishery dependent catch data and biological samples; and the prohibition from fishing in year-round groundfish closed areas.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on Exempted Fishing Permit applications.

DATES: Comments must be received on or before May 14, 2014.

ADDRESSES: You may submit written comments by any of the following methods:

- Email: *nmfs.gar.efp@noaa.gov.* Include in the subject line ''Comments on NEFSC Study Fleet EFP.''
- Mail: John K. Bullard, Regional Administrator, NMFS, Greater Atlantic Regional FIsheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on NEFSC Study Fleet EFP.''

- Fax: (978) 281–9135.

FOR FURTHER INFORMATION CONTACT: Brett Alger, Fishery Management Specialist, 978–675–2153, Brett.Alger@noaa.gov.

SUPPLEMENTARY INFORMATION: The Northeast Fisheries Science Center (NEFSC) submitted a complete application for an Exempted Fishing Permit (EFP) on April 3, 2014, to enable data collection activities that the regulations on commercial fishing would otherwise restrict. The EFP would exempt approximately 30 federally permitted commercial fishing vessels from the regulations detailed below while participating in the Study Fleet Program and operating under projects managed by the NEFSC. The EFP would exempt participating vessels from minimum fish size restrictions; fish possession limits; prohibited fish species, not including species protected under the Endangered Species Act; gear-specific fish possession restrictions for the purpose of at-sea sampling and, in limited situations for research purposes only, to retain and land fish that would otherwise be prohibited; and the prohibition from fishing in portions of groundfish year-round closed areas.

The NEFSC Study Fleet Program was established in 2002 to more fully characterize commercial fishing operations and to leverage sampling opportunities to augment NMFS data collection programs. Participating vessels are contracted by the NEFSC to collect tow by tow catch and environmental data, and to fulfill specific biological sampling needs identified by the NEFSC. To collect these data, the NEFSC Study Fleet Program has obtained an EFP to secure the necessary waivers needed by the vessels to obtain fish that would otherwise be prohibited by regulations.

Crew trained by the NEFSC Study Fleet Program in methods that are consistent with the current NEFSC observer protocol, while under fishing operations, would sort, weigh, and measure fish that are to be discarded. An exemption from minimum fish size restrictions; fish possession limits; prohibited fish species, not including species protected under the Endangered Species Act; and gear-specific fish possession restrictions for at-sea sampling is required because some discarded species would be on deck slightly longer than under normal sorting procedures.

Participating vessels would also be authorized to retain and land, in limited situations for research purposes only, fish that do not comply with fishing regulations. The vessels would be authorized to retain specific amounts of particular species in whole or round weight condition, in marked totes, which would be delivered to Study Fleet Program technicians. The NEFSC would require participating vessels to obtain written approval from the NEFSC Study Fleet Program prior to landing any fish in excess of possession limits and/or below minimum size limits to ensure that the landed fish do not exceed any of the Study Fleet Program's collection needs, as detailed below. None of the landed biological samples from these trips would be sold for commercial use or used for any other purpose other than scientific research.

The table below details the regulations from which the participating vessels would be exempt when retaining and landing fish for research purposes. The participating vessels would be required to comply with all other applicable requirements and restrictions specified at 50 CFR part 648, unless specifically exempted in this EFP. All catch of stocks allocated to Sectors by vessels on a Sector trip would be deducted from the Sector's Annual Catch Entitlement (ACE) for each Northeast multispecies stock. Once a sector's ACE for a stock has been reached, vessels would no longer be allowed to target groundfish in that stock area, unless they acquired additional ACE for the limiting stock. Non-sector vessels would be exempted from possession restrictions as identified below in the table, but would still be subject to trimester total allowable catch (TAC) accountability measures applicable to non-sector groundfish vessels, which state that when 90 percent of the trimester TAC for a groundfish stock is projected to be caught, the area where that stock is predominantly caught will close to vessels fishing with a specific gear type for the rest of that trimester.

NEFSC STUDY FLEET PROGRAM EFP

Approximate number of vessels	30
Exempted regulations in 50 CFR part 648	*Size limits* § 648.83 NE multispecies minimum size. § 648.93 Monkfish minimum fish size. § 648.104 Summer flounder minimum fish size. § 648.147 Black sea bass minimum fish size. *Possession restrictions* § 648.86(a) Haddock. § 648.86(b) Atlantic cod. § 648.86(g) Yellowtail flounder. § 648.86(j) Georges Bank winter flounder. § 648.86(l) Zero retention of Atlantic wolffish. § 648.86(o) Possession limits implemented by Regional Administrator. § 648.94 Monkfish possession limit. § 648.106 Summer flounder possession restrictions. § 648.322 Skate possession and landing restrictions. § 648.145 Black sea bass possession limits. § 648.235 Spiny dogfish possession and landing restrictions.

NEFSC Study Fleet Program's Sampling Needs:

Haddock—whole fish would be retained for maturity and fecundity research. The haddock retained would not exceed 30 fish per trip, or 360 fish for all trips. The maximum weight of haddock on any trip would not exceed 120 lb (54.43 kg) total weight per trip, and would not exceed 1,440 lb (653.17 kg) for all trips combined.

Yellowtail Flounder—whole fish would be retained for maturity, fecundity, bioelectrical impedance analysis (BIA), food habits, and genetic research. The yellowtail flounder retained would not exceed 200 fish per

month from each of the three stock areas (Gulf of Maine (GOM), Georges Bank (GB), Southern New England/Mid-Atlantic (SNE/MA)), or 1,200 fish total from each stock area for all trips. The maximum weight on any trip would not exceed 100 lb (45.4 kg) total weight, and would not exceed 3,000 lb (1,361.8 kg) for all trips combined.

Summer Flounder—whole fish would be retained for maturity, fecundity, BIA, food habits, and genetic research. The summer flounder retained would not exceed 200 fish per month from each of the three stock areas (GOM, GB, SNE/MA), or 1,200 fish total from each stock area for all trips. The maximum weight on any trip would not exceed 150 lb (68.04 kg) total weight, and would not exceed 4,500 lb (2,041.17 kg) for all trips combined.

Winter Flounder—whole fish would be retained for maturity, fecundity, BIA, food habits, and genetic research. The winter flounder retained would not exceed 200 fish per month from each of the three stock areas (GOM, GB, SNE/MA), or 1,200 fish total from each stock area for all trips. The maximum weight on any trip would not exceed 100 lb (45.36 kg) total weight, and would not exceed 3,000 lb (1,360.78 kg) for all trips combined.

Windowpane Flounder—whole fish retained for age and growth work to support a 2015 windowpane stock assessment. Otoliths and fish length would be collected to validate ages using marginal increment analysis. Not to exceed 40 fish per month from all stock areas combine (GOM and GB stock) or 520 fish total for all trips. The maximum weight on any trip would not exceed 30 lb (13.6 kg), total weight not to exceed 360 lb (163.3 kg) for all trips combined.

Spiny Dogfish—whole fish would be retained for reproductive biology research. The spiny dogfish retained would not exceed 60 fish per month from all stock areas combined (GOM, GB, and SNE/MA), or 720 fish total for all trips. The maximum weight on any trip would not exceed 350 lb (158.76 kg), and would not exceed 4,200 lb (1,905.09 kg) total for all trips.

Monkfish—whole fish would be retained for maturity and fecundity research. Monkfish retained would not exceed 10 fish per trip, or 120 fish total for all trips. The maximum weight on any trip would not exceed 100 lb (45.36 kg) total weight, and would not exceed 1,200 lb (544.31 kg) for all trips combined.

Atlantic Cod—whole fish would be retained for maturity, fecundity, BIA, food habits, and genetic research. Cod to be retained would not exceed 200 fish per month from each of the three stock areas (GOM, GB, SNE/MA), or 1,200 fish total from each stock area for all trips. The maximum weight on any trip would not exceed 300 lb (136.08 kg) total weight, and would not exceed 8,500 lb (3,855.54 kg) for all trips combined.

Barndoor Skate—whole and, in some cases, live skates would be retained for age and growth research and species confirmation. The barndoor skates retained would not exceed 20 fish per 3-month period, or 80 skates total for all trips. The maximum weight on any trip would not exceed 75 lb (34.02 kg) total weight, and would not exceed 300 lb (136.08 kg) total for all trips combined.

Thorny Skate—whole and, in some cases, live skates would be retained for age and growth research and species confirmation. Thorny skates retained would not exceed 20 fish per 3-month period, or 80 skates total for all trips. The maximum weight on any trip would not exceed 75 lb (34.02 kg) whole weight, and would not exceed 300 lb (136.08 kg) total for all trips combined.

Black Sea Bass—whole fish would be retained for examination of seasonal and latitudinal patterns in energy allocation. This effort is in support of an ongoing study at the NEFSC to evaluate BIA to measure fish energy density and reproductive potential for stock assessment. Black sea bass retained would not exceed 75 fish per trip or 300 black sea bass total for all trips. The maximum weight on any trip would not exceed 250 lb (113.40 kg) total weight, and would not exceed 1,000 lb (453.59 kg) total for all trips combined.

Atlantic wolffish—whole fish would be retained for maturity, fecundity, and life history research. Atlantic wolffish retained would not exceed 30 fish per month or 360 fish total for all trips. The maximum weight on any trip would not exceed 120 lb (54.4 kg) and would not exceed 3,000 lb (1,360.8 kg) total for all trips combined.

Cusk—whole fish would be retained for maturity, fecundity, and life history research. Cusk retained would not exceed 30 fish per month or 360 fish total for all trips. The maximum weight on any trip would not exceed 100 lb (45.4 kg) and would not exceed 2,300 lb (1,043.3 kg) total for all trips combined.

Atlantic halibut—whole fish retained for age, growth, maturity, fecundity, and diet research. Not to exceed 10 fish per month or 120 fish total for all trips. The maximum weight on any trip would not exceed 300 lb (136.1 kg) and would not exceed 10,000 lb (4,535.9 kg) total for all trips combined.

Closed Area I and II Study Fleet Pilot Study

Georges Bank (GB) Closed Areas (CAs) I and II have been closed to most groundfish fishing for nearly 20 years. Consequently, there are questions about what the catch composition and catch rates would be if groundfish vessels were allowed to fish in these areas. For fishing year 2014, the Greater Atlantic Regional Fisheries Office (GARFO) has proposed consideration of granting groundfish sector vessels restricted access to GB CAs I and II, which was announced in a proposed rule (79 FR 14639, March 17, 2014), should results from the NEFSC's Study Fleet warrant doing so. Under this exemption, access would be proposed as follows:

Closed Area I

The central portion (see below) of CA I (i.e., outside of essential fish habitat) would be opened from the date a final rule approving the exemption is published, through December 31, 2014. Trawl vessels would be restricted to selective trawl gear, including the separator trawl, Ruhle trawl, and the rope trawl. Hook gear would be permitted in this area as well, but gillnets would be prohibited. An industry-funded at-sea monitor would be required for every trip.

The portion of Closed Area I, defined by straight lines connecting the following points:

Point	N. lat.	W. long.
A	41°04′	69°01′
B	41°26′	68°30′
C	40°58′	68°30′
D	40°55′	68°53′
A	41°04′	69°01′

Closed Area II

The central portion (see below) of CA II (i.e., outside of essential fish habitat) would be opened from November 1, 2014, through December 31, 2014. The gear restrictions in CA II are the same as those proposed for CA I—selective trawls and hook gear only, gillnets would be prohibited. An industry-funded at-sea monitor would be required for every trip.

The portion of Closed Area II, defined by straight lines connecting the following points:

Point	N. lat.	W. long.	Note
A	41°30′	(66°34.8′)	(1)
B	41°30′	67°20′	
C	41°50′	67°20′	
D	41°50′	67°10′	
E	42°00′	67°10′	
F	42°00′	(67°00.63′)	(2), (3)
A	41°30′	(66°34.8′)	(1)

[1] The intersection of 41°30' N. latitude and the U.S.-Canada Maritime Boundary, approximate longitude in parentheses.
[2] The intersection of 42°00' N. latitude and the U.S.-Canada Maritime Boundary, approximate longitude in parentheses.
[3] From POINT F back to POINT A along the U.S.-Canada Maritime Boundary.

The proposed rule highlighted that GARFO is interested in conducting research through an EFP to gather catch data from portions of CAs I and II to provide basic catch information to the industry, the public, and NMFS. Participating vessels would require an exemption from CA I and II regulations at 50 CFR 648.81(a) and (b), respectively, and fish possession restrictions noted above (for catch sampling purposes only) to conduct this study.

Pilot Study Objectives

This pilot project would authorize limited access groundfish sector vessels in the study fleet to fish in portions of CAs I and II to achieve the following objectives:

1. Provide basic catch composition and catch rate data, with a focus on target species such as haddock, and species of concern, such as yellowtail flounder and cod.
2. Evaluate the economic benefit of allowing sector vessels to fish in these areas, as proposed under the sector rule.

Pilot Study Methods

Vessels would take up to 10 trips into portions of CA I and/or CA II to collect catch composition data. Vessels would fish in accordance with standard commercial practice, including tow duration ranges between 1 and 3 hours, tow speed averages of 2.5–3.0 knots, and fishing activity throughout the day when on the fishing grounds. Trips would be 5–10 days in length. Vessels would have discretion to fish inside or outside the closed area during the trip. When fishing in closed areas, vessels would be required to use selective trawl gears (i.e., Ruhle trawl, haddock separator trawl, or rope separator trawl). In addition, vessels would only be authorized to fish within the access areas proposed above. In CA I, trips would begin in May 2014 and be completed no later than December 31, 2014. In CA II, trips would begin in May 2014, be completed no later than June 15, 2014, and then continue between November 1, 2014, through December 31, 2014. A study fleet technician would be on board every trip operating under the closed area exemption, and the technician would collect data from every tow that occurs in a closed area, including pounds retained and discarded of focus species, length frequency of focus species, tow location and duration, gear specifications, and bottom temperature, among other information. Vessels would remain subject to groundfish catch limits, and all catch would be accounted for and applied against the appropriate Annual Catch Entitlement, or other quota, as applicable. Legal catch would be sold.

Pilot Study Results

Catch composition and catch rate data will be characterized at different spatial and temporal scales (e.g., tow, trip, area) to inform questions about target and non-target catch in these areas. Catch data will be released to the public.

If approved, the applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impact that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: April 24, 2014.

Emily H. Menashes,

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

[FR Doc. 2014–09741 Filed 4–28–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD249

Fisheries of the Exclusive Economic Zone Off Alaska; At-Sea Scales Requirements

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

ACTION: Notice of public workshop.

SUMMARY: NMFS announces a workshop to solicit input from owners and operators of catcher/processor vessels (C/Ps) and motherships that are required to weigh catch at sea. The workshop concerns proposed changes to equipment and operational requirements for motion compensating scales that weigh catch at sea. These proposed changes would affect the owners and operators of three groups of vessels: trawl C/Ps and motherships permitted to fish for or to receive pollock in the Bering Sea and Aleutian Islands (BSAI) under the (American Fisheries Act) AFA; trawl C/Ps permitted to fish for groundfish under Amendment 80 to the Fishery Management Plan for Groundfish of the BSAI or rockfish in the Central Gulf of Alaska; and longline C/Ps with a license limitation program license endorsed for C/P operations that fish for Pacific cod using hook-and-line gear in the Bering Sea or Aleutian Islands areas. The workshop will be divided into three sections, and each section will focus on how the proposed changes will affect the three groups of vessels described above. The workshop is open to the public, but NMFS is specifically requesting those who are knowledgeable about the operations of the three groups of vessels (described above) to attend.

DATES: The public workshop will be held on Friday, May 16, 2014. The workshop will be divided into three sessions: AFA trawl C/Ps and motherships, 9 a.m. to 10:30 a.m. Pacific daylight savings time; Amendment 80

and Central GOA trawl C/Ps, 11 a.m. to 12:30 p.m. Pacific daylight savings time; and Pacific cod longline C/Ps, 1 p.m. to 2:30 p.m. Pacific daylight savings time.

ADDRESSES: The workshop will be held at the International Pacific Halibut Commission (IPHC) Seattle Office, 2320 West Commodore Way, Suite 300, Seattle, WA. Directions to the IPHC are on its Web site at *http://www.iphc.int/component/content/article/135-new-office.html.*

FOR FURTHER INFORMATION CONTACT: Alan Kinsolving, 928–774–4362 or Jennifer Watson, 907–586–7537.

SUPPLEMENTARY INFORMATION: NMFS is developing proposed revisions to the at-sea scales program for C/Ps and motherships that are required to weigh catch at sea. NMFS is considering three major changes to current regulations. First, NMFS is proposing to change regulations concerning daily scale testing and require electronic reporting of daily scale test results. Second, scales used to weigh catch would need electronics capable of logging and printing the frequency and magnitude of scale calibrations as well as the time and date of each scale fault and scale startup. Finally, NMFS is proposing to require that the area around the scale be monitored using video. These changes are being proposed to reduce the possibility of scale tampering, to improve the accuracy of catch estimation by the C/P and mothership sector, and to revise technical regulations that are no longer applicable.

The workshop—to be held Friday, May 16, 2014 (see DATES section for the specific times of the three sessions)—is open to the public, but NMFS is particularly seeking participation by those who are knowledgeable about the operations of the three groups of vessels described above and who can discuss with NMFS the potential operational impacts of proposed monitoring requirements.

Special Accommodations

The workshop will be physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Jennifer Watson, 907–586–7537, at least 10 working days prior to the meeting date.

Dated: April 24, 2014.

Emily H. Menashes,

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

[FR Doc. 2014–09732 Filed 4–28–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD264

Mid-Atlantic Fishery Management Council; 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's (Council) Executive Committee will meet in a closed session via webinar.

DATES: The webinar will be Tuesday, May 20, 2014, starting at 1:30 p.m.

ADDRESSES: The closed meetings will be held via webinar.

Council Address: Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore Ph.D., 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 the webinar is to develop recommendations to the Council Chairman regarding appointments to the River Herring and Shad Advisor Panel.

Dated: April 23, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–09602 Filed 4–28–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

First Responder Network Authority

[Docket Number 131219999–4338–02]

RIN 0660–XC008

National Environmental Policy Act Categorical Exclusions

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice.

SUMMARY: The First Responder Network Authority (FirstNet) publishes this notice of its categorical exclusions (CEs) of actions that FirstNet has determined do not individually or cumulatively have a significant effect on the human environment and, thus, should be categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement under the National Environmental Policy Act (NEPA).

DATES: These categorical exclusions become effective on April 29, 2014.

ADDRESSES: A complete set of comments filed in response to the *First Responder Network Authority: National Environmental Policy Act Implementing Procedures and Categorical Exclusions* published on January 6, 2014, is available at: *http://www.ntia.doc.gov/federal-register-notice/2014/comments-notice-firstnet-categorical-exclusions.* The FirstNet categorical exclusions and the supporting administrative record for these categorical exclusions is available at: *http://www.ntia.doc.gov/category/firstnet.*

FOR FURTHER INFORMATION CONTACT: Genevieve Walker, First Responder Network Authority, U.S. Department of Commerce, 1401 Constitution Avenue NW., HCHB Room CC 219, Washington, DC 20230; (202) 482–4385; or *genevieve.walker@firstnet.gov.*

SUPPLEMENTARY INFORMATION:

I. National Environmental Policy Act

The National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) (NEPA) requires federal agencies to undertake an assessment of environmental effects of their proposed actions prior to making a final decision and implementing the action. NEPA requirements apply to any federal project, decision, or action that may have a significant impact on the quality of the human environment. NEPA also establishes the Council on Environmental Quality (CEQ), which issued regulations implementing the procedural provisions of NEPA as codified in 40 CFR Parts 1500–1508. Among other considerations, CEQ regulations require federal agencies to adopt their own implementing procedures to supplement the Council's regulations, and to establish and use ''categorical exclusions'' to define categories of actions that do not individually or cumulatively have a significant effect on the human environment. Thus, such actions do not require preparation of an environmental assessment or an environmental impact statement as required by NEPA.

The Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112–96, 126 Stat. 156 (2012)) (Act) created and authorized FirstNet to take all actions

necessary to ensure the design, construction, and operation of a nationwide interoperable public safety broadband network (PSBN) based on a single, national network architecture. The Act meets a long-standing and critical national infrastructure need, to create a nationwide interoperable broadband network that will, for the first time, allow police officers, fire fighters, emergency medical service professionals, and other public safety officials to effectively communicate with each other across agencies and jurisdictions.

As a newly created entity, FirstNet does not have any existing CEs. Thus, the following CEs are necessary to assist FirstNet in applying the appropriate level of NEPA review for activities undertaken by FirstNet in the design, construction, and operation of the PSBN. Accordingly, on January 6, 2014, FirstNet published a notice in the **Federal Register** (First Responder Network Authority: National Environmental Policy Act Implementing Procedures and Categorical Exclusions, 79 FR 639 (January 6, 2014)) requesting public comment on the following CEs (as well as the administrative records supporting each CE) before utilizing them as part of its NEPA review process.

II. Development Process for Establishing FirstNet CEs

FirstNet is responsible for, at a minimum, ensuring nationwide standards for the use of and access to the network; issuing open, transparent, and competitive requests for proposals (RFPs) to build, operate, and maintain the network; encouraging these RFPs to leverage, to the maximum extent economically desirable, existing commercial wireless infrastructure to speed deployment of the network; and overseeing contracts with non-federal entities to build, operate, and maintain the network.

Due to the similarity in project activities and scope, FirstNet is establishing its CEs based primarily on the existing CEs that were approved and applied by NTIA in the implementation of the Broadband Technology Opportunities Program (BTOP), a program that provided grant funding for the deployment of broadband infrastructure throughout the country. The list of CEs developed for BTOP was compiled at the Department of Commerce (DOC) through a joint effort with the U.S. Department of Agriculture's Rural Utilities Service (RUS); NTIA; DOC's Office of Sustainable Energy and Environmental Programs; and the National Oceanic and Atmospheric Administration (NOAA). Representatives from these organizations comprised the review panel responsible for determining appropriate CEs for the BTOP program. The BTOP CEs were approved by DOC Office of General Counsel and the designated Senior Agency Official for NEPA at NOAA.

Each BTOP CE was reviewed and deliberated in concept, coverage, applicability, and wording by members of the review panel. The panel carefully reviewed the administrative record on each of the CEs to ensure they fulfilled the goal of balancing increased administrative efficiency in NEPA compliance with avoidance of misinterpretations and misapplications of exclusionary language that could lead to non-compliance with NEPA requirements. The review panel concurred that all of the BTOP CEs met both objectives.

The FirstNet CEs found below are currently in use by other agencies and are comparable to those applied by NTIA as part of BTOP. Specifically, these CEs are comparable because they (1) relate to planning, deployment, and construction of broadband infrastructure; (2) utilize the same methods and equipment of installing broadband infrastructure; (3) are not restricted to an environmental setting or geographic region of the country; and (4) are subject to review for extraordinary circumstances.

NTIA, through BTOP, provided over $4 billion in federal funding to 233 projects to construct and expand telecommunications infrastructure and increase broadband adoption throughout all U.S. states, territories and the District of Columbia. BTOP projects were funded in four categories. These four categories included (1) Broadband Infrastructure-Last Mile; (2) Broadband Infrastructure- Middle Mile; (3) Public Computer Centers; and (4) Sustainable Broadband Adoption. BTOP infrastructure projects typically required the deployment of broadband equipment including the installation of fiber optic cables, cell towers, antenna colocations, buildings, and power units. The methods used for deploying this equipment varied depending on the individual project plan and location but in general followed standard commercial approaches for completing such work (*e.g.,* the use of trenching and plowing construction methods to install buried fiber, aerial installation of fiber cables on existing poles, or collocating antenna equipment on existing towers). These projects were initially required to be complete within three years of the original award date and were intended to be self-sustaining at the end of the award period. The nationwide scope of BTOP resulted in projects being implemented in a wide range of environmental settings (*e.g.,* varying biological, cultural, or socio-economic conditions) and many required a detailed environmental review focusing on the unique characteristics of a specific project area and type of proposed project.

Each BTOP project was individually reviewed for NEPA compliance prior to funding. Based on NTIA's review, the CEs below applied to 133 projects. The remaining 100 projects, primarily infrastructure projects, were required to complete an Environmental Assessment (EA) due to the potential existence of extraordinary circumstances. Typically, these extraordinary circumstances included project implementation activities in locations where NTIA could not reasonably determine a project's potential effect on environmentally or culturally sensitive resources (*i.e.,* project activities occurring on or near endangered habitat or species, water resources, or tribal country) and was based on its review of an applicant's responses to an environmental questionnaire, project descriptions, and mapping submitted as part of the BTOP application. To date, NTIA has reviewed and adopted 99 EAs and issued a Finding of No Significant Impact (FONSI) for each of those projects, with the completion and review of one EA still in process. When evaluating the effects of the completed projects where an EA was prepared and reviewed and a FONSI was issued, NTIA has consistently found that the actions resulted in no significant environmental impacts.

FirstNet, similar to BTOP, is mandated to plan and construct telecommunication and broadband infrastructure across the United States and its territories. The specific activities anticipated to be undertaken by FirstNet are comparable to BTOP project implementation activities and will primarily include the installation of cables, cell towers, antenna collocations, buildings, and power units as defined in the following examples:

(a) *Buried Plant/Facilities:* The construction of buried outside plant facilities generally consists of plowing or trenching cable at a depth of approximately 36'' to 48'' alongside the road, usually in a utility corridor or within public road rights-of-way.

(b) *Aerial Plant/Facilities:* The construction of aerial facilities is either done by hanging cables on new poles typically on public rights-of-way or by installing cables using existing pole lines from a third party.

(c) *Towers:* The construction of towers for cell sites and/or microwave dishes. Tower construction is typically done by building a tower on a new foundation. The heights of the towers generally vary from 120 feet to 400 feet.

(d) *Collocations:* The mounting or installation of an antenna on an existing tower, building, or structure for the purpose of transmitting and/or receiving radio frequency signals for communication purposes.

(e) *Building Construction:* Generally consists of installing small pre-fabricated shelters on tower sites that are used for housing electronic equipment. These shelters are usually placed on concrete pads and generally require very minimal disturbance of the land. On extremely rare occasions, the construction of a headquarters and/or warehouse building may be necessary. The amount of land disturbance resulting from this type of construction can vary depending on the size of the proposed building.

(f) *Power Units:* The installation of power units, such as an uninterruptible power supply (UPS), could be added to existing tower sites either on the existing concrete pad or by adding a new concrete pad if required at the site.

(g) *Wireless Telecommunications Facility:* An installation that sends and/or receives radio frequency signals, including directional, omni-directional, and parabolic antennas, structures, or towers (no more than 199 feet tall with no guy wires), to support receiving and/or transmitting devices, cabinets, equipment rooms, accessory equipment, and other structures, and the land or structure on which they are all situated.

FirstNet is also required to leverage, to the maximum extent economically desirable, existing commercial infrastructure in its deployment and operation of the nationwide PSBN.

The geographic scope of the PSBN will, like BTOP, encompass all U.S. states and territories. Thus, FirstNet actions will likely occur in a wide range of environmental settings and require FirstNet to establish an environmental review process for analyzing proposed actions and making NEPA determinations based on the specific location and type of proposed project activities, of which the CEs would be an integral part. Accordingly, because the characteristics of the actions in deploying and operating the nationwide PSBN are comparable in intensity, scope, and geography to BTOP projects, and based on the outcomes of NTIA applying these CEs to BTOP projects, FirstNet has determined that the CEs will not have significant impacts on the human environment.

III. Comments and Agency Responses

Comment #1

The PCIA-Wireless Infrastructure Association (PCIA) recommends FirstNet establish a forum for the governmental and non-governmental parties, including telecommunications providers, manufacturers, and tower owners, to an play an integral role in FirstNet's build-out, so that FirstNet can factor in the forum's input in developing its procedures and any future Notices.

Agency Response

FirstNet acknowledges the recommendation and will continue to engage governmental and non-governmental parties, as appropriate, in order to comply with relevant environmental requirements.

Comment #2

PCIA comments that collocating on existing facilities is the most economical and expeditious method of deploying wireless facilities, and, by maximizing collocations, FirstNet could minimize delays, achieve significant cost savings, and build-out a more comprehensive nationwide public safety broadband network.

Agency Response

FirstNet understands the importance of leveraging existing infrastructure, including collocations, and will utilize, to the maxim extent economically desirable, existing federal, state, tribal, local, commercial or other communications infrastructure in establishing the nationwide public safety broadband network.

Comment #3

PCIA expresses concerns that the proposed ''extraordinary circumstances'' identified in Appendix D do not provide any discussion of rationale for why and when an extraordinary circumstance will preclude the application of a categorical exclusions.

Agency Response

FirstNet determinations relating to the existence of extraordinary circumstances that preclude the application of a categorical exclusion will be made on a case-by-case basis and based on a review of the relevant factors (*e.g.,* type of activity, geography, and biology. . .) related to a specific proposed action.

Comment #4

PCIA comments that FirstNet should provide more detail concerning the ''nuts and bolts'' of its proposed procedures, including specific NEPA and NHPA procedures and timelines for completing the review process where an action requiring FirstNet review is by a private applicant or non-federal entity.

Agency Response

FirstNet intends to provide additional guidance on NEPA and NHPA requirements that may affect a private applicant or non-federal entity on its Web site and through future stakeholder outreach, as appropriate.

Comment #5

PCIA recommends that the FirstNet NEPA implementing procedures provide guidance for determining which agency will be the lead agency in any multi-agency projects.

Agency Response

FirstNet understands the importance of coordinating with other agencies in complying with NEPA and intends to follow the process described in 40 CFR 1501.5 in determining lead and cooperating agencies in multi-agency projects for the purpose of NEPA.

Comment #6

PCIA commented that FirstNet should consider integrating aspects of the Federal Communication Commission's (FCC) environmental and historic preservation processes and procedures, including FCC rules establishing the standard for developing an EA and use of the Tower Construction Notification System (TCNS).

Agency Response

FirstNet will evaluate the effectiveness of these and other processes and procedures in complying with applicable environmental and historic requirements.

Comment #7

U.S. Department of the Interior (DOI) recommends including the Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act to the list of requirements to Section 1.07, *Environmental Review and Consultation Requirements of NEPA Review.*

Agency Response

FirstNet has added the citations for the Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act to this section.

Comment #8

DOI recommends the inclusion of language in Section 1.07, *Developing the Purpose and Need,* which would ensure consideration of all other authorities to

which NEPA is supplemental as opposed to simply the FirstNet mission.

Agency Response

FirstNet intends to consider all other relevant authorities during the NEPA review for a proposed action and does not consider further supplemental language in this section to be necessary.

Comment #9

DOI recommends that FirstNet be required to coordinate with federal agencies having jurisdiction by law or special expertise on construction and lighting of its network of towers.

Agency Response

FirstNet understands the importance of coordinating with other agencies in complying with NEPA and intends to follow the process described in 40 CFR 1501.5 in determining lead and cooperating agencies for the purpose of NEPA.

Comment #10

DOI recommends including species covered under the Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act to the list of environmentally sensitive resources.

Agency Response

FirstNet has added language to include the species and habitat listed under the Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act to the list of environmentally sensitive resources listed in Appendix D.

Comment #11

DOI recommends adding important resources to migratory birds such as sites in the Western Hemisphere Shorebird Reserve and Audubon Important Bird Areas to list of environmentally sensitive resources listed in Appendix D.

Agency Response

FirstNet will consider impacts on migratory birds in areas such as the Western Hemisphere Shorebird Reserve and Audubon Important Bird Areas as part of the NEPA review for its proposed actions, as appropriate, and considers the addition of the Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act to Appendix D sufficient to identify and account for impacts on these resources.

Comment #12

DOI suggests that FirstNet consider preparing a programmatic environmental impact statement (PEIS) to determine and address cumulative impacts from authorizing FirstNet projects on those 241 species for which the incremental impact of tower mortality, when added to other past, present, and reasonably foreseeable future actions, is most likely significant, given their overall imperiled status authorizing FirstNet projects, including the impacts on species of birds whose populations are in trouble or otherwise merit special protection.

Agency Response

FirstNet will consider this recommendation as it continues to integrate the NEPA process with its other planning for the nationwide public safety broadband network.

Comment #13

DOI recommends revisions to the procedures that better reflect the impacts on resources under DOI jurisdiction resulting from communication towers, including injury, crippling loss, and death from collision with towers or supporting guy-wire infrastructure and significant issues associated with communication towers involving impacts from non-ionizing electromagnetic radiation.

Agency Response

FirstNet will consider impacts on resources under DOI or other agency jurisdiction as part of the NEPA review for its proposed actions, as appropriate, and considers the Environmental Review Process established in section 1.07 of the procedures a reasonable process for identifying and accounting for impacts on these resources.

Comment #14

A commenter suggested the development and inclusion of a Determination of Adequacy or some form of a checklist to identify and address issues relating to whether an action requires NEPA review.

Agency Response

FirstNet will consider this recommendation as it continues to integrate the NEPA process with its other planning for the nationwide public safety network.

Comment #15

A commenter asked whether FirstNet will have a formal appeal process which allows another agency or the public to make an appeal of an environmental determination or final decision.

Agency Response

FirstNet will comply with the timing of agency action requirements described in 40 CFR 1506.10, but will not have an additional formal appeal process that will allow another agency or the public to make an appeal after FirstNet has made an environmental determination or final decision. Rather, FirstNet anticipates that public and agency involvement relating to NEPA compliance will occur as described in Environmental Review Process established in section 1.07 of its NEPA implementing procedures.

Comment #16

Commenters suggested various minor edits to the document.

Agency Response

FirstNet reviewed these suggestions and made minor word and document edits, as appropriate.

FirstNet Categorical Exclusions

Certain types of actions undertaken by FirstNet will not normally require the completion of an environmental assessment or an environmental impact statement. These categorical exclusions include:

A–1: The issuance of bulletins and information publications that do not concern environmental matters or substantial facility design, construction or maintenance practices.

This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce, U.S. Department of Agriculture, U.S. Department of Homeland Security, Federal Emergency Management Agency, U.S. Coast Guard, U.S. Navy, U.S. Air Force, U.S. General Services Administration, and the U.S. Department of the Interior.

A–2: Procurement activities related to the day-to-day operation of FirstNet including routine procurement of goods and services. This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce, U.S. Department of Agriculture, U.S. Department of Homeland Security, U.S. Coast Guard, U.S. Navy, and U.S. Air Force.

A–3: Personnel and Administrative Actions. This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce, U.S. Department of Agriculture, U.S. Department of Homeland Security, U.S. Coast Guard, and U.S. Army.

A–4: Purchase of existing facilities or a portion thereof where use or operation will remain unchanged. This categorical

exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce, U.S. Department of Agriculture, and U.S. Department of Homeland Security.

A–5: Internal modifications or equipment additions (*e.g.,* computer facilities, relocating interior walls) to structures or buildings. This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce, U.S. Department of Agriculture, and U.S. Department of Homeland Security.

A–6: Construction of buried and aerial telecommunications lines, cables, and related facilities. This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce, U.S. Department of Agriculture, U.S. Department of the Interior, and U.S. Department of Energy.

A–7: Construction of wireless telecommunications facilities involving no more than five acres (2 hectares) of physical disturbance at any single site. This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce, U.S. Department of Agriculture, and U.S. Department of Energy.

A–8: Construction of cooperative or company headquarters, maintenance facilities, or other buildings involving no more than 10 acres (4 hectares) of physical disturbance or fenced property. In particular, these include exclusions from the U.S. Department of Commerce, U.S. Department of Agriculture, U.S. Navy, and National Aeronautics and Space Administration (NASA).

A–9: Changes to existing transmission lines that involve less than 20 percent pole replacement or the complete rebuilding of existing distribution lines within the same right of way. Changes to existing transmission lines that require 20 percent or greater pole replacement will be considered the same as new construction. This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce, U.S. Department of Agriculture, and U.S. Department of Energy.

A–10: Changes or additions to existing substations, switching stations, telecommunications switching or multiplexing centers, or external changes to buildings or small structures requiring one acre (0.4 hectare) or more but no more than five acres (2 hectares) of new physically disturbed land or fenced property. This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce and U.S. Department of Agriculture.

A–11: Construction of substations, switching stations, or telecommunications switching or multiplexing centers requiring no more than five acres (2 hectares) of new physically disturbed land or fenced property. This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce and U.S. Department of Agriculture.

A–12: Changes or additions to wireless telecommunication sites, substations, switching stations, telecommunications switching or multiplexing centers, buildings, or small structures requiring new physical disturbance or fencing of less than one acre (0.4 hectare). This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce and U.S. Department of Agriculture.

A–13: Ordinary maintenance or replacement of equipment or small structures (*e.g.,* line support structures, line transformers, microwave facilities, telecommunications remote switching and multiplexing sites). This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce, U.S. Department of Agriculture, and U.S. Department of Energy.

A–14: The construction of telecommunications facilities within the fenced area of an existing substation, switching station, or within the boundaries of an existing electric generating facility site. This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce, U.S. Department of Agriculture, and U.S. Department of Energy.

A–15: Testing or monitoring work (*e.g.,* soil or rock core sampling, monitoring wells, air monitoring). This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce, U.S. Department of Agriculture, and U.S. Department of Energy.

A–16: Studies and engineering undertaken to define proposed actions or alternatives sufficiently so that environmental effects can be assessed. This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce, U.S. Department of Agriculture, and U.S. Department of Energy.

A–17: Rebuilding of power lines or telecommunications cables where road or highway reconstruction requires the applicant to relocate the lines either within or adjacent to the new road or highway easement or right-of-way. This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce, U.S. Department of Agriculture, and U.S. Department of Energy.

A–18: Phase or voltage conversions, reconductoring, or upgrading of existing electric distribution lines or telecommunication facilities. This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce, U.S. Department of Agriculture, and U.S. Department of Energy.

A–19: Construction of standby diesel electric generators (one megawatt or less total capacity) and associated facilities, for the primary purpose of providing emergency power at an existing applicant headquarters or district office, telecommunications switching or multiplexing site, or at an industrial, commercial, or agricultural facility served by the applicant. This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce and U.S. Department of Agriculture.

IV. Paperwork Reduction Act

The notice does not contain collection-of-information requirements subject to the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*). Moreover, any action taken or made by FirstNet is exempt from the requirements of the PRA. *See* 47 U.S.C. 1426(d). Notwithstanding any other provisions of law, no person is required to, nor shall a person be subject to penalty for failure to comply with, a

collection of information subject to the requirements of PRA unless that collection of information displays a currently valid OMB control number.

Dated: April 23, 2014.

Stuart Kupinsky,

Chief Counsel, First Responder Network Authority.

[FR Doc. 2014–09730 Filed 4–28–14; 8:45 am]

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DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration First Responder Network Authority

[Docket Number: 131219999–4337–02]

RIN 0660–XC009

National Environmental Policy Act Implementing Procedures and Categorical Exclusions

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice.

SUMMARY: The First Responder Network Authority (FirstNet) publishes this notice of its final procedures for implementing the National Environmental Policy Act (NEPA).

DATES: These procedures become effective April 29, 2014.

ADDRESSES: A complete set of comments filed in response to the *First Responder Network Authority: National Environmental Policy Act Implementing Procedures and Categorical Exclusions* published on January 8, 2014, is available at: *http://www.ntia.doc.gov/federal-register-notice/2014/comments-notice-firstnet-nepa-implementing-procedures.* The final *First Responder Network Authority: National Environmental Policy Act Implementing Procedures* is available at: *http://www.ntia.doc.gov/category/firstnet.*

FOR FURTHER INFORMATION CONTACT: Genevieve Walker, First Responder Network Authority, U.S. Department of Commerce, 1401 Constitution Avenue NW., HCHB Room CC219, Washington, DC 20230; (202) 482–4385; or *genevieve.walker@firstnet.gov.*

SUPPLEMENTARY INFORMATION:

I. National Environmental Policy Act

The National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) (NEPA) requires federal agencies to undertake an assessment of environmental effects of their proposed actions prior to making a final decision and implementing the action. NEPA requirements apply to any federal project, decision, or action that may have a significant impact on the quality of the human environment. NEPA also establishes the Council on Environmental Quality (CEQ), which issued regulations implementing the procedural provisions of NEPA as codified in 40 CFR parts 1500–1508. Among other considerations, CEQ regulations require federal agencies at 40 CFR 1507.3 to adopt their own implementing procedures to supplement CEQ's regulations implementing NEPA and to consult with CEQ during their development and prior to publication in the **Federal Register**.

The Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. 112–96, 126 Stat. 156 (2012)) (Act) creates and authorizes FirstNet to take all actions necessary to ensure the design, construction, and operation of a nationwide, interoperable public safety broadband network (PSBN) based on a single, national network architecture. The Act meets a long-standing and critical national infrastructure need to create a nationwide interoperable network that will, for the first time, allow police officers, fire fighters, emergency medical service professionals, and other public safety officials to effectively communicate with each other across agencies and jurisdictions.

As a newly created entity, FirstNet did not have procedures for implementing NEPA. These NEPA implementing procedures are necessary to assist FirstNet in establishing a NEPA compliance program and applying the appropriate level of NEPA review for activities undertaken by FirstNet in the design, construction, and operation of the nationwide interoperable PSBN.

Accordingly, on January 8, 2014, FirstNet published a notice in the **Federal Register** (First Responder Network Authority: National Environmental Policy Act Implementing Procedures and Categorical Exclusions, 79 FR 1363 (January 8, 2014)) requesting public comment on its proposed implementing procedures before utilizing them as part of its NEPA review process. The final procedures are set forth as an addendum to this notice.

II. Background

FirstNet is responsible for, at a minimum, ensuring nationwide standards for the use of, and access to, the network; issuing open, transparent, and competitive requests for proposals (RFPs) to build, operate, and maintain the network; encouraging these RFPs to leverage, to the maximum extent economically desirable, existing commercial wireless infrastructure to speed deployment of the network; and overseeing contracts with non-federal entities to build, operate, and maintain the network.

The specific actions anticipated to be undertaken by FirstNet encompass a variety of activities including the installation of cables, cell towers, antenna collocations, buildings, and power units as defined in the following examples:

(a) *Buried Plant/Facilities:* The construction of buried outside plant facilities generally consists of plowing or trenching cable at a depth of approximately 36'' to 48'' alongside the road usually in a utility corridor or within public road rights-of-way.

(b) *Aerial Plant/Facilities:* The construction of aerial facilities is either done by hanging cables on new poles, typically on public rights-of-way, or by installing cables using existing poles owned by a third party.

(c) *Towers:* The construction of towers for cell sites and/or microwave dishes. Tower construction is typically done by building a tower on a new foundation. The heights of the towers generally vary from 120 feet to 400 feet.

(d) *Collocations:* The mounting or installation of an antenna or other communications device on an existing tower, building, or structure for the purpose of transmitting and/or receiving radio frequency signal for communication purposes.

(e) *Ancillary Facilities:* Generally consists of installing small pre-fabricated shelters on tower sites that are used for housing electronic equipment. These shelters are usually placed on concrete pads and generally require very minimal disturbance of the land. On extremely rare occasions, the construction of a headquarters and/or warehouse building may be necessary. The amount of land disturbance resulting from this type of construction can vary depending on the size of the proposed building.

(f) *Power Units:* The installation of power units, such as, an uninterruptible power supply (UPS), could be added to existing third party tower sites either on the existing concrete pad or by adding a new concrete pad if required at the site.

(g) *Wireless Telecommunications Facility:* An installation that sends and/or receives radio frequency signals, including but not limited to directional, omni-directional, and parabolic antennas, structures or towers (no more than 199 feet tall with no guy wires) to support receiving and/or transmitting devices, cabinets, equipment rooms,

accessory equipment, and other structures, and the land or structure on which they are all situated.

FirstNet is also required to leverage, to the maximum extent economically desirable, existing commercial infrastructure in its deployment and operation of the PSBN.

The geographic scope of the PSBN encompasses all U.S. states and territories. Thus, FirstNet actions will likely occur in a wide range of environmental settings and require FirstNet to establish a process for analyzing proposed actions and making NEPA determinations based on the specific location and type of proposed project activities.

Therefore, FirstNet establishes these NEPA implementing procedures to better follow the letter and spirit of NEPA; comply fully with the CEQ regulations; and apply the NEPA review process early in the planning stages of the nationwide PSBN.

III. Comments and Agency Responses

Comment #1

The PCIA-Wireless Infrastructure Association (PCIA) recommends FirstNet establish a forum for governmental and non-governmental parties, including telecommunications providers, manufacturers, and tower owners, to play an integral role in FirstNet's build-out, so that FirstNet can factor in the forum's input in developing its procedures and any future Notices.

Agency Response

FirstNet acknowledges the recommendation and will continue to engage governmental and non-governmental parties, as appropriate, in order to comply with relevant environmental requirements.

Comment #2

PCIA comments that collocating on existing facilities is the most economical and expeditious method of deploying wireless facilities, and, by maximizing collocations, FirstNet could minimize delays, achieve significant cost savings, and build-out a more comprehensive nationwide public safety broadband network.

Agency Response

FirstNet understands the importance of leveraging existing infrastructure, including collocations, and will utilize, to the maxim extent economically desirable, existing federal, state, tribal, local, commercial or other communications infrastructure in establishing the nationwide public safety broadband network.

Comment #3

PCIA expresses concerns that the proposed ''extraordinary circumstances'' identified in Appendix D do not provide any discussion of rationale for why and when an extraordinary circumstance will preclude the application of a categorical exclusion.

Agency Response

FirstNet determinations relating to the existence of extraordinary circumstances that preclude the application of a categorical exclusion will be made on a case-by-case basis and based on a review of the relevant factors (*e.g.,* type of activity, geography, and biology) related to a specific proposed action.

Comment #4

PCIA comments that FirstNet should provide more detail concerning the ''nuts and bolts'' of its proposed procedures, including specific NEPA and NHPA procedures and timelines for completing the review process where an action requiring FirstNet review is by a private applicant or non-federal entity.

Agency Response

FirstNet intends to provide additional guidance on NEPA and NHPA requirements that may affect a private applicant or non-federal entity on its Web site and through future stakeholder outreach, as appropriate.

Comment #5

PCIA recommends that the FirstNet NEPA implementing procedures provide guidance for determining which agency will be the lead agency in any multi-agency projects.

Agency Response

FirstNet understands the importance of coordinating with other agencies in complying with NEPA and intends to follow the process described in 40 CFR 1501.5 in determining lead and cooperating agencies in multi-agency projects for the purpose of NEPA.

Comment #6

PCIA commented that FirstNet should consider integrating aspects of the Federal Communication Commission's (FCC) environmental and historic preservation processes and procedures, including FCC rules establishing the standard for developing an EA and use of the Tower Construction Notification System (TCNS).

Agency Response

FirstNet will evaluate the effectiveness of these and other processes and procedures in complying with applicable environmental, historic, and cultural resource requirements.

Comment #7

U.S. Department of the Interior (DOI) recommends including the Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act to the list of requirements to Section 1.07, *Environmental Review and Consultation Requirements of NEPA Review.*

Agency Response

FirstNet has added the citations for the Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act to this section.

Comment #8

DOI recommends inclusion of language in Section 1.07, *Developing the Purpose and Need,* which would ensure consideration of all other authorities to which NEPA is supplemental as opposed to simply the FirstNet mission.

Agency Response

FirstNet intends to consider all other relevant authorities during the NEPA review for a proposed action and does not consider further supplemental language in this section to be necessary.

Comment #9

DOI recommends that FirstNet be required to coordinate with federal agencies having jurisdiction by law or special expertise on construction and lighting of its network of towers.

Agency Response

FirstNet understands the importance of coordinating with other agencies in complying with NEPA and intends to follow the process described in 40 CFR 1501.5 in determining lead and cooperating agencies for the purpose of NEPA.

Comment #10

DOI recommends including species covered under the Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act to the list of environmentally sensitive resources.

Agency Response

FirstNet has added language to include the species and habitat listed under the Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act to the list of environmentally sensitive resources listed in Appendix D.

Comment #11

DOI recommends adding important resources to migratory birds such as sites in the Western Hemisphere Shorebird Reserve and Audubon Important Bird Areas to list of environmentally sensitive resources listed in Appendix D.

Agency Response

FirstNet will consider impacts on migratory birds in areas such as the Western Hemisphere Shorebird Reserve and Audubon Important Bird Areas as part of the NEPA review for its proposed actions, as appropriate, and considers the addition of the Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act to Appendix D sufficient to identify and account for impacts on these resources.

Comment #12

DOI suggests that FirstNet consider preparing a programmatic environmental impact statement (PEIS) to determine and address cumulative impacts from authorizing FirstNet projects on those 241 species for which the incremental impact of tower mortality, when added to other past, present, and reasonably foreseeable future actions, is most likely significant, given their overall imperiled status, including the impacts on species of birds whose populations are in trouble or otherwise merit special protection.

Agency Response

FirstNet will consider this recommendation as it continues to integrate the NEPA process with its other planning for the nationwide public safety broadband network.

Comment #13

DOI recommends revisions to the procedures that better reflect the impacts on resources under DOI jurisdiction relating to communication towers, including injury, crippling loss, and death from collision with towers or supporting guy-wire infrastructure and significant issues associated with communication towers involving impacts from non-ionizing electromagnetic radiation.

Agency Response

FirstNet will consider impacts on resources under DOI or other agency jurisdiction as part of the NEPA review for its proposed actions, as appropriate, and considers the *Environmental Review Process* established in section 1.07 of the procedures a reasonable process for identifying and accounting for impacts on these resources.

Comment #14

A commenter suggested the development and inclusion of a Determination of Adequacy or some form of a checklist to identify and address issues relating to whether an action requires NEPA review.

Agency Response

FirstNet will consider this recommendation as it continues to integrate the NEPA process with its other planning for the nationwide public safety broadband network.

Comment #15

A commenter asked whether FirstNet will have a formal appeal process which allows another agency or the public to make an appeal of an environmental determination or final decision.

Agency Response

FirstNet will comply with the timing of agency action requirements described in 40 CFR 1506.10, but will not have an additional formal appeal process that will allow another agency or the public to make an appeal after FirstNet has made an environmental determination or final decision. Rather, FirstNet anticipates that public and agency involvement relating to NEPA compliance will occur as described in *Environmental Review Process* established in section 1.07 of its NEPA implementing procedures.

Comment #16

Commenters suggested various minor edits to the document.

Agency Response

FirstNet reviewed these suggestions and made minor word and document edits, as appropriate.

IV. Paperwork Reduction Act

This notice does not contain collection-of-information requirements subject to the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*). Moreover, any action taken or made by FirstNet is exempt from the requirements of the PRA. *See* 47 U.S.C. 1426(d). Notwithstanding any other provisions of law, no person is required to, nor shall a person be subject to penalty for failure to comply with, a collection of information subject to the requirements of PRA unless that collection of information displays a currently valid OMB control number.

V. Environmental Impact

These NEPA implementing procedures are intended to supplement the CEQ regulations and provide procedural guidance to assist FirstNet in the fulfillment of its responsibilities under NEPA. The requirements for establishing NEPA procedures are set forth at 40 CFR 1505.1 and 1507.3.

Dated: April 23, 2014.

Stuart Kupinsky,

Chief Counsel, First Responder Network Authority

Addendum

First Responder Network Authority
Management Directive

First Responder Network Authority Procedures for Implementing the National Environmental Policy Act

Sections

1.01 Purpose
1.02 Scope
1.03 Policies
1.04 Definitions
1.05 Program Goals
1.06 Responsibilities
1.07 Environmental Review Process
1.08 Effective Date
Appendix A—List of Authorities
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Appendix C—Categorical Exclusions
Appendix D—Extraordinary Circumstances

1.01

PURPOSE

The purpose of this Management Directive (Directive) is to establish the First Responder Network Authority (FirstNet) policies, requirements, and procedures for complying with the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.* (NEPA), and the implementing regulations issued by the Council on Environmental Quality (CEQ Regulations) as codified in Parts 1500–1508 of Title 40 of the Code of Federal Regulations (40 CFR parts 1500–1508).

1.02

SCOPE

The provisions of this Directive apply to actions undertaken by FirstNet and specifically apply to any of the following actions:

(a) Legislative proposals initiated by FirstNet for which FirstNet would have primary action responsibility.

(b) Research, projects, and activities directly undertaken by FirstNet, or the research, projects and activities of a non-federal entity which are determined to be subject to the control and responsibility of FirstNet.

(c) Actions to establish an official policy or adopt a formal plan or program. (40 CFR 1508.18).

1.03

POLICIES

FirstNet policies and programs shall be planned, developed, and implemented so as to achieve the purposes and to follow the procedures outlined by NEPA in order to assure responsible stewardship of the environment for present and future generations. Accordingly, FirstNet shall adhere to the following actions to ensure compliance with NEPA:

(a) FirstNet adopts the CEQ Regulations (40 CFR parts 1500–1508) for implementing NEPA.

(b) FirstNet shall:

1. Comply with the CEQ regulations (40 CFR parts 1500–1508);

2. Report and coordinate its policies and procedures with the Department of Commerce Office of General Counsel, as appropriate;

3. Ensure activities and planning regarding federal actions consider the environmental consequences of proposed actions in conjunction with mission requirements and objectives;

4. Consider and give weight to environmental factors in making decisions in order to achieve a proper balance between the development and utilization of natural, cultural, and human resources and the protection and conservation of environmental quality for succeeding generations;

5. Consult, coordinate, cooperate, and partner with other federal agencies and state, local and tribal governments, as appropriate, in the development and implementation of FirstNet's plans and programs affecting environmental quality and, in turn, give consideration to those activities that succeed in best addressing state and local concerns;

6. Identify and invite, as appropriate, potential federal, state, local, and tribal governments to participate as cooperating agencies early during the NEPA scoping process;

7. Participate as a lead or cooperating agency, as appropriate, with other federal agencies where FirstNet is involved in the same action as other agencies, or is involved in an action which is related to another agency's action because of their functional interdependence or geographical proximity;

8. As requested, and where resources allow, review and provide comments on draft NEPA documents submitted by other federal agencies where the action relates to FirstNet's mission or operations;

(c) FirstNet shall ensure appropriate action is taken to comply with NEPA when actions are planned by private applicants or other non-federal entities before federal involvement. This will be accomplished by the following:

1. FirstNet policies will be accessible on the FirstNet Web site and designated staff will be available to advise potential applicants of existing studies or other information reasonably foreseeable for later federal action.

2. FirstNet will initiate consultation early with appropriate state, local, and tribal governments and with interested private persons and organizations when its own involvement is reasonably foreseeable.

3. FirstNet will begin the NEPA process at the earliest possible time.

(d) While it is the policy of FirstNet to thoroughly evaluate its actions in accordance with the requirements of NEPA and the CEQ regulations, certain actions may result from statutory requirements or actions by non-federal entities involving little or no control or discretion on the part of FirstNet. In the case of such actions, the FirstNet Director of Environmental Compliance and/or the NEPA Coordinator, in coordination with the FirstNet Chief Counsel, should make a determination of non-applicability of NEPA.

1.04

DEFINITIONS

This Directive incorporates all definitions and phrases as defined by CEQ in its regulations at 40 CFR part 1508. To ensure full compliance, the CEQ regulations should be consulted for comprehensive explanations of the terms. A glossary of words and phrases as used in this Directive is included in Appendix B.

1.05

PROGRAM GOALS

FirstNet will follow a systematic, interdisciplinary approach to planning in order to minimize the use and impact of environmental resources. The FirstNet NEPA program is designed to ensure that:

(a) Proposed actions to be undertaken by FirstNet are identified early in the planning process and brought to the attention of the Director of Environmental Compliance and/or NEPA Coordinator;

(b) Actions are evaluated to determine the appropriate applicable NEPA review (*i.e.,* Categorical Exclusion (CE), Environmental Assessment (EA), Environmental Impact Study (EIS), or a Determination of NEPA Adequacy when tiering from or adopting another Agency's environmental documentation);

(c) An interdisciplinary approach is taken to proactively consider environmental impacts and identify and consider the range of reasonable alternatives at the earliest planning stages of an action and prior to rendering any decision;

(d) The planning process integrates environmental review and consultation requirements;

(e) The impacts of proposed activities, programs, and projects on the quality of the human environment are considered before making an irretrievable and irreversible commitment of resources; and

(f) The public is engaged and involved with the planning process and evaluation of environmental impacts, as appropriate.

1.06

RESPONSIBILITIES

FirstNet roles and responsibilities relating to the implementation and compliance with NEPA are as follows:

(a) The Chair of the Board (Chair). The Chair has the ultimate responsibility to fulfill FirstNet's compliance with NEPA. The Chair directs the FirstNet General Manager (GM) to (1) ensure that environmental planning is incorporated into FirstNet decision-making processes and (2) coordinate with the designated Director of Environmental Compliance and/or NEPA Coordinator for advice and guidance on proper and adequate compliance with NEPA requirements.

(b) FirstNet General Manager (GM). The GM shall:

1. Establish and oversee the proper implementation of a FirstNet NEPA compliance program in accordance with the requirements of this Directive;

2. Advise the Chair on activities that are highly controversial, are nationally significant, or require the establishment of a new FirstNet NEPA-related policy;

3. Inform the Chair of current developments in NEPA policy and implementing procedures;

4. Support early, proactive, and comprehensive coordination and outreach processes across FirstNet;

5. Appoint a Director of Environmental Compliance and/or NEPA Coordinator to carry out the responsibilities delineated below in paragraph c; and

6. Sign Records of Decision (ROD), Findings of No Significant Impact (FONSIs), Records of Environmental Consideration (REC), and memos citing Categorical Exclusions (CEs), or re-delegate this authority in writing to other FirstNet personnel, as appropriate.

(c) FirstNet Director of Environmental Compliance and/or NEPA Coordinator (Director of Environmental Compliance/NEPA Coordinator). Responsible for coordinating and overseeing FirstNet's compliance with NEPA. To accomplish this the Director of Environmental Compliance/NEPA Coordinator will:

1. Assist the Chair and GM in implementing FirstNet's compliance with NEPA;

2. Review and provide final clearance on all NEPA documents covered by this Directive;

3. Transmit, with written recommendations, NEPA documents for action to the GM or authorized designee for signature or other appropriate agency action;

4. Develop and recommend policies, procedures, and technical and administrative advice and training to facilitate and improve FirstNet's effective and efficient implementation of NEPA.

5. Provide technical and administrative advice and training to relevant stakeholders so that they are aware of, and comply with, the NEPA process and so that they consider the impacts of their programs, projects, and policies;

6. Act as liaison with the Department, CEQ, and U.S. EPA on NEPA-related matters or issues and coordinate with other federal agencies with respect to significant NEPA matters;

7. Prepare or review, as appropriate, all inter- or intra-agency reports, surveys, and comments on NEPA-related matters, including other agency NEPA documentation, or legislative proposals;

8. Consult early and often with relevant stakeholders to identify how the requirements of this Directive will be met and at a minimum:

A. Determine the applicability of NEPA and, if applicable, the appropriate NEPA review procedure (i.e., CE, EA, or EIS) and public involvement, in consultation with the Chief Counsel of FirstNet, as necessary;

B. Review and comment upon draft NEPA documents to ensure that a high-quality analysis is completed, reasonable or appropriate alternatives are identified and discussed, and that all applicable scheduling, scoping, consultation, circulation, and public involvement requirements are met;

C. Assist in consultations with other federal, state, and local regulatory and/or

resource agencies and tribal governments on draft NEPA documents to specifically include agencies having jurisdiction by law of a resource or geographic area; and

D. Otherwise act as a resource to the relevant stakeholders to ensure that the NEPA document identifies reasonably foreseeable significant impacts of the action, sufficiently analyzes the impacts, clearly presents the findings, and fairly considers reasonable or appropriate alternatives to the action.

(d) FirstNet Chief Counsel: The Chief Counsel of FirstNet shall provide all legal services regarding NEPA compliance to include:

1. Providing legal sufficiency reviews of NEPA documents, as appropriate;

2. Assisting the Chair, GM, Director of Environmental Compliance, and NEPA Coordinator in determining the applicable NEPA review for a proposed action; and

3. Assisting the Chair, GM, Director of Environmental Compliance, and NEPA Coordinator in establishing or revising this Directive and the FirstNet NEPA compliance program, as necessary.

1.07

ENVIRONMENTAL REVIEW PROCESS

The environmental review process describes the applicable CE, EA, or EIS process for a proposed FirstNet action and includes actions required by CEQ in 40 CFR parts 1500–1508 for compliance with NEPA. The process involves the following series of actions accomplished by or under the direction of the Chair of FirstNet or a delegate.

Developing the Purpose and Need

FirstNet shall ensure the purpose and need of a proposed action considers the FirstNet mission, while not unduly limiting the range of alternatives considered in accomplishing its mission. FirstNet is authorized and directed by statute to take all actions necessary to ensure the design, construction, and operation of a nationwide, interoperable PSBN based on a single, nationwide network architecture. The establishment of the nationwide PSBN meets a long-standing and critical national infrastructure need that will, for the first time, allow police officers, fire fighters, emergency medical service professionals, and other public safety officials to effectively communicate with each other across agencies and jurisdictions.

Apply NEPA Early in the Process

FirstNet shall integrate the NEPA process with other planning for the nationwide PSBN at the earliest possible time to ensure that planning and decisions reflect environmental values and in order to avoid delays or other potential conflicts later in the process. Accordingly, FirstNet shall:

(a) Identify environmental impacts and resources in adequate detail so they can be compared and evaluated with economic and technical considerations. Wherever practicable, environmental documents with appropriate analyses should be circulated and reviewed at the same time as other planning documents.

(b) Study, develop, and analyze reasonable alternatives to recommended courses of action.

(c) Consider mitigation measures which could avoid, ameliorate, lessen, or provide compensation for identified impacts of the proposed action.

(d) Where the action requiring FirstNet review is by a private applicant or other non-federal entity:

1. The Director of Environmental Compliance and/or the NEPA Coordinator or other assigned FirstNet Environmental Protection Specialist will advise the applicant of FirstNet's policies and procedures for NEPA compliance and make available or direct the applicant to resources within FirstNet, the Department, or elsewhere in the federal government to facilitate the applicant's consideration of, and explanation of, environmental impacts and alternatives.

2. FirstNet will consult with appropriate state, local, and tribal governments and other relevant organizations on environmental impacts of, and alternatives to, a proposed action when its own involvement is reasonably foreseeable.

3. FirstNet will initiate its NEPA review process at the earliest practicable time.

Scoping

FirstNet shall comply with scoping procedures described in 40 CFR 1501.7 required for proposed actions normally requiring an EIS. In some, but not all, circumstances, and at the discretion of the Director of Environmental Compliance and/or the NEPA Coordinator, scoping will also be conducted on an EA. Additionally, FirstNet may also require scoping procedures to be followed for other proposed actions, where appropriate, to achieve the purposes of NEPA. When evaluating the type and extent of the NEPA document and review, FirstNet shall:

(a) Define the purpose and need of a proposed action;

(b) Identify reasonably foreseeable impacts of the action to determine if consultation with other federal, state, local, or tribal entities is needed;

(c) Determine if other federal agency actions are part of a proposed action, and establish lead and coordinating agencies for the actions, as appropriate;

(d) Identify or develop reasonable alternatives to a proposed action;

(e) Consider the context and intensity of the potential direct, indirect, and cumulative environmental effects of a proposed action(s) and any reasonable or appropriate alternatives;

(f) Consider mitigation measures or strategies to minimize, reduce, or eliminate environmental impacts of a proposed action(s), as necessary;

Public Involvement

In carrying out its responsibilities under NEPA, FirstNet shall comply with the public involvement requirements described in 40 CFR 1506.6 and make diligent efforts to involve the public in the environmental review process. In addition, FirstNet shall:

(a) Ensure that all public notices relating to environmental matters shall describe the nature, location, and extent of the proposed action and indicate the availability and location of additional information relating to the matter.

(b) Determine the appropriate medium for publishing notices relating to environmental matters on a project-by-project basis.

(c) Assess and consider public comments both individually and collectively and ensure that responses to public comments are appended to the applicable environmental document, as appropriate.

(d) Make available to the public those project-related environmental documents that FirstNet determines will enhance public participation in the environmental process. These materials shall be placed in locations convenient for the public as determined by FirstNet.

(e) Hold public hearings or meetings at reasonable times and locations concerning environmental aspects of a proposed action in all cases where, in the opinion of FirstNet, the need for hearings or meetings is indicated in order to develop adequate information on the environmental implications of the proposed action. Public hearings or meetings conducted by FirstNet will be coordinated to the extent practicable with other meetings, hearings, and environmental reviews which may be held or required by other federal, state, and local agencies.

General Requirements for Categorical Exclusions

FirstNet actions that do not individually or cumulatively have a significant effect on the human environment and where no extraordinary circumstances exist may be categorically excluded from further environmental review in an EA or EIS.

(a) The approved list of FirstNet actions that normally qualify for a CE are listed in Appendix C.

(b) FirstNet actions that would normally be categorically excluded from further environmental review, but due to the existence of extraordinary circumstances could have substantial environmental effects, will require the preparation of an EA or EIS.

(c) The list of extraordinary circumstances that could have substantial environmental effects is listed in Appendix D.

(d) If a proposed action is determined to be a CE and not considered a routine administrative, ministerial, procurement, or personnel action, FirstNet shall document its determination that a CE applies to a proposed action with a Memorandum to File or a Record of Environmental Consideration.

(e) The list of approved FirstNet CEs is subject to continual review and can be modified by amending/revising this Directive, in consultation with CEQ.

(f) The use of a CE does not relieve FirstNet from compliance with other statutes or consultations under the Endangered Species Act of 1973 (16 U.S.C. § 1531 *et seq.*) or the National Historic Preservation Act of 1966 (16 U.S.C. § 470 *et seq.*). Such consultations may be required to determine the applicability of the CE screening criteria.

General Requirements for an Environmental Assessment

FirstNet shall prepare an EA as defined in 40 CFR 1508.9 for an action which FirstNet

determines may have the potential for significant environmental impacts. Actions normally requiring an EA include:

(a) When a proposed action is not in a category of actions described in an available categorical exclusion and there is not enough information available to know whether the proposed action will have significant environmental impacts, an EA will be prepared. In this situation, an EA process is used to determine, through environmental impact evaluation and opportunity for public involvement, as appropriate, if the impacts on the quality of the human environment are potentially significant.

(b) A proposed action that meets categorical exclusion criteria, but that is associated with extraordinary circumstances, may require the preparation of an environmental assessment to determine if there are significant impacts associated with the action.

(c) The Chair or a delegate can decide to prepare an EA as a best practice planning tool to inform decision makers on the environmental impacts of its actions.

In preparing an EA, FirstNet shall:

(a) Involve environmental agencies, applicants, and the public to the extent practicable.

(b) Ensure the contents of an EA comply with the requirements of 40 CFR 1508.9, and shall include:

1. A detailed project description to include location and maps identifying where the proposed action is going to take place.

2. Sufficient evidence and analysis for FirstNet to determine whether to prepare a FONSI or an EIS and facilitate preparation of said EIS, if needed;

3. A brief discussion of the need for the action;

4. A brief discussion of the environmental impacts of the proposed action and alternatives; and

5. A listing of agencies and person consulted

(c) Determine, based on an independent review of the EA, whether the proposed action will have a significant environmental impact. If FirstNet determines that the proposed action will not have a significant impact, FirstNet may issue a FONSI as described in 40 CFR 1508.13. However, if, after review of the EA, FirstNet determines that the proposed action will have a significant environmental impact, FirstNet will proceed with the preparation of an EIS.

General Requirements for an Environmental Impact Statement

FirstNet shall prepare an EIS when it determines that a proposed action may significantly impact the quality of the human environment or when the results of an EA indicate the proposed action will have significant impacts. Actions normally requiring the preparation of an EIS include:

(a) Major federal actions found to cause significant effects on the human environment which cannot be mitigated to a level of insignificance (identifiable at the start of the NEPA process or through the preparation of an EA).

(b) Major federal actions occurring in the U.S. known to cause significant environmental effects on the global commons, such as the oceans or Antarctica, as described in E.O. 12114, Environmental Effects Abroad of Major Federal Actions.

(c) Actions required by statute or treaty to develop an EIS.

In preparing an EIS, FirstNet shall solicit public involvement and comment as described in 40 CFR 1503.1–1503.4 after preparing a draft EIS and before preparing a final EIS. FirstNet shall also ensure the contents of an EIS contain the elements described in 40 CFR 1502.10–1502.18 and, unless FirstNet determines that there is a compelling reason to do otherwise, shall follow the standard EIS format including:

1. Cover Sheet
   i. See 40 CFR 1502.11
2. Summary
   i. See 40 CFR 1502.12
3. Table of Contents
4. Purpose of and Need for Action
   i. See 40 CFR 1502.13
5. Discussion of Proposed Action and Alternatives
   i. See 40 CFR 1502.14
6. Description of the Affected Environment
   i. See 40 CFR 1502.15
7. Discussion of the Environmental Consequences of the Proposed Action
   i. See 40 CFR 1502.16
8. List of Preparers
   i. See 40 CFR 1502.17
9. List of Agencies, Organizations, and Persons Consulted
10. Index and Appendices, as appropriate

Finally, FirstNet shall prepare a concise public Record of Decision (ROD) in accordance with 40 CFR 1505.2.

Environmental Review and Consultation Requirements for NEPA Reviews

To the fullest extent possible, FirstNet shall prepare NEPA documents (*i.e.,* CE, EA, EIS) concurrently and integrated with environmental analyses and related surveys and studies required by the Fish and Wildlife Coordination Act (16 U.S.C. § 661 *et seq.*); National Historic Preservation Act of 1966 (16 U.S.C. 470 *et seq.*), Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*); Migratory Bird Treaty Act of 1918 (16 U.S.C. 703 *et seq.);* Bald and Golden Eagle Act of 1940, 16 U.S.C. 668 *et seq.;* E.O. No. 11990, Protection of Wetlands; E.O. No. 11988, Floodplain Management; and other applicable environmental laws and Executive Orders.

Cumulative Impacts

FirstNet NEPA analyses shall assess cumulative effects, which are the impacts on the environment resulting from the incremental impact of the proposed action when added to other past, present, and reasonably foreseeable future actions (40 CFR 1508.7).

Environmental Justice

FirstNet shall comply with E.O. 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,'' and determine whether the proposed action will have a disproportionately high and adverse impact on minority populations or low-income populations.

Environmental Determinations and Final Decisions

The conclusion of the NEPA review process will result in one of the following environmental determinations or final decisions.

(a) Categorical Exclusion (CE)

1. If a proposed action is determined to be a CE and not considered a routine administrative, ministerial, or a personnel or procurement action, FirstNet shall document its determination that a CE applies to a proposed action with a memorandum to the file that states no extraordinary circumstances are present that would preclude the use of the CE.

2. For more complicated CEs, a Record of Environmental Consideration (REC) would be prepared to document the decision. A REC is a brief document that demonstrates that NEPA and other relevant laws, regulations, and EOs have been analyzed for an action that does not require an EA or EIS. A REC is kept in the administrative record and should cite the categorical exclusion used and show that the agency determined: (1) the action fits within the category of actions described in the categorical exclusions; and (2) there are no extraordinary circumstances that would preclude the project or proposed action from qualifying as a categorically excluded action.

(b) Finding of No Significant Impact (FONSI)

1. An EA results in either the issuance of FONSI or a determination to prepare an EIS. A FONSI is a document (40 CFR 1508.13) that briefly states why an action (not otherwise excluded) will not significantly affect the environment.

2. If the Chair or delegate determines, based on an independent review of the EA, that the proposed action will not have significant impact, FirstNet may issue a FONSI and, after all other relevant requirements are met, proceed with the proposed action. However, if, after an independent review of the EA, it is determined by the Chair or a delegate that the proposed action will have a significant environmental impact, FirstNet will proceed with the preparation of an EIS.

(c) Record of Decision (ROD)

1. When it is determined that an EIS is required, FirstNet's final decision relating to the proposed action will consider the environmental information provided in the EIS and require the preparation of a ROD. The ROD documents the final decision made and the basis for that decision. A ROD shall be prepared in accordance with 40 CFR 1505.2 for the final decision maker, whether the Chair or a delegate, for approval and signature.

2. If all other requirements have been met, FirstNet's implementation of the proposed action may begin immediately after the ROD is signed.

Mitigation

FirstNet, throughout the environmental review process, shall consider mitigation measures, as defined in 40 CFR 1508.20, to avoid or minimize environmental harm,

where possible. In addition, the following actions will be taken to ensure proper implementation of mitigation measures:

(a) FirstNet shall ensure a discussion of mitigation measures essential to render the impacts of the proposed action not significant is included or referenced in the FONSI and/or the ROD prior to making a final environmental determination or decision.

(b) FirstNet will not commit to mitigation measures considered or analyzed in environmental documentation if there are insufficient legal authorities, or it is not reasonable to foresee the availability of sufficient resources to perform or ensure the performance of the mitigation.

(c) Prior to and during the implementation of the action, FirstNet shall monitor project activities to ensure the proper execution of any mitigation measures or other conditions established and committed to in environmental documentation, as appropriate.

(d) If mitigation commitments made in NEPA and decision documents fail to achieve projected environmental outcomes and there is remaining federal action, FirstNet may utilize an adaptive management approach and take corrective actions to identify alternatives that could take the place of original mitigation commitments and provide the intended environmental result.

Tiering

FirstNet shall tier environmental documents to eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision at each level of environmental review, as appropriate (*see* 40 CFR 1508.28). When a Programmatic EIS has been prepared, FirstNet need only summarize the issues discussed in the broader environmental document, incorporate discussions from the broader environmental document by reference, and focus the tiered document on issues specific to the subsequent action.

Supplemental Environmental Documentation

FirstNet may prepare supplements to either the draft or final environmental documentation if:

(a) FirstNet makes substantial changes in the proposed action that are relevant to environmental concerns; or

(b) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

(c) FirstNet is relying upon an environmental review previously performed by another federal agency with authority over the action or related activity of an applicant, and additional analysis is needed to address the reasonably foreseeable impacts of the action under consideration by FirstNet.

Emergencies

FirstNet may implement an emergency NEPA process after determining there is a need for taking action that does not allow for time for the regular NEPA process and complying with NEPA. This section applies only if the Director of Environmental Compliance or the NEPA Coordinator, in consultation with FirstNet General Counsel, determines that an emergency exists that makes it necessary to take urgently needed actions before preparing a NEPA analysis and documentation in accordance with the provisions outlined below.

(a) FirstNet may take those actions necessary to control the immediate impacts of the emergency that are urgently needed to mitigate imminent harm to life, property, or important natural, cultural, or historic resources. When taking such actions, FirstNet shall take into account the probable environmental consequences of these actions and mitigate foreseeable adverse environmental effects to the extent practical.

(b) The Director of Environmental Compliance, NEPA Coordinator, or designee shall document in writing the determination that an emergency exists and describe the responsive action(s) taken at the time the emergency exists. The form of that documentation is within the discretion of FirstNet.

(c) If the Director of Environmental Compliance or NEPA Coordinator determines that proposed actions taken in response to an emergency, beyond actions noted in paragraph (a) of this section, are not likely to have significant environmental impacts, the Director of Environmental Compliance, NEPA Coordinator, or designee shall document that determination in an environmental assessment and a FONSI prepared in accordance with this part, unless categorically excluded. If the Director of Environmental Compliance or NEPA Coordinator finds that the nature and scope of the subsequent actions related to the emergency require taking actions prior to completing an EA and a FONSI, the Director of Environmental Compliance or NEPA Coordinator shall consult with the FirstNet Chief Counsel about alternative arrangements for NEPA compliance. The Director of Environmental Compliance, the NEPA Coordinator, or designee may grant an alternative arrangement. Any alternative arrangement must be documented and notice of its use provided to CEQ.

(d) The Director of Environmental Compliance or NEPA Coordinator shall consult with CEQ about alternative arrangements as soon as possible if FirstNet determines that proposed actions taken in response to an emergency are likely to have significant environmental impacts. Such alternative arrangements will apply only to the proposed actions necessary to control the immediate impacts of the emergency. Other proposed actions remain subject to NEPA analysis and documentation in accordance with this part.

1.08

EFFECTIVE DATE

The effective date for the FirstNet NEPA implementation procedures is April 29, 2014.

Appendix A

LIST OF AUTHORITIES

(a) Statutes and Regulations that should be considered during the development of a NEPA review should include:

1. National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321 *et seq.*
2. CEQ Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, as codified at 40 CFR parts 1500—1508.
3. Endangered Species Act of 1973, 16 U.S.C. 1531 *et seq.*
4. Fish and Wildlife Coordination Act, 16 U.S.C. 661 *et seq.*
5. National Historic Preservation Act of 1966, 16 U.S.C. 470 *et seq.*
6. Migratory Bird Treaty Act of 1918, 16 U.S.C. 703 *et seq.*
7. Bald and Golden Eagle Act of 1940, 16 U.S.C. 668 *et seq.*
8. Clean Air Act of 1970, 42 U.S.C. 7401 *et seq.*
9. Clean Water Act, 33 U.S.C. 1251 *et seq.*
10. Coastal Zone Management Act of 1972, 16 U.S.C. 1451 *et seq.*
11. Wild and Scenic Rivers Act of 1968, 16 U.S.C. 1271 *et seq.*
12. Marine Mammal Protection Act of 1972, 16 U.S.C. 31 *et seq.*
13. River and Harbors Act of 1899, 33 U.S.C. 401 and 403.

(b) Executive Orders that should be considered during the development of a NEPA review should include:

1. E.O. 11988, Floodplain Management.
2. E.O. 12114, Environmental Effects Abroad of Major Federal Actions.
3. E.O. 11990, Protection of Wetlands.
4. E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.
5. E.O. 13112, Invasive Species.
6. E.O. 13175, Consultation and Coordination with Indian Tribal Governments.
7. E.O. 13186, Responsibilities of Federal Agencies to Protect Migratory Birds.

(c) CEQ Guidance Documents that should be considered during the development of a NEPA review should include:

1. ''Memorandum for Heads of Federal Departments and Agencies: Improving the Process for Preparing Efficient and Timely Environmental Reviews Under the National Environmental Policy Act'' (CEQ, 2012).
2. ''Memorandum for Heads of Federal Departments and Agencies: Appropriate Use of Mitigation and Monitoring and Clarifying the Appropriate Use of Mitigated Findings of No Significant Impact'' (CEQ, 2011).
3. ''Memorandum for Heads of Federal Departments and Agencies: Establishing, Applying, and Revising Categorical Exclusions Under the National Environmental Policy Act'' (CEQ, 2010).
4. ''Memorandum for Heads of Federal Departments and Agencies: Emergencies and the National Environmental Policy Act'' (CEQ, 2010).
5. ''Aligning National Environmental Policy Act Processes with Environmental Management Systems'' (CEQ/NEPA Task Force, 2007).
6. ''Collaboration in NEPA: A Handbook for NEPA Practitioners'' (CEQ/NEPA Task Force, 2007).
7. ''Memorandum for Federal NEPA Contacts: Emergency Actions and NEPA'' (CEQ, 2005).

8. ''Memorandum for Federal NEPA Contacts: Emergency Actions and NEPA, Appendix 2: Preparing Focused, Concise and Timely Environmental Assessments'' (CEQ, 2005).
9. ''Guidance on the Consideration of Past Actions in Cumulative Effects Analysis'' (CEQ, 2005).
10. ''Modernizing NEPA Implementation'' (CEQ/NEPA Task Force, 2003).
11. ''CEQ Memorandum for Deputy/Assistant Heads of Federal Agencies: Identifying Non-Federal Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act'' (CEQ, 2000).
12. ''CEQ Memorandum for Heads of Federal Agencies: Designation of Non-Federal Agencies to be Cooperating Agencies in Implementing the Procedural Requirements of NEPA'' (CEQ, 1999).
13. ''Considering Cumulative Effects Under the National Environmental Policy Act'' (CEQ, 1997).
14. ''Environmental Justice: Guidance Under the National Environmental Policy Act'' (CEQ, 1997).
15. ''CEQ Guidance on NEPA Analyses for Transboundary Impacts'' (CEQ, 1997).
16. ''Memorandum to Heads of Federal Departments and Agencies Regarding Pollution Prevention and the National Environmental Policy Act'' (CEQ, 1993).
17. ''Incorporating Biodiversity Considerations into Environmental Impact Analysis Under the National Environmental Policy Act'' (CEQ, 1993).
18. ''CEQ Guidance Regarding NEPA Regulations'' (CEQ, 1983).
19. ''Forty Most Asked Questions Concerning CEQ's NEPA Regulations'' (CEQ, 1981).
20. ''Guidance on Applying Section 404(r) of the Clean Water Act to Federal Projects Which Involve the Discharge of Dredged or Fill Materials into Waters of the U.S., Including Wetlands'' (CEQ, 1980).
21. ''Environmental Effects Abroad of Major Federal Actions, Executive Order 12114; Implementing and Explanatory Documents'' (CEQ, 1979).
22. ''CEQ Memorandum for Heads of Agencies: Implementation of Executive Order 11988 on Floodplain Management and Executive Order 11990 on Protection of Wetlands'' (CEQ, 1978).
23. ''Environmental Review Pursuant to Section 1424(e) of the Safe Drinking Water Act of 1974 and its Relationship to NEPA'' (CEQ, 1976).

Appendix B

GLOSSARY

All terminology and definitions contained in 40 CFR parts 1500–1508 are incorporated into this Directive. The following definitions are provided for other terms and phrases used.

(a) *Applicant.* Any party who may apply to FirstNet for a Federal permit, funding, or other approval or any party proposing such an action. Any application should be accompanied by an explanation of the expected or reasonably foreseeable environmental impacts, identify, as appropriate, alternatives to the action and provide supporting documentation. Depending on the program, the applicant can be an individual, a private organization, or a Federal, state, tribal, or territorial government body.

(b) *Chair of the Board.* Member of the FirstNet Board selected by the Secretary of Commerce to serve as Chair of the Board for FirstNet.

(c) *Council on Environmental Quality (CEQ).* Organization within the Executive Office of the President charged with monitoring progress toward achieving the national environmental goals as set forth in NEPA. The CEQ promulgates regulations governing the NEPA process for all Federal agencies.

(d) *Determination of NEPA Adequacy.* A written document (*e.g.,* Memorandum to File or approved checklist) prepared by the Director of Environmental Compliance or NEPA Coordinator detailing the rationale for adopting another agency's environmental analysis or documentation when that analysis or documentation is used to address FirstNet's NEPA requirements.

(e) *Director of Environmental Compliance.* Individual responsible for managing the environmental program for FirstNet to include the NEPA program. The NEPA Coordinator reports to this position.

(f) *Environmental Impact Statement (EIS).* A detailed written statement prepared by an agency if a proposed action significantly impacts the quality of the human environment. The decision to prepare an EIS is based on the agency's determination that the potential impacts are significant or the results of an EA indicate significant impacts. An EIS should include discussions of the purpose of and need for the action, alternatives, the affected environment, the environmental consequences of the proposed action, lists of preparers, agencies involved, response to any public comments received, organizations and persons to whom the statement is sent, an index, and an appendix (if any). An EIS is prepared in two stages: a draft and a final. Either stage of an EIS may be supplemented.

(g) *Environmental Review.* This term refers to the NEPA process which includes: 1) identifying and scoping issues related to the proposed action; 2) determining the necessary steps for NEPA compliance and preparing the NEPA review (CE, EA, EIS, or Determination of NEPA Adequacy); and 3) making decisions that are based on understanding the environmental consequences of the proposed action.

(h) *Finding of No Significant Impact (FONSI).* A short NEPA document that presents the reasons why an action will not have a significant impact on the quality of the human environment and, therefore, will not require the preparation of an EIS. A FONSI must be supported by an EA, and must include, summarize, attach or incorporate by reference the EA. (40 CFR 1508.13).

(i) *FirstNet General Manager.* Individual responsible for implementing the policies and strategies approved by the FirstNet Board, and overseeing all of the day-to-day operations of FirstNet.

(j) *Mitigation.* Measures taken to allow the proposed action to: avoid environmental impacts altogether; minimize impacts by limiting the degree or magnitude of the action; rectify the impact by repairing, rehabilitating, or restoring the affected environment; reduce or eliminate the impact over time by preservation; and/or compensate for the impact.

(k) *NEPA Coordinator.* Individual responsible for coordinating and overseeing FirstNet's compliance with NEPA.

(l) *NEPA Document.* An EA, FONSI, draft, supplemental draft, or final EIS, Record of Decision (ROD), Determination of NEPA Adequacy, Record of Environmental Consideration, or memorandum documenting the application of a CE.

(m) *Project.* A Federal action such as a grant, contract, loan, loan guarantee, vessel capacity reduction program, land acquisition, construction project, license, permit, modification, regulation, or research program for which FirstNet has actual control and responsibility.

(n) *Record of Decision (ROD).* A public document signed by the agency decision maker following the completion of an EIS. The ROD states the decision, alternatives considered, the environmentally preferable alternative(s), factors considered in the agency decision, mitigation measures that will be implemented, and whether the practicable means to avoid or minimize environmental harm have been adopted (40 CFR 1505.2).

(o) *Record of Environmental Consideration (REC).* A REC is a brief document that demonstrates that NEPA and other relevant laws, regulations, and EOs have been analyzed for an action that does not require an EA or EIS. A REC is kept in the administrative record and should cite the categorical exclusion used and show that the agency determined: (1) the action fits within the category of actions described in the categorical exclusions; and (2) there are no extraordinary circumstances that would preclude the project or proposed action from qualifying as a categorically excluded action.

(p) *Supplemental Environmental Documents.* A document prepared to amend an original NEPA document when there is a significant change in the action proposed beyond the scope of the original environmental review or when circumstances or information arise that could affect the proposed action and its environmental impacts (40 CFR 1502.9(c)).

Appendix C

CATEGORICAL EXCLUSIONS

A.1: The issuance of bulletins and information publications that do not concern environmental matters or substantial facility design, construction, or maintenance practices.

A.2: Procurement activities related to the day-to-day operation of FirstNet, including routine procurement of goods or services.

A.3: Personnel and Administrative Actions.

A.4: Purchase of existing facilities or a portion thereof where use or operation will remain unchanged.

A.5: Internal modifications or equipment additions (*e.g.,* computer facilities, relocating interior walls) to structures or buildings.

A.6: Construction of buried and aerial telecommunications lines, cables, and related facilities.

A.7: Construction of wireless telecommunications facilities involving no more than five acres (2 hectares) of physical disturbance at any single site.

A.8: Construction of cooperative or company headquarters, maintenance facilities, or other buildings involving no more than 10 acres (4 hectares) of physical disturbance or fenced property.

A.9: Changes to existing transmission lines that involve less than 20 percent pole replacement, or the complete rebuilding of existing distribution lines within the same right of way. Changes to existing transmission lines that require 20 percent or greater pole replacement will be considered the same as new construction.

A.10: Changes or additions to existing substations, switching stations, telecommunications switching or multiplexing centers, or external changes to buildings or small structures requiring one acre (0.4 hectare) or more but no more than five acres (2 hectares) of new physically disturbed land or fenced property.

A.11: Construction of substations, switching stations, or telecommunications switching or multiplexing centers requiring no more than five acres (2 hectares) of new physically disturbed land or fenced property.

A.12: Changes or additions to wireless telecommunication sites, substations, switching stations, telecommunications switching or multiplexing centers, buildings, or small structures requiring new physical disturbance or fencing of less than one acre (0.4 hectare).

A.13: Ordinary maintenance or replacement of equipment or small structures (*e.g.,* line support structures, line transformers, microwave facilities, telecommunications remote switching and multiplexing sites).

A.14: The construction of telecommunications facilities within the fenced area of an existing substation, switching station, or within the boundaries of an existing electric generating facility site.

A.15: Testing or monitoring work (*e.g.,* soil or rock core sampling, monitoring wells, air monitoring).

A.16: Studies and engineering undertaken to define proposed actions or alternatives sufficiently so that environmental effects can be assessed.

A.17: Rebuilding of power lines or telecommunications cables where road or highway reconstruction requires the applicant to relocate the lines either within or adjacent to the new road or highway easement or right-of-way.

A.18: Phase or voltage conversions, reconductoring or upgrading of existing electric distribution lines, or telecommunication facilities.

A.19: Construction of standby diesel electric generators (one megawatt or less total capacity) and associated facilities, for the primary purpose of providing emergency power at an existing applicant headquarters or district office, telecommunications switching or multiplexing site, or at an industrial, commercial, or agricultural facility served by the applicant.

Appendix D

EXTRAORDINARY CIRCUMSTANCES

Extraordinary circumstances that may preclude the use of a CE include:

(a) Reasonable likelihood of significant impact on public health or safety.

(b) Reasonable likelihood of significant environmental effects (direct, indirect, and cumulative)

(c) Reasonable likelihood of effects on the environment that are highly uncertain, unique, or are scientifically controversial.

(d) Reasonable likelihood of violating any federal, state, or local law or requirements imposed for the protection of the environment.

(e) Reasonable likelihood of adversely affecting ''environmentally sensitive'' resources, unless the impact has been resolved through another environmental process (*e.g.,* Coastal Zone Management Act, Clean Air Act, Clean Water Act).

Environmentally sensitive resources may include:

1. Proposed or federally listed threatened or endangered species, or their designated critical habitat (including species and habitat listed under the Endangered Species Act of 1973 (16 U.S.C. § 1531 *et seq.*); Migratory Bird Treaty Act of 1918 (16 U.S.C. § 703 *et seq.)* and Bald and Golden Eagle Act of 1940, (16 U.S.C. § 668 *et seq.).*

2. Areas having special designation or recognition such as prime or unique or agricultural lands; designated wilderness or wilderness study areas; wild and scenic rivers; 100-year or 500-year floodplains; wetlands; sole source aquifers (potential sources of drinking water); National Wildlife Refuges; National Parks; areas of critical environmental concern; or other areas of high environmental sensitivity.

(f) Reasonable likelihood of adversely impacting water quality, sole source aquifers, public water supply systems, or state, local, or tribal water quality standards established under the Clean Water Act and the Safe Drinking Water Act.

(g) Reasonable likelihood of effects on the quality of the environment that are highly controversial on environmental grounds. The term ''controversial'' means a substantial dispute exists as to the size, nature, or effect of the proposed action rather than to the existence of opposition to a proposed action, the effect of which is relatively undisputed.

(h) Reasonable likelihood of a disproportionately high and adverse effect on low income populations or minority populations.

(i) Limited access to and ceremonial use of Indian sacred sites on federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites.

(j) A greater scope or size than is normal for this category of action.

(k) Reasonable likelihood of degrading already existing poor environmental conditions. Also, initiation of a degrading influence, activity, or effect in areas not already significantly modified from their natural condition.

(l) Introduction or employment of unproven technology.

[FR Doc. 2014–09733 Filed 4–28–14; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2012–OS–0061]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by May 29, 2014.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: Impact of ChallenGe on Participants' Noncognitive Skills; OMB Control Number 0794–TBD.

Type of Request: New.

Number of Respondents: 1,200.

Responses Per Respondent: 1.667.

Annual Responses: 2,000.

Average Burden Per Response: 10 minutes.

Annual Burden Hours: 334.

Needs and Uses: The information collection requirement is necessary to obtain data on the noncognitive skills of National Guard Youth ChalleNGe program participants at the beginning and the end of their participation in the program. The data will be used by DoD to evaluate whether the ChalleNGe program positively impacts participants' noncognitive skills. The data will also be used to determine whether there are program-specific differences in terms of the impact.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD Information Management Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: April 23, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–09648 Filed 4–28–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the U.S. Naval Academy Board of Visitors

AGENCY: Department of the Navy, DoD.

ACTION: Notice of Partially Closed Meeting.

SUMMARY: The U.S. Naval Academy Board of Visitors will meet to make such inquiry, as the Board shall deem necessary, into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy. The executive session of this meeting from 11:00 a.m. to 12:00 p.m. on June 9, 2014, will include new and pending administrative/minor disciplinary infractions and non-judicial punishments involving the Midshipmen attending the U.S. Naval Academy to include but not limited to individual honor/conduct violations within the Brigade; the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. For this reason, the executive session of this meeting will be closed to the public.

DATES: The open session of the meeting will be held on June 9, 2014, from 8:30 a.m. to 11:00 a.m. The closed session of this meeting will be the executive session held from 11:00 a.m. to 12:00 p.m.

ADDRESSES: The meeting will be held in Alumni Hall at the United States Naval Academy in Annapolis Maryland. The meeting will be handicap accessible.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Matt Cady, USN, Executive Secretary to the Board of Visitors, Office of the Superintendent, U.S. Naval Academy, Annapolis, MD 21402–5000, 410–293–1503.

SUPPLEMENTARY INFORMATION: This notice of meeting is provided per the Federal Advisory Committee Act, as amended (5 U.S.C. App.). The executive session of the meeting from 11:00 a.m. to 12:00 p.m. on June 9, 2014, will include new and pending administrative/minor disciplinary infractions and non-judicial punishments involving the Midshipmen attending the U.S. Naval Academy to include but not limited to individual honor/conduct violations within the Brigade. The discussion of such information cannot be adequately segregated from other topics, which precludes opening the executive session of this meeting to the public. Accordingly, the Secretary of the Navy has determined in writing that the meeting shall be partially closed to the public because the discussions during the executive session from 11:00 a.m. to 12:00 p.m. will be concerned with matters coming under sections 552b(c)(5), (6), and (7) of Title 5, United States Code.

Dated: April 23, 2014.

N. A. Hagerty-Ford,

Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2014–09713 Filed 4–28–14; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2014–ICCD–0032]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and approval; Comment Request; EDGAR Recordkeeping and Reporting Requirements

AGENCY: Office of the Secretary/Office of the Deputy Secretary (OS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before May 29, 2014.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0032 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will only accept comments during the comment period in this mailbox when the regulations.gov site is not available. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E105, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Alfreida Pettiford, 202–245–6110.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in

response to this notice will be considered public records.

Title of Collection: EDGAR Recordkeeping and Reporting Requirements.

OMB Control Number: 1894–0009.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Private Sector, State, Local, or Tribal Governments.

Total Estimated Number of Annual Responses: 4,988.

Total Estimated Number of Annual Burden Hours: 22,448.

Abstract: The Education Department General Administrative Regulations (EDGAR) contains several requirements that grantees maintain certain types of records related to their grants and to report or submit certain information to the Department. Part 74 of EDGAR applies to Institutions of Higher Education, nonprofit organizations, and hospitals. Additionally, under 34 CFR 75.261, all types of grantees including State Educational Agencies, Local Educational Agencies, and Federally Recognized Indian Tribal Governments may follow the regulations in 34 CFR 74.25 (e)(2) regarding extension of a project period. Section 74.25 (e)(2) allows grantees to initiate a one-time extension of their projects' expiration date of up to 12 months without prior approval from the Department of Education. These grantee requirements are necessary for the effective administration and monitoring of grant projects.

Dated: April 24, 2014.

Stephanie Valentine,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–09708 Filed 4–28–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2014–ICCD–0067]

Agency Information Collection Activities; Comment Request; Adult Education and Family Literacy Act State Plan

AGENCY: Office of Career, Technical and Adult Education (OCTAE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before June 30, 2014.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0067 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will only accept comments during the comment period in this mailbox when the regulations.gov site is not available. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E115, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Karla VerBryckBlock, (202)245–6836.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Adult Education and Family Literacy Act State Plan (PL 105–220).

OMB Control Number: 1830–0026.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, or Tribal Governments.

Total Estimated Number of Annual Responses: 57.

Total Estimated Number of Annual Burden Hours: 2,565.

Abstract: The Adult Education and Family Literacy Act State Plan requests updates on performance standards of State level adult education, as well as details of any new projects on which federal adult education funds are to be expended. This data collection enables the Department of Education to distribute annual federal adult education allotments in future years.

Dated: April 23, 2014.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–09644 Filed 4–28–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2014–ICCD–0010]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Section 704 Annual Performance Report (Parts I and II)

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before May 29, 2014.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0010 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.*

Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E115, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Felipe Lulli, 202–245–7425.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Section 704 Annual Performance Report (Parts I and II)

OMB Control Number: 1820–0606

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Private Sector, State, Local, or Tribal Governments

Total Estimated Number of Annual Responses: 412

Total Estimated Number of Annual Burden Hours: 14,420

Abstract: These data collection instruments are the annual performance reports for State Independent Living Services (SILS) and Centers for Independent Living (CIL) programs. These are known as the 704 Report Part I and the 704 Report Part II, respectively. These reports are required by sections 704(m)(4)(D), 706(d), 721(b)(3) and 725(c) of the Rehabilitation Act of 1973, as amended (the Act) and the corresponding regulations in 34 CFR parts 364, 365, and 366. Approval of grantees' annual performance reports (704 Report) is a prerequisite for the Rehabilitation Services Administration (RSA) approval of the annual SILS grant awards (part B funds) and CILs continuation grant awards (part C funds).

Dated: April 23, 2014.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–09645 Filed 4–28–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Project Prevent Grant Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

Overview Information

Project Prevent Grant Program

Notice inviting applications for new awards for fiscal year (FY) 2014.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.184M.

DATES:

Applications Available: April 29, 2014.

Deadline for Transmittal of Applications: June 30, 2014.

Deadline for Intergovernmental Review: August 27, 2014.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Project Prevent Grant Program provides grants to local educational agencies (LEAs) to increase their capacity to help schools in communities with pervasive violence to better address the needs of affected students and to break the cycle of violence.

Background

Children's exposure to violence, whether as victims or witnesses, is often associated with long-term physical, psychological, and emotional harms. These harms, among others, include depression, anxiety, and post-traumatic disorders; failing or having difficulty in school; and delinquency or criminal behavior, including violent acts.

Several Federal agencies have worked to address the issues surrounding children's exposure to violence. Since 1980, the Centers for Disease Control and Prevention has been studying patterns of violence and the effects of violence on communities and individuals, and it has been advancing strategies to prevent violence and mitigate the impacts of exposure to violence.[1] Furthermore, in 2010, Attorney General Eric Holder launched the Defending Childhood initiative to better understand and address the problem of children's exposure to violence. As part of this initiative, the Attorney General's Task Force on Children Exposed to Violence released a report and national action plan in December 2012, which helped inform the development of the Project Prevent Grant Program.[2]

In addition, the U.S. Department of Health and Human Services has launched a national effort to ''reduce the pervasive, harmful, and costly health impact of violence and trauma by integrating trauma-informed approaches throughout health, behavioral health, and related systems and addressing the behavioral health needs of people involved in or at risk of involvement in the criminal and juvenile justice systems.'' This includes the outlining of ''Principles and Guidance for a Trauma-Informed Approach.''[3]

On January 16, 2013, President Obama proposed ''Now is the Time,'' a comprehensive plan that proposed a series of actions and steps to protect our children and communities by reducing gun violence, including Project Prevent. The Project Prevent Grant Program also was included in the President's FY 2014 budget request, and Congress provided funding for the new program in the Department of Education Appropriations Act, 2014.

Project Prevent grants will enable LEAs to increase their capacity to identify, assess, and serve students

[1] National Center for Injury Prevention and Control, Division of Violence Prevention. Retrieved from: *www.cdc.gov/violenceprevention.*

[2] U.S. Department of Justice. (2012). *Report of the Attorney General's National Task Force on Children Exposed to Violence.* Retrieved from: *www.justice.gov/defendingchildhood/task-force.html.*

[3] Substance Abuse & Mental Health Services Administration. (2012). *SAMHSA's Working Definition of Trauma and Principles and Guidance for a Trauma-Informed Approach.* Retrieved from: *http://samhsa.gov/traumaJustice.*

exposed to pervasive violence, helping to ensure that affected students are offered mental health services for trauma or anxiety; support conflict resolution programs; and implement other school-based violence prevention strategies in order to reduce the likelihood that these students will later commit violent acts.

Priorities: This competition includes one absolute priority and two competitive preference priorities. We are establishing the absolute priority and competitive preference priority 1 for the FY 2014 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition, in accordance with section 437(d)(1) of the General Education Provisions Act (GEPA), 20 U.S.C. 1232(d)(1). Competitive preference priority 2 is from the notice of final priority published in the **Federal Register** on March 27, 2014 (79 FR 17035).

Absolute Priority: For FY 2014 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:

Absolute Priority—Expand the Capacity of LEAs To Assist Schools in Communities With Pervasive Violence To Break the Cycle of Violence by Better Meeting the Needs of Affected Students

Under this priority, we provide funding for projects to expand the capacity of LEAs to more effectively assist affected schools in communities with pervasive violence to better meet the needs of students directly or indirectly exposed to pervasive violence. These projects must offer students: (1) Access to school-based counseling services, or referrals to community-based counseling services, for assistance in coping with trauma or anxiety; (2) school-based social and emotional supports for students to help address the effects of violence; (3) conflict resolution and other school-based strategies to prevent future violence; and (4) a safer and improved school environment, which may include, among others, activities to decrease the incidence of harassment, bullying, violence, gang involvement, and substance abuse. Applicants must address all four subparts of this absolute priority.

Competitive Preference Priorities: For FY 2014 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i) we award an additional three points to an application that meets competitive preference priority 1 and an additional three points to an application that meets competitive preference priority 2.

Note: Applicants may address either of the competitive preference priorities or both. An applicant must identify in the abstract section of its application the competitive preference priority or priorities it wishes the Department to consider. The Department will not review or award points under any competitive preference priority for any application that fails to do so.

In addition, an applicant must describe and list by name in the application narrative the school(s) that will be served under competitive preference priority 1, including information on how each of those school(s) meets the definition of high-poverty school, as defined in this notice. Applicants should submit a letter from the lead entity of a designated Promise Zone attesting to the contribution that the proposed activities would make, and supporting the application. A list of designated Promise Zones and lead organizations can be found at *www.hud.gov/promisezones.*

These priorities are:

Competitive Preference Priority 1—Serving High-Poverty Schools

Projects that serve students in high-poverty schools (as defined in this notice).

Competitive Preference Priority 2—Promise Zones

Projects that are designed to serve and coordinate with a federally designated Promise Zone.[4]

Application Requirements: The following requirements apply to all applications submitted under this competition.

(1) *Description of the severity and magnitude of the problem and identification of schools to be served by the proposed project.*

Applicants must describe how pervasive violence in the community is specifically affecting students in schools to be served by project activities. Applicants must describe the nature of the problem for a specific geographic area, based on information such as, but not limited to, incidents of community domestic violence or violent crime; rates of child abuse and neglect; school crime and safety data; student mental health screenings or assessments; surveys of school climate; surveys of student engagement; or other relevant data and information as appropriate. The description may also include demographic data provided by U.S. Census surveys. In order to assess the magnitude of the problem and ensure the schools selected have the greatest need, data cited must be compared to similar data at the State or local level, and on a per capita basis (such as homicides per 100,000 persons) when available.

(2) *Collaboration and coordination with related Federal, State, and local initiatives.*

Applicants must describe how they intend to work collaboratively with Federal, State and local juvenile justice, mental health, public health, child welfare, and other community agencies to achieve project goals and objectives. Applicants must also describe proposed coordination with existing federally funded efforts related to youth violence prevention and mental health promotion (such as the National Forum on Youth Violence Prevention, Defending Childhood, and other violence prevention-related grants administered by the U.S. Department of Justice, the Substance Abuse and Mental Health Services Administration, and the Centers for Disease Control and Prevention), if applicable. Evidence of collaboration and coordination must be provided through letters of support from local or State agencies and other federally funded projects, if applicable. Finally, applicants must describe how they will use Project Prevent Grant Program funds to complement, rather than duplicate, existing, ongoing, or new efforts to reduce youth violence and mitigate the effects of pervasive violence on students.

(3) *Expand and improve LEA capacity to serve students exposed to pervasive violence and ensure affected students receive mental health services, as appropriate.*

Applicants must describe the specific activities they will conduct to expand and improve LEA capacity to serve students exposed to pervasive violence, ensure that affected students receive appropriate mental health services, and break the cycle of violence. To meet this requirement, the applicant must propose three or more of the following:

(a) Professional development opportunities for LEA and school mental health staff (e.g., counselors, psychologists, social workers, and psychiatrists) on how to screen for and respond to violence-related trauma and implement appropriate school-based mitigation strategies.

[4] For additional information on Promise Zones, see *www.whitehouse.gov/the-press-office/2014/01/08/fact-sheet-president-obama-s-promise-zones-initiative.*

(b) Improving the range, availability, and quality of school-based mental health services by hiring qualified school psychologists, school counselors, or school social workers with expertise or training in violence prevention and responding to the mental health needs of students who have experienced trauma as a result of exposure to violence.

(c) Providing training to select school staff (e.g., teachers, administrators, and support staff), community partners, youth, and parents on the problem of student exposure to pervasive violence, as well as the importance of screening students and providing interventions to help students cope with traumatic events.

(d) Addressing the needs of students in affected schools by developing or improving processes to better target services to these students and developing or improving processes to assess students who are exposed to pervasive violence and who may be experiencing resulting mental, emotional, or behavioral disorders.

(e) Enhancing linkages between LEA mental health services and community mental health systems to ensure affected students receive referrals to treatment as appropriate, including linkages that leverage new opportunities under the Patient Protection and Affordable Care Act, such as the expansion of mental health and substance use disorder coverage.

(4) *Delivery of a continuum of evidenced-based programs and practices in selected schools to promote conflict resolution, improve school climate and safety, and implement other school-based strategies to break the cycle of violence.*

Applicants must provide a description of the continuum of the evidence-based programs and practices that will be implemented at the school level to break the cycle of violence. The threshold for evidence-based programs is those that, at a minimum, are supported by evidence of promise (as defined in 34 CFR 77.1(c)). These programs and practices must include all of the following:

(a) Interventions and activities that serve all students in a school, regardless of risk level, with the goal of preventing negative or violent behavior (such as bullying, fighting, gang participation, and sexual assault) and enhancing student knowledge and skills regarding positive behavior (such as conflict resolution and other skills);

(b) Interventions and activities (such as those related to anger management, conflict resolution, promotion of positive behavior, and development of protective factors) that target individual students or a sub-group of students whose risk of developing mental or behavioral disorders is significantly higher than average; and

(c) Interventions and services that target individual students who are at risk for, and have shown signs of, mental, emotional, or behavioral disorders; exhibit aggressive, violent, or disruptive behavior; or participate in gangs.

To meet this requirement, applicants must discuss the research and evidence supporting the proposed programs and practices and the estimated effects on the target population. Applicants may use the Federal registries listed in the application package for identifying such programs and practices.

Definitions: We are establishing the definition of ''school engagement'' in this notice for the FY 2014 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition, in accordance with section 437(d)(1) of GEPA, 20 U.S.C. 1232(d)(1). The definition of ''high-poverty school'' is from the notice of final supplemental priorities and definitions for discretionary grant programs published in the **Federal Register** on December 15, 2010 (75 FR 78486) and corrected on May 12, 2011 (76 FR 27637). The definition of ''local educational agency'' is from section 9101(26) of the Elementary and Secondary Education Act of 1965, as amended (ESEA) (20 U.S.C. 7801(26), and is included for the convenience of the reader. The definitions of ''ambitious'' and ''baseline data'' are from 34 CFR 77.1.

Ambitious means promoting continued, meaningful improvement for program participants or for other individuals or entities affected by the grant, or representing a significant advancement in the field of education research, practices, or methodologies. When used to describe a performance target, whether a performance target is ambitious depends upon the context of the relevant performance measure and the baseline for that measure.

Baseline data means the starting point from performance is measured and targets are set.

High-poverty school means a school in which at least 50 percent of students are eligible for free or reduced-price lunches under the Richard B. Russell National School Lunch Act or in which at least 50 percent of students are from low-income families as determined using one of the criteria specified under section 1113(a)(5) of the ESEA, as amended. For middle and high schools, eligibility may be calculated on the basis of comparable data from feeder schools. Eligibility as a high-poverty school under this definition is determined on the basis of the most currently available data.

Local educational agency (LEA) means:

(1) A public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or of or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public elementary schools or secondary schools.

(2) The term includes any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

(3) The term includes an elementary school or secondary school funded by the Bureau of Indian Affairs but only to the extent that including the school makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this Act with the smallest student population, except that the school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Affairs.

(4) The term includes educational service agencies and consortia of those agencies.

(5) The term includes the State educational agency in a State in which the State educational agency is the sole educational agency for all public schools.

School engagement means participation in school-related activities, and the quality of school relationships, which may include relationships between and among administrators, teachers, parents, and students.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities, definitions, and application requirements. Section 437(d)(1) of GEPA, however, allows the Secretary to exempt from rulemaking requirements, regulations governing the first grant competition under a new or substantially revised program authority.

This is the first grant competition for this program under the appropriation for Safe Schools and Citizenship Education in the Department of Education Appropriations Act, 2014, Title III of Division H of P.L. 113–76, and section 4121 of the ESEA (20 U.S.C. 7131) and therefore qualifies for this exemption. In order to ensure timely grant awards, the Secretary has decided to forgo public comment on the absolute priority and competitive preference priority 1, the application requirements and the definitions under section 437(d)(1) of GEPA. These priorities, application requirements, and definitions will apply to the FY 2014 grant competition and any subsequent year in which we make awards from the list of unfunded applicants from this competition.

Program Authority: 20 U.S.C. 7131; the Department of Education Appropriations Act, 2014, Title III of Division H of Pub. L. 113–76.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 84, 97, 98, and 99. (b) The Education Department suspension and debarment regulations in 2 CFR part 3485. (c) The regulations in CFR part 299. (d) The notice of final priority published in the **Federal Register** on March 27, 2014 (79 FR 17035).

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $9,750,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in in FY 2015 from the list of unfunded applicants from this competition.

Estimated Range of Awards: $250,000 to $1,000,000.

Estimated Average Size of Awards: $487,500.

Estimated Number of Awards: 20.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* LEAs, including charter schools that are considered LEAs under State law.

2. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

3. *Other:* An entity that receives a grant under this program is required to provide for the equitable participation of private school children and their teachers or other educational personnel.

In order to ensure that grant program activities address the needs of private school children, the applicant must engage in timely and meaningful consultation with appropriate private school officials during the design and development of the program. This consultation must take place before the applicant makes any decision that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate. Administrative direction and control over grant funds must remain with the grantee (See section 9501, Participation by Private School Children and Teachers, of the ESEA).

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html.* To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.184M.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the person listed under *Accessible Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative is where you, the applicant, provide the project narrative and management plan to address the selection criteria that reviewers use to evaluate your application. The required budget and budget narrative will be provided in a separate section. You must limit the application narrative to the equivalent of no more than 50 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the page limit does apply to all of the application narrative section.

Our reviewers will not read any pages of your application that exceed the page limit.

3. *Submission Dates and Times:* Applications Available: April 29, 2014.

Deadline for Transmittal of Applications: June 30, 2014.

Applications for grants under this competition must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery, please refer to section IV. 7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: August 27, 2014.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR Part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry (CCR)), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one-to-two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data entered into the SAM database by an entity. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, you will need to allow 24 to 48 hours for the information to be available in Grants.gov and before you can submit an application through Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov*. To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html*.

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *http://www.grants.gov/web/grants/register.html*.

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. Electronic Submission of Applications

Applications for grants under the Project Prevent Grant Program, CFDA number 84.184M, must be submitted electronically using the Governmentwide Grants.gov Apply site at www.Grants.gov. Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the Project Prevent Grant Program at www.Grants.gov. You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.184, not 84.184M).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov*.
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not

review that material. (Additional, detailed information on how to attach files is in the application instructions.)

• Your electronic application must comply with any page-limit requirements described in this notice.

• After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system; *and*

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Earl Myers, Jr., U.S. Department of Education, 400 Maryland Avenue SW., Room 3E247, Washington, DC 20202. FAX: (202) 453–6742.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. Submission of Paper Applications by Mail.

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.184M), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. Submission of Paper Applications by Hand Delivery

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: CFDA Number 84.184M, 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from 34 CFR 75.210 of EDGAR and are listed in the application package.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any

discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 34 CFR parts 74 or 80, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* (a) Program Performance Measures. The Department has established the following performance measures for assessing the effectiveness of the Project Prevent Grant Program:

(1) The percentage of grantees that report a measurable decrease in violent, aggressive, and disruptive behavior in schools served by the grant.

(2) The percentage of grantees that report a measurable increase in the number of students in schools served by the grant receiving school-based and community mental health services to address student needs resulting from exposure to violence.

(3) The percentage of grantees that report a measurable increase in the school engagement (as defined in this notice) of students served by the grant.

These measures constitute the Department's indicators of success for this program.

(b) Project Performance Measures. The project performance measures are:

(1) Annual decrease in violent, aggressive, and disruptive behavior in schools served by the grant.

(2) Annual increase in the number of students in schools served by the grant receiving school-based and community mental health services to address student needs resulting from exposure to violence.

(3) Annual increase in the school engagement (as defined in this notice) of students served by the grant.

(c) Baseline data. Applicants must provide baseline data (as defined in this notice) for each of the project performance measures listed in (b) and explain why each proposed baseline is valid; or, if the applicant has determined that there are no established baseline data for a particular performance measure, explain why there is no established baseline and explain how and when, during the project period, the applicant will establish a valid baseline for the performance measure.

(d) Performance measure targets. In addition, the applicant must propose annual targets for the measures listed in paragraph (b) in their application. Applications must also provide the following information as directed under 34 CFR 75.110(b) and (c):

(1) Why each proposed performance target is ambitious (as defined in this notice) yet achievable compared to the baseline for the performance measure.

(2) (a) The data collection and reporting methods the applicant would use and why those methods are likely to yield reliable, valid, and meaningful performance data; and (b) the applicant's capacity to collect and report reliable, valid, and meaningful performance data, as evidenced by high-quality data collection, analysis, and reporting in other projects or research.

Note: If the applicant does not have experience with collection and reporting of performance data through other projects or research, the applicant should provide other evidence of capacity to successfully carry out data collection and reporting for its proposed project.

The reviewers of each application will score related selection criteria on the basis of how well an applicant has considered these measures in paragraphs (b), (c), and (d) in conceptualizing the approach and evaluation of the project.

All grantees must submit an annual performance report and final performance report with information that is responsive to these performance measures.

5. *Continuation Awards:* In making a continuation award, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made ''substantial progress toward meeting the objectives in its approved application'' and the performance measurement and target requirements in the application notice. This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Earl Myers, Jr., U.S. Department of Education, 400 Maryland Avenue SW., Room 3E247, Washington, DC 20202. Telephone: (202) 453–6716 or by email: *Earl.Myers@ed.gov.*

If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: April 23, 2014.

Deborah S. Delisle,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2014–09604 Filed 4–28–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC14–8–000]

Commission Information Collection Activities (Ferc–521); Comment Request

AGENCY: Federal Energy Regulatory Commission, Department of Energy (DOE).

ACTION: Comment request.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(a)(1)(D), the Federal Energy Regulatory Commission (Commission or FERC) is submitting the information collection FERC–521 (Payments for Benefits from Headwater Benefits) to the Office of Management and Budget (OMB) for review of the information collection requirements. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission issued a Notice in the **Federal Register** (79 FR 8949, 2/14/2014) requesting public comments. FERC received no comments on the FERC–521 and is making this notation in its submittal to OMB.

DATES: Comments on the collection of information are due by May 29, 2014.

ADDRESSES: Comments filed with OMB, identified by the OMB Control No. 1902–0087, should be sent via email to the Office of Information and Regulatory Affairs: *oira_submission@omb.gov.* Attention: Federal Energy Regulatory Commission Desk Officer. The Desk Officer may also be reached via telephone at 202–395–4718.

A copy of the comments should also be sent to the Federal Energy Regulatory Commission, identified by the Docket No. IC14–8–000, by either of the following methods:

- eFiling at Commission's Web site: *http://www.ferc.gov/docs-filing/efiling.asp.*
- Mail/Hand Delivery/Courier: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.*For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* by telephone at (202) 502–8663, and by fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: Payments for Benefits from Headwater Benefits.

OMB Control No.: 1902–0087.

Type of Request: Three-year extension of the FERC–521 information collection requirements with no changes to the reporting requirements.

Abstract: The information collected under the requirements of FERC–521 is used by the Commission to implement the statutory provisions of Section 10(f) of the Federal Power Act (FPA).[1] The FPA authorizes the Commission to determine headwater benefits received by downstream hydropower project owners. Headwater benefits are the additional energy production possible at a downstream hydropower project resulting from the regulation of river flows by an upstream storage reservoir.

When the Commission completes a study of a river basin, it determines headwater benefits charges that will be apportioned among the various downstream beneficiaries. A headwater benefits charge and the cost incurred by the Commission to complete an evaluation are paid by downstream hydropower project owners. In essence, the owners of non-federal hydropower projects that directly benefit from a headwater improvement must pay an equitable portion of the annual charges for interest, maintenance, and depreciation of the headwater project to the U.S. Treasury. The regulations provide for apportionment of these costs between the headwater project and downstream projects based on downstream energy gains and propose equitable apportionment methodology that can be applied to all rivers basins in which headwater improvements are built. The Commission requires owners of non-federal hydropower projects to file data for determining annual charges as outlined in 18 Code of Federal Regulations (CFR) part 11.

Type of Respondents: There are two types of entities that respond, Federal and Non-Federal hydropower project owners. The Federal entities that typically respond are the US Army Corps of Engineers and the US Department of Interior Bureau of Reclamation. The Non-Federal entities may consist of any Municipal or Non-Municipal hydropower project owner.

Estimate of Annual Burden:[2] The Commission estimates the annual public reporting burden for the information collection as:

[1] 16 U.S.C. 803.

[2] The Commission defines burden as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

FERC–521—PAYMENTS FOR BENEFITS FROM HEADWATER BENEFITS

Number of respondents (A)	Number of responses per respondent (B)	Total number of responses (A) × (B) = (C)	Average burden hours per response (D)	Estimated total annual burden (C) × (D)
3	1	3	40	120

The total estimated annual cost burden to respondents is $8,460 [120 hours * $70.50/hour [3] = $8,460]

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost 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 collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: April 22, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–09665 Filed 4–28–14; 8:45 am]

BILLING CODE 6717–01–P

[3] $70.50/hour is the average FERC employee salary plus benefits. We assume (based upon consultation of subject matter experts for this industry) that respondents to this collection are similarly compensated in terms of salary and benefits.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

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

Docket Numbers: EC14–77–000.

Applicants: ESI Ebensburg, Inc., Ebensburg Power Company, Ebensburg Energy, LLC.

Description: Amendment to April 17, 2014 Application of ESI Ebensburg, Inc., et. al. for Approval under Section 203 of the Federal Power Act and Request for a Shortened Comment Period and Expedited Consideration.

Filed Date: 4/21/14.

Accession Number: 20140421–5233.

Comments Due: 5 p.m. ET 5/8/14.

Docket Numbers: EC14–79–000.

Applicants: ITC Midwest LLC.

Description: ITC Midwest LLC Application Pursuant to Section 203 of the Federal Power Act (IPL Battery Assets).

Filed Date: 4/21/14.

Accession Number: 20140421–5237.

Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: EC14–80–000.

Applicants: Energia Sierra Juarez U.S., LLC, INTERGEN N.V.

Description: Application for Authorization to Transfer Jurisdictional Facilities Pursuant to Section 203 of the Federal Power Act and Request for Expedited Treatment.

Filed Date: 4/22/14.

Accession Number: 20140422–5145.

Comments Due: 5 p.m. ET 5/13/14.

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

Docket Numbers: EG14–44–000.

Applicants: Stephens Ranch Wind Energy, LLC.

Description: Notice of Self Certification of Exempt Wholesale Generator Status of Stephens Ranch Wind Energy, LLC.

Filed Date: 4/22/14.

Accession Number: 20140422–5150.

Comments Due: 5 p.m. ET 5/13/14.

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

Docket Numbers: ER10–1246–008; ER10–1982–009; ER10–1253–008; ER10–1252–008; ER13–764–007; ER12–2498–007; ER12–2499–007.

Applicants: Consolidated Edison Energy, Inc., Consolidated Edison Company of New York,, CONSOLIDATED EDISON SOLUTIONS INC, CED White River Solar, LLC, Orange and Rockland Utilities, Inc., Alpaugh 50, LLC, Alpaugh North, LLC.

Description: Notice of non-material change status of Consolidated Edison Energy, Inc., et. al.

Filed Date: 4/21/14.

Accession Number: 20140421–5261.

Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: ER10–2994–008; ER10–2822–004; ER10–3158–004; ER10–3159–003; ER10–1720–004; ER12–308–004; ER10–3162–004; ER10–3161–004.

Applicants: Iberdrola Renewables, LLC, Atlantic Renewable Projects II LLC, Dillon Wind LLC, Dry Lake Wind Power, LLC, Dry Lake Wind Power II LLC, Manzana Wind LLC, Mountain View Power Partners III, LLC, Shiloh I Wind Project, LLC.

Description: Supplement to June 28, 2013 Updated Market Power Analysis for the Southwest Region of Iberdrola Renewables, LLC, et. al.

Filed Date: 4/22/14.

Accession Number: 20140422–5177.

Comments Due: 5 p.m. ET 5/2/14.

Docket Numbers: ER13–2301–001.

Applicants: Dominion Energy Marketing, Inc.

Description: Amdmt to Pending Filing—Amndmt to Aug 30 2013 re: Category Seller Status to be effective 10/1/2013.

Filed Date: 4/21/14.

Accession Number: 20140421–5223.

Comments Due: 5 p.m. ET 5/12/14.

Docket Numbers: ER14–706–001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: 2014–04–22_Schedule 3 Compliance Filing Amendment re: Order 784 to be effective 12/27/2013.

Filed Date: 4/22/14.

Accession Number: 20140422–5176.

Comments Due: 5 p.m. ET 5/13/14.

Docket Numbers: ER14–1751–000.

Applicants: C2K Energy, LLC.

Description: Application for Market Based Rate Authority to be effective 6/21/2014.

Filed Date: 4/22/14.

Accession Number: 20140422–5059.

Comments Due: 5 p.m. ET 5/13/14.

Docket Numbers: ER14–1752–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: 2014–04–22 1st Quarter Tariff Pricing Clean-Up Filing to be effective 4/23/2014.

Filed Date: 4/22/14.

Accession Number: 20140422–5155.

Comments Due: 5 p.m. ET 5/13/14.

Docket Numbers: ER14–1753–000.

Applicants: Pacific Gas and Electric Company.

Description: Notice of Termination of Hercules Municipal Utility IA and WDT SAs to be effective 4/10/2014.

Filed Date: 4/22/14.

Accession Number: 20140422–5202.

Comments Due: 5 p.m. ET 5/13/14.

Take notice that the Commission received the following land acquisition reports:

Docket Numbers: LA14–1–000.

Applicants: Virginia Electric and Power Company, Dominion Energy Marketing, Inc., Dominion Nuclear Connecticut, Inc., Dominion Energy Kewaunee, Inc., Dominion Energy Manchester Street, Inc., Dominion Retail, Inc., Fairless Energy, LLC, NedPower Mount Storm, LLC, Fowler Ridge Wind Farm LLC, Dominion Bridgeport Fuel Cell, LLC.

Description: Quarterly Land Acquisition Report of Virginia Electric and Power Company, et al. under LA14–1.

Filed Date: 4/22/14.

Accession Number: 20140422–5035.

Comments Due: 5 p.m. ET 5/13/14.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH14–9–000.

Applicants: Bloom Energy Companies.

Description: Bloom Energy Companies submits FERC 65–B Waiver Notification of Bloom Energy Corporation.

Filed Date: 4/22/14.

Accession Number: 20140422–5074.

Comments Due: 5 p.m. ET 5/13/14.

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

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

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

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–09738 Filed 4–28–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL14–41–000]

Gaelectric, LLC, Jawbone Wind Farm, LLC, v. NorthWestern Corporation; Notice of Complaint

Take notice that on April 21, 2014, Gaelectric, LLC and Jawbone Wind Farm, LLC (collectively, Gaelectric) filed a formal complaint against NorthWestern Corporation (NorthWestern) pursuant to sections 206 and 306 of the Federal Power Act (FPA),[1] and Rule 206 of the Rules of Practice and Procedures [2] of the Federal Energy Regulatory Commission (Commission), alleging violations of the NorthWestern Open Access Transmission Tariff by NorthWestern in the administration of transmission service requests submitted by Gaelectric, associated with the development of a wind generation facility in Montana.

Gaelectric certifies that copies of the Complaint were served on the contacts for NorthWestern as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

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

Comment Date: 5:00 p.m. Eastern Time on May 12, 2014.

Dated: April 22, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–09664 Filed 4–28–14; 8:45 am]

BILLING CODE 6717–01–P

[1] 16 U.S.C. 824e, 825e. (2013).

[2] 18 CFR 385.206 (2013).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 485–065]

Georgia Power Company; Notice of Availability of Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 (NEPA) and the Federal Energy Regulatory Commission's (Commission or FERC) regulations, 18 CFR part 380, the Office of Energy Projects has review Georgia Power Company's application for license for the Bartletts Ferry Hydroelectric Project (FERC Project No. 485–065), located on the Chattahoochee River, along the Georgia-Alabama border, in Harris County Georgia, and Lee and Chambers counties, Alabama. The Project does not occupy federal lands.

Staff prepared an environmental assessment (EA), which analyzes the potential environmental effects of relicensing the Project, and concludes that relicensing the Project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the EA 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 at *FERCOnlineSupport@ferc.gov*, at (866) 208–3676 (toll free), or 202–502–8659 (TTY).

You may also register online at *http://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.

Any comments should be filed within 30 days from the date of this notice.

The Commission strongly encourages electronic filing. Please file comments using the Commission's eFiling system at *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.

In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–485–065.

For further information, contact Allan Creamer by phone at 202–502–8365, or by email at *allan.creamer@ferc.gov*.

Dated: April 22, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–09662 Filed 4–28–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–1751–000]

C2K 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 C2K 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 May 13, 2014.

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 5 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: April 23, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–09739 Filed 4–28–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Staff Attendance at Southwest Power Pool Regional Entity Trustee, Regional State Committee, Members' and Board of Directors Meetings

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of its staff may attend the meetings of the Southwest Power Pool, Inc. (SPP) Regional Entity Trustee (RE), Regional State Committee (RSC), SPP Members Committee and Board of Directors, as noted below. Their attendance is part of the Commission's ongoing outreach efforts.

All meetings will be held at the Skirvin Hilton, 1 Park Avenue, Oklahoma City, OK. The hotel's phone number is (405) 272–3040.

SPP RE

April 28, 2014 (8:00 a.m.–12:00 p.m.)

SPP RSC

April 28, 2014 (1:00 p.m.–5:00 p.m.)

SPP Members/Board of Directors

April 29, 2014 (8:00 a.m.–3:00 p.m.)

The discussions may address matters at issue in the following proceedings:

Docket No. ER05–168, *Southwestern Public Service Company*
Docket No. EL05–19, *Southwestern Public Service Company*
Docket No. ER06–274, *Southwestern Public Service Company*
Docket No. ER06–451, *Southwest Power Pool, Inc.*
Docket No. ER09–35, *Tallgrass Transmission, LLC*
Docket No. ER09–36, *Prairie Wind Transmission, LLC*
Docket No. ER09–548, *ITC Great Plains, LLC*
Docket No. ER11–4105, *Southwest Power Pool, Inc.*
Docket No. EL11–34, *Midwest Independent Transmission System Operator, Inc.*
Docket No. EL12–28, *Xcel Energy Services Inc., et al.*
Docket No. EL12–59, *Golden Spread Electric Cooperative, Inc.*
Docket No. EL12–60, *Southwest Power Pool, Inc., et al.*
Docket No. ER12–480, *Midwest Independent Transmission System Operator, Inc.*
Docket No. ER12–959, *Southwester Power Pool, Inc.*
Docket No. ER12–1071, *Entergy Arkansas, Inc.*
Docket No. ER12–1179, *Southwest Power Pool, Inc.*
Docket No. ER12–1586, *Southwest Power Pool, Inc.*
Docket No. ER12–2366, *Southwest Power Pool, Inc.*
Docket No. ER13–366, *Southwest Power Pool, Inc.*
Docket No. ER13–367, *Southwest Power Pool, Inc.*
Docket No. ER13–1173, *Southwest Power Pool, Inc.*
Docket No. ER13–1748, *Southwest Power Pool, Inc.*
Docket No. ER13–1864, *Southwest Power Pool, Inc.*
Docket No. ER13–2031, *Southwest Power Pool, Inc.*
Docket No. EL14–21, *Southwest Power Pool, Inc.*
Docket No. EL14–30, *Midcontinent Independent System Operator, Inc.*
Docket No. ER14–416, *Southwest Power Pool, Inc.*

Docket No. ER14–591, *Southwest Power Pool, Inc.*

Docket No. ER14–781, *Southwest Power Pool, Inc.*

Docket No. ER14–1174, *Southwest Power Pool, Inc.*

Docket No. ER14–1194, *Southwestern Public Service Company*

Docket No. ER14–1196, *Southwestern Public Service Company*

Docket No. ER14–1197, *Southwestern Public Service Company*

Docket No. ER14–1198, *Southwestern Public Service Company*

Docket No. ER14–1200, *Southwestern Public Service Company*

Docket No. ER14–1201, *Southwestern Public Service Company*

Docket No. ER14–1406, *Midcontinent Independent System Operator, Inc.*

Docket No. ER14–1407, *Southwest Power Pool, Inc.*

Docket No. ER14–1415, *Southwest Power Pool, Inc.*

Docket No. ER14–1416, *Southwest Power Pool, Inc.*

Docket No. ER14–1423, *Southwest Power Pool, Inc.*

Docket No. ER14–1430, *Southwest Power Pool, Inc.*

Docket No. ER14–1530, *Southwest Power Pool, Inc.*

Docket No. ER14–1534, *Southwest Power Pool, Inc.*

Docket No. ER14–1535, *Southwest Power Pool, Inc.*

Docket No. ER14–1580, *Southwest Power Pool, Inc.*

Docket No. ER14–1587, *Southwest Power Pool, Inc.*

Docket No. ER14–1592, *Southwest Power Pool, Inc.*

Docket No. ER14–1628, *Southwest Power Pool, Inc.*

Docket No. ER14–1700, *Southwest Power Pool, Inc.*

Docket No. ER14–1713, *Midcontinent Independent System Operator, Inc.*

These meetings are open to the public.

For more information, contact Patrick Clarey, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (317) 249–5937 or *patrick.clarey@ferc.gov.*

Dated: April 22, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–09666 Filed 4–28–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL14–40–000]

Morongo Transmission LLC; Notice of Petition For Declaratory Order

Take notice that on April 17, 2014, Morongo Transmission LLC (Morongo Transmission), pursuant to section 207(a)(2) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207(a)(2), filed a petition for declaratory order requesting that the Commission approve a rate methodology for Morongo Transmission in connection with its participation in the West of Devers Upgrade Project being developed by South California Edison Company (SCE), as more fully described in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s).

For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on May 19, 2014.

Dated: April 22, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–09663 Filed 4–28–14; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9910–10–Region 3]

Adequacy Status of the Submitted Maintenance Plan for the District of Columbia Portion of the Metropolitan Washington, DC, (DC–MD–VA) 1997 Fine Particulate National Ambient Air Quality Standard Nonattainment Area for Transportation Conformity Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of adequacy.

SUMMARY: In this notice, the Environmental Protection Agency (EPA) is notifying the public that EPA has found that the motor vehicle emissions budgets (MVEBs) in the District of Columbia portion of the Metropolitan Washington, DC, (DC–MD–VA) 1997 Fine Particulate ($PM_{2.5}$) National Ambient Air Quality Standard (NAAQS) Nonattainment Area (hereafter, the Washington Area) Maintenance Plan, submitted as a State Implementation Plan (SIP) revision by District of Columbia Department of the Environment (DDOE), are adequate for transportation conformity purposes.

DATES: This finding is effective on May 14, 2014.

FOR FURTHER INFORMATION CONTACT: Gregory Becoat, Physical Scientist, Office of Air Program Planning (3AP30), United States Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103, (215) 814–2036; *becoat.gregory@epa.gov*.

SUPPLEMENTARY INFORMATION: Today's notice is simply an announcement of a finding that EPA has already made. EPA Region III sent a letter to DDOE on March 25, 2014, stating that EPA has found that the MVEBs in the Washington Area's Maintenance Plan for budget years 2017 and 2025, submitted on June 3, 2013 by DDOE, are adequate for transportation conformity purposes. As a result of EPA's finding, the District of Columbia must use the 2017 and 2025 Tier 1 MVEBs shown in Table 1 from the Washington Area's Maintenance Plan for future conformity determinations for the 1997 $PM_{2.5}$ NAAQS. The Tier 2 MVEBS shown in Table 2 adds a twenty percent (20%) transportation buffer to the mobile

emissions inventory projections for $PM_{2.5}$ and nitrogen oxides (NO_X) in 2017 and 2025. The Tier 2 MVEBs will become effective if it is determined that technical uncertainties primarily due to model changes and to vehicle fleet turnover, which may affect future motor vehicle emissions inventories, lead to motor vehicle emissions estimates above the Tier 1 MVEBs. The determination will be made through the interagency consultation process and fully documented within the first conformity analysis that uses the Tier 2 MVEBs. Receipt of the submittal was announced on EPA's transportation conformity Web site. No comments were received. The findings letter is available at EPA's conformity Web site: *http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm*. The adequate direct particulate matter (PM) and NO_X MVEBs for Tier 1 and Tier 2 are provided in Table 1 and Table 2.

TABLE 1—TIER 1 ON-ROAD MVEBS CONTAINED IN THE WASHINGTON AREA MAINTENANCE PLAN FOR THE 1997 $PM_{2.5}$ NAAQS

Year	Motor vehicle emissions budget for $PM_{2.5}$ on-road emissions (tons per year)	Mobile vehicle emissions budget for NO_X on-road emissions (tons per year)
2017	1,787	41,709
2025	1,350	27,400

TABLE 2—TIER 2 ON-ROAD MVEBS CONTAINED IN THE WASHINGTON AREA MAINTENANCE PLAN FOR THE 1997 $PM_{2.5}$ NAAQS

Year	Motor vehicle emissions budget for $PM_{2.5}$ on-road emissions (tons per year)	Mobile vehicle emissions budget for NO_X on-road emissions (tons per year)
2017	2,144	50,051
2025	1,586	32,880

Transportation conformity is required by section 176(c) of the Clean Air Act (CAA). EPA's conformity rule requires that transportation plans, transportation improvement programs, and projects conform to SIPs and establishes the criteria and procedures for determining whether or not they do. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which we determine whether a SIP's MVEBs are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). EPA described the process for determining the adequacy of submitted SIP budgets in a July 1, 2004 preamble starting at 69 FR 40038 and used the information in these resources in making this adequacy determination. The District of Columbia did not provide emission budgets for sulfur dioxide (SO_2), volatile organic compounds (VOCs), or ammonia for the Washington Area's Maintenance Plan because it concluded that emissions of these precursors from motor vehicles are not significant contributors to the area's $PM_{2.5}$ air quality problem. The transportation conformity rule provision at 40 CFR 93.102(b)(2)(v) indicates that conformity does not apply for these precursors, due to the lack of motor vehicle emissions budgets for these precursors and state's conclusion that motor vehicle emissions of SO_2, VOCs, and ammonia do not contribute significantly to the area's $PM_{2.5}$ nonattainment problem. This provision of the transportation conformity rule predates and was not disturbed by the January 4, 2013 decision in the litigation on the $PM_{2.5}$ implementation rule.

EPA has preliminarily concluded that the District's decision to not include budgets for SO_2, VOCs, and ammonia is consistent with the requirements of the transportation conformity rule. That decision does not affect EPA's adequacy finding for the submitted direct PM and NO_X MVEBs for the Washington Area's Maintenance Plan.

Please note that an adequacy review is separate from EPA's completeness review, and should not be used to prejudge EPA's ultimate approval action for the SIP. Even if EPA finds the budgets for the Washington Area's Maintenance Plan adequate, the SIP could later be disapproved. The finding and the response to comments are available at EPA's conformity Web site: *http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm*.

Authority: 42 U.S.C. 7401–7671q.

Dated: April 11, 2014.

W. C. Early, Acting

Regional Administrator, Region III.

[FR Doc. 2014–09719 Filed 4–28–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R04–OW–2013–0728]

Public Water System Supervision Program Revision for the State of North Carolina

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of tentative approval.

SUMMARY: Notice is hereby given that the State of North Carolina is revising its approved Public Water System Supervision Program. North Carolina has adopted the following rules: Long Term 1 Enhanced Surface Water Treatment Rule, Long Term 2 Enhanced Surface Water Treatment Rule, Stage 2 Disinfectants and Disinfection Byproducts Rule, Lead and Copper Rule Short-Term Regulatory Revisions and Clarifications, and Ground Water Rule. The EPA has determined that North Carolina's rules are no less stringent than the corresponding federal regulations. Therefore, the EPA is tentatively approving this revision to the State of North Carolina's Public Water System Supervision Program.

DATES: Any interested person may request a public hearing. A request for a public hearing must be submitted by May 29, 2014, to the Regional Administrator at the EPA Region 4 address shown below. The Regional Administrator may deny frivolous or

insubstantial requests for a hearing. However, if a substantial request for a public hearing is made by May 29, 2014, a public hearing will be held. If no timely and appropriate request for a hearing is received and the Regional Administrator does not elect to hold a hearing on her own motion, this tentative approval shall become final and effective on May 29, 2014. Any request for a public hearing shall include the following information: The name, address and telephone number of the individual, organization or other entity requesting a hearing; a brief statement of the requesting person's interest in the Regional Administrator's determination and a brief statement of the information that the requesting person intends to submit at such hearing; and the signature of the individual making the request or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

ADDRESSES: All documents relating to this determination are available for inspection between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, at the following offices: North Carolina Department of Environment and Natural Resources, Division of Water Resources, Public Water Supply Section, 512 North Salisbury Street, Raleigh, North Carolina 27601; and the U.S. Environmental Protection Agency Region 4, Safe Drinking Water Branch, 61 Forsyth Street SW., Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Paul Lad, EPA Region 4, Safe Drinking Water Branch, by mail at the Atlanta address given above, by telephone at (404) 562–9458, or by email at *lad.paul@epa.gov.*

EPA Analysis: On March 3, 2008, the State of North Carolina submitted a request that the Region approve revisions to the State's Safe Drinking Water Act Public Water System Supervision Program to include the authority to implement and enforce the Lead and Copper Rule Short-Term Regulatory Revisions and Clarifications. On November 9, 2009, the State of North Carolina submitted a request that the Region approve revisions to the State's Safe Drinking Water Act Public Water System Supervision Program to include the authority to implement and enforce the Stage 2 Disinfectants and Disinfection Byproducts Rule. On December 18, 2009, the State of North Carolina submitted a request that the Region approve revisions to the State's Safe Drinking Water Act Public Water System Supervision Program to include the authority to implement and enforce the Long Term 1 Enhanced Surface Water Treatment Rule. On December 18, 2009, the State of North Carolina submitted a request that the Region approve revisions to the State's Safe Drinking Water Act Public Water System Supervision Program to include the authority to implement and enforce the Long Term 2 Enhanced Surface Water Treatment Rule. On November 3, 2010, the State of North Carolina submitted a request that the Region approve revisions to the State's Safe Drinking Water Act Public Water System Supervision Program to include the authority to implement and enforce the Ground Water Rule. For the revisions to be approved, the EPA must find the State Rules 15A NCAC 18C .1507, 15A NCAC 18C .2008, 15A NCAC 18C .2007, and 15A NCAC 18C .2202, to be no less stringent than the Federal Rules codified at 40 CFR part 141, Subpart I—Lead and Copper Rule Short-Term Regulatory Revisions and Clarifications; 40 CFR part 141, Subpart V—Stage 2 Disinfectants and Disinfection Byproducts Rule; 40 CFR part 141, Subpart T—Long Term 1 Enhanced Surface Water Treatment Rule; 40 CFR part 141, Subpart W—Long Term 2 Enhanced Surface Water Treatment Rule; and 40 CFR part 141, Subpart S—Ground Water Rule. The EPA reviewed the applications using the Federal statutory provisions (Section 1413 of the Safe Drinking Water Act), Federal regulations (at 40 CFR part 142), State regulations, rule crosswalks, and EPA regulatory guidance to determine whether the requests for revisions are approvable. The EPA determined that the North Carolina revisions are no less stringent than the corresponding Federal regulations.

EPA Action: The EPA is tentatively approving this revision. If the EPA does not receive a timely and appropriate request for a hearing and the Regional Administrator does not elect to hold a hearing on her own motion, this tentative approval will become final and effective on May 29, 2014.

Authority: Section 1413 of the Safe Drinking Water Act, as amended (1996), and 40 CFR part 142.

Dated: April 10, 2014.

Heather McTeer Toney,

Regional Administrator, Region 4.

[FR Doc. 2014–09566 Filed 4–28–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority, Comments Requested

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden(s) and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501—3520), the Federal Communications Commission (FCC) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate(s); ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and further ways to 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 June 30, 2014. 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 (OMB), via fax at: (202) 395–5167 or via the Internet at *Nicholas_A._Fraser@omb.eop.gov* and to Leslie F. Smith, Office of Managing Director (OMD), Federal Communications Commission (FCC), via the Internet at *Leslie.Smith@fcc.gov.* To submit your PRA comments by email, please send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Leslie F. Smith, Office of Managing Director (OMD), Federal Communications Commission (FCC), (202) 418–0217, or via the Internet at *Leslie.Smith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1120.

Title: Service Quality Measure Plan for Interstate Special Access Quarterly Reporting Requirements.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 3 respondents; 12 responses.

Estimated Time per Response: 25 hours.

Frequency of Response: Quarterly 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. 151,152, *41254 154(i), 154(j), 201–204, 214, 220(a), 251, 252, 271, 272, and 303(r).

Total Annual Burden: 300 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission anticipates that the Bell Operating Companies (BOCs) which are AT&T, CenturyLink, and Verizon, may request confidentiality protection for the special access performance information.

Needs and Uses: In 2007, the Commission established a framework to govern the provision of in-region, long-distance services that allows the BOCs to provide in-region, interstate, long distance services either directly or through affiliates that are neither section 272 separate affiliates nor rule 64.1903 affiliates, see Section 272 Sunset Order, FCC 07–159. Because the BOCs are no longer required to comply with the section 272 structural safeguards, the Commission established special access performance metrics reporting requirements, *i.e.,* ordering, provisioning, and repair and maintenance to ensure that the BOCs and their independent incumbent LEC affiliates do not engage in non-price discrimination in the provision of special access services to unaffiliated entities. The information gleaned from these performance metrics will provide the Commission and other interested parties with reasonable tools to monitor each BOC's performance in providing these special access services to itself and its competitors.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2014–09715 Filed 4–28–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority, Comments Requested

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden(s) and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501—3520), the Federal Communications Commission (FCC) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate(s); ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and further ways to 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 June 30, 2014. 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 (OMB), via fax at: (202) 395–5167 or via the Internet at *Nicholas_A._Fraser@omb.eop.gov* and to Leslie F. Smith, Office of Managing Director (OMD), Federal Communications Commission (FCC), via the Internet at *Leslie.Smith@fcc.gov.* To submit your PRA comments by email, please send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Leslie F. Smith, Office of Managing Director (OMD), Federal Communications Commission (FCC), (202) 418–0217, or via the Internet at *Leslie.Smith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1064.

Title: Regulatory Fee Assessment True-Ups.

Form Number: N/A.

Type of Review: Extension without change of a currently approved collection.

Respondents: Businesses or other for-profit organizations.

Number of Respondents and Responses: 280 respondents; 280 responses.

Estimated Time per Response: 15 minutes (0.25 hours).

Frequency of Response: Annual reporting requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 70 hours.

Total Annual Cost: None.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentially. However, respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR 0.459 of the FCC's rules.

Needs and Uses: Section 9 of the Communications Act of 1934, as amended, 47 CFR 9, mandates that the Commission collect annual regulatory fees from its regulatees. To facilitate this effort, the Commission publishes various Public Notices and Fact Sheets each year that (1) announce when fees payments are due; (2) provide the current schedule of fee amounts for all service categories; and (3) provide guidance for making fee payments to the Commission.

The Commission mails fee assessment notifications to broadcast licensees and commercial mobile radio service (CMRS) licensees on an annual basis. With these fee assessment notifications, we also provide regulatees with a ''true-up'' opportunity to contact the FCC to update or otherwise correct their assessed fee amounts well before the actual due date for payment of regulatory fees. Providing a ''true-up'' opportunity is necessary because the

data sources that were used to generate the fee assessments may not be complete or accurate.

The Commission offers several ways for regulatees to ''true-up'' their assessed fee amount. Regulatees may (1) call the Commission's Financial Operations Help Desk; (2) return their amended assessment notification or otherwise send written correspondence to a designated Commission mailing address; and/or (3) use a Commission-authorized Web site at *www.fcc.fees.com* to key-in corrections to their assessment information.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2014–09660 Filed 4–28–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority, Comments Requested

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden(s) and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate(s); ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and further ways to 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 June 30, 2014. 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 (OMB), via fax at: (202) 395–5167 or via the Internet at *Nicholas_A._Fraser@omb.eop.gov* and to Leslie F. Smith, Office of Managing Director (OMD), Federal Communications Commission (FCC), via the Internet at *Leslie.Smith@fcc.gov.* To submit your PRA comments by email, please send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Leslie F. Smith, Office of Managing Director (OMD), Federal Communications Commission (FCC), (202) 418–0217, or via the Internet at *Leslie.Smith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1157.

Title: Formal Complaint Procedures, Preserving the Open Internet and Broadband Industry Practices, Report and Order, GN Docket No. 09–191 and WC Docket No. 07–52.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit entities; Not-for profit entities; State, local or tribal governments; Individuals/households.

Number of Respondents and Responses: 10 respondents; 15 responses.

Estimated Time per Response: 2–40 hours per response.

Frequency of Response: On occasion reporting requirement; Third-party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for the information collection requirements is contained in 47 U.S.C. 151, 152, 153, 154, 201, 218, 230, 251, 254, 256, 257, 301, 303, 304, 307, 309, 316, 332, 403, 503, 522, 536, 548, 1302. Interpret or apply S. Rep. No. 104–23, at 51 (1995).

Total Annual Burden: 239 hours.

Total Annual Cost: $40,127.

Privacy Act Impact Assessment: This information collection may affect individuals or households, and thus there may be impacts under the Privacy Act.

Nature and Extent of Confidentiality: Applicants may request that any information supplied be withheld from public inspection, as set forth in section 8.16 of Appendix B of Preserving the Open Internet and Broadband Industry Practices, Report and Order (Open Internet Order), GN Docket No. 09–191, WC Docket No. 07–52, FCC 10–201.

Needs and Uses: The rules adopted in the *Open Internet Order* established a formal complaint process to address open Internet disputes that cannot be resolved through other means, including the Commission's informal complaint system. This process permits anyone-including individual end users and edge providers-to file a claim alleging that another party has violated a rule, and asking the Commission to rule on the dispute. The formal complaint rules facilitate prompt and effective enforcement, which is crucial to preserving an open Internet and providing clear guidance to stakeholders.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2014–09661 Filed 4–28–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL LABOR RELATIONS AUTHORITY

Public Availability of Federal Labor Relations Authority FY 2013 Service Contract Inventory

AGENCY: Federal Labor Relations Authority.

ACTION: Notice of Public Availability of FY 2013 Service Contract Inventories.

SUMMARY: In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010 (Pub. L. 111–117), the Federal Labor Relations Authority (FLRA) is publishing this notice to advise the public of the availability of the FY 2013 Service Contract inventory. This inventory provides information on service contract actions over $25,000 that were made in FY 2013. The information is organized by function to show how contracted resources are distributed throughout the agency. The inventory has been developed in accordance with guidance issued on November 5, 2010 by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP). OFPP's guidance is available at *http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/service-contract-inventories-guidance-11052010.pdf.* The FLRA has posted its inventory and a summary of the inventory on the FLRA homepage at the

following link: *http://www.flra.gov/webfm_send/866.*

FOR FURTHER INFORMATION CONTACT: Questions regarding the service contract inventory should be directed to Xavier Storr, Director, Administrative Services Division, Federal Labor Relations Authority, at (202) 218–7764.

Dated: April 23, 2014.

Sarah Whittle Spooner,

Executive Director.

[FR Doc. 2014–09643 Filed 4–28–14; 8:45 am]

BILLING CODE 6727–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 2014–09225) published on page 22682 of the issue for Wednesday, April 23, 2014.

Under the Federal Reserve Bank of Dallas heading, the entry for Central Texas Financial Corp., Cameron, Texas, is revised to read as follows:

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

A. Federal Reserve Bank of Dallas (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Central Texas Financial Corp.,* Cameron, Texas; to acquire 100 percent of the voting shares of Citcamco Incorporated, and indirectly acquire Peoples Finance Company, both in Cameron, Texas, and thereby engage in extending credit and servicing loans, pursuant to section 225.28(b)(1).

Comments on this application must be received by May 8, 2014.

Board of Governors of the Federal Reserve System, April 24, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–09704 Filed 4–28–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 14, 2014.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02210–2204:

1. Meridian Bancorp, Inc., Peabody, Massachusetts; to engage *de novo* in extending credit and servicing loans, pursuant to section 225.28(b)(1).

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

1. *Chemical Financial Corporation,* Midland, Michigan; to acquire 100 percent of the voting shares of Northwestern Bancorp, Inc., and indirectly acquire Northwestern Bank, both in Traverse City, Michigan, and thereby engage in operating a savings association, pursuant to section 225.28(b)(4)(ii).

Comments regarding this application must be received not later than May 27, 2014.

Board of Governors of the Federal Reserve System, April 24, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–09705 Filed 4–28–14; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Solicitation of Nominations for Membership on the National Vaccine Advisory Committee

AGENCY: National Vaccine Program Office, Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

Authority: 42 U.S.C. 300aa-5, Section 2105 of the Public Health Service (PHS) Act, as amended. The National Vaccine Advisory Committee is governed by the provisions of Public Law 92–463, as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory committees.

SUMMARY: The National Vaccine Program Office (NVPO), a program office within the Office of the Assistant Secretary for Health, Department of Health and Human Services (HHS), is soliciting nominations of qualified candidates to be considered for appointment as public members to the National Vaccine Advisory Committee (NVAC). The activities of this Committee are governed by the Federal Advisory Committee Act (FACA). Management and support of the NVAC and its activities are the responsibility of the NVPO.

The NVAC serves an advisory role, providing peer review, consultation, advice, and recommendations to the Assistant Secretary for Health in his capacity as the Director of the National Vaccine Program, on matters related to the Program's responsibilities. Specifically, the Committee studies and recommends ways to encourage the availability of an adequate supply of safe and effective vaccination products in the United States; recommends research priorities and other measures to enhance the safety and efficacy of vaccines. The Committee also advises the Assistant Secretary for Health in the implementation of Sections 2102 and

2103 of the PHS Act; and identifies annually the most important areas of government and non-government cooperation that should be considered in implementing Sections 2102 and 2103 of the PHS Act.

DATES: All nominations for membership on the Committee must be received no later than 5:00 p.m. EDT on May 29, 2014, to the address listed below.

ADDRESSES: All nominations should be mailed or delivered to: Bruce Gellin, M.D., M.P.H., Executive Secretary, NVAC, Office of the Assistant Secretary for Health, Department of Health and Human Services, 200 Independence Avenue SW., Room 715–H, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Jennifer Gordon, Ph.D., Public Health Analyst, National Vaccine Program Office, Department of Health and Human Services, 200 Independence Avenue SW., Room 733G, Washington, DC 20201; (202) 260–6619; *Jennifer.Gordon@hhs.gov*.

A copy of the Committee charter which includes the NVAC's structure and functions as well as a list of the current membership can be obtained by contacting Dr. Gordon or by accessing the NVAC Web site at: *www.hhs.gov/nvpo/nvac*.

SUPPLEMENTARY INFORMATION:

Committee Function, Qualifications, and Information Required: As part of an ongoing effort to enhance deliberations and discussions with the public on vaccine and immunization policy, nominations are being sought for interested individuals to serve on the NVAC. Committee members provide peer review, consultation, advice, and recommendations to the Assistant Secretary for Health, in his capacity as the Director of the National Vaccine Program, on matters related to the Program's responsibilities. Individuals selected for appointment to the NVAC will serve as voting members. The NVAC consists of 17 voting members: 15 public members, including the Chair, and two representative members. Individuals selected for appointment to the NVAC can be invited to serve terms of up to four years. Selection of members is based on candidates' qualifications to contribute to the accomplishment of NVAC's objectives. Interested candidates should demonstrate a willingness to commit time to NVAC activities and the ability to work constructively and effectively on committees.

Public Members: Public members are individuals who are appointed to the NVAC to exercise their own independent, best judgment on behalf of the government. It is expected that public members will discuss and deliberate in a manner that is free from conflicts of interest. Public members to the NVAC shall be selected from individuals who are engaged in vaccine research or the manufacture of vaccines, or who are physicians, members of parent organizations concerned with immunizations, representatives of state or local health agencies, or public health organizations.

Representative Members: Representative members are individuals who are appointed to the NVAC to provide the views of industry or a special interest group. While they may be experts in various topic areas discussed by the Committee, they should not present their own viewpoints, but rather those of the industry or special interest group they represent. NVAC representative members shall serve specifically to represent the viewpoints or perspectives of the vaccine manufacturing industry or groups engaged in vaccine research or the manufacture of vaccines.

This announcement is to solicit nominations of qualified candidates to fill positions in the public member category of the NVAC that are currently vacant or are scheduled to be vacated during the 2015 calendar year.

Travel reimbursement and compensation for services provided to the Committee: All NVAC members are authorized to receive the prescribed per diem allowance and reimbursement for travel expenses that are incurred to attend meetings and conduct authorized NVAC-related business, in accordance with standard government travel regulations. Members appointed to the NVAC as public members (see definition above) also are authorized to receive a stipend for services provided at public meetings of the Committee. All other services that are performed by the public members outside the Committee meetings shall be provided without compensation. Representative members (see definition above) will serve without compensation.

Expertise sought for the NVAC: In accordance with the charter, persons nominated for appointment as members of the NVAC should be among authorities knowledgeable in areas related to vaccine safety, vaccine effectiveness, and vaccine supply. In order to enhance the diversity of expertise included in Committee discussions, NVPO is seeking nominations of individuals to serve on the NVAC as public members in the following disciplines/topic areas:

- vaccine research and development, vaccine clinical trials, and vaccine regulatory science;
- vaccine safety and post-marketing surveillance;
- vaccine access and financing;
- health information technologies and immunization information systems;
- immunization program implementation and management;
- vaccine communications;
- bioethicists with knowledge of vaccine-related issues

How to submit nominations: Nominations should be typewritten. The following information should be included in the package of material submitted for each individual being nominated for consideration: (1) A letter of nomination that clearly states the name and affiliation of the nominee, the basis for the nomination (i.e., specific attributes which qualify the nominee for service in this capacity); and a statement that the nominee is willing to serve as a member of the Committee (2) the nominator's name, address and daytime telephone number, home and/or work address, telephone number, and email address; and (3) a copy of the nominee's current curriculum vitae.

Individuals can nominate themselves for consideration of appointment to the Committee. All nominations must include the required information. Incomplete nominations will not be processed for consideration. The letter from the nominator and certification of the nominated individual must bear original signatures; reproduced copies of these signatures are not acceptable. Applications cannot be submitted by facsimile. The names of federal employees should not be nominated for consideration of appointment to this Committee.

The Department makes every effort to ensure that the membership of HHS federal advisory committees is fairly balanced in terms of points of view represented and the committee's function. Every effort is made to ensure that a broad representation of geographic areas, gender, ethnic and minority groups, and the disabled are given consideration for membership on HHS federal advisory committees. Appointment to this Committee shall be made without discrimination on the basis of age, race, ethnicity, gender, sexual orientation, disability, and cultural, religious, or socioeconomic status.

The Standards of Ethical Conduct for Employees of the Executive Branch (*www.oge.gov/Laws-and-Regulations/Employee-Standards-of-Conduct/Employee-Standards-of-Conduct*) are applicable to individuals who are

appointed as public members of federal advisory committees. Individuals appointed to serve as public members of federal advisory committees are classified as special government employees (SGEs). SGEs are government employees for purposes of the conflict of interest laws. Therefore, individuals appointed to serve as public members of NVAC are subject to an ethics review. The ethics review is conducted to determine if the individual has any interests and/or activities in the private sector that may conflict with performance of their official duties as a member of the NVAC. Individuals appointed to serve as public members of the NVAC will be required to disclose information regarding financial holdings, consultancies, research grants and/or contracts, and the absence of an appearance of a loss of impartiality.

Dated: April 22, 2014.

Bruce Gellin,

Deputy Assistant Secretary for Health, Director, National Vaccine Program Office, Executive Secretary, National Vaccine Advisory Committee.

[FR Doc. 2014–09634 Filed 4–28–14; 8:45 am]

BILLING CODE 4150–44–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

The meeting announced below concerns Evaluating Promising Strategies to Build the Evidence Base for Sexual Violence Prevention, Funding Opportunity Announcement (FOA) CE14–005, initial review.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting:

Time and Date: 10:30 a.m.–7:30 p.m. EDT, May 15, 2014 (Closed)

Place: CDC, 4770 Buford Highway, Conference Room 8C, Atlanta, Georgia 30341

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters For Discussion: The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Evaluating Promising Strategies to Build the Evidence Base for Sexual Violence Prevention, FOA CE14–005.''

Contact Person For More Information: Donald Blackman, Ph.D., Scientific Review Officer, CDC, 4770 Buford Highway NE., Mailstop F63, Atlanta, Georgia 30341, Telephone: (770) 488–0641.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Gary J. Johnson,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2014–09703 Filed 4–28–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Initial Review

The meeting announced below concerns Research Grants for Preventing Violence and Violence Related Injury, Funding Opportunity Announcement (FOA) CE14–006, initial review.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the aforementioned meeting:

Time and Date: 10:30 a.m.–5:30 p.m. EDT, May 29–30, 2014 (Closed)

Place: CDC, 4770 Buford Highway, Conference Rooms 8C and 8A, Atlanta, Georgia 30341

Status: The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters For Discussion: The meeting will include the initial review, discussion, and evaluation of applications received in response to ''Research Grants for Preventing Violence and Violence Related Injury, FOA CE14–006.''

Contact Person For More Information: Donald Blackman, Ph.D., Scientific Review Officer, CDC, 4770 Buford Highway, NE., Mailstop F63, Atlanta, Georgia 30341, Telephone: (770) 488–0641.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Gary J. Johnson,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2014–09701 Filed 4–28–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry (BSC, NCEH/ATSDR)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the following meeting of the aforementioned committee:

Times and Dates: 9:15 a.m.–4:15 p.m., May 22, 2014; 8:30 a.m.–12:30 p.m., May 23, 2014.

Place: CDC, 4770 Buford Highway, Atlanta, Georgia 30341.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 60 people.

Purpose: The Secretary, Department of Health and Human Services (HHS) and by delegation, the Director, CDC and Administrator, NCEH/ATSDR, are authorized under Section 301 (42 U.S.C. 241) and Section 311 (42 U.S.C. 243) of the Public Health Service Act, as amended, to: (1) Conduct, encourage, cooperate with, and assist other appropriate public authorities, scientific institutions, and scientists in the conduct of research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and other impairments; (2) assist states and their political subdivisions in the prevention of infectious diseases and other preventable conditions and in the promotion of health and well being; and

(3) train state and local personnel in health work. The BSC, NCEH/ATSDR provides advice and guidance to the Secretary, HHS; the Director, CDC and Administrator, ATSDR; and the Director, NCEH/ATSDR, regarding program goals, objectives, strategies, and priorities in fulfillment of the agency's mission to protect and promote people's health. The board provides advice and guidance that will assist NCEH/ATSDR in ensuring scientific quality, timeliness, utility, and dissemination of results. The board also provides guidance to help NCEH/ATSDR work more efficiently and effectively with its various constituents and to fulfill its mission in protecting America's health.

Matters for Discussion: The agenda items for the BSC Meeting will include NCEH/ATSDR Office of the Director updates; CDC Winnable Battles: Food Safety; consideration of a subcommittee to the BSC for childhood lead poisoning prevention; vote on recommendation regarding a subcommittee to the BSC for childhood lead poisoning prevention; radiation preparedness planning; NCEH/ATSDR Strategic Planning and Priorities; NCEH/ATSDR Priority: Water Safety; updates from the National Institute for Environmental Health Services, National Institute for Occupational Safety and Health, U.S. Department of Energy and the U.S. Environmental Protection Agency; NCEH/ATSDR Response to Prior BSC Guidance; discussion of future BSC agenda topics and action items.

Agenda items are subject to change as priorities dictate.

SUPPLEMENTARY INFORMATION: The public comment period is scheduled on Thursday, May 22, 2014 from 3:00 p.m. until 3:15 p.m., and on Friday, May 23, 2014 from 10:45 a.m. until 11:00 a.m.

Contact Person for More Information: Sandra Malcom, Committee Management Specialist, NCEH/ATSDR, 4770 Buford Highway, Mail Stop F–61, Chamblee, Georgia 30345; Telephone 770/488–0575 or 770/488–0755, Fax: 770/488–3377; Email: *smalcom@cdc.gov*. The deadline for notification of attendance is May 16, 2014.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Gary J. Johnson,

Acting Director, Management Analysis and Services Office Centers for Disease Control and Prevention.

[FR Doc. 2014–09702 Filed 4–28–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0487]

Agency Information Collection Activities; Proposed Collection; Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

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 collection of information involving a generic clearance for qualitative feedback on Agency service delivery.

DATES: Submit either electronic or written comments on the collection of information by June 30, 2014.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, 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.

Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery (OMB Control Number 0697)—Extension

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 following: 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.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Focus groups	725	1	725	1 hour, 45 minutes	1,269
Customer comment cards/forms	1,200	1	1,200	15 minutes	300
Small discussion groups	725	1	725	1 hour, 45 minutes	1,269
Customer satisfaction surveys	6,450	1	6,450	20 minutes	2,129
Total	4,967				

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: April 23, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–09693 Filed 4–28–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0623]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Voluntary Cosmetic Registration Program

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by May 29, 2014.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0027. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Voluntary Cosmetic Registration Program—21 CFR Parts 710 and 720 (OMB Control Number 0910–0027)—Extension

The Federal Food, Drug, and Cosmetic Act (the FD&C Act) provides us with the authority to regulate cosmetic products in the United States. Cosmetic products that are adulterated under section 601 of the FD&C Act (21 U.S.C. 361) or misbranded under section 602 of the FD&C Act (21 U.S.C. 362) may not be distributed in interstate commerce. We have developed the VCRP to assist us in carrying out our responsibility to regulate cosmetics.

In 21 CFR part 710, we request that establishments that manufacture or package cosmetic products register with us on Form FDA 2511 entitled ''Registration of Cosmetic Product Establishment.'' The term ''Form FDA 2511'' refers to both the paper and electronic versions of the form. The electronic version of Form FDA 2511 is available on our VCRP Web site at *http://www.fda.gov/Cosmetics/RegistrationProgram/OnlineRegistration/ucm090947.htm.* We strongly encourage electronic registration of Form FDA 2511 because it is faster and more convenient. A registering facility will receive confirmation of electronic registration, including a registration number, by email, usually within 7 business days. The online system also allows for amendments to past submissions.

Because registration of cosmetic product establishments is not mandatory, voluntary registration provides us with the best information available about the locations, business trade names, and types of activity (manufacturing or packaging) of cosmetic product establishments. We place the registration information in a computer database and use the information to generate mailing lists for distributing regulatory information and for inviting firms to participate in workshops on topics in which they may be interested. We also use the information for estimating the size of the cosmetic industry and for conducting onsite establishment inspections. Registration is permanent, although we request that respondents submit an amended Form FDA 2511 if any of the originally submitted information changes.

In part 720 (21 CFR part 720), we request that firms that manufacture, pack, or distribute cosmetics file with us an ingredient statement for each of their products. Ingredient statements for new submissions (§§ 720.1 through 720.4) are reported on Form FDA 2512,

''Cosmetic Product Ingredient Statement,'' and on Form FDA 2512a, a continuation form. Amendments to product formulations (§ 720.6) also are reported on Forms FDA 2512 and FDA 2512a. When a firm discontinues the commercial distribution of a cosmetic, we request that the firm file Form FDA 2514, ''Notice of Discontinuance of Commercial Distribution of Cosmetic Product Formulation'' (§§ 720.3 and 720.6). If any of the information submitted on or with these forms is confidential, the firm may submit a request for confidentiality under § 720.8.

FDA's online filing system is available on FDA's VCRP Web site at *http://www.fda.gov/Cosmetics/RegistrationProgram/OnlineRegistration/ucm100241.htm.* The online filing system contains the electronic versions of Forms FDA 2512, 2512a, and 2514, which are collectively found within the electronic version of Form FDA 2512.

We place cosmetic product filing information in a computer database and use the information for evaluation of cosmetic products currently on the market. Because filing of cosmetic product formulations is not mandatory, voluntary filings provide us with the best information available about cosmetic product ingredients and their frequency of use, businesses engaged in the manufacture and distribution of cosmetics, and approximate rates of product discontinuance and formula modifications. The information assists our scientists in evaluating reports of alleged injuries and adverse reactions from the use of cosmetics. We also use the information in defining and planning analytical and toxicological studies pertaining to cosmetics.

Information from the database is releasable to the public under our compliance with the Freedom of Information Act. We share nonconfidential information from our files on cosmetics with consumers, medical professionals, and industry.

In the **Federal Register** of February 6, 2014 (79 FR 7196), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Section or Part	Form no.	No. of respondents	Annual frequency per response	Total annual responses	Hours per response	Total hours
Part 710 (registrations)	FDA 2511 [2]	81	1	81	0.2	16
720.1 through 720.4 (ingredient statements for new submissions).	FDA 2512 [3]	4,877	1	4,877	0.33	1,609
720.6 (amendments)	FDA 2512	1,042	1	1,042	0.17	177
720.6 (notices of discontinuance).	FDA 2512	1,826	1	1,826	0.1	183
720.8 (requests for confidentiality).		1	1	1	2.0	2.0
Total						1,987

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

[2] The term ''Form FDA 2511'' refers to both the paper Form FDA 2511 and electronic Form FDA 2511 in the electronic system known as the Voluntary Cosmetic Registration Program, which is available at *http://www.fda.gov/Cosmetics/RegistrationProgram/OnlineRegistration/ucm090947.htm.*

[3] The term ''Form FDA 2512'' refers to the paper Forms FDA 2512, 2512a, and 2514 and electronic Form FDA 2512 in the electronic system known as the Voluntary Cosmetic Registration Program, which is available at *http://www.fda.gov/Cosmetics/RegistrationProgram/OnlineRegistration/ucm100241.htm.*

We base our estimate of the total annual responses on paper and electronic submissions received during calendar years 2011, 2012 and 2013. We base our estimate of the hours per response upon information from cosmetic industry personnel and our experience entering data submitted on paper Forms 2511, 2512, 2512a, and 2514 into the electronic system.

We estimate that, annually, 81 establishments that manufacture or package cosmetic products will each submit 1 registration on Form FDA 2511, for a total of 81 annual responses. Each submission is estimated to take 0.2 hour per response for a total of 16.2 hours, rounded to 16. We estimate that, annually, firms that manufacture, pack, or distribute cosmetics will file 4,877 ingredient statements for new submissions on Forms FDA 2512 and FDA 2512a. Each submission is estimated to take 0.33 hour per response for a total of 1,609.41 hours, rounded to 1,609. We estimate that, annually, firms that manufacture, pack, or distribute cosmetics will file 1,042 amendments to product formulations on Forms FDA 2512 and FDA 2512a. Each submission is estimated to take 0.17 hour per response for a total of 177.14 hours, rounded to 177. We estimate that, annually, firms that manufacture, pack, or distribute cosmetics will file 1,826 notices of discontinuance on Form FDA 2514. Each submission is estimated to take 0.1 hour per response for a total of 182.6 hours, rounded to 183. We estimate that, annually, one firm will file one request for confidentiality. Each such request is estimated to take 2 hours to prepare for a total of 2.0 hours. Thus, the total estimated hour burden for this information collection is 1,987 hours.

Dated: April 21, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–09692 Filed 4–28–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0001]

Pediatric Clinical Investigator Training Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

SUMMARY: The Food and Drug Administration's (FDA) Office of Pediatric Therapeutics (OPT) and the Center for Drug Evaluation and Research are announcing a 1-day public

workshop entitled ''Pediatric Clinical Investigator Training.'' The purpose of this workshop is to provide investigators with training and expertise in designing and conducting clinical trials in pediatric patients that will lead to appropriate labeling. The training course is intended to provide investigators with a clear understanding of some of the challenges of studying products in the pediatric population when the data are intended to be used to support product labeling, an overview of extrapolation as it relates to the pediatric population, a familiarity with FDA processes and timelines that are specific to pediatric product development, and an overview of ethically appropriate methods related to the design of clinical trials in the pediatric population.

DATES: The public workshop will be held on September 22, 2014, from 8 a.m. to 5:30 p.m.

ADDRESSES: The public workshop will be held at the Pooks Hill Marriott, 5151 Pooks Hill Rd., Bethesda, MD 20814. The hotel's telephone number is 301–897–9400.

FOR FURTHER INFORMATION CONTACT: Terrie L. Crescenzi, Office of Pediatric Therapeutics, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–8646, FAX: 301–847–8640, email: *terrie.crescenzi@fda.hhs.gov;* or Betsy Sanford, Office of Pediatric Therapeutics, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–8659, FAX: 301–847–8640, *elizabeth.sanford@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In July 2012, the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144) made permanent the pediatric initiatives, Best Pharmaceuticals for Children Act and Pediatric Research Equity Act, which have stimulated pediatric research over the past 15 years. Though much progress has been made, pediatric trials for the purpose of developing product use parameters and information are still performed much less frequently than adult trials. As such, current standards for trials are much more oriented to adult scientific, ethical, and clinical processes. This situation is due, in part, to the fact that pediatric trials have a number of unique attributes and requirements, which must be met if the data are to be accepted or used by FDA.

The development of safe and effective products in the pediatric population presents many challenges. These challenges include trial design, appropriate endpoints, extrapolation of data from adults, and ethical issues. It is extremely important that pediatric researchers recognize and understand the challenges and differences between the standards for adult trials and pediatric trials. Researchers are responsible for ensuring the safe and ethical treatment of pediatric patients and obtaining adequate and reliable data to support regulatory decisions. There is a critical need for further pediatric research on medical products to obtain additional data, which will help ensure that these products are safe and effective in the pediatric population. We are able to obtain data and information in older children; however, the challenge of obtaining data from non-verbal children and neonates is much more difficult. This need reinforces our responsibility to educate clinical investigators to assure that children are only enrolled in research that is scientifically necessary, ethically sound, and designed to meet the challenges of review by FDA.

II. Participation in the Public Workshop

A. Registration

There is no fee to attend the public workshop, but attendees should register in advance. Space is limited, and registration will be on a first-come, first-served basis. Persons interested in attending this workshop must register online by sending an email to *OPT@fda.hhs.gov* before September 8, 2014, and include the following information: Name, title, affiliation, email address, and telephone number. For those without Internet access, please contact Terrie L. Crescenzi or Betsy Sanford (see **FOR FURTHER INFORMATION CONTACT**) to register. In the event that a minimum number of participants have not registered, the workshop will be postponed. Registered participants will be notified of any change. Registration on the day of the public workshop will be provided on a space available basis beginning at 8 a.m.

Registration information, the agenda and additional background materials can be found at *http://www.fda.gov/NewsEvents/MeetingsConferencesWorkshops/ucm392506.htm.*

If you need special accommodations due to a disability, please contact Betsy Sanford (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance. Persons attending the course are advised that FDA is not responsible for providing access to electrical outlets.

B. Videotaping

The workshop will be videotaped and available on the Internet at *http://wcms.fda.gov/FDAgov/NewsEvents/MeetingsConferencesWorkshops/ucm392506.htm?ssSourceSiteId=null&SSContributor=true,* approximately 30 days after the workshop.

Dated: April 23, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–09695 Filed 4–28–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

[Funding Opportunity Number: HHS–2014–IHS–INMED–0001; CFDA Number: 93.970]

Funding Opportunity: American Indians Into Medicine

Announcement Type: New and Competing Continuation.

Key Dates

Application Deadline: June 13, 2014.
Review Date: June 25, 2014.
Earliest Anticipated Start Date: September 1, 2014.
Proof of Non-Profit Status Due Date: June 13, 2014.

I. Funding Opportunity Description

Statutory Authority

The Indian Health Service (IHS) is accepting competitive grant applications for the Indians into Medicine Program (INMED). This program is authorized under the authority of 25 U.S.C. 1616g, Indian Health Care Improvement Act, Public Law 94–437, as amended (IHCIA). This program is described in the Catalog of Federal Domestic Assistance under 93.970.

Background

The IHS, an agency within the Department of Health and Human Services (HHS), is responsible for providing Federal health services to American Indians and Alaska Natives (AI/AN). The mission of the IHS is to raise the physical, mental, social, and spiritual health of AI/AN. The IHCIA authorizes the IHS to administer programs that are designed to attract and recruit qualified individuals into health professions needed at IHS facilities. The programs administered are designed to encourage AI/AN to enter health professions and to ensure the availability of health professionals to serve AI/AN populations.

Purpose

The purpose of the Indians into Medicine Program (INMED) is to augment the number of Indian health professionals serving Indians by encouraging Indians to enter the health professions and removing the multiple barriers to their entrance into practice serving Indians.

II. Award Information

Type of Awards

Grant.

Estimated Funds Available

The total amount of funding identified for fiscal year (FY) 2014 is approximately $397,360. Individual award amounts are anticipated to be between $170,000 and $195,000. The amount of funding available for both competing and continuation awards issued under this announcement is subject to the availability of appropriations and budgetary priorities of the Agency. The IHS is under no obligation to make awards that are selected for funding under this announcement.

Anticipated Number of Awards

Approximately two awards will be issued under this program announcement.

Project Period

The project period will be for five years and will run consecutively from September 1, 2014 to August 31, 2019.

III. Eligibility Information

1. Eligible Applicants

Public and nonprofit private colleges and universities with medical and other allied health programs accredited by an accrediting agency recognized by the U.S. Secretary of Education are eligible to apply for the grants. Public and nonprofit private colleges that operate nursing programs are not eligible under this announcement since the IHS currently funds the nursing recruitment grant program.

The existing INMED grant program at the University of North Dakota has as its target population Indian Tribes primarily within the States of North Dakota, South Dakota, Nebraska, Wyoming, and Montana. A college or university applying under this announcement must propose to conduct its program among Indian Tribes in states not currently served by the University of North Dakota INMED program.

2. Cost Sharing/Matching

The IHS does not require matching funds or cost sharing for grants or cooperative agreements.

3. Other Requirements

Required Affiliations—The grant applicant must submit official documentation indicating a Tribe's cooperation with and support of the program within the schools on its reservation and its willingness to have a Tribal representative serve on the program advisory board. Documentation must be in the form prescribed by the Tribe's governing body, i.e., letter of support or Tribal resolution. Documentation must be submitted from every Tribe represented on the program advisory board.

If application budgets exceed the stated dollar amount that is outlined under the ''Estimated Funds Available'' section within this funding announcement, the application will be considered ineligible and will not be reviewed for further consideration. If deemed ineligible, IHS will not return the application. The applicant will be notified by email by the Division of Grants Management (DGM) of this decision.

IV. Application and Submission Information

1. Obtaining Application Materials

The application package and instructions may be located at www.Grants.gov or *https://www.ihs.gov/dgm/index.cfm?module=dsp_dgm_funding.*

Questions regarding the electronic application process may be directed to Mr. Paul Gettys at (301) 443–5204 or *Paul.Gettys@ihs.gov.*

2. Content and Form of Application Submission

The application must include the project narrative as an attachment to the application package.

Mandatory documents for all applicants include:

- Table of contents.
- Abstract (one page) summarizing the project.
- Application forms:
  - SF–424, Application for Federal Assistance.
  - SF424A, Budget Information—Non-Construction Programs.
  - SF–424B, Assurances—Non-Construction Programs.
- Budget Justification and Narrative (must be single spaced and not exceed five pages).
- Project Narrative (must be single spaced and not exceed ten pages).
  - Background information on the organization.
  - Proposed scope of work, objectives, and activities that provide a description of what will be accomplished, including a one-page Timeframe Chart.
- Tribal Resolution or Tribal Letter of Support (if applicable).
- 501(c)(3) Certificate (if applicable).
- Biographical sketches for all Key Personnel.
- Contractor/Consultant resumes or qualifications and scope of work.
- Disclosure of Lobbying Activities (SF–LLL).
- Certification Regarding Lobbying (GG-Lobbying Form).
- Copy of current Negotiated Indirect Cost rate (IDC) agreement (required) in order to receive IDC.
- Organizational Chart.
- Documentation of current Office of Management and Budget (OMB) audit (if applicable), as required by 2 CFR 200.501.

Acceptable forms of documentation include:

- Email confirmation from Federal Audit Clearinghouse (FAC) that audits were submitted; or
- Face sheets from audit reports. These can be found on the FAC Web site: *http://harvester.census.gov/sac/dissem/accessoptions.html?submit=Go+To+Database*

Public Policy Requirements

All Federal-wide public policies apply to IHS grants with exception of the discrimination policy.

Requirements for Project and Budget Narratives

A. Project Narrative

This narrative should be a separate Word document that is no longer than ten pages and must: be single-spaced, be type written, have consecutively numbered pages, use black type not smaller than 12 characters per one inch, and be printed on one side only of standard size 8½″ × 11″ paper.

Be sure to succinctly answer all questions listed under the evaluation criteria (refer to Section V.1, Evaluation Criteria in this announcement) and place all responses and required information in the correct section (noted below), or they will not be considered or scored. These narratives will assist the Objective Review Committee (ORC) in becoming more familiar with the grantee's activities and accomplishments prior to this grant award. If the narrative exceeds the page limit, only the first ten pages will be

reviewed. The 10-page limit for the narrative does not include the work plan, standard forms, Tribal resolutions, table of contents, budget, budget justifications, narratives, and/or other appendix items.

Part A: Program Information (3 page limitation)

Section 1: Needs

a. State specific objectives of the project, and the extent to which they are measurable and quantifiable, significant to the needs of Indian people, logical, complete, and consistent with the purpose of 25 U.S.C. 1616g.

b. Describe briefly what the project intends to accomplish. Identify the expected results, benefits, and outcomes or products to be derived from each objective of the project.

c. Provide a project specific work plan (milestone chart) which lists each objective, the tasks to be conducted in order to reach the objective, and the timeframe needed to accomplish each task. Timeframes should be projected in a realistic manner to assure that the scope of work can be completed within each 12-month budget period.

d. In the case of proposed projects for identification of Indians with a potential for education or training in the health professions, include a method for assessing the potential of interested Indians for undertaking necessary education or training in such health professions.

e. State clearly the criteria by which the project's progress will be evaluated and by which the success of the project will be determined.

f. Explain the methodology that will be used to determine if the needs, goals, and objectives identified and discussed in the application are being met and if the results and benefits identified are being achieved.

g. Identify who will perform the evaluation and when.

Part B: Program Planning and Evaluation (5 page limitation)

Section 1: Program Plans

a. Provide an organizational chart and describe the administrative, managerial and organizational arrangements and the facilities and resources to be utilized to conduct the proposed project (include in appendix).

b. Provide the name and qualifications of the project director or other individuals responsible for the conduct of the project; the qualifications of the principal staff carrying out the project; and a description of the manner in which the applicant's staff is or will be organized and supervised to carry out the proposed project. Include biographical sketches of key personnel (or job descriptions if the position is vacant) (include in appendix).

c. Describe any prior experience in administering similar projects.

d. Discuss the commitment of the organization, i.e., although not required, the level of non-Federal support. List the intended financial participation, if any, of the applicant in the proposed project specifying the type of contributions such as cash or services, loans of full or part-time staff, equipment, space, materials or facilities or other contributions.

e. The IHCIA requires that applicants agree to provide a program which:

(A) provides outreach and recruitment for health professions to Indian communities including elementary, secondary and community colleges located on Indian reservations which will be served by the program,

(B) incorporates a program advisory board comprised of representatives from the tribes and communities which will be served by the program,

(C) provides summer preparatory programs for Indian students who need enrichment in the subjects of math and science in order to pursue training in the health professions,

(D) provides tutoring, counseling and support to students who are enrolled in a health career program of study at the respective college or university, and

(E) to the maximum extent feasible, employs qualified Indians in the program.

Describe the college's or university's ability to meet this requirement.

Section 2: Program Evaluation

a. Describe the current and proposed participation of Indians (if any) in your organization.

b. Identify the target Indian population to be served by your proposed project and the relationship of your organization to that population.

c. Describe the methodology to be used to access the target population.

d. Identify affiliation agreements with Tribal community colleges, the IHS, university affiliated programs, and other appropriate entities to enhance the education of Indian students.

e. Identify existing university tutoring, counseling and student support services.

Part C: Program Report (5 page limitation)

a. Provide data and supporting documentation to substantiate need for recruitment.

b. Indicate the number of potential Indian students to be contacted and recruited as well as potential cost per student recruited. Those projects that have the potential to serve a greater number of Indians will be given first consideration.

c. Describe methodology to locate and recruit students with educational potential in a variety of health care fields. Primary recruitment efforts must be in the field of medicine with secondary efforts in other allied health fields such as pharmacy, dentistry, medical technology, x-ray technology, etc. The field of nursing is excluded since the IHS does fund the IHS Nursing Recruitment grant program.

B. Budget Narrative

This narrative must describe the budget requested and match the scope of work described the project narrative. The page limitation should not exceed five pages.

1. Submission Dates and Times

Applications must be submitted electronically through Grants.gov by 12 a.m., midnight Eastern Daylight Time (EDT) on the Application Deadline Date listed in the Key Dates section on page one of this announcement. Any application received after the application deadline will not be accepted for processing, nor will it be given further consideration for funding. The applicant will be notified by the DGM via email of this decision.

If technical challenges arise and assistance is required with the electronic application process, contact Grants.gov Customer Support via email to *support@grants.gov* or at (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays). If problems persist, contact Mr. Paul Gettys, DGM (*Paul.Gettys@ihs.gov*) at (301) 443–5204. Please be sure to contact Mr. Gettys at least ten days prior to the application deadline. Please do not contact the DGM until you have received a Grants.gov tracking number. In the event you are not able to obtain a tracking number, call the DGM as soon as possible.

If the applicant needs to submit a paper application instead of submitting electronically via Grants.gov, a waiver must be requested. Prior approval must be requested and obtained from Ms. Tammy Bagley, Acting Director of DGM, (see Section 4 below for additional information). A waiver must: (1) Be documented in writing (emails are acceptable), *before* submitting a paper application and (2) include a clear justification for the need to deviate from the required electronic grants submission process. Written waiver

request can be sent to *GrantsPolicy@ihs.gov* with a copy to *Tammy.Bagley@ihs.gov*. Once the waiver request has been approved, the applicant will receive a confirmation of approval and the mailing address to submit the application. Paper applications that are submitted without a copy of the signed waiver from the Acting Director of the DGM will not be reviewed or considered further for funding. The applicant will be notified via email of this decision by the Grants Management Officer of the DGM. Paper applications must be received by the DGM no later than 5 p.m., EDT, on the Application Deadline Date listed in the Key Dates section on page one of this announcement. *Late applications will not be accepted for processing or considered for funding.*

2. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

3. Funding Restrictions

- Pre award costs are not allowable.
- The available funds are inclusive of direct and appropriate indirect costs.
- Only one grant will be awarded per applicant.
- IHS will not acknowledge receipt of applications.

4. Electronic Submission Requirements

All applications must be submitted electronically. Please use the *http://www.Grants.gov* Web site to submit an application electronically and select the ''Find Grant Opportunities'' link on the homepage. Download a copy of the application package, complete it offline, and then upload and submit the completed application via the *http://www.Grants.gov* Web site. Electronic copies of the application may not be submitted as attachments to email messages addressed to IHS employees or offices.

If the applicant receives a waiver to submit paper application documents, the applicant must follow the rules and timelines that are noted below. The applicant must seek assistance at least ten days prior to the Application Deadline Date listed in the Key Dates section on page one of this announcement.

Applicants that do not adhere to the timelines for System for Award Management (SAM) and/or *http://www.Grants.gov* registration or that fail to request timely assistance with technical issues will not be considered for a waiver to submit a paper application.

Please be aware of the following:

- Please search for the application package in *http://www.Grants.gov* by entering the CFDA number or the Funding Opportunity Number. Both numbers are located in the header of this announcement.
- If you experience technical challenges while submitting your application electronically, please contact Grants.gov Support directly at: *support@grants.gov* or (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays).
- Upon contacting Grants.gov, obtain a tracking number as proof of contact. The tracking number is helpful if there are technical issues that cannot be resolved and a waiver from the agency must be obtained.
- If it is determined that a waiver is needed, the applicant must submit a request in writing (emails are acceptable) to *GrantsPolicy@ihs.gov* with a copy to *Tammy.Bagley@ihs.gov*. Please include a clear justification for the need to deviate from the standard electronic submission process.
- If the waiver is approved, the application should be sent directly to the DGM by the Application Deadline Date listed in the Key Dates section on page one of this announcement.
- Applicants are strongly encouraged not to wait until the deadline date to begin the application process through Grants.gov as the registration process for SAM and Grants.gov could take up to fifteen working days.
- Please use the optional attachment feature in Grants.gov to attach additional documentation that may be requested by the DGM.
- All applicants must comply with any page limitation requirements described in this Funding Announcement.
- After electronically submitting the application, the applicant will receive an automatic acknowledgment from Grants.gov that contains a Grants.gov tracking number. The DGM will download the application from Grants.gov and provide necessary copies to the appropriate agency officials. Neither the DGM nor the Office of Public Health Support (OPHS) will notify the applicant that the application has been received.
- Email applications will not be accepted under this announcement.

Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS)

All IHS applicants and grantee organizations are required to obtain a DUNS number and maintain an active registration in the SAM database. The DUNS number is a unique 9-digit identification number provided by D&B which uniquely identifies each entity. The DUNS number is site specific; therefore, each distinct performance site may be assigned a DUNS number. Obtaining a DUNS number is easy, and there is no charge. To obtain a DUNS number, please access it through *http://fedgov.dnb.com/webform*, or to expedite the process, call (866) 705–5711.

All HHS grant recipients are required by the Federal Funding Accountability and Transparency Act of 2006, as amended (''Transparency Act''), to report information on subawards. Accordingly, all IHS grantees must notify potential first-tier subrecipients that no entity may receive a first-tier subaward unless the entity has provided its DUNS number to the prime grantee organization. This requirement ensures the use of a universal identifier to enhance the quality of information available to the public pursuant to the Transparency Act.

System for Award Management (SAM)

Organizations that were not registered with Central Contractor Registration and have not registered with SAM will need to obtain a DUNS number first and then access the SAM online registration through the SAM home page at *https://www.sam.gov* (U.S. organizations will also need to provide an Employer Identification Number from the Internal Revenue Service that may take an additional 2–5 weeks to become active). Completing and submitting the registration takes approximately one hour to complete and SAM registration will take 3–5 business days to process. Registration with the SAM is free of charge. Applicants may register online at *https://www.sam.gov*.

Additional information on implementing the Transparency Act, including the specific requirements for DUNS and SAM, can be found on the IHS Grants Management, Grants Policy Web site: *https://www.ihs.gov/dgm/index.cfm?module=dsp_dgm_policy_topics*.

V. Application Review Information

The instructions for preparing the application narrative also constitute the evaluation criteria for reviewing and scoring the application. Weights assigned to each section are noted in parentheses. The 10-page narrative should include only the first year of activities; information for multi-year projects should be included as an appendix. See ''Multi-year Project Requirements'' at the end of this section for more information. The narrative

section should be written in a manner that is clear to outside reviewers unfamiliar with prior related activities of the applicant. It should be well organized, succinct, and contain all information necessary for reviewers to understand the project fully. Points will be assigned to each evaluation criteria adding up to a total of 100 points. A minimum score of 70 points is required for funding. Points are assigned as follows:

1. Evaluation Criteria

Project Narrative (30 points)

a. State specific objectives of the project, and the extent to which they are measurable and quantifiable, significant to the needs of Indian people, logical, complete, and consistent with the purpose of 25 U.S.C. 1616g.

b. Describe briefly what the project intends to accomplish. Identify the expected results, benefits, and outcomes or products to be derived from each objective of the project.

c. Provide a project specific work plan (milestone chart) which lists each objective, the tasks to be conducted in order to reach the objective, and the time frame needed to accomplish each task. Time frames should be projected in a realistic manner to assure that the scope of work can be completed within each 12-month budget period.

d. In the case of proposed projects for identification of Indians with a potential for education or training in the health professions, include a method for assessing the potential of interested Indians for undertaking necessary education or training in such health professions.

e. State clearly the criteria by which the project's progress will be evaluated and by which the success of the project will be determined.

f. Explain the methodology that will be used to determine if the needs, goals, and objectives identified and discussed in the application are being met and if the results and benefits identified are being achieved.

g. Identify who will perform the evaluation and when.

Program Planning (20 points)

a. Provide an organizational chart and describe the administrative, managerial and organizational arrangements and the facilities and resources to be utilized to conduct the proposed project (include in appendix).

b. Provide the name and qualifications of the project director or other individuals responsible for the conduct of the project; the qualifications of the principal staff carrying out the project; and a description of the manner in which the applicant's staff is or will be organized and supervised to carry out the proposed project. Include biographical sketches of key personnel (or job descriptions if the position is vacant) (include in appendix).

c. Describe any prior experience in administering similar projects.

d. Discuss the commitment of the organization, i.e., although not required, the level of non-Federal support. List the intended financial participation, if any, of the applicant in the proposed project specifying the type of contributions such as cash or services, loans of full or part-time staff, equipment, space, materials or facilities or other contributions.

e. Describe the ability to provide outreach and recruitment for health professions to Indian communities including, but not limited to, elementary and secondary schools and community colleges located on Indian reservations which will be served by the program.

f. Describe the organization's plan to incorporate a program advisory board comprised of representatives from the Tribes and communities which will be served by the program.

g. To the maximum extent feasible, employ qualified Indians in the program.

Program Evaluation (20 points)

a. Describe the current and proposed participation of Indians (if any) in your organization.

b. Identify the target Indian population to be served by your proposed project and the relationship of your organization to that population.

c. Describe the methodology to be used to access the target population.

d. Identify existing university tutoring, counseling and student support services.

Progress Report (20 points)

a. Provide data and supporting documentation to substantiate need for recruitment.

b. Indicate the number of potential Indian students to be contacted and recruited as well as potential cost per student recruited. Those projects that have the potential to serve a greater number of Indians will be given first consideration.

c. Describe methodology to locate and recruit students with educational potential in a variety of health care fields. Primary recruitment efforts must be in the field of medicine with secondary efforts in other allied health fields such as pharmacy, dentistry, medical technology, x-ray technology, etc. The field of nursing is excluded since the IHS does fund the IHS nursing recruitment grant program.

Program Budget (10 points)

a. Clearly define the budget. Provide a justification and detailed breakdown of the funding by category for the first year of the project. Information on the project director and project staff should include salaries and percentage of time assigned to the grant. List equipment purchases necessary to conduct the project.

b. The available funding level of $195,000 is inclusive of both direct and indirect costs or 8 percent of total direct costs. Because this project is for a training grant, the HHS policy limiting reimbursement of indirect cost to the lesser of the applicant's actual indirect costs or 8 percent of total direct costs (exclusive of tuition and related fees and expenditures for equipment) is applicable. This limitation applies to all institutions of higher education.

c. The applicant may include as a direct cost student support costs related to tutoring, counseling, and support for students enrolled in a health career program of study at the respective college or university. Tuition and stipends for regular sessions are not allowable costs of the grant; however, students recruited through the INMED program may apply for funding from the IHS Scholarship Programs.

d. Provide budgetary information for summer preparatory programs for Indian students, who need enrichment in the subjects of math and science in order to pursue training in the health professions.

Multi-Year Project Requirements

Projects requiring second, third, fourth, and/or fifth year must include a brief project narrative and budget (one additional page per year) addressing the developmental plans for each additional year of the project in an appendix.

Appendix Items

- Work plan, logic model and/or time line for proposed objectives.
- Position descriptions for key staff.
- Resumes of key staff that reflect current duties.
- Tribal Resolution(s)/Letters of Support.
- Consultant or contractor proposed scope of work and letter of commitment (if applicable).
- Current Indirect Cost Agreement.
- Organizational chart(s) highlighting proposed project staff and their supervisors as well as other key contacts within the organization and key community contacts.
- Additional documents to support narrative (i.e., data tables, key news articles, etc.).

2. Review and Selection

Each application will be prescreened by the DGM staff for eligibility and completeness as outlined in the funding announcement. Incomplete applications and applications that are non-responsive to the eligibility criteria will not be referred to the ORC. Applicants will be notified by DGM, via email, to outline minor missing components (i.e., signature on the SF–424, audit documentation, key contact form) needed for an otherwise complete application. All missing documents must be sent to DGM on or before the due date listed in the email of notification of missing documents required.

To obtain a minimum score for funding by the ORC, applicants must address all program requirements and provide all required documentation. If an applicant receives less than a minimum score, it will be considered to be ''Disapproved'' and will be informed via email by the IHS program office of their application's deficiencies. A summary statement outlining the strengths and weaknesses of the application will be provided to each disapproved applicant. The summary statement will be sent to the Authorized Organizational Representative that is identified on the face page (SF–424) of the application within 30 days of the completion of the Objective Review.

VI. Award Administration Information

Award Notices

The Notice of Award (NoA) is a legally binding document signed by the Grants Management Officer and serves as the official notification of the grant award. The NoA will be initiated by the DGM in our grant system, GrantSolutions (*https://www.grantsolutions.gov*). Each entity that is approved for funding under this announcement will need to request or have a user account in GrantSolutions in order to retrieve their NoA. The NoA is the authorizing document for which funds are dispersed to the approved entities and reflects the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the award, the effective date of the award, and the budget/project period.

Disapproved Applicants

Applicants who received a score less than the recommended funding level for approval, 70, and were deemed to be disapproved by the ORC, will receive an Executive Summary Statement from the IHS program office within 30 days of the conclusion of the ORC outlining the weaknesses and strengths of their application submitted. The IHS program office will also provide additional contact information as needed to address questions and concerns as well as provide technical assistance if desired.

Approved But Unfunded Applicants

Approved but unfunded applicants that met the minimum scoring range and were deemed by the ORC to be ''Approved,'' but were not funded due to lack of funding, will have their applications held by DGM for a period of one year. If additional funding becomes available during the course of FY 2014, the approved application may be re-considered by the awarding program office for possible funding. The applicant will also receive an Executive Summary Statement from the IHS program office within 30 days of the conclusion of the ORC.

Note: Any correspondence other than the official NoA signed by an IHS grants management official announcing to the Project Director that an award has been made to their organization is not an authorization to implement their program on behalf of IHS.

1. Administrative Requirements

Grants are administered in accordance with the following regulations, policies, and OMB cost principles:

A. The criteria as outlined in this Program Announcement.

B. Administrative Regulations for Grants:

- 45 CFR part 92, Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local and Tribal Governments.
- 45 CFR part 74, Uniform Administrative Requirements for Awards and Subawards to Institutions of Higher Education, Hospitals, and other Non-profit Organizations.

C. Grants Policy:

- HHS Grants Policy Statement, Revised 01/07.

D. Cost Principles:

- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, ''Cost Principles,'' located at 2 CFR part 200, subpart E.

E. Audit Requirements:

- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, ''Audit Requirements,'' located at 2 CFR part 200, subpart F.

2. Indirect Costs

This section applies to all grant recipients that request reimbursement of indirect costs in their grant application. In accordance with HHS Grants Policy Statement, Part II–27, IHS requires applicants to obtain a current indirect cost rate agreement prior to award. The rate agreement must be prepared in accordance with the applicable cost principles and guidance as provided by the cognizant agency or office. A current rate covers the applicable grant activities under the current award's budget period. If the current rate is not on file with the DGM at the time of award, the indirect cost portion of the budget will be restricted. The restrictions remain in place until the current rate is provided to the DGM.

Generally, indirect costs rates for IHS grantees are negotiated with the Division of Cost Allocation (DCA) *https://rates.psc.gov/* and the Department of Interior (Interior Business Center) *http://www.doi.gov/ibc/services/Indirect_Cost_Services/index.cfm.* For questions regarding the indirect cost policy, please call (301) 443–5204 to request assistance.

3. Reporting Requirements

The grantee must submit required reports consistent with the applicable deadlines. Failure to submit required reports within the time allowed may result in suspension or termination of an active grant, withholding of additional awards for the project, or other enforcement actions such as withholding of payments or converting to the reimbursement method of payment. Continued failure to submit required reports may result in one or both of the following: (1) The imposition of special award provisions; and (2) the non-funding or non-award of other eligible projects or activities. This requirement applies whether the delinquency is attributable to the failure of the grantee organization or the individual responsible for preparation of the reports. Reports must be submitted electronically via GrantSolutions. Personnel responsible for submitting reports will be required to obtain a login and password for GrantSolutions. Please see the Agency Contacts list in section VII for the systems contact information.

The reporting requirements for this program are noted below.

A. Progress Reports

Program progress reports are required semi-annually and within 30 days after the budget period ends. These reports must include a brief comparison of actual accomplishments to the goals established for the period, or, if applicable, provide sound justification for the lack of progress, and other pertinent information as required. A final report must be submitted within 90

days of expiration of the budget/project period.

B. Financial Reports

Federal Financial Report FFR (SF–425), Cash Transaction Reports are due 30 days after the close of every calendar quarter to the Division of Payment Management, HHS at: *http://www.dpm.psc.gov.* It is recommended that the applicant also send a copy of the FFR (SF–425) report to the Grants Management Specialist. Failure to submit timely reports may cause a disruption in timely payments to the organization.

Grantees are responsible and accountable for accurate information being reported on all required reports: the Progress Reports and Federal Financial Report.

C. Federal Subaward Reporting System (FSRS)

This award may be subject to the Transparency Act subaward and executive compensation reporting requirements of 2 CFR part 170.

The Transparency Act requires the OMB to establish a single searchable database, accessible to the public, with information on financial assistance awards made by Federal agencies. The Transparency Act also includes a requirement for recipients of Federal grants to report information about first-tier subawards and executive compensation under Federal assistance awards.

IHS has implemented a Term of Award into all IHS Standard Terms and Conditions, NoAs and funding announcements regarding the FSRS reporting requirement. This IHS Term of Award is applicable to all IHS grant and cooperative agreements issued on or after October 1, 2010, with a $25,000 subaward obligation dollar threshold met for any specific reporting period. Additionally, all new (discretionary) IHS awards (where the project period is made up of more than one budget period) and where: (1) The project period start date was October 1, 2010 or after and (2) the primary awardee will have a $25,000 subaward obligation dollar threshold during any specific reporting period will be required to address the FSRS reporting. For the full IHS award term implementing this requirement and additional award applicability information, visit the Grants Management Grants Policy Web site at: *https://www.ihs.gov/dgm/index.cfm?module=dsp_dgm_policy_topics.*

Telecommunication for the hearing impaired is available at: TTY (301) 443–6394.

VII. Agency Contacts

1. Questions on the programmatic issues may be directed to: Jackie Santiago, Office of Public Health Support, 801 Thompson Avenue, TMP Suite 450, Rockville, Maryland 20852, Telephone: (301) 443–2486, Fax: (301) 443–4815, Email: *Jackie.Santiago@ihs.gov.*
2. Questions on grants management and fiscal matters may be directed to: Andrew Diggs, Grants Management Specialist, 801 Thompson Avenue, TMP Suite 360, Rockville, Maryland 20852, Phone: (301) 443–2262, Email: *Andrew.Diggs@ihs.gov.*
3. Questions on systems matters may be directed to: Paul Gettys, Grant Systems Coordinator, 801 Thompson Avenue, TMP Suite 360, Rockville, MD 20852, Phone: (301) 443–2114; or the DGM main line (301) 443–5204, Fax: (301) 443–9602, E-Mail: *Paul.Gettys@ihs.gov.*

VIII. Other Information

The Public Health Service strongly encourages all grantees to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of the facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the HHS mission to protect and advance the physical and mental health of the American people.

Dated: April 17, 2014.

Yvette Roubideaux,

Acting Director, Indian Health Service.

[FR Doc. 2014–09607 Filed 4–28–14; 8:45 am]

BILLING CODE 4165–16–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: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Synthetic and Biological Chemistry B Study Section.

Date: May 29, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Washington DC, Dupont Circle; 1143 New Hampshire Avenue NW., Washington, DC 20037.

Contact Person: Kathryn M Koeller, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4166, MSC 7806, Bethesda, MD 20892, 301–435–2681, *koellerk@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Chronic Dysfunction and Integrative Neurodegeneration Study Section.

Date: May 29–30, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Alexei Kondratyev, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5200, MSC 7846, Bethesda, MD 20892, 301–435–1785, *kondratyevad@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; BD2K Data Discovery Index Coordination Consortium Panel.

Date: May 30, 2014.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Vonda K Smith, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6188, MSC 7892, Bethesda, MD 20892, 301–435–1789, *smithvo@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: April 22, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–09612 Filed 4–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Bioengineering Sciences Early Member Conflict SEP.

Date: May 8, 2014.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Joseph Thomas Peterson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7814, Bethesda, MD 20892, 301–408–9694, *petersonjt@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, RFA–RM–14–001: Computational Analyses Exploiting Reference Epigenomic, Maps.

Date: May 28, 2014.

Time: 8:00 a.m. to 9:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Kenneth Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3218, MSC 7717, Bethesda, MD 20892, 301–435–0229, *kenneth.ryan@nih.hhs.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: April 23, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–09620 Filed 4–28–14; 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 USC, 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; Communication Support (8a) (1153).

Date: May 22, 2014.

Time: 10:00 a.m. to 11:00 a.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, Scientific Review Officer, 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; Analytical Chemistry & Stability Testing of Treatment Drugs (8918).

Date: May 22–23 2014.

Time: 12:00 p.m. to 5:00 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: Jose F. Ruiz, Ph.D., Scientific Review Officer; Office of Extramural Affairs, National Institute on Drug Abuse, NIH, Room 4228, MSC 9550, 6001 Executive Blvd., Bethesda, MD 20892–9550, (301) 451–3086, *ruizjf@nida.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: April 22, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–09616 Filed 4–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Outcomes in Autism Spectrum Disorders: Mechanisms and Needs Assessment.

Date: May 6, 2014.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health; 6100 Executive Boulevard; Rockville, MD 20852; (Telephone Conference Call).

Contact Person: Marita R. Hopmann, Ph.D.; Scientific Review Administrator; Scientific Review Branch; National Institute of Child Health and Human Development; 6100 Building, Room 5b01; Bethesda, MD 20892; (301) 435–6911; *hopmannm@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Spermatogonial Transition.

Date: May 19, 2014.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health; 6100 Executive Boulevard; Rockville, MD 20852; (Telephone Conference Call).

Contact Person: Dennis E. Leszczynski, Ph.D.; Scientific Review Administrator; Scientific Review Branch; National Institute of Child Health and Human Development, NIH; 6100 Executive Blvd., Rm. 5b01;

Bethesda, MD 20892; (301) 435–6884; *leszczyd@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: April 22, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–09614 Filed 4–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Board of Scientific Counselors, NIAMS.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Arthritis and Musculoskeletal and Skin Diseases, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIAMS.

Date: May 21–22, 2014.

Time: 6:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 31, Room 4C32, 31 Center Drive, Bethesda, MD 20892.

Contact Person: John J. O'Shea, MD, Ph.D., Scientific Director, National Institute of Arthritis & Musculoskeletal and Skin Diseases, Building 10, Room 9N228, MSC 1820, Bethesda, MD 20892, (301) 496–2612 *osheaj@arb.niams.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: April 22, 2014.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–09619 Filed 4–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel NIAID Investigator Initiated Program Project Applications (P01).

Date: May 27, 2014.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health Room 3121, 6700B Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Paul A. Amstad, Ph.D., Scientific Review Officer, Scientific Review Program Division of Extramural Activities NIAID/NIH/DHHS, 6700B Rockledge Drive, MSC 7616 Bethesda, MD 20892–7616, 301–402–7098, *pamstad@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS).

Dated: April 23, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–09611 Filed 4–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the President's Cancer Panel.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: President's Cancer Panel.

Date: June 13, 2014.

Time: 9:00 a.m. to 4:00 p.m.

Agenda: Cancer Communication in the Digital Era: Opportunities and Challenges.

Place: Manchester Grand Hyatt San Diego; 1 Market Place; San Diego, CA 92101.

Contact Person: Abby B. Sandler, Ph.D.; Executive Secretary, President's Cancer Panel; Special Assistant to the Director; NCI Center for Cancer Research; 9000 Rockville Pike, Building 31; Room B2B37, MSC 2590; Bethesda, MD 20892–8349; (301) 451–9399; *sandlera@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/pcp/index.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: April 22, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–09617 Filed 4–28–14; 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 USC, as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Multi-site Clinical Trials SEP II.

Date: May 14, 2014.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Hiromi Ono, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 4238, MSC 9550, Bethesda, MD 20892, 301–402–6020, *hiromi.ono@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; EUREKA Review: Exceptional Unconventional Research Enabling Knowledge Acceleration (EUREKA) for Neuroscience and Disorders of the Nervous System (R01).

Date: May 28, 2014.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Virtual Meeting).

Contact Person: Jagadeesh S. Rao, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 4234, MSC 9550, Bethesda, MD 02892, 301–443–9511, *jrao@nida.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: April 22, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–09615 Filed 4–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel: Inflammation, Metabolism and Atherosclerosis Program.

Date: May 21, 2014.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Westin BWI, 1110 Old Elkridge Landing Road, Linthicum, MD 21090.

Contact Person: Charles Joyce, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7196, Bethesda, MD 20892–7924, 301–435–0288, *cjoyce@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, NHLBI Minority Institutional Training Special Emphasis Panel.

Date: May 27, 2014.

Time: 2:00 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7189, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Stephanie L Constant, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7189, Bethesda, MD 20892, 301–443–8784 *constantsl@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: April 22, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–09613 Filed 4–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; RDCRN Data Management and Coordinating Center.

Date: May 7, 2014.

Date: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Guo He Zhang, Ph.D., MPH, Scientific Review Officer, Office of Grants Management and Scientific Review, National Center for Advancing Translational Sciences (NCATS); National Institutes of Health, 6701 Democracy Blvd., Democracy 1, Room 1064, Bethesda, MD 20892–4874, 301–435–0812, *zhanggu@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Dated: April 22, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–09618 Filed 4–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0002: Internal Agency Docket No. FEMA–B–1417]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, Part 65 of the Code of Federal Regulations (44 CFR Part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR Part 65.

The FIRM and FIS report are the basis 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).

These flood hazard determinations, 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. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of Letter of Map Revision	Effective date of modification	Community No.
Arizona:						
Maricopa	City of Phoenix (13–09–1002P).	The Honorable Greg Stanton, Mayor, City of Phoenix, 200 West Washington Street, 11th Floor, Phoenix, AZ 85003.	Street Transportation Department, 200 West Washington Street, 5th Floor, Phoenix, AZ 85003.	*http://www.msc.fema.gov/lomc*	June 6, 2014	040051
Maricopa	City of Scottsdale (13–09–2519P).	The Honorable W.J. Lane, Mayor, City of Scottsdale, 3939 North Drinkwater Boulevard, Scottsdale, AZ 85251.	City Hall, 3939 North Drinkwater Boulevard, Scottsdale, AZ 85251.	*http://www.msc.fema.gov/lomc*	May 16, 2014	045012
Maricopa	City of Scottsdale (13–09–2520P).	The Honorable W.J. Lane, Mayor, City of Scottsdale, 3939 North Drinkwater Boulevard, Scottsdale, AZ 85251.	City Hall, 3939 North Drinkwater Boulevard, Scottsdale, AZ 85251.	*http://www.msc.fema.gov/lomc*	May 23, 2014	045012
California:						

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of Letter of Map Revision	Effective date of modification	Community No.
Nevada	Town of Truckee (13–09–1067P).	The Honorable Patrick Flora, Mayor, Town of Truckee, 10183 Truckee Airport Road, Truckee, CA 96161.	Planning Division, 10183 Truckee Airport Road, Truckee, CA 96161.	*http://www.msc.fema.gov/lomc*	May 19, 2014	060762
Riverside	City of Indio (13–09–3081P).	The Honorable Michael Wilson, Mayor, City of Indio, 100 Civic Center Mall, Indio, CA 92201.	City Hall, 100 Civic Center Mall, Indio, CA 92201.	*http://www.msc.fema.gov/lomc*	May 12, 2014	060255
Sacramento	City of Sacramento (13–09–0004P).	The Honorable Kevin Johnson, Mayor, City of Sacramento, 915 I Street, 5th Floor, Sacramento, CA 95814.	Stormwater Management Department, 1395 35th Avenue, Sacramento, CA 95822.	*http://www.msc.fema.gov/lomc*	May 12, 2014	060266
Sacramento	Unincorporated areas of Sacramento County (13–09–0004P).	The Honorable Susan Peters, Chair, Sacramento County Board of Supervisors, 700 H Street, Room 2450, Sacramento, CA 95814.	Municipal Services Agency, Department of Water Resources, 827 7th Street, Suite 301, Sacramento, CA 95814.	*http://www.msc.fema.gov/lomc*	May 12, 2014	060262
San Diego	City of San Diego (13–09–1496P).	The Honorable Todd Gloria, Interim Mayor, City of San Diego, 202 C Street, 11th Floor, San Diego, CA 92101.	Development Services Center, 1222 1st Avenue, 3rd Floor, San Diego, CA 92101.	*http://www.msc.fema.gov/lomc*	May 23, 2014	060295
Sutter	City of Live Oak (14–09–0812P).	The Honorable Steve Alvarado, Mayor, City of Live Oak, 9955 Live Oak Boulevard, Live Oak, CA 95953.	Building Department, 9955 Live Oak Boulevard, Live Oak, CA 95953.	*http://www.msc.fema.gov/lomc*	June 13, 2014	060395
Colorado:						
Elbert	Unincorporated areas of Elbert County (13–08–1173P).	The Honorable Robert Rowland, Chairman, Elbert County Board of Commissioners, P.O. Box 7, Kiowa, CO 80117.	Elbert County Community and Development Services Department, P.O. Box 7, Kiowa, CO 80117.	*http://www.msc.fema.gov/lomc*	May 23, 2014	080055
Florida:						
Charlotte	Unincorporated areas of Charlotte County (14–04–0121P).	The Honorable Ken Doherty, Chairman, Charlotte County Board of Commissioners, 18500 Murdock Circle, Port Charlotte, FL 33948.	Charlotte County Community Development Department, 18500 Murdock Circle, Port Charlotte, FL 33948.	*http://www.msc.fema.gov/lomc*	May 15, 2014	120061
Charlotte	Unincorporated areas of Charlotte County (14–04–0645P).	The Honorable Ken Doherty, Chairman, Charlotte County Board of Commissioners, 18500 Murdock Circle, Port Charlotte, FL 33948.	Charlotte County Community Development Department, 18500 Murdock Circle, Port Charlotte, FL 33948.	*http://www.msc.fema.gov/lomc*	May 30, 2014	120061
Escambia	Pensacola Beach-Santa Rosa Island Authority (13–04–6705P).	The Honorable Thomas A. Campanella, Chairman, Pensacola Beach-Santa Rosa Island Authority Board of Commissioners, P.O. Box 1208, Pensacola Beach, FL 32562.	Development Department, 1 Via De Luna, Pensacola Beach, FL 32562.	*http://www.msc.fema.gov/lomc*	June 2, 2014	125138
Escambia	Unincorporated areas of Escambia County (13–04–7536P).	The Honorable Gene M. Valentino, Chairman, Escambia County Board of Commissioners, 221 Palafox Place, Suite 400, Pensacola, FL 32502.	Escambia County Development Services Department, 3363 West Park Place, Pensacola, FL 32505.	*http://www.msc.fema.gov/lomc*	June 16, 2014	120080
Pinellas	City of Dunedin (13–04–7013P).	The Honorable Dave Eggers, Mayor, City of Dunedin, 542 Main Street, Dunedin, FL 34698.	Engineering Department, 542 Main Street, Dunedin, FL 34698.	*http://www.msc.fema.gov/lomc*	June 9, 2014	125103
Georgia:						
Bryan	Unincorporated areas of Bryan County (13–04–1675P).	The Honorable Jimmy Burnsed, Chairman, Bryan County Board of Commissioners, 173 Davis Road, Richmond Hill, GA 31324.	Bryan County Planning and Zoning Department, 66 Captain Matthew Freeman Drive, Suite 201, Richmond Hill, GA 31324.	*http://www.msc.fema.gov/lomc*	May 15, 2014	130016

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of Letter of Map Revision	Effective date of modification	Community No.
Coweta	City of Newnan (14–04–1178P).	The Honorable Keith Brady, Mayor, City of Newnan, 25 LaGrange Street, Newnan, GA 30263.	City Hall, 25 LaGrange Street, Newnan, GA 30263.	*http://www.msc.fema.gov/lomc*	May 30, 2014	130062
Muscogee	City of Columbus-Muscogee County (Consolidated Government) (12–04–2939P).	The Honorable Teresa Tomlinson, Mayor, City of Columbus-Muscogee County (Consolidated Government), 100 10th Street, Columbus, GA 31901.	Department of Engineering, 420 10th Street, Columbus, GA 31901.	*http://www.msc.fema.gov/lomc*	June 2, 2014	135158
North Carolina:						
Avery	Town of Newland (14–04–0936P).	The Honorable Valerie Jaynes, Mayor, Town of Newland, P.O. Box 429, Newland, NC 28657.	Town Hall, 301 Cranberry Street, Newland, NC 28657.	*http://www.msc.fema.gov/lomc*	April 11, 2014	370012
Avery	Unincorporated areas of Avery County (14–04–0936P).	The Honorable Kenny Poteat, Chairman, Avery County Board of Commissioners, P.O. Box 640, Newland, NC 28657.	Avery County Planning Department, P.O. Box 640, Newland, NC 28657.	*http://www.msc.fema.gov/lomc*	April 11, 2014	370010
Buncombe	Unincorporated areas of Buncombe County (13–04–1379P).	Ms. Wanda Greene, Buncombe County Manager, 200 College Street, Suite 300, Asheville, NC 28801.	Buncombe County Planning Department, 46 Valley Street, Asheville, NC 28801.	*http://www.msc.fema.gov/lomc*	May 12, 2014	370031
Chatham	Unincorporated areas of Chatham County (13–04–7171P).	The Honorable Walter Petty, Chairman, Chatham County Board of Commissioners, P.O. Box 1809, Pittsboro, NC 27312.	Chatham County Planning Department, 80–A East Street, Pittsboro, NC 27312.	*http://www.msc.fema.gov/lomc*	May 2, 2014	370299
Forsyth	City of Winston-Salem (13–04–0816P).	The Honorable Allen Joines, Mayor, City of Winston-Salem, 101 North Main Street, Suite 150, Winston-Salem, NC 27101.	Inspections Department, 100 East 1st Street, Suite 328, Winston-Salem, NC 27101.	*http://www.msc.fema.gov/lomc*	May 13, 2014	375360
Guilford	City of Greensboro (13–04–6581P).	The Honorable Nancy Vaughn, Mayor, City of Greensboro, P.O. Box 3136, Greensboro, NC 27402.	Water Resources Department, Planning and Engineering Section, 2602 South Elm-Eugene Street, Greensboro, NC 27406.	*http://www.msc.fema.gov/lomc*	June 17, 2014	375351
Lenoir	City of Kinston (13–04–6410P).	The Honorable B.J. Murphy, Mayor, City of Kinston, 207 East King Street, Kinston, NC 28501.	City Hall, 207 East King Street, Kinston, NC 28501.	*http://www.msc.fema.gov/lomc*	June 13, 2014	370145
Rutherford	Town of Rutherfordton (14–04–0666P).	The Honorable Jimmy Dancy, Mayor, Town of Rutherfordton, 129 North Main Street, Rutherfordton, NC 28139.	Town Hall, 129 North Main Street, Rutherfordton, NC 28139.	*http://www.msc.fema.gov/lomc*	April 16, 2014	370219
Surry	Unincorporated areas of Surry County (14–04–0937P).	The Honorable Eddie Harris, Chairman, Surry County Board of Commissioners, 118 Hamby Road, Dobson, NC 27017.	Surry County Planning and Development Department, 122 Hamby Road, Dobson, NC 27017.	*http://www.msc.fema.gov/lomc*	April 11, 2014	370364
Transylvania	Unincorporated areas of Transylvania County (13–04–8461P).	The Honorable Mike Hawkins, Chairman, Transylvania County Board of Commissioners, 21 East Main Street, Brevard, NC 28712.	Transylvania County Inspections Department, 98 East Morgan Street, Brevard, NC 28712.	*http://www.msc.fema.gov/lomc*	May 9, 2014	370230
Union	City of Monroe (14–04–0931P).	The Honorable Bobby Kilgore, Mayor, City of Monroe, 300 West Crowell Street, Monroe, NC 28112.	City Hall, 300 West Crowell Street, Monroe, NC 28112.	*http://www.msc.fema.gov/lomc*	April 10, 2014	370236
Wake	Town of Garner (14–04–0933P).	The Honorable Ronnie Williams, Mayor, Town of Garner, 900 7th Avenue, Garner, NC 27529.	Town Hall, 900 7th Avenue, Garner, NC 27529.	*http://www.msc.fema.gov/lomc*	April 10, 2014	370240
South Carolina:						

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of Letter of Map Revision	Effective date of modification	Community No.
Lexington	Unincorporated areas of Lexington County (14–04–0721P).	The Honorable William B. Banning, Sr., Chairman, Lexington County Council, 2109 Beaver Lane, West Columbia, SC 29169.	Lexington County Planning Department, County Administration Building, 212 South Lake Drive, Lexington, SC 29072.	*http://www.msc.fema.gov/lomc*	June 6, 2014	450129
Richland	City of Columbia (14–04–0393P).	The Honorable Steve Benjamin, Mayor, City of Columbia, P.O. Box 147, Columbia, SC 29217.	Department of Engineering, P.O. Box 147, Columbia, SC 29217.	*http://www.msc.fema.gov/lomc*	May 26, 2014	450172

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: April 14, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2014–09734 Filed 4–28–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0002; Internal Agency Docket No. FEMA–B–1405]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Title 44, Part 65 of the Code of Federal Regulations (44 CFR Part 65). The LOMR will be used by insurance agents and others to calculate appropriate flood insurance premium rates for new buildings and the contents of those buildings. For rating purposes, the currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will become effective on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Deputy Associate Administrator for Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR Part 65.

The FIRM and FIS report are the basis 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).

These flood hazard determinations, 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. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *www.msc.fema.gov* for comparison.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of Letter of Map Revision	Effective date of modification	Community No.
Maryland: Frederick.	City of Frederick, (14–03–0540P).	The Honorable Randy McClement, Mayor, City of Frederick, 101 North Court Street, Frederick, MD 21701.	Department of Engineering, 140 West Patrick Street, Frederick, MD 21701.	*http://www.msc.fema.gov/lomc*	June 23, 2014	240030
New Mexico:						
Bernalillo	City of Albuquerque, (13–06–2926P).	The Honorable Richard J. Berry, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, NM 87103.	Development and Review Services Division, 600 2nd Street Northwest, Room 201, Albuquerque, NM 87102.	*http://www.msc.fema.gov/lomc*	May 5, 2014	350002
Bernalillo	Unincorporated areas of Bernalillo County, (13–06–2994P).	The Honorable Maggie Hart Stebbins, Chairman, Bernalillo County Board of Commissioners, 1 Civic Plaza Northwest, Albuquerque, NM 87102.	Bernalillo County Public Works Division, 2400 Broadway Boulevard Southeast, Albuquerque, NM 87102.	*http://www.msc.fema.gov/lomc*	May 1, 2014	350001
Bernalillo	Unincorporated areas of Bernalillo County, (13–06–2926P).	The Honorable Maggie Hart Stebbins, Chairman, Bernalillo County Board of Commissioners, 1 Civic Plaza Northwest, Albuquerque, NM 87102.	Bernalillo County Public Works Division, 2400 Broadway Boulevard Southeast, Albuquerque, NM 87102.	*http://www.msc.fema.gov/lomc*	May 5, 2014	350001
Oklahoma: Oklahoma.	City of Oklahoma City, (13–06–3216P).	The Honorable Mick Cornett, Mayor, City of Oklahoma City, 200 North Walker Avenue, 3rd Floor, Oklahoma City, OK 73102.	420 West Main Street, Suite 700, Oklahoma City, OK 73102.	*http://www.msc.fema.gov/lomc*	June 9, 2014	405378
Pennsylvania: Bucks.	Borough of New Hope, (14–03–0111P).	Mr. John Burke, Manager, Borough of New Hope, 123 New Street, New Hope, PA 18938.	Borough Hall, 123 New Street, New Hope, PA 18938.	*http://www.msc.fema.gov/lomc*	June 9, 2014	420195
Puerto Rico	Commonwealth of Puerto Rico, (13–02–1051P).	Mr. Luis Garcia Pelatti, President, Puerto Rico Planning Board, Roberto Sanchez Vilella Governmental Center, North Building, 16th Floor, De Diego Avenue International Baldorioty de Castro Avenue, San Juan, PR 00940.	Commonwealth of Puerto Rico, Roberto Sanchez Vilella Governmental Center, North Building, 9th Floor, De Diego Avenue International Baldorioty de Castro Avenue, San Juan, PR 00940.	*http://www.msc.fema.gov/lomc*	May 29, 2014	720000
Texas:						
Bexar	Unincorporated areas of Bexar County, (13–06–3877P).	The Honorable Nelson W. Wolff, Bexar County Judge, Paul Elizondo Tower, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 233 North Pecos-La Trinidad Street, Suite 420, San Antonio, TX 78207.	*http://www.msc.fema.gov/lomc*	May 27, 2014	480035
Collin	City of Frisco, (13–06–2575P).	The Honorable Maher Maso, Mayor, City of Frisco, 6101 Frisco Square Boulevard, Frisco, TX 75034.	City Hall, 6101 Frisco Square Boulevard, Frisco, TX 75034.	*http://www.msc.fema.gov/lomc*	May 27, 2014	480134
Rockwall	City of McLendon-Chisholm, (13–06–2902P).	The Honorable Gary L. Moody, Mayor, City of McLendon-Chisholm, 1248 South State Highway 205, McLendon-Chisholm, TX 75032.	City Hall, 1248 South State Highway 205, McLendon-Chisholm, TX 75032.	*http://www.msc.fema.gov/lomc*	June 6, 2014	480546
Smith	City of Tyler, (13–06–3378P).	The Honorable Barbara Bass, Mayor, City of Tyler, P.O. Box 2039, Tyler, TX 75710.	423 West Ferguson Street, Tyler, TX 75710.	*http://www.msc.fema.gov/lomc*	May 27, 2014	480571
Smith	Unincorporated areas of Smith County, (13–06–3378P).	The Honorable Joel Baker, Smith County Judge, 200 East Ferguson Street, Suite 100, Tyler, TX 75702.	Smith County Road and Bridge Department, 1700 West Claude Street, Tyler, TX 75702.	*http://www.msc.fema.gov/lomc*	May 27, 2014	481185
Travis	Unincorporated areas of Travis County, (13–06–3649P).	The Honorable Samuel T. Biscoe, Travis County Judge, P.O. Box 1748, Austin, TX 78767.	Travis County Administration Building, Transportation and Natural Resources Department, 700 Lavaca Street, 5th Floor, Austin, TX 78701.	*http://www.msc.fema.gov/lomc*	June 12, 2014	481026

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of Letter of Map Revision	Effective date of modification	Community No.
Victoria	City of Victoria, (13–06–3977P).	The Honorable Paul Polasek, Mayor, City of Victoria, P.O. Box 1758, Victoria, TX 77902.	Department of Development Services, 702 North Main Street, Suite 122, Victoria, TX 77901.	*http://www.msc.fema.gov/lomc*	May 30, 2014	480638
Virginia: Fairfax	Unincorporated areas of Fairfax County, (13–03–2380P).	Mr. Edward L. Long, Jr., Fairfax County Executive, 12000 Government Center Parkway, Fairfax, VA 22035.	Fairfax County Stormwater Planning Division, 12000 Government Center Parkway, Suite 449, Fairfax, VA 22035.	*http://www.msc.fema.gov/lomc*	June 16, 2014	515525

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: April 14, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2014–09727 Filed 4–28–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2014–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final Notice.

SUMMARY: New or modified Base (1% annual-chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or the regulatory floodway (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: The effective date for each LOMR is indicated in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *www.msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard determinations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

These new or modified flood hazard determinations, 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 new or modified flood hazard determinations 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, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Arkansas: Washington (FEMA Docket No.: B–1354).	City of Fayetteville (13–06–1658P).	The Honorable Lioneld Jordan, Mayor, City of Fayetteville, 113 West Mountain Street, Fayetteville, AR 72701.	Development Services Building, 125 West Mountain Street, Fayetteville, AR 72701.	February 11, 2014	050216
Oklahoma: Oklahoma (FEMA Docket No.: B–1354).	City of Oklahoma City (13–06–1918P).	The Honorable Mick Cornett, Mayor, City of Oklahoma City, 200 North Walker Avenue, 3rd Floor, Oklahoma City, OK 73102.	420 West Main Street, Suite 700, Oklahoma City, OK 73102.	February 6, 2014	405378
Texas:					

State and county	Location and case No.	Chief executive officer of community	Community map repository	Effective date of modification	Community No.
Bexar (FEMA Docket No.: B–1354).	City of San Antonio (13–06–3687P).	The Honorable Julian Castro, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Department of Public Works, Storm Water Engineering, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	February 3, 2014	480045
Bexar (FEMA Docket No.: B–1354).	City of San Antonio (13–06–3350P).	The Honorable Julian Castro, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, TX 78283.	Department of Public Works, Storm Water Engineering, 1901 South Alamo Street, 2nd Floor, San Antonio, TX 78204.	February 10, 2014	480045
Bexar (FEMA Docket No.: B–1354).	Unincorporated areas of Bexar County (13–06–2845P).	The Honorable Nelson W. Wolff, Bexar County Judge, Paul Elizondo Tower, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 233 North Pecos-La Trinidad Street, Suite 420, San Antonio, TX 78207.	February 3, 2014	480035
Bexar (FEMA Docket No.: B–1354).	Unincorporated areas of Bexar County (13–06–3349P).	The Honorable Nelson W. Wolff, Bexar County Judge, Paul Elizondo Tower, 101 West Nueva Street, 10th Floor, San Antonio, TX 78205.	Bexar County Public Works Department, 233 North Pecos-La Trinidad Street, Suite 420, San Antonio, TX 78207.	February 3, 2014	480035
Dallas (FEMA Docket No.: B–1354).	City of Garland (13–06–1717P).	The Honorable Douglas Athas, Mayor, City of Garland, 200 North 5th Street, Garland, TX 75040.	Engineering Department, 800 West Main Street, Garland, TX 75040.	February 10, 2014	485471
Dallas (FEMA Docket No.: B–1354).	City of Rowlett (12–06–3599P).	The Honorable Todd Gottel, Mayor, City of Rowlett, 4000 Main Street, Rowlett, TX 75088.	Development Services Building, 3901 Main Street, Rowlett, TX 75088.	February 7, 2014	480185
Denton (FEMA Docket No.: B–1354).	Unincorporated areas of Denton County (13–06–3201P).	The Honorable Mary Horn, Denton County Judge, 110 West Hickory Street, 2nd Floor, Denton, TX 76201.	Denton County Planning Department, 1505 East McKinney Street, Suite 175, Denton, TX 76209.	February 6, 2014	480774
Fort Bend (FEMA Docket No.: B–1358).	City of Sugar Land (13–06–4003P).	The Honorable James Thompson, Mayor, City of Sugar Land, P.O. Box 110, Sugar Land, TX 77487.	City Hall, 2700 Town Center Boulevard North, Sugar Land, TX 77479.	February 14, 2014	480234
Fort Bend and Harris (FEMA Docket No.: B–1354).	City of Houston (13–06–1908P).	The Honorable Annise D. Parker, Mayor, City of Houston, P.O. Box 1562, Houston, TX 77251.	Floodplain Management Office, Public Works and Engineering, 1002 Washington Avenue, 3rd Floor, Houston, TX 77002.	February 6, 2014	480296
Grayson (FEMA Docket No.: B–1354).	Unincorporated areas of Grayson County (12–06–3502P).	The Honorable Drue Bynum, Grayson County Judge, 100 West Houston Street, Sherman, TX 75090.	Grayson County Courthouse, 100 West Houston Street, Sherman, TX 75090.	February 6, 2014	480829
Harris (FEMA Docket No.: B–1354).	Unincorporated areas of Harris County (12–06–3910P).	The Honorable Ed M. Emmett, Harris County Judge, 1001 Preston Street, Suite 911, Houston, TX 77002.	Harris County, 10555 Northwest Freeway, Houston, TX 77092.	February 6, 2014	480287
Potter (FEMA Docket No.: B–1354).	City of Amarillo (13–06–1845P).	The Honorable Paul Harpole, Mayor, City of Amarillo, P.O. Box 1971, Amarillo, TX 79105.	City Hall, 509 Southeast 7th Avenue, Amarillo, TX 79105.	February 3, 2014	480529

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: April 14, 2014.

Roy E. Wright,

Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. 2014–09725 Filed 4–28–14; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5752–N–42]

30-Day Notice of Proposed Information Collection: Promise Zones

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* May 29, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. *Email: OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on February 26, 2014.

A. Overview of Information Collection

Title of Information Collection: Promise Zones.

OMB Approval Number: 2577–0279.

Type of Request: Revision of a currently approved collection.

Form Number: Pending Assignment.

Description of the need for the information and proposed use: Under the Promise Zones initiative, the federal government will invest and partner with high-poverty urban, rural, and tribal communities to create jobs, increase economic activity, improve educational opportunities, leverage private investment, and reduce violent crime. Additional information about the Promise Zones initiative can be found at *www.hud.gov/promisezones,* and questions can be addressed to *promisezones@hud.gov.* This notice estimates burden for applying for the designation.

Respondents (i.e. affected public): Local or Tribal Governments.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Optional Notification of Intent to Apply	300	1	1	1	300	$40	$12,000
Abstract	300	1	1	3	900	40	36,000
Qualifying Criteria/Need Narrative	300	1	1	3	900	40	36,000
Local leadership support—Documentation	300	1	1	4	1200	40	48,000
Need—Poverty rate	300	1	1	1	300	40	12,000
Need—Crime rate	300	1	1	3	900	40	36,000
Need—Employment rate	300	1	1	1	300	40	12,000
Need—Vacancy rate	300	1	1	1	300	40	12,000
Strategy—Community Assets and Neighborhood Position, Mapping	300	1	1	6	1800	40	72,000
Strategy—Narrative and Template	300	1	1	10	3000	40	120,000
Strategy—Sustainability and financial feasibility	300	1	1	5	1500	40	60,000
Capacity—Lead documentation	300	1	1	3	900	40	36,000
Capacity—Partner documentation	300	1	1	4	1200	40	48,000
Capacity—Partner Organization Chart	300	1	1	3	900	40	36,000
Capacity—Local government	300	1	1	3	900	40	36,000
Capacity—Partnership commitments documentation	300	1	1	10	3000	40	120,000
Total	300	1	1	61	18,300	40	732,000

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35

Dated: April 23, 2014.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2014–09720 Filed 4–28–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5756–N–15]

60-Day Notice of Proposed Information Collection: Multifamily Contractor's/Mortgagor's Cost Breakdowns and Certifications

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* June 30, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Theodore F. Toon, Director Multifamily Housing Development, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, email *Theodore.F.Toon@hud.gov* or telephone 202–402–1142. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-

free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Multifamily Contractor's/Mortgagor's Cost Breakdowns and Certifications.

OMB Approval Number: 2502–0044.

Type of Request: Extension of currently approved collection.

Form Number: HUD–92330–A, HUD–92328, HUD–92205–A.

Description of the need for the information and proposed use: Contractors use the form HUD–2328 to establish a schedule of values of construction items on which the monthly advances or mortgage proceeds are based. Contractors use the form HUD–92330–A to convey actual construction costs in a standardized format of cost certification. In addition to assuring that the mortgage proceeds have not been used for purposes other than construction costs, HUD–92330–A further protects the interest of the Department by directly monitoring the accuracy of the itemized trades on form HUD–2328. This form also serves as project data to keep Field Office cost data banks and cost estimates current and accurate. HUD–92205A is used to certify the actual costs of acquisition or refinancing of projects insured under Section 223(f) program.

Respondents: Business or other for profit. Not for profit institutions.

Estimated Number of Respondents: 2,272.

Estimated Number of Responses: 4,761.

Frequency of Response: 1.

Average Hours per Response: 19.

Total Estimated Burdens: 37,003.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: April 23, 2014.

Laura M. Marin,

Associate General Deputy Assistant Secretary for Housing—Associate Deputy Federal Housing Commissioner.

[FR Doc. 2014–09716 Filed 4–28–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5756–N–14]

60-Day Notice of Proposed Information Collection: Office of Hospital Facilities Transactional Forms for FHA Programs 242, 241, 223(f), 223(a)(7)

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Announcement Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* June 30, 2014.

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: Paul Giaudrone, Underwriting Director, Office of Hospital Facilities, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–5684 (this is not a toll-free number) or email at *Paul.A.Giaudrone@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Paul Giaudrone, Underwriting Director, Office of Hospital Facilities, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email at *Paul.A.Giaudrone@hud.gov* or telephone 202–402–5684. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Mr. Giaudrone.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Office of Hospital Facilities Transactional Forms for FHA Programs 242, 241, 223(f), 223(a)(7).

OMB Approval Number: 2502–0602.

Type of Request: Revision of a currently approved collection.

Form Number: N/A.

Description of the need for the information and proposed use: Following a review by the HUD Office of Hospital Facilities (OHF), changes both substantive and cosmetic were made to several OHF forms previously included within the collection number above. The amended forms are as follows: 2466–GP (should be changed to 92466–NFP), 2264–OHF.

Respondents (i.e. affected public): 930.

Estimated Number of Respondents: 465.

Estimated Number of Responses: 1.

Frequency of Response: On occasion.

Average Hours per Response: 2 hours.

Total Estimated Burdens: 99,011.50 hours.

Form Number: HUD–2–OHF, HUD–2205a–OHF, HUD–2434–OHF, HUD–92466GP–OHF, HUD–41901–OHF, HUD–92421–OHF, HUD–92422–OHF, HUD–92451–OHF, HUD–92453–OHF, HUD–92010–OHF, HUD–92330a–OHF, HUD–92403.1–OHF, HUD–92403–OHF, HUD–92432–OHF, HUD–92450–CA–OHF, HUD–92452–OHF, HUD–92464–OHF, HUD–92466–OHF, HUD–2576–OHF, HUD–92580–OHF, HUD–3305–OHF, HUD–4128–OHF, HUD–9250–OHF, HUD–91725–OHF, HUD–92013–OHF, HUD–92023–OHF, HUD–92415–OHF, HUD–92441–OHF, HUD–92447–OHF, HUD–92448–OHF, HUD–92452A–OHF, HUD–92457–OHF, HUD–92476–OHF.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected

parties concerning the collection of information described in Section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: April 23, 2014.

Laura M. Marin,

Associate General Deputy Assistant Secretary for Housing—Associate Deputy Federal Housing Commissioner.

[FR Doc. 2014–09717 Filed 4–28–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5756–N–13]

60-Day Notice of Proposed Information Collection: Performing Loan Servicing for the Home Equity Conversion Mortgage (HECM)

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* June 30, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Ivery W. Himes, Director, Office of Single Family Program, Asset Management, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–1672. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Himes.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Performing Loan Servicing for the Home Equity Conversion Mortgage (HECM).

OMB Approval Number: 2502-New.

Type of Request: This is a new information collection.

Form Number:

HUD 27011—SF Application for Insurance Benefits

HUD 50002—Request to Exceed Cost and Protection Limits for Preservation

HUD 50012—Mortgagee's Request for Extension of Time

HUD 9539—Request for Occupied Conveyance

Description of the need for the information and proposed use:

This information collection request for OMB review seeks to combine the requirements of several existing OMB collections under this comprehensive collection for mortgagees that service Home Equity Conversion Mortgages (HECM) and the mortgagors who are involved with the following activities.

Respondents: Not for profit institutions.

Estimated Number of Respondents: 10.

Estimated Number of Responses: 33,324,110.

Frequency of Response: On occasion.

Average Hours per Response: 10 minutes to 15 minutes.

Total Estimated Burdens: 3,060,683.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: April 23, 2014.

Laura M. Marin,

Associate General Deputy Assistant Secretary for Housing-Associate Deputy Federal Housing Commissioner.

[FR Doc. 2014–09718 Filed 4–28–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[12XA5648MP/A52200010.02Z100/AAHH514630]

Privacy Act of 1974, as Amended; Notice To Amend an Existing System of Records

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of an amendment to an existing system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended, the Department of the Interior is issuing a public notice of its intent to amend the Bureau of Indian Affairs Privacy Act system of records, ''Indian Electric Power Utilities—Interior, BIA 26,'' to update the system name, system location, categories of individuals covered by the system, categories of records in the system, authority for maintenance of the system, routine uses, storage, safeguards, retention and disposal, system manager and address, notification procedures, records access and contesting procedures, and records

source categories. The system name will be updated to the ''Electrical Utility Management System, BIA–26.'' The Electrical Utility Management System is an automated billing system used to facilitate the management of the utility billing process within the Bureau of Indian Affairs. The system will assist an electrical utility provider in managing functions, such as billing, collections, service orders, meter reading, managing customer accounts, accounting, and tracking service history for Bureau of Indian Affairs electrical utility customers.

DATES: Comments must be received by June 9, 2014. This amended system will be effective June 9, 2014.

ADDRESSES: Any person interested in commenting on this notice may do so by: submitting comments in writing to Scott Christenson, Indian Affairs Privacy Act Officer, 12220 Sunrise Valley Drive, Reston, Virginia 20191; hand-delivering comments to Scott Christenson, Indian Affairs Privacy Act Officer, 12220 Sunrise Valley Drive, Reston, Virginia 20191; or emailing comments to *Scott.Christenson@bia.gov*.

FOR FURTHER INFORMATION CONTACT: Deputy Bureau Director, Bureau of Indian Affairs, Office of Trust Services, U.S. Department of the Interior, 1849 C Street NW., MS 4620–MIB, Washington, DC 20240, or by telephone at (202) 208–5831.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of the Interior (DOI), Bureau of Indian Affairs (BIA), maintains the ''Indian Electric Power Utilities—Interior, BIA–26'' system of records. The amendment to ''Indian Electric Power Utilities—Interior, BIA–26'' will revise the system name to the ''Electrical Utility Management System, BIA–26.'' The Electrical Utility Management System is an automated billing system used to facilitate the management of the utility billing process within the BIA. The system will assist an electrical utility provider in managing functions, such as billing, collections, service orders, meter reading, managing customer accounts, accounting, and tracking service history for BIA electrical utility customers. Other amendments to the system will include updating the system location, categories of individuals covered by the system, categories of records in the system, authority for maintenance of the system, routine uses, storage, safeguards, retention and disposal, system manager and address, notification procedures, records access and contesting procedures, and records source categories. The system notice was last published in the **Federal Register** on November 12, 1987 (Volume 52, Number 218).

The amendments to the system will be effective as proposed at the end of the comment period (the comment period will end 40 days after the publication of this notice in the **Federal Register**), unless comments are received which would require a contrary determination. DOI will publish a revised notice if changes are made based upon a review of the comments received.

II. Privacy Act

The Privacy Act of 1974, as amended (5 U.S.C. 552a), embodies fair information practice principles in a statutory framework governing the means by which Federal Agencies collect, maintain, use, and disseminate individuals' personal information. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency for which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. The Privacy Act defines an individual as a United States citizen or lawful permanent resident. As a matter of policy, DOI extends administrative Privacy Act protections to all individuals. Individuals may request access to their own records that are maintained in a system of records in the possession or under the control of DOI by complying with DOI Privacy Act regulations, 43 CFR Part 2, subpart K.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the type and character of each system of records that the agency maintains, the routine uses that are contained in each system in order to make agency record keeping practices transparent, to notify individuals regarding the uses of their records, and to assist individuals to more easily find such records within the agency. Below is the description of the Bureau of Indian Affairs, Electrical Utility Management System, BIA–26, system of records.

In accordance with 5 U.S.C. 552a(r), DOI has provided a report of this system of records to the Office of Management and Budget and to Congress.

III. Public Disclosure

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: April 16, 2014.

Scott Christenson,

Indian Affairs Privacy Act Officer, Office of the Assistant Secretary for Indian Affairs.

SYSTEM NAME:

Electrical Utility Management System, BIA–26

SYSTEM LOCATION:

The system is located at the Bureau of Indian Affairs, Office of Information Operations (OIO), 1011 Indian School Rd. NW., Suite 177, Albuquerque, NM 87104. Records may also be located at the Bureau of Indian Affairs, Office of Trust Services, U.S. Department of the Interior, 1849 C Street NW., MS 4620–MIB, Washington, DC 20240, and at BIA Power Utilities providing electrical utility services to Indians and non-Indians in their respective utility service areas.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system include customers, Indians and non-Indians, applying for electrical utility services from BIA Power Utilities for residential, commercial, industrial, lighting, preferred rate, and irrigation wells. This system contains records concerning corporations and other business entities, which are not subject to the Privacy Act. However, records pertaining to individuals acting on behalf of corporations and other business entities may reflect personal information.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records such as service orders, customer deposits, death certificates, and billing and collection records pertaining directly to electrical utility customers including first, middle and last names, social security numbers, dates of birth, dates of death, telephone numbers, service (physical) addresses, mailing addresses, aliases, marital status, account numbers, employee identification numbers, tax identification numbers, customer service identification numbers, meter numbers, and transmitter numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

25 U.S.C. 385c, Appropriation and Disposition of Power Revenues; and 25 CFR Part 175, Indian Electric Power Utilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Electrical Utility Management System is an automated billing system used to facilitate the management of the utility billing process within the Bureau of Indian Affairs. The system will assist an electrical utility provider in managing functions, such as billing, collections, service orders, meter reading, managing customer accounts, accounting, and tracking service history for Bureau of Indian Affairs electrical utility customers.

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, disclosures outside DOI may be made as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(1) (a) To any of the following entities or individuals, when the circumstances set forth in paragraph (b) are met:

(i) The U.S. Department of Justice (DOJ);

(ii) A court or an adjudicative or other administrative body;

(iii) A party in litigation before a court or an adjudicative or other administrative body; or

(iv) Any DOI employee acting in his or her individual capacity if DOI or DOJ has agreed to represent that employee or pay for private representation of the employee;

(b) When:

(i) One of the following is a party to the proceeding or has an interest in the proceeding:

(A) DOI or any component of DOI;

(B) Any other Federal agency appearing before the Office of Hearings and Appeals;

(C) Any DOI employee acting in his or her official capacity;

(D) Any DOI employee acting in his or her individual capacity if DOI or DOJ has agreed to represent that employee or pay for private representation of the employee;

(E) The United States, when DOJ determines that DOI is likely to be affected by the proceeding; and

(ii) DOI deems the disclosure to be:

(A) Relevant and necessary to the proceeding; and

(B) Compatible with the purpose for which the records were compiled.

(2) To a congressional office in response to a written inquiry that an individual covered by the system, or the heir of such individual if the covered individual is deceased, has made to the office.

(3) To any criminal, civil, or regulatory law enforcement authority (whether Federal, state, territorial, local, tribal or foreign) when a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature, and the disclosure is compatible with the purpose for which the records were compiled.

(4) To an official of another Federal agency to provide information needed in the performance of official duties related to reconciling or reconstructing data files or to enable that agency to respond to an inquiry by the individual to whom the record pertains.

(5) To Federal, state, territorial, local, tribal, or foreign agencies that have requested information relevant or necessary to the hiring, firing or retention of an employee or contractor, or the issuance of a security clearance, license, contract, grant or other benefit, when the disclosure is compatible with the purpose for which the records were compiled.

(6) To representatives of the National Archives and Records Administration to conduct records management inspections under the authority of 44 U.S.C. 2904 and 2906.

(7) To state, territorial and local governments and tribal organizations to provide information needed in response to court order and/or discovery purposes related to litigation, when the disclosure is compatible with the purpose for which the records were compiled.

(8) To an expert, consultant, or contractor (including employees of the contractor) of DOI that performs services requiring access to these records on DOI's behalf to carry out the purposes of the system.

(9) To appropriate agencies, entities, and persons when:

(a) It is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; and

(b) The Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interest, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and

(c) The disclosure is made to such agencies, entities and persons who are reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(10) To the Office of Management and Budget during the coordination and clearance process in connection with legislative affairs as mandated by OMB Circular A–19.

(11) To the Department of the Treasury to recover debts owed to the United States.

(12) To the news media when the disclosure is compatible with the purpose for which the records were compiled.

(13) To a consumer reporting agency if the disclosure requirements of the Debt Collection Act, as outlined at 31 U.S.C. 3711(e)(1), have been met.

(14) To customers, Indians and non-Indians, who have received electrical utility services from BIA Power Utilities to verify receipt of their payments.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in paper form in file folders stored in file cabinets, and electronic media such as computers, compact discs, and computer tapes. The electronic records are contained in computer servers, computer hard drives, removable drives, email and electronic databases.

RETRIEVABILITY:

Records in this system are retrieved by individual's name, social security number, customer service identification number, account number, mailing address, service (physical) address, meter number, and transmitter number.

SAFEGUARDS:

Records are maintained in accordance with 43 CFR 2.226, Privacy Act safeguards for records. Access is provided on a need-to-know basis. During working hours, paper records are maintained in locked file cabinets under the control of authorized personnel.

Electronic records are safeguarded by permissions set to ''Authenticated Users'' which requires password login. The computer servers in which records are stored are located in Department of the Interior facilities that are secured by alarm systems and off-master key access. Access granted to individuals is password protected. The Department's Privacy Act Warning Notice appears on the monitor screens when users access the System. Backup tapes are kept on the data center floor for several weeks and then shipped to Iron Mountain, a secure off site location. Access to the Data Center floor is controlled by key card and only a select number of people have access. The Security Plan addresses the Department's Privacy Act minimum safeguard requirements for Privacy Act systems at 43 CFR 2.226. A Privacy Impact Assessment was

conducted to ensure that Privacy Act requirements and safeguard requirements are met. The assessment verified that appropriate controls and safeguards are in place. Personnel authorized to access the system must complete all Security, Privacy, and Records management training and sign the Rules of Behavior.

RETENTION AND DISPOSAL:

Paper records are covered by Indian Affairs Records Schedule records series 4900, and have been scheduled as permanent records under National Archives and Records Administration (NARA) Job Number N1–075–0406 approved on November 21, 2003. Records will be maintained in the office of record for a maximum of 5 years or when no longer needed for current business operations and then retired to the American Indian Records Repository which is a Federal Records Center. In accordance with the Indian Affairs Records Schedule, the subsequent legal transfer of records to the National Archives of the United States will be jointly agreed to between the United States Department of the Interior and the NARA.

A records retention schedule for the electronic records in this system is being developed and will be submitted to NARA for scheduling and approval. Pending approval by NARA, electronic records will be treated as permanent records. Data backups or copies captured on compact discs and computer tapes that are maintained separately from database files are temporary and are retained in accordance with General Records Schedules 20/8 and 24/4(a).

SYSTEM MANAGER AND ADDRESS:

Deputy Bureau Director, Bureau of Indian Affairs, Office of Trust Services, U.S. Department of the Interior, 1849 C Street NW., MS 4620–MIB, Washington, DC 20240.

NOTIFICATION PROCEDURES:

An individual requesting notification of the existence of records on himself or herself should send a signed, written inquiry to the System Manager identified above. The request envelope and letter should both be clearly marked ''PRIVACY ACT INQUIRY.'' A request for notification must meet the requirements of 43 CFR 2.235.

RECORDS ACCESS PROCEDURES:

An individual requesting records on himself or herself should send a signed, written inquiry to the System Manager identified above. The request should describe the records sought as specifically as possible. The request envelope and letter should both be clearly marked ''PRIVACY ACT REQUEST FOR ACCESS.'' A request for access must meet the requirements of 43 CFR 2.238.

CONTESTING RECORDS PROCEDURES:

An individual requesting corrections or the removal of material from his or her records should send a signed, written request to the System Manager identified above. A request for corrections or removal must meet the requirements of 43 CFR 2.246.

RECORD SOURCE CATEGORIES:

Information in the system is obtained directly from customers, Indians and non-Indians, applying for electrical utility services from BIA Power Utilities for residential, commercial, industrial, lighting, preferred rate, and irrigation wells.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2014–09711 Filed 4–28–14; 8:45 am]

BILLING CODE 4310–4J–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–514 and 731–TA–1250 (Preliminary)]

53-Foot Domestic Dry Containers From China; Institution of Antidumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigation Nos. 701–TA–514 and 731–TA–1250 (Preliminary) under sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C.'' 1671b(a) and 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China of 53-foot domestic dry containers, provided for in subheading 8609.00.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States alleged to be subsidized by the Government of China and are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to sections 702(c)(1)(B) or 732(c)(1)(B) of the Act (19 U.S.C. '' 1671a(c)(1)(B) or 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping and countervailing duty investigations in 45 days, or in this case by Monday, June 9, 2014. The Commission's views must be transmitted to Commerce within five business days thereafter, or by Monday, June 16, 2014.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

DATES: *Effective Date:* Wednesday, April 23, 2014.

FOR FURTHER INFORMATION CONTACT: Angela M.W. Newell (202–708–5409), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter 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 (*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.*

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed on Wednesday, April 23, 2014, by Stoughton Trailers, LLC, Stoughton, Wisconsin.

Participation in the investigation and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping duty and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives,

who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Investigations has scheduled a conference in connection with these investigations for 9:30 a.m. on Wednesday, May 14, 2014, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the conference should be emailed to *William.Bishop@usitc.gov* and *Sharon.Bellamy@usitc.gov* (DO NOT FILE ON EDIS) on or before Monday, May 12, 2014. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before Monday, May 19, 2014, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. Please consult the Commission's rules, as amended, 76 FR 61937 (Oct. 6, 2011) and the Commission's Handbook on Filing Procedures, 76 FR 62092 (Oct. 6, 2011), available on the Commission's Web site at *http://edis.usitc.gov.*

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Dated: April 24, 2014.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–09691 Filed 4–28–14; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1110–NEW]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Approval of an Existing Collection in Use Without an OMB Control Number

AGENCY: Federal Bureau of Investigation, Criminal Justice Information Services Division, Department of Justice.

ACTION: 60-day notice. Flash/Cancellation/Transfer Notice (I–12).

SUMMARY: The Department of Justice (DOJ), Federal Bureau of Investigation (FBI), Criminal Justice Information Services (CJIS) Division, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for 60 days until June 30, 2014.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Marissa N. Pasquale, Management and Program Analyst, FBI, CJIS, Biometric Services Section, Customer Support Unit, Module E–1, 1000 Custer Hollow Road, Clarksburg, West Virginia, 26306 (facsimile: 304–625–5392).

SUPPLEMENTARY INFORMATION: This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Approval of existing collection in use without an OMB control number.

(2) *The Title of the Form/Collection:* Flash/Cancellation/Transfer Notice.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* I–12.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: City, county, state, federal and tribal law enforcement agencies. This collection is needed to indicate on an individual's criminal history that the individual is being supervised to ensure the supervisory agency is notified of any additional criminal history activity. Acceptable data is stored as part of the Next Generation Identification (NGI) system of the FBI.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 6,104 respondents will complete each form within approximately 8 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 14,133 total annual burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department

Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: April 23, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–09640 Filed 4–28–14; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1110–NEW]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Approval of an Existing Collection in Use Without an OMB Control Number

AGENCY: Federal Bureau of Investigation, Criminal Justice Information Services Division, Department of Justice.

Request to Change III/NGI Base Identifier(s) (1–542)

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Federal Bureau of Investigation (FBI), Criminal Justice Information Services (CJIS) Division, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for 60 days until June 30, 2014.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Marissa N. Pasquale, Management and Program Analyst, FBI, CJIS, Biometric Services Section, Customer Support Unit, Module E–1, 1000 Custer Hollow Road, Clarksburg, West Virginia, 26306 (facsimile: 304–625–5392).

SUPPLEMENTARY INFORMATION: This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Approval of existing collection in use without an OMB control number.

(2) *The Title of the Form/Collection:* Request to Change III/NGI Base Identifier(s)

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* 1–542

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: City, county, state, federal and tribal law enforcement agencies. This collection is needed to report completion of an identity history summary. Acceptable data is stored as part of the Next Generation Identification (NGI) system of the FBI.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that approximately 75,605 agencies will complete each form within fifteen minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 1,875 total annual burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: April 23, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–09641 Filed 4–28–14; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1110–NEW]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Approval of an Existing Collection in Use Without an OMB Control Number

AGENCY: Federal Bureau of Investigation, Criminal Justice, Information Services Division, Department of Justice.

ACTION: 60-day notice. CJIS Name Check Form (1–791).

SUMMARY: The Department of Justice (DOJ), Federal Bureau of Investigation (FBI), Criminal Justice Information Services (CJIS) Division, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for 60 days until June 30, 2014.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Marissa N. Pasquale, Management and Program Analyst, FBI, CJIS, Biometric Services Section, Customer Support Unit, Module E–1, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306 (facsimile: 304–625–5392).

SUPPLEMENTARY INFORMATION: This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Approval of existing collection in use without an OMB control number.

(2) *The Title of the Form/Collection:* CJIS Name Check Request.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* 1–791.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Agencies authorized to submit applicant fingerprints into the Next Generation Identification (NGI) system for noncriminal justice purposes such as employment, benefits, and licensing. This form is completed to obtain a name check for an applicant when the fingerprints have been rejected twice for quality to ensure eligible individuals are not denied employment, benefits, or licensing.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 11,000 respondents will complete each form within approximately 5 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 10,810 total annual burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: April 23, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–09639 Filed 4–28–14; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1110–0052]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection

AGENCY: Federal Bureau of Investigation, Criminal Justice Information Services Division, Department of Justice.

ACTION: 60-day notice. Applicant Information Form (1–783).

SUMMARY: The Department of Justice (DOJ), Federal Bureau of Investigation (FBI), Criminal Justice Information Services (CJIS) Division, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for 60 days until June 30, 2014.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Marissa N. Pasquale, Management and Program Analyst, FBI, CJIS, Biometric Services Section, Customer Support Unit, Module E–1, 1000 Custer Hollow Road, Clarksburg, West Virginia, 26306 (facsimile: 304–625–5392).

SUPPLEMENTARY INFORMATION: This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:
—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *The Title of the Form/Collection:* Applicant Information Form

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* 1–783

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals. This collection is necessary for individuals to request a copy of their personal identification record to review it or to obtain a change, correction, or an update to the record.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Annually, the FBI receives 309,345 identification requests, therefore there are 309,345 respondents. The form requires 5 minutes to complete.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 25,779 total annual burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC, 20530.

Dated: April 23, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–09638 Filed 4–28–14; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1110–0051]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection

AGENCY: Federal Bureau of Investigation, Criminal Justice

Information Services Division, Department of Justice.

ACTION: 60-day notice. Final Disposition Report (R–84).

SUMMARY: The Department of Justice (DOJ), Federal Bureau of Investigation (FBI), Criminal Justice Information Services (CJIS) Division, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for 60 days until June 30, 2014.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Marissa N. Pasquale, Management and Program Analyst, FBI, CJIS, Biometric Services Section, Customer Support Unit, Module E–1, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306 (facsimile: 304–625–5392).

SUPPLEMENTARY INFORMATION: This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Final Disposition Report.

(3) *Agency form number:* R–84.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: City, county, state, federal and tribal law enforcement agencies. This collection is needed to report completion of an arrest event. Acceptable data is stored as part of the Next Generation Identification (NGI) system of the FBI.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 75,605 respondents will complete each form within approximately 5 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 61,013 total annual burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: April 23, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–09637 Filed 4–28–14; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1110–0009]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection Law Enforcement Officers Killed and Assaulted Program, Analysis of Officers Feloniously Killed and Assaulted; and Law Enforcement Officers Killed and Assaulted Program; Analysis of Officers Accidentally Killed

AGENCY: Criminal Justice Information Services Division, Department of Justice.

ACTION: 30-day notice.

SUMMARY: The Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with established review procedures of the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** on Volume 79, Number 35, pages 9923–9924, on February 21, 2014.

DATES: Comments are encouraged and will be accepted for 30 days until May 29, 2014.

FOR FURTHER INFORMATION CONTACT: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Mrs. Amy C. Blasher, Unit Chief, Federal Bureau of Investigation, Criminal Justice Information Services Division, Module E–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306; facsimile (304) 625–3566.

SUPPLEMENTARY INFORMATION: This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of information collection:* Extension of a currently approved collection.

(2) *The title of the form/collection:* Law Enforcement Officers Killed and Assaulted Program, Analysis of Officers Feloniously Killed and Assaulted; and

Law Enforcement Officers Killed and Assaulted Program, Analysis of Officers Accidentally Killed

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* Forms 1–701 and 1–701a; Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: City, county, state, tribal, and federal law enforcement agencies. Under Title 28, U.S. Code, Section 534, Acquisition, Preservation, and Exchange of Identification Records; Appointment of Officials this collection requests the number of officers killed or assaulted from city, county, state, tribal, and federal law enforcement agencies in order for the FBI Uniform Crime Reporting Program to serve as the national clearinghouse for the collection and dissemination of law enforcement officer death/assault data and to publish these statistics in Law Enforcement Officers Killed and Assaulted.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are approximately 184 law enforcement agency respondents; calculated estimates indicate 1 hour per report.

(6) *An estimate of the total public burden (in hours) associated with this collection:* There are approximately 184 hours, annual burden, associated with this information collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE., Room 3E.405B Washington, DC 20530.

Dated: April 23, 2014.

Jerri Murray,

Department Clearance Officer for PRA, United States Department of Justice.

[FR Doc. 2014–09659 Filed 4–28–14; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Judgment Under the Comprehensive Environmental Response, Compensation and Liability Act

On April 18, 2014, the Department of Justice lodged a proposed Consent Judgment with the United States District Court for the Middle District of Pennsylvania in *United States* v. *Chromatex, Inc., et al.,* Civil Action No. 91–1501.

This action involves the claim of the United States on behalf of the United States Environmental Protection Agency (''EPA'') under Section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9607(a), for payment of its unreimbursed response costs incurred on or after October 27, 1993, in response to releases and/or threatened releases of hazardous substances at the Valmont TCE Superfund Site in Hazelton, Luzerne County, Pennsylvania (''Site''). Judgment for response costs incurred prior to October 27, 1993, was previously entered against the former individual partners of the Valmont Group and Chromatex, Inc. (collectively, Defendants'') on February 9, 1994. Under the proposed Consent Judgment, Defendants agree to pay $2,225,000 to resolve the United States' claim for response costs incurred at the Site on or after October 27, 1993.

The publication of this notice opens a period for public comment on the proposed Consent Judgment. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Chromatex, Inc., et al.,* Civil Action No. 91–1501, D.J. Ref. No. 90–11–3–863. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed Consent Judgment may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the proposed Consent Decree and Stipulated Judgment and Permanent Injunction upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $13.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2014–09709 Filed 4–28–14; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on April 23, 2014, a Consent Decree in *United States* v. *Virgin Islands Water and Power Authority (''VIWAPA''),* Civil Action No. 2–13–CV–00028, was lodged with the United States District Court for the District of the Virgin Islands, St. Croix Division.

The Consent Decree resolves Clean Air Act violations alleged in the Amended Complaint filed by the United States on July 9, 2013. The violations alleged in the Amended Complaint concern VIWAPA's failure to properly operate and/or maintain its water injection systems on its gas turbine units, violation of its PM 10 emissions limits for gas turbine unit 19, failure to perform required audits and maintain required quality data availability, failure to properly operate and calibrate the continuous emission monitoring systems (CEMS) for NO_X and Co, and failure to properly record emissions and non-compliance.

The Consent Decree requires VIWAPA to improve its overall operations and maintenance at the St. Croix facility by implementing revised standard operating procedures, a spare parts program to minimize downtime in case of equipment failure, enhanced training and third party and self audits of the water injection system and continuous monitoring systems. The Consent Decree also requires a $700,000 penalty to be paid within two years of the Effective Date of the Consent Decree. The penalty amount was based upon VIWAPA's limited financial ability to pay a penalty.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environmental and Natural Resources Division, and should refer to *United States* v. *Virgin Islands Water and Power Authority,* DOJ Ref. # 90–5–2–1–10441.

All comments must be submitted no later than thirty days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email	pubcomment-ees.enrd@usdoj.gov.
By mail	Assistant Attorney General U.S. DOJ—ENRD P.O. Box 7611 Washington, DC 20044–7611

During the public comment period, the consent decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $22.50 (25 cents per page reproduction cost) payable to the United States Treasury.

Robert E. Maher, Jr.,

Assistant Section Chief, Environmental Enforcement Section, Environmental and Natural Resources Division.

[FR Doc. 2014–09646 Filed 4–28–14; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Parole Commission

Sunshine Act Meeting

Record Of Vote Of Meeting Closure (Pub. L. 94–409) (5 U.S.C. Sec. 552b)

I, Cranston Mitchell, of the United States Parole Commission, was present at a meeting of said Commission, which started at approximately 11:00 a.m., on Thursday, April 17, 2014 at the U.S. Parole Commission, 90 K Street NE., Third Floor, Washington, DC 20530. The purpose of the meeting was to discuss original jurisdiction cases pursuant to 28 CFR Section 2.27. Five Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcement further describing the subject matter of the meeting and certifications of the General Counsel that this meeting may be closed by votes of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Cranston J. Mitchell, Patricia K. Cushwa, J. Patricia Wilson Smoot and Charles T. Massarone.

In witness whereof, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: April 24, 2014.

Cranston J. Mitchell,

Vice Chairman, U.S. Parole Commission.

[FR Doc. 2014–09776 Filed 4–25–14; 4:15 pm]

BILLING CODE 4410–31–P

DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Information Collection for Employment and Training (ET) Handbook 336, 18th Edition: ''Unemployment Insurance (UI) State Quality Service Plan Planning (SQSP) and Reporting Guidelines,'' Extension Without Revision

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. 3506(c)(2)(A)]. This program helps ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, ETA is soliciting comments concerning the collection of data about the proposed extension to ET Handbook 336, 18th Edition: ''Unemployment Insurance (UI) State Quality Service Plan Planning (SQSP) and Reporting Guidelines'' which expires October 31, 2014.

DATES: Submit written comments to the office listed in the addressee's section below on or before June 30, 2014.

ADDRESSES: Submit written comments to the Employment and Training Administration, Office of Unemployment Insurance, 200 Constitution Avenue NW., Room S4220, Washington, DC 20210, Attention: Delores Ferrell. Telephone number: 202–693–3183 (this is not a toll-free number). Fax: 202–693–3975. Email: *ferrell.delores@dol.gov.* A copy of the proposed information collection request (ICR) can be obtained by contacting the person listed above.

SUPPLEMENTARY INFORMATION:

I. Background

The SQSP represents an approach to the unemployment insurance performance management and planning process that allows for an exchange of information between the federal and state partners to enhance the ability of the program to reflect the joint commitment to performance excellence and client-centered services. As part of UI Performs, a comprehensive performance management system implemented in 1995 for the UI program, the SQSP is the principal vehicle that state UI agencies use to plan, record and manage program improvement efforts as they strive for excellence in service. The SQSP, which serves as the State Plan for the UI program, also serves as the grant document through which states receive federal UI administrative funding. The statutory basis for the SQSP is Title III, Section 302 of the Social Security Act, which authorizes the Secretary of Labor to provide funds to administer the UI programs, and Sections 303 (a) (8) and (9) which govern the expenditures of those funds. The SQSP represents an approach to tie program performance with the budget and planning process.

II. Review Focus

The Department of Labor is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology,

e.g., permitting electronic submissions of responses.

States will continue to use the State Plan Narrative to provide a general summary of the UI program in the state. Additionally, states are to include in the Narrative: (1) Performance in comparison to the Government Performance and Results Act (GPRA) goals; (2) results of customer satisfaction surveys (optional); and (3) actions planned to correct deficiencies regarding UI programs and reporting requirements. Actions planned to correct deficiencies for Secretary Standards, Core Measures, and the Data Validation (DV) program are expected to be addressed in corrective action plans. Currently, the Employment and Training Administration is soliciting comments concerning the extension of ET Handbook No. 336.

III. Current Actions

Type of Review: extension without revision.

Title: Unemployment Insurance State Quality Service Plan (SQSP).

OMB Number: 1205–0132.

Affected Public: State Workforce Agencies.

Total Annual Respondents: 53.

Reporting Frequency: Biannual, annual, and quarterly.

Estimated Total Annual Responses: 535.

Average Time per Response: 2.86 hours.

Estimated Total Annual Burden Hours: 1530 hours.

Total Estimated Annual Other cost Burden: $0.

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

Eric M. Seleznow,

Acting Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2014–09748 Filed 4–28–14; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Information Collection for ETA 9165, Unemployment Insurance Supplemental Budget Request Activities; New Collection

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collection of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Employment and Training Administration is soliciting comments concerning the new collection of data on the ETA 9165, Supplemental Budget Request Activities. The new ETA 9165 will be used by the National and regional offices to monitor the progress of State Workforce Agencies in successfully implementing projects funded through Supplemental Budget Requests. This information will include the funded project title and purpose, the project timeline and milestones, and a narrative description of the project implementation status. It will also include explanations of any delays in implementation, proposals for addressing any problems that caused the delay and new project timelines if applicable, a self-reported designation of the implementation status (i.e. complete/ahead of schedule/on schedule/or behind schedule), and a discussion of identified technical assistance needs for the successful completion of the project.

DATES: Submit written comments to the office listed in the addresses section below on or before June 30, 2014.

ADDRESSES: Send written comments to Brad Wiggins, U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance, 200 Constitution Avenue NW., Frances Perkins Bldg. Room S–4524, Washington, DC 20210, telephone number (202) 693–3029 (this is not a toll-free number) or by email: *wiggins.brad@dol.gov.* Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD). To obtain a copy of the proposed information collection request (ICR), please contact the person listed above.

SUPPLEMENTARY INFORMATION:

I. Background

The new ETA 9165 report will contain information on activities funded by the Employment and Training Administration through Unemployment Insurance Supplemental Budget Requests, including the funded project/activity, the targeted start and completion dates for the project/activity, and the quarterly implementation status. These data are needed for budget preparation and control, program planning and evaluation, personnel assignment, program oversight and assessment, actuarial and program research, and for accounting to Congress and the public.

II. Review Focus

The Department is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary to describe the quarterly status of funded Supplemental Budget Request activities, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

Type of Review: New collection.

Title: Unemployment Insurance Supplemental Budget Request Activities.

OMB Number: 1205–0NEW.

Affected Public: state governments.

Cite/Reference/Form/etc: ETA 9165.

Estimated Total Annual Respondents: 53.

Annual Frequency: Quarterly.

Estimated Total Annual Responses: 212.

Estimated Total Annual Burden Hours: 1,590 hours.

Total Estimated Annual Other Costs Burden: $0.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB

approval of the ICR; they will also become a matter of public record.

Eric M. Seleznow,

Acting Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2014–09749 Filed 4–28–14; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–83,317]

Wind Clean Corporation; Coleman, Texas; Notice of Negative Determination Regarding Application for Reconsideration

By application dated March 10, 2014, a Trade Adjustment Assistance (TAA) Coordinator requested administrative reconsideration of the Department of Labor's negative determination regarding eligibility to apply for TAA applicable to workers and former workers of the subject firm. The negative determination was issued on February 24, 2014.

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The request for reconsideration asserts that because ''Wind Clean provides coating services to Trinity Structural Towers in Coleman, Texas'' and workers of Trinity Structural Towers are eligible to apply for TAA, Section 222(b) of the Trade Act, as amended, has been met.

Section 222(b) of the Trade Act, 19 U.S.C. § 2272(b), requires that the workers' firm be a Supplier or Downstream Producer (as the case may be) to a firm that employed a worker group eligible to apply for TAA under Section 222(a) of the Trade Act and that the supply or production (as the case may be) is related to the article or service that was the basis for the Section 222(a) certification.

Workers and former workers of Trinity Structural Towers, Coleman, Texas (TA–W–83,318) are eligible to apply for TAA because Section 222(e) of the Trade Act, as amended, was met.

The petitioner did not supply facts not previously considered; nor provide additional documentation indicating that there was either (1) a mistake in the determination of facts not previously considered or (2) a misinterpretation of facts or of the law justifying reconsideration of the initial determination. Based on these findings, the Department determines that 29 CFR 90.18(c) has not been met.

Conclusion

After careful review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed in Washington, DC, this 8th day of April 2014.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2014–09754 Filed 4–28–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–83,194]

Merck Sharp & Dohme Corp., (MSD), a Subsidiary of Merck & Co., Inc., West Point, Pennsylvania; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated March 10, 2014, the Commonwealth of Pennsylvania requested administrative reconsideration of the negative determination regarding workers' eligibility to apply for Trade Adjustment Assistance (TAA) applicable to workers and former workers of the subject firm. The determination was issued on February 18, 2014 and the Department's Notice of determination was published in the **Federal Register** on March 14, 2014 (79 FR 14543). Workers at the subject firm are engaged in activities related to the production of pharmaceuticals and vaccines for human use.

The negative determination was based on the Department's findings that the subject firm did not shift production of pharmaceuticals and vaccines to a foreign country (or acquire such production from a foreign country) and that imports of articles like or directly competitive with the pharmaceuticals and vaccines produced by the workers did not increase during the period under investigation.

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The request for reconsideration included information that indicates that the determination was based on facts not previously considered. The request for reconsideration stated that the worker group at the subject facility consists of three separately identifiable worker sub-groups (research and development, manufacturing, and global support networks), that the scope of the initial investigation was ''overly narrow'' because workers in the research and development sub-group and/or the global support networks sub-group ''may be engaged in activities totally separate and unrelated from'' activities of the manufacturing sub-group. The request for reconsideration included supporting documents.

The Department has carefully reviewed the request for reconsideration, including the attachments, and the existing record, and has determined that the Department will conduct further investigation to determine if the workers meet the eligibility requirements of the Trade Act of 1974, as amended.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the U.S. Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 8th day of April, 2014.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2014–09753 Filed 4–28–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–83,346]

Von Hoffmann Corporation, a Subsidiary of RR Donnelley & Sons Company, Jefferson City Plant, Including On-Site Leased Workers from Employment Plus and Manpower, Jefferson City, Missouri; Notice of Affirmative Determination Regarding Application for Reconsideration

By application dated March 24, 2014, a worker requested administrative reconsideration of the negative determination regarding workers' eligibility to apply for Trade Adjustment Assistance (TAA) applicable to workers and former workers of the subject firm. The determination was issued on February 27, 2014.

The determination was based on the Department's findings that there was no increase in imports of textbooks or catalogues, or like or directly competitive articles (including e-books); there was no shift in production by the subject firm to a foreign country, and no acquisition in production by the subject firm from a foreign country; the workers are not secondarily-affected workers; and the subject firm was not named by the International Trade Commission as required by Section 222(e) of the Trade Act, as amended.

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The request for reconsideration identifies a new source of information regarding a shift of production to India and Mexico.

The Department has carefully reviewed the request for reconsideration and the existing record, and has determined that the Department will conduct further investigation to determine if the workers meet the eligibility requirements of the Trade Act of 1974, as amended.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the U.S. Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 8th day of April, 2014.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2014–09755 Filed 4–28–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 9, 2014.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 9, 2014.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC this 18th day of April 2014.

Hope D. Kinglock,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[14 TAA petitions instituted between 4/7/14 and 4/11/14]

TA–W	Subject Firm (Petitioners)	Location	Date of institution	Date of petition
85209	Associated Spring (State/One-Stop)	Saline, MI	04/07/14	04/07/14
85210	Voith Hydro Inc. (Union)	York, PA	04/07/14	04/04/14
85211	OSRAM SYLVANIA (Company)	Central Falls, RI	04/07/14	04/04/14
85212	IMPCO Technologies, Inc. (Company)	Sterling Heights, MI	04/08/14	04/07/14
85213	Hewlett Packard (Company)	Boise, ID	04/08/14	03/31/14
85214	ConAgra Foods, Carriage House (incl. Dunkirk, NY Location). (Union)	Fredonia, NY	04/08/14	04/03/14
85215	Fruit of The Loom (Company)	Jamestown, KY	04/09/14	04/08/14
85216	Dennis Uniform Manufacturing Company (State/One-Stop)	Portland, OR	04/09/14	04/08/14

APPENDIX—Continued

[14 TAA petitions instituted between 4/7/14 and 4/11/14]

TA–W	Subject Firm (Petitioners)	Location	Date of institution	Date of petition
85217	JP Morgan Chase, Bankruptcy Specialist (Workers)	Florence, SC	04/10/14	04/09/14
85218	Johnson Controls, Inc. (Union)	York, PA	04/10/14	04/01/14
85219	Johnson Controls, Inc. (Union)	Waynesboro, PA	04/10/14	03/31/14
85220	SunTrust Mortgage (State/One-Stop)	Richmond, VA	04/11/14	04/09/14
85221	Crimzon Rose, Division of LF USA (Company)	West Warwick, RI	04/11/14	04/10/14
85222	Air System Components Inc. (Union)	Ponca City, OK	04/11/14	04/10/14

[FR Doc. 2014–09756 Filed 4–28–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–82,700]

Dell Products L.P., a Subsidiary of Dell, Inc., Parmer North 1 Facility (Pni), Including On-Site Leased Workers From Adecco, Apex Systems, Inc., Apn, Aquent, Atterro Group (Pro Staff), B2B Workforce, Bay Area Techworkers, Experis (Manpower Group, Inc.), Genesys Works (Compellent), Goodwill, Hawkins, Iconma, Infosense Global, Insight Global, Integrated Human Capital (IHC), International Millennium Consultants (IMC), Modis, PDS Tech, Peter and Associates, Pyramid Consulting, Randstad, Robert Half Management Resources, TA Staffing, Tad PGS, Tan Check, Teksystems, The Select Group, Vaco Llc, Xepctit, and Emcor Facilities Services, Inc., Austin, Texas; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on June 6, 2013, applicable to workers of Dell Products L.P., a subsidiary of Dell, Inc., Parmer North 1 Facility (PNI), including on-site leased workers from Adecco, Apex Systems, Inc., APN, Aquent, ATTERRO GROUP (PRO STAFF), B2B WorkForce, Bay Area Techworkers, Experis (Manpower Group, Inc.), Genesys Works (Compellent), Goodwill, Hawkins, ICONMA, Infosense Global, Insight Global, Integrated Human Capital (IHC), International Millennium Consultants (IMC), Modis, PDS Tech, Peter and Associates, Pyramid Consulting, Randstad, Robert Half Management Resources, TA Staffing, TAD PGS, Tan Check, TekSystems, The Select Group, Vaco LLC and Xepctit, Austin, Texas. The Department's notice of determination was published in the **Federal Register** on July 2, 2013 (78 FR 39776).

At the request of the Texas Workforce Commission, the Department reviewed the certification for workers of the subject firm. The workers are engaged in activities related to the production of production of servers, storage, and peripheral equipment.

The investigation confirmed that workers of EMCOR Facilities Services, Inc. were employed on-site at the Austin, Texas facility and that they were sufficiently under the operational control of the firm to be considered leased workers.

The intent of the Department is to include all workers impacted by the acquisition of articles from a foreign country.

The amended notice applicable to TA–W–82,700 is hereby issued as follows:

All workers of Dell Products L.P., a subsidiary of Dell, Inc., Parmer North 1 Facility (PNI), including on-site leased workers from Adecco, Apex Systems, Inc., APN, Aquent, ATTERRO GROUP (PRO STAFF), B2B WorkForce, Bay Area Techworkers, Experis (Manpower Group, Inc.), Genesys Works (Compellent), Goodwill, Hawkins, ICONMA, Infosense Global, Insight Global, Integrated Human Capital (IHC), International Millennium Consultants (IMC), Modis, PDS Tech, Peter and Associates, Pyramid Consulting, Randstad, Robert Half Management Resources, TA Staffing, TAD PGS, Tan Check, TekSystems, The Select Group, Vaco LLC, Xepctit, and EMCOR Facilities Services, Inc., Austin, Texas, who became totally or partially separated from employment on or after April 29, 2012 through June 6, 2015, and all workers in the group threatened with total or partial separation from employment on the date of certification through June 6, 2015, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC this 9th day of April, 2014.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2014–09752 Filed 4–28–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–82,571]

Lexisnexis/Matthew Bender, a Reed Elsevier, Inc. Subsidiary, Not Including the Customer Service and Fulfillment Departments, Albany, New York; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on May 8, 2013, applicable to workers of LexisNexis/Matthew Bender, a Reed Elsevier, Inc. Subsidiary, not including the Customer Service and Fulfillment Departments, Albany, New York (''Lexis/Nexis''). The Department's notice of determination was published in the **Federal Register** on May 30, 2013 (78 FR 32466). The Customer Service and Fulfillment Departments of Lexis/Nexis are certified under TA–W–81,638A that expires on June 1, 2014.

At the request of workers, the Department reviewed the certification for workers of the subject firm. The

workers are engaged in activities related to the supply of online legal research tools and solutions services.

A review of the certification under TA–W–82,571 revealed that the affirmative determination contained a technical error. The determination noted that the workers were ''engaged in activities related to the supply of online legal research tools and solutions services, specifically finance activities (accounts receivable, general accounting, royalties, and credit collections) that support the firm's supply of online legal research tools and solutions services.'' The determination should read, ''engaged in activities related to the supply of online legal research tools and solutions services.'' The determination should not have suggested that the certified worker group was limited beyond the specific exclusion of the Customer Service and Fulfillment Departments, which were already certified under TA–W–81,638A.

The intent of the Department is to include all workers impacted by the acquisition of services like or directly competitive from a foreign country.

The amended notice applicable to TA–W–82,571 is hereby issued as follows:

All workers of LexisNexis/Matthew Bender, a Reed Elsevier, Inc. Subsidiary, not including the Customer Service and Fulfillment Departments, Albany, New York engaged in activities related to the supply of online legal research tools and solutions services who became totally or partially separated from employment on or after March 18, 2012 through May 8, 2015, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 9th day of April, 2014.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2014–09751 Filed 4–28–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of *April 7, 2014 through April 11, 2014.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) the increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) there has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) the shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) A significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) the acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) A significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) an affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) an affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) the petition is filed during the 1-year period beginning on the date on which—

(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) the workers have become totally or partially separated from the workers' firm within—

(A) the 1-year period described in paragraph (2); or

(B) not withstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
83,311	Worthington Industries, Inc., Steel—Baltimore Division, Adecco and Micametals.	Baltimore, MD	December 18, 2012.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criteria under paragraphs(a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W number	Subject firm	Location	Impact date
83,366	Goodman Conveyor Company, Joy Global, Inc	Belton, SC	

I hereby certify that the aforementioned determinations were issued during the period of *April 7, 2014 through April 11, 2014.* These determinations are available on the Department's Web site *tradeact/taa/taa_search_form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington DC, this 17th day of April 2014.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2014–09750 Filed 4–28–14; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of April 7, 2014 through April 11, 2014.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A) all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B) both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. The country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm

and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) the workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss or business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (i.e., conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

85,104, Fisher and Ludlow, Saegertown, Pennsylvania. February 17, 2013.

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

85,056, Virginia Church Furniture, Inc., Pulaski, Virginia. February 6, 2013.

85,080, Tandy Brands Accessories, Inc. Dallas, Texas. February 19, 2013.

85,098, Carthuplas, Inc. Gaffney, South Carolina, February 25, 2013.

85,141, Hyspan Precision Products Inc., North Tulsa, Oklahoma. March 12, 2013.

85,187, CVG Oregon LLC, Tigard, Oregon. March 29, 2013.

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

The Department has determined that criterion (3) of Section 246 has not been met. Competition conditions within the workers' industry are not adverse.

85,104, Fisher and Ludlow, Saegertown, Pennsylvania. February 17, 2013.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

85,068, GE Hitachi Nuclear Energy, Canonsburg, Pennsylvania

85,075, Duro Textiles, LLC., Fall River, Massachusetts.

85,113, Rocktenn Company, Grand Prairie, Texas.

85,127, Mid Atlantic Manufacturing & Hydraulics, Inc. Rural Retreat, Virginia.

85,163, Creative Apparel Associates LLC, Fort Kent, Maine.

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

85,067, FLSmidth USA, Inc., Meridian, Indiana.

85,037, Honeywell, Irving, Texas.

85,129, Windstream Corporation, Harrison, Arkansas.

85,158, Cox Communications California LLC., West Middlesex, Pennsylvania.

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

85,092, Kite International Trading Inc., San Jose, California.

85,147, T. Bruce Sales, Inc., West Middlesex, Pennsylvania.

85,196, Plastic design, Pittsfield, Maine.

The following determinations terminating investigations were issued because the petitioning groups of workers are covered by active certifications. Consequently, further investigation in these cases would serve no purpose since the petitioning group of workers cannot be covered by more than one certification at a time.

85,193, LexisNexis/Matthew Bender, Albany, New York.

I hereby certify that the aforementioned determinations were issued during the period of April 7, 2014 through April 11, 2014. These determinations are available on the Department's Web site *tradeact/taa/taa_search_form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington DC, this 17th day of April 2014.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2014–09757 Filed 4–28–14; 8:45 am]

BILLING CODE 4510–FN–P

LIBRARY OF CONGRESS

U.S. Copyright Office

[Docket No. 2014–2]

Notice of Room Change: Public Roundtable on the Right of Making Available

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Notice of room change for public roundtable.

SUMMARY: The U.S. Copyright Office has changed the location of the May 5, 2014 public roundtable announced in the Office's February 25, 2014 Notice of Inquiry for its study on the rights of ''making available'' and ''communication to the public.'' The roundtable will be held in 2226 Rayburn House Office Building, Washington, DC 20515, from 9:00 a.m. to 5:00 p.m. EDT.

FOR FURTHER INFORMATION CONTACT: Maria Strong, Senior Counsel for Policy and International Affairs, by telephone at 202–707–1027 or by email at *mstrong@loc.gov*, or Kevin Amer, Counsel for Policy and International Affairs, by telephone at 202–707–1027 or by email at *kamer@loc.gov*.

SUPPLEMENTARY INFORMATION: On February 25, 2014, the Copyright Office published a Notice of Inquiry requesting public comments and announcing a May 5, 2014 public roundtable on the state of U.S. law recognizing and protecting ''making available'' and ''communication to the public'' rights for copyright holders. Interested members of the public were directed to submit written comments and to request participation in the public roundtable using forms posted on the Office's Web site.

The Office is announcing that the location of the public roundtable has been changed to 2226 Rayburn House Office Building, Washington, DC 20515. As previously scheduled, the roundtable will be held on May 5, 2014, from 9:00 a.m. to 5:00 p.m. EDT.

Individuals selected for participation in one or more roundtable sessions will be notified directly by the Office. The Office will post the agenda for the roundtable on or about April 28, 2014 at *http://www.copyright.gov/docs/making_available/*. Nonparticipants who wish to attend and observe the discussion should note that seating is limited and, for nonparticipants, will be available on a first come, first served basis.

Dated: April 23, 2014.

Maria A. Pallante,

Register of Copyrights.

[FR Doc. 2014–09656 Filed 4–28–14; 8:45 am]

BILLING CODE 1410–30–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (14–039)]

NASA Advisory Council; Science Committee; Planetary Protection Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Planetary Protection Subcommittee (PPS) of the NASA Advisory Council (NAC). This Subcommittee reports to the Science Committee of the NAC. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: Tuesday, May 20, 2014, 8:00 a.m.–5:00 p.m., and Wednesday, May 21, 2014, 9:45 a.m.–4:30 p.m., Local Time.

ADDRESSES: NASA Headquarters, Room 3D42, 300 E Street SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ann Delo, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–0750, fax (202) 358–2779, or *ann.b.delo@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The meeting will be available telephonically and by WebEx. Any interested person may call the USA toll free conference call number 888–603–9625, passcode 4599, to participate in this meeting by telephone. Please note, the conference call number and password is the same for both days of this meeting, May 20 and May 21, 2014. The WebEx link is *https://nasa.webex.com/;* the meeting number for May 20, 2014 is 997 873 342, password PSS@May2014, and the meeting the number for May 21, 2014 is 998 038 108, password PSS@May2014. The agenda for the meeting includes the following topics:

—Update on NASA Planetary Protection Activities
—Mars Curiosity Lessons Learned Responses
—Contamination Limits for Planetary Life Detection
—Status of InSight Project Compliance
—European Space Agency/ExoMars

Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID to Security before access to NASA Headquarters. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 10 working days prior to the meeting: full name; gender; date/place of birth; citizenship; visa information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee; and home address to Ann Delo via email at *ann.b.delo@nasa.gov* or by fax at (202) 358–2779. U.S. citizens and Permanent Residents (green card holders) are requested to submit their name and affiliation 3 working days prior to the meeting to Ann Delo. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2014–09635 Filed 4–28–14; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Information Security Oversight Office

[NARA–2014–024]

National Industrial Security Program Policy Advisory Committee (NISPPAC)

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act (5 U.S.C. app 2) and implementing regulation 41 CFR 101–6, NARA announces an upcoming meeting of the National Industrial Security Program Policy Advisory Committee (NISPPAC).

DATES: The meeting will be held on June 19, 2014, from 10:00 a.m. to 12:00 p.m.

ADDRESS: The Gaylord National Resort, 201 Waterfront Street, Prince George's Exhibition Hall B, National Harbor, MD 20745.

FOR FURTHER INFORMATION CONTACT: David O. Best, Senior Program Analyst, ISOO, National Archives Building, 700 Pennsylvania Avenue NW., Washington, DC 20408, telephone (202) 357–5123, or email *david.best@nara.gov.* Contact ISOO at *ISOO@nara.gov* and the NISPPAC at *NISPPAC@nara.gov.*

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to discuss National Industrial Security Program policy matters. This meeting will be open to the public. However, due to space limitations and access procedures, the name and telephone number of individuals planning to attend must be submitted to the Information Security Oversight Office (ISOO) no later than Friday, June 13, 2014. ISOO will provide additional instructions for gaining access to the location of the meeting.

Dated: April 23, 2014

Patrice Little Murray,

Acting Committee Management Officer.

[FR Doc. 2014–09687 Filed 4–28–14; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2014–0075]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment about our intention to request the OMB's approval for renewal of an existing information collection that is summarized below. We are required to publish this notice in the **Federal Register** under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* NRC Form 354, ''Data Report on Spouse.''

2. *Current OMB approval number:* OMB 3150–0026.

3. *How often the collection is required:* On Occasion.

4. *Who is required or asked to report:* NRC contractors, licensees, applicants, and other (e.g. interveners) who marry or cohabitate after completing the Personnel Security Forms, or after having been granted an NRC access authorization or employment clearance.

5. *The number of annual respondents:* 80.

6. *The number of hours needed annually to complete the requirement or request:* 16.

7. *Abstract:* NRC Form 354 must be completed by NRC contractors, licensees, applicants who marry or cohabitate after completing the Personnel Security Forms, or after having been granted an NRC access authorization or employment clearance. Form 354 identifies the respondent, the marriage, and data on the spouse and spouse's parents. This information permits the NRC to make initial security determinations and to assure there is no increased risk to the common defense and security.

Submit, by June 30, 2014, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

The public may examine and have copied for a fee publicly-available documents, including the draft supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html*. The document will be available on the NRC's home page site for 60 days after the signature date of this notice.

Comments submitted in writing or in electronic form will be made available for public inspection. 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. Comments submitted should reference Docket No. NRC–2014–0075. You may submit your comments by any of the following methods: Electronic comments go to *http://www.regulations.gov* and search for Docket No. NRC–2014–0075. Mail comments to the Acting NRC Clearance Officer, Kristen Benney (T–5 F50), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Questions about the information collection requirements may be directed to the Acting NRC Clearance Officer, Kristen Benney (T–5 F50), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6355, or by email to *INFOCOLLECTS.Resource@NRC.GOV*.

Dated at Rockville, Maryland, this 22nd day of April 2014.

For the Nuclear Regulatory Commission.

Brenda Miles,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. 2014–09684 Filed 4–28–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2014–0091]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment about our intention to request the OMB's approval for renewal of an existing information collection that is summarized below. We are required to publish this notice in the **Federal Register** under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* Grant and Cooperative Agreement Provisions.

2. *Current OMB approval number:* 3150–0107.

3. *How often the collection is required:* Technical performance reports are required every 6 months; other information is submitted on occasion, as needed.

4. *Who will be required or asked to report:* Recipients of NRC Grants and Cooperative Agreements.

5. *The estimated number of annual responses:* 218.

6. *The total number of hours needed annually to complete the requirement or request:* 5,081 (4,742 reporting hours plus 339 recordkeeping hours).

7. *Abstract:* The Acquisition Management Division is responsible for

awarding grants and cooperative agreements (financial assistance) for the NRC. The Acquisition Management Division collects information from assistance recipients in accordance with grant and cooperative agreement provisions in order to administer NRC's financial assistance program. The information collected under the provisions ensures that the Government's rights are protected, the agency adheres to public laws, the work proceeds on schedule, and that disputes between the Government and the recipient are settled.

Submit, by June 30, 2014, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the burden estimate accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

The public may examine and have copied for a fee publicly-available documents, including the draft supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html*. The document will be available on the NRC's home page site for 60 days after the signature date of this notice.

Comments submitted in writing or in electronic form will be made available for public inspection. 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. Comments submitted should reference Docket No. NRC–2011–0091. You may submit your comments by any of the following methods: Electronic comments go to *http://www.regulations.gov* and search for Docket No. NRC–2011–0091. Mail comments to the Acting NRC Clearance Officer, Kristen Benney (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Questions about the information collection requirements may be directed to the Acting NRC Clearance Officer, Kristen Benney (T–5 F53), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6355, or by email to *INFOCOLLECTS.Resource@NRC.GOV*.

Dated at Rockville, Maryland, this 22nd day of April, 2014.

For the Nuclear Regulatory Commission.

Kristen Benney,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. 2014–09631 Filed 4–28–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0095]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly notice.

SUMMARY: Pursuant to Section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from April 3, 2014 to April 16, 2014. The last biweekly notice was published on April 15, 2014.

DATES: Comments must be filed by May 29, 2014. A request for a hearing must be filed by June 30, 2014.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0095. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.*
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: 3WFN–06–44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on accessing information and submitting comments, see ''Accessing Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Beverly A. Clayton, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3475, email: *Beverly.Clayton@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2014–0095 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this document by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0095.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* Documents may be viewed in ADAMS by performing a search on the document date and docket number.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2014–0095 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in you comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit

comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92 of Title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in

accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)–(iii).

For further details with respect to these license amendment applications, see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on accessing information related to this document, see the ''Accessing Information and Submitting Comments'' section of this document.

South Carolina Electric and Gas Company, Docket Nos.: 52–027 and 52–028, Virgil C. Summer Nuclear Station (VCSNS), Units 2 and 3, Fairfield County, South Carolina

Date of amendment request: February 27, 2014. A publicly-available version is in ADAMS under Accession No. ML14065A021.

Description of amendment request: The proposed change would amend Combined License Nos. NPF–93 and NPF–94 for VCSNS, Units 2 and 3, respectively, by revising Tier 2* and associated Tier 2 information related to the construction of Module CA03. Some of these changes include the clarification of various materials in the design, increasing anchoring supports, and allowing the use of anchor bars with hooks.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The design functions of the nuclear island structures are to provide support, protection, and separation for the seismic Category I mechanical and electrical equipment located in the nuclear island. The nuclear island structures are structurally designed to meet seismic Category I requirements as defined in Regulatory Guide 1.29 (ADAMS Accession No. ML070310052).

The change to the design details for the in-containment refueling water storage tank (IRWST) west wall does not have an adverse impact on the response of the nuclear island structures to safe shutdown earthquake ground motions or loads due to anticipated transients or postulated accident conditions, nor does it change the seismic Category I classification. The change to the design details for the IRWST west wall does not impact the support, design, or operation of mechanical and fluid systems. There is no change to plant systems or the response of systems to postulated accident conditions. There is no change to the predicted radioactive releases due to postulated accident conditions. The plant response to previously evaluated accidents or external events is not adversely affected, nor does the change described create any new accident precursors.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change is to revise design details for the IRWST west wall. The change of the design details for the IRWST west wall does not change the design requirements of the nuclear island structures, nor the seismic Category I classification. The change of the design details for the IRWST west wall does not change the design function, support, design, or operation of mechanical and fluid systems. The change of the design details for the IRWST west wall does not result in a new failure mechanism for the nuclear island structures or introduce any new accident precursors. As a result, the design function of the nuclear island structures is not adversely affected by the proposed change.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

No safety analysis or design basis acceptance limit/criterion is involved by the requested changes, thus, no margin of safety is reduced.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Kathryn M. Sutton, Morgan, Lewis & Bockius LLC, 1111 Pennsylvania Avenue NW., Washington, DC 20004–2514.

NRC Branch Chief: Lawrence J. Burkhart.

South Carolina Electric and Gas Company, Docket Nos. 52–027 and 52–028, Virgil C. Summer Nuclear Station (VCSNS), Units 2 and 3, Fairfield County, South Carolina

Date of amendment request: April 3, 2014. A publicly-available version is in ADAMS under Accession No. ML14093B258.

Description of amendment request: The proposed change would amend Combined License Nos. NPF–93 and NPF–94 for the VCSNS, Units 2 and 3 by departing from the plant-specific Design Control Document (DCD) Tier 2* to identify design details of the floors of the auxiliary building that may vary due to design and loading conditions, in accordance with code requirements.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The design functions of the auxiliary building floors are to provide support, protection, and separation for the seismic Category I mechanical and electrical equipment located in the auxiliary building. The auxiliary building is a seismic Category I structure and is designed for dead, live, thermal, pressure, safe shutdown earthquake loads, and loads due to postulated pipe breaks. The proposed changes to [Updated Final Safety Analysis Report] UFSAR descriptions and figures are intended to address changes in the detail design of floors in the auxiliary building. The proposed changes also incorporate requirements for development and anchoring of headed reinforcement. The properties of the concrete and reinforcement included in the auxiliary building structure are not altered. As a result, the design function of the auxiliary building structure is not adversely affected by the proposed changes. There is no change to plant systems or the response of systems to postulated accident conditions. There is no change to the predicted radioactive releases due to postulated accident conditions. The plant response to previously evaluated accidents or external events is not adversely affected, nor do the changes described create any new accident precursors.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes to UFSAR descriptions and figures are proposed to address changes in the detail design of floors in the auxiliary building. The proposed changes also incorporate the requirements for development and anchoring of headed reinforcement which were previously approved. The thickness, geometry, and strength of the structures are not adversely altered. The concrete and reinforcement materials are not altered. The properties of the concrete are not altered. The changes to the design details of the auxiliary building structure do not create any new accident precursors. As a result, the design function of the auxiliary building structure is not adversely affected by the proposed changes.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The criteria and requirements of American Concrete institute (ACI) 349 and American Institute of Steel Construction (AISC) N690 provide a margin of safety to structural failure. The design of the auxiliary building structure conforms to applicable criteria and requirements in ACI 349 and AISC N690 and therefore maintains the margin of safety. The

proposed changes to the UFSAR address changes in the detail design of floors in the auxiliary building. The proposed changes also incorporate the requirements for development and anchoring of headed reinforcement which were previously approved. There is no change to design requirements of the auxiliary building structure. There is no change to the method of evaluation from that used in the design basis calculations. There is not a significant change to the in structure response spectra.

Therefore, the proposed amendment does not result in a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Kathryn M. Sutton, Morgan, Lewis & Bockius LLC, 1111 Pennsylvania Avenue NW., Washington, DC 20004–2514.

NRC Branch Chief: Lawrence Burkhart.

Southern Nuclear Operating Company, Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant (VEGP), Units 3 and 4, Burke County, Georgia

Date of amendment request: April 4, 2014. A publicly-available version is in ADAMS under Accession No. ML14094A348.

Description of amendment request: The proposed change would amend Combined License Nos. NPF–91 and NPF–92 for the VEGP, Units 3 and 4 by departing from the plant-specific Design Control Document (DCD) Tier 2* to identify design details of the floors of the auxiliary building that may vary due to design and loading conditions, in accordance with code requirements.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No

The design functions of the auxiliary building floors are to provide support, protection, and separation for the seismic Category I mechanical and electrical equipment located in the auxiliary building. The auxiliary building is a seismic Category I structure and is designed for dead, live, thermal, pressure, safe shutdown earthquake loads, and loads due to postulated pipe breaks. The proposed changes to [Updated Final Safety Analysis Report] UFSAR descriptions and figures are intended to address changes in the detail design of floors in the auxiliary building. The proposed changes also incorporate requirements for development and anchoring of headed reinforcement. The properties of the concrete and reinforcement included in the auxiliary building structure are not altered. As a result, the design function of the auxiliary building structure is not adversely affected by the proposed changes. There is no change to plant systems or the response of systems to postulated accident conditions. There is no change to the predicted radioactive releases due to postulated accident conditions. The plant response to previously evaluated accidents or external events is not adversely affected, nor do the changes described create any new accident precursors.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes to UFSAR descriptions and figures are proposed to address changes in the detail design of floors in the auxiliary building. The proposed changes also incorporate the requirements for development and anchoring of headed reinforcement which were previously approved. The thickness, geometry, and strength of the structures are not adversely altered. The concrete and reinforcement materials are not altered. The properties of the concrete are not altered. The changes to the design details of the auxiliary building structure do not create any new accident precursors. As a result, the design function of the auxiliary building structure is not adversely affected by the proposed changes.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The criteria and requirements of American Concrete institute (ACI) 349 and American Institute of Steel Construction (AISC) N690 provide a margin of safety to structural failure. The design of the auxiliary building structure conforms to applicable criteria and requirements in ACI 349 and AISC N690 and therefore maintains the margin of safety. The proposed changes to the UFSAR address changes in the detail design of floors in the auxiliary building. The proposed changes also incorporate the requirements for development and anchoring of headed reinforcement which were previously approved. There is no change to design requirements of the auxiliary building structure. There is no change to the method of evaluation from that used in the design basis calculations. There is not a significant change to the in structure response spectra.

Therefore, the proposed amendment does not result in a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M. Stanford Blanton, Blach & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Branch Chief: Lawrence J. Burkhart.

Southern Nuclear Operating Company, Inc., Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant (VEGP), Units 3 and 4, Burke County, Georgia

Date of amendment request: March 17, 2014. A publicly-available version is in ADAMS under Accession No. ML14076A173.

Description of amendment request: The proposed change would amend Combined License Nos. NPF–91 and NPF–92 for the VEGP, Units 3 and 4. The requested amendment proposes changes to revise the VEGP Updated Final Safety Analysis Report (UFSAR) by clarifying how human diversity was applied during the design process for the Component Interface Module (CIM) and Diverse Actuation System (DAS). This license amendment request (LAR) proposes the addition of Appendix 7A to VEGP, Units 3 and 4 UFSAR Chapter 7 to modify information related to human diversity, as presented in a Tier 2* document, WCAP–17179–NP, ''AP1000 Component Interface Module Technical Report,'' Revision 2 (ADAMS Accession No. ML102170259), and two Tier 2 documents, WCAP–15775, ''AP1000 Instrumentation and Control Defense-in-Depth and Diversity Report,'' Revision 4 (ADAMS Accession No. ML101530048) and WCAP–17184–NP, ''AP1000 Diverse Actuation System Planning and Functional Design Summary Technical Report,'' Revision 2 (ADAMS Accession No. ML102170263) that are incorporated by reference in the VEGP, Units 3 and 4 UFSAR.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The requested amendment proposes changes to licensing basis documents to clarify the position on the human diversity

aspects of design diversity as related to the Component Interface Module (CIM) and Diverse Actuation System (DAS) design processes. A review confirmed that the clarified position on human diversity would not change the CIM or DAS design. The requested changes to information presented in the Tier 2* and Tier 2 supporting documentation clarify the level of human diversity applied. The change continues to comply with the regulatory guidance in NUREG/CR–6303 [''Method for Performing Diversity and Defense-in-Depth Analyses of Reactor Protection Systems,'' (ADAMS Accession No. ML071790509)] regarding credible defenses against a postulated Common Cause Failure (CCF) of the Plant Monitoring and Safety System. The proposed change does not affect the plant itself. The change does not affect prevention and mitigation of abnormal events, e.g., accidents, anticipated operational occurrences, earthquakes, floods and turbine missiles, or their safety or design analyses. No safety-related structure, system, or component (SSC) or function is adversely affected. The change does not involve nor interface with any SSC accident initiator or initiating sequence of events, and thus, the probabilities of the accidents evaluated in the Updated Final Safety Analysis Report (UFSAR) are not affected. This activity will not allow for a new fission product release path, nor will it result in a new fission product barrier failure mode, nor create a new sequence of events that would result in significant fuel cladding failures. Because the proposed changes do not change any safety related SSC or function credited in the mitigation of an accident, the consequences of the accidents evaluated in the UFSAR are not affected.

Therefore, the proposed amendment does not involve an increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes clarify the position on human diversity and show that the CIM/DAS diversity meets the regulatory guidance in NUREG/CR–6303. The clarified descriptions do not affect the plant itself. Therefore, the proposed changes do not affect any safety-related equipment itself, nor do they affect equipment whose failure could initiate an accident or a failure of a fission product barrier. No analysis is adversely affected by the proposed changes. No system or design function or equipment qualification would be adversely affected by the proposed changes. Furthermore, the proposed changes do not result in a new failure mode, malfunction or sequence of events that could affect safety or safety-related equipment.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes to information presented in referenced licensing basis documents clarify the position regarding human diversity and do not affect the plant itself. The proposed changes do not adversely affect the design, construction, or operation of any plant SSCs, including any equipment whose failure could initiate an accident or a failure of a fission product barrier. No analysis is adversely affected by the proposed changes. Furthermore, no system function, design function, or equipment qualification will be adversely affected by the changes.

Therefore, the proposed amendment does not reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Branch Chief: Lawrence J. Burkhart.

III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items can be accessed as described in the ''Accessing Information and Submitting Comments'' section of this document.

Dominion Nuclear Connecticut, Inc., et al., Docket No. 50–423, Millstone Power Station, Unit 3, New London County, Connecticut

Date of application for amendment: April 25, 2013, as supplemented by letters dated September 19, and December 11, 2013.

Brief description of amendment: The Amendment revises the Technical Specifications Section 6.8.4.f, ''Containment Leakage Rate Testing Program'' to increase the value of the calculated peak containment internal pressure, P_a, from 41.4 pounds per square inch gage (psig) to 41.9 psig. This increase is needed to address an increase in the calculated mass and energy (M&E) release during the blowdown phase of the design basis Loss-of-Coolant Accident (LOCA).

Date of issuance: April 8, 2014.

Effective date: As of the date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment No.: 259. A publicly-available version is in ADAMS under Accession No. ML14073A055; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. NPF–49: Amendment revised the License and Technical Specifications.

*Date of initial notice in **Federal Register**:* June 25, 2013 (78 FR 38081). The supplements dated September 19 and December 11, 2013, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 8, 2014.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: June 7, 2012.

Brief description of amendment: The amendment adopts the NRC's-approved Technical Specifications Task Force (TSTF) Standard Technical Specifications Change Traveler TSTF–535, ''Revise Shutdown Margin Definition to Address Advanced Fuel Designs,'' ADAMS Accession No. ML112200436 dated August 8, 2011; to modify the TS definition of ''Shutdown Margin'' (SDM).

The change requires the calculation of the SDM at a reactor moderator temperature of 68 °F or higher, to a temperature that represents the most reactive state of the core throughout the reactor operating cycle. This change is needed to address new Boiling Water Reactor fuel designs which may be more reactive at shutdown temperatures above 68 °F.

Date of issuance: April 14, 2014.

Effective date: As of the date of issuance, and shall be implemented within 60 days.

Amendment No.: 305. A publicly-available version is in ADAMS under Accession No. ML14085A446; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–59: The amendment revised the License and the Technical Specifications.

Date of initial notice in ***Federal Register****:* November 26, 2013 (78 FR 70592).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 14, 2014.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket No. 50–390, Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of application for amendment: April 12, 2013.

Description of amendment request: The amendment revised Technical Specification (TS) 5.9.2. ''Annual Radiological Environmental Operating Report,'' to delete the reference to collocated dosimeters in relation to the NRC thermoluminescent dosimeters program. This change is consistent with the NRC's-approved Technical Specification Task Force (TSTF) change TSTF–348. In addition, it would correct a cross-reference error in TS 5.9.8, ''PAMS Post Accident Monitoring System Report.''

Date of issuance: April 7, 2014.

Effective date: As of the date of issuance and shall be implemented no later than 30 days from date of issuance.

Amendment No.: 96. A publicly-available version is in ADAMS under Accession No. ML14071A339; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. NPF–90: Amendment revised the License and TSs.

Date of initial notice in ***Federal Register****:* August 20, 2013 (78 FR 51230).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 7, 2014.

No significant hazards consideration comments received: None.

Tennessee Valley Authority, Docket No. 50–390, Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of application for amendment: July 30, 2013.

Brief description of amendment: The amendment revised Technical Specification (TS) 4.3.1.1, ''Criticality,'' to clarify the requirements for storage of new and spent fuel assemblies in the spent fuel racks. This change updated the current Unit 1 TS to ensure consistency with the proposed TS 4.3.1.1 for Unit 2. In addition, editorial changes are being made to TS 4.3.1.

Date of issuance: April 7, 2014.

Effective date: As of the date of issuance and shall be implemented no later than 60 days from date of issuance.

Amendment No.: 95. A publicly-available version is in ADAMS under Accession No. ML14071A290; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. NPF–90: Amendment revised the License and TSs.

Date of initial notice in ***Federal Register****:* December 10, 2013 (78 FR 74185).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 7, 2014.

No significant hazards consideration comments received: None.

Dated at Rockville, Maryland, this 18th day of April 2014.

For the Nuclear Regulatory Commission.

A. Louise Lund,

Deputy Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2014–09489 Filed 4–28–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS); Meeting of the ACRS Subcommittee on Digital I&C; Notice of Meeting

The ACRS Subcommittee on Digital I&C will hold a briefing on May 20, 2014, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, May 20, 2014—8:30 a.m. Until 5:00 p.m.

The Subcommittee will review a revision to 10 CFR 50.55a(h) endorsing IEEE 603–2009, ''Criteria for Safety Systems for Nuclear Power Generating Stations.'' The Subcommittee will hear presentations by and hold discussions with the NRC staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Christina Antonescu (Telephone 301–415–6792 or Email: *Christina.Antonescu@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on November 8, 2013 (78 CFR 67205–67206).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained

from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (Telephone 240–888–9835) to be escorted to the meeting room.

Dated: April 22, 2014.

Cayetano Santos,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2014–09737 Filed 4–28–14; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72002; File No. SR–EDGX–2014–10]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the EDGX Exchange, Inc. Fee Schedule

April 23, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 9, 2014, EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its fees and rebates applicable to Members [3] of the Exchange pursuant to EDGX Rule 15.1(a) and (c) (''Fee Schedule'') to harmonize the definitions of Average Daily Trading Volume (''ADV'') and Total Consolidated Volume (''TCV'') with those contained in the BATS Exchange, Inc. (''BATS'') and BATS–Y Exchange, Inc. (''BYX'') fee schedules by: (i) Modifying the way that, for purposes of tiered pricing, the Exchange calculates ADV and average daily TCV; and (ii) clarify the manner in which Members may aggregate their ADV with other affiliated Members. The text of the proposed rule change is available on the Exchange's Internet Web site at *www.directedge.com,* at the Exchange's principal office, and at the Public Reference Room of the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

On January 31, 2014, Direct Edge Holdings LLC (''DE Holdings''), the former parent company of the Exchange, completed its business combination with BATS Global Markets, Inc., the parent company of BATS and BYX.[4] As part of its effort to reduce regulatory duplication and relieve firms that are members of the Exchange, BATS, and BYX of conflicting or unnecessary regulatory burdens, the Exchange is now engaged in the process of reviewing and amending certain Exchange, BATS, and BYX Rules. To conform to comparable BATS and BYX rules for purposes of its harmonization efforts due to its business combination, the Exchange proposes to amend the definitions of ADV and TCV to make each definition similar to those contained in the BATS and BYX fee schedules by modifying the way that, for purposes of tiered pricing: (i) The Exchange calculates ADV and average daily TCV; and (ii) the manner in which Members may aggregate their ADV with other affiliated Members. The Exchange notes that it is not proposing to modify any of the existing rebates or the percentage thresholds at which a Member may qualify for certain rebates pursuant to the tiered pricing structure.

ADV and TCV

Currently, the Exchange determines the liquidity adding rebate that it will provide to Members based on the Exchange's tiered pricing structure based on the calculation of ADV,[5] and/or average daily TCV.[6] Unlike on BATS and BYX, the Exchange does not currently exclude any trading days from its calculation of ADV and TCV. Therefore, to harmonize the calculation of ADV and TCV with BATS and BYX, the Exchange proposes to amend the definitions of ADV and TCV to exclude shares on: (i) Any day that the Exchange's system experiences a disruption that lasts for more than 60 minutes during Regular Trading Hours [7] (''Exchange System Disruption''); and (ii) the last Friday in June (the ''Russell Reconstitution Day''). The Exchange also proposes to amend the definition of ADV to clarify that routed shares are not included in ADV calculation.

First, the Exchange proposes to modify the definitions of ADV and TCV to exclude trading days where the Exchange experiences a systems disruption that lasts for more than 60 minutes during Regular Trading Hours and define it as an Exchange System Disruption.[8] As an example, an Exchange System Disruption may occur where a certain group of securities (i.e., securities in a select symbol range such as A through C) traded on the Exchange are unavailable for trading due to an Exchange system issue. Similarly, the Exchange may be able to perform certain functions with respect to accepting and processing orders, but may have a failure to another significant process,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''Member'' is defined as ''any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange. A Member will have the status of a ''member'' of the Exchange as that term is defined in Section 3(a)(3) of the Act.'' *See* Exchange Rule 1.5(n).

[4] *See* Securities Exchange Act Release No. 71449 (January 30, 2014), 79 FR 6961 (February 5, 2014) (SR–EDGX–2013–43). Upon completion of the Combination, DE Holdings and BATS Global Markets, Inc. each became intermediate holding companies, held under a single new holding company. The new holding company, formerly named ''BATS Global Markets Holdings, Inc.,'' changed its name to ''BATS Global Markets, Inc.''

[5] As provided in the Fee Schedule, ''ADV'' is currently defined as the average daily volume of shares that a Member executed on the Exchange for the month in which the fees are calculated.

[6] As provided in the Fee Schedule, ''TCV'' is currently defined as the volume reported by all exchanges and trade reporting facilities to the consolidated transaction reporting plans for Tapes A, B and C securities for the month in which the fees are calculated.

[7] ''Regular Trading Hours'' is defined as ''the time between 9:30 a.m. and 4:00 p.m. Eastern Time.'' *See* Exchange Rule 1.5(y).

[8] *See* SR–BATS–2014–010 and SR–BYX–2014–006 (proposing to exclude Exchange System Disruptions from the definition of ADV).

such as routing to other market centers, that would lead Members that rely on such process to avoid utilizing the Exchange until the Exchange's entire system was operational.

The Exchange believes that this modification is reasonable because it avoids penalizing Members that might otherwise qualify for certain tiered pricing but that, because of a significant Exchange system problem, did not participate on the Exchange to the extent that they might have otherwise participated. The Exchange believes that certain systems disruptions could preclude some Members from submitting orders to the Exchange even if such issue is not actually a complete systems outage. Therefore, the Exchange is proposing to modify its Fee Schedule to exclude trading activity occurring on any day that the Exchange experiences an Exchange System Disruption.

Second, the Exchange proposes to exclude the last Friday of June each year from the definition of ADV and TCV because the last Friday of June is the day that Russell Investments reconstitutes its family of indexes (''Russell Rebalance''), resulting in particularly high trading volumes, much of which the Exchange believes derives from market participants who are not generally as active entering the market to rebalance their holdings in-line with the Russell Rebalance.[9] The Exchange believes that trading occurring as a result of the Russell Rebalance can significantly skew the calculation of ADV and TCV. For example, since 2008, on the last Friday in June, the TCV has exceeded the average daily TCV for the preceding trading days in June by approximately 43% on average. The chart below reflects the TCV on the last Friday of June for each year dating to 2008 and compares it to the average daily TCV for the preceding trading days in the month of June.

Russell reconstitution date (RCD)	TCV on RCD	MTD Average TCV as of day before RCD	% Difference
6/28/2013	10,211,508,622	6,954,840,047	46.83
6/29/2012	7,924,340,355	6,833,486,672	15.96
6/24/2011	10,472,502,657	7,237,593,514	44.70
6/25/2010	14,482,717,113	8,981,067,278	61.26
6/26/2009	13,024,518,377	9,597,498,903	35.71
6/27/2008	12,010,692,402	7,835,813,201	53.28

Because of the extremely high volume numbers and abnormally distributed daily volume or percentage of the TCV on this day, it stands that the ADV or percentage of average daily TCV can be significantly impacted.

As such, the Exchange believes that eliminating the last Friday of June from the definition of ADV and TCV, and thereby eliminating that day from the calculation as it relates to rebates for adding liquidity to the Exchange, will help to eliminate significant uncertainty faced by Members as to their monthly ADV or percentage of average daily TCV and the rebates that this percentage will qualify for, providing Members with an increased certainty as to their monthly cost for trades executed on the Exchange. The Exchange further believes that removing this uncertainty will encourage Members to participate in trading on the Exchange during the remaining trading days in June in a manner intended to be incented by the Exchange's Fee Schedule.

Lastly, the Exchange proposes to clarify within the definition of ADV that ADV does not include shares that are routed to other trading centers. ADV is defined as the average daily volume of shares executed *on the Exchange* for the month in which the fees are calculated. Clarifying that routed orders are not included in the definition of ADV is designed to add further clarity and harmonize the definition with BATS and BYX.

ADV Aggregation

The Exchange also proposes to amend when a Member may aggregate share volumes with other affiliated Members. Currently, under the ''General Notes'' section of the Fee Schedule, the Exchange will aggregate share volume calculations for wholly owned affiliates on a prospective basis upon a Member's request. The Exchange proposes to relocate this provision to the definition of ADV and amend the language to allow a Member to aggregate ADV with other Members that control, are controlled by, or are under common control with such Member (as evidenced on such Member's Form BD).[10] To the extent two or more affiliated companies maintain separate Exchange memberships and can demonstrate their affiliation by showing they control, are controlled by, or are under common control with each other, the Exchange will permit such Members to count overall volume of the affiliates in calculating ADV.

Implementation Date

The Exchange proposes to implement these amendments to its Fee Schedule on May 1, 2014.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[11] in general, and furthers the objectives of Section 6(b)(4),[12] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee structures at a particular venue to be unreasonable and/or excessive.

Members who are also members of BATS or BYX are subject to different definitions of ADV and TCV as well as differing standards for aggregating ADV with affiliated Members when seeking to qualify for certain tiered pricing. The Exchange believes that the proposed rule change will provide greater harmonization between similar Exchange, BATS and BYX rules, resulting in greater uniformity and less burdensome and more efficient regulatory compliance for common members. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and

[9] Securities Exchange Act Release No. 69793 (July 18, 2013), 78 FR 37865 (July 24, 2013) (SR–BATS–2013–034) (excluding the Russell Reconstitution Day from the definition of ADV).

[10] Securities Exchange Act Release No. 64211 (April 6, 2011), 76 FR 20414 (April 12, 2014 [sic]) (SR–BATS–2011–012) (permitting Members to aggregate shares volumes with affiliated entities).

[11] 15 U.S.C. 78f.

[12] 15 U.S.C. 78f(b)(4).

open market and a national market system. Lastly, the Exchange believes that the proposed change is non-discriminatory because it applies uniformly to all Members.

Volume-based tiers such as the liquidity adding tiers maintained by the Exchange have been widely adopted, and are equitable and not unfairly discriminatory. They are open to all Members on an equal basis and provide higher rebates or lower fees that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and introduction of higher volumes of orders into the price and volume discovery process. Accordingly, the Exchange believes that the proposal is equitably allocated and not unfairly discriminatory because it is consistent with the overall goals of enhancing market quality. Further, the Exchange believes that a tiered pricing model not significantly altered by a day of atypical trading behavior which allows Members to predictably calculate what their costs associated with trading activity on the Exchange will be is reasonable, fair and equitable and not unreasonably discriminatory as it is uniform in application amongst Members and should enable such participants to operate their business without concern of unpredictable and potentially significant changes in expenses.

ADV and TCV

The Exchange believes that its proposed amendments to the definitions of ADV and TCV to exclude shares on the day of an Exchange System Disruption are reasonable because, as explained above, they will help provide Members with a greater level of certainty as to their level of rebates and costs for trading in any month where the Exchange experiences an Exchange System Disruption on one or more trading days. The Exchange is not proposing to amend the thresholds a Member must achieve to become eligible for, or the dollar value associated with, the tiered rebates or fees. By eliminating the inclusion of a trading day on which an Exchange System Disruption occurs the Exchange would almost certainly be excluding a day that would otherwise lower a Member's ADV or percentage of average daily TCV. Thus, the proposed change will make the majority of Members more likely to meet the minimum or higher tier thresholds, incentivizing Members to increase their participation on the Exchange in order to meet the next highest tier. In addition, the Exchange believes that the proposed changes to its Fee Schedule are equitably allocated among Exchange constituents and not unfairly discriminatory as the methodology for calculating ADV and TCV will apply equally to all Members. While, although unlikely, certain Members may have a higher ADV or percentage of average daily TCV with their activity included from days where the Exchange experiences an Exchange System Disruption, the proposal will make all Members' cost of trading on the Exchange more predictable, regardless of how the proposal affects their ADV or percentage of average daily TCV.

The Exchange believes that its proposed amendments to the definitions of ADV and TCV to exclude shares on the Russell Reconstitution Day are reasonable because, as explained above, it will help provide Members with a greater level of certainty as to their level of rebates for trading in the month of June. The Exchange also believes that its proposal is reasonable because it is not changing the thresholds to become eligible or the dollar value associated with the rebates. Moreover, by eliminating the inclusion of a trading day that would almost certainly lower a Member's ADV or percentage of average daily TCV, it will make the majority of Members more likely to meet the minimum or higher tier thresholds, which will provide additional incentive to Members to increase their participation on the Exchange in order to meet the next tier. In addition, the Exchange believes that the proposed changes are equitably allocated among Exchange constituents as the methodology for calculating ADV and TCV will apply equally to all Members. While, although unlikely, certain Members may have a higher ADV or percentage of average daily TCV with the day included, the proposal will make June trading rebates more similar to other months. Moreover, all Members' cost of trading on the Exchange will become more predictable, regardless of how the proposal affects their ADV or percentage of average daily TCV, which in turn will preserve Members' incentives to participate in trading on the Exchange in a manner intended to be incented by the Exchange's Fee Schedule.

Lastly, the Exchange proposes to clarify within the definition of ADV that ADV does not include shares that are routed to other trading centers. Clarifying that routed orders are not included in the calculation of ADV will promote just and equitable principles of trade and remove impediments to a free and open market by providing greater transparency concerning the operation of the Exchange and a Member's share volumes that are included in their ADV.

ADV Aggregation

The proposed language permitting aggregation of volume amongst Members that share common control for purposes of the ADV calculation is intended to avoid disparate treatment of Members that have divided their various business activities between separate corporate entities as compared to Members that operate those business activities within a single corporate entity. By way of example, subject to appropriate information barriers, many firms that are Members of the Exchange operate both a market making desk and a public customer business within the same corporate entity. In contrast, other Members may be part of a corporate structure that separates those business lines into different corporate affiliates, either for business, compliance or historical reasons, and those affiliates are not also considered wholly owned affiliates. Those corporate affiliates, in turn, are required to maintain separate memberships with the Exchange. Absent the proposed change, such corporate affiliates that cannot be considered wholly owned but are under common control would not receive the same treatment as Members who are considered wholly owned affiliates. Current Members who aggregate share volumes on the Exchange with wholly owned affiliates will be considered as being under common control and continue to be able to aggregate share volumes. Accordingly, the Exchange believes that its proposed policy is fair and equitable, and not unreasonably discriminatory. In addition to ensuring fair and equal treatment of its Members, the Exchange does not want to create incentives for its Members to restructure their business operations or compliance functions simply due to the Exchange's pricing structure.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes its proposed amendments to its Fee Schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed change represents a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Additionally, Members may opt to disfavor EDGX's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed change will impair the ability of Members or

competing venues to maintain their competitive standing in the financial markets.

The proposed change will help to promote intramarket competition by avoiding a penalty to Members for days when trading on the Exchange is disrupted for a significant portion of the day. In addition, excluding the Russell Rebalance Day from the definition of ADV and TCV will help the Exchange to continue to incentivize higher levels of liquidity at a tighter spread while providing more stable and predictable costs to its Members. Lastly, easing Member's ability to aggregate volumes with Members who are under common control would increase competition because it would incentivize Members that could not previously aggregate their volumes to send higher volume to the Exchange in an effort to achieve tier-based pricing. As stated above, the Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee structures to be unreasonable or excessive.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [13] and Rule 19b–4(f)(2) [14] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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–EDGX–2014–10 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–EDGX–2014–10. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGX–2014–10, and should be submitted on or before May 20, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–09676 Filed 4–28–14; 8:45 am]

BILLING CODE 8011–01–P

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4 (f)(2).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72006; File No. SR–ISE–2014–10]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change Related to Complex Orders

April 23, 2014.

On February 25, 2014, the International Securities Exchange, LLC (the ''Exchange'' or ''ISE'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to complex orders. The proposed rule change was published for comment in the **Federal Register** on March 14, 2014.[3] The Commission received no comments on the proposed rule change.

Section 19(b)(2) of the Act [4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is April 28, 2014. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider this proposed rule change. The proposed rule change, if approved, would prevent certain types of complex order strategies from legging into the regular market.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates June 12, 2014, as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–ISE–2014–10).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 71669 (March 10, 2014), 79 FR 14563.

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–09677 Filed 4–28–14; 8:45 am]

BILLING CODE 8011–01–P

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72000; File No. SR–NYSEArca–2014–20]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change, as Modified by Amendment No. 2, To List and Trade Shares of Reality Shares Isolated Dividend Growth ETF Under NYSE Arca Equities Rule 8.600

April 23, 2014.

On February 25, 2014, NYSE Arca, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares of Reality Shares Isolated Dividend Growth ETF under NYSE Arca Equities Rule 8.600. On March 7, 2014, the Exchange filed Amendment No. 2 to the proposed rule change, which amended and replaced the proposed rule change in its entirety.[3] The proposed rule change, as modified by Amendment No. 2, was published for comment in the **Federal Register** on March 17, 2014.[4] The Commission received no comments on this proposal.

Section 19(b)(2) of the Act [5] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is May 1, 2014. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider this proposed rule change, which would allow the listing of a new exchange-traded product.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates June 13, 2014 as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change, as modified by Amendment No. 2 (File No. SR–NYSEArca–2014–20).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–09674 Filed 4–28–14; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 was filed on March 6, 2014 and withdrawn on March 7, 2014.

[4] *See* Securities Exchange Act Release No. 71686 (March 11, 2014), 79 FR 14761.

[5] 15 U.S.C. 78s(b)(2).

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72008; File No. SR–CBOE–2014–017]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change, as Modified by Amendment 1 Thereto, to Amend Its Rules Related to Complex Orders

April 23, 2014.

On February 19, 2014, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its rules relating to complex orders. On March 3, 2014, the Exchange filed Amendment No. 1 to the proposed rule change. The proposed rule change, as modified by Amendment No. 1 thereto, was published for comment in the **Federal Register** on March 10, 2014.[3] The Commission received no comments on the proposed rule change.

Section 19(b)(2) of the Act [4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is April 24, 2014. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider this proposed rule change. The proposed rule change, if approved, would require any complex order with three or more legs to participate in the Exchange's complex order auction prior to entering the Exchange's complex order book.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates June 6, 2014, as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–CBOE–2014–017).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Kevin M. O'Neill,

Deputy Secretary.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 71648 (March 5, 2014), 79 FR 13359.

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72009; File No. SR–MIAX–2014–09]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Adopt the MIAX PRIME Price Improvement Mechanism and the MIAX PRIME Solicitation Mechanism

April 23, 2014.

I. Introduction

On February 18, 2014, Miami International Securities Exchange LLC

(''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt MIAX Rule 515A to implement the MIAX Price Improvement Mechanism (''PRIME'') and the PRIME Solicitation Mechanism. The proposed rule change was published for comment in the **Federal Register** on March 10, 2014.[3] On April 17, 2014, MIAX filed Amendment No. 1 to the proposal.[4] The Commission received no comments regarding the proposal.[5] The Commission is publishing this notice to solicit comment on Amendment No. 1 from interested persons and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. Description of the Proposal

The Exchange proposes to adopt MIAX Rule 515A to establish the PRIME and PRIME Solicitation Mechanism.[6] The PRIME is a process by which a Member (''Initiating Member'') may electronically submit for execution an order it represents as agent (''Agency Order'') against principal interest and/or solicited interest. The PRIME Solicitation Mechanism is a separate process by which a Member that represents agency orders of not less than 500 standard option contracts (or 5,000 mini-option contracts) may electronically execute such orders against solicited orders.

A. PRIME Price Improvement Auction

The Exchange proposes to implement an electronic auction system called ''PRIME'' that would expose certain orders electronically in an auction to provide such orders with the opportunity to receive an execution at an improved price.[7] The Commission notes that MIAX's proposed price improvement mechanism is similar to the Automated Improvement Mechanism (''AIM'') offered by the Chicago Board Options Exchange, Incorporated (''CBOE'').[8]

Eligibility and Auction Process

To be eligible, the Agency Order must be in a class designated as eligible for PRIME as determined by the Exchange and within the designated auction order eligibility size parameters as such size parameters are determined by the Exchange.[9] In addition, if the Agency Order is for 50 standard option contracts (or 500 mini-option contracts) or more, the Initiating Member must stop the entire Agency Order as principal or with a solicited order at the better of the National Best Bid or Offer (''NBBO'') or the Agency Order's limit price (if the order is a limit order).[10] However, if the Agency Order is for less than 50 standard option contracts (or less than 500 mini-option contracts), the Initiating Member must stop the entire Agency Order as principal or with a solicited order at the better of (i) the NBBO price improved by a $0.01 increment; or (ii) the Agency Order's limit price (if the order is a limit order).[11]

To initiate the PRIME auction, the Initiating Member must mark the Agency Order for PRIME processing, and specify either: (i) A single price at which it seeks to cross the Agency Order (with principal interest and/or a solicited order) (''single-price submission''), including whether the Initiating Member elects to have last priority in allocation, or (ii) that it is willing to automatically match (''auto-match'') as principal the price and size of all PRIME responses up to an optional designated limit price. If the Initiating Member chooses to auto-match PRIME responses, the Agency Order will be stopped at the better of the NBBO (if 50 standard option contracts (or 500 mini-option contracts) or greater), $0.01 increment better than the NBBO (if less than 50 standard option contracts or 500 mini-option contracts), or the Agency Order's limit price.[12] For both single price submissions and auto-match, in order to protect resting interest on MIAX's system (''Book''), whenever the disseminated best bid or offer on the Exchange (''MBBO'') [13] on the same side of the market as the Agency Order represents a limit order on the Book, the stop price must be at least $0.01 increment better than the booked order's limit price.[14]

For both a single price submission and auto-match, the stop price specified by the Initiating Member on the Agency Order will be the ''initiating price'' for the PRIME auction.[15] The Initiating Member may not modify or cancel the submission after it has submitted an Agency Order to the PRIME auction for processing.[16] Only one PRIME auction may be running at any given time in an option, and PRIME auctions in the same option may not queue or overlap in any manner.[17]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 71640 (March 10, 2014), 79 FR 13334 (''Notice'').

[4] *See* Letter from Brian O'Neill, Vice President and Senior Counsel, MIAX, to Elizabeth M. Murphy, Secretary, Commission, dated April 17, 2014. In Amendment No. 1, MIAX amended its filing to clarify that its analysis of its proposed mechanisms' compliance with Section 11(a) of the Act, which referred to both proposed mechanisms collectively as ''PRIME,'' was applicable to both the PRIME price improvement mechanism as well as the PRIME Solicitation Mechanism.

[5] To promote the public availability and transparency of its post-notice amendment, MIAX submitted a copy of Amendment No. 1 through the Commission's electronic public comment letter mechanism. Accordingly, since the Commission received Amendment No. 1 from MIAX, it has been publicly available on the Commission's Web site at *http://www.sec.gov/rules/sro/miax.shtml*.

[6] As MIAX explained in its Notice, because of the technology changes associated with this rule proposal, if approved by the Commission, MIAX noted that it would announce the implementation date of the proposal in a Regulatory Circular to be published no later than 90 days after the Commission's publication of an approval order in the **Federal Register**. In addition, MIAX represented that the implementation date will be no later than 90 days following publication of the Regulatory Circular announcing publication of the approval order in the **Federal Register**. *See* Notice, *supra* note 3, 79 FR at 13347.

[7] Proposed MIAX Rule 515A, Interpretations and Policy .02 provides that the PRIME and PRIME Solicitation Mechanism may only be used to execute bona fide crossing transactions. Using the PRIME and PRIME Solicitation Mechanism for any other means, including but not limited to, market or price manipulation, shall be considered conduct inconsistent with just and equitable principles of trade in accordance with MIAX Rule 301.

[8] *See* CBOE Rule 6.74A.

[9] *See* proposed MIAX Rule 515A(a)(1)(i). Proposed MIAX Rule 515A, Interpretation and Policy .05 provides that any determinations made by the Exchange pursuant to this MIAX Rule 515A, such as eligible classes and order size parameters, will be communicated in a Regulatory Circular.

[10] *See* proposed MIAX Rule 515A(a)(1)(ii).

[11] *See* proposed MIAX Rule 515A(a)(1)(iii). The Exchange states that since the Initiating Member is stopping the entire Agency Order at the NBBO price or better at the beginning of the PRIME auction, the execution at the conclusion of the PRIME auction would qualify as an exception to the general prohibition against trade-throughs, pursuant to MIAX Rule 1401(b)(9). *See* MIAX Rule 1401(b)(9) (providing an exception from trade-through liability in the circumstance when a transaction that constituted the trade-through was the execution of an order that was stopped at a price that did not trade through an Eligible Exchange at the time of the stop).

[12] *See* proposed MIAX Rule 515A(a)(2)(i)(A).

[13] *See* MIAX Rule 100.

[14] *See* proposed MIAX Rule 515A(a)(2)(i)(A).

[15] *See id*. *See also* Notice, *supra* note 3, 79 FR at 13336 (for examples illustrating the initiating price for various potential Agency Orders).

[16] *See* proposed MIAX Rule 515A(a)(2)(i)(A).

[17] *See* proposed MIAX Rule 515A(a)(2). In addition, if managed interest exists on the Exchange's Book pursuant to MIAX Rule 515(c) for the option on the same side of the market as the Agency Order, the Agency Order will be rejected by the System prior to initiating a PRIME or PRIME Solicitation Mechanism auction. *See* proposed MIAX Rule 515A, Interpretation and Policy .07. If managed interest exists on the MIAX Book pursuant to MIAX Rule 515(c) for the option on the opposite side of the market as the Agency Order and when the MBBO is equal to the NBBO, the Agency Order will be automatically executed against the managed interest, if the execution would be at a price equal to the initiating price of the Agency Order. If the Agency Order is not fully executed after the

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When the Exchange receives a properly designated Agency Order for PRIME auction processing, a request for responses (''RFR'') detailing the option, side, size, and initiating price will be sent to all subscribers of the Exchange's data feeds.[18] The RFR response period for each PRIME auction will last for 500 milliseconds.[19] During the RFR response period, Members may submit responses to the RFR (specifying prices and sizes).[20] RFR responses must be submitted as either an auction or cancel (''AOC'') order or an AOC eQuote.[21] Responses cannot cross the MBBO on the opposite side of the market from the response.[22] RFR responses shall not be visible to other auction participants, and MIAX will not disseminate them to the Options Price Reporting Authority (''OPRA'').[23] The minimum price increment for RFR responses and for the Initiating Member's submission is a $0.01 increment, regardless of whether the class otherwise trades in a larger price increment.[24] MIAX will cap an RFR response with a size greater than the size of the Agency Order at the size of the Agency Order for allocation purposes.[25] RFR responses may be cancelled by the Member submitting them.[26]

1. Conclusion of the PRIME Auction

The PRIME auction will end early, before the end of the RFR response period, under certain enumerated circumstances.[27] Specifically, the PRIME will conclude at the sooner of the following: (i) The end of the RFR response period; (ii) upon receipt by MIAX of an unrelated order (in the same option as the Agency Order) on the same side or opposite side of the market from the RFR responses, that is marketable against either the MBBO (when such quote is the NBBO) or the RFR responses; (iii) upon receipt by MIAX of an unrelated limit order (in the same option as the Agency Order and on the opposite side of the market from the Agency Order) that improves any RFR response; (iv) any time an RFR response matches the MBBO on the opposite side of the market from the RFR responses; (v) any time there is a quote lock in the subject option on the Exchange pursuant to MIAX Rule 1402; or (vi) any time there is a trading halt in the option on the Exchange.[28]

MIAX will consider it to be conduct inconsistent with just and equitable principles of trade, in accordance with MIAX Rule 301, for any Member to enter orders, quotes, Agency Orders, or other responses for the purpose of disrupting or manipulating a PRIME auction. Such conduct includes, but is not limited to, engaging in a pattern or practice of submitting unrelated orders that cause a PRIME auction to conclude before the end of the RFR period and engaging in a pattern of conduct where the Member submitting the Agency Order into the PRIME breaks up the Agency Order into separate orders for two (2) or fewer contracts for the purpose of gaining a higher allocation percentage than the Member would have otherwise received in accordance with the allocation procedures contained in MIAX Rule 515A.[29]

3. Priority and Allocation of Orders and Quotes

In its Notice, MIAX represented that the priority of allocation at the conclusion of a PRIME auction, described below, will be similar to the standard allocation of orders and quotes on MIAX.[30] MIAX Rule 514 describes the priority of allocation of orders and quotes on the Exchange. According to the Exchange, under the pro-rata allocation method, resting quotes and orders on the Book are prioritized according to price. If there are two or more quotes or orders at the best price, then the contracts are allocated proportionally according to size (in a pro-rata fashion) within each origin type. If the executed quantity cannot be evenly allocated, the remaining contracts will be distributed one at a time based upon size-time priority.[31] When the Priority Customer Overlay is in effect, the highest bid and lowest offer has priority, except that Priority Customer Orders have priority over Professional Interest and all Market Maker interest at the same price. If there are two or more Priority Customer Orders for the same options at the same price, priority is afforded to such Priority Customer Orders in the sequence in which they are received by the System.[32] If there is other interest at the NBBO, after all Priority Customer Orders (if any) at that price have been filled, executions at that price will be first allocated to other remaining Market

managed interest is fully exhausted and is no longer at a price equal to or better than the initiating price of the Agency Order, a PRIME auction will be initiated for the balance of the order. *See* proposed MIAX Rule 515A, Interpretations and Policies .06.

[18] *See* proposed MIAX Rule 515A(a)(2)(i)(B). The Exchange will include the RFR from the auction mechanisms in the Exchange's data feeds at no incremental cost to subscribers. Thus, any subscriber that chooses to receive options data, including any Member subscriber, has the ability to respond to those RFRs.

[19] *See* proposed MIAX Rule 515A(a)(2)(i)(C). In February 2014, to determine whether the proposed duration of the RFR would provide sufficient time to enter an RFR response, the Exchange asked Members, including Market Makers, whether their firms ''could respond to an Auction with a duration of 500 milliseconds.'' Of the 8 Members that responded to the question, 100% indicated that their firm could respond in this time frame. *See* Notice, *supra* note 3, 79 FR at 13337, n.19.

[20] *See* proposed MIAX Rule 515A(a)(2)(i)(D). The Exchange states that any MIAX Member, and any MIAX Member acting as agent for orders, may respond to an RFR in a PRIME auction.

[21] *See id.* An AOC order is a limit order used to provide liquidity during a specific Exchange process (such as the Opening Imbalance process described in MIAX Rule 503) with a time in force that corresponds with that event. AOC orders are not displayed to any market participant, are not included in the MBBO and therefore are not eligible for trading outside of the event, may not be routed, and may not trade at a price inferior to the away markets. *See* MIAX Rule 516(b)(4). An AOC eQuote is a quote submitted by a Market Maker to provide liquidity in a specific Exchange process (such as the Opening Imbalance Process described in MIAX Rule 503) with a time in force that corresponds with the duration of that event and will automatically expire at the end of that event. AOC eQuotes are not displayed to any market participant, are not included in the MBBO and therefore are not eligible for trading outside of the event. An AOC eQuote does not automatically cancel or replace the Market Maker's previous Standard quote or eQuote. *See* MIAX Rule 517(a)(2)(ii). The Exchange notes that any orders or quotes received by the System during the Auction that are not AOC orders or AOC eQuotes will be treated as unrelated trading interest. In addition, the Exchange notes that an AOC order or an AOC eQuote could trade at a price inferior to the away market if it is a part of an exempt transaction. *See* MIAX Rule 1402.

[22] *See* proposed MIAX Rule 515A(a)(2)(i)(D).

[23] *See* proposed MIAX Rule 515A(a)(2)(i)(E).

[24] *See* proposed MIAX Rule 515A(a)(2)(i)(F).

[25] *See* proposed MIAX Rule 515A(a)(2)(i)(G). The Exchange states that RFR response sizes are capped at the same size of the Agency Order in order to prevent manipulation and gaming of the pro rata allocation within each origin type and price point. The Commission understands that unrelated trading interest including unrelated orders, quotes, or orders on the Exchange's Book will not be subject to such a cap, since they are not considered responses to the Auction.

[26] *See* proposed MIAX Rule 515A(a)(2)(i)(H).

[27] The Exchange states that the PRIME is designed to maintain priority of all resting quotes and orders and any RFR responses received before the end of the PRIME auction. Thus the PRIME will end early, before the end of the RFR period, as a result of certain events that would otherwise disrupt the priority of the PRIME auction with the Exchange's Book. *See* Notice, *supra* note 3, 79 FR at 13338.

[28] *See* proposed MIAX Rule 515A(a)(2)(ii).

[29] *See* proposed MIAX Rule 515A, Interpretations and Policies .01.

[30] *See* Notice, *supra* note 3, 79 FR at 13338. According to the Exchange, the allocation of orders and quotes at the conclusion of a PRIME auction will be in priority ranked by price/origin type/pro-rata/time, which is the standard allocation of orders and quotes on MIAX when the pro-rata allocation method and the Priority Customer Overlay is in effect. The key differences between the standard allocation and PRIME allocation are that in PRIME: RFR responses are capped at the total size of the Agency Order which changes the pro-rata calculation when allocating within the same origin type; no participation entitlement will apply to orders executed in the PRIME; and the Initiating Member's facilitating or solicitation order may receive a participation guarantee at the stop price.

[31] *See* MIAX Rule 514(c)(2).

[32] *See* MIAX Rule 514(d)(1).

Maker priority quotes,[33] which have not received a participation entitlement, and have precedence over Professional Interest.[34] If, after all Market Maker priority quotes have been filled in accordance with MIAX Rule 514(d)(1), there remains interest at the NBBO, executions will be allocated to all Professional Interest at that price.[35]

At each price point, orders and quotes will be given priority by type—first to Priority Customers, then Market Makers with priority quotes, and then to Professional Interest. If unrelated orders are received by the Exchange during the period when a PRIME auction is occurring, such orders will be eligible to participate in the auction, subject to the process above. If orders received are not executed in the PRIME auction, the time stamps they received will be used to determine time priority for their execution outside of the auction.

Thus, at the conclusion of the PRIME auction, the Agency Order will be allocated at the best price(s) pursuant to the matching algorithm in effect for the class. Such best prices include non-auction quotes and orders.[36] With respect to order execution priority, Priority Customer orders resting on the Book before the auction or that are received during the RFR response period, as well as Priority Customer RFR responses, will collectively have first priority to trade against the Agency Order. The allocation of an Agency Order against any Priority Customer orders resting in the Book, Priority Customer orders received during the RFR response period, and Priority Customer RFR responses shall be in the sequence in which they are received by the System.[37]

After the execution of Priority Customer orders and responses, if the best price equals the Initiating Member's single-price submission, then the Initiating Member's single-price submission will be eligible for a ''participation guarantee'' under which the Initiating Member will receive an allocation of the greater of one contract or a certain percentage of the order, which percentage will be determined by the Exchange and may not be larger than 40% of the Agency Order in total.[38] If only one Member's response matches the Initiating Member's single price submission, then the Initiating Member may be allocated up to 50% of the Agency Order.[39] If the Initiating Member selected the auto-match option, the Initiating Member will receive an allocation at each auto-matched RFR response price point up to any designated limit price, or until a price point is reached where the balance of the order can be fully executed.[40] At such final price point, the Initiating Member will be entitled to a ''participation guarantee'' that will result in the Initiating Member being allocated the greater of one contract or a certain percentage of the remainder of the order, which percentage will be determined by the Exchange and may not be larger than 40% of the contracts remaining at the final price point.[41] However, if the Initiating Member elected to have last priority in allocation when submitting an Agency Order to initiate a PRIME auction against a single-price submission, the Initiating Member will be allocated only the amount of contracts remaining, if any, after the Agency Order is allocated to all other responses at the single price specified by the Initiating Member.[42]

Following allocation to any Priority Customer interest and any allocation to the Initiating Member pursuant to its participation guarantee and auto-match (if applicable), Market Maker priority quotes and RFR responses from Market Makers with priority quotes will collectively have the next level of priority. The allocation of Agency Orders against these contra sided quotes and RFR responses will be on a size pro rata basis as defined in MIAX Rule 514(c)(2).[43]

Next, Professional Interest orders resting in the Book, Professional Interest orders placed in the Book during the RFR response period, Professional Interest quotes, and Professional Interest RFR responses will collectively have last priority.[44] The allocation of Agency Orders against these contra sided orders and RFR responses will be on a size pro rata basis as defined in MIAX Rule 514(c)(2).[45]

When allocating the Agency Order, the market maker ''participation entitlements'' shall not apply to orders executed pursuant to the PRIME rule.[46] If an unrelated market or marketable limit order on the opposite side of the market as the Agency Order is received during the PRIME auction and ended the auction, such unrelated order will trade against the Agency Order at the midpoint of the best RFR response (or in the absence of an RFR response, the initiating price) and the NBBO on the other side of the market from the RFR responses (rounded towards the disseminated quote when necessary).[47] If an unrelated non-marketable limit order on the opposite side of the market as the Agency Order is received during the PRIME auction and ended the auction, such unrelated order will trade against the Agency Order at the midpoint of the best RFR response and the unrelated order's limit price (rounded towards the unrelated order's limit price when necessary).[48]

[33] To be considered a priority quote, at the time of execution, each of the following standards must be met: (i) The bid/ask differential of a Market Maker's two-sided quote pair must be valid width (no wider than the bid/ask differentials outlined in MIAX Rule 603(b)(4)); (ii) the initial size of both of the Market Maker's bid and the offer must be in compliance with the requirements of MIAX Rule 604(b)(2); (iii) the bid/ask differential of a Market Maker's two-sided quote pair must meet the priority quote width requirements defined in MIAX Rule 517(b)(1)(ii) for each option; and (iv) either of the following are true: (1) At the time a locking or crossing quote or order enters the System, the Market Maker's two-sided quote pair must be valid width for that option and must have been resting on the Book; or (2) immediately prior to the time the Market Maker enters a new quote that locks or crosses the MBBO, the Market Maker must have had a valid width quote already existing (*i.e.,* exclusive of the Market Maker's new marketable quote or update) among his two-sided quotes for that option. *See* MIAX Rule 517(b)(1)(i).

[34] *See* MIAX Rule 514(e)(1). The term ''Professional Interest'' means (i) an order that is for the account of a person or entity that is not a Priority Customer, or (ii) an order or non-priority quote for the account of a Market Maker. *See* MIAX Rule 100.

[35] *See* MIAX Rule 514(e)(2).

[36] *See* proposed MIAX Rule 515A(a)(2)(iii)(A).

[37] *See* proposed MIAX Rule 515A(a)(2)(iii)(B). The Exchange represents that the priority allocation in PRIME is consistent with the standard priority rules for Priority Customers in MIAX Rule 514(d)(1). The Exchange gives priority to Priority Customer orders whether they were on the Book or received during the RFR response period.

[38] *See* proposed MIAX Rule 515A(a)(2)(iii)(H).

[39] *See* proposed MIAX Rule 515A(a)(2)(iii)(H). It is the Commission's understanding that the Initiating Member would retain a 50% allocation only where the Initiating Member is matched by only one response at the best price. *See also* Notice, *supra* note 3, 79 FR at 13340 (for examples illustrating the allocation at the end of the PRIME).

[40] The Exchange notes that the auto-match functionality will only allocate the full size of RFR responses (AOC orders and AOC eQuotes). *See* proposed MIAX Rule 515A(a)(2)(iii)(I). As noted above, any orders or quotes received by the System during the PRIME that are not AOC orders or AOC eQuotes will be treated as unrelated trading interest; the auto-match functionality will not allocate against such unrelated trading interest. *See* proposed MIAX Rule 515A(a)(2)(i)(D).

[41] *See* proposed MIAX Rule 515A(a)(2)(iii)(I).

[42] *See* proposed MIAX Rule 515A(a)(2)(iii)(L).

[43] *See* proposed MIAX Rule 515A(a)(2)(iii)(C).

[44] *See* MIAX Rule 514(e)(2).

[45] *See* proposed MIAX Rule 515A(a)(2)(iii)(D).

[46] *See* proposed MIAX Rule 515A(a)(2)(iii)(E). *See, e.g.,* MIAX Rule 514(g) (Primary Lead Market Maker Participation Entitlements), for an example of a market maker ''participation entitlement.'' These market maker ''entitlements'' are separate and apart from, and do not relate to, the ''participation guarantee'' that is part of the proposed PRIME mechanism.

[47] *See* proposed MIAX Rule 515A(a)(2)(iii)(F). *See also* Notice, *supra* note 3, 79 FR at 13341 (for examples illustrating the allocation when the PRIME concludes early).

[48] *See* proposed MIAX Rule 515A(a)(2)(iii)(G). An unrelated non-marketable limit order on the

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If the final auction price locks a Priority Customer order on the Book on the same side of the market as the Agency Order, then the Agency Order will execute against the RFR responses at $0.01 increment worse than the final PRIME auction price (towards the opposite side of the Agency Order) against the PRIME auction participants that submitted the final price, unless there is sufficient size in the PRIME responses to execute both the Agency Order and the booked Priority Customer order (in which case they will both execute at the final PRIME auction price). Any balance shall trade against the Priority Customer order in the Book at such order's limit price.[49]

Notwithstanding the priority for Market Makers and Professional Interest pursuant to proposed MIAX Rule 515A(a)(2)(iii)(C) and (D), if the PRIME auction does not result in price improvement over the Exchange's disseminated price at the time the PRIME auction began, resting unchanged quotes or orders that were disseminated at the best price before the PRIME auction began will have priority after any Priority Customer order priority and the Initiating Member's participation guarantee have been satisfied.[50] Any unexecuted balance on the Agency Order will be allocated to RFR responses, provided that those RFR responses will be capped to the size of the original order and that the Initiating Member may not participate on any such balance, unless the Agency Order would otherwise go unfilled.[51]

If an unexecuted balance remains on the PRIME auction responses after the Agency Order has been executed in full and such balance in the RFR responses could trade against any unrelated order(s) that caused the PRIME auction to conclude, then the RFR balance will trade against the unrelated order(s) on a size pro rata basis as defined in MIAX Rule 514(c)(2).[52]

It shall be considered conduct inconsistent with just and equitable principles of trade, in accordance with MIAX Rule 301, for any Member to enter orders, quotes, Agency Orders, or other responses for the purpose of disrupting or manipulating the auction. Such conduct includes, but is not limited to, engaging in a pattern of conduct where the Member submitting the Agency Order into the PRIME breaks up the Agency Order into separate orders for two (2) or fewer contracts for the purpose of gaining a higher allocation percentage than the Member would have otherwise received in accordance with the allocation procedures contained in MIAX Rule 515A(a)(2)(iii).[53]

Finally, in proposed MIAX Rule 515A, Interpretation and Policy .08, the Exchange obligates itself to submit certain data, as requested by the Commission staff, on the operation of the PRIME auction. This data will be used to assist the Exchange as well as the Commission in assessing activity in PRIME auctions including, among other things, the degree of meaningful competition for all size orders within the PRIME auction, whether there is material price improvement for orders executed through the PRIME mechanism, and whether there is an active and liquid market functioning on the Exchange outside of the PRIME mechanism.[54]

B. PRIME Solicitation Mechanism

MIAX also is proposing to adopt a solicitation mechanism that is similar to CBOE's Solicitation Auction Mechanism.[55] Through this proposed mechanism, a Member that represents Agency Orders may electronically execute them against solicited orders provided that it submits both the Agency Order and solicited orders for electronic execution into the PRIME Solicitation Mechanism pursuant to proposed MIAX Rule 515A(b).[56]

1. Eligibility and PRIME Solicitation Mechanism Process

The Initiating Member may initiate a PRIME Solicitation Mechanism provided that the Agency Order is in a class designated as eligible for PRIME Solicitation Mechanisms as determined by the Exchange and within the designated PRIME Solicitation Mechanism order eligibility size parameters as such size parameters are determined by the Exchange. The eligible order size may not be less than 500 standard option contracts or 5,000 mini-option contracts.[57] Also, each order entered into the PRIME Solicitation Mechanism must be designated as all-or-none, and the minimum price increment for an Initiating Member's single price submission will be a $0.01 increment.[58]

To initiate the PRIME Solicitation Mechanism, the Initiating Member must mark the Agency Order for PRIME Solicitation Mechanism processing and specify a single price at which it seeks to cross the Agency Order with a solicited order, which shall be the initiating price for the PRIME Solicitation Mechanism.[59] When the Exchange receives a properly designated Agency Order for PRIME Solicitation Mechanism processing, an RFR message indicating the option, side, size, and initiating price[60] will be sent to all subscribers of the Exchange's data feeds.[61] Any Member may submit responses to the RFR (specifying prices and sizes) during the RFR response period (which, like the PRIME auction,

opposite side of the market as the Agency Order would end the PRIME in the situation when that unrelated non-marketable limit order improves any RFR response.

[49] *See* proposed MIAX Rule 515A(a)(2)(iii)(K). Thus, the execution price will be $0.01 increment higher than the final PRIME auction price if the Agency Order is to buy or $0.01 increment lower than the final PRIME auction price if the Agency Order is to sell.

[50] *See* proposed MIAX Rule 515A(a)(2)(iii)(J). The Exchange notes that the priority of such resting unchanged quotes or orders that were disseminated at the best price before the PRIME began will still be subject to the standard priority allocation in effect pursuant to MIAX Rule 514. *See* Notice, *supra* note 3, 79 FR at 13343.

[51] *See* proposed MIAX Rule 515A(a)(2)(iii)(J).

[52] *See* proposed MIAX Rule 515A(a)(2)(iii)(M).

[53] *See* proposed MIAX Rule 515A, Interpretations and Policies .01.

[54] *See* proposed MIAX Rule 515A, Interpretation and Policy .08. For the list of the data that the Exchange agreed to provide to the Commission relating to the PRIME, *see* Exhibit 3 to SR–MIAX–2014–09, which is publicly available on the Exchange's Web site at *http://www.miaxoptions.com.*

[55] *See* CBOE Rule 6.74B.

[56] For executions pursuant to the PRIME Solicitation Mechanism, prior to entering Agency Orders into the PRIME on behalf of customers, Initiating Members must deliver to the customer a written notification informing the customer that his order may be executed using the PRIME. The written notification must disclose the terms and conditions contained in MIAX Rule 515A and be in a form that is approved by the Exchange. *See* proposed MIAX Rule 515A, Interpretations and Policy .03. In addition, Members may not use the PRIME Solicitation Mechanism to circumvent MIAX Rule 520 limiting principal transactions. This may include, but is not limited to, Members entering contra orders that are solicited from (i) affiliated broker-dealers or (ii) broker-dealers with which the Member has an arrangement that allows the Member to realize similar economic benefits from the solicited transaction as it would achieve by executing the customer order in whole or in part as principal. Additionally, solicited contra orders entered by Members to trade against Agency Orders may not be for the account of a MIAX Market Maker assigned to the options class. *See* proposed MIAX Rule 515A, Interpretations and Policies .04.

[57] Proposed MIAX Rule 515A, Interpretation and Policy .05 provides that any determinations made by the Exchange pursuant to MIAX Rule 515A, such as eligible classes and order size parameters, will be communicated in a Regulatory Circular.

[58] *See* proposed MIAX Rule 515A(b)(1).

[59] *See* proposed MIAX Rule 515A(b)(2)(i)(A).

[60] The initiating price for the PRIME Solicitation Mechanism is the single price specified by the Initiating Member at which it seeks to cross the Agency Order with a solicited order. *See* proposed MIAX Rule 515A(b)(2)(i)(A).

[61] *See* proposed MIAX Rule 515A(b)(2)(i)(B). As noted above with respect to the PRIME, the Exchange will include the RFR from the auction mechanisms in the Exchange's data feeds at no incremental costs to subscribers. Thus, any subscriber that chooses to receive options data, including any Member subscriber, has the ability to respond to those RFRs.

will be 500 milliseconds).[62] RFR responses must be either an AOC order or an AOC eQuote.[63] The minimum price increment for responses will be $0.01 increment.[64] A response with a size greater than the size of the Agency Order will be capped at the size of the Agency Order.[65] Responses will not be visible to other Solicitation Auction participants, and MIAX will not disseminate them to OPRA.[66] Members may cancel RFR responses.[67]

2. Conclusion of the PRIME Solicitation Mechanism

The PRIME Solicitation Mechanism will end early, before the end of the RFR response period, under certain circumstances. Specifically, the PRIME Solicitation Mechanism will conclude at the sooner of the following: (i) The end of the RFR response period; (ii) upon receipt by MIAX of an unrelated order (in the same option as the Agency Order) on the same side or opposite side of the market from the RFR responses, that is marketable against either the MBBO (when such quote is the NBBO) or the RFR responses; (iii) upon receipt by MIAX of an unrelated limit order (in the same option as the Agency Order and on the opposite side of the market as the Agency Order) that improves any RFR response; (iv) any time an RFR response matches the MBBO on the opposite side of the market from the RFR responses; (v) any time there is a quote lock on the Exchange pursuant to MIAX Rule 1402; or (vi) any time there is a trading halt in the option on the Exchange.[68]

3. Priority and Allocation

At the conclusion of the Solicitation Auction, the Agency Order will either be automatically executed in full and allocated subject to the following provisions, or will be cancelled. The Agency Order will be executed against the solicited order at the proposed execution price, provided that:

- The execution price must be equal to or better than the NBBO;[69]
- There are no Priority Customer orders resting in the Book on the opposite side of the Agency Order at the proposed execution price;[70] and
- There is insufficient size to execute the Agency Order at an improved price.[71]

If the execution would otherwise take place outside the NBBO, the Agency Order and solicited order will be cancelled.[72]

If there are Priority Customer orders resting in the Book on the opposite side as the Agency Order and there is sufficient size (considering all resting orders, quotes, and RFR responses) to execute the Agency Order, then the Agency Order will be executed against this interest, and the solicited order will be cancelled. In such case, the Agency Order will be allocated at the best price(s) pursuant to the matching algorithm in effect for the class.[73] However, if there are Priority Customer orders resting in the Book on the opposite side as the Agency Order and there is not sufficient size (considering all resting orders, quotes, and RFR responses) to fill the entire Agency Order, then both the Agency Order and the solicited order will be cancelled.[74]

If there is sufficient size (considering all resting orders, quotes, and RFR responses) to execute the Agency Order in full at an improved price or prices that is equal or better than the NBBO, then the Agency Order will execute at such improved price(s) and the solicited order will be cancelled. In such case, the Agency Order will be allocated at the best price(s) pursuant to the matching algorithm in effect for the class.[75]

C. Order Exposure Rule

MIAX Rule 520 prohibits Members from acting as principal on any orders they represent as agent unless (i) agency orders are first exposed on the Exchange for at least one (1) second, and (ii) the Member has been bidding or offering on the Exchange for at least one (1) second prior to receiving an agency order that is executable against such bid or offer. In addition, Members may not execute orders they represent as agent on the Exchange against orders solicited from Members and non-member broker-dealers to transact with such orders unless the unsolicited order is first exposed on the Exchange for at least one (1) second.

The Exchange proposes to amend MIAX Rule 520 to permit a Member to execute against as principal orders it represents as agent if the Member utilizes the PRIME price improvement mechanism. Similarly, the Exchange proposes to amend MIAX Rule 520 to permit a Member to execute orders it represents as agent against orders it has solicited if the Member utilizes the PRIME price improvement mechanism or PRIME Solicitation Mechanism. Accordingly if those mechanisms were used, such Agency Orders submitted into them would not be subject to the one second order exposure requirement of MIAX Rule 520.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with Section 6(b) of the Act.[76] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[77] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in

[62] *See* proposed MIAX Rule 515A(b)(2)(i)(C). In February 2014, to determine whether the proposed duration of the RFR would provide sufficient time to enter an RFR response, the Exchange asked Members, including Market Makers, whether their firms ''could respond to an Auction with a duration of 500 milliseconds.'' Of the 8 Members that responded to the question, 100% indicated that their firm could respond in this time frame. Thus, the Exchange notes its belief that the proposed duration for the RFR of 500 milliseconds, would provide a meaningful opportunity for participants on MIAX to respond to an RFR while at the same time facilitating the prompt execution of orders. *See* Notice, *supra* note 3, 79 FR at 13343, n. 62.

[63] *See* proposed MIAX Rule 515A(b)(2)(i)(C). Any MIAX Member may respond to the RFR in the PRIME Solicitation Mechanism. *See* Notice, *supra* note 3, 79 FR at 13344, n.63.

[64] *See* proposed MIAX Rule 515A(b)(2)(i)(E).

[65] *See* proposed MIAX Rule 515A(b)(2)(i)(F).

[66] *See* proposed MIAX Rule 515A(b)(2)(i)(D).

[67] *See* proposed MIAX Rule 515A(b)(2)(i)(G).

[68] *See* proposed MIAX Rule 515A(b)(2)(ii).

[69] *See* proposed MIAX Rule 515A(b)(2)(iii)(A).

[70] *See* proposed MIAX Rule 515A(b)(2)(iii)(B)(1).

[71] *See* proposed MIAX Rule 515A(b)(2)(iii)(C). *See also* Notice, *supra* note 3, 79 FR at 13344 (for examples illustrating the allocation at the end of the PRIME Solicitation Mechanism).

[72] *See* proposed MIAX Rule 515A(b)(2)(iii)(A).

[73] *See* proposed MIAX Rule 515A(b)(2)(iii)(B)(1). The Agency Order will be allocated at the best price(s) pursuant to the matching algorithm in effect for the class. The Exchange states that this will ensure that the Agency Order is allocated in a manner consistent with the standard priority of allocation of the Exchange rules that distinguish between Priority Customers, Market Makers with priority quotes, and Professional Interest.

[74] *See* proposed MIAX Rule 515A(b)(2)(iii)(B)(2).

[75] *See* proposed MIAX Rule 515A(b)(2)(iii)(C)(1). The Exchange proposes to specify that the Agency Order will be allocated pursuant to the matching algorithm in effect for the class. This will ensure that the Agency Order is allocated in a manner consistent with the standard priority of allocation of the Exchange rules that distinguish between Priority Customers, Market Makers with priority quotes, and Professional Interest.

[76] 15 U.S.C. 78f(b). In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[77] 15 U.S.C. 78f(b)(5).

general, to protect customers, issuers, brokers and dealers. The Commission believes that approving the Exchange's proposal to establish the PRIME price improvement mechanism and the PRIME Solicitation Mechanism may increase competition among those options exchanges that offer similar mechanisms. The Commission further believes that allowing MIAX Members to enter orders into the PRIME price improvement mechanism and the PRIME Solicitation Mechanism could provide additional opportunities for such orders, notably orders from Priority Customers, to receive price improvement over the NBBO.

MIAX's proposed PRIME price improvement mechanism is similar to existing functionality at other options exchanges and does not raise any novel issues.[78] In particular, for orders of fewer than 50 standard options contracts or 500 mini-option contracts, the PRIME price improvement mechanism requires the Initiating Member to stop the Agency Order at the better of the NBBO price improved by a $0.01 increment or the Agency Order's limit price.[79] Once an Agency Order has been submitted, the submission may not be modified or cancelled. The Commission notes that such smaller orders are thus effectively guaranteed some level of price improvement if they are submitted into the PRIME price improvement mechanism. Orders of 50 or greater contracts are guaranteed an execution price of at least the NBBO and, moreover, are given the opportunity for price improvement beyond the NBBO by being exposed to Members during the PRIME auction. In addition, MIAX's proposal protects resting interest on its Book as the stop price must be at least $0.01 increment better than any booked order's limit price on the same side of the market as the Agency Order.

The PRIME price improvement mechanism also permits members to submit responses to the RFR on behalf of all types of interest.[80] The Commission believes that this requirement provides the potential for an Agency Order to be exposed to a competitive auction. Further, when the Exchange receives a properly designated Agency Order for PRIME auction processing, it will send to all subscribers of its data feeds an RFR detailing the option, side, size, and initiating price. This message, available to any subscriber, is designed to help attract responses to a PRIME auction and may result in competitive PRIME auctions and ultimately better prices for the Agency Order to the extent it is successful in attracting competitive responses to a PRIME auction.

The RFR (for both the PRIME auction and PRIME Solicitation Mechanism) will last for 500 milliseconds. In February 2014, to determine whether the proposed duration of the RFR would provide sufficient time to enter an RFR response, the Exchange asked its Members, including Market Makers, whether their firms ''could respond to an Auction with a duration of 500 milliseconds.'' Of the 8 Members that responded to the question, 100% indicated that their firm could respond in this time frame.[81] Based on MIAX's statements, the Commission believes that 500 milliseconds could facilitate the prompt execution of Agency Orders in the PRIME auction (and PRIME Solicitation Mechanism), while providing market participants with an opportunity to compete for exposed bids and offers. The Commission notes that another exchange's price improvement mechanism also provides a 500 millisecond auction response period.[82]

At the conclusion of a PRIME auction, Priority Customer orders and RFR responses representing Priority Customer interest have first priority to trade against the Agency Order. After execution of Priority Customer responses and orders, the Initiating Member may be allocated a limited percentage of the Agency Order, not to exceed 40% of the contracts at the applicable price point (however, if only one response matches the Initiating Member's single price submission at the best price, then the Initiating Member may be allocated up to 50% of the order). Market Maker priority quotes and RFR responses from Market Makers with priority quotes have next priority. Quotes, orders, and RFR responses representing Professional Interest have final priority. The Commission believes that the proposed matching algorithm set forth in MIAX's PRIME rule is sufficiently clear regarding how orders are to be allocated in the PRIME auction and does not raise any novel issues.

The Exchange has represented its commitment to submit certain data on PRIME auctions at the request of Commission staff. The Commission expects such data to be used, by both the Exchange and the Commission staff, to assess the performance of PRIME auctions, including, among other things, to study whether there is meaningful competition for all size orders with the PRIME, the degree of price improvement for all orders executed through the PRIME mechanism, whether there is an active and liquid market functioning on the Exchange outside of the PRIME, and the situations in which a PRIME auction is terminated before the end of the RFR response period. The data provided will enable the Commission, as well as the Exchange itself, to evaluate the PRIME auction to determine its performance and impact on options market structure and the degree to which it is beneficial to customers and to the options market as a whole.

The Commission further believes that the proposal to establish the PRIME Solicitation Mechanism may allow for greater flexibility in executing large-sized orders, and is not novel or otherwise raise any issues of first impression.[83] The Commission believes that the proposal includes appropriate conditions to assure that the Agency Order is exposed to Members for the possibility of price improvement over the NBBO and that Priority Customer orders on the Exchange are protected. At the conclusion of a PRIME Solicitation Mechanism auction, the Agency Order would either be executed in full or cancelled. The Agency Order will be executed against the solicited order at the proposed executed price if (i) the execution price is equal to or better than the NBBO; (ii) there are no Priority Customer Orders resting in the book on the opposite side of the Agency Order at the proposed execution price; and (iii) there is insufficient size to execute the Agency Order at an improved price. If there are Priority Customer orders and there is sufficient size to execute the Agency Order (considering all eligible interest), the Agency Order will be executed against these interests and the solicited order will be cancelled. If, however, there are Priority Customer Orders but there is not sufficient size to execute the Agency Order in full, then both the Agency Order and the solicited order will be cancelled. Finally, if there is sufficient size to execute the Agency Order in full at an improved price equal

[78] *See* CBOE Rule 6.74A (CBOE's AIM).

[79] The Commission notes that this aspect of MIAX's proposal (*i.e.,* to stop an Agency Order of fewer than 50 contracts at a price-improved price) is similar to requirements set forth in CBOE's AIM. *See* CBOE Rule 6.74A(a)(3).

[80] *Cf.* CBOE Rule 6.74A(b)(1)(D)–(E) (only CBOE Market Makers with an appointment in the relevant option class, and CBOE Members acting as agent for orders resting at the top of the CBOE book opposite the Agency Order, may submit responses to the AIM RFR).

[81] *See* Notice, *supra* note 3, 79 FR at 13337, n. 19 and 13343, n. 62.

[82] *See* International Securities Exchange Rule 723(c)(5).

[83] The Commission also notes that the proposal is similar to requirements set forth in the CBOE Solicitation Auction Mechanism. *See* CBOE Rule 6.74B.

to or better than the NBBO, the Agency Order will execute at the improved price and the solicited order will be cancelled. The Commission believes that the priority and allocation rules for the PRIME Solicitation Mechanism, which are based on a similar mechanism on another exchange, are reasonable and consistent with the Act.

IV. Section 11(a) of the Act

Section 11(a)(1) of the Act[84] prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person, or an account over which it or its associated person exercises discretion (collectively, ''covered accounts'') unless an exception applies. Rule 11a2–2(T) under the Act,[85] known as the ''effect versus execute'' rule, provides exchange members with an exemption from the Section 11(a)(1) prohibition. Rule 11a2–2(T) permits an exchange member, subject to certain conditions, to effect transactions for covered accounts by arranging for an unaffiliated member to execute transactions on the exchange. To comply with Rule 11a2–2(T)'s conditions, a member: (i) Must transmit the order from off the exchange floor; (ii) may not participate in the execution of the transaction once it has been transmitted to the member performing the execution;[86] (iii) may not be affiliated with the executing member; and (iv) with respect to an account over which the member has investment discretion, neither the member nor its associated person may retain any compensation in connection with effecting the transaction except as provided in the Rule. For the reasons set forth below, the Commission believes that Exchange members entering orders into the PRIME and PRIME Solicitation Mechanism would satisfy the requirements of Rule 11a2–2(T).

The Rule's first condition is that orders for covered accounts be transmitted from off the exchange floor. In the context of automated trading systems, the Commission has found that the off-floor transmission requirement is met if a covered account order is transmitted from a remote location directly to an exchange's floor by electronic means.[87] MIAX has represented that the MIAX trading system and the proposed PRIME and PRIME Solicitation Mechanism receive all orders electronically through remote terminals or computer-to-computer interfaces. The Exchange also represents that orders for covered accounts from Members will be transmitted from a remote location directly to the proposed PRIME and PRIME Solicitation Mechanism by electronic means. Because no Exchange members may submit orders into the PRIME and PRIME Solicitation Mechanism from on the floor of the Exchange, the Commission believes that the PRIME and PRIME Solicitation Mechanism satisfy the off-floor transmission requirement.

Second, the Rule requires that the member not participate in the execution of its order. The Exchange represents that at no time following the submission of an order is a member organization able to acquire control or influence over the result or timing of an order's execution.[88] According to the Exchange, the execution of an order is determined by what other orders are present and the priority of those orders.[89] Accordingly, the Commission believes that a member does not participate in the execution of an order submitted to the PRIME and PRIME Solicitation Mechanism.

Third, Rule 11a2–2(T) requires that the order be executed by an exchange member who is unaffiliated with the member initiating the order. The Commission has stated that this requirement is satisfied when automated systems, such as the PRIME and PRIME Solicitation Mechanism, are used, as long as the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange.[90] MIAX has represented that the PRIME and PRIME Solicitation Mechanism are designed so that no Member has any special or unique trading advantage in the handling of its orders after transmitting its orders to the mechanisms.[91] Based on the Exchange's representation, the Commission believes that PRIME and PRIME Solicitation Mechanism satisfy this requirement.

Fourth, in the case of a transaction effected for an account with respect to which the initiating member or an associated person thereof exercises investment discretion, neither the initiating member nor any associated person thereof may retain any compensation in connection with effecting the transaction, unless the person authorized to transact business for the account has expressly provided otherwise by written contract referring to Section 11(a) of the Act and Rule 11a2–2(T) thereunder.[92] MIAX represents that Members relying on Rule 11a2–2(T) for transactions effected through the PRIME and PRIME Solicitation Mechanism must comply with this condition of the Rule.[93]

[84] 15 U.S.C. 78k(a)(1).

[85] 17 CFR 240.11a2–2(T).

[86] The member may, however, participate in clearing and settling the transaction.

[87] *See, e.g.,* Securities Exchange Act Release Nos. 61419 (January 26, 2010), 75 FR 5157 (February 1, 2010) (SR–BATS–2009–031) (approving BATS options trading); 59154 (December 23, 2008), 73 FR 80468 (December 31, 2008) (SR–BSE–2008–48) (approving equity securities listing and trading on BSE); 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (SR–NASDAQ–2007–004 and SR–NASDAQ–2007–080) (approving NOM options trading); 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (File No. 10–131) (approving The Nasdaq Stock Market LLC); 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (SR–PCX–00–25) (approving Archipelago Exchange); 29237 (May 24, 1991), 56 FR 24853 (May 31, 1991) (SR–NYSE–90–52 and SR–NYSE–90–53) (approving NYSE's Off-Hours Trading Facility); and 15533 (January 29, 1979), 44 FR 6084 (January 31, 1979) (''1979 Release'').

[88] *See* Notice, *supra* note 3, 79 FR at 13347. *See also* Amendment No. 1, *supra* note 4 and accompanying text.

[89] *See id.* The Exchange notes that a Member may cancel or modify the order, or modify the instructions for executing the order, but that such instructions would be transmitted from off the floor of the Exchange. The Commission has stated that the non-participation requirement is satisfied under such circumstances so long as such modifications or cancellations are also transmitted from off the floor. *See* Securities Exchange Act Release No. 14563 (March 14, 1978), 43 FR 11542 (March 17, 1978) (''1978 Release'') (stating that the ''non-participation requirement does not prevent initiating members from canceling or modifying orders (or the instructions pursuant to which the initiating member wishes to be executed) after the orders have been transmitted to the executing member, provided that any such instructions are also transmitted from off the floor'').

[90] In considering the operation of automated execution systems operated by an exchange, the Commission noted that, while there is not an independent executing exchange member, the execution of an order is automatic once it has been transmitted into the system. Because the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange, the Commission has stated that executions obtained through these systems satisfy the independent execution requirement of Rule 11a2–2(T). *See* 1979 Release, *supra* note 87.

[91] *See* Notice, *supra* note 3, 79 FR at 13347. *See also* Amendment No. 1, *supra* note 4 and accompanying text.

[92] *See* 17 CFR 240.11a2–2(T)(a)(2)(iv). In addition, Rule 11a2–2(T)(d) requires a member or associated person authorized by written contract to retain compensation, in connection with effecting transactions for covered accounts over which such member or associated persons thereof exercises investment discretion, to furnish at least annually to the person authorized to transact business for the account a statement setting forth the total amount of compensation retained by the member in connection with effecting transactions for the account during the period covered by the statement. *See* 17 CFR 240.11a2–2(T)(d). *See also* 1978 Release, *supra* note 89 (stating ''[t]he contractual and disclosure requirements are designed to assure that accounts electing to permit transaction-related compensation do so only after deciding that such arrangements are suitable to their interests'').

[93] *See* Notice, *supra* note 3, 79 FR at 13347. *See also* Amendment No. 1, *supra* note 4 and accompanying text.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 1 is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–2014–09 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2014–09. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549–1090, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2014–09 and should be submitted on or before May 20, 2014.

VI. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

As discussed above, the Exchange submitted Amendment No. 1 to clarify representations it made in its original filing concerning the applicability of and compliance of its proposed PRIME mechanisms with Section 11(a) of the Act.[94] Specifically, MIAX clarified that it intended its references to ''PRIME'' in its Section 11(a) analysis to apply to both the PRIME price improvement mechanism as well as the PRIME Solicitation Mechanism. Thus, the content of Amendment No. 1, which merely clarifies a potential ambiguity in the filing, does not raise any novel issues and instead provides additional clarifying information to support MIAX's analysis of how its proposal is consistent with the Act and thus facilitates the Commission's ability to make the requisite findings set forth above and ultimately approve the proposal. In addition, the Commission notes that it published the original proposal in the **Federal Register** and did not receive any comments on MIAX's Section 11(a) analysis or any other parts of the proposal.[95] Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[96] to approve the filing, as modified by Amendment No. 1, on an accelerated basis prior to the 30th day after the date of the publication in the **Federal Register** of notice of Amendment No. 1 to the filing.

VII. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[97] that the proposed rule change (SR–MIAX–2014–09), as modified by Amendment No. 1, be and hereby is approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[98]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–09680 Filed 4–28–14; 8:45 am]

BILLING CODE 8011–01–P

[94] *See* Amendment No. 1, *supra* note 4.

[95] The Commission also notes that, in order to promote the public availability and transparency of MIAX's post-notice amendment, MIAX submitted a copy of Amendment No. 1 through the Commission's electronic public comment letter mechanism on the same day that it filed Amendment No. 1 with the Commission. *See supra* note 5.

[96] 15 U.S.C. 78s(b)(2).

[97] 15 U.S.C. 78s(b)(2).

[98] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71999; File No. SR–NYSEArca-2014–19]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Amendment No. 3 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 2 and 3, to List and Trade Shares of the iShares Core Allocation Conservative ETF, iShares Core Allocation Moderate ETF, iShares Core Allocation Moderate Growth ETF, and iShares Core Allocation Growth ETF Under NYSE Arca Equities Rule 8.600

April 23, 2014.

I. Introduction

On February 25, 2014, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (''Shares'') of the iShares Core Allocation Conservative ETF, iShares Core Allocation Moderate ETF, iShares Core Allocation Moderate Growth ETF, and iShares Core Allocation Growth ETF (each a ''Fund,'' and collectively ''Funds'') under NYSE Arca Equities Rule 8.600. On March 10, 2014, the Exchange filed Amendment No. 2 to the proposed rule change, which amended and replaced the proposed rule change in its entirety.[3] The proposed rule change was published for comment in the **Federal Register** on March 18, 2014.[4] On March 19, 2014, the Exchange filed Amendment No. 3 to the proposed rule change.[5] The Commission received no comments on the proposed rule change. The Commission is publishing this notice to solicit comments on Amendment No. 3 from interested persons, and is approving the proposed rule change, as modified by Amendment Nos. 2 and 3, on an accelerated basis.

II. Description of the Proposed Rule Change

The Exchange proposes to list and trade the Shares under NYSE Arca

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange filed Amendment No. 1 on March 7, 2014 and withdrew it on March 11, 2014.

[4] *See* Securities Exchange Act Release No. 71702 (March 12, 2014), 79 FR 15191 (''Notice'').

[5] In Amendment No. 3, the Exchange describes more clearly and specifically the ''short-term instruments'' in which the Funds may invest.

Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares. The Shares will be offered by iShares U.S. ETF Trust (''Trust''). The Trust is registered with the Commission as an open-end management investment company.[6] BlackRock Fund Advisors (''BFA'') will serve as the investment adviser to the Funds (''Adviser''). BlackRock Investments, LLC will be the principal underwriter and distributor of the Funds' Shares. State Street Bank and Trust Company will serve as administrator, custodian, and transfer agent for the Funds. The Exchange represents that the Adviser is not registered as a broker-dealer but is affiliated with multiple broker-dealers and has implemented a ''fire wall'' with respect to such broker-dealers regarding access to information concerning the composition and/or changes to a Fund's portfolio.[7]

iShares Core Allocation Conservative ETF

The Exchange states that the iShares Core Allocation Conservative ETF will seek to create a portfolio with a conservative risk profile by allocating its assets among the iShares Core suite of equity and fixed income exchange-traded funds (''ETFs''), as described below.

The Fund will be a fund of funds and will seek to achieve its investment objective by investing, under normal circumstances,[8] generally at least 80% of its net assets in the securities of ''Underlying Funds'' that themselves seek investment results corresponding to their own underlying indexes.[9] The Underlying Funds will invest primarily in distinct asset classes, such as large-capitalization, mid-capitalization, and small-capitalization U.S. equity, international developed market and emerging market equity, short-term U.S. government and corporate debt, long-term U.S. government and corporate debt, or the U.S. aggregate bond market; each such asset class has its own risk profile.[10]

The Fund will be an actively managed ETF that does not seek to replicate the performance of a specified index. BFA will select securities for the Fund using a proprietary, model-based investment process that seeks to maximize returns for the Fund's stated risk/return profile through investments in Underlying Funds.

The Fund intends to hold investments which in the aggregate have a conservative risk/return profile as determined by BFA. A ''conservative'' risk allocation typically emphasizes significant exposure to fixed income securities, while maintaining smaller exposure to equity securities, in an effort to preserve capital and reduce volatility of returns. As of June 30, 2013, BFA's model recommended an allocation of approximately 20% to Underlying Funds that invest primarily in equity securities and 80% to Underlying Funds that invest primarily in fixed income securities.

The Fund may lend securities representing up to one-third of the value of the Fund's total assets (including the value of the collateral received).

iShares Core Allocation Moderate ETF

The Exchange states that the iShares Core Allocation Moderate ETF will seek to create a portfolio with a moderate risk profile by allocating its assets among the iShares Core suite of equity and fixed income ETFs, as described below.

The Fund will be a fund of funds and will seek to achieve its investment objective by investing, under normal circumstances, generally at least 80% of its net assets in the securities of Underlying Funds that themselves seek investment results corresponding to their own underlying indexes.[11] The Underlying Funds will invest primarily in distinct asset classes, such as large-capitalization, mid-capitalization, and small-capitalization U.S. equity, international developed market and emerging market equity, short-term U.S. government and corporate debt, long-term U.S. government and corporate debt, or the U.S. aggregate bond market; each such asset class has its own risk profile.

The Fund will be an actively managed ETF that does not seek to replicate the performance of a specified index. BFA will select securities for the Fund using a proprietary, model-based investment process that seeks to maximize returns for the Fund's stated risk/return profile through investments in Underlying Funds.

The Fund intends to hold investments which in the aggregate have a moderate risk/return profile as determined by BFA. A ''moderate'' risk allocation typically emphasizes exposure to fixed income securities, while maintaining some exposure to equity securities, in an effort to provide an opportunity for some capital preservation and for low to moderate capital appreciation. As of June 30, 2013, BFA's model recommended an allocation of approximately 40% to Underlying Funds that invest primarily in equity securities and 60% to Underlying Funds

[6] The Exchange states that the Trust is registered under the Investment Company Act of 1940 (''1940 Act''). According to the Exchange, on September 6, 2013, the Trust filed with the Commission Form N–1A under the Securities Act of 1933 and under the 1940 Act relating to the Funds (File Nos. 333–179904 and 811–22649) (''Registration Statement''). The Exchange states that the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 29571 (File No. 812–13601).

[7] *See* NYSE Arca Equities Rule 8.600, Commentary .06. In the event (a) the Adviser or any sub-adviser registers as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer, or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition and/or changes to a portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio. Notice, *supra* note 4, 79 FR at 15192.

[8] The term ''under normal circumstances'' includes, but is not limited to, the absence of extreme volatility or trading halts in the equity markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar intervening circumstance.

[9] According to the Exchange, as of June 30, 2013, the Underlying Funds included the following iShares Core funds: iShares Core Long-Term U.S. Bond ETF, iShares Core MSCI EAFE ETF, iShares Core MSCI Emerging Markets ETF, iShares Core MSCI Total International Stock ETF, iShares Core S&P 500 ETF, iShares Core S&P Mid-Cap ETF, iShares Core S&P Small-Cap ETF, iShares Core S&P Total U.S. Stock Market ETF, iShares Core Short-Term U.S. Bond ETF, and iShares Core Total U.S. Bond Market ETF. BFA may add, eliminate, or replace the Underlying Funds at any time without advance notice to investors. The Underlying Funds held by a Fund may change over time and may not include all of the Underlying Funds listed above. In addition, the relative proportions of the Underlying Funds held by a Fund may change over time. Top sectors of the iShares Core Allocation Conservative ETF primarily include agency securities, financial companies, industrials companies, and treasury securities. The top sectors of the Fund, and the degree to which they represent certain industries, may change over time.

[10] The term ''Underlying Fund'' includes Investment Company Units (as described in NYSE Arca Equities Rule 5.2(j)(3)); Index-Linked Securities (as described in NYSE Arca Equities Rule 5.2(j)(6)); Portfolio Depositary Receipts (as described in NYSE Arca Equities Rule 8.100); Trust Issued Receipts (as described in NYSE Arca Equities Rule 8.200); Commodity-Based Trust Shares (as described in NYSE Arca Equities Rule 8.201); Commodity Index Trust Shares (as described in NYSE Arca Equities Rule 8.203); Commodity Futures Trust Shares (as described in NYSE Arca Equities Rule 8.204); and Managed Fund Shares (as described in NYSE Arca Equities Rule 8.600). All Underlying Funds will be listed and traded on a U.S. national securities exchange. While the Underlying Funds currently include only Investment Company Units (as described in NYSE Arca Equities Rule 5.2(j)(3)), which are based on indexes, in the future, Underlying Funds may include other types of securities enumerated in this footnote.

[11] *See supra* note 10. Top sectors of the iShares Core Allocation Moderate ETF primarily include agency securities, financial companies, and treasury securities. The top sectors of the Fund, and the degree to which they represent certain industries, may change over time.

that invest primarily in fixed income securities.

The Fund may lend securities representing up to one-third of the value of the Fund's total assets (including the value of the collateral received).

iShares Core Allocation Moderate Growth ETF

The Exchange states that the iShares Core Allocation Moderate Growth ETF will seek to create a portfolio with a moderate growth risk profile by allocating its assets among the iShares Core suite of equity and fixed income ETFs, as described below.

The Fund will be a fund of funds and will seek to achieve its investment objective by investing, under normal circumstances, generally at least 80% of its net assets in the securities of Underlying Funds that themselves seek investment results corresponding to their own underlying indexes.[12] The Underlying Funds will invest primarily in distinct asset classes, such as large-capitalization, mid-capitalization, and small-capitalization U.S. equity, international developed market and emerging market equity, short-term U.S. government and corporate debt, long-term U.S. government and corporate debt, or the U.S. aggregate bond market; each such asset class has its own risk profile.

The Fund will be an actively managed ETF that will not seek to replicate the performance of a specified index. BFA will select securities for the Fund using a proprietary, model-based investment process that seeks to maximize returns for the Fund's stated risk/return profile through investments in Underlying Funds.

The Fund intends to hold investments which in the aggregate have a moderate growth risk/return profile as determined by BFA. A ''moderate growth'' risk allocation typically emphasizes exposure to equity securities, while maintaining some exposure to fixed income securities, in an effort to provide an opportunity for moderate capital appreciation and some capital preservation. As of June 30, 2013, BFA's model recommended an allocation of approximately 60% to Underlying Funds that invest primarily in equity securities and 40% to Underlying Funds that invest primarily in fixed income securities.

The Fund may lend securities representing up to one-third of the value of the Fund's total assets (including the value of the collateral received).

iShares Core Allocation Growth ETF

The Exchange states that the iShares Core Allocation Growth ETF seeks to create a portfolio with a growth risk profile by allocating its assets among the iShares Core suite of equity and fixed income ETFs, as described below.

The Fund will be a fund of funds and will seek to achieve its investment objective by investing under normal circumstances generally at least 80% of its net assets in the securities of Underlying Funds that themselves seek investment results corresponding to their own underlying indexes.[13] The Underlying Funds will invest primarily in distinct asset classes, such as large-capitalization, mid-capitalization, and small-capitalization U.S. equity, international developed market and emerging market equity, short-term U.S. government and corporate debt, long-term U.S. government and corporate debt, or the U.S. aggregate bond market; each such asset class has its own risk profile.

The Fund will be an actively managed ETF that will not seek to replicate the performance of a specified index. BFA will select securities for the Fund using a proprietary, model-based investment process that seeks to maximize returns for the Fund's stated risk/return profile through investments in Underlying Funds.

The Fund intends to hold investments which in the aggregate have a growth risk/return profile as determined by BFA. A ''growth'' risk allocation typically emphasizes significant exposure to equity securities, while also allocating a smaller portion of exposure to fixed income securities, in an effort to provide an opportunity for long-term capital appreciation. As of June 30, 2013, BFA's model recommended an allocation of approximately 85% to Underlying Funds that invest primarily in equity securities and 15% to Underlying Funds that invest primarily in fixed income securities.

The Fund may lend securities representing up to one-third of the value of the Fund's total assets (including the value of the collateral received).

Other Investments

According to the Exchange, while each Fund, under normal circumstances, generally will invest at least 80% of its assets in Underlying Funds, as described above, each Fund may invest in other securities and financial instruments, as described below.

Each Fund may invest in other exchange-traded products (''ETPs'') in addition to the Underlying Funds described above.[14]

Each Fund may invest in short-term instruments on an ongoing basis to provide liquidity or for other reasons. Short-term instruments are: (i) Shares of money market funds (including those advised by BFA or otherwise affiliated with BFA); (ii) obligations issued or guaranteed by the U.S. government, its agencies or instrumentalities (including government-sponsored enterprises); (iii) negotiable certificates of deposit, bankers' acceptances, fixed-time deposits, and other obligations of U.S. and non-U.S. banks (including non-U.S. branches) and similar institutions; (iv) commercial paper rated, at the date of purchase, ''Prime-1'' by Moody's Investors Service, Inc., ''F–1'' by Fitch Inc., or ''A–1'' by Standard & Poor's Financial Services LLC, or if unrated, of comparable quality as determined by BFA; (v) non-convertible corporate debt securities (*e.g.,* bonds and debentures) with remaining maturities at the date of purchase of not more than 397 days and that satisfy the rating requirements set forth in Rule 2a-7 under the 1940 Act; (vi) repurchase agreements; (vii) short-term U.S. dollar-denominated obligations of non-U.S. banks (including U.S. branches) that, in the opinion of BFA, are of comparable quality to obligations of U.S. banks which may be purchased by a Fund; and (viii) other similar short-term instruments.[15]

Other Restrictions

Each Fund will be classified as ''non-diversified.'' A non-diversified fund is a fund that is not limited by the 1940 Act with regard to the percentage of its

[12] *See supra* note 10. Top sectors of the iShares Core Allocation Moderate Growth ETF primarily include consumer discretionary, financial companies, industrials, information technology companies, and treasury securities. The top sectors of the Fund, and the degree to which they represent certain industries, may change over time.

[13] *See supra* note 10. Top sectors of the iShares Core Allocation Growth ETF primarily include consumer discretionary, financial companies, industrials, and information technology companies. The top sectors of the Fund, and the degree to which they represent certain industries, may change over time.

[14] The term ''ETP'' includes Investment Company Units (as described in NYSE Arca Equities Rule 5.2(j)(3)); Index-Linked Securities (as described in NYSE Arca Equities Rule 5.2(j)(6)); Portfolio Depositary Receipts (as described in NYSE Arca Equities Rule 8.100); Trust Issued Receipts (as described in NYSE Arca Equities Rule 8.200); Commodity-Based Trust Shares (as described in NYSE Arca Equities Rule 8.201); Commodity Index Trust Shares (as described in NYSE Arca Equities Rule 8.203); Commodity Futures Trust Shares (as described in NYSE Arca Equities Rule 8.204); and Managed Fund Shares (as described in NYSE Arca Equities Rule 8.600). All ETPs will be listed and traded on a U.S. national securities exchange.

[15] *See* Amendment No. 3.

assets that may be invested in the securities of a single issuer.[16]

Each Fund intends to maintain the required level of diversification and otherwise conduct its operations so as to qualify as a regulated investment company under Subchapter M of the Internal Revenue Code.[17]

A Fund may hold up to an aggregate amount of 15% of its net assets (calculated at the time of investment) in assets deemed illiquid by the Adviser,[18] consistent with Commission guidance. Each Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of a Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

Additional information regarding the Trust, the Funds, and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, distributions, and taxes, among other things, is included in the Notice and Registration Statement, as applicable.[19]

III. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act [20] and the rules and regulations thereunder applicable to a national securities exchange.[21] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[22] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission notes that the Funds and the Shares must comply with the requirements of NYSE Arca Equities Rule 8.600 for the Shares to be listed and traded on the Exchange.

The Commission finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act,[23] which sets forth Congress's finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities. According to the Exchange, quotation and last-sale information for the Shares of each Fund, shares of the Underlying Funds, and shares of other ETPs will be available via the Consolidated Tape Association (''CTA'') high-speed line. In addition, the Indicative Optimized Portfolio Value (''IPOV''), which is the Portfolio Indicative Value as defined in NYSE Arca Equities Rule 8.600(c)(3), will be widely disseminated at least every 15 seconds during the Core Trading Session by one or more major market data vendors.[24] On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, each Fund will disclose on its Web site the Disclosed Portfolio, as defined in NYSE Arca Equities Rule 8.600(c)(2), that will form the basis for such Fund's calculation of net asset value (''NAV'') at the end of the business day.[25] The NAV of each Fund normally will be determined once daily Monday through Friday, generally as of the regularly scheduled close of business of the New York Stock Exchange (normally 4:00 p.m. Eastern Time) on each day the New York Stock Exchange is open for trading. A basket composition file, which will include the security names and share quantities required to be delivered in exchange for each Fund's Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the New York Stock Exchange via the National Securities Clearing Corporation. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. The Web site for the Funds will include a form of the prospectus for the Funds and additional data relating to NAV and other applicable quantitative information.

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Commission notes that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share of each Fund will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.[26] In addition, trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of a Fund may be halted. The Exchange may halt trading in the Shares if trading is not occurring in the securities and/or the financial instruments constituting the Disclosed Portfolio of a Fund, or if other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.[27] Further, the Commission notes that the Reporting Authority that provides the Disclosed Portfolio of each Fund must implement and maintain, or be subject to,

[16] The diversification standard is set forth in Section 5(b)(1) of the 1940 Act.

[17] 26 U.S.C. 851 *et seq.*

[18] In reaching liquidity decisions, the Adviser may consider the following factors: the frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace in which it trades (*e.g.,* the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer).

[19] *See* Notice and Registration Statement, *supra* notes 4 and 6, respectively.

[20] 15 U.S.C. 78f.

[21] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[22] 15 U.S.C. 78f(b)(5).

[23] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[24] According to the Exchange, several major market data vendors display and/or make widely available IOPVs taken from the CTA or other data feeds.

[25] On a daily basis, each Fund will disclose for each portfolio security or other financial instrument of each Fund the following information on the Funds' Web site: ticker symbol (if applicable); name of security and financial instrument; number of shares and dollar value of securities and financial instruments held in the portfolio; and percentage weighting of the security and financial instrument in the portfolio. The Web site information will be publicly available at no charge.

[26] *See* NYSE Arca Equities Rule 8.600(d)(1)(B).

[27] *See* NYSE Arca Equities Rule 8.600(d)(2)(C) (providing additional considerations for the suspension of trading in or removal from listing of Managed Fund Shares on the Exchange). With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of each Fund. Trading in Shares of a Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.

procedures designed to prevent the use and dissemination of material, non-public information regarding the actual components of the portfolio.[28] The Commission notes that the Financial Industry Regulatory Authority (''FINRA''), on behalf of the Exchange,[29] will communicate as needed regarding trading in the Shares of each Fund, shares of the Underlying Funds, and shares of other ETPs with other markets and other entities that are members of the Intermarket Surveillance Group (''ISG''), and FINRA, on behalf of the Exchange, may obtain trading information from these markets and other entities regarding trading in the Shares of each Fund, shares of the Underlying Funds, and shares of other ETPs. In addition, the Exchange may obtain information regarding trading in the Shares of the Funds, shares of the Underlying Funds, and shares of other ETPs from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. The Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees. The Exchange also states that the Adviser is not registered as a broker-dealer but is affiliated with multiple broker-dealers and has implemented a ''fire wall'' with respect to such broker-dealers regarding access to information concerning the composition and/or changes to a Fund's portfolio.[30]

The Exchange represents that the Shares are deemed to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities.

In support of this proposal, the Exchange has made representations, including:

(1) The Shares of each Fund will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600.

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(3) Trading in the Shares will be subject to the existing surveillance procedures administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws and these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

(4) Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (a) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (b) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its Equity Trading Permit Holders to learn the essential facts relating to every customer prior to trading the Shares; (c) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated IOPV will not be calculated or publicly disseminated; (d) how information regarding the IOPV is disseminated; (e) the requirement that Equity Trading Permit Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading information.

(5) For initial and/or continued listing, the Funds will be in compliance with Rule 10A–3 under the Exchange Act,[31] as provided by NYSE Arca Equities Rule 5.3.

(6) A Fund may hold up to an aggregate amount of 15% of its net assets (calculated at the time of investment) in assets deemed illiquid by the Adviser, consistent with Commission guidance.

(7) A minimum of 100,000 Shares of each Fund will be outstanding at the commencement of trading on the Exchange.

(8) All Underlying Funds and ETPs will be listed and traded on a U.S. national securities exchange. With the exception of short-term instruments, all components of the Disclosed Portfolio for a Fund will trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

This approval order is based on all of the Exchange's representations and description of the Funds, including those set forth above and in the Notice.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment Nos. 2 and 3, is consistent with Section 6(b)(5) of the Act[32] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Solicitation of Comments on Amendment No. 3

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 3 is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2014–19 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2014–19. 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

[28] *See* NYSE Arca Equities Rule 8.600(d)(2)(B)(ii).

[29] The Exchange states that, while FINRA surveils trading on the Exchange pursuant to a regulatory services agreement, the Exchange is responsible for FINRA's performance under this regulatory services agreement.

[30] *See supra* note 7. An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (''Advisers Act''). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[31] 17 CFR 240.10A–3.

[32] 15 U.S.C. 78f(b)(5).

proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2014–19 and should be submitted on or before May 20, 2014.

V. Accelerated Approval of Proposed Rule Change as Modified by Amendment Nos. 2 and 3

The Commission finds good cause to approve the proposed rule change, as modified by Amendment Nos. 2 and 3, prior to the thirtieth day after the date of publication of notice in the **Federal Register**. Amendment No. 3 supplements the proposed rule change by describing more clearly and specifically the ''short-term instruments'' in which the Funds may invest. The Commission believes that this additional information provides clarity on the Funds' ability to invest in short-term instruments. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[33] to approve the proposed rule change, as modified by Amendment Nos. 2 and 3, on an accelerated basis.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[34] that the proposed rule change (SR–NYSEArca–2014–19), as modified by Amendment Nos. 2 and 3, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–09673 Filed 4–28–14; 8:45 am]

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[33] 15 U.S.C. 78s(b)(2).

[34] 15 U.S.C. 78s(b)(2).

[35] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72007; File No. SR–NASDAQ–2014–020]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change Relating to Listing and Trading of Exchange-Traded Managed Fund Shares

April 23, 2014.

On February 26, 2014, The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b-4 thereunder,[2] a proposed rule change to adopt NASDAQ Rule 5745, which would govern the listing and trading of Exchange-Traded Managed Fund Shares, and to amend related references under NASDAQ Rules 4120, 5615, IM–5615–4, and 5940. The proposed rule change was published for comment in the **Federal Register** on March 12, 2014.[3] The Commission received four comments on the proposal.[4]

Section 19(b)(2) of the Act[5] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is April 26, 2014. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change, which seeks to adopt a new rule, as well as amend existing rules, relating to the listing and trading of Exchange-Traded Managed Fund Shares, so that it has sufficient time to consider this proposed rule change.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates June 10, 2014, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NASDAQ–2014–020).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–09678 Filed 4–28–14; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] *See* Securities Exchange Act Release No. 71657 (March 6, 2014), 79 FR 14092.

[4] *See* Letters to the Commission from Christopher Davis, President, Money Management Institute, dated March 27, 2014; Robert Tull, President, Robert Tull & Co., dated March 31, 2014; Avi Nachmany, Co-Founder, Director of Research, E.V.P, Strategic Insight, dated April 1, 2014; and Eric Noll, President and Chief Executive Officer, ConvergEx Group, LLC, dated April 1, 2014.

[5] 15 U.S.C. 78s(b)(2).

[6] *Id.*

[7] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72012; File No. SR–NASDAQ–2014–042]

Self-Regulatory Organizations; the NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify Rule 4758 to Correct a Typographical Error

April 23, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1], and Rule 19b–4 thereunder,[2] notice is hereby given that on April 14, 2014, The NASDAQ Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDAQ proposes to modify Rule 4758 to correct a typographical error made in SR–NASDAQ–2014–025, a recent proposed rule change pertaining, among other things, to NASDAQ's LIST routing strategy.[3] The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 71794 (March 25, 2014), 79 FR 18101 (March 31, 2014) (SR–NASDAQ–2014–025).

the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ offers its members optional routing functionality that allows them to use NASDAQ's facilities to access liquidity available on other trading venues. The functionality includes a range of defined routing algorithms—known as strategies—that determine the destinations and pattern of routing. All routing is designed to be conducted in a manner consistent with the requirements of Regulation NMS.

In SR–NASDAQ–2014–025, NASDAQ made minor changes to the rules governing its DOT, DOTI, and LIST strategies to improve their functioning and the clarity of the rule that describes them in certain situations. The new rule text governing the LIST strategy contained a typographical error, however, that NASDAQ is now proposing to correct.

LIST is a routing option designed to allow orders to participate in the opening and/or closing process of the primary listing market for a security, and to follow additional routing logic described in the rule. In one instance, however, NASDAQ used the term ''primary market'' rather than ''primary listing market'' in reference to functionality that would apply after the security had closed. Accordingly, NASDAQ is proposing to correct this error.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[4] in general, and with Section 6(b)(5) of the Act[5] in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. NASDAQ believes that the change will promote these goals by ensuring that the rule used to describe the LIST routing strategy used accurate terminology.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. Specifically, NASDAQ believes that the change does not impact competition in any respect, since it is designed merely to correct a typographical error.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[6] and Rule 19b–4(f)(6)(iii) thereunder.[7]

A proposed rule change filed under Rule 19b–4(f)(6)[8] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii)[9] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the correction to the Exchange's rule text to take effect immediately. For this reason, the Commission designates the proposed rule change to be operative upon filing.[10]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2014–042 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2014–042. 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

[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6)(iii). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[8] 17 CFR 240.19b–4(f)(6).

[9] 17 CFR 240.19b–4(f)(6)(iii).

[10] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2014–042, and should be submitted on or before May 20, 2014

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–09681 Filed 4–28–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71998; File No. SR–FINRA–2014–015]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Revise the Series 26 Examination Program

April 23, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 15, 2014, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as ''constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule'' under Section 19(b)(3)(A)(i) of the Act[3] and Rule 19b–4(f)(1) thereunder,[4] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

FINRA is filing revisions to the content outline and selection specifications for the Investment Company and Variable Contracts Products Principal (Series 26) examination program.[5] The proposed revisions update the material to reflect changes to the laws, rules and regulations covered by the examination and to incorporate the functions and associated tasks currently performed by an Investment Company and Variable Contracts Products Principal. In addition, FINRA is proposing to make changes to the format of the content outline. FINRA is not proposing any textual changes to the By-Laws, Schedules to the By-Laws or Rules of FINRA.

The revised content outline is attached.[6] The Series 26 selection specifications have been submitted to the Commission under separate cover with a request for confidential treatment pursuant to SEA Rule 24b–2.[7]

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

Section 15A(g)(3) of the Act[8] authorizes FINRA to prescribe standards of training, experience, and competence for persons associated with FINRA members. In accordance with that provision, FINRA has developed examinations that are designed to establish that persons associated with FINRA members have attained specified levels of competence and knowledge, consistent with applicable registration requirements under FINRA rules. FINRA periodically reviews the content of the examinations to determine whether revisions are necessary or appropriate in view of changes pertaining to the subject matter covered by the examinations.

Pursuant to NASD Rule 1022(d)[9] (Limited Principal—Investment Company and Variable Contracts Products), if a principal's activities are limited solely to redeemable securities of companies registered under the Investment Company Act of 1940 (''Investment Company Act''), securities of closed-end companies registered under the Investment Company Act during the period of original distribution, and variable contracts and insurance premium funding programs and other contracts issued by an insurance company (except contracts that are exempt securities pursuant to Section 3(a)(8) of the Securities Act of 1933), and he is registered as either a General Securities Representative or a Limited Representative—Investment Company and Variable Contracts Products, the principal may register and qualify as an Investment Company and Variable Contracts Products Principal.[10] The Series 26 examination qualifies an individual to function as an Investment Company and Variable Contracts Products Principal.

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(i).

[4] 17 CFR 240.19b–4(f)(1).

[5] FINRA also is proposing corresponding revisions to the Series 26 question bank. Based on instruction from SEC staff, FINRA is submitting this filing for immediate effectiveness pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(1) thereunder, and is not filing the question bank for review. *See* Letter to Alden S. Adkins, Senior Vice President and General Counsel, NASD Regulation, from Belinda Blaine, Associate Director, Division of Market Regulation, SEC, dated July 24, 2000. The question bank is available for SEC review.

[6] The Commission notes that the revised content outline is attached to the filing, not to this Notice.

[7] 17 CFR 240.24b–2.

[8] 15 U.S.C. 78*o*–3(g)(3).

[9] The current FINRA rulebook consists of (1) FINRA Rules; (2) NASD Rules; and (3) rules incorporated from NYSE (''Incorporated NYSE Rules'') (together, the NASD Rules and Incorporated NYSE Rules are referred to as the ''Transitional Rulebook''). While the NASD Rules generally apply to all FINRA members, the Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE (''Dual Members''). The FINRA Rules apply to all FINRA members, unless such rules have a more limited application by their terms. For more information about the rulebook consolidation process, *see Information Notice,* March 12, 2008 (Rulebook Consolidation Process).

[10] *See also* Incorporated NYSE Rule 345.15(3) and Incorporated NYSE Rule Interpretation 345.15/02.

In consultation with a committee of industry representatives, FINRA recently undertook a review of the Series 26 examination program. As a result of this review, FINRA is proposing to make revisions to the content outline to reflect changes to the laws, rules and regulations covered by the examination and to incorporate the functions and associated tasks currently performed by an Investment Company and Variable Contracts Products Principal. FINRA also is proposing to make changes to the format of the content outline.

Current Outline

The current content outline is divided into five sections. The following are the five sections and the number of questions associated with each of the sections, denoted Section 1 through Section 5:

1. Hiring and Qualifications: Determine Good Character, Business Repute, Qualifications and Experience, 11 questions;
2. Training of Representatives: Assure Representatives Have Necessary Knowledge to Perform Their Duties, 19 questions;
3. Supervision: Develop, Maintain and Adhere to Required Supervisory Structure, 24 questions;
4. Sales Practices: Assure Sales Are Made in Compliance with Firm and Securities Rules and Regulations, 32 questions; and
5. Business Processing and Recordkeeping Rules: Assure Transactions Are Executed in Accordance with Firm and Regulatory Requirements 24 questions.

Each section also includes the applicable laws, rules and regulations associated with that section. The current outline also includes a preface (addressing, among other things, the purpose, administration and scoring of the examination), sample questions and reference materials.

Proposed Revisions

FINRA is proposing to divide the content outline into three major job functions that are performed by an Investment Company and Variable Contracts Products Principal. The following are the three major job functions, denoted Function 1 through Function 3, with the associated number of questions:

Function 1: Personnel Management Activities and Registration of the Broker-Dealer, 16 questions;

Function 2: Supervises Associated Persons and Oversees Sales Practices, 49 questions; and

Function 3: Oversees Compliance and Business Processes of the Broker-Dealer and its Offices, 45 questions.

FINRA is also proposing to adjust the number of questions assigned to each major job function to ensure that the overall examination better reflects the key tasks performed by an Investment Company and Variable Contracts Products Principal. The questions on the revised Series 26 examination will place greater emphasis on key tasks such as supervision of registered persons, sales practices and compliance.

Each function also includes specific tasks describing activities associated with performing that function. There are two tasks (1.1—1.2) associated with Function 1; six tasks (2.1—2.6) associated with Function 2; and six tasks (3.1—3.6) associated with Function 3.[11] By way of example, one such task (Task 2.1) is monitors, supervises and documents the sales activities of associated persons to achieve compliance with securities industry rules and regulations and firm policies and provides feedback regarding product knowledge and performance.[12] Further, the outline lists the knowledge required to perform each function and associated tasks (*e.g.,* standards of conduct and prohibited activities).[13] In addition, where applicable, the outline lists the laws, rules and regulations a candidate is expected to know to perform each function and associated tasks. These include the applicable FINRA Rules (*e.g.,* FINRA Rule 2090), NASD Rules (*e.g.,* NASD Rule 2510) and SEC rules (*e.g.,* SEA Rule 15c1–7).[14] FINRA conducted a job analysis study of Investment Company and Variable Contracts Products Principals, which included the use of a survey, in developing each function and associated tasks and updating the required knowledge set forth in the revised outline. The functions and associated tasks, which appear in the revised outline for the first time, reflect the day-to-day activities of an Investment Company and Variable Contracts Products Principal.

As noted above, FINRA also is proposing to revise the content outline to reflect changes to the laws, rules and regulations covered by the examination. Among other revisions, FINRA is proposing to revise the content outline to reflect the adoption of rules in the consolidated FINRA rulebook (*e.g.,* NASD Rule 2310 (Recommendations to Customers (Suitability)), NASD Rule 2212 (Telemarketing) and NASD Rule 3110 (Books and Records) were adopted as FINRA Rule 2111 (Suitability), FINRA Rule 3230 (Telemarketing) and FINRA Rule 4510 Series (Books and Records Requirements), respectively).[15]

FINRA is proposing similar changes to the Series 26 selection specifications and question bank.

Finally, FINRA is proposing to make changes to the format of the content outline, including the preface, sample questions and reference materials. Among other changes, FINRA is proposing to: (1) Add a table of contents;[16] (2) provide more details regarding the purpose of the examination;[17] (3) provide more details on the application procedures;[18] (4) provide more details on the development and maintenance of the content outline and examination;[19] (5) explain that the passing scores are established by FINRA staff, in consultation with a committee of industry representatives, using a standard setting procedure and that the scores are an absolute standard independent of the performance of candidates taking the examination;[20] and (6) note that each candidate will receive a score report at the end of the test session, which will indicate a pass or fail status and include a score profile listing the candidate's performance on each major content area covered on the examination.[21]

The number of questions on the Series 26 examination will remain at 110 multiple-choice questions,[22] and candidates will continue to have 165 minutes to complete the examination. Currently, a score of 70 percent is required to pass the examination. The passing score will remain the same.

[11] *See* Exhibit 3a, Outline Pages 6–18. The Commission notes that Exhibit 3a is an exhibit to the filing, not to this Notice.

[12] *See* Exhibit 3a, Outline Page 9.

[13] *See* Exhibit 3a, Outline Page 9.

[14] *See* Exhibit 3a, Outline Pages [sic] 11.

[15] *See* Rule Conversion Chart, available at *http://www.finra.org/Industry/Regulation/FINRARules/p085560.*

[16] *See* Exhibit 3a, Outline Page 2.

[17] *See* Exhibit 3a, Outline Page 3.

[18] *See* Exhibit 3a, Outline Page 3.

[19] *See* Exhibit 3a, Outline Page 4.

[20] *See* Exhibit 3a, Outline Page 5.

[21] *See* Exhibit 3a, Outline Page 5.

[22] Consistent with FINRA's practice of including ''pre-test'' questions on certain qualification examinations, which is designed to ensure that new examination questions meet acceptable testing standards prior to use for scoring purposes, the examination includes ten additional, unidentified pre-test questions that do not contribute towards the candidate's score. Therefore, the examination actually consists of 120 questions, 110 of which are scored. The ten pre-test questions are randomly distributed throughout the examination.

Availability of Content Outlines

The current Series 26 content outline is available on FINRA's Web site, at www.finra.org/brokerqualifications/exams. The revised Series 26 content outline will replace the current content outline on FINRA's Web site.

FINRA is filing the proposed rule change for immediate effectiveness. FINRA proposes to implement the revised Series 26 examination program on June 16, 2014. FINRA will announce the proposed rule change and the implementation date in a *Regulatory Notice.*

2. Statutory Basis

FINRA believes that the proposed revisions to the Series 26 examination program are consistent with the provisions of Section 15A(b)(6) of the Act,[23] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 15A(g)(3) of the Act,[24] which authorizes FINRA to prescribe standards of training, experience, and competence for persons associated with FINRA members. FINRA believes that the proposed revisions will further these purposes by updating the examination program to reflect changes to the laws, rules and regulations covered by the examination and to incorporate the functions and associated tasks currently performed by an Investment Company and Variable Contracts Products Principal.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The updated examination aligns with the functions and associated tasks currently performed by an Investment Company and Variable Contracts Products Principal and tests knowledge of the most current laws, rules, regulations and skills relevant to those functions and associated tasks. As such, the proposed revisions would make the examination more efficient and effective.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[25] and paragraph (f)(1) of Rule 19b–4 thereunder.[26] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2014–015 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2014–015. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2014–015 and should be submitted on or before May 20, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–09672 Filed 4–28–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72001; File No. SR–EDGA–2014–09]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the EDGA Exchange, Inc. Fee Schedule

April 23, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 9, 2014, EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[23] 15 U.S.C. 78*o*-3(b)(6).

[24] 15 U.S.C. 78*o*-3(g)(3).

[25] 15 U.S.C. 78s(b)(3)(A).

[26] 17 CFR 240.19b–4(f)(1).

[27] 17 CFR 200.30–3(a)(12).

[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 proposes to amend its fees and rebates applicable to Members [3] of the Exchange pursuant to EDGA Rule 15.1(a) and (c) (''Fee Schedule'') to harmonize the definitions of Average Daily Trading Volume (''ADV'') and Total Consolidated Volume (''TCV'') with those contained in the BATS Exchange, Inc. (''BATS'') and BATS–Y Exchange, Inc. (''BYX'') fee schedules by: (i) Modifying the way that, for purposes of tiered pricing, the Exchange calculates ADV and average daily TCV; and (ii) clarify the manner in which Members may aggregate their ADV with other affiliated Members. The text of the proposed rule change is available on the Exchange's Internet Web site at *www.directedge.com,* at the Exchange's principal office, and at the Public Reference Room of the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

On January 31, 2014, Direct Edge Holdings LLC (''DE Holdings''), the former parent company of the Exchange, completed its business combination with BATS Global Markets, Inc., the parent company of BATS and BYX.[4] As part of its effort to reduce regulatory duplication and relieve firms that are members of the Exchange, BATS, and BYX of conflicting or unnecessary regulatory burdens, the Exchange is now engaged in the process of reviewing and amending certain Exchange, BATS, and BYX Rules. To conform to comparable BATS and BYX rules for purposes of its harmonization efforts due to its business combination, the Exchange proposes to amend the definitions of ADV and TCV to make each definition similar to those contained in the BATS and BYX fee schedules by modifying the way that, for purposes of tiered pricing: (i) The Exchange calculates ADV and average daily TCV; and (ii) the manner in which Members may aggregate their ADV with other affiliated Members. The Exchange notes that it is not proposing to modify any of the existing rebates or the percentage thresholds at which a Member may qualify for certain rebates pursuant to the tiered pricing structure.

ADV and TCV

Currently, the Exchange determines the liquidity adding reduced fees that it will provide to Members based on the Exchange's tiered pricing structure based on the calculation of ADV,[5] and/or average daily TCV.[6] Unlike on BATS and BYX, the Exchange does not currently exclude any trading days from its calculation of ADV and TCV. Therefore, to harmonize the calculation of ADV and TCV with BATS and BYX, the Exchange proposes to amend the definitions of ADV and TCV to exclude shares on: (i) Any day that the Exchange's system experiences a disruption that lasts for more than 60 minutes during Regular Trading Hours [7] (''Exchange System Disruption''); and (ii) the last Friday in June (the ''Russell Reconstitution Day''). The Exchange also proposes to amend the definition of ADV to clarify that routed shares are not included in ADV calculation.

First, the Exchange proposes to modify the definitions of ADV and TCV to exclude trading days where the Exchange experiences a systems disruption that lasts for more than 60 minutes during Regular Trading Hours and define it as an Exchange System Disruption.[8] As an example, an Exchange System Disruption may occur where a certain group of securities (i.e., securities in a select symbol range such as A through C) traded on the Exchange are unavailable for trading due to an Exchange system issue. Similarly, the Exchange may be able to perform certain functions with respect to accepting and processing orders, but may have a failure to another significant process, such as routing to other market centers, that would lead Members that rely on such process to avoid utilizing the Exchange until the Exchange's entire system was operational.

The Exchange believes that this modification is reasonable because it avoids penalizing Members that might otherwise qualify for certain tiered pricing but that, because of a significant Exchange system problem, did not participate on the Exchange to the extent that they might have otherwise participated. The Exchange believes that certain systems disruptions could preclude some Members from submitting orders to the Exchange even if such issue is not actually a complete systems outage. Therefore, the Exchange is proposing to modify its Fee Schedule to exclude trading activity occurring on any day that the Exchange experiences an Exchange System Disruption.

Second, the Exchange proposes to exclude the last Friday of June each year from the definition of ADV and TCV because the last Friday of June is the day that Russell Investments reconstitutes its family of indexes (''Russell Rebalance''), resulting in particularly high trading volumes, much of which the Exchange believes derives from market participants who are not generally as active entering the market to rebalance their holdings in-line with the Russell Rebalance.[9] The Exchange believes that trading occurring as a result of the Russell Rebalance can significantly skew the calculation of ADV and TCV. For example, since 2008, on the last Friday in June, the TCV has exceeded the average daily TCV for the preceding trading days in June by approximately 43% on average. The chart below reflects the TCV on the last Friday of June for each year dating to 2008 and compares it to the average daily TCV for the preceding trading days in the month of June.

[3] The term ''Member'' is defined as ''any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange. A Member will have the status of a ''member'' of the Exchange as that term is defined in Section 3(a)(3) of the Act.'' *See* Exchange Rule 1.5(n).

[4] *See* Securities Exchange Act Release No. 71449 (January 30, 2014), 79 FR 6961 (February 5, 2014) (SR–EDGA–2013–34). Upon completion of the Combination, DE Holdings and BATS Global Markets, Inc. each became intermediate holding companies, held under a single new holding company. The new holding company, formerly named ''BATS Global Markets Holdings, Inc.,'' changed its name to ''BATS Global Markets, Inc.''

[5] As provided in the Fee Schedule, ''ADV'' is currently defined as the average daily volume of shares that a Member executed on the Exchange for the month in which the fees are calculated.

[6] As provided in the Fee Schedule, ''TCV'' is currently defined as the volume reported by all exchanges and trade reporting facilities to the consolidated transaction reporting plans for Tapes A, B and C securities for the month in which the fees are calculated.

[7] ''Regular Trading Hours'' is defined as ''the time between 9:30 a.m. and 4:00 p.m. Eastern Time.'' *See* Exchange Rule 1.5(y).

[8] *See* SR–BATS–2014–010 and SR–BYX–2014–006 (proposing to exclude Exchange System Disruptions from the definition of ADV).

[9] Securities Exchange Act Release No. 69793 (July 18, 2013), 78 FR 37865 (July 24, 2013) (SR–BATS–2013–034) (excluding the Russell Reconstitution Day from the definition of ADV).

Russell reconstitution date (RCD)	TCV on RCD	MTD average TCV as of day before RCD	% Difference
6/28/2013	10,211,508,622	6,954,840,047	46.83
6/29/2012	7,924,340,355	6,833,486,672	15.96
6/24/2011	10,472,502,657	7,237,593,514	44.70
6/25/2010	14,482,717,113	8,981,067,278	61.26
6/26/2009	13,024,518,377	9,597,498,903	35.71
6/27/2008	12,010,692,402	7,835,813,201	53.28

Because of the extremely high volume numbers and abnormally distributed daily volume or percentage of the TCV on this day, it stands that the ADV or percentage of average daily TCV can be significantly impacted.

As such, the Exchange believes that eliminating the last Friday of June from the definition of ADV and TCV, and thereby eliminating that day from the calculation as it relates to reduced fees for adding liquidity to the Exchange, will help to eliminate significant uncertainty faced by Members as to their monthly ADV or percentage of average daily TCV and the reduced fees that this percentage will qualify for, providing Members with an increased certainty as to their monthly cost for trades executed on the Exchange. The Exchange further believes that removing this uncertainty will encourage Members to participate in trading on the Exchange during the remaining trading days in June in a manner intended to be incented by the Exchange's Fee Schedule.

Lastly, the Exchange proposes to clarify within the definition of ADV that ADV does not include shares that are routed to other trading centers. ADV is defined as the average daily volume of shares executed *on the Exchange* for the month in which the fees are calculated. Clarifying that routed orders are not included in the definition of ADV is designed to add further clarity and harmonize the definition with BATS and BYX.

ADV Aggregation

The Exchange also proposes to amend when a Member may aggregate share volumes with other affiliated Members. Currently, under the ''General Notes'' section of the Fee Schedule, the Exchange will aggregate share volume calculations for wholly owned affiliates on a prospective basis upon a Member's request. The Exchange proposes to relocate this provision to the definition of ADV and amend the language to allow a Member to aggregate ADV with other Members that control, are controlled by, or are under common control with such Member (as evidenced on such Member's Form BD).[10] To the extent two or more affiliated companies maintain separate Exchange memberships and can demonstrate their affiliation by showing they control, are controlled by, or are under common control with each other, the Exchange will permit such Members to count overall volume of the affiliates in calculating ADV.

Implementation Date

The Exchange proposes to implement these amendments to its Fee Schedule on May 1, 2014.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[11] in general, and furthers the objectives of Section 6(b)(4),[12] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee structures at a particular venue to be unreasonable and/or excessive.

Members who are also members of BATS or BYX are subject to different definitions of ADV and TCV as well as differing standards for aggregating ADV with affiliated Members when seeking to qualify for certain tiered pricing. The Exchange believes that the proposed rule change will provide greater harmonization between similar Exchange, BATS and BYX rules, resulting in greater uniformity and less burdensome and more efficient regulatory compliance for common members. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system. Lastly, the Exchange believes that the proposed change is non-discriminatory because it applies uniformly to all Members.

Volume-based tiers such as the liquidity adding tiers maintained by the Exchange have been widely adopted, and are equitable and not unfairly discriminatory. They are open to all Members on an equal basis and provide higher rebates or lower fees that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and introduction of higher volumes of orders into the price and volume discovery process. Accordingly, the Exchange believes that the proposal is equitably allocated and not unfairly discriminatory because it is consistent with the overall goals of enhancing market quality. Further, the Exchange believes that a tiered pricing model not significantly altered by a day of atypical trading behavior which allows Members to predictably calculate what their costs associated with trading activity on the Exchange will be is reasonable, fair and equitable and not unreasonably discriminatory as it is uniform in application amongst Members and should enable such participants to operate their business without concern of unpredictable and potentially significant changes in expenses.

ADV and TCV

The Exchange believes that its proposed amendments to the definitions of ADV and TCV to exclude shares on the day of an Exchange System Disruption are reasonable because, as explained above, they will help provide Members with a greater level of certainty as to their level of costs for trading in any month where the Exchange experiences an Exchange System Disruption on one or more trading days. The Exchange is not proposing to amend the thresholds a Member must achieve to become eligible for, or the dollar value associated with, the tiered pricing. By eliminating the inclusion of a trading day on which an Exchange System Disruption occurs the Exchange would almost certainly be excluding a day that would otherwise lower a Member's ADV

[10] Securities Exchange Act Release No. 64211 (April 6, 2011), 76 FR 20414 (April 12, 2014 [sic]) (SR–BATS–2011–012) (permitting Members to aggregate shares volumes with affiliated entities).

[11] 15 U.S.C. 78f.

[12] 15 U.S.C. 78f(b)(4).

or percentage of average daily TCV. Thus, the proposed change will make the majority of Members more likely to meet the minimum or higher tier thresholds, incentivizing Members to increase their participation on the Exchange in order to meet the next highest tier. In addition, the Exchange believes that the proposed changes to its Fee Schedule are equitably allocated among Exchange constituents and not unfairly discriminatory as the methodology for calculating ADV and TCV will apply equally to all Members. While, although unlikely, certain Members may have a higher ADV or percentage of average daily TCV with their activity included from days where the Exchange experiences an Exchange System Disruption, the proposal will make all Members' cost of trading on the Exchange more predictable, regardless of how the proposal affects their ADV or percentage of average daily TCV.

The Exchange believes that its proposed amendments to the definitions of ADV and TCV to exclude shares on the Russell Reconstitution Day are reasonable because, as explained above, it will help provide Members with a greater level of certainty as to their level of fees for trading in the month of June. The Exchange also believes that its proposal is reasonable because it is not changing the thresholds to become eligible or the dollar value associated with the reduced fees. Moreover, by eliminating the inclusion of a trading day that would almost certainly lower a Member's ADV or percentage of average daily TCV, it will make the majority of Members more likely to meet the minimum or higher tier thresholds, which will provide additional incentive to Members to increase their participation on the Exchange in order to meet the next tier. In addition, the Exchange believes that the proposed changes are equitably allocated among Exchange constituents as the methodology for calculating ADV and TCV will apply equally to all Members. While, although unlikely, certain Members may have a higher ADV or percentage of average daily TCV with the day included, the proposal will make June trading fees more similar to other months. Moreover, all Members' cost of trading on the Exchange will become more predictable, regardless of how the proposal affects their ADV or percentage of average daily TCV, which in turn will preserve Members' incentives to participate in trading on the Exchange in a manner intended to be incented by the Exchange's Fee Schedule.

Lastly, the Exchange proposes to clarify within the definition of ADV that ADV does not include shares that are routed to other trading centers. Clarifying that routed orders are not included in the calculation of ADV will promote just and equitable principles of trade and remove impediments to a free and open market by providing greater transparency concerning the operation of the Exchange and a Member's share volumes that are included in their ADV.

ADV Aggregation

The proposed language permitting aggregation of volume amongst Members that share common control for purposes of the ADV calculation is intended to avoid disparate treatment of Members that have divided their various business activities between separate corporate entities as compared to Members that operate those business activities within a single corporate entity. By way of example, subject to appropriate information barriers, many firms that are Members of the Exchange operate both a market making desk and a public customer business within the same corporate entity. In contrast, other Members may be part of a corporate structure that separates those business lines into different corporate affiliates, either for business, compliance or historical reasons, and those affiliates are not also considered wholly owned affiliates. Those corporate affiliates, in turn, are required to maintain separate memberships with the Exchange. Absent the proposed change, such corporate affiliates that cannot be considered wholly owned but are under common control would not receive the same treatment as Members who are considered wholly owned affiliates. Current Members who aggregate share volumes on the Exchange with wholly owned affiliates will be considered as being under common control and continue to be able to aggregate share volumes. Accordingly, the Exchange believes that its proposed policy is fair and equitable, and not unreasonably discriminatory. In addition to ensuring fair and equal treatment of its Members, the Exchange does not want to create incentives for its Members to restructure their business operations or compliance functions simply due to the Exchange's pricing structure.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes its proposed amendments to its Fee Schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed change represents a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Additionally, Members may opt to disfavor EDGA's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed change will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets.

The proposed change will help to promote intramarket competition by avoiding a penalty to Members for days when trading on the Exchange is disrupted for a significant portion of the day. In addition, excluding the Russell Rebalance Day from the definition of ADV and TCV will help the Exchange to continue to incentivize higher levels of liquidity at a tighter spread while providing more stable and predictable costs to its Members. Lastly, easing Member's ability to aggregate volumes with Members who are under common control would increase competition because it would incentivize Members that could not previously aggregate their volumes to send higher volume to the Exchange in an effort to achieve tier-based pricing. As stated above, the Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee structures to be unreasonable or excessive.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [13] and Rule 19b–4(f)(2) [14] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act..

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(2).

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–EDGA–2014–09 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–EDGA–2014–09. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGA–2014–09, and should be submitted on or before May 20, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–09675 Filed 4–28–14; 8:45 am]

BILLING CODE 8011–01–P

[15] 17 CFR 200.30–3(a)(12).

SELECTIVE SERVICE SYSTEM

Forms Submitted to the Office of Management and Budget for Extension of Clearance

AGENCY: Selective Service System.

ACTION: Notice.

The following forms have been submitted to the Office of Management and Budget (OMB) for extension of clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35):

SSS Form—404

Title: Potential Board Member Information.

Purpose: Is used to identify individuals willing to serve as members of local, appeal or review boards in the Selective Service System.

Respondents: Potential Board Members.

Burden: A burden of 15 minutes or less on the individual respondent.

Copies of the above identified form can be obtained upon written request to the Selective Service System, Reports Clearance Officer, 1515 Wilson Boulevard, Arlington, Virginia 22209–2425.

Written comments and recommendations for the proposed extension of clearance of the form should be sent within 30 days of the publication of this notice to the Selective Service System, Reports Clearance Officer, 1515 Wilson Boulevard, Arlington, Virginia 22209–2425.

A copy of the comments should be sent to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Selective Service System, Office of Management and Budget, New Executive Office Building, Room 3235, Washington, DC 20503.

Dated: April 23, 2014.

Lawrence Romo,

Director.

[FR Doc. 2014–09712 Filed 4–28–14; 8:45 am]

BILLING CODE 8015–01–P

SMALL BUSINESS ADMINISTRATION

[Docket No: SBA–2014–0003]

SBA Lender Risk Rating System

AGENCY: Small Business Administration.

ACTION: Notice of revised Risk Rating System; request for comments.

SUMMARY: This notice implements changes to the Small Business Administration's (SBA's) Risk Rating System. The Risk Rating System is an internal tool to assist SBA in assessing the risk of the SBA loan operations and loan portfolio of each active 7(a) Lender and Certified Development Company (CDC) SBA loan operations and loan portfolio. Consistent with industry best practices, SBA recently redeveloped the model used to calculate the composite Risk Ratings to ensure that the Risk Rating System remains current and predictive as technologies and available data evolve. SBA is publishing this notice with a request for comments to provide the public with an opportunity to comment.

DATES: This notice is effective April 29, 2014.

Comment Date: Comments must be received on or before June 30, 2014

ADDRESSES: You may submit comments, identified by Docket number SBA–2014–0003 by using any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Identify comments by ''Docket Number SBA–2014–0003, SBA Lender Risk Rating System,'' and follow the instructions for submitting comments.
- Mail: Brent Ciurlino, Director for Office of Credit Risk Management, U.S. Small Business Administration, 409 3rd Street SW., 8th Floor, Washington, DC 20416.
- Hand Delivery/Courier: Brent Ciurlino, Director for Office of Credit Risk Management, U.S. Small Business Administration, 409 3rd Street SW., 8th Floor, Washington, DC 20416.

All comments will be posted on *http://www.Regulations.gov.* If you wish to include within your comment confidential business information (CBI) as defined in the Privacy and Use Notice/User Notice at *http://www.Regulations.gov* and you do not want that information disclosed, you must submit the comment by either Mail or Hand Delivery and you must address the comment to the attention of Brent Ciurlino, Director for Office of Credit Risk Management, U.S. Small Business Administration. In the submission, you must highlight the information that you consider is CBI and explain why you believe this information should be held confidential. SBA will make a final determination, in its discretion, of whether the information is CBI and, therefore, will be published or not.

FOR FURTHER INFORMATION CONTACT: Brent Ciurlino, Director, Office of Credit Risk Management, U.S. Small Business Administration, 409 Third Street SW., 8th Floor, Washington, DC 20416, (202) 205–3049.

SUPPLEMENTARY INFORMATION:

I. Background Information

(A) Introduction to the Risk Rating System

The Risk Rating System is an internal tool that uses data in SBA's Loan and Lender Monitoring System (L/LMS), borrower data provided by Dun & Bradstreet (D&B), and certain macroeconomic factors to assist SBA in assessing the risk of the SBA loan performance of each 7(a) Lender and CDC (each, an SBA Lender) on a uniform basis and identifying those SBA Lenders whose portfolio performance, or other lender-specific risk-related factors, may demonstrate the need for additional SBA monitoring or other action. The Risk Rating System also serves as a vehicle to measure the aggregate strength of SBA's overall 7(a) loan and CDC loan (also known as a 504 loan) portfolios and to assist SBA in managing the related risk. In addition, SBA uses Risk Ratings to make more effective use of its lender review and assessment resources.

Under SBA's Risk Rating System, SBA assigns all SBA Lenders a composite Risk Rating of 1 to 5, based on empirical data. The rating reflects SBA's measurement of the SBA Lender's potential portfolio risk. In general, a rating of 1 indicates least risk and that the least degree of SBA oversight is likely needed, while a 5 rating indicates highest risk and that the highest degree of SBA oversight is likely needed. The composite rating is calculated using several component variables. The component variables were developed using step-wise regression analysis to determine the components that provided a linear regression formula that was most predictive of actual purchases over a one year period.

On May 1, 2006, SBA published a notice and request for comment in the **Federal Register** seeking comments on the proposed Risk Rating System (72 FR 25624). A final notice was published in the **Federal Register** on May 16, 2007 (72 FR 27611). On March 1, 2010 SBA published a notice describing revisions to the Risk Rating System (75 FR 9257). SBA also published a correction to the revised Risk Rating System notice on March 18, 2010 (75 FR 13145).

(B) Redevelopment

Typically, under industry best practices, custom credit scoring models are redeveloped approximately every three to five years to reflect changing conditions, portfolio shifts, and to incorporate additional data that may have become available. This redevelopment is consistent with such practices and is necessary to ensure that SBA's Risk Ratings provide an accurate measurement of lenders' SBA portfolio performance. SBA's portfolio has changed significantly over the past several years; the portfolio has continued to grow, and the composition of loan products (delivery methods) has migrated. In addition, the economy and, in particular, the small business lending environment has changed since the last redevelopment in 2010.

During this redevelopment, SBA reviewed over 200 potential variables from SBA's L/LMS archive along with nearly 400 potential variables from D&B sources. SBA selected these potential variables based on its experience working with such models over the past several years. The D&B variables included attributes from its detailed trade repository providing the highest level of trade data resolution. The variables were then run through rigorous statistical techniques and the most predictive combinations of variables were chosen as components in the redeveloped Risk Rating model.

II. The Redeveloped Risk Rating Model

SBA followed common industry best practices and internal control standards when redeveloping and validating the Risk Rating model. The redeveloped model was independently validated by personnel other than the staff responsible for the redevelopment. The redeveloped model used to calculate the composite Risk Ratings is an updated version of the previous models. Like the previous models, it is a custom credit scoring model that predicts the likelihood of an SBA Lender's loan purchases over the next 12 months. However, whereas previous models relied primarily on SBA Lender-level portfolio data (e.g., Past 12-Months Actual Purchase Rate, Gross Delinquency Rate, 6 Month Liquidation Rate), the redeveloped model relies primarily on loan-level and borrower data. The new model predicts the probability of default for each loan in an SBA Lender's portfolio and multiplies this probability by the outstanding loan amount at the time the ratings are formulated.

The most notable changes in the redeveloped Risk Rating System are:

1. Risk Rating based on loan-level projected purchase rates (PPRs). Unlike in previous models, which used a combination of lender-level loan portfolio data and loan-level data to predict an SBA Lender's overall probability of purchase requests, the redeveloped model computes the PPR of each individual SBA-guaranteed loan in an SBA Lender's portfolio. As described further in Section IV below, the individual loan-level PPRs are then aggregated to obtain the SBA Lender's overall PPR, which is then used to calculate the composite Risk Rating [1–5].

2. Risk Rating no longer determined by peer group. In previous models, SBA reported Risk Ratings by peer groups based on SBA loan portfolio size. When the Risk Rating System was first developed, an SBA Lender's Risk Rating was a measure of how each SBA Lender's loan performance compared to the loan performance of its similarly-sized peers. In the redeveloped model, Risk Ratings are no longer based on a relative scale. Testing during redevelopment revealed that this method of calculating the Risk Ratings is more predictive of performance than the previous peer group scoring because the Risk Ratings are now based solely on a lender's PPR from its specific portfolio.

3. Segmentation of the overall portfolios. Prior models used only two rating formulas: One for the 7(a) program and one for the CDC program. The components and weightings of components were the same within the 7(a) Lender population and within the CDC population. The redeveloped model uses seven rating formulas (five for 7(a) Lenders; two for CDCs) based on a segmentation approach. Statistical analysis showed that grouping loans of similar types increased the predictiveness of the overall system. Loans are segmented by loan type (revolver-type or fixed-end), current payment status, and loan size. A loan's PPR is calculated based on a combination of components that is uniquely predictive for loans in that segment. See paragraph IV(B) for a detailed discussion of the seven segments and the components used in each segment.

4. Updated components in the regression formulas. The redeveloped model continues to use loan-level data (provided by the SBA Lenders and SBA's own data) and external risk assessment data (provided by D&B) that is derived from third party business and consumer credit bureau data. Several of the new components are based on borrower payment trends, similar to the information used to compute the Dollar Weighted Average Financial Stress Score (FSS) component in the previous model. For example, several of the new components incorporate information relating to borrower trade accounts. A trade account records current information on a relationship between a supplier and purchaser. D&B collects

and aggregates all available trade accounts on a monthly basis for its entire global database of commercial entities.

In addition, two new components in the redeveloped model utilize macroeconomic data. Macro-economic components add a new dimension to the model and improve the overall predictive ability. The contributions of more than 20 such variables were analyzed. State Housing Price Index and Unemployment Rate were selected based on the level and reliability of their contributions. These two new components add predictive value to the Risk Rating model.

The redeveloped Risk Rating is one of the initial steps in implementing SBA's new oversight framework. In the future, SBA plans to use the Risk Rating in conjunction with other performance benchmarks that are currently under development. These new performance benchmarks will be used to assess SBA Lenders in multiple categories. For 7(a) Lenders, the categories are expected to include performance, asset management, regulatory compliance, risk management, and other relevant risk related items; the categories for CDCs are expected to include solvency, management, asset quality and servicing, regulatory compliance, and technical issues and mission. SBA will provide more information on the new performance benchmarks in the future.

III. Request for Comments

This notice provides program participants and other parties with an explanation of the components and a description of other modeling enhancements. SBA is soliciting comments on all aspects of this notice, including but not limited to the components and enhancements. These changes will be effective upon publication of this notice, and will be incorporated in the Risk Rating Lender Portal update in May, for the quarter ending March 31, 2014.

IV. Text of the SBA Lender Risk Rating System

(A) Overview

Under SBA's Risk Rating System, SBA assigns all SBA Lenders a composite Risk Rating. The composite rating reflects SBA's assessment of the SBA Lender's potential risk. It is based on the loan-level probability of purchase over the next 12 months, as calculated by SBA.

The Risk Rating System assigns each SBA-guaranteed loan a projected purchase rate using a unique set of components that SBA has determined to be predictive for that type of loan (see further detail below). Each individual loan-level PPR is then multiplied by the total outstanding balance of the loan in order to approximate the SBA Lender's total exposure for its SBA loan portfolio. The sum of all of those values is an estimation of the total default dollars for the SBA portfolio of the SBA Lender in the next 12 months. That number is then divided by the total outstanding balances of all loans in the above calculation to obtain the SBA Lender's overall PPR. SBA then assigns a composite rating of 1 to 5 based on the SBA Lender's overall PPR with geometrically sequenced category thresholds. Geometrically sequenced categories contain thresholds that are a multiple of the prior category. The category boundaries represent a doubling of the prior category (with the exception of the ''zero'' threshold). Geometric categorizations aim to delineate a non-linear distribution more evenly.

SBA updates the Lender Risk Ratings on a quarterly basis, using refreshed SBA Lender data. SBA generally does not intend to use the Risk Ratings as the sole basis for taking enforcement actions against SBA Lenders. The primary purpose is to focus SBA's oversight resources on those SBA Lenders whose portfolio performance or other lender-specific risk-related factors demonstrate a need for further review and evaluation by SBA. All SBA Lenders have on-line access to their Risk Ratings and the loan-level components utilized to generate each loan's PPR. Information on gaining access to the Lender Portal is available at 72 FR 27611, 27619 (May 16, 2007) and on the Portal log-on page at *https://mi.dnb.com/PDPSBA/PDPLogin.aspx.*

(B) Segmentation

SBA's Risk Rating System uses a segmentation approach to calculate the PPR of each loan in an SBA Lender's SBA portfolio. The loan segments for the 7(a) Program are as follows:

1. Revolver-type loans in current payment status,
2. Revolver-type loans in non-current payment status,
3. Fixed-end loans in current payment status with an outstanding balance greater than or equal to $350,000,
4. Fixed-end loans in current payment status with an outstanding balance less than $350,000, and
5. Fixed-end loans in non-current payment status.

The loan segments for the CDC Program (also referred to as the 504 Program) are:

1. Loans in current payment status, and
2. Loans in non-current payment status.

A loan's PPR is calculated based on a combination of components that is uniquely predictive for the loans in that segment. The components used in each segment are as follows:

7(a) Segment 1—Revolver-type loans in current payment status:

(a) Percent of Accounts More Than 30 Days Past Due
(b) Number of Trade Accounts
(c) Current Small Business Predictive Score (SBPS)
(d) Months on Book (MOB)
(e) Outstanding Loan Balance
(f) Loan Term
(g) Average State-level Unemployment Rate

7(a) Segment 2—Revolver-type loans in non-current payment status:

(a) Percent of Accounts More Than 30 Days Past Due
(b) Current SBPS
(c) MOB
(d) Outstanding Loan Balance
(e) Loan Term
(f) Loan Status

7(a) Segment 3—Fixed-end loans in current payment status with an outstanding balance greater than or equal to $350,000:

(a) Percent of Current Accounts
(b) Percent of Accounts One or More Days Past Due
(c) Number of Trade Accounts
(d) Current SBPS
(e) MOB
(f) Average State-level Unemployment Rate

7(a) Segment 4—Fixed-end loans in current payment status with an outstanding balance less than $350,000:

(a) Number of Trade Accounts
(b) Percent of Accounts More Than 30 Days Past Due
(c) Current SBPS
(d) MOB
(e) Gross Approved Amount
(f) Loan Term
(g) Average State-level Unemployment Rate

7(a) Segment 5—Fixed-end loans in non-current payment status:

(a) Number of Trade Accounts
(b) Percent of Accounts More Than 30 Days Past Due
(c) Current SBPS
(d) MOB
(e) Gross Approved Amount
(f) Loan Term
(g) Loan Status
(h) Average State-level Unemployment Rate

504 Segment 1—Loans in current payment status:

(a) Percent of Current Accounts
(b) Average Percent of Dollars More Than 30 Days Past Due
(c) Percent of Accounts One or More Days Past Due
(d) Number of Trade Accounts
(e) Current SBPS
(f) MOB
(g) State Housing Price Index

504 Segment 2—Loans in non-current payment status:

(a) Business Age
(b) Number of Trade Accounts
(c) Current SBPS
(d) MOB
(e) Loan Status
(f) State Housing Price Index

The components were selected through statistical analysis using step-wise logistic regression to identify the combination of variables that are the most predictive for each segment of loans. The new model is ''multivariate,'' meaning that an SBA Lender's PPR (and thus its Risk Rating) is based on a combination of all components in the model. Each of the components is described in more detail in the Rating Components section below.

(C) Rating Components

SBA derives components from three types of data sources to calculate a loan's PPR: SBA loan data, D&B Borrower data, and macroeconomic data. The first category, made up of components (i) through (vi) below, includes detailed loan/borrower level information from SBA's database. The second category, which includes components (vii) through (xii) below, is information on the small business borrower from D&B's trade database. The third category, components (xiii) and (xiv) below, includes state level unemployment and housing price macroeconomic data. Each of the components is defined in detail below.

(i) Loan Status: The Loan Status component captures the payment status of loans as of the rating date. If delinquent, this component indicates the delinquency ''bucket'' (e.g., 30 days past due, 60 days past due, etc.) at the time of rating. Other status values include whether the loan is in a deferment. A greater number of days past due contributes to a higher purchase risk.

(ii) Loan Term: The Loan Term is the length of loan repayment period at origination. Loan Term is measured in months and purchase risk increases as the repayment term increases.

(iii) Months on Book (MOB): The MOB is the number of months between the rating date and the date of the loan disbursement, up to a maximum of 120 months. MOB is based on the date of first disbursement. The purchase risk associated with MOB Risk level is ''U''-shaped: loans at either end of the spectrum (very low or very high MOB) have the highest purchase risk.

(iv) Outstanding Loan Balance: The Outstanding Loan Balance is the outstanding gross loan balance at the time of the rating date. This component is only used for revolver-type accounts that are currently in active status. The purchase risk associated with Outstanding Loan Balance has an inverted ''U'' shape. For revolvers, purchase risk was found to be consistently lowest for very small or very large balances and higher for moderate-sized balances.

(v) Gross Approved Amount: The Gross Approved Amount is the total dollar amount of the loan at origination. A lower Gross Approval Amount is associated with a higher purchase risk.

(vi) SBPS: The SBPS is a portfolio management credit score based upon a borrower's business credit report and principal's consumer credit report and is updated quarterly. SBPS is a proprietary calculation provided by Dun & Bradstreet, under contract with SBA, and is compatible with FICO's ''Liquid Credit'' origination score. This component provides an indication of the relative credit worthiness of a given borrower. A higher SBPS is associated with a lower purchase risk.

(vii) Percent of Current Accounts: The Percent of Current Accounts is the percentage of the Borrower's trade accounts, as reported to D&B, that have been current over the past 24 months. It is a percentage that results from dividing the total number of accounts that have not been delinquent in the past 24 months by the total number of active accounts associated with a borrower. Higher values of this attribute are associated with lower purchase risk.

(viii) Percent of Accounts 30 Days or More Days Past Due: The Percent of Accounts 30 Days or More Past Due is calculated using data from the D&B detail trade database for the last four months. This percentage results from dividing the total number of accounts which have been 30 or more days delinquent in the past four months by the total number of active accounts associated with a borrower. A higher value for this attribute is associated with a higher purchase risk.

(ix) Percent of Accounts One or More Days Past Due: The Percent of Accounts One or More Days Past Due is calculated using data from the D&B detail trade database for the last four months. This percentage results from dividing the total number of accounts which have been one or more days delinquent in the past four months by the total number of active accounts associated with a borrower. A higher value for this attribute is associated with a higher purchase risk.

(x) Average Percent of Dollars More Than 30 Days Past Due: The Average Percent of Dollars More Than 30 Days Past Due uses data for the last three months of trade history in the D&B database. This attribute is the ratio of the total dollars more than 30 days past due divided by the total dollars across a 3-month interval. A higher value for this attribute is associated with a higher purchase risk.

(xi) Number of Trade Accounts: The Number of Trade Accounts is the number of the Borrower's trade accounts on the D&B database in the last four months. A higher number of trade accounts is associated with a lower purchase risk.

(xii) Business Age: Business Age is the number of years the borrower has been operating. Age is based on data in the D&B database and is calculated as the difference between the current date and one of the following: The date of the most recent change of management control, if available, otherwise defaulting to the inception year of the business, if available, or to the first year the business was present on the D&B archive. A lower age contributes to a higher purchase risk.

(xiii) Average State-level Unemployment Rate: The Average State-level Unemployment Rate is the ratio of unemployed to the civilian labor force in the borrower's State, expressed as a percent. The source is Bureau of Labor Statistics (BLS), Local Area Unemployment Statistics Database. The borrower's state is identified through borrower's address fields in the SBA's database. The unemployment rate is extracted directly from BLS reporting, which is updated monthly. A higher unemployment rate in the borrower's state contributes to a higher purchase risk.

(xiv) State Housing Price Index (HPI): The State HPI is a broad measure of the movement in single-family house prices in the borrower's State. It is seasonally adjusted based on transactions involving conventional mortgages purchased or securitized by Fannie Mae or Freddie Mac and updated quarterly. The source is the Federal Housing Finance Agency. A higher HPI is associated with a lower purchase risk.

(D) Lender Risk Rating

The SBA Lender Risk Rating (LRR) is a measure of predicted performance over the next 12 months. SBA uses its Risk Rating model to calculate an expected purchase rate and assign a composite rating of 1 to 5 to each SBA Lender. SBA may make adjustments to the composite rating based on results of reviews, third party information on an SBA Lender's operations, portfolio trends, and other information that could impact an SBA Lender's risk profile. (See section E ''Overriding Factors'' for further detail.) In general, a rating of 1 indicates least risk, and that the least degree of SBA oversight is likely needed, while a 5 rating indicates highest risk, and that the highest degree of SBA oversight is likely needed. Rating categories 2, 3, and 4 provide granularity for moderate levels of risk and the corresponding levels of necessary oversight.

(E) Overriding Factors

As with prior LRR models, the redeveloped Risk Rating System allows for consideration of additional factors. The occurrence of these factors may lead SBA to conclude that an individual SBA Lender's composite rating, as calculated by the Risk Rating model, is not fully reflective of its true risk. Therefore, the Risk Rating System provides for the consideration of overriding factors, which may only apply to a particular SBA Lender or group of SBA Lenders, and permit SBA to adjust an SBA Lender's calculated composite rating. The allowance of overriding factors in helping determine an SBA Lender's Risk Rating enables SBA to use key risk factors that are not necessarily applicable to all SBA Lenders, but indicate a greater or lower level of risk from a particular SBA Lender than that which the calculated rating provides.

Overriding factors may result from SBA Lenders' risk-based reviews/examinations and evaluations. SBA routinely conducts reviews of larger SBA Lenders, performs safety and soundness examinations of SBA Small Business Lending Companies (SBLCs) and Non-Federally Regulated Lenders (NFRLs), and uses certain evaluation measures for other SBA Lenders. Examples of other overriding factors that may be considered include, but are not limited to: enforcement or other actions of regulators or other authorities, including, but not limited to, Cease & Desist orders by, or related agreements with, federal financial regulators; capital adequacy levels not in conformity with federal financial regulators; secondary market issues and concerns; early loan default trends; purchase rate or projected purchase rate trends; abnormally high default, purchase or liquidation rates; denial of liability occurrences; lending concentrations; rapid growth of SBA lending; net yield rate significantly worse than average; violation of SBA Loan Program Requirements; inadequate, incomplete, or untimely reporting to SBA; and inaccurate submission of required fees or amounts due SBA or the federal government.

In conclusion, industry best practices and changes in the SBA portfolio, programs, and available data necessitate that SBA's Risk Rating model be periodically redeveloped. This notice marks the second redevelopment of SBA's Risk Rating model. In addition to the redevelopment, SBA has and will continue to perform annual validation testing on the calculated composite Risk Ratings, and will further refine the model as necessary to maintain or possibly improve the predictiveness of its risk scoring.

Authority: 15 U.S.C. 633(b)(3); 15 U.S.C. 634(b)(6) and (7); 15 U.S.C. 687(f); and 13 CFR 120.1015.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2014–09642 Filed 4–28–14; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew a generic information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on February 11, 2014, vol. 79, no. 28, pages 8232–8233. As part of a Federal Government-wide effort to streamline the process to seek feedback from the public on service delivery, FAA has an approved Generic Information Collection Request (Generic ICR): ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery''.

DATES: Written comments should be submitted by May 29, 2014.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.DePaepe@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0746.

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Form Numbers: There are no FAA forms associated with this generic information collection.

Type of Review: Renewal of a generic information collection.

Background: The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: the target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data

collection, and any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

Respondents: Approximately 2,813 Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

Frequency: Once per request.

Estimated Average Burden per Response: 15 minutes.

Estimated Total Annual Burden: 1,407 hours.

*Addresses:*Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC on April 22, 2014.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, ASP–110.

[FR Doc. 2014–09624 Filed 4–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Performance and Handling Requirements for Rotorcraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request from the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on February 11, 2014, vol. 79, no. 28, pages 8231–8232. The FAA requires that certain performance information be provided in the Rotorcraft Flight Manual in order to show compliance to the regulatory requirements. The flight manual, by regulation, must be furnished with each aircraft.

DATES: Written comments should be submitted by May 29, 2014.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.DePaepe@faa.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0726.

Title: Performance and Handling Requirements for Rotorcraft.

Form Numbers: There are no FAA forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: In order to determine that a rotorcraft is a safe vehicle, an applicant for a type certificate must show compliance to specific minimum requirements. In order to show compliance, an applicant must substantiate the type design through analysis, testing, design limitations, and other acceptable means. This requires that certain performance information for safe operation of the rotorcraft be presented, in the form of tables, diagrams, or charts, in the flight manual. FAA engineers and designated engineers review the data submittals to determine that the rotorcraft complies with the applicable minimum safety requirements for rotorcraft performance and that the rotorcraft has no unsafe features.

Respondents: Approximately 4 normal or transport category rotorcraft certification applicants.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 5 hours.

Estimated Total Annual Burden: 2 hours.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov*, or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

Public comments invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Washington, DC on April 22, 2014.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, ASP–110.

[FR Doc. 2014–09625 Filed 4–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent of waiver of Aeronautical Land-Use Assurance with respect to land; Port Columbus International Airport, Columbus, Ohio.

SUMMARY: The FAA is considering a proposal to change a 29.8 acre parcel of airport land from aeronautical use to non-aeronautical use and to authorize this parcel to be leased for revenue-producing, non-aeronautical purposes at

Port Columbus International Airport, Columbus, Ohio. The aforementioned land is not needed for aeronautical use.

The parcel is located on the north side of Bridgeway Avenue, between Goshen Lane and James Road. The majority of the parcel is a mowed field. There are three (3) existing buildings located on the parcel. These buildings are not needed for aeronautical use and are to be removed. The parcel presently serves the primary purpose of protecting airport aeronautical (imaginary) surfaces which are needed for safe and efficient use of navigable airspace. The parcel will continue to serve in this same capacity through reservations and restrictions retained in the lease document. The parcel will be leased and developed for office/warehouse and office/call center facilities.

DATES: Comments must be received on or before May 29, 2014.

ADDRESSES: Documents are available for review by appointment at the FAA Detroit Airports District Office, Brian Tenkhoff, Program Manager, 11677 South Wayne Road, Suite 107, Romulus, MI 48174 Telephone: (734) 229–2933/ Fax: (734) 229–2950 and Columbus Regional Airport Authority-Planning & Engineering, 4600 International Gateway, Columbus, Ohio 43219 Telephone: (614)239–5014.

Written comments on the Sponsor's request must be delivered or mailed to: Brian Tenkhoff, Program Manager, Federal Aviation Administration, Detroit Airports District Office, 11677 South Wayne Road, Suite 107, Romulus, MI 48174, Telephone Number: (734) 229–2933/FAX Number: (734) 229–2950.

FOR FURTHER INFORMATION CONTACT: Brian Tenkhoff, Program Manager, Federal Aviation Administration, Detroit Airports District Office, 11677 South Wayne Road, Suite 107, Romulus, MI 48174. Telephone Number: (734) 229–2933/FAX Number: (734) 229–2950.

SUPPLEMENTARY INFORMATION: In accordance with section 47107(h) of Title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

The parcel is depicted on the Airport Layout Plan (ALP) dated November 17, 2011, and the Exhibit ''A'' property map. The parcel was acquired through multiple Airport Improvement Program (AIP) Grants: 3–39–0025–01, 3–39–0025–02 and 06–39–0025–04.

No airport landside or airside facilities are presently located on this parcel nor is airport development contemplated in the future. Development of the parcel for airside or landside operations is largely restricted due to the parcel being separated from the airfield by Bridgeway Avenue. There are no impacts to the airport by allowing it to waive the requirement to maintain the parcel for aeronautical use.

The sponsor will control use of the parcel through the terms and conditions of the ground lease. The lease will be subordinate to the sponsor's existing grant assurances. This will ensure that all activities contemplated on the parcel will be compatible with FAA requirements and airport operations.

The disposition of proceeds from the lease of the airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999 (64 FR 7696).

This notice announces that the FAA is considering the release of the subject airport property at the Port Columbus International Airport, Columbus, Ohio from its obligations to be maintained for aeronautical purposes. Approval does not constitute a commitment by the FAA to financially assist in the change in use of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA.

Following is the legal description of the subject airport parcel at the Port Columbus International Airport in Columbus, Ohio:

Situated in the State of Ohio, County of Franklin, City of Columbus, lying in Quarter Township 4, Township 1, Range 17, United States Military Lands, and being part of that tract conveyed to Columbus Regional Airport Authority by deed of record in Instrument Number 200712310221206, (all references are to the records of the Recorder's Office, Franklin County, Ohio) and being more particularly described as follows:

BEGINNING at the intersection of the easterly right-of-way line of Goshen Lane and the northerly right-of-way line of Bridgeway Avenue; Thence North 04°40′22″ East, with said easterly right-of-way line, a distance of 87.31 feet to a point; Thence North 12°44′06″ East, continuing with said easterly right-of-way line, a distance of 149.00 feet to a point; Thence South 88°03′05″ East, across said Columbus Regional Airport Authority tract, a distance of 204.08 feet to a point; Thence North 01°27′56″ East, continuing across said Columbus Regional Airport Authority tract, a distance of 174.69 feet to a point in the southerly limited access right-of-way line of Interstate 270; Thence with said southerly limited access right-of-way line, the following courses and distances: South 88°06′11″ East, a distance of 252.52 feet to a point; South 85°36′03″ East, a distance of 2302.26 feet to a point; North 83°07′38″ East, a distance of 123.89 feet to a point; and South 85°58′44″ East, a distance of 224.25 feet to the intersection of said southerly limited access right-of-way line and the westerly right-of-way line of James Road; Thence South 03°36′59″ West, with said westerly right-of-way line, a distance of 453.48 feet to the intersection of said westerly right-of-way line and the northerly right-of-way line of said Bridgeway Avenue; Thence North 85°37′22″ West, with said northerly right-of-way line, a distance of 3123.45 feet to the POINT OF BEGINNING containing 29.8 acres, more or less.

Issued in Romulus, MI, on April 10, 2014.

John L. Mayfield, Jr.,

Manager, Detroit Airports District Office, FAA, Great Lakes Region.

[FR Doc. 2014–09633 Filed 4–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice To Rescind a Notice of Intent To Prepare an Environmental Impact Statement for Transportation Improvements on I–84 in Fairfield County and New Haven County, CT

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice to Rescind a Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that, effective immediately, we are rescinding the Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) for proposed transportation improvements along the I–84 Corridor in Fairfield County and New Haven County, CT. The NOI was published in the **Federal Register** (FR) on April 11, 2005 (FR Vol. 70, No. 68, p. 18454; FR Doc 05–7232).

FOR FURTHER INFORMATION CONTACT: Eloise Powell, Team Leader for Planning, Environment, and Research, FHWA Connecticut Division, 628–2 Hebron Avenue, Suite 303, Glastonbury, CT 06033, Telephone: (860) 494–7566, Email: *eloise.powell@dot.gov.*

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Connecticut Department of Transportation (CTDOT), issued a NOI on April 11, 2005, to prepare an EIS for proposed transportation improvements

along the I–84 Corridor in Fairfield County and New Haven County, CT, for a distance of approximately 32 miles. The purposes of the proposed improvements were to improve safety and provide increased capacity to meet future traffic demands. Due to the re-prioritization of major transportation projects in Connecticut and funding constraints, the CTDOT is no longer pursuing this project. Therefore, the NOI for this project is rescinded. Studies are being done to determine specific safety and capacity improvements along the I–84 corridor, and any future transportation improvements will progress under a separate environmental review process, in accordance with all applicable laws and regulations.

Dated: April 23, 2014.

Amy Jackson-Grove,

FHWA Connecticut Division Administrator, Glastonbury, Connecticut.

[FR Doc. 2014–09710 Filed 4–28–14; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2014–0011–N–8]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice and Request for Comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the renewal Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collection of information was published on February 3, 2014 (79 FR 6268).

DATES: Comments must be submitted on or before May 29, 2014.

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 25, 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, sec. 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 issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On February 3, 2014, FRA published a 60-day notice in the **Federal Register** soliciting comment on ICRs that the agency was seeking OMB approval. *See* 79 FR 6268. FRA received no comments in response to this notice.

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507 (b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summary below describes the nature of the information collection request (ICR) and the expected burden. The revised request is being submitted for clearance by OMB as required by the PRA.

Title: Locomotive Cab Sanitation Standards.

OMB Control Number: 2130–0552.

Abstract: The collection of information is used by FRA to promote rail safety and the health of railroad workers by ensuring that all locomotive crew members have access to toilet/sanitary facilities—on as needed basis—which are functioning and hygienic. Also, the collection of information is used by FRA to ensure that railroads repair defective locomotive toilet/sanitary facilities within 10 calendar days of the date on which these units becomes defective.

Type of Request: Revision of a currently approved information collection.

Affected Public: Businesses (Railroads).

Form(s): N/A.

Annual Estimated Burden: 1,272 hours.

Addressee: Send comments regarding these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street NW., Washington, DC 20503, Attention: FRA Desk Officer. Comments may also be sent via email to OMB at the following address: *oira_submissions@omb.eop.gov*.

Comments are invited on the following: Whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collections; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collections of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

Authority: 44 U.S.C. 3501–3520.

Rebecca Pennington,

Chief Financial Officer.

[FR Doc. 2014–09685 Filed 4–28–14; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 23, 2014

The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before May 29, 2014 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory

Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8141, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by emailing *PRA@treasury.gov,* calling (202) 622–1295, or viewing the entire information collection request at *www.reginfo.gov.*

Bureau of the Fiscal Service

OMB Number: 1535–0143.

Type of Review: Extension without change of a currently approved collection.

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Abstract: The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback, we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: the target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

Average Expected Annual Number of Activities: 10.

Number of Respondents: 10,000.

Frequency of Response: Once per request.

Average Minutes Per Response: 60.

Estimated Annual Burden Hours: 10,000.

Brenda Simms,

Treasury PRA Clearance Officer.

[FR Doc. 2014–09647 Filed 4–28–14; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 24, 2014.

The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before May 29, 2014 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8141, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by emailing *PRA@treasury.gov,* calling (202) 622–1295, or viewing the entire information collection request at *www.reginfo.gov.*

Financial Crimes Enforcement Network (FinCEN)

OMB Number: 1506–0062.

Type of Review: Extension without change of a currently approved collection.

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.

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Average Expected Annual Number of Activities: 10.

Number of Respondents: 10,000.

Frequency of Response: Once per request.

Average Minutes Per Response: 60.

Estimated Annual Burden Hours: 10,000.

Brenda Simms,

Treasury PRA Clearance Officer.

[FR Doc. 2014–09731 Filed 4–28–14; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 24, 2014.

The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before May 29, 2014 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8141, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by emailing *PRA@treasury.gov,* calling (202) 622–1295, or viewing the entire information collection request at *www.reginfo.gov.*

Internal Revenue Service (IRS)

OMB Number: 1545–1341.

Type of Review: Extension without change of a currently approved collection.

Title: TD 8619 (Final) Direct Rollovers and 20-Percent Withholding Upon Eligible Rollover Distributions from Qualified Plans.

Abstract: These regulations provide rules implementing the provisions of the Unemployment Compensation Amendments (Pub. L. 102–318) requiring 20 percent income tax withholding upon certain distributions from qualified pension plans or tax-sheltered annuities.

Affected Public: Individuals or households.

Estimated Annual Burden Hours: 2,129,669.

OMB Number: 1545–1343.

Type of Review: Extension without change of a currently approved collection.

Title: TD 8540 (Final) Valuation Tables (PS–100–88).

Abstract: The regulations require individuals or fiduciaries to report information on Forms 706 and 709 in connection with the valuation of an annuity, an interest for life or a term of years, or a remainder or reversionary interest.

Affected Public: Individuals or households.

Estimated Annual Burden Hours: 4,500.

OMB Number: 1545–1629.

Type of Review: Extension without change of a currently approved collection.

Title: Paid Preparer's Earned Income Credit Checklist (Form 8867).

Form: Form 8867.

Abstract: Form 8867 must be submitted with the tax return of any taxpayer claiming the earned income credit (EIC) if a preparer was paid to complete the return. Paid preparers of federal income tax returns or claims for refund involving the EIC must meet due diligence requirements in determining the taxpayer's eligibility for, and the amount of, the EIC.

Affected Public: Businesses or other for-profit organizations.

Estimated Annual Burden Hours: 17,824,793.

OMB Number: 1546–2072.

Type of Review: Extension without change of a currently approved collection.

Title: Revenue Procedure 2007–35—Statistical Sampling for purposes of Section 199.

Abstract: This revenue procedure provides guidance for determining when statistical sampling may be used for purposes of section 199 of the Internal Revenue Code and establishes acceptable statistical sampling methodologies. The collection of information in the revenue procedure involves a recordkeeping requirement for taxpayers that use statistical sampling under section 199.

Affected Public: Businesses or other for-profit organizations.

Estimated Annual Burden Hours: 2,400.

OMB Number: 1545–2081.

Type of Review: Extension without change of a currently approved collection.

Title: Form 8879–EX, IRS e-file Signature Authorization for Forms 720, 2290, and 8849.

Form: Form 8879–EX.

Abstract: Form 8879–EX if used if a taxpayer and the electronic return originator (ERO) want to use a personal identification number (PIN) to electronically sign an electronic excise tax return or request for refund. If applicable, the form is also used to authorize an electronic funds fswithdrawal.

Affected Public: Businesses or other for-profit organizations.

Estimated Annual Burden Hours: 46,800.

OMB Number: 1545–2096.

Type of Review: Extension without change of a currently approved collection.

Title: TD 9424 (Final)—Loss on Subsidiary Stock (REG–157711–02).

Abstract: This document contains final regulations under sections 358, 362(e)(2), and 1502 of the Internal Revenue Code. The regulations apply to corporations filing consolidated returns, and corporations that enter into certain tax-free reorganizations. They provide rules for determining the tax consequences of a member's transfer (including by deconsolidation and worthlessness) of loss shares of subsidiary stock. In addition, the regulations provide that section 362(e)(2) generally does not apply to transactions between members of a consolidated group. Finally, the regulations conform or clarify various provisions of the consolidated return regulations, including those relating to adjustments to subsidiary stock basis.

Affected Public: Businesses or other for-profit organizations.

Estimated Annual Burden Hours: 25.

OMB Number: 1545–2208.

Type of Review: Revision of a currently approved collection.

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Abstract: The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback, we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and

stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: the target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

Number of Respondents: 150,000.

Frequency of Response: Once per request.

Average Minutes per Response: 60.

Estimated Annual Burden Hours: 150,000.

Brenda Simms,

Treasury PRA Clearance Officer.

[FR Doc. 2014–09760 Filed 4–28–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 24, 2014.

The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before May 29, 2014 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8140, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by calling (202) 927–5331, email at *PRA@treasury.gov,* or the entire information collection request may be found at *www.reginfo.gov.*

Internal Revenue Service (IRS)

OMB Number: 1545–1361.

Type of Review: Revision of a currently approved collection.

Title: 26 CFR Part 52—Environmental Taxes

Abstract: Section 4681 imposes a tax on ozone-depleting chemicals sold or used by a manufacturer or importer thereof. Section 4681 also imposes a tax on ozone-depleting chemicals sold or used by a manufacturer or importer thereof and imported taxable products sold or used by an importer thereof. A floor stocks tax is also imposed. Section 4682 provides exemptions and reduced rates of tax for certain uses of ozone-depleting chemicals. These regulations provide reporting and recordkeeping rules.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Burden Hours: 75,250.

OMB Number: 1545–1774.

Type of Review: Extension without change of a currently approved collection.

Title: TD 9187—Extensions of Time to Elect Method for Determining Allowable Loss.

Abstract: The information is necessary to allow the taxpayer to make certain elections to determine the amount of allowable loss under Sec. 1.337(d)–2, Sec. 1.1502–20 as currently in effect or under Sec. 1.1502–20 as modified; to allow the taxpayer to waive loss carryovers up to the amount of the Sec. 1.150–20(g) election and to ensure that loss is not disallowed under Sec. 1.337(d)–2 and basis is not reduced under Sec. 1.337(d)–2 to the extent the taxpayer establishes that the loss or basis is not attributable to the recognition of built in gain on the disposition of an asset.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 36,720.

OMB Number: 1545–1821.

Type of Review: Extension without change of a currently approved collection.

Title: TD 9327—Disclosure of Returns and Return Information in Connection with Written Contracts or Agreements for the Acquisition of Property and Services for Tax Administration (REG–148867–03).

Abstract: Section 301.6103 (n)–1(d) Notification requirements: Any person, or agent or subcontractor of the person, who receives returns or return information under this section shall provide written notice to his, her, or its officers and employees receiving the returns or return information that returns or return information disclosed to the officer or employee may be used only for a purpose and to the extent authorized by this section; and Further inspection or disclosure of any returns or return information for a purpose or to an extent not authorized by this section constitutes a misdemeanor, punishable upon conviction by a fine or imprisonment. Section 301.6103(n)–1(e)(3) Safeguard of the regulations require that before the execution of a contract or agreement for the acquisition of property or services under which returns or return information will be disclosed, the contract or agreement must be made available to the IRS.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 250.

OMB Number: 1545–1898.

Type of Review: Extension without change of a currently approved collection.

Title: Revenue Procedure 2004–47, Simplified Alternate Procedure for Making Late Reverse QTIP Election.

Abstract: This revenue procedure provides a simplified alternate procedure (in lieu of requesting a letter ruling) for certain executors of estates and trustees of trusts to request relief to make a late reverse qualified terminable interest property (QTIP) election under section 2652 of the Code.

Affected Public: Individuals or Households.

Estimated Annual Burden Hours: 54.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2014–09686 Filed 4–28–14; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 24, 2014.

The Department of the Treasury will submit the following information

collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before May 29, 2014 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8141, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by emailing *PRA@treasury.gov,* calling (202) 622–1295, or viewing the entire information collection request at *www.reginfo.gov.*

Departmental Offices

OMB Number: 1505–0231.

Type of Review: Extension without change of a currently approved collection.

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Abstract: The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback, we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: the target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

Average Expected Annual Number of Activities: 40.

Number of Respondents: 40,000.

Frequency of Response: Once per request.

Average Minutes Per Response: 60.

Estimated Annual Burden Hours: 40,000.

Brenda Simms,

Treasury PRA Clearance Officer.

[FR Doc. 2014–09740 Filed 4–28–14; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Proposed Collection; Comment Request for Cuban Remittance Affidavit

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies 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)). Currently, the Office of Foreign Assets Control (''OFAC'') within the Department of the Treasury is soliciting comments concerning OFAC's Cuban Remittance Affidavit information collection.

DATES: Written comments must be submitted on or before June 30, 2014 to be assured of consideration.

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

Federal eRulemaking Portal: www.regulations.gov. Follow the instructions on the Web site for submitting comments.

Fax: Attn: Request for Comments (Cuban Remittance Affidavit) 202–622–1657.

Mail: Attn: Request for Comments (Cuban Remittance Affidavit), Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Instructions: All submissions received must include the agency name and the **Federal Register** Doc. number that appears at the end of this document. Comments received will be made available to the public via regulations.gov or upon request, without change and including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Assistant Director for Licensing, tel.: 202–622–2480, Assistant Director for Policy, tel.: 202–622–2746, Assistant Director for Regulatory Affairs, tel.: 202–622–4855, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202–622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Title: Cuban Remittance Affidavit.

OMB Number: 1505–0167.

Abstract: The information is required of persons subject to the jurisdiction of the United States who make remittances to persons in Cuba pursuant to the general licenses in section 515.570 of the Cuban Assets Control Regulations, 31 CFR part 515 (''CACR''). The information will be used by OFAC to monitor compliance with regulations governing unlimited family and family inherited remittances, periodic $500 remittances, unlimited remittances to religious organizations, remittances to students in Cuba pursuant to an educational license, limited emigration remittances, and periodic remittances from blocked accounts.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 3,000,000 filers: 1,000,000 filing four times annually and 2,000,000 filing once a year.

Estimated Time per Respondent: 60 seconds per form, for an estimated four minutes per year for those filing four times annually and one minute per year for those filing once a year.

Estimated Total Annual Burden Hours: 100,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid Office of Management and Budget (''OMB'') control number. Books or records relating to a collection of information must be retained for five years.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 23, 2014.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2014–09706 Filed 4–28–14; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF VETERANS AFFAIRS

National Research Advisory Council; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C., App. 2, that the National Research Advisory Council will hold a meeting on Wednesday, June 11, 2014, in conference room 23, at 131 M St. NE., Washington, DC. The meeting will convene at 9:00 a.m. and end at 4:00 p.m., and is open to the public.

The agenda will include an introduction to the research programs of the Office of Research and Development (ORD) (10P9), review of the Council Charter, and presentations on special research programs.

No time will be allocated at this meeting for receiving oral presentations from the public. Members of the public wanting to submit a presentation, attend the meeting, or needing further information may contact Pauline Cilladi-Rehrer, Designated Federal Officer, ORD (10P9), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 at (202) 443–5607, or by email at *pauline.cilladi-rehrer@va.gov.*

Dated: April 21, 2014.

Rebecca Schiller,

Committee Management Officer.

[FR Doc. 2014–09745 Filed 4–28–14; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

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Part II

Department of Energy

10 CFR Part 430

Energy Conservation Program: Energy Conservation Standards for General Service Fluorescent Lamps and Incandescent Reflector Lamps; Proposed Rule

DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket Number EERE–2011–BT–STD–0006]

RIN 1904–AC43

Energy Conservation Program: Energy Conservation Standards for General Service Fluorescent Lamps and Incandescent Reflector Lamps

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

ACTION: Notice of proposed rulemaking (NOPR) and public meeting.

SUMMARY: The Energy Policy and Conservation Act of 1975 (EPCA), as amended, prescribes energy conservation standards for various commercial and industrial equipment and certain consumer products, including general service fluorescent lamps (GSFLs) and incandescent reflector lamps (IRLs). EPCA also requires the U.S. Department of Energy (DOE) to determine whether more-stringent, amended standards would be technologically feasible and economically justified, and would save a significant amount of energy. In this notice, DOE proposes amended energy conservation standards for GSFLs and IRLs. The notice also announces a public meeting to receive comment on these proposed standards and associated analyses and results.

DATES: DOE will hold a public meeting on Thursday, May 1, 2014, from 9 a.m. to 4 p.m., in Washington, DC. The meeting will also be broadcast as a webinar. See section IX Public Participation for webinar registration information, participant instructions, and information about the capabilities available to webinar participants.

DOE will accept comments, data, and information regarding this NOPR before and after the public meeting, but no later than June 30, 2014. See section IX Public Participation for details.

ADDRESSES: The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 8E–089, 1000 Independence Avenue SW., Washington, DC 20585. To attend, please notify Ms. Brenda Edwards at (202) 586–2945. Please note that foreign nationals visiting DOE Headquarters are subject to advance security screening procedures. Any foreign national wishing to participate in the meeting should advise DOE as soon as possible by contacting Ms. Edwards to initiate the necessary procedures. Please also note that those wishing to bring laptops into the Forrestal Building will be required to obtain a property pass. Visitors should avoid bringing laptops, or allow an extra 45 minutes. Persons can attend the public meeting via webinar. For more information, refer to the Public Participation section near the end of this notice.

Any comments submitted must identify the NOPR for Energy Conservation Standards for general service fluorescent lamps and incandescent reflector lamps and provide docket number EE–2011–BT–STD–0006 and/or regulatory information number (RIN) number 1904–AC43. Comments may be submitted using any of the following methods:

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

2. *Email:GSFL-IRL_2011-STD-0006@ee.doe.gov*. Include the docket number and/or RIN in the subject line of the message.

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

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

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to Office of Energy Efficiency and Renewable Energy through the methods listed above and by email to *Chad_S_Whiteman@omb.eop.gov*.

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

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

A link to the docket Web page can be found at: *www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/24*. This Web page contains a link to the docket for this notice on the regulations.gov site. The regulations.gov Web page contains instructions on how to access all documents, including public comments, in the docket. See section IX for further information on how to submit comments through *www.regulations.gov*.

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

FOR FURTHER INFORMATION CONTACT:

Ms. Lucy deButts, 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) 287–1604. Email: *General_Service_Fluorescent_Lamps@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 Proposed 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

[1] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

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 GSFLs and IRLs, 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, 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 proposes amended energy conservation standards for GSFLs and IRLs. The proposed standards, which are the minimum lumen output per watt of a lamp, are shown in Table I.1 and Table I.2. These proposed standards, if adopted, would apply to all products listed in Table I.1 and manufactured in, or imported into, the United States on or after the date three years after the publication of the final rule for this rulemaking.

With the exception of certain IRLs, these proposed standards, if adopted, would apply to all products listed in Table I.2 and manufactured in, or imported into, the United States on or after the date three years after the publication of the final rule for this rulemaking. The Consolidated Appropriations Act, 2014 (Public Law 113–76, Jan. 17, 2014), in relevant part, restricts the use of appropriated funds in connection with several aspects of DOE's incandescent lamps program. Specifically, section 322 states that none of the funds made available by the Act may be used to implement or enforce standards for BPAR incandescent reflector lamps, BR incandescent reflector lamps, and ER incandescent reflector lamps. The majority of IRLs in this rulemaking are PAR IRLs and therefore do not fall into category of lamps prohibited by section 322. The small number of lamps that are BPAR, ER, and BR IRLs are not included in this rulemaking pursuant to section 322. DOE had initiated a separate rulemaking for lamps rated 50 watts or less that are ER30, BR30, BR40, or ER40; lamps rated 65 watts that are BR30, BR40, or ER40 lamps; and R20 IRLs rated 45 watts or less, but has suspended activity on this rulemaking as a result of section 322 of Public Law 113–76. (See section II.B.3 for further details.)

TABLE I.1—PROPOSED ENERGY CONSERVATION STANDARDS FOR GENERAL SERVICE FLUORESCENT LAMPS

Lamp type	Correlated color temperature	Proposed level *lm/W*	Percent increase over current standards or baseline
4-Foot Medium Bipin	≤4,500 K	92.4	3.8
	>4,500 K	90.6	3.0
2-Foot U-Shaped	≤4,500 K	86.9	3.5
	>4,500 K	84.3	4.1
8-Foot Slimline	≤4,500 K	99.0	2.1
	>4,500 K	94.1	1.2
8-Foot Recessed Double Contact High Output	≤4,500 K	97.6	6.1
	>4,500 K	95.6	8.6
4-Foot Miniature Bipin Standard Output	≤4,500 K	97.1	12.9
	>4,500 K	91.3	12.7
4-Foot Miniature Bipin High Output	≤4,500 K	82.7	8.8
	>4,500 K	78.6	9.2

TABLE I.2—PROPOSED ENERGY CONSERVATION STANDARDS FOR INCANDESCENT REFLECTOR LAMPS

Lamp type	Diameter *inches*	Voltage *V*	Proposed level * *lm/W*	Percentage increase over current standards or baseline %
Standard Spectrum 40 W—205 W	>2.5	≥125	$7.1P^{0.27}$	4.4
		<125	$6.2P^{0.27}$	5.1
	≤2.5	≥125	$6.0P^{0.27}$	5.3
		<125	$5.2P^{0.27}$	4.0
Modified Spectrum 40 W—205 W	>2.5	≥125	$6.0P^{0.27}$	3.4
		<125	$5.2P^{0.27}$	4.0
	≤2.5	≥125	$5.1P^{0.27}$	4.1
		<125	$4.4P^{0.27}$	4.8

* P = lamp rated wattage.
Note 1: BPAR, ER, and BR IRLs and R20 IRLs rated 45 watts or less are not subject to the proposed standards for IRLs.

A. Benefits and Costs to Consumers

DOE calculates a range of life-cycle cost (LCC) savings and mean payback period (PBP) results for various purchasing events and sectors. These results are presented in section VII.B.1 and chapter 8 of the NOPR TSD. Table I.3 presents DOE's evaluation of the economic impacts of the proposed standards on consumers of GSFLs, as measured by the weighted average LCC savings and the weighted average mean PBP. The weighted average LCC savings are positive for all product classes with the exception of the 8-foot recessed double contact high output (HO) product class. Table I.4 presents DOE's evaluation of economic impacts of the proposed standards on consumers of IRLs, as measured by the weighted average LCC and mean PBP. The weighted average LCC savings are positive for all product classes.

TABLE I.3—IMPACTS OF PROPOSED STANDARDS ON CONSUMERS OF GENERAL SERVICE FLUORESCENT LAMPS

Product class	Weighted average LCC savings *2012$*	Weighted average mean payback period * *years*
4-foot medium bipin ≤4,500 K	3.14	3.6
4-foot T5 miniature bipin standard output ≤4,500 K	2.76	4.3
4-foot T5 miniature bipin high output ≤4,500 K	2.28	3.0
8-foot single pin slimline ≤4,500 K	2.08	4.5
8-foot recessed double contact HO ≤4,500 K	−16.76	NER

* Does not include weighting for "NER" Scenarios. "NER" indicates standard levels that do not reduce operating costs, which prevents the consumer from recovering the increased purchase cost.

TABLE I.4—IMPACTS OF PROPOSED STANDARDS ON CONSUMERS OF INCANDESCENT REFLECTOR LAMPS

Product class	Weighted average LCC savings *2012$*	Weighted average mean payback period *years*
Standard spectrum, >2.5 inches, <125 V	2.95	5.4

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 (2013 to 2046). Using a real discount rate of 9.2 percent, DOE estimates that the INPV for manufacturers of GSFLs is $1,542.5 million in 2012$. Under the proposed standards, DOE expects that manufacturers may lose up to 2.6 percent of their INPV, which is approximately $39.9 million in 2012$. Additionally, based on DOE's interviews with the manufacturers of GSFLs, DOE does not expect any plant closings or significant loss of employment based on the energy conservation standards proposed for GSFLs.

For IRLs, DOE estimates that the INPV for manufacturers of IRLs is $176.0 million in 2012$ using a real discount rate of 9.2 percent. Under the proposed standards, DOE expects that manufacturers may lose up to 29.5 percent of their INPV, which is approximately $51.8 million in 2012$. Additionally, manufacturers of IRLs stated in interviews with DOE that there is the potential for IRL manufacturers to close existing U.S. manufacturing plants or for a potential loss of domestic IRL manufacturing employment based on the energy conservation standards proposed for IRLs.

C. National Benefits [2]

DOE's analyses indicate that the proposed standards for GSFLs would save a significant amount of energy. The lifetime savings for GSFLs purchased in the 30-year period that begins in the year of compliance with amended standards (2017–2046) amount to 3.5 quads.

DOE's analyses indicate that the proposed standards for IRLs would save a significant amount of energy. The lifetime savings for IRLs purchased in the 30-year period that begins in the year of compliance with amended standards (2017–2046) amount to 0.013 quads.

The cumulative net present value (NPV) of total consumer costs and savings of the proposed standards for GSFLs ranges from $3.1 billion (at a 7-percent discount rate) to $8.1 billion (at a 3-percent discount rate). This NPV expresses the estimated total value of future operating-cost savings minus the estimated increased product costs for products purchased in 2017–2046.

The NPV of total consumer costs and savings of the proposed standards for IRLs ranges from $0.18 billion (at a 7-percent discount rate) to $0.28 billion (at a 3-percent discount rate). This NPV expresses the estimated total value of future operating-cost savings minus the estimated increased product costs for products purchased in 2017–2046.

In addition, the proposed standards for GSFLs would have significant environmental benefits. The energy savings would result in cumulative emission reductions of 170 million metric tons (Mt) [3] of carbon dioxide (CO_2), 730 thousand tons of methane, 250 thousand tons of sulfur dioxide (SO_2), 210 thousand tons of nitrogen oxides (NO_X), 2.8 thousand tons of nitrous oxide (N_2O), and 0.32 tons of mercury (Hg). The energy savings would result in cumulative emission reductions of 98 Mt of CO_2 through 2030.

The proposed standards for IRL would also have significant environmental benefits. The energy savings would result in cumulative emission reductions of 0.70 Mt of CO_2, 2.7 thousand tons of methane, 0.69 thousand tons of SO_2, 0.79 thousand tons of NO_X, 0.01 thousand tons of N_2O, and 0.001 tons of Hg. The energy savings would result in cumulative emission reductions of 1 Mt of CO_2 through 2030.

The value of the CO_2 reductions for the proposed standards for GSFLs 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 an interagency process. The derivation of the SCC values is discussed in section VI.M. Using discount rates appropriate for each set of SCC values, DOE estimates the present monetary value of the CO_2 emissions reduction is between $1.3 billion and $17 billion. DOE also estimates the present monetary value of the NO_X emissions reduction, is $200 million at a 7-percent discount rate and $340 million at a 3-percent discount rate.[4]

The value of the CO_2 reductions for the proposed standards of IRL is calculated using the same SCC values and discount rates used for GSFLs. DOE

[2] All monetary values in this section are expressed in 2012$ and are discounted to 2013.

[3] A metric ton is equivalent to 1.1 short tons. Results for NO_X and Hg are presented in short tons.

[4] DOE is currently investigating monetary valuation of avoided Hg and SO_2 emissions.

estimates the present monetary value of the CO_2 emissions reduction is between $0.0062 billion and $0.076 billion. DOE also estimates the present monetary value of the NO_X emissions reduction, is $1.1 million at a 7-percent discount rate and $1.6 million at a 3-percent discount rate.[4]

Table I.5 and Table I.6 summarize the national economic costs and benefits expected to result from the proposed standards for GSFLs and IRLs.

TABLE I.5—SUMMARY OF NATIONAL ECONOMIC BENEFITS AND COSTS OF PROPOSED ENERGY CONSERVATION STANDARDS FOR GENERAL SERVICE FLUORESCENT LAMPS *

Category	Present value *Billion 2012$*	Discount rate (percent)
Benefits		
Operating Cost Savings	12	7
	22	3
CO_2 Reduction Monetized Value ($11.8/t case) **	1.3	5
CO_2 Reduction Monetized Value ($39.7/t case) **	5.6	3
CO_2 Reduction Monetized Value ($61.2/t case) **	8.9	2.5
CO_2 Reduction Monetized Value ($117/t case) **	17	3
NO_X Reduction Monetized Value (at $2,639/ton) **	0.2	7
	0.3	3
Total Benefits †	18	7
	28	3
Costs		
Incremental Installed Costs	8.8	7
	13	3
Total Net Benefits		
Including Emissions Reduction Monetized Value †	9.0	7
	14	3

* This table presents the costs and benefits associated with GSFL shipped in 2017–2046. These results include benefits to consumers which accrue after 2046 from the products purchased in 2017–2046. The results account for the incremental variable and fixed costs incurred by manufacturers due to the standard, some of which may be incurred in preparation for the rule.

** The CO_2 values represent global monetized values of the SCC, in 2012$, in 2015 under several scenarios of the updated SCC values. The first three cases use the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The fourth case represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. The SCC time series used by DOE incorporate an escalation factor. The value for NO_X is the average of the low and high values used in DOE's analysis.

† Total Benefits for both the 3% and 7% cases are derived using the series corresponding to average SCC with 3-percent discount rate.

TABLE I.6—SUMMARY OF NATIONAL ECONOMIC BENEFITS AND COSTS OF PROPOSED ENERGY CONSERVATION STANDARDS FOR INCANDESCENT REFLECTOR LAMPS

Category	Present value *Billion 2012$*	Discount rate (Percent)
Benefits		
Operating Cost Savings	0.07	7
	0.11	3
CO_2 Reduction Monetized Value ($11.8/t case) **	0.006	5
CO_2 Reduction Monetized Value ($39.7/t case) **	0.03	3
CO_2 Reduction Monetized Value ($61.2/t case) **	0.04	2.5
CO_2 Reduction Monetized Value $117/t case) *	0.08	3
NO_X Reduction Monetized Value (at $2,639/ton) **	0.001	7
	0.002	3
Total Benefits†	0.10	7
	0.13	3
Costs		
Incremental Installed Costs‡	−0.11	7
	−0.17	3
Total Net Benefits		
Including Emissions Reduction Monetized Value†	0.20	7
	0.31	3

* This table presents the costs and benefits associated with IRLs shipped in 2017–2046. These results include benefits to consumers which accrue after 2046 from the products purchased in 2017–2046. The results account for the incremental variable and fixed costs incurred by manufacturers due to the standard, some of which may be incurred in preparation for the rule.

** The CO_2 values represent global monetized values of the SCC, in 2012$, in 2015 under several scenarios of the updated SCC values. The first three cases use the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The fourth case represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. The SCC time series used by DOE incorporate an escalation factor. The value for NO_X is the average of the low and high values used in DOE's analysis.

† Total Benefits for both the 3% and 7% cases are derived using the series corresponding to average SCC with 3-percent discount rate.

‡ This reduction in product costs occurs because the more efficacious products have substantially longer lifetimes than the products that would be eliminated by the proposed standard.

The benefits and costs of today's proposed standards, for products sold in 2017–2046, can also be expressed in terms of annualized values. The annualized monetary values are the sum of (1) the annualized national economic value of the benefits from consumer operation of products that meet the proposed standards (consisting primarily of operating cost savings from using less energy, minus increases in product purchase and installation costs, which is another way of representing consumer NPV), and (2) the annualized monetary value of the benefits of emission reductions, including CO_2 emission reductions.[5]

Although combining the values of operating savings and CO_2 emission reductions provides a useful perspective, two issues should be considered. First, the national operating savings are domestic U.S. consumer monetary savings that occur as a result of market transactions while the value of CO_2 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 is measured for the lifetime of GSFLs and IRLs shipped in 2017–2046. The SCC values, on the other hand, reflect the present value of some future climate-related impacts resulting from the emission of one ton of CO_2 in each year. These impacts continue well beyond 2100.

Estimates of annualized benefits and costs of the proposed standards for GSFLs are shown in Table I.7. 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 average SCC series that uses a 3-percent discount rate, the cost of the standards proposed in today's rule is $873 million per year in increased product costs; while the estimated benefits are $1,180 million per year in reduced product operating costs, $314 million per year in CO_2 reductions, and $19.3 million per year in reduced NO_X emissions. In this case, the net benefit would amount to $642 million per year. Using a 3-percent discount rate for all benefits and costs and the average SCC series, the estimated cost of the standards proposed in today's rule is $751 million per year in increased product costs; while the estimated benefits are $1,200 million per year in reduced operating costs, $314 million per year in CO_2 reductions, and $18.9 million per year in reduced NO_X emissions. In this case, the net benefit would amount to approximately $783 million per year.

Estimates of annualized benefits and costs of the proposed standards for IRLs are shown in Table I.8. 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 average SCC series that uses a 3-percent discount rate, the annualized cost of today's proposed standards is negative $10.4 million per year in reduced product costs,[6] and the annualized benefits are $7.2 million per year in reduced product operating costs, $1.4 million per year in CO_2 reductions, and $0.11 million per year in reduced NO_X emissions. In this case, the net benefit would amount to $19 million per year. Using a 3-percent discount rate for all benefits and costs and the average SCC series, the estimated annualized cost of the standards proposed in today's rule is negative $9.7 million per year in reduced product costs, and the annualized benefits of the standards proposed in today's rule are $5.9 million per year in reduced operating costs, $1.4 million per year in CO_2 reductions, and $0.09 million per year in reduced NO_X emissions. In this case, the net benefit would amount to approximately $17 million per year.

TABLE I.7—ANNUALIZED BENEFITS AND COSTS OF PROPOSED ENERGY CONSERVATION STANDARDS FOR GENERAL SERVICE FLUORESCENT LAMPS

	Discount rate	Primary estimate *	Low net benefits estimate *	High net benefits estimate *
		million 2012$/year		
Benefits				
Operating Cost Savings	7%	1,180	1,160	1,220
	3%	1,200	1,170	1,250
CO_2 Reduction Monetized Value ($11.8/t case) **	5%	98	98	98
CO_2 Reduction Monetized Value ($39.7/t case) **	3%	314	314	314
CO_2 Reduction Monetized Value ($61.2/t case) **	2.5%	456	456	456
CO_2 Reduction Monetized Value ($117/t case) **	3%	968	968	968
NO_X Reduction Monetized Value (at $2,639/ton) **	7%	19.3	19.3	19.3
	3%	18.9	18.9	18.9
Total Benefits†	7% plus CO_2 range	1,300 to 2,160	1,280 to 2,140	1,340 to 2,210
	7%	1,520	1,490	1,560

[5] 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 2013, 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.5 and Table I.6. From the present value, DOE then calculated the fixed annual payment over a 30-year period (2017 through 2046) that yields the same present value. 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.

[6] This negative cost represents a reduction in product costs compared to the base case, because the more efficacious products have substantially longer lifetimes than the products that would be eliminated by the proposed standard.

TABLE I.7—ANNUALIZED BENEFITS AND COSTS OF PROPOSED ENERGY CONSERVATION STANDARDS FOR GENERAL SERVICE FLUORESCENT LAMPS—Continued

	Discount rate	Primary estimate *	Low net benefits estimate *	High net benefits estimate *
		million 2012$/year		
	3% plus CO_2 range	1,320 to 2,180	1,290 to 2,160	1,370 to 2,230
	3%	1,530	1,510	1,580
Costs				
Incremental Product Costs	7%	873	910	873
	3%	751	785	751
Net Benefits				
Total †	7% plus CO_2 range	426 to 1,291	367 to 1,232	469 to 1,330
	7%	642	583	685
	3% plus CO_2 range	567 to 1,432	505 to 1,370	615 to 1,480
	3%	783	722	831

* This table presents the annualized costs and benefits associated with GSFLs shipped in 2017 – 2046. These results include benefits to consumers which accrue after 2046 from the products purchased in 2017 – 2046. The results account for the incremental variable and fixed costs incurred by manufacturers due to the standard, some of which may be incurred in preparation for the rule. The Primary Benefits Estimate assumes the central energy prices from *AEO 2013* and a decreasing incremental product cost, due to price learning. The Low Benefits Estimate assumes the low estimate of energy prices from *AEO 2013* and constant real product prices. The High Benefits Estimate assumes the high energy price estimates from *AEO 2013* and decreasing incremental product costs, due to price learning.

** The CO_2 values represent global monetized values of the SCC, in 2012$, in 2015 under several scenarios of the updated SCC values. The first three cases use the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The fourth case represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. The SCC time series used by DOE incorporate an escalation factor. The value for NO_X 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 series corresponding to average SCC with 3-percent discount rate. In the rows labeled "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.

TABLE I.8—ANNUALIZED BENEFITS AND COSTS OF PROPOSED ENERGY CONSERVATION STANDARDS FOR INCANDESCENT REFLECTOR LAMPS

	Discount rate	Primary estimate *	Low net benefits estimate *	High net benefits estimate *
		million 2012$/year		
Benefits				
Operating Cost Savings	7%	7.2	7.1	10
	3%	5.9	5.8	5.8
CO_2 Reduction Monetized Value ($11.8/t case) **	5%	0.5	0.5	0.5
CO_2 Reduction Monetized Value ($39.7/t case) **	3%	1.4	1.4	1.4
CO_2 Reduction Monetized Value ($61.2/t case) **	2.5%	2.0	2.0	2.0
CO_2 Reduction Monetized Value ($117/t case) *	3%	4.2	4.2	4.2
NO_X Reduction Monetized Value (at $2,639/ton) **	7%	0.11	0.11	0.16
	3%	0.09	0.09	0.09
Total Benefits †	7% plus CO_2 range	7.8 to 12	7.7 to 11	7.8 to 12
	7%	8.7	8.6	8.7
	3% plus CO_2 range	6.4 to 10	6.4 to 10	6.4 to 10
	3%	7.4	7.3	7.3
Costs				
Incremental Product Costs ‡	7%	– 10.4	– 10.5	– 10.4
	3%	– 9.7	– 9.8	– 9.7
Net Benefits				
Total †	7% plus CO_2 range	18 to 22	18 to 22	18 to 22
	7%	19	19	19
	3% plus CO_2 range	16 to 20	16 to 20	16 to 20
	3%	17	17	17

* This table presents the annualized costs and benefits associated with IRLs shipped in 2017 – 2046. These results include benefits to consumers which accrue after 2046 from the products purchased in 2017 – 2046. The results account for the incremental variable and fixed costs incurred by manufacturers due to the standard, some of which may be incurred in preparation for the rule. The Primary Benefits Estimate assumes the central energy prices from *AEO 2013* and a decreasing incremental product cost, due to price learning. The Low Benefits Estimate assumes the low estimate of energy prices from *AEO 2013* and constant real product prices. The High Benefits Estimate assumes the high energy price estimates from *AEO 2013* and decreasing incremental product costs, due to price learning.

** The CO_2 values represent global monetized values of the SCC, in 2012$, in 2015 under several scenarios of the updated SCC values. The first three cases use the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The fourth case represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. The SCC time series used by DOE incorporate an escalation factor. The value for NO_X 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 series corresponding to average SCC with 3-percent discount rate. In the rows labeled "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.

‡ This reduction in product costs occurs because the more efficacious products have substantially longer lifetimes than the products that would be eliminated by the proposed standard.

DOE has tentatively concluded that the proposed standards represent the maximum improvement in energy efficiency that is technologically feasible and economically justified, and would result in the significant conservation of energy. DOE further notes that products achieving these standard levels are already commercially available. Based on the analyses described above, DOE has tentatively concluded that the benefits of the proposed standards to the nation (energy savings, positive NPV of consumer benefits, consumer LCC savings, and emission reductions) would outweigh the burdens (loss of INPV for manufacturers and LCC increases for some consumers).

Based on consideration of the public comments DOE receives in response to this notice and related information collected and analyzed during the course of this rulemaking effort, DOE may adopt energy efficiency levels presented in this notice that differ from the proposed standards, or some combination of level(s) that incorporate the proposed standards in part.

II. Introduction

The following section briefly discusses the statutory authority underlying today's proposal, as well as some of the relevant historical background related to the establishment of standards for GSFLs and IRLs.

A. Authority

Title III, Part B of the EPCA, Public Law 94–163 (42 U.S.C. 6291–6309, as codified) established the Energy Conservation Program for Consumer Products Other Than Automobiles,[7] a program covering most major household appliances (collectively referred to as ''covered products''), which includes the types of GSFLs and IRLs that are the subject of this rulemaking. (42 U.S.C. 6292(a)(14)) EPCA prescribed energy conservation standards for these products (42 U.S.C. 6295(i)(1)), and directed DOE to conduct two cycles of rulemakings to determine whether to amend these standards. (42 U.S.C. 6295(i)(3)–(5)) On July 14, 2009, DOE published a final rule in the **Federal Register**, which completed the first rulemaking cycle to amend energy conservation standards for GSFLs and IRLs (hereafter the ''2009 Lamps Rule''). 74 FR 34080. That rule adopted standards for additional GSFLs, amended the definition of ''colored fluorescent lamp'' and ''rated wattage,'' and also adopted test procedures applicable to the newly covered GSFLs. Information regarding the 2009 Lamps Rule can be found on regulations.gov, docket number EERE–2006–STD–0131 at *www.regulations.gov/#!docketDetail;D=EERE-2006-STD-0131*.

This rulemaking encompasses DOE's second cycle of review to determine whether the standards in effect for GSFLs and IRLs should be amended, including whether the standards should be applicable to additional GSFLs.

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 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 GSFLs and IRLs currently appear at title 10 of the Code of Federal Regulations (CFR) part 430, subpart B, appendix R.

DOE must follow specific statutory criteria for prescribing amended standards for covered products. As indicated above, any 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 GSFLs and IRLs, if no test procedure has been established for the product, or (2) if DOE determines by rule that the proposed standard is not technologically feasible or economically justified. (42 U.S.C. 6295(o)(3)(A)–(B)) In deciding whether a proposed 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 (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 amended standard that either increases the maximum

[7] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated Part A.

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

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 that have the same function or intended use if DOE determines that 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. (42 U.S.C. 6294(q)(1)) 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 the 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)).

Any final rule for new or amended energy conservation standards promulgated after July 1, 2010, must also 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 standby mode and off mode do not apply to GSFLs and IRLs and that their energy use is accounted for entirely in the active mode. Therefore, DOE is not addressing standby and off modes, and will only address active mode in 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 believes that today's NOPR is consistent with these principles, including the requirement that, to the extent permitted by law, benefits justify costs and that net benefits are maximized. Consistent with EO 13563, and the range of impacts analyzed in this rulemaking, the energy efficiency standard proposed herein by DOE achieves maximum net benefits.

B. Background

1. Current Standards

In the 2009 Lamps Rule, DOE prescribed the current energy conservation standards for GSFLs and IRLs manufactured on or after July 14, 2012 (hereafter the ''July 2012 standards''). 74 FR 34080. The current standards are set forth in Table II.1 and Table II.2.

TABLE II.1—JULY 2012 STANDARDS FOR GENERAL SERVICE FLUORESCENT LAMPS

Lamp type	Correlated color temperature	Minimum average lamp efficacy *lm/W*
Four-Foot Medium Bipin	≤4,500 K	89
	>4,500 K and ≤7,000 K	88
Two-Foot U-Shaped	≤4,500 K	84
	>4,500 K and ≤7,000 K	81
Eight-Foot Slimline	≤4,500 K	97
	>4,500 K and ≤7,000 K	93
Eight-Foot High Output	≤4,500 K	92

TABLE II.1—JULY 2012 STANDARDS FOR GENERAL SERVICE FLUORESCENT LAMPS—Continued

Lamp type	Correlated color temperature	Minimum average lamp efficacy *lm/W*
	>4,500 K and ≤7,000 K	88
Four-Foot Miniature Bipin Standard Output	≤4,500 K	86
	>4,500 K and ≤7,000 K	81
Four-Foot Miniature Bipin High Output	≤4,500 K	76
	>4,500 K and ≤7,000 K	72

TABLE II.2—JULY 2012 STANDARDS FOR INCANDESCENT REFLECTOR LAMPS

Rated lamp wattage	Lamp spectrum	Lamp diameter *inches*	Rated voltage	Minimum average lamp efficacy *lm/W*
40–205	Standard Spectrum	>2.5	≥125 V	$6.8*P^{0.27}$
			<125 V	$5.9*P^{0.27}$
		≤2.5	≥125 V	$5.7*P^{0.27}$
			<125 V	$5.0*P^{0.27}$
40–205	Modified Spectrum	>2.5	[8] ≥125 V	$5.8*P^{0.27}$
			<125 V	$5.0*P^{0.27}$
		≤2.5	≥125 V	$4.9*P^{0.27}$
			<125 V	$4.2*P^{0.27}$

Note 1: P is equal to the rated lamp wattage, in watts.
Note 2: Standard Spectrum means any incandescent reflector lamp that does not meet the definition of modified spectrum in 430.2.

2. Corrections to Codified Standards

In this rulemaking, DOE is proposing to correct errors in the codified standards for GSFLs and IRLs. In particular, DOE is proposing to correct the typographical errors in the sections of the CFR that lay out the GSFL standards specified in EPCA and the IRL standards established by the 2009 Lamps Rule. Specifically, for the GSFL standards codified at 10 CFR 430.32(n)(1), the ''less than or equal to 35 W'' associated with the 8-foot single pin (SP) slimline lamp type should instead be associated with the 2-foot U-shaped lamp type. For 8-foot SP slimline product class with a minimum color rendering index (CRI) of 45 and a minimum average lamp efficacy of 80.0 lumens per watt (lm/W), the rated wattage should be less than or equal to 65 W, not greater than 65 W. The revised table should read as follows:

TABLE II.3—GSFL STANDARDS PRESCRIBED BY EPACT

Lamp type	Nominal lamp wattage	Minimum CRI	Minimum average lamp efficacy *lm/W*	Effective date
4-foot medium bipin	>35 W	69	75.0	Nov. 1, 1995.
	≤35 W	45	75.0	Nov. 1, 1995.
2-foot U-shaped	>35 W	69	68.0	Nov. 1, 1995.
	≤35 W	45	64.0	Nov. 1, 1995.
8-foot slimline	>65 W	69	80.0	May 1, 1994.
	≤65 W	45	80.0	May 1, 1994.
8-foot high output	>100 W	69	80.0	May 1, 1994.
	≤100 W	45	80.0	May 1, 1994.

For the IRL standards adopted by the 2009 Lamps Rule that are codified in 10 CFR 430.32(n)(5), the minimum lamp efficacy of $5.8P^{0.27}$ is for lamps with a rated wattage of 40–205 W, modified spectrum, diameter greater than 2.5 inches, and rated voltage of ''greater than or equal to 125 V'' rather than ''less than or equal to 125 V.'' The revised table should read as follows:

[8] Shown correctly in this table; erroneously written as ''≤125V'' in the CFR.

TABLE II.4—IRL STANDARDS ADOPTED BY THE 2009 LAMPS RULE

Rated lamp wattage	Lamp spectrum	Lamp diameter *inches*	Rated voltage	Minimum average lamp efficacy *lm/W*
40–205	Standard Spectrum	>2.5	≥125 V	$6.8*P^{0.27}$
			<125 V	$5.9*P^{0.27}$
		≤2.5	≥125 V	$5.7*P^{0.27}$
			<125 V	$5.0*P^{0.27}$
40–205	Modified Spectrum	>2 .5	≥125 V	$5.8*P^{0.27}$
			<125 V	$5.0*P^{0.27}$
		≤2.5	≥125 V	$4.9*P^{0.27}$
			<125 V	$4.2*P^{0.27}$

3. History of Standards Rulemaking for General Service Fluorescent Lamps and Incandescent Reflector Lamps

As mentioned in the previous section, EPCA, as amended, established energy conservation standards for certain classes of GSFLs and IRLs, and required DOE to conduct two rulemaking cycles to determine whether these standards should be amended. (42 U.S.C. 6291(1), 6295(i)(1) and (3)–(4)) EPCA also authorized DOE to adopt standards for additional GSFLs if such standards were warranted. (42 U.S.C. 6295(i)(5))

DOE completed the first cycle of amendments by publishing a final rule in the **Federal Register** in July 2009. 74 FR 34080 (July 14, 2009). The 2009 Lamps Rule amended existing GSFL and IRL energy conservation standards and adopted standards for additional GSFLs. That rule also amended the definition of ''colored fluorescent lamp'' and ''rated wattage,'' and adopted test procedures applicable to the newly covered GSFLs.

The Energy Policy Act of 1992 (EPAct 1992, Pub. L. 102–486) amendments to EPCA added as covered products IRLs with wattages of 40 watts (W) or higher. In defining the term ''incandescent reflector lamp,'' EPAct 1992 excluded lamps with elliptical reflector (ER) and bulged reflector (BR) bulb shapes, and with diameters of 2.75 inches or less. Therefore, such IRLs were neither included as covered products nor subject to EPCA's standards for IRLs.

Section 322(a)(1) of the Energy Independence and Security Act of 2007 (EISA 2007) subsequently amended EPCA to expand the Act's definition of ''incandescent reflector lamp'' to include lamps with a diameter between 2.25 and 2.75 inches, as well as lamps with ER, BR, bulged parabolic aluminized reflector (BPAR), or similar bulb shapes. (42 U.S.C. 6291(30)(C)(ii) and (F)) Section 322(b) of EISA 2007, in amending EPCA to set forth revised standards for IRLs in new section 325(i)(1)(C), exempted from these standards the following categories of IRLs: (1) lamps rated 50 W or less that are ER30, BR30, BR40, or ER40; (2) lamps rated 65 W that are BR30, BR40, or ER40 lamps; and (3) R20 IRLs rated 45 W or less. (42 U.S.C. 6295(i)(C)) DOE refers to these three categories of lamps collectively as certain R, ER, and BR IRLs.

DOE has concluded, for the reasons that follow, that it has the authority under EPCA to adopt standards for these R, ER, and BR IRLs, and that these lamps are covered by the directive in 42 U.S.C. 6295(i)(3) to amend EPCA's standards for IRLs. First, by amending the definition of ''incandescent reflector lamp'' (42 U.S.C. 6291(30)(C)(ii) and (F)), EISA 2007 effectively brought these R, ER, and BR IRLs into the federal energy conservation standards program as covered products, thereby subjecting them to DOE's regulatory authority. Second, although 42 U.S.C. 6295(i)(1)(C) exempts these R, ER, and BR IRLs from the standards specified in 42 U.S.C. 6295(i)(1)(B), EPCA directs that DOE amend the standards laid out in 42 U.S.C. 6295(i)(1), which includes subparagraph (C). As a result, the statutory text exempted these bulbs only from the standards specified in 42 U.S.C. 6295(i)(1), not from future regulation. Consequently, DOE began considering energy conservation standards for these R, ER, and BR IRLs. DOE initiated a new rulemaking for these products by completing a framework document and publishing a notice announcing its availability. 75 FR 23191 (May 3, 2010). DOE held a public meeting on May 26, 2010 to seek input from interested parties on its methodologies, assumptions, and data sources.[9]

To initiate the second rulemaking cycle to consider amended energy conservation standards for GSFLs and IRLs (other than the certain R, ER, and BR IRLs discussed in the preceding paragraphs), on September 14, 2011, DOE published a notice announcing the availability of the framework document, ''Energy Conservation Standards Rulemaking Framework Document for General Service Fluorescent Lamps and Incandescent Reflector Lamps,'' and a public meeting to discuss the proposed analytical framework for the rulemaking. 76 FR 56678. DOE also posted the framework document on its Web site, in which DOE described the procedural and analytical approaches DOE anticipated using to evaluate the establishment of energy conservation standards for GSFLs and IRLs.

DOE held the public meeting for the framework document on October 4, 2011,[10] to present the framework document, describe the analyses it planned to conduct during the rulemaking, seek comments from stakeholders on these subjects, and inform stakeholders about and facilitate their involvement in the rulemaking. At the public meeting, and during the comment period, DOE received many comments that both addressed issues raised in the framework document and identified additional issues relevant to this rulemaking.

DOE issued the preliminary analysis for this rulemaking on February 20, 2013 and published it in the **Federal Register** on February 28, 2013. 78 FR 13563 (February 28, 2013). DOE posted the preliminary analysis, as well as the complete preliminary technical support document (TSD), on its Web site.[11] The preliminary TSD includes the results of the following DOE preliminary analyses: (1) market and technology assessment; (2) screening analysis; (3) engineering analysis; (4) energy use characterization;

[9] DOE has suspended activity on this rulemaking as a result of section 315 of Public Law (Pub. L.) 112–74 (Dec. 23, 2011), which prohibits DOE from using appropriated funds to implement or enforce standards for ER, BR, and bulged parabolic reflector IRLs.

[10] The framework document and public meeting information are available at regulations.gov under docket number EERE–2011–BT–STD–0006.

[11] The preliminary analysis, preliminary TSD, and preliminary analysis public meeting information are available at regulations.gov under docket number EERE–2011–BT–STD–0006.

(5) product price determinations; (6) LCC and PBP analyses; (7) shipments analysis; and (8) national impact analysis (NIA).

In the preliminary analysis, DOE described and sought comment on the analytical framework, models, and tools (*e.g.,* LCC and national energy savings [NES] spreadsheets) DOE used to analyze the impacts of energy conservation standards for GSFLs and IRLs. Specifically, DOE invited comment on the following issues: (1) consideration of additional GSFLs; (2) amended definitions; (3) market trends; (4) technology options; (5) product classes; (6) market and technology assessment methodology; (7) screening of design options; (8) representative product classes; (9) baseline lamps; (10) more efficacious substitutes; (11) lamp-and-ballast systems; (12) 4-foot T5 miniature bipin (MiniBP) HO model lamp; (13) candidate standard levels (CSLs); (14) compliance requirements; (15) scaling to product classes not analyzed; (16) engineering analysis methodology; (17) product price determination; (18) GSFL ballast prices; (19) dimmed GSFL systems; (20) lighting controls market penetration; (21) lighting controls performance characteristics; (22) operating profiles for energy use characterization; (23) residential GSFL LCC analysis; (24) sales tax in the LCC analysis; (25) spacing adjustments in the LCC analysis; (26) LCC analysis overall methodology and results; (27) T5s in the residential market; (28) the shipments and national impact analyses; (29) LCC subgroups; (30) small businesses that manufacture GSFLs and IRLs; (31) manufacturer subgroup analysis; (32) key issues and data for the manufacturer impact analysis (MIA); (33) valuing airborne emission reductions; (34) data and programs for the regulatory impact analysis (RIA); and (35) TSLs. (See executive summary and chapter 2 of the preliminary TSD.)

DOE held a public meeting on April 9, 2013, to present the methodologies and results for the preliminary analyses. Manufacturers, trade associations, and environmental advocates attended the meeting. The participants discussed multiple issues, including the methodology and results of the market and technology assessment, screening analysis, engineering analysis, product price determination, energy use, LCC analysis, shipments analysis, and NIA. Other issues brought up during the public meeting included regulatory authority and rulemaking schedule. Finally, the MIA and additional analyses that are undertaken during the NOPR stage were discussed. The comments received during the public meeting, along with the written comments submitted to DOE since publication of the preliminary analysis, have contributed to DOE's proposed resolution of the issues in this rulemaking. This NOPR responds to the issues raised in these public comments.

4. Test Procedure

EPCA sets forth generally applicable criteria and procedures for DOE's adoption and amendment of test procedures. (42 U.S.C. 6293) Manufacturers of covered products must use these test procedures to certify to DOE that their product complies with EPCA energy conservation standards and to quantify the efficiency of their product. Similarly, DOE uses the test procedure to determine compliance with energy conservation standards. DOE's test procedures for fluorescent and incandescent reflector lamps are set forth in title 10 of the CFR, part 430, subpart B, appendix R. These test procedures provide instructions for measuring GSFL and IRL performance, largely by incorporating industry standards. The test procedures were updated in a final rule published in July 2009. 74 FR 31829 (July 6, 2009). The rule updated citations to industry standards and made several other modifications. DOE further amended the test procedures to update references to industry standards for GSFLs in a final rule published in January 2012. 77 FR 4203 (January 27, 2012).

Standby and Off Mode Energy Consumption

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)) EPCA defines active mode as the condition in which an energy-using piece of equipment is connected to a main power source, has been activated, and provides one or more main functions. (42 U.S.C. 6295)(gg)(1)(A)) Standby mode is defined as the condition in which an energy-using piece of equipment is connected to a main power source and offers one or more of the following user-oriented or protective functions: facilitating the activation or deactivation of other functions (including active mode) by remote switch (including remote control), internal sensor, or timer; or providing continuous functions, including information or status displays (including clocks) or sensor-based functions. *Id.* Off mode is defined as the condition in which an energy-using piece of equipment is connected to a main power source, and is not providing any standby or active mode function. *Id.*

To satisfy the EPCA definitions of standby mode and off mode (42 U.S.C. 6295(gg)(1)), the lamp must not be providing any active mode function (*i.e.,* emitting light). However, to reach such a state, the lamp must be entirely disconnected from the main power source (*i.e.,* switched off), thereby not satisfying the requirements of operating in off mode or standby mode. Further, neither GSFLs nor IRLs covered under this rulemaking provide any secondary user-oriented or protection functions or continuous standby mode functions. Thus, these lamps do not satisfy the EPCA definition of standby mode. While EPCA allows DOE to amend the mode definitions (42 U.S.C. 6295(gg)(1)(B)), DOE believes that the energy use of GSFLs and IRLs is accounted for entirely in the active mode. Therefore, DOE is not addressing lamp operation in the standby and off modes in this rulemaking.

III. General Discussion

A. Product Classes and Scope of Coverage

When evaluating and establishing energy conservation standards, DOE divides covered products into product classes by the type of energy used or by capacity or other performance-related features that justifies a different standard. In making a determination whether a performance-related feature justifies a different standard, DOE must consider such factors as the utility to the consumer of the feature and other factors DOE determines are appropriate. (42 U.S.C. 6295(q)) For further details on the scope of coverage for this rulemaking, see section V. For further details on product classes, see section VI.C and chapter 3 of the NOPR TSD.

B. Technological Feasibility

1. General

In each standards rulemaking, DOE conducts a screening analysis based on information gathered on all current technology options and prototype designs that could improve the efficiency of the products or equipment that are the subject of the rulemaking. As the first step in such an 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 those 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)

After DOE has determined that particular technology options are technologically feasible, it further evaluates each technology option 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. Section VI.B of this notice discusses the results of the screening analysis for GSFLs and IRLs, particularly the designs DOE considered, those it screened out, and those that are the basis for the TSLs in this rulemaking. For further details on the screening analysis for this rulemaking, see chapter 4 of the NOPR TSD.

2. Maximum Technologically Feasible Levels

When DOE proposes to adopt 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 such product. (42 U.S.C. 6295(p)(1)) Accordingly, in the engineering analysis, DOE determined the maximum technologically feasible (''max tech'') improvements in energy efficiency for GSFLs and IRLs, using the design parameters for the most efficient products available on the market or in working prototypes. (See chapter 5 of the NOPR TSD.) The max tech levels that DOE determined for this rulemaking are described in section VI.D.2.f for GFSLs and VI.D.3.e for IRLs of this proposed rule.

C. Energy Savings

1. Determination of Savings

For each TSL, DOE projected energy savings from the products that are the subject of this rulemaking purchased in the 30-year period that begins in the year of compliance with any amended standards (2017–2046). The savings are measured over the entire lifetime of products purchased in the 30-year period.[12] DOE quantified the energy savings attributable to each TSL as the difference in energy consumption between each standards case and the base case. The base case represents a projection of energy consumption in the absence of amended mandatory efficiency standards, and considers market forces and policies that affect demand for more efficient products.

DOE used its NIA spreadsheet model to estimate energy savings from amended standards for the products that are the subject of this rulemaking. The NIA spreadsheet model (described in section VI.J of this notice) calculates energy savings in site energy, which is the energy directly consumed by products at the locations where they are used. For electricity, DOE reports NES in terms of the savings in the energy that is used to generate and transmit the site electricity. To calculate this quantity, DOE derives annual conversion factors from the model used to prepare the U.S. Energy Information Administration's (EIA's) *Annual Energy Outlook* (*AEO*).

DOE also estimates full-fuel-cycle (FFC) energy savings. 76 FR 51282 (Aug. 18, 2011), as amended at 77 FR 49701 (August 17, 2012). The FFC metric includes the energy consumed in extracting, processing, and transporting primary fuels (*i.e.,* coal, natural gas, petroleum fuels), and thus presents a more complete picture of the impacts of energy efficiency standards. DOE's approach is based on calculation of an FFC multiplier for each of the energy types used by covered products. For more information on FFC energy savings, see section VI.J.

2. Significance of Savings

As noted above, 42 U.S.C. 6295(o)(3)(B) prevents DOE from adopting a standard for a covered product unless such standard would result in ''significant'' energy savings. Although 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 (D.C. 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 rulemaking (presented in section VII.A) are nontrivial, and, therefore, DOE considers them ''significant'' within the meaning of section 325 of EPCA.

D. Economic Justification

1. Specific Criteria

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 has addressed each of those seven factors in this rulemaking.

a. Economic Impact on Manufacturers and Consumers

In determining the impacts of an amended standard on manufacturers, DOE first uses an annual cash-flow approach to determine the quantitative impacts. This step includes both a short-term assessment—based on the cost and capital requirements during the period between when a regulation is issued and when entities must comply with the regulation—and a long-term assessment over a 30-year period. The industry-wide impacts analyzed include INPV, which values the industry on the basis of 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 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. Finally, DOE takes into account cumulative impacts of various DOE regulations and other regulatory requirements on manufacturers. For this rulemaking, these impacts include those resulting from the 2009 Lamps Rule.

For individual consumers, measures of economic impact include the changes in LCC and PBP associated with new or amended standards. These measures are discussed further in the following section. For consumers in the aggregate, DOE also calculates the national NPV of the economic impacts applicable to a particular rulemaking. DOE also evaluates the LCC impacts of potential standards on identifiable subgroups of consumers that may be affected disproportionately by a national standard.

b. Savings in Operating Costs Compared to Increase in Price

EPCA requires DOE to consider the savings in operating costs throughout the estimated average life of the covered product compared to any increase in the price of the covered product that is likely to result from the imposition of the standard. (42 U.S.C. 6295(o)(2)(B)(i)(II)) DOE conducts this comparison in its LCC and PBP analysis. 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. To account for uncertainty and variability in specific inputs, such as product lifetime and discount rate, DOE uses a

[12] DOE previously presented energy savings results for the 30-year period that begins in the year of compliance. In the calculation of economic impacts, however, DOE considered operating cost savings measured over the entire lifetime of products purchased in the 30-year period. DOE has modified its presentation of NES to be consistent with the approach used for its national economic analysis.

distribution of values, with probabilities attached to each value. For its analysis, DOE assumes that consumers will purchase the covered products in the first year of compliance with amended standards.

The LCC savings and the PBP for the considered efficacy levels (ELs) are calculated relative to a base case that reflects projected market trends in the absence of amended standards. DOE identifies the percentage of consumers estimated to receive LCC savings or experience an LCC increase, in addition to the average LCC savings associated with a particular standard level.

c. Energy Savings

Although 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)) As discussed in section VI.J, DOE uses the NIA spreadsheet to project NES.

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 evaluates standards that would not lessen the utility or performance of the considered products. (42 U.S.C. 6295(o)(2)(B)(i)(IV)) The standards proposed in today's notice will not reduce the utility or performance of the products under consideration in this rulemaking.

e. Impact of Any Lessening of Competition

EPCA directs DOE to consider the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of a standard. (42 U.S.C. 6295(o)(2)(B)(i)(V) It also directs the Attorney General to determine the impact, if any, of any lessening of competition likely to result from a proposed standard and to transmit such determination to the Secretary, together with an analysis of the nature and extent of the impact. (42 U.S.C. 6295(o)(2) (B)(ii)) DOE will transmit a copy of today's proposed rule to the Attorney General with a request that the U.S. Department of Justice (DOJ) provide its determination on this issue. DOE will address the Attorney General's determination in the final rule.

f. Need for National Energy Conservation

The energy savings from the proposed standards are likely to provide improvements to the security and reliability of the nation's energy system. Reductions in the demand for electricity also may 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.

The proposed standards also are likely to result in environmental benefits in the form of reduced emissions of air pollutants and greenhouse gases (GHGs) associated with energy production. DOE reports the emissions impacts from today's standards, and from each TSL it considered, in section VI.L of this notice. DOE also reports estimates of the economic value of emissions reductions resulting from the considered TSLs.

g. Other Factors

EPCA allows the Secretary, in determining whether a standard is economically justified, to consider any other factors that the Secretary deems to be relevant. (42 U.S.C. 6295(o)(2)(B)(i)(VII))

2. Rebuttable Presumption

As set forth in 42 U.S.C. 6295(o)(2)(B)(iii), EPCA creates 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's energy savings resulting from the standard, as calculated under the applicable DOE test procedure. DOE's LCC and PBP analyses generate values used to calculate the effects that proposed energy conservation standards would have on the payback period for consumers. These analyses include, but are not limited to, the 3-year payback period contemplated under the rebuttable-presumption test. In addition, DOE routinely conducts an economic analysis that considers the full range of impacts to consumers, manufacturers, the nation, and the environment, as required under 42 U.S.C. 6295(o)(2)(B)(i). The results of this analysis serve as the basis for DOE's evaluation of 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 III.D of this proposed rule.

IV. Issues Affecting Rulemaking Schedule

In the schedule presented in the framework document of this rulemaking, the preliminary analysis was scheduled to be published in September 2012, the NOPR in August 2013, and the final rule establishing any amended standards in 2014. During the framework stage, stakeholders expressed concerns that because the 2009 Lamps Rule standards would require compliance July 14, 2012, the preliminary analysis published in September 2012 would not be able to account for the impacts of the July 2012 standards. DOE noted these concerns and extended the schedule, publishing the preliminary analysis in February 2013. DOE received additional comments regarding the timing of this rulemaking in the preliminary analysis phase.

Philips questioned whether this rulemaking is statutorily required to be completed at this time, specifically asking if EPAct 1992 provided a date by which the final rule of the second cycle of energy conservation standards for GSFLs and IRLs has to be published. (Philips, Public Meeting Transcript, No. 30 at pp. 27–28)

In a Joint Comment, the Appliance Standards Awareness Project (ASAP), the Natural Resources Defense Council (NRDC), the Alliance to Save Energy, the American Council for an Energy-Efficient Economy (ACEEE), the Consumer Federation of America, and the National Consumer Law Center, (hereafter the ''Joint Comment'') and Northeast Energy Efficiency Partnerships (NEEP) emphasized that EPAct 1992 requires DOE to complete two rounds of rulemakings for IRLs and GSFLs. The Joint Comment noted that final rule of the first cycle was required to be published by April 1997. (42 U.S.C. 6295(i)(3)) DOE was required to publish the final rule of the second cycle five years later. (42 U.S.C. 6295(i)(4)) NEEP and the Joint Comment stated that as DOE failed to publish a final rule for the first cycle until July 2009, it is not possible for DOE to meet the required deadline date for the second cycle. Therefore, NEEP and the Joint Comment agreed that the second cycle should occur within the interval contemplated by Congress when it set out the original deadlines, and a final rule should be issued no later than 2014. (NEEP, No. 33 at p. 1; Joint Comment, No. 35 at pp. 1–2) ASAP agreed stating that given that the 2009 Lamps Rule was complete, it was not

discretionary for DOE to have any other schedule than the one currently in place for this rulemaking. (ASAP, Public Meeting Transcript, No. 30 at pp. 192–193)

General Electric (GE) stated its concern that this rulemaking is occurring too soon after the 2009 Lamps Rule, making it difficult for manufacturers to recover investments in new technologies or to develop products meeting even higher standards. GE indicated that the close proximity of the rulemakings will have a severe and negative impact on manufacturers. (GE, Public Meeting Transcript, No. 30 at p. 192) National Electrical Manufacturers Association (NEMA) noted that for certain GSFL product classes, Office of Hearing and Appeals (OHA) issued waivers providing a stay of enforcement for many manufacturers due to the limited availability of rare earth phosphors. NEMA pointed out that as a result, the July 2012 standards still have not been fully implemented. (Philips, Public Meeting Transcript, No. 30 at pp. 27–28; NEMA, No. 36 at p. 1) Therefore, NEMA stated that the market has not fully shifted to reflect the impacts of the July 2012 standards and there is little to no accurate information available regarding future market shares and technology capability. Hence, NEMA concluded that as it is too soon after the 2009 Lamps Rule to set new energy conservation standards, DOE and the Secretary should declare no new standard in this rulemaking. (NEMA, No. 36 at p. 1) Further, NEMA called attention to DOE's newer authority to review energy conservation standards six years after a final rule is published. NEMA found that this review will provide an opportunity to better assess standards for GSFLs and IRLs. (NEMA, No. 36 at pp. 1–2)

The California investor-owned utilities, including Pacific Gas and Electric Company (PG&E), Southern California Gas Company (SCGC), San Diego Gas and Electric (SDG&E), and Southern California Edison (SCE), (hereafter the ''CA IOUs'') approved of the current timeline for this rulemaking. They commented that because DOE waited until after the July 2012 standards required compliance before completing the preliminary analysis and due to the amount of time before standards promulgated by this rulemaking would require compliance, now is the correct time to proceed with the second cycle of energy conservation standards for these products. (CA IOUs, Public Meeting Transcript, No. 30 at pp. 30–31)

The Joint Comment emphasized the significance of this rulemaking as a reason to proceed within the five-year timeframe. They stated that according to the 2010 U.S. Lighting Market Characterization (2010 LMC),[13] the U.S. inventory of installed IRLs was estimated to be in excess of 641 million lamps, representing almost 8 percent of the total installed lighting base, consuming an estimated 39 terawatt hours (TWh) annually. The 2010 LMC estimated an inventory of nearly 2.4 billion GSFLs, representing 29 percent of the total installed base, consuming approximately 294 TWh annually. While the Joint Comment recognized that these numbers will likely begin to decrease over time with the increased prevalence of light-emitting diode (LED) alternatives, they noted that IRLs and GSFLs will still likely command a significant portion of the lighting market for decades to come, as a perceived cheaper alternative to LEDs. Due to this and the findings of the preliminary analysis that this rulemaking offers the potential for significant, cost-effective savings for U.S. consumers and businesses, the Joint Comment urged DOE to place this rulemaking's completion as a high priority. (Joint Comment, No. 35 at p. 2)

DOE is obligated to conduct this second review of GSFL and IRL standards. EPCA required DOE to initiate the first review of standards no earlier than three years after October 24, 1992, and publish a final rule no later than four years and six months after that date. 42 U.S.C. 6295(i)(3) The second review of standards was to be initiated no earlier than eight years after October 24, 1992, and the final rule published no later than nine years and six months after that date. 42 U.S.C. 6295(i)(4) DOE published the final rule for the first review of standards in July 2009. DOE is conducting this rulemaking to satisfy the EPCA requirement for a second review of the standards. Applying the schedule DOE developed for the second review of standards would result in an interval of five years between the publications of the final rules for the first and second review of standards, and any final rule for this rulemaking would be published in 2014.

To address comments that product availability, product pricing, and investment decisions in response to the July 2012 standards would not be finalized within the proposed scheduled, DOE delayed the publication of the preliminary analysis to update its product databases and assessments based on changes that took place after the compliance date on July 14, 2012. Additionally, for the preliminary analysis stage, DOE obtained information during interviews with manufacturers regarding new product lines they were preparing to launch to ensure that DOE's analysis captured the initial market impacts of the July 2012 standards. The analysis presented in this NOPR was updated and finalized more than a year after the July 2012 standards required compliance, reflecting the most recent data available. Further, in manufacturer interviews conducted for this NOPR, DOE learned that most manufacturers were not planning to introduce any additional covered products to market. Therefore, DOE believes that the revised schedule for this GSFL and IRL rulemaking has allowed the preliminary analysis and NOPR analysis to be conducted so as to have adequately captured the impacts of the July 2012 standards for these products. Any additional data received will be considered in the development of any final rule.

V. Issues Affecting Scope

A. Clarifications of General Service Fluorescent Lamp Definition

The scope of this rulemaking for GSFLs is defined by the terms ''fluorescent lamp'' and ''general service fluorescent lamp.'' 10 CFR 430.2 The definition of general service fluorescent lamp includes certain exemptions. DOE has received several questions on the application of these exemptions. Therefore, in the preliminary analysis DOE evaluated each exemption and determined that the following exemption categories could be further clarified: ''impact-resistant fluorescent lamps,'' ''reflectorized or aperture lamps,'' ''fluorescent lamps designed for use in reprographic equipment,'' and ''lamps primarily designed to produce radiation in the ultra-violet region of the spectrum.'' For these exemption categories, the terminology was either not defined elsewhere or the application of the exemption could be further clarified. DOE examined product literature and industry reference sources to determine language that would further explain these exemptions. DOE determined that the exemptions should be clarified as follows:

Impact-resistant fluorescent lamp means a lamp that:

a. Has a coating or equivalent technology that is compliant with NSF/ANSI 51 (incorporated by reference; *see* § 430.3) and designed to contain the glass if the glass envelope of the lamp is broken; and

[13] U.S. Department of Energy. *2010 U.S. Lighting Market Characterization.* January 2012. Available at *http://apps1.eere.energy.gov/buildings/publications/pdfs/ssl/2010-lmc-final-jan-2012.pdf.*

b. Is designated and marketed for the intended application, with:

i. The designation on the lamp packaging; and

ii. Marketing materials that identify the lamp as being impact-resistant, shatter-resistant, shatter-proof, or shatter-protected.

Reflectorized or aperture lamp means a fluorescent lamp that contains an inner reflective coating on the bulb to direct light.

Fluorescent lamp designed for use in reprographic equipment means a fluorescent lamp intended for use in equipment used to reproduce, reprint, or copy graphic material.

Lamps primarily designed to produce radiation in the ultra-violet region of the spectrum mean fluorescent lamps that primarily emit light in the portion of the electromagnetic spectrum where light has a wavelength between 10 and 400 nanometers.

In the preliminary analysis, DOE also considered clarifications of the terms ''designed'' and ''marketed'' as applied to definitions of lighting products covered under DOE standards. These terms are generally used to ensure that exemptions from applicable standards apply only to lamps used in certain intended applications and/or functions. Therefore, DOE considered the terms ''designed,'' ''designated,'' ''designation,'' ''designated and marketed,'' and ''designed and marketed,'' for covered lighting products to mean that manufacturers explicitly state the intended application of the lamp in a publicly available document (*e.g.,* product literature, catalogs, packaging labels, and labels on the product itself).

NEMA agreed with the proposed clarifications to definitions for GSFLs. (NEMA, Public Meeting Transcript, No. 30 at p. 45; NEMA, No. 36 at pp. 4–5) NEMA noted that the definitions have been in use since the early 1990s and are well understood within the industry; the additional clarification suggested is in line with current industry practice. NEMA stated that no further definitions are required beyond this clarification. (NEMA, No. 36 at pp. 4–5)

The CA IOUs agreed that DOE should clearly define the lamp types exempted from standards. Specifically, the CA IOUs recommended further clarifying the definition for fluorescent lamps ''designed for cold temperature applications.'' (CA IOUs, Public Meeting Transcript, No. 30 at pp. 31–32; CA IOUs, No. 32 at p. 12) The CA IOUs expressed concern that that many common GSFLs are currently being designed with amalgam to be operated in lower temperatures, but without a negative effect on the lamps' efficacy and not intended to be exempt from standards. The CA IOUs stated their understanding that the exemption for cold temperature lamps has been preserved to accommodate uncommon lamps designed to be used outdoors in extreme, sub-freezing temperatures that cannot meet the efficacy requirements established for GSFLs. (CA IOUs, No. 32 at p. 12)

The Northwest Energy Efficiency Alliance (NEEA) and Northwest Power and Conservation Council (NPCC) agreed with the CA IOUs and found the descriptor ''designed for cold temperature applications'' to be too vague to adequately differentiate between products that are covered currently and those that have design features that make it impossible for them to meet the standards. NEEA and NPCC commented that this lack of clarity seems to create a significant loophole. (NEEA and NPCC, No. 34 at p. 3) In addition to clearly defining the exempt cold temperature lamps, the CA IOUs asked DOE to revisit the market share and performance of these lamps to confirm that they do in fact justify an exemption. (CA IOUs, No. 32 at p. 12)

The exemption for cold temperature lamps is stated in the CFR as ''Fluorescent lamps specifically designed for cold temperature applications.'' Further the CFR provides a definition for ''cold temperature fluorescent lamp'' stated as follows:

Cold temperature fluorescent lamp means a fluorescent lamp specifically designed to start at −20 °F when used with a ballast conforming to the requirements of American National Standards Institute (ANSI) C78.81 (incorporated by reference; see § 430.3) and ANSI C78.901 (incorporated by reference; see § 430.3), and is expressly designated as a cold temperature lamp both in markings on the lamp and in marketing materials, including catalogs, sales literature, and promotional material. 10 CFR 430.2

Cold weather starting is accomplished through both the lamp and ballast design. Product literature indicates that cold temperature fluorescent lamps paired with the appropriate ballast can be started at temperatures as low as -20 °F. Therefore, the existing definition, which includes the specific starting temperature and the requirement of being marketed and designed for cold temperature applications, is a sufficient description of fluorescent lamps designed to be operated in cold temperatures. Additionally, product offerings of cold temperature fluorescent lamps remain limited, indicating their specialty use. Hence, DOE is not proposing any further clarification for the exemption category of fluorescent lamps designed for cold temperature applications.

DOE did not receive any further comment on definitions considered in the preliminary analysis. In this NOPR, DOE is also considering providing a definition for 700 series fluorescent lamps. OHA has granted several manufacturers waivers from standards for their 700 series T8 products. (See section VI.D.2.a for further discussion regarding OHA waivers.) A definition for 700 series lamps would provide clarification regarding these lamp types.

The term ''700 series'' is widely used in industry when referring to fluorescent lamps with a CRI in the range of 70 to 79. The Illuminating Engineering Society of North America (IESNA) Lighting Handbook [14] presents fluorescent lamp nomenclature and states that color is represented by a three digit number (*i.e.,* 735 or 835) beginning with the first digit of the lamp's CRI (*i.e.,* 7 or 8) and followed by the first two digits of the lamp's correlated color temperature (CCT) (*e.g.,* 30, 35, 41). DOE explained this nomenclature in chapter 3 of the 2009 Lamps Rule TSD,[15] stating that typically lamps with a CRI in the 60s use only less efficient halophosphors, while lamps with a CRI in the 70s (700 series phosphor) and in the 80s (800 series phosphor) use more efficient rare earth phosphors. The DOE test procedure at 10 CFR part 430, subpart B, appendix R requires CRI to be measured and reported to demonstrate compliance with standards. Thus, the measured CRI of a lamp is used to determine if the lamp qualifies as a 700 series lamp. Hence DOE is proposing to define 700 series fluorescent lamps to mean a fluorescent lamp with a CRI that is in the range of 70 to 79.

In this NOPR, DOE is proposing the definitions as previously specified in this section and in the preliminary analysis for ''impact-resistant fluorescent lamps,'' ''reflectorized or aperture lamps,'' ''fluorescent lamps designed for use in reprographic equipment,'' and ''lamps primarily designed to produce radiation in the ultra-violet region of the spectrum.'' DOE is also proposing a definition of ''designed and marketed.'' This definition is intended to apply to the use of these and similar terms (i.e., designated or labeled) in any

[14] DiLaura, D. L., K. W. Houser, R. G. Mistrick, and G. R. Steffy. *Lighting Handbook: Reference and Application, 10th Edition.* New York: IESNA, 2011.

[15] The 2009 Lamps Rule TSD is available at *www.regulations.gov/#!documentDetail;D=EERE–2006–STD–0131–0147.*

grammatical form or combination. In addition, DOE is proposing a definition for ''700 series fluorescent lamp.''

B. General Service Fluorescent Lamp Scope of Coverage

1. Additional General Service Fluorescent Lamp Types

In this rulemaking, DOE evaluates energy efficiency standards for additional GSFLs beyond those for which standards have already been established. (42 U.S.C. 6295(i)(5)) Any additional GSFLs considered for coverage under standards must meet the definition of a fluorescent lamp in 42 U.S.C. 6291(30)(A); satisfy the majority of fluorescent lighting applications; not be within the exclusions specified in 42 U.S.C. 6291(30)(B); and not already be subject to energy conservation standards. 73 FR 13620, 13629 (March 13, 2008). For each additional GSFLs that meets these criteria, DOE then assesses whether standards could result in significant energy savings and are technologically feasible and economically justified. Standards for any applicable additional GSFLs are adopted based on the same criteria used to set new or amended standards for products pursuant to 42 U.S.C. 6295(o).

Using these criteria, DOE evaluated whether the following GSFL types warranted coverage under standards: (1) pin base compact fluorescent lamps (CFLs); (2) non-linear fluorescent lamps (*e.g.,* circline); and (3) fluorescent lamps with alternate lengths (*e.g.,* 2-, 3-, and 5-foot lamps).

For pin base CFLs, DOE determined that these lamp types fall within the definition of ''general service lamps,'' which excludes GSFLs. (42 U.S.C. 6291(30)(BB)) Therefore, these lamp types cannot be considered under this rulemaking. DOE is evaluating these lamp types in the rulemaking for general service lamps. Documents related to this rulemaking can be found on regulations.gov, docket number EERE–2013–BT–STD–0051.

For non-linear fluorescent lamps, DOE considered circline fluorescent lamps, the primary shape not currently covered under standards. DOE used the miscellaneous category of fluorescent lamps reported by the 2010 LMC to determine market share and energy consumption of circline fluorescent lamps. This category included fluorescent lamps other than the T5, T8, T12 linear lamps, and T8 and T12 U-shaped lamps, and is therefore mainly comprised of circline lamps and lamps with unknown characteristics. The 2010 LMC reported this category made up 2.1 percent of lighting and consumed 4 TWh of electricity in 2010. Interviews with manufacturers also confirmed the low market share of these lamp types. Therefore, DOE tentatively concluded that coverage should not be expanded to non-linear fluorescent lamps as standards would not likely result in significant energy savings.

For linear lengths not already covered by standards, DOE focused on linear medium bipin (MBP) fluorescent lamps ranging from 1 to 6 feet, with the exception of the 4-foot MBP, which is already subject to standards. DOE's analysis showed that 5- and 6-foot lengths comprise a very low percentage of the linear MBP product offerings. For the T8 [16] MBP lamps with lengths less than 4 feet, according to the 2010 LMC, these lamps comprised about 0.2 percent of all installed lighting and consumed 1 TWh of electricity in 2010. Feedback from manufacturers also indicated a low market share for these lamp types. Therefore, DOE tentatively concluded that coverage should not be expanded to linear fluorescents of lengths not covered by standards as standards would not likely result in significant energy savings.

DOE received several comments on its assessment not to extend coverage to linear fluorescent lamps of lengths not already covered. In particular, several stakeholders asserted that the 2-foot linear fluorescent lamps comprised a market share that warranted coverage under standards. The CA IOUs urged DOE to reassess the 2-foot linear fluorescent lamp market share and recommended that they be included in the scope of coverage of this rulemaking. (CA IOUs, Public Meeting Transcript, No. 30 at pp. 32–33; CA IOUs, No. 32 at pp. 11–12) NEEA and NPCC advised that 2-foot linear fluorescent lamps be included under scope of coverage and in their own product class, if appropriate. (NEEA and NPCC, No. 34 at pp. 2–3) Specifically, the CA IOUs asserted that DOE should have considered the proportion of GSFL market share that these lamps represent and also included T12 lamps in its assessment, as these lamps would be covered by standards for 2-foot linear lamps. (CA IOUs, No. 32 at pp. 11–12)

In assessing whether additional GSFL types should be included under coverage of standards in the preliminary analysis, DOE evaluated the market share and energy consumption of the lamp type relative to the entire lighting market. DOE's analysis provided a comprehensive representation of the lamp type and the energy savings potential of standards for the lamp type. In the NOPR, DOE also evaluated market share relative to the entire fluorescent lamp market. Based on the 2010 LMC, T8 MBP lamps less than 4 feet comprised 0.7 percent of the fluorescent lamp market versus 0.2 percent of the entire lighting market. Therefore, the evaluation of these lamps relative to the fluorescent lamp market also indicates that 2-foot MBP linear lamps have a very low market share.

DOE excluded T12 lamps from this analysis to reflect future market trends. The 2011 final rule amending energy conservation standards for fluorescent lamp ballasts (hereafter the ''2011 Ballast Rule''), which will require compliance on November 14, 2014, set standards difficult for T12 ballasts to meet.[17] 76 FR 70548 (Nov. 14, 2011). Therefore, the market will likely shift away from T12 lamps. Additionally, historical shipments of most T12 lamps have been decreasing steadily and manufacturer feedback from interviews suggests that this trend will continue. Therefore, DOE focused on T8 lamps when evaluating the energy savings of additional GSFL types to include under coverage of standards.

The CA IOUs also asserted that in the 2010 LMC, T8 and T12 lamps less than 4 feet have GSFL market shares very similar to the market shares for three other product types currently subject to DOE standards: T8 lamps greater than 4 feet (1.4 percent of the linear fluorescent market), T8 U-shaped lamps (2 percent of the linear fluorescent market), and T12 U-shaped lamps (0.5 percent of the linear fluorescent market). (CA IOUs, No. 32 at pp. 11–12; NEEA and NPCC, No. 34 at pp. 2–3)

The standards for GSFL types cited by the CA IOUs, specifically, the 2-foot U-shaped lamps, 8-foot SP slimline lamps, and 8-foot recessed double contact (RDC) HO lamps, were established in EPAct 1992. (42 U.S.C. 6295(i)(1)) As noted, for this rulemaking, in determining whether additional GSFL types should be covered under standards pursuant to 42 U.S.C. 6295(i)(5) DOE considers several criteria. In particular, DOE assesses whether a potential standard for an additional GSFL type would result in significant energy savings. Therefore, DOE examined parameters such as market share and energy consumption of each lamp type under consideration relative to the fluorescent lighting

[16] The majority of T12 MBP lamps with lengths less than 4 feet do not comply with the July 2012 standards.

[17] The full text and all related documents of the 2011 Ballast Rule can be found on regulations.gov, docket number EERE–2007–BT–STD–0016 at *www.regulations.gov/#!docketDetail;D=EERE-2007-BT-STD-0016.*

market. DOE believes that this evaluation of each potential additional GSFL provides the most useful indication of whether significant energy savings could be gained from regulation of the lamp type.

Stakeholders also cited data sources in addition to the 2010 LMC indicating that 2-foot linear lamps should be included under coverage of standards. The CA IOUs asserted that an anecdotal survey from their lighting audit teams suggest 2-foot linear lamps may be 5 to 10 percent of lamps installed in the CA IOUs' service territory, which is higher than suggested by the 2010 LMC. The CA IOUs also reported that the vast majority of commercial buildings in California have some two-by-two fixtures, and many of these have been retrofitted from U-shaped to 2-foot linear lamps within the last several years, indicating a growing trend toward 2-foot linear lamps over U-shaped lamps. (CA IOUs, Public Meeting Transcript, No. 30 at pp. 32–34; CA IOUs, No. 32 at pp. 11–12) NEEA and NPCC stated that they would submit field data to DOE and asserted that currently available data indicates 2-foot linear GSFLs make up a notably larger fraction of the market than the preliminary analysis suggests. (NEEA and NPCC, No. 34 at pp. 2–3)

The CA IOUs and NEEA and NPCC referred to a Navigant Consulting, Inc. (Navigant) study published in October 2012 that surveyed existing commercial and industrial building stock in Vermont, the *2011 Vermont Market Characterization and Assessment Study.*[18] The raw data from the Navigant study, obtained in May 2013 from the state of Vermont by NEEP, shows that of more than 136,000 lamps surveyed, 2-foot lamps represented 6.3 percent of installed fluorescent lamps. This included 3.6 percent of high performance T8s, 9.3 percent of standard efficiency T8s, 3.9 percent of T12s, and 5.2 percent of T5s. Behind 4-foot lamps, 2-foot lamps were by far the most common lamp length in these sectors. The CA IOUs stated that 6.3 percent of fluorescent lamp sales represent a significant amount of energy and, as explained in previous comments submitted by the CA IOUs, 2-foot lamps are available in a wide range of efficacies. (CA IOUs, No. 32 at pp. 11–12; NEEA and NPCC, No. 34 at pp. 2–3)

NEMA, however, stated that the 2010 LMC showed a low market share[19] for these products, which does not justify standards for these lamps. (NEMA, No. 36 at p. 4) Edison Electric Institute (EEI) stated its belief that 2-foot linear lamps were mainly installed in task lighting applications. (EEI, Public Meeting Transcript, No. 30 at p. 34) GE advised that 2-foot linear lamps should not be included in the scope of this rulemaking. While installing these lamps may be customary in California, GE stated that they are not very common across the nation. Further, GE commented that DOE had received shipment data in preliminary manufacturer interviews that showed the sales of 2-foot straight lamps to be significantly less than the sales of 4-foot lamps. (GE, Public Meeting Transcript, No. 30 at pp. 35–36) ASAP requested DOE make the shipment data publicly available so stakeholders could determine the significance. (ASAP, Public Meeting Transcript, No. 30 at pp. 36–39)

DOE did not receive shipment data specifically for 2-foot linear lamps and based its assessment of market share and energy consumption provided in the 2010 LMC report and feedback received in manufacturer interviews. The anecdotal survey and the Vermont study cited by the CA IOUs are focused on very specific areas of the nation, while the 2010 LMC is the most recent assessment of installed stock and energy use of fluorescent lighting at the national level. The Vermont study collected primary data through on-site visits from a random selection of 120 commercial and industrial buildings in specific regions in Vermont. Therefore, DOE found the 2010 LMC provided a more comprehensive basis for its assessment. A comparison of the installed stock provided in the 2000 LMC report[20] and the 2010 LMC report shows that installed stock for both T8 and T12 lamps less than 4 feet has declined by about 50 percent over that 10-year period. DOE also received feedback from manufacturers in interviews stating that 2-foot linear lamps, both in the MBP and MiniBP categories, comprise a low market share that will either stay the same or decline. Further, manufacturers noted in interviews that the 2-foot linear lamps are generally used for kitchens, bathrooms, vanity lighting, hospitality applications, cabinets, and to round out edges of ceilings in commercial spaces.

Given the above, DOE finds insufficient evidence to indicate that the market share or energy consumption of 2-foot linear fluorescent lamps would result in significant energy savings if DOE established standards for these lamps. DOE is not proposing standards for any additional GSFL types that are not currently covered.

2. Additional General Service Fluorescent Lamp Wattages

DOE specifies a certain minimum wattage for each lamp type included in the definition of ''fluorescent lamp.'' In this rulemaking, DOE also evaluates whether coverage should be extended to additional wattages of these lamp types. (42 U.S.C. 6295(i)(5)) As part of this assessment, DOE reviewed product offerings for covered lamp types to determine if any new, lower wattage products had been introduced since publication of the 2009 Lamps Rule. DOE found the following reduced wattage lamps not covered under standards: 49 W, 50 W, 51 W 8-foot SP slimline, 25 W 4-foot T5 MiniBP standard output (SO), and 44 W, 47 W 4-foot T5 MiniBP HO lamps. DOE currently covers 8-foot SP slimline lamps with wattages of 52 W or more; 4-foot T5 MiniBP SO lamps with wattages of 26 W or more; and 4-foot T5 MiniBP HO lamps with wattages of 49 W or more. Therefore, in the preliminary analysis, DOE considered extending coverage to the following GSFLs:

- 8-foot SP slimline lamps with wattages ≥49 W and <52 W;
- 4-foot T5 MiniBP SO lamps with wattages ≥25 W and <26 W; and
- 4-foot T5 MiniBP HO lamps with wattages ≥44 W and <49 W.

These reduced wattage lamps are generally more efficacious than their full wattage counterparts and offer the potential for increased energy savings.

Philips commented that if a product is already highly efficacious, DOE does not need to consider standards for the product. (Philips, Public Meeting Transcript, No. 30 at pp. 44–45)

The emergence of these new reduced wattage lamps on the market since the 2009 Lamps Rule and the number of product offerings indicate that there is significant consumer demand for these lamps. Further, because reduced wattage lamps are often incentivized by utilities and promoted as an easy

[18] Navigant Consulting, Inc. *2011 Vermont Market Characterization and Assessment Study.* October 2012. Available at *http://publicservice.vermont.gov/sites/psd/files/Topics/Energy_Efficiency/EVT_Performance_Eval/VT%20CI%20Existing%20Buildings%20Market%20Assessment%20and%20Characterization_2012-10-6_FINAL.pdf*

[19] DOE's assessment indicated that the T8 MBP lamps less than 4 feet comprised 0.2 percent of the entire lighting market. NEMA's written comment had incorrectly quoted this number as 0.02 percent.

[20] U.S. Department of Energy. *U.S. Lighting Market Characterization Volume I: National Lighting Inventory and Energy Consumption Estimate.* September 2002. Available at *http://apps1.eere.energy.gov/buildings/publications/pdfs/ssl/lmc_vol1_final.pdf.*

pathway to energy savings, they are likely to increase in market share. DOE's review of product catalogs indicated that lamps with these wattages generally have a range of efficacies. The lower wattages of these lamps and their potential to achieve higher efficacies indicate that including these wattages under energy conservation standards have the potential to realize significant energy savings.

NEMA agreed with expanding the GSFL wattages covered by this rulemaking, but cautioned DOE that reduced wattage GSFLs are often ''energy saver'' models. These lamps do not have the same performance as full wattage GSFLs. Specifically, NEMA stated that reduced wattage GSFLs have difficulty operating in low-temperature applications and do not have full dimming functionality, a performance feature that is highly desired considering the proliferation of dimming systems. (NEMA, Public Meeting Transcript, No. 30 at pp. 23–24; NEMA, No. 36 at p. 4)

DOE acknowledges there are certain issues related to dimming associated with ''energy saver'' or reduced wattage lamps. Therefore, in this rulemaking, DOE has ensured that full wattage lamps can achieve the levels proposed for GSFLs. See section VI.D.2.g for further details on this issue.

C. Incandescent Reflector Lamp Scope of Coverage

1. Incandescent Reflector Lamp Types

In this rulemaking, DOE does not consider the following IRL types: (1) Lamps rated 50 W or less that are ER30, BR30, BR40, or ER40; (2) lamps rated 65 W that are BR30, BR40, or ER40 lamps; and (3) R20 IRLs rated 45 W or less. (42 U.S.C. 6295(i)(C)) These IRLs are the subject of a separate rulemaking on which further information can be found on regulations.gov under docket ID EERE–2010–BT–STD–0005 at *www.regulations.gov/#!docketDetail;D=EERE-2010-BT-STD-0005*. DOE has suspended activity on this rulemaking as a result of section 315 of Public Law (Pub. L.) 112–74 (Dec. 23, 2011), which prohibits DOE from using appropriated funds to implement or enforce standards for ER, BR, and bulged parabolic reflector IRLs.

2. Incandescent Reflector Lamp Wattages

In this rulemaking, DOE also does not consider IRLs with wattages lower than 40. EPCA defines an incandescent reflector lamp as a lamp that ''has a rated wattage that is 40 watts or higher.'' (42 U.S.C. 6291(30)(C), (C)(ii), and (F)) DOE received several comments on this lower limit on wattage for IRLs. EEI reported that highly efficacious 39 W halogen IRLs capable of replacing less efficacious 60 W IRLs are on the market. (EEI, Public Meeting Transcript, No. 30 at pp. 24–25) The CA IOUs considered the presence of commercially available 39 W lamps to suggest that DOE should extend the IRL wattage range covered. (CA IOUs, Public Meeting Transcript, No. 30 at p. 33) EEI also noted that the 39 W IRLs are close to covered lamps in efficacy and serve as replacements for IRLs of higher wattages, possibly increasing efficacy by 30 to 40 percent. (EEI, Public Meeting Transcript, No. 30 at pp. 34–35) The CA IOUs responded that in the California market there is a wide range of efficacy for the 39 W products. (CA IOUs, Public Meeting Transcript, No. 30 at p. 35)

GE stated that EPAct 1992 gave 40 W as the lower wattage limit for IRLs and that this limit is appropriate. GE asserted that there was no need to cover lower wattage IRLs as they use less energy, and a market shift to them would still fulfill the purpose of this rulemaking. (GE, Public Meeting Transcript, No. 30 at p. 36) ASAP questioned whether DOE had the authority to cover lower wattages if the 40 W limit was a statutorily defined scope. (ASAP, Public Meeting Transcript, No. 30 at p. 39) NEMA asserted that because the CFR stipulates coverage for 40 W IRLs and above, DOE does not have the authority to expand the scope to lower wattages. (NEMA, No. 36 at p. 2)

NEEA noted that if the 40 W limit was statutory, it is doubtful DOE would change it. However, NEEA found that a lower wattage limit is an increasingly less useful way to describe coverage as technologies shift. Additionally, NEEA noted that a wattage limit was not an appropriate qualifier for products subject to a lm/W standard that drives products to use fewer watts to deliver a certain lumen output, such as a 20 W IRL that has the same lumen output as a 60 W IRL. NEEA commented that it had seen a similar shift occur in the market for street lighting. (NEEA, Public Meeting Transcript, No. 30 at pp. 43–44)

As described by commenters, the 40 W limit is included in the EPCA definition of IRLs. (42 U.S.C. 6291(30)(C), (C)(ii), and (F)) Therefore, proposed standards in this notice apply only to covered IRLs 40 W or higher. Additionally, while the definition of IRLs does not provide an upper wattage limit, DOE did not assess covered IRLs higher than 205 W in this proposed rule. DOE research indicated that wattages greater than 205 W comprise a very small portion of the market and are typically designed for specialty uses, and therefore, do not represent significant energy savings.

D. Summary of Scope of Coverage

In conclusion, in this rulemaking DOE is proposing extending the scope of coverage for GSFLs to certain wattages but not additional GSFL types. Further, DOE is proposing clarifying certain exemptions noted under the definition of ''general service fluorescent lamp.'' DOE is not considering IRLs less than 40 W or greater than 205 W and is also not considering the following IRL types: (1) Lamps rated 50 W or less that are ER30, BR30, BR40, or ER40; (2) lamps rated 65 W that are BR30, BR40, or ER40 lamps; and (3) R20 IRLs rated 45 W or less.

VI. Methodology and Discussion

In the preliminary phase of this rulemaking, DOE conducted a market and technology assessment, screening analysis, engineering analysis, product price determination, energy-use characterization, LCC and PBP analyses, shipments analysis and NIA, as well as a preliminary MIA. These analyses were then updated and revised as appropriate based on feedback received for this NOPR. Further, in this NOPR DOE conducted an LCC subgroup analysis, a complete MIA, a utility impact assessment, an employment impact assessment, an emissions analysis, a determination of monetization of reduced emissions from proposed standard levels, and an RIA.

DOE used three spreadsheet tools to estimate the impact of standards proposed in this NOPR. The first spreadsheet calculates LCCs and payback periods of potential new energy conservation standards. The second provides shipments forecasts and then calculates NES and NPV impacts of potential new energy conservation standards. The Department also assessed manufacturer impacts, largely through use of the Government Regulatory Impact Model (GRIM).

DOE used a version of EIA's National Energy Modeling System (NEMS) for the utility and environmental analyses. The NEMS model simulates the energy sector of the U.S. economy. EIA uses NEMS to prepare its *AEO,* a widely known baseline energy forecast for the United States. The version of NEMS used for appliance standards analysis is called NEMS–BT [21], and is based on the

[21] 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*

AEO 2013 version with minor modifications. The NEMS–BT accounts for the interactions between the various energy supply and demand sectors and the economy as a whole.

NEEA and NPCC stated that analyses presented in the preliminary analysis phase need further development before stakeholders will be able to comment in depth. NEEA and NPCC also offered to provide DOE field data from 2012–2013 on lamp and fixture types from their Residential Building Stock Assessment (RBSA) and the survey data from their Commercial Building Stock Assessment (CBSA). (NEEA and NPCC, No. 34 at p. 6) NEEA and NPCC strongly support the comments provided by the CA IOUs for this rulemaking. (NEEA and NPCC, No. 34 at p. 2)

In the preliminary analyses, DOE assessed the products that are the subject of this rulemaking, as well as the achievable levels of efficiency and their impacts. As noted, DOE has updated these analyses with more recent data and, where appropriate, made adjustments based on comments received from stakeholders in the preliminary analysis phase. DOE will also consider any additional data submitted by commenters in response to the NOPR.

A. Market and Technology Assessment

In the energy conservation standards rulemaking process, DOE conducts a market and technology assessment to provide an overall picture of the market for products concerned. Based primarily on publicly available information, the analysis provides both qualitative and quantitative information. The market and technology assessment includes the major manufacturers, product classes, retail market trends, shipments of covered products, regulatory and non-regulatory programs, and technologies that could be used to improve the efficacy of GSFLs and IRLs. DOE identified several technology options after conducting this assessment for the preliminary analysis.

DOE received a general comment from NEMA on the market and technology assessment questioning why a rulemaking is justified given the lack of technological innovations and changes since the 2009 Lamps Rule, the steep decline in GSFL and IRL sales expected, as shown in DOE's projections, and the waivers still providing certain products a stay of enforcement from the July 2012 standards. (NEMA, No. 36 at p. 6)

As explained in II.A, EPCA directs DOE to complete a rulemaking that examines whether current GSFL and IRL standards should be amended and if so, amend them as appropriate based on its analysis. Further, in any rulemaking DOE must adopt standard levels that achieve the maximum energy savings that is technologically feasible (see chapter 3 of the NOPR TSD) and economically justified (see chapters 8 and 12 of the NOPR TSD). Additionally, as noted previously, DOE understands that OHA has granted numerous manufacturers 2-year waivers from standards for their 700 series T8 products that expire in 2014. Because standards from this rulemaking would become effective in 2017, DOE conducts its analysis assuming that the waivers will not be in place.

NEMA also added that whether there are any technological innovations that have happened since the 2009 Lamps Rule is a valid point of discussion, but each potential technology would have to be given the same level of rigor regarding whether it is a feasible pathway or not. (NEMA, Public Meeting Transcript, No. 30 at pp. 178–179) DOE examines the latest industry literature and patents, and receives feedback from manufacturers to develop viable technology options that can increase the efficacy of GSFLs and IRLs. The identified technology options are then subjected to rigorous screening criteria before they can be considered as design options in the engineering analysis (see section VI.B). For further details on the technology options and the screening process, see, respectively, chapters 3 and 4 of the NOPR TSD.

1. General Service Fluorescent Lamp Technology Options

DOE received comments specific to the GSFL technology options put forth in the preliminary analysis. Specifically, stakeholders provided feedback on higher efficiency lamp diameters, higher efficiency lamp fill gas composition, and higher efficiency phosphors.

Higher Efficiency Lamp Diameters

DOE considered more efficient lamp diameters as one of the technology options to increase GSFL efficacy in the preliminary analysis. This option is considered as there is an optimum design diameter for a specific fluorescent lamp type that can increase lamp efficacy.

NEMA stated that strictly speaking the reduction of lamp diameter does not necessarily increase efficacy and that T5 and T8 lamps are already at their optimum diameters. Further, NEMA and GE stated that the market has already shifted to the most efficient diameters. (NEMA, Public Meeting Transcript, No. 30 at pp. 73; NEMA, No. 36 at p. 5; GE, Public Meeting Transcript, No. 30 at pp. 71–72) While NEMA did not believe higher efficiency diameter should be retained as a technology option, NEMA and Philips requested additional clarifying information about DOE's underlying analysis of this option. (NEMA, No. 36 at p. 5; Philips, Public Meeting Transcript, No. 30 at p. 70)

In small diameter lamps, an increase in diameter decreases the number of electrons and mercury ion recombination at the bulb wall, increasing ultraviolet (UV) output and lamp efficacy. In large diameter lamps, this recombination may already be minimal and a further enlargement in diameter causes a greater imprisonment of radiation within the lamp, decreasing light output and efficacy. Therefore, DOE understands this technology option should be applied only in cases where there is a potential to optimize the lamp diameter in order to achieve higher lamp efficacy gain. Based on DOE's assessment there are less efficacious lamps on the market that can be improved by using a higher efficiency diameter. For example, standards-compliant T12 diameter product offerings remain in the 4-foot MBP and 8-foot SP slimline product classes. Therefore, DOE continues to consider higher efficiency lamp diameter as a technology option to increase the efficacy of GSFLs.

Higher Efficiency Lamp Fill Gas Composition

Higher efficiency lamp fill gas composition was another technology option identified in the preliminary analysis. Lamp fill gases in fluorescent lamps increase mobility of mercury ions and electrons, facilitating recombination and resulting in increased UV output and higher lamp efficacy. Gases with lower molecular weight, such as argon, generally result in higher lamp efficacy. Full wattage lamps generally use argon gas. Reduced wattage lamps use a mixture of krypton and argon. Krypton, while a higher molecular weight gas, lowers the wattage of the lamp, thereby resulting in a higher lamp efficacy. NEMA stated that GSFLs are already optimized for the tradeoff of argon and krypton mixes and further efficacy gains are not possible using krypton. (NEMA, No. 36 at p. 14)

Based on DOE's research and feedback from manufacturers in interviews, the type and ratios of fill gases remain a mechanism to increase

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 (2009), available at: *http://www.eia.gov/oiaf/aeo/overview/index.html.*

lamp efficacy. Because lamps are present on the market at more than one level of efficacy, DOE believes lamp fill gas is one option that can be utilized to improve the efficacy of less efficacious products. Therefore, DOE continues to consider higher efficiency lamp fill gas as a means to improve the efficacy of fluorescent lamps covered under this rulemaking.

Higher Efficiency Phosphors

DOE also identified higher efficiency phosphors as an option for increasing efficacy in GSFLs. The main purpose of phosphor in a fluorescent lamp is to absorb the UV radiation and reemit it as visible radiation. In particular, the lamp efficacy can be improved in this manner by using triband phosphors containing rare earth elements, which can greatly increase UV absorption and emission of radiation in the visible spectrum relative to other phosphors. In response to this technology option, NEMA stated that GSFLs are already optimized for rare earth phosphors. (NEMA, No. 36 at p. 14)

Based on DOE's research and feedback from manufacturers in interviews, the blend, weight, and thickness of rare earth phosphors in fluorescent lamps is a key element in increasing the lamp efficacy. Because lamps are present on the market at more than one level of efficacy, DOE believes higher efficiency phosphor is one option that can be utilized to improve the efficacy of less efficacious products. Therefore, DOE continues to consider higher efficiency phosphors as a means to improve the efficacy of fluorescent lamps covered under this rulemaking.

Summary of GSFL Technology Options

In summary, DOE has developed the list of technology options shown in Table VI.1 to increase efficacy of GSFLs.

TABLE VI.1—GSFL TECHNOLOGY OPTIONS IN THE NOPR ANALYSIS

Name of technology option	Description
Highly Emissive Electrode Coatings.	Improved electrode coatings allow electrons to be more easily removed from electrodes, reducing lamp power and increasing overall efficacy.
Higher Efficiency Lamp Fill Gas Composition.	Fill gas compositions improve cathode thermionic emission or increase mobility of ions and electrons in the lamp plasma.
Higher Efficiency Phosphors.	Phosphors increase the conversion of ultraviolet light into visible light.
Glass Coatings	Coatings on inside of bulb enable the phosphors to absorb more UV energy, so that they emit more visible light.
Higher Efficiency Lamp Diameter.	Optimal lamp diameters improve lamp efficacy.
Multi-Photon Phosphors.	Phosphors emit more than one visible photon for each incident UV photon.

2. Incandescent Reflector Lamp Technology Options

DOE received comments specific to the IRL technology options put forth by DOE in the preliminary analysis. Specifically, stakeholders provided feedback on efficient filament placement, higher efficiency inert fill gas, and integrally ballasted low voltage lamps.

Efficient Filament Placement

Efficient filament placement is one of the technology options presented in the preliminary analysis that can increase the efficacy of IRLs. An optimally placed filament allows a portion of the spectrum emitted by the filament to focus back onto it. The additional heat provided to the filament increases the operating temperature and thereby increases lamp efficacy.

NEMA disagreed that efficient filament placement should be considered a technology option for improving efficacy. NEMA commented that filament placement determines the beam spread of a lamp, which is considered a performance characteristic, not a degree of efficacy. If the filament placement were changed to make a lamp more efficacious, it would also change the beam spread, thereby altering a lamp's utility. (NEMA, Public Meeting Transcript, No. 30 at pp. 74–75) Understanding that efficient filament placement refers to the placement of the filament in an infrared (IR) capsule, the CA IOUs stated that filament placement impacts the amount of reflected radiation that hits the filament, which in turn impacts the amount of light emitted by the lamp. (CA IOUs, Public Meeting Transcript, No. 30 at p. 81–82) GE responded that filaments must be placed as close to the center of IR capsules as possible, and their placement has already been optimized. (GE, Public Meeting Transcript, No. 30 at pp. 82) Philips noted that manufacturers do not know how to place filaments any more precisely than they are now, although there is manufacturing variation. (Philips, Public Meeting Transcript, No. 30 at pp. 82–83)

DOE acknowledges that it is theoretically well understood where the filament should be placed to achieve higher efficacy in IRLs. Additionally, the above comments and feedback during manufacturer interviews indicate that lamps are being designed so that the filament is placed in the most optimal position. Therefore, because the optimal filament placement design has been identified and is being applied in all commercially available products, DOE proposes to not consider efficient filament placement as a technology option.

Higher Efficiency Inert Fill Gas

DOE presented high efficiency inert fill gas as another technology option to increase IRL efficacy in the preliminary analysis. Fill gases such as krypton and xenon have low thermal conductivity that decreases the convective cooling of the filament, allowing for higher temperature operation and therefore higher efficacy. These gas molecules are larger relative to other gases, and can more effectively slow down the evaporation of tungsten and thereby extend the life of the lamp. Xenon, having even lower heat conductivity and larger mass than krypton, can more drastically change efficacy and life, but has a higher cost. Most lamps compliant with the July 2012 standards use xenon as a fill gas.

NEEA and NPCC indicated that xenon fill gas should not be considered a technology option as it is already used in all, or nearly all, halogen-based technologies, including those at the lower end of the efficacy scale. Comparatively, there is an approximately 3 percent drop in efficacy when using a fill gas like krypton, and accordingly the market has clearly adopted xenon and uses it almost exclusively. (NEEA and NPCC, No. 34 at p. 2, 5) The CA IOUs also stated that their research indicated that most, if not all, commercially available parabolic aluminized reflector (PAR) lamps, including those that are lower efficacy products or minimally compliant with the 2009 Lamps Rule, are already using xenon as their fill gas. The CA IOUs, therefore, concluded that additional xenon would not be required to meet higher standards. (CA IOUs, No. 32 at pp. 9–10)

Based on feedback from manufacturer interviews, DOE confirmed that the majority of covered standards-compliant

IRLs are utilizing xenon. However, DOE also learned that the amount of xenon used in lamp can vary based on several factors. Because lamps are present on the market at more than one level of efficacy, higher efficiency inert fill gas is one option that can be utilized to improve the efficacy of less efficacious products. Therefore, DOE continues to consider high efficiency inert fill gas as a technology option.

Integrally Ballasted Low Voltage Lamps

DOE also considered integrally ballasted low voltage lamps as a technology option in the preliminary analysis. The use of an integral ballast in an incandescent lamp allows an increase in the efficacy because it converts the line voltage to lower lamp operating voltages, thereby reducing the lamp wattage.

NEMA stated that integrally ballasted low voltage lamps are not viable at high wattages, and the technology is expensive and rarely used. Therefore, NEMA asserted that this technology is for a niche product, and cannot be applied across the board. (NEMA, Public Meeting Transcript, No. 30 at p. 74–75; NEMA, No. 36 at p. 7)

While the technology is not appropriate for higher wattage products, the CA IOUs argued that it is still a valid design option for reduced wattage lamps. The CA IOUs explained that in halogen infrared reflector (HIR) lamps, making the filament a denser target increases the amount of radiation that is successfully reflected back to it, thereby increasing the lamp efficacy. At line voltage, a higher wattage halogen burner incorporates a relatively large diameter filament; however a lower wattage capsule must use a finer filament. For these low wattage lamps, reducing the line voltage to low voltage allows the use of a shorter, fatter filament, which is ideal for HIR technology. While a lamp greater than 50 W is suited for line voltage and may operate at too high of a temperature for an integral ballast, a lamp less than 50 W is better suited for low voltage operation and run at temperatures compatible with an integral transformer. Particularly, as halogen lamps are designed to be more efficacious, lower reduced wattage products will be more common; for this reason, the CA IOUs envisioned integrally ballasted low voltage halogen products to be the predominant design strategy for very high efficacy halogen products going forward. (CA IOUs, No. 32 at p. 9)

In interviews, manufacturers stated that the use of an integral ballast to lower voltage is not a feasible technology in higher wattage lamps due to issues with dissipating heat generated by the electronic components. Manufacturers indicated that heat dissipation becomes a problem at wattages ranging from 20 to 35 W. DOE research also indicated that in converting to a lower voltage, current is increased and greater heat generated from the filament. In higher wattage IRLs, the resulting increased temperature can be damaging to the voltage conversion circuitry. Further, based on manufacturer interviews there are no covered IRLs that currently utilize this technology option. Because the lower limit of IRL wattages covered under standards is 40 W, DOE is no longer considering integrally ballasted low voltage lamps as a technology option for improving lamp efficacy.

Higher Efficiency Burner

DOE did not consider a higher efficiency halogen burner as a technology option in the preliminary analysis. DOE acknowledged that use of a double-ended burner in an IRL can increase the efficacy compared to a single-ended burner. Further, because double-ended burners could not fit into small diameter IRLs (*i.e.,* diameters less than or equal to 2.5 inches), DOE applied a 3.5 percent reduction when scaling efficacy levels from large diameter lamps (*i.e.,* all diameters greater than 2.5 inches) that could utilize a double-ended burner to small diameter lamps. (For further discussion on IRL scaling factor see section VI.D.3.g and chapter 5 of the NOPR TSD.)

Based on further research and interviews with manufacturers, DOE confirmed in the NOPR analysis that a key aspect of higher efficiency IRLs is HIR technology. Because the type of burner utilized is an important component of an HIR lamp, in this NOPR analysis, DOE is considering higher efficiency burners as a technology option to increase IRL efficacy. Single-ended burners feature a lead wire inside of the capsule that carries current between the filament and the electrical connection in the base of the lamp. The presence of this wire inside of the capsule prevents a certain amount of energy from reaching the capsule wall and being reflected (recycled) back to the capsule filament. However, double-ended burners have a lead wire outside of the capsule that does not interfere with the reflectance of energy back to the filament, allowing for a more efficacious lamp. Hence, DOE is proposing higher efficiency burner as a technology option that can increase efficacy of IRLs.

Summary of IRL Technology Options

Of the IRL technology options presented in the preliminary analysis, DOE is no longer considering integrally ballasted low voltage lamps as a technology option. In addition to the IRL technology options identified in the preliminary analysis, DOE is proposing the inclusion of the higher efficiency burner as a technology option. In summary, in this NOPR analysis, DOE is proposing the IRL technology options listed in Table VI.2.

TABLE VI.2—IRL TECHNOLOGY OPTIONS IN THE NOPR ANALYSIS

Name of technology option	Description
Higher Temperature Operation	Operating the filament at higher temperatures, the spectral output shifts to lower wavelengths, increasing its overlap with the eye sensitivity curve.
Microcavity Filaments	Texturing, surface perforations, microcavity holes with material fillings, increasing surface area and thereby light output.
Novel Filament Materials	More efficient filament alloys that have a high melting point, low vapor pressure, high strength, high ductility, or good radiating characteristics.
Thinner Filaments	Thinner filaments to increase operating temperature. This measure may shorten the operating life of the lamp.
Efficient Filament Coiling	Coiling the filament to increase surface area, thus increasing light output.
Crystallite Filament Coatings	Layers of micron or submicron crystallites deposited on the filament surface that increases emissivity of the filament.
Efficient Filament Orientation	Positioning (horizontal or vertical) the incandescent filament to increase light emission from the lamp. Vertical orientation, used by majority of lamps, allows for greater light emission.
Higher Efficiency Inert Fill Gas	Filling lamps with alternative gases, such as Krypton, to reduce heat conduction.
Higher Pressure Tungsten-Halogen Lamps	Increased halogen bulb capsule pressurization, allowing higher temperature operation.

TABLE VI.2—IRL TECHNOLOGY OPTIONS IN THE NOPR ANALYSIS—Continued

Name of technology option	Description
Non-Tungsten-Halogen Regenerative Cycles	Novel filament materials that regenerate.
Infrared Glass Coatings	When used with a halogen capsule, this is referred to as a HIR lamp. Infrared coatings on the inside of the bulb to reflect some of the radiant energy back onto the filament.
IR Phosphor Glass Coatings	Phosphor coatings that can absorb IR radiation and re-emit it at shorter wavelengths (visible region of light), increasing the lumen output.
UV Phosphor Glass Coatings	Phosphor coatings that convert UV radiation into longer wavelengths (visible region of light), increasing the lumen output.
Electron Stimulated Luminescence	A low voltage cathodoluminescent phosphor that emits green light (visible region of light) upon impingement by thermally ejected electrons, increasing the lumen output.
Higher Efficiency Reflector Coatings	Alternative reflector coatings such as silver, with higher reflectivity increase the amount of directed light.
Corner Reflectors	Individual corner reflectors in the cover glass that reflect light directly back in the direction from which it came.
High Reflectance Filament Supports	Filament supports that include a reflective face that reflects light to another filament, the reflective face of another filament support, or radially outward.
Permanent Infrared Reflector Coating Shroud	Permanent shroud with an IR reflector coating and a removable and replaceable lamp can increase efficiency while reducing manufacturing costs by allowing IR reflector coatings to be reused.
Higher Efficiency Burners	A double-ended burner that features a lead wire outside of the capsule, where it does not interfere with the reflectance of energy from the capsule wall back to the capsule filament in HIR lamps.

B. Screening Analysis

After DOE identifies the technologies that improve the efficacy of GSFLs and IRLs, DOE conducts the screening analysis. The purpose of the screening analysis is to determine which options to consider further and which options to screen out. DOE consults with industry, technical experts, and other interested parties in developing a list of technology options. DOE then applies the following set of screening criteria to determine which options are unsuitable for further consideration in the rulemaking (10 CFR Part 430, subpart C, appendix A at 4(a)(4) and 5(b)):

• *Technological Feasibility:* DOE will consider technologies incorporated in commercially available products or in working prototypes to be technologically feasible.

• *Practicability to Manufacture, Install, and Service:* If mass production of a technology and reliable installation and servicing of the technology could be achieved on the scale necessary to serve the relevant market at the time the standard comes into effect, then DOE will consider that technology practicable to manufacture, install, and service.

• *Adverse Impacts on Product Utility or Product Availability:* If DOE determines a technology to have significant adverse impact on the utility of the product to significant subgroups of consumers, or to result in the unavailability of any covered product type with performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as products generally available in the United States at the time, it will not further consider this technology.

• *Adverse Impacts on Health or Safety:* If DOE determines that a technology will have significant adverse impacts on health or safety, it will not further consider this technology.

Those technology options not screened out by the above four criteria are called ''design options'' and are considered as possible methods of improving efficacy in the engineering analysis. DOE received several comments on technology options not screened out and retained as design options in the preliminary analysis for GSFLs and IRLs.

1. General Service Fluorescent Lamp Design Options

In the preliminary analysis, of the GSFL technology options identified, DOE did not consider screening out higher efficiency lamp fill gas composition and glass coatings; however, DOE received several comments on these two design options. DOE did not receive any feedback on the other GSFL design options put forth in the preliminary analysis.

Higher Efficiency Lamp Fill Gas Composition

In the preliminary analysis, DOE determined that higher efficiency lamp fill gas composition met the screening criteria and considered it as a design option. As previously described, lamp fill gases such as argon increase mobility of mercury ions and electrons, facilitating recombination and thereby increasing UV output and resulting in higher lamp efficacy. Krypton is primarily used as a fill gas in reduced wattage lamps because it lowers lamp wattage, thereby resulting in higher lamp efficacy. NEMA noted that the resulting reduced wattage lamps have issues with cold temperature applications, striations, and dimmability due to the use of krypton and pointed out that these items are performance characteristics that should be considered in the screening analysis. NEMA encouraged DOE to explore the trade-offs to ensure the right balance is obtained. (NEMA, Public Meeting Transcript, No. 30 at pp. 78–79)

Based on previous manufacturer feedback, DOE is aware that the presence of krypton in reduced wattage lamps causes issues with lamp starting and striations in cold temperature applications below 60–65 °F. Feedback from manufacturers in interviews has also indicated that problems encountered with dimming linear fluorescent lamps, including lamp starting, striations, and dropout, are exacerbated by the use of krypton in reduced wattage lamps. Krypton, which lowers the wattage of a fluorescent lamp, is the primary fill gas used in reduced wattage fluorescent lamps. Based on feedback from manufacturers the use of any amount of krypton will result in dimming issues and increase with the amount of krypton.

Philips noted that issues with dimming reduced wattage lamps could also be related to the ballast as well as compatibility with the dimmer and lamp. Philips further noted that they had observed that a lamp-ballast system would dim successfully in one building but fail when put in a different building.

(Philips, Public Meeting Transcript, No. 30 at p. 225)

Despite the issues with dimming and operation in cold temperatures, DOE has determined that reduced wattage lamps using krypton can be found on the market in various wattages. Feedback from manufacturers in interviews also indicates that reduced wattage lamps comprise a significant portion of their GSFL shipments. Additionally, consumers have other options, as more reliable dimming can be attained using full wattage lamps and fluorescent lamps designed to be operated in cold temperature applications exist on the market.

Therefore, DOE has determined that higher efficiency lamp fill gas composition, specifically in the form of krypton, meets the criteria of being technologically feasible and practicable to manufacture as it is used in commercially available products. DOE has found no evidence to indicate it has adverse impacts on health and safety. Because DOE is considering standard levels that ensure the availability of both full and reduced wattage lamps, DOE has determined that the use of this technology does not have an adverse impact on product utility or availability. Therefore, DOE proposes to maintain higher efficiency lamp fill gas as a design option for GSFLs.

Glass Coatings

In the preliminary analysis, DOE determined that glass coatings met the screening criteria and considered them as a design option. To increase the UV absorption by the phosphors, the lamp glass can be covered with an antireflective coating. This coating is a refractory oxide, such as aluminum oxide (Al_2O_3), silicon oxide (SiO_2), and titanium oxide (TiO_2) that reflects any UV radiation that passes through the phosphor back onto the phosphor, allowing a greater portion of UV to be absorbed, thereby increasing light output and lamp efficacy. NEMA stated that glass coatings should be screened out as the techniques are not feasible, which is the reason they are not already widely used. (NEMA, No. 36 at p. 7; NEMA, Public Meeting Transcript, No. 30 at pp. 70)

DOE determined that most modern lamps utilize glass coatings that minimize the absorption of mercury and act as reflectors of UV radiation.[22] An undercoat layer, preferably composed of aluminum oxide and a getter material, reflects UV radiation that has passed through the luminescent material of the lamp back onto the material for increased visible light output and also reduces the contaminants in the lamp. A patent relevant to this technology notes that such undercoating is a common feature of modern fluorescent lamps.[23]

Because this technology option is being used in commercially available fluorescent lamps, DOE considers it to be practicable to manufacture. DOE is not aware of any evidence indicating that the technology has adversely impacted product utility or health and safety. Therefore, DOE proposes to maintain glass coatings as a design option for GSFLs.

In summary, in this NOPR analysis DOE is proposing as design options the following GSFL technologies that have met the screening criteria:

- Highly Emissive Electrode Coatings
- Higher Efficiency Lamp Fill Gas Composition
- Higher Efficiency Phosphors
- Glass Coatings
- Higher Efficiency Lamp Diameter

See chapter 4 of the NOPR TSD for further details on the GSFL screening analysis.

2. Incandescent Reflector Lamp Design Options

DOE did not receive any feedback on IRL design options put forth in the preliminary analysis.

Higher Efficiency Burners

As mentioned previously, in this NOPR analysis DOE is proposing the additional technology option of a higher efficiency burner as a means to improve IRL efficacy. DOE evaluated the higher efficiency burner technology against the screening criteria. DOE found that higher efficiency burners, such as the double-ended burner, are currently being utilized in commercially available lamps and have demonstrated that they are technologically feasible, practicable to manufacture, install, and service on a commercial scale by the compliance date of any amended standards, and do not result in adverse impacts on product utility or availability, or health and safety. DOE acknowledges that double-ended burners cannot be used in small diameter lamps without changing the physical shape of the lamp, which may impact whether the lamp can fit standard fixtures, and thereby affect product utility. Therefore, DOE is proposing higher efficiency burners as a design option only for IRLs with diameters greater than 2.5 inches.

In summary, in this NOPR analysis DOE is proposing as design options the following IRL technologies that have met the screening criteria:

- Higher Temperature Operation
- Thinner Filaments
- Efficient Filament Coiling
- Efficient Filament Orientation
- Higher Efficiency Inert Fill Gas
- Higher Pressure Tungsten-Halogen Lamps
- Infrared Glass Coatings
- Higher Efficiency Reflector Coatings (with the exception of gold reflector coatings)
- Higher Efficiency Burner

See chapter 4 of the NOPR TSD for further details on the IRL screening analysis.

C. Product Classes

DOE divides covered products into classes by: (a) The type of energy used; (b) the capacity of the product; or (c) other performance-related features that justify different standard levels, considering the consumer utility of the feature and other relevant factors. (42 U.S.C. 6295(q)) In a general comment, NEMA requested that DOE ensure CSLs do not potentially eliminate utility from the market. (NEMA, No. 36 at p. 20) As noted, when assessing factors for product class divisions, DOE considers consumer utility.

DOE received several comments regarding product classes considered in the preliminary analysis.

1. General Service Fluorescent Lamp Product Classes

In the preliminary analysis DOE considered product classes for GSFLs based on the following three factors: (1) CCT; (2) physical constraints of lamps (*i.e.,* lamp shape and length); and (3) lumen package. DOE received comments regarding the CCT product class division and a suggestion to establish a product class division based on a lamp's dimming functionality. DOE did not receive feedback on the other product class divisions put forth for GSFLs in the preliminary analysis.

CCT

In the preliminary analysis, DOE considered CCT, noted in degrees Kelvin (K), as a class setting factor, specifically, product classes for GSFLs with a CCT less than or equal to 4,500 K and a product class for GSFLs with a CCT greater than 4,500 K. NEEA and NPCC noted that while DOE stated that GSFLs with a CCT greater than 4,500 K show a decline in efficacy, DOE did not

[22] DiLaura, D. L., K. W. Houser, R. G. Mistrick, and G. R. Steffy. *IESNA Lighting Handbook: Reference and Application, 10th Edition.* New York: IESNA, 2011.

[23] Trushell, Charles and Liviu Magean. *Method of manufacturing a fluorescent lamp having getter on a UV reflective base coat.* U.S. Patent No. 7,500,896 B2, filed May 9, 2005, and issued Mar 10, 2009.

state the degree of the decline of efficacy, whether it was consistent across manufacturers, or if the decline was inherent in the phosphor mixes required to produce the higher CCT values. NEEA and NPCC noted that they may support having a separate product class for these lamps, but that additional data is needed. (NEEA and NPCC, No. 34 at p. 3)

CCT is a measure of the perceived color of white light emitted from a lamp. The lower CCTs correspond to warm light and are in the red wavelengths while the higher CCTs correspond to cooler light and are in blue wavelengths. The human eye is less responsive to light in the blue wavelengths and therefore, efficacy decreases in lamps with higher CCTs. The phosphor blend used in a lamp substantially impacts the lamp's CCT. For example, the use of rare earth phosphors results in light emitted at wavelengths to which the human eye is most sensitive, thereby increasing the lamp efficacy. Therefore, different phosphor blends in lamps achieve different CCTs. (See chapter 3 of the NOPR TSD for further details on fluorescent lamp technology.)

DOE determined through analysis and confirmed with manufacturers that lamps with CCTs greater than 4,500 K start showing a decline in efficacy. Feedback from manufacturers varied regarding the exact efficacy reduction correlated with CCT and whether it was consistent across GSFL types. DOE's evaluation of catalog and compliance efficacies for similar lamp types at different CCTs for various manufacturers has shown that in general, there is a reduction in the range of 2–6 percent going from a CCT of 4,500 K or less to a CCT greater than 4,500 K. (See section VI.D.2.h and chapter 5 of the NOPR TSD for scaling to higher CCT product classes.)

Therefore, because consumers are afforded a different perception of light at different CCTs and efficacy is impacted with varying CCTs, DOE proposes to maintain CCT as a product class division factor. Specifically DOE is proposing to establish a product class of lamps with CCTs less than or equal to 4,500 K and a product class with CCTs greater than 4,500 K.

Dimming Utility

NEMA noted that DOE may not set standards that would eliminate full wattage GSFLs because the Secretary may not prescribe standards ''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 at the time of the Secretary's finding.'' (42 U.S.C. 6295(o)(4)) NEMA emphasized that as dimmability and uniformity of light (absence of flicker or striation) are all performance characteristics highly desirable in the marketplace, they must be maintained. (NEMA, No. 36 at p. 4) Further, NEMA stated that potential energy savings from dimming will be reduced or lost if DOE eliminates full wattage 32 W GSFLs from the market. (NEMA, No. 36 at p. 15) Lutron agreed that elimination of full wattage lamps that are argon-filled would also get rid of dimming. (Lutron, Public Meeting Transcript, No. 30 at pp. 25)

EEI noted that the increase of lighting controls requirements in building codes such as those put out by American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) and International Energy Conservation Code (IECC) means that dimmability is a performance characteristic necessary for operation in commercial buildings. (EEI, Public Meeting Transcript, No. 30 at p. 79–80) The CA IOUs reiterated the importance of not eliminating dimming products from the market. They suggested that if there are two sets of products, one with dimming capability and one with higher efficacy, there may be grounds to create separate product classes so that covered products will comply with standards either by having higher efficacy or by dimming. (CA IOUs, Public Meeting Transcript, No. 30 at pp. 135)

DOE acknowledges that there are issues with dimming reduced wattage lamps that do not typically manifest in full wattage lamps. DOE is aware that unreliable dimming is in part due to the use of krypton as the fill gas in reduced wattage lamps as well as other factors. (See the discussion on higher efficiency lamp fill gas composition in VI.A.1.) Therefore, DOE is ensuring that any proposed level can be met by full wattage lamps. Because the utility of dimming is being preserved in the existing product class structure and for the analyzed standard levels, DOE is not proposing fill gas that allows for reliable dimming as a product class setting factor. (See section VI.D.2.g and chapter 5 of the NOPR TSD for the GSFL engineering analysis.)

Summary of GSFL Product Classes

In this NOPR analysis, DOE is proposing the product classes for GSFLs summarized in Table VI.3. See chapter 3 of the NOPR TSD for further details on each GSFL product class.

TABLE VI.3—GSFL PRODUCT CLASSES IN NOPR ANALYSIS

Lamp type	CCT
4-foot medium bipin	≤4,500 K
	>4,500 K
2-foot U-shaped	≤4,500 K
	>4,500 K
8-foot single pin slimline	≤4,500 K
	>4,500 K
8-foot recessed double contact high output	≤4,500 K
	>4,500 K
4-foot T5, miniature bipin standard output	≤4,500 K
	>4,500 K
4-foot T5, miniature bipin high output	≤4,500 K
	>4,500 K

2. Incandescent Reflector Lamp Product Classes

In the preliminary analysis, DOE considered product classes for IRLs based on the following three factors: (1) Rated voltage, separating lamps less than 125 V from lamps greater than or equal to 125 V; (2) lamp spectrum, separating lamps with a standard spectrum from lamps with a modified spectrum; and (3) lamp diameter, separating lamps with a diameter greater than 2.5 inches from lamps with a diameter less than or equal to 2.5 inches. DOE received several comments on the rated voltage class setting factor. DOE did not receive feedback on the other product class divisions put forth for IRLs in this preliminary analysis.

Rated Voltage

In the preliminary analysis, DOE considered rated voltage as a class setting factor, establishing a product class for IRLs with voltages less than 125 V and a product class for IRLs with voltages greater than or equal to 125 V. IRLs mainly come in rated voltages of 120 or 130. This product class division establishes two separate product classes for the 120 V IRLs and the 130 V IRLs.

NEEA and NPCC stated that DOE should maintain separate product classes for lamps that are less than 125 V and those that are greater than or equal to 125 V. They indicated that if there were demand for 130 V lamps, it would be highly likely that standards compliant 130 V lamps would enter the market, as there is nothing inherent in the standard levels that would eliminate 130 V lamps. (NEEA and NPCC, No. 34 at p. 4)

Advanced Lighting Technologies (ADLT) agreed, pointing out that combining lamps less than 125 V and greater than or equal to 125 V lamps into one product class would allow 130 V lamps on the market that fall below

the July 2012 efficacy requirement of $5.9P^{0.27}$ when operated at 120 V. ADLT gave the example that a 130 V 70 W lamp would be required to produce 19.5 lm/W under DOE's CSL 1 of $6.2P^{0.27}$ for less than 125 V lamps. However, operating the same 130 V, 70 W lamp in a 120 V socket would result in lowering the wattage to 61.5 W and efficacy to 16.8 lm/W,[24] which equates to $5.4P^{0.27}$. Therefore, a 130 V, 70 W lamp operating at 120 V would fall well below the July 2012 requirement of $5.9P^{0.27}$. (ADLT, No. 31 at p. 2)

Existing DOE test procedures provide for lamps rated at 130 V to be tested at 130 V and for lamps rated at 120 V to be tested at 120 V. However, DOE is aware that a large number of consumers actually operate 130 V lamps at 120 V, which results in longer lifetime but lower efficacy. With a single EL for lamps rated at each voltage, this situation would effectively lead to a lower efficacy requirement for these 130 V lamps run at 120 V, compared to 120 V lamps run at 120 V. The 130 V lamps would not require the same level of technology as 120 V lamps to meet the same standard, and, thus, would be cheaper to produce. Therefore, setting higher standards for IRLs without accounting for voltage differences could result in increased migration to 130 V lamps instead of the 120 V lamps. When consumers operate these lamps at 120 V, they may need to purchase more lamps to obtain sufficient light output, thereby increasing energy consumption. Hence, in order to preserve energy savings, DOE proposes to maintain the rated voltage class division that separates covered IRLs less than 125 V from those that are greater than or equal to 125 V.

Summary of IRL Product Classes

In this NOPR analysis, DOE is proposing the product classes for IRLs summarized in Table VI.4. See chapter 3 of the NOPR TSD for further details on each IRL product class.

TABLE VI.4—IRL PRODUCT CLASSES IN NOPR ANALYSIS

Lamp type	Diameter (in inches)	Voltage
Standard Spectrum	>2.5	≥125 V
		<125 V
	≤2.5	≥125 V
		<125 V
Modified Spectrum	>2.5	≥125 V
		<125 V
	≤2.5	≥125 V
		<125 V

D. Engineering Analysis

1. General Approach

The engineering analysis is generally based on commercially available lamps that incorporate the design options identified in the technology assessment and screening analysis. (See chapters 3 and 4 of the NOPR TSD for further information on technology and design options.) The methodology consists of the following steps: (1) Selecting representative product classes, (2) selecting baseline lamps, (3) identifying more efficacious substitutes, and (4) developing efficacy levels by directly analyzing representative product classes and then scaling those efficacy levels to non-representative product classes. The details of the engineering analysis are discussed in chapter 5 of the NOPR TSD. The following discussion summarizes the general steps of the engineering analysis:

Representative product classes: DOE first reviews covered lamps and the associated product classes. When a product has multiple product classes, DOE selects certain classes as ''representative'' and concentrates its analytical effort on these classes. DOE selects representative product classes primarily because of their high market volumes.

Baseline lamps: For each representative product class, DOE selects a baseline lamp as a reference point against which to measure changes resulting from energy conservation standards. Typically, a baseline model is the most common, least efficacious lamp sold in a given product class. DOE also considers other lamp characteristics in choosing the most appropriate baseline for each product class such as wattage, lumen output, and lifetime.

More efficacious substitutes: DOE selects higher efficacy lamps as replacements for each of the baseline models considered. When selecting higher efficacy lamps, DOE considers only design options that meet the criteria outlined in the screening analysis (see section VI.B or chapter 4 of the NOPR TSD). For GSFLs, DOE pairs each lamp with an appropriate ballast because fluorescent lamps are a component of a system, and their performance is related to the ballast on which they operate.

Efficacy levels: After identifying the more efficacious substitutes for each baseline lamp, DOE develops ELs. DOE bases its analysis on three factors: (1) The design options associated with the specific lamps studied; (2) the ability of lamps across wattages to comply with the standard level of a given product class;[25] and (3) the max tech EL. DOE then scales the ELs of representative product classes to those classes not directly analyzed.

DOE received a general comment on the methodology used in this rulemaking to develop efficacy levels for both GSFLs and IRLs. NEMA noted that additional adjustments for variation of product performance for manufacturing and testing variations must be afforded not only to compliance but to interpretations of published catalog data. NEMA referred DOE to NEMA LSD–63 Measurement Methods and Performance Variation for Verification Testing of General Purpose Lamps and Systems for guidance on proper application of statistical analysis for lighting products. (NEMA, No. 36 at pp. 11–12; Philips, Public Meeting Transcript, No. 30 at pp. 134)

DOE reviewed NEMA LSD–63 to determine whether additional adjustments due to manufacturing and testing variation were needed based on the guidance provided in the document. DOE determined that the guidance was not applicable to the datasets utilized by DOE to conduct the analysis,

[24] DiLaura, D. L., K. W. Houser, R. G. Mistrick, and G. R. Steffy. *IESNA Lighting Handbook: Reference and Application, 10th Edition.* New York: IESNA, 2011.

[25] ELs span multiple lamps of different wattages. In selecting ELs, DOE considered whether these multiple lamps can meet the standard levels.

specifically lamp manufacturer catalog data and DOE's certification database. DOE received feedback from manufacturers that catalog data represents the long term average performance of products. In comparison, LSD–63 provides guidance for comparing a small sample set of test data to rated catalog values through statistical analysis to determine if the small sample set is part of the long term rating distribution. Because the guidance prescribed in LSD–63 is relevant for small sample sets and DOE is basing its analysis on catalog data representing long term performance data, DOE did not make adjustments for variation using this guidance.

Further, as discussed in section VI.D.2.a, DOE considers certification data provided in DOE's database to account for variation when establishing the minimum efficiency requirements for each efficacy level. By accounting for the compliance requirements when establishing efficacy levels, DOE incorporates manufacturing and testing variation and therefore uses values representative of the energy use of the products.

Stakeholders had several comments regarding the engineering analysis presented in the preliminary TSD specific to GSFLs and IRLs. The following sections discuss and address feedback received from stakeholders for each product. DOE requests comment on the overall methodology, assumptions, and results of the GSFL and IRL engineering analyses.

2. General Service Fluorescent Lamp Engineering

DOE received comments on the engineering analysis for GSFLs presented in the preliminary TSD. Stakeholders provided feedback on DOE's data approach, representative product classes, baseline lamps, selection of more efficacious substitutes, lamp-and-ballast pairings, max tech levels, CSLs, and scaling. The following sections summarize the comments and responses received on these topics, and present the proposed GSFL engineering for this NOPR analysis.

a. Data Approach

For the preliminary analysis, DOE considered commercially available lamps when possible. DOE used performance data of the commercially available lamps presented in manufacturer catalogs to identify potential baseline lamps and develop initial efficacy levels. DOE calculated efficacy as the initial lumen output published in manufacturer catalogs divided by the ANSI rated wattage. For lamp types that do not have a defined ANSI rated wattage, DOE utilized the lamp's nominal wattage to calculate catalog efficacy. However, DOE also analyzed publicly available data submitted to DOE by manufacturers to demonstrate compliance with existing energy conservation standards.[26] DOE adjusted efficacy levels to account for certification data when available.

Usability of Certification Data and Catalog Data

The CA IOUs noted statements made during the public meeting indicated that the catalog data may not be precise as it is not subject to any reporting regulations and further the certification database may be inaccurate. The CA IOUs asked that clarification be provided regarding the data used in the GSFL analysis. (CA IOUs, No. 32 at pp. 12–13) The CA IOUs also noted that a large number of products in DOE's certification database did not seem to have been included in this rulemaking analysis for GSFLs. In particular, the CA IOUs noted that there were about 20 or 30 products that are above 96 lm/W for the representative 4-foot MBP product class from about ten manufacturers including MaxLite, Satco, Philips, and Westinghouse, as well as a product exceeding 100 lm/W. (CA IOUs, Public Meeting Transcript, No. 30 at pp. 114–115)

GE suggested that because such high measured lm/W values are not achievable, the issue may be that the information in the certification database is being misread or there may be confusion among manufacturers about what exactly to report in each column which could be resulting in false calculations. (GE, Public Meeting Transcript, No. 30 at p. 115, pp. 141) GE noted that manufacturers have questions pending to DOE regarding certification reporting. (GE, Public Meeting Transcript, No. 30 at pp. 141) The CA IOUs agreed with GE that there could be inconsistencies or confusion with which values to report and encouraged DOE to look into these issues further. (CA IOUs, Public Meeting Transcript, No. 30 at pp. 115–116) ASAP pointed out that there may be possible enforcement issues if there are products in the certification database that are non-compliant. (ASAP, Public Meeting Transcript, No. 30 at pp. 139) GE added that it could be that the lamps are in compliance but the claims being made are aggressive. (GE, Public Meeting Transcript, No. 30 at pp. 141)

NEEA disagreed that the certification database was being misread. NEEA recommended the use of a consistent set of data and requested general clarification on the data utilized in the analysis. (NEEA, Public Meeting Transcript, No. 30 at pp. 139–140) ASAP asked if there is a discrepancy between catalog and certification values for products. (ASAP, Public Meeting Transcript, No. 30 at pp. 146–147) Philips explained that values initially published in catalogs are based on a small set of samples and these values change as the sample size increases and is more representative of manufacturing. The initially published catalog values are eventually synched with values based on the greater sample size but catalogs are updated only every two or three years. Further there is some allowable difference between the marketed efficacy values and the certification efficacy values. (Philips, Public Meeting Transcript, No. 30 at pp. 147–148)

NEEA and NPCC stated that they are unable to comment extensively on the GSFL analysis due to DOE's use of catalog efficacy values and ANSI rated wattages instead of measured and/or certified values including using test data at appropriate test conditions such as testing at 25 °C. (NEEA and NPCC, No. 34 at p. 2, 3) Noting that comments by manufacturers during the public meeting indicated that catalog and certification values will be different, NEEP as well as NEEA and NPCC recommended DOE use measured and/or certified values for its analysis, and not use catalog values for any part of the analysis. (NEEA and NPCC, No. 34 at p. 2, 3; NEEP, No. 33 at p. 2) NEEA and NPCC stated that once it had seen measured and/or certified values, it suspected the range of lamp performance will be much narrower than presented in the preliminary analysis. (NEEA and NPCC, No. 34 at p. 2, 3) NEEP stated that while there appear to be significant energy savings for GSFLs at CSL1, DOE's use of catalog data puts the accuracy of these estimates into question. (NEEP, No. 33 at p. 2)

DOE understands the concerns raised by stakeholders regarding the difference between catalog and certification values and their subsequent recommendations to utilize certification data. At the time of the preliminary analysis, DOE's certification database consisted of data for only 38 percent of covered GSFLs. Because not all commercially available products had associated certification data, DOE was unable to rely solely on certification data in the preliminary analysis. At the time of the NOPR analysis, DOE's certification database

[26] The publicly available compliance information for GSFLs can be found in DOE's Compliance Certification Database available here: *www.regulations.doe.gov/certification-data/*.

contained data for 68 percent of the covered commercially available lamps. While this was an increase from the preliminary analysis, it still did not represent a comprehensive dataset on which to base an engineering analysis. Therefore, in this NOPR analysis, DOE again utilized catalog data to identify baseline products and develop initial efficacy levels. This approach ensured consideration of all available products. DOE then used available certification data to adjust the initial efficacy levels, if necessary, thereby ensuring that the proposed levels can be met based on the certification values submitted by manufacturers to demonstrate compliance with standards.

Wattage

The CA IOUs asked why DOE is using ANSI rated wattage to calculate efficacy when the certification database lists specific wattages for products. (CA IOUs, Public Meeting Transcript, No. 30 at pp. 96) The CA IOUs stated that using a rated wattage of 32.5 W gives an expected average efficacy and recommended looking at whether lamps are performing at different levels of efficacy than projected and setting baselines and standards around more measured data rather than a rated wattage. (CA IOUs, Public Meeting Transcript, No. 30 at p. 100)

NEMA noted the rated wattage is based on a very large number of samples that are averaged out and manufacturers produce lamps to fall on and around that point. Therefore, the individual lamp tested wattage will differ from this rated value of that lamp. NEMA stated that it would defer to its members, but in general it supported using the ANSI rated wattage rather than the measured wattage. (NEMA, Public Meeting Transcript, No. 30 at pp. 98) GE did not think industry had a firm position on the issue, recognizing different wattages can be used. (GE, Public Meeting Transcript, No. 30 at pp. 99–100; NEMA, Public Meeting Transcript, No. 30 at pp. 98–99)

For the preliminary analysis and the NOPR analysis, DOE used catalog data to develop initial CSLs and ELs and assessed certification data to make any adjustments to the levels. As noted, DOE's certification database does not include data for all covered GSFLs; therefore, the measured wattages of all commercially available covered lamps are not readily accessible. Additionally, DOE identified inconsistencies with the values reported for wattage, specifically in some cases nominal wattage may be reported rather than the measured wattage in DOE's certification database. Therefore, as mentioned previously, DOE used manufacturer lamp catalogs to establish initial CSLs in the preliminary analysis and ELs in the NOPR. To determine catalog efficacies, DOE used catalog lumen output and ANSI rated wattage instead of the nominal wattage provided by manufacturers in catalogs. ANSI rated wattage is the result of standardized ANSI testing and represents an industry agreed upon wattage, as explained by NEMA. If an ANSI standard did not provide a rated wattage for a lamp type analyzed, efficacy was calculated using the nominal wattage.

For the assessment of certification values, DOE used the reported values for efficacy, which are based on measured lumen output and measured wattage as specified in DOE's test procedures for GSFLs set forth at 10 CFR part 430, subpart B, appendix R. Utilizing ANSI rated wattage to calculate catalog efficacy and reported efficacy for developing final efficacy levels eliminates the uncertainty associated with the wattages reported for compliance.

Using Data at 25 Degrees Celsius

NEMA stated that DOE should conduct all its analyses, payback and feasibility equations based on data referenced to and measured at 25 °C, not 35 °C, otherwise, results will be skewed because efficiency can ''appear'' higher at 35 °C for certain products made (optimized) for those conditions. NEMA noted that DOE's test procedure, existing and previous rules, as well as reporting and catalogs, use 25 °C data. (NEMA, No. 36 at p. 18; NEMA, Public Meeting Transcript, No. 30 at p. 127) GE noted that discussions during the 2009 Lamps Rule had concluded that T5 lamps should be tested at 25 °C as currently done by labs because testing becomes very unreliable at 35 °C. Therefore, it is not appropriate to have a lm/W level based on 35 °C. (GE, Public Meeting Transcript, No. 30 at pp. 89–90) Philips stated that lamps for which efficacy values are provided at 35 °C operating temperature in catalogs are particular amalgam lamps that were designed specifically for that environment. (Philips, Public Meeting Transcript, No. 30 at p. 127)

In the preliminary analysis, DOE developed efficacy levels based on performance at 25 °C because the DOE test procedure for GSFLs requires the lamps to be tested at 25 °C, including T5 lamps. However, because all manufacturers do not provide lumen output data at 25 °C for T5 lamps in their catalogs but do provide it at 35 °C, DOE developed initial efficacy levels based on 35 °C catalog data for T5 lamps. This allowed DOE to evaluate performance for all T5 lamps based on data provided by manufacturers at the same operating temperature. As noted, because the DOE test procedure used to determine compliance with standards requires GSFLs to be tested at 25 °C, DOE adjusted the initial efficacy levels to reflect operation at 25 °C. To do this, DOE utilized information in lamp manufacturer catalogs that provided performance characteristics for lamp operation at both 25 °C and 35 °C. In cases where this information was not available, DOE adjusted the 35 °C data to reflect lamp operation at 25 °C. Specifically, when operated at 25 °C, the lumen output of T5 lamps is approximately 10 percent lower than the lumen output of such lamps when operated at 35 °C. For this NOPR analysis, DOE has maintained this approach and developed efficacy levels based on performance at 25 °C.

Decimal Usage for lm/W

Philips stated that the CSLs analyzed in the preliminary analysis are to the tenths decimal place which provides an artificial measure of accuracy that doesn't even exist and Philips doesn't think it can be measured accurately. (Philips, Public Meeting Transcript, No. 30 at p. 146) Regarding this comment that reporting lm/W to one significant digit is not conducive to repeated and reliable measurements, the CA IOUs stated the rulemaking must adhere to the existing DOE test procedure that calculates an efficacy value using a specific sample size and confidence limit procedure. (CA IOUs, Public Meeting Transcript, No. 30 at pp. 149–151)

As specified in DOE's test procedures for GSFLs set forth at 10 CFR part 430, subpart B, appendix R, lamp efficacy is the ratio of measured lumen output in lumens to the measured lamp electrical power input in watts rounded to the nearest tenth in units of lumens per watt. In the 2009 final rule for the GSFL and IRL test procedure, DOE amended the test procedure to require reported efficacy measurements for GSFLs to be rounded to the nearest tenth of a lumen per watt allowing for future energy conservation standards to be rounded to the nearest tenth of a lumen per watt. 74 FR 31829, 31836 (July 6, 2009). DOE concluded this amendment to the test procedure was feasible because manufacturers routinely generate test results that would allow reporting to at least the tenth of a lumen per watt level. 74 FR at 31836 (July 6, 2009). Therefore, DOE is analyzing efficacy levels in this rulemaking rounded to the nearest tenth of a lumen per watt as DOE maintains

that this is an achievable level of accuracy.

Using High Frequency Test Data

According to NEMA, in recognition of the marketplace shift to electronic high frequency (HF) ballasts, the American National Standards Institute Lighting Group has drafted new standards for the electrical and photometric characterization of GSFL T8 lamps that are based on HF rather than the former low frequency 60 Hz reference ballasts. When these new standards are published later in 2013, the industry will comply and begin characterizing their products using HF-based photometry. (NEMA, No. 36 at p. 2) NEMA also stated that current test procedures unfairly compare energy-saver lamps to standard lamps, owing to the removal of cathode heat voltage from the energy-efficiency calculation of energy-saver lamps, thus they cannot be compared without unfairly skewing the numbers in favor of low-wattage lamps. High frequency measurement standards account for this difference. (NEMA, No. 36 at pp. 14–15) Therefore, NEMA recommends that this rulemaking should be based on the new ANSI HF standards. (NEMA, No. 36 at p. 2)

The current GSFL test procedure as specified in 10 CFR part 430, subpart B, appendix R requires lamps be tested at low frequency unless only high frequency ballast specifications are available for the lamp. The test procedure also specifies that for high frequency testing, cathode heat should not be used when the lamp is in operation. DOE acknowledges that high frequency reference specifications may be in development for additional lamp types and may consider standards based on high frequency operation after ANSI publishes the revised industry standard.

700 Series Waiver

NEMA also noted that 700 series lamps are under the U.S. Office of Hearings and Appeals (OHA) compliance waivers from the July 2012 standards. Therefore, their performance and market changes are still several years away from being known. (NEMA, No. 36 at p. 1)

In April of 2012, several manufacturers [27] were granted exception relief exempting their 700 series T8 lamps from the July 2012 standards for a period of two years. The waiver was granted due to the global supply restrictions on rare earth phosphors, the rising world demand of these phosphors, and the resulting impacts on producing higher efficacy GSFLs.[28] Because this waiver will expire in 2014, and any standards adopted by this rulemaking are expected to require compliance in 2017, DOE has conducted this analysis for GSFLs assuming that the waiver would not be in place and has therefore not considered non-compliant 700 series lamps in its analysis. DOE notes that the term ''700 series'' is widely used in industry when referring to fluorescent lamps with a CRI in the range of 70 to 79. See section V.A for the proposed definition of a 700 series lamp.

b. Representative Product Classes

When a covered product has multiple product classes, DOE identifies and selects certain product classes as representative and analyzes those product classes directly. DOE chooses these representative product classes primarily due to their high market volumes. For GSFLs, in the preliminary analysis DOE identified all GSFLs with CCTs less than or equal to 4,500 K with the exception of the 2-foot U-shaped lamps as representative product classes as shown (in gray) in Table VI.5. NEMA agreed with the representative product classes presented for GSFLs. (NEMA, No. 36 at p. 7)

TABLE VI.5—GSFL REPRESENTATIVE PRODUCT CLASSES

Lamp type	CCT
4-foot medium bipin	≤4,500 K
	>4,500 K
2-foot U-shaped	≤4,500 K
	>4,500 K
8-foot single pin slimline	≤4,500 K
	>4,500 K
8-foot recessed double contact high output	≤4,500 K
	>4,500 K
4-foot T5, miniature bipin standard output	≤4,500 K
	>4,500 K
4-foot T5, miniature bipin high output	≤4,500 K
	>4,500 K

NEEA questioned why none of the products with CCT greater than 4,500 K were being directly analyzed and noted that at least one should be assessed in order to ensure the analysis is accounting for the magnitude of difference between greater than and less than or equal to 4,500 K CCT products. (NEEA, Public Meeting Transcript, No. 30 at p. 88)

As noted previously, DOE chose representative product classes based on high market volumes. DOE received feedback from manufacturers in interviews indicating that the volume of lamps with CCT greater than 4,500 K is considerably lower than the volume of lamps with CCT less than or equal to 4,500 K. In addition, DOE used manufacturer feedback and catalog data to quantify the difference in performance between lamps with higher CCTs and lamps with lower CCTs. For these reasons, DOE did not directly analyze lamps with CCT greater than 4,500 K in the preliminary analysis and this NOPR analysis. DOE scaled the directly analyzed product classes with CCTs less than or equal to 4,500 K to those with CCTs greater than 4,500 K in the preliminary and NOPR analyses. See section VI.D.2.h and chapter 5 of the NOPR TSD for further information.

EEI stated it thought that the 2-foot U-shaped lamps would have sales comparable to some of the other product classes. EEI also did not agree with determining the efficiency standard for the 2-foot U-shaped lamps using the 4-foot MBP lamps as a proxy. (EEI, Public Meeting Transcript, No. 30 at p. 86–88)

In the preliminary analysis, DOE utilized the 4-foot MBP linear fluorescent products to scale to the 2-foot U-shaped products, as both products use the same fluorescent technology, span the same range of wattages, and, without its bent curve, the 2-foot U-shaped lamp would be approximately the same length as the 4-foot MBP linear lamp. Thus, DOE could determine impact on efficacy from the bent curve and scale from the 4-foot MBP product class. Further, the market share of 2-foot U-shaped lamps is significantly lower than 4-foot MBP lamps. As indicated in the LMC, T8 4-foot linear lamps comprise 44 percent of all linear fluorescent lighting, whereas T8 2-foot U-shaped lamps make up just 2 percent. Therefore, in this NOPR analysis, DOE did not directly analyze the 2-foot U-shaped lamps and scaled ELs from the 4-foot MBP product class to the 2-foot U-shaped product class. See section VI.D.2.h and chapter 5 of the NOPR TSD for further information.

c. Baseline Lamps

Once DOE identifies the representative product classes for analysis, it selects baseline lamps to analyze in each class. Typically, a

[27] At the time of this analysis, the following manufacturers had been granted exception relief exempting their 700 series T8 lamps from current standards: Philips, GE, OSI, Ushio America, Halco Lighting Technologies, Premium Quality Lighting, Inc., Tailored Lighting, Inc., Litetronics International, Inc., Satco Products, Inc., DLU Lighting USA, Westinghouse Lighting Corporation, Ascent Battery Supply, LLC, Eiko, Ltd, Topaz Lighting Corporation, Technical Consumer Products, Feit Electric Company.

[28] *Philips Lighting Company, et al.* OHA Case Nos. EXC–12–0001, EXC–12–0002, EXC–12–0003 (2012). Accessible here: *http://energy.gov/sites/prod/files/oha/EE/EXC-12-0001thru03.pdf.*

baseline lamp is the most common, least efficacious lamp that just meets existing energy conservation standards. For fluorescent lamps, the most common lamps were determined based on characteristics such as wattage, lumen output, lifetime, and CCT. To identify baseline lamps, DOE reviews product offerings in catalogs, shipment information, and manufacturer feedback obtained during interviews.

In the preliminary analysis, DOE considered commercially available lamps as baselines. In some cases, the most common, least efficacious commercially available product was at an efficacy above the existing standard level. Specifically, for the 8-foot RDC HO, T5 MiniBP SO, and T5 MiniBP HO product classes, DOE was unable to identify a commercially available product at the existing standard level. DOE received several comments regarding the selection of these lamps with efficacies higher than the existing standard levels as baselines.

NEMA stated that the arguments for baseline, CSL 0 in the preliminary TSD, are based on predictions of market shift that erroneously justify a new baseline higher than the minimum requirements put forth by the 2009 Lamps Rule. (NEMA, No. 36 at p. 1) NEMA questioned why the baselines for product classes were not set at the standard level adopted in the 2009 Lamps Rule. (NEMA, Public Meeting Transcript, No. 30 at pp. 85–85) The CA IOUs recommended DOE use the efficacy levels set in the 2009 Lamps Rule as the baselines for all GSFL product classes because minimum product performance generally gravitates to the minimum standards set for the product. (CA IOUs, No. 32 at p. 13) GE concurred, stating that the market will move to lamps at that level due to the cost of rare earth materials. Therefore, GE asserted that it is easy to make the assumption that lamps will gravitate towards that minimum level over time and that that should be the analysis going forward over the next six to ten years. (GE, Public Meeting Transcript, No. 30 at pp. 93–94)

NEEA and NPCC agreed that DOE should use products that minimally comply with existing standards as baselines and this would be validated by the measured and/or certified values. (NEEA and NPCC, No. 34 at p. 1, 4) The CA IOUs also noted that the certification database shows that there are products right at the level, particularly for the 4-foot MBP class. (CA IOUs, Public Meeting Transcript, No. 30 at pp. 93–94)

As noted previously, DOE assesses commercially available products on the market and chooses baseline lamps representative of the common characteristics within that product class and just meet existing standards. However, feedback from stakeholders and manufacturer interviews has indicated that manufacturers will likely produce lamps at the existing standard level even if no products are currently available. Further, after the 2009 Lamps Rule, DOE observed the introduction of products that were not previously available at the newly adopted standard levels for some product classes. Thus, DOE believes this trend could continue and additional lamps may be offered that just meet the existing standard level for the remaining product classes.

Therefore, in this NOPR analysis DOE is proposing baselines at the existing standard levels for all product classes. For the 4-foot MBP product class, DOE determined the baseline selected in the preliminary analysis to be the least efficient product on the market at the existing standards. For the 8-foot SP slimline product class, DOE also changed the baseline lamp to be the least efficient product on the market at the existing standards. For representative product classes in which there were no commercially available lamps at the existing standard level, DOE modeled baseline lamps. To determine the performance characteristics of these lamps, DOE took the ANSI rated wattage of the most common, least efficacious commercially available lamp and calculated the lumen output required to develop an efficacy at the existing standard level. DOE assumed the modeled baseline lamp would have similar characteristics as the most common commercially available lamps in each product class, including lifetime and lumen depreciation. DOE modeled baseline lamps for the 8-foot RDC HO, T5 MiniBP SO, and T5 MiniBP HO product classes.

If DOE considered additional types of GSFLs in the scope of this rulemaking, NEEA and NPCC recommended that for product classes that do not currently have a standard, DOE should establish the baseline at the lowest level of efficiency commonly found in the marketplace. (NEEA and NPCC, No. 34 at p. 1, 4) In this NOPR analysis, DOE is not considering additional types of GSFLs that are not subject to standards. See section V.B for more details.

NEEP noted that the *2011 Vermont Market Characterization and Assessment Study* conducted by Navigant for Vermont's Public Service Department (mentioned previously in this notice) established baselines for certain products in the state's commercial sector. NEEP urged DOE to utilize the fluorescent lighting data collected to corroborate DOE's findings. (NEEP, No. 33 at p. 3)

DOE reviewed the study and found that, given the level of detail provided, it was difficult to use the results to corroborate DOE's baseline selections. The study aims to characterize the prevalence of T8 lamps, high performance T8 lamps, T12 lamps, and T5 lamps in the state of Vermont. While it provides market share information for standard T8s and high performance T8s, it does not provide this information by level of efficiency for T5 lamps. Further, the lengths of these lamp types are not included, and thus DOE was unable to compare the results on a product class basis.

When considering general overall trends, the study confirmed that T8 lamps are significantly more prevalent than T12 lamps, and T8 standard efficiency lamps are more commonly installed than high performance T8 lamps. These high level results support certain aspects of the baseline selections, namely the selection of T8 standard performance lamps at the baseline. However, the study covers a very limited service area and therefore cannot be regarded as indicative of the most commonly installed lamp types at a national level.

DOE is proposing the baseline lamps for GSFLs specified in Table VI.6. See chapter 5 of the NOPR TSD for further details on this assessment. DOE requests comment on the baseline lamps analyzed in the NOPR analysis, in particular the modeled baseline lamps in the 8-foot RDC HO, T5 MiniBP SO, and T5 MiniBP HO product classes.

Table VI.6 GSFL Baseline Lamps

Representative Product Class	Lamp Diameter	Nominal Wattage	ANSI Rated Wattage	Rated Efficacy**	Initial Lumen Output†	Mean Lumen Output‡	Life (IS)	Life (PS)	CRI
		W	W	lm/W	lm	lm	hr	hr	
4-foot MBP	T8	32	32.5	89.2	2,900	2,725	24,000	40,000	83
8-foot SP slimline	T8	59	60.1	96.5	5,800	5,220	24,000	-	80
8-foot RDC HO	T8	86	84.0	92.0	7,728	7,342	18,000	-	-
4-foot T5 MiniBP SO*	T5	28	27.8	86.0	2,391	2,223	-	30,000	-
4-foot T5 MiniBP HO*	T5	54	53.8	76.0	4,089	3,884	-	25,000	-

* 4-foot T5 MiniBP SO and HO rated efficacy, initial lumen output, and mean lumen output given at 25 °C.

** Rated efficacy is catalog initial lumen output divided by the ANSI rated wattage.

† Initial lumen output is a lamp's light output after 100 hours of seasoning.

‡ Mean lumen output is a measure of light output midway through the rated life of a lamp.

d. More Efficacious Substitutes

DOE selects more efficacious replacements for the baseline lamps considered within each representative product class. DOE considers only design options identified in the screening analysis. In the preliminary analysis, these selections were made such that potential substitutions maintained light output within 10 percent of the baseline lamp's light output with similar performance characteristics, when possible. DOE also sought to keep other characteristics of substitute lamps as similar as possible to the baseline lamps, such as rated life, CRI, and CCT. In identifying the more efficacious substitutes, DOE utilized a database of commercially available lamps. DOE received comments regarding its choices for more efficacious substitutes in the preliminary analysis.

T5 HO Product Class

For the preliminary analysis, in its assessment of commercially available products, DOE was unable to find a full wattage T5 HO lamp with an efficacy higher than the baseline. However, DOE did find several more efficacious, reduced wattage T5 HO lamps at higher levels of efficacy. As discussed in section VI.D.2.e, DOE is only analyzing efficacy levels that can be met by full wattage lamps. Therefore, in the preliminary analysis, DOE modeled a more efficacious full wattage T5 HO lamp. Specifically, DOE created a higher efficacy model lamp using a more efficacious commercially available reduced wattage T5 HO lamp to calculate the characteristics of a full wattage T5 HO lamp of comparable efficacy. The CSL considered for the T5 HO product class was set according to the efficacy of this modeled full wattage lamp.

DOE received several comments regarding this approach. NEMA stated that it could not comment on the manufacturability or functionality of the T5 HO model lamp put forth in the preliminary analysis because the product does not exist, and it is poor practice to invent new products. (NEMA, No. 36 at p. 8) NEMA stated that if DOE is unable to use a commercially available lamp for analysis for this product class it should not pursue an increased efficiency level. However, in the case that DOE does intend to further regulate this product class, NEMA stated DOE should arrange for the construction and testing of a representative number of this modeled lamp to obtain information on manufacturing feasibility. (NEMA, No. 36 at p. 8–9) Philips agreed, stating that DOE is designing and inventing new lamps and it is not known whether they are even feasible. This approach could potentially result in a product class where there are no products available. (Philips, Public Meeting Transcript, No. 30 at p. 124)

GE stated it had to get more information but noted that its engineers had significant concerns regarding the T5 MiniBP HO model lamp and the high efficacy of the max tech level being considered for this product class. Noting that it had not seen DOE take this approach before, GE stated that DOE seems to be going from T5 efficacy levels that are relatively easy to meet to efficacy levels that may not even be technically feasible. (GE, Public Meeting Transcript, No. 30 at pp. 125–126)

In the preliminary analysis, DOE concluded that the higher efficacy level achieved by reduced wattage T5 HO lamps demonstrated the potential for a full wattage lamp to achieve an efficacy level above the baseline. Accordingly, DOE modeled the lamp efficacy of a higher efficacy full wattage lamp using commercially available reduced wattage lamps. DOE acknowledged in the preliminary analysis that in determining whether it is appropriate to consider a CSL based on this model lamp, DOE would gather additional information on the manufacturability and functionality of this lamp, as well as its projected efficacy, when measured according to the DOE test procedure. DOE does not have the necessary information to determine whether the higher efficacy full wattage T5 HO model lamp was technologically feasible, and therefore is not considering the higher efficacy modeled T5 HO lamp in the NOPR analysis.

As noted previously, in response to the stakeholder comments discussed in section VI.D.2.c, DOE modeled a

baseline lamp for the NOPR analysis because the T5 HO product class does not have a commercially available lamp that just meets the existing standard. Because there are full wattage products that have demonstrated efficacy higher than the existing standard, DOE believes the modeled baseline lamp is feasible. Based on this new baseline, in the NOPR analysis DOE was able to identify a more efficacious full wattage T5 HO substitute that is commercially available. The more efficacious T5 HO lamps are shown in Table VI.7.

Lifetime Characteristics

NEEP stated that Energy Efficiency Program Administrators from Efficiency Vermont and National Grid noted that the rated life values for the lamps DOE has identified as more efficacious substitutes (for 4-foot MBP) are low. They specifically pointed out that GE's reduced wattage 25 and 28 W lamps and their high lumen 32 W lamps are all rated between 40–50,000 hours (instant start [IS], 3 hours per start). Further Philips rates their reduced wattage 25 and 28 W lamps at 32,000 hours (IS, 3 hours per start). ''Extended life'' lamps offer even longer rated lifetimes. (NEEP, No. 33 at p. 3)

As noted in section VI.D.2.c, baseline lamps are selected in part based on the most common characteristics of their respective product classes, and DOE selects more efficacious substitutes with similar performance characteristics as the baseline representative unit when possible. Thus, the baseline and more efficacious substitutes selected represent the most common lifetimes for each product class. In the case of the 4-foot MBP product class, DOE found that a 24,000 hour lifetime on IS ballasts with 3 hour starts and a 40,000 hour lifetime on programmed start ballasts with 3 hour starts were the most common lifetimes for the product class. DOE notes that the rated lifetime values cited by NEEP for GE's reduced wattage 25 and 28 W lamps and high lumen 32 W lamps represent rated lifetime on a programmed start ballast with 3 hour starts rather than an IS ballast. Therefore the 40–50,000 hour lifetimes cited by NEEP do align with the rated lifetimes (programmed start, 3 hours per start) of the more efficacious substitutes selected. Further, DOE received manufacturer feedback during interviews that the lifetime values of the more efficacious substitutes were representative of their respective product classes. Therefore, in this NOPR analysis, DOE is maintaining the same more efficacious substitutes as selected in the preliminary analysis. DOE requests comment on the rated lifetimes of the GSFL baselines and more efficacious substitutes.

Summary of GSFL Representative Lamps

DOE received no other comments regarding the selection of more efficacious substitutes for GSFLs. The GSFL representative lamps analyzed in the NOPR are shown in Table VI.7.

TABLE VI.7—GSFL REPRESENTATIVE LAMPS

Product classes	EL	Lamp diameter	Nominal wattage	Rated wattage	Rated efficacy	Initial light output	Mean light output	Life	CRI
			W	W	lm/W	lm	lm	hr	
4-foot MBP	EL 1	T8	32	32.5	90.0	2,925	2,770	21,000	85
	EL 2	T8	25	26.6	93.0	2,475	2,350	24,000	85
	EL 2	T8	32	32.5	95.4	3,100	2,945	24,000	85
	EL 2	T8	28	28.4	96.0	2,725	2,590	24,000	85
8-foot SP slimline	EL 1	T8	59	60.1	98.2	5,900	5,490	24,000	85
	EL 2	T8	59	60.1	99.0	5,950	5,650	24,000	85
	EL 2	T8	54	54.0	105.6	5,700	5,415	24,000	85
	EL 2	T8	50	50.0	108.0	5,400	5,075	24,000	85
8-foot RDC HO	EL 1	T8	86	84.0	95.2	8,000	7,600	18,000	78
	EL 2	T8	86	84.0	97.6	8,200	7,800	18,000	86
T5 MiniBP SO*	EL 1	T5	28	27.8	93.5	2,600	2,418	30,000	85
	EL 2	T5	28	27.8	98.2	2,730	2,594	30,000	85
	EL 2	T5	26	26.0	100.0	2,600	2,470	30,000	85
	EL 2	T5	25	25.0	104.0	2,600	2,475	35,000	85
T5 MiniBP HO*	EL 1	T5	54	53.8	82.7	4,450	4,275	25,000	85
	EL 1	T5	49	49.0	90.8	4,450	4,140	35,000	85
	EL 1	T5	47	47.0	91.9	4,320	3,969	30,000	84

* 4-foot T5 MiniBP SO and HO rated efficacy, initial lumen output, and mean lumen output given at 25 °C.

e. General Service Fluorescent Lamp Systems

Because fluorescent lamps operate on a ballast in practice, in the preliminary analysis, DOE analyzed lamp-and-ballast systems, thereby more accurately capturing real-world energy use and light output. In the DOE test procedure for GSFLs, and therefore in this rulemaking, lamp efficacy is based on the initial lumen output. However, because light output decreases over time, in the preliminary analysis DOE analyzed more efficacious systems that maintain mean lumen output [29] within 10 percent of the baseline system, when possible. Further, in the preliminary analysis, DOE selected replacement systems that do not have higher energy consumption than the baseline system.

DOE considered two different scenarios in the preliminary analysis: (1) A lamp replacement scenario in which the consumer selects a reduced wattage replacement lamp that can operate on the installed ballast and (2) a lamp-and-ballast replacement scenario in which the consumer selects a lamp that has the same or lower wattage compared to the baseline lamp and also selects a new ballast with potentially different performance characteristics, such as ballast factor [30] (BF) or ballast

[29] Mean lumen output is a measure of light output midway through the rated life of a lamp.

[30] BF is defined as the output of a ballast delivered to a reference lamp in terms of power or light divided by the output of the relevant reference ballast delivered to the same lamp (ANSI C82.13–2002). Because BF affects the light output of the system, manufacturers design ballasts with a range of ballast factors to allow consumers to vary the light output, and thus power consumed, of a fluorescent system. See the 2011 Ballast Rule final rule TSD Chapter 3. The Ballast Rule materials are

Continued

luminous efficiency [31] (BLE). In the preliminary analysis, for the second scenario DOE attempted to select a ballast that would result in energy savings and still maintain the mean lumen output within 10 percent of the baseline. In cases where energy savings were not possible without going beyond the 10 percent threshold of the baseline mean lumen output, DOE gave priority to energy savings. This resulted in the mean lumen output being either 10 percent above or below the baseline lumens for certain lamp-and-ballast scenarios.

DOE received several comments regarding its methodology in identifying more efficacious lamp-and-ballast systems, specifically regarding selection of ballasts, maintenance of mean lumen output within 10 percent of the baseline, and energy saving options not explored in the preliminary analysis.

Ballast Selection

NEMA agreed with the lamp and ballast pairings presented in the preliminary analysis. (NEMA, No. 36 at p. 8) However, NEMA also stated that GSFL performance is highly dependent on ballast selection and pairing. NEMA pointed out that NES of lighting systems will not be affected significantly by this proposed rulemaking on GSFL efficacy due to the overwhelming influence of ballast selection on final performance. (NEMA, No. 36 at p. 1)

As mentioned, because fluorescent lamps operate on a ballast in practice, DOE analyzed lamp-and-ballast systems in the engineering analysis. The impacts of these systems on NES were analyzed in the NIA. See section VI.I for more information on the NES of the proposed GSFL systems.

The CA IOUs expressed concern regarding some of the replacement systems identified, including lamps operating on residential ballasts and programmed start ballasts. The CA IOUs questioned why a residential ballast with a ballast factor of 0.83 was selected when DOE could have chosen a ballast with a lower ballast factor of 0.77 and still stayed within five percent of initial lumens. (CA IOUs, Public Meeting Transcript, No. 30 at p. 253–255) The CA IOUs also questioned a specific lamp-and-ballast replacement scenario considered in the preliminary analysis in which a nominal 32 W lamp with an efficacy of 95 lm/W, installed with a 0.88 BF ballast, replaced a 32 W lamp at 89.2 lm/W, also using a 0.88 BF ballast. (See table 8.5.3 of the preliminary TSD.) The CA IOUs noted that this retrofit results in a 7 percent increase in light output and no reduction in energy consumption. If DOE had paired a 0.78 BF ballast with the more efficacious lamp, the retrofit would have resulted in a reduction in light output of only 5 percent, and would achieve some reduction in energy consumption and some energy cost savings for the end user. (CA IOUs, No. 32 at pp. 13–14)

In the preliminary analysis, DOE considered only commercially available ballasts when selecting ballasts to pair with lamps. The CA IOUs suggested a ballast with a 0.77 BF for the residential 2-lamp instant start replacement scenario and a ballast with a 0.78 BF for the 2-lamp programmed start scenario, however, DOE found that these ballasts do not exist. Because there were no residential 2-lamp instant start low BF ballasts or 2-lamp programmed start low BF ballasts commercially available that would also maintain mean lumen output within 10 percent of the baseline system, DOE was unable to analyze ballasts with lower BFs than those selected for these scenarios. DOE instead selected the same ballast as the baseline as this was the lowest BF ballast commercially available.

Ten Percent Mean Lumen Output Threshold

NEMA explained that in the past it was common practice to reduce light levels by 10 percent or more when retrofitting from a T12 to a T8 lighting system because older lighting systems were typically designed to higher light levels. Over the years, IES light level requirements have been reduced, especially in office applications where the use of computers reduces the need for high light levels. DOE must analyze the future retrofit situation that will occur after 2018 in which 4-foot linear fluorescent systems will have been retrofitted to a T8 or better fluorescent system already operating at the appropriate lower light levels. Retrofits beyond this 2018 time period should be expected to maintain the new, lower recommended IES light levels where they are already in place. Therefore, unlike T12 to T8 conversions, projecting further light level reductions of 6 to 14 percent as is done in DOE's analysis cannot be justified against the T8 systems operating in 2018. For a fair economic comparison, DOE should seek to match the existing light levels within a +/− 5 percent range. (NEMA, No. 36 at p. 8; GE, Public Meeting Transcript, No. 30 at pp. 90–91; GE, Public Meeting Transcript, No. 30 at pp. 110–112; Philips, Public Meeting Transcript, No. 30 at pp. 105–106)

GE stated that it is not typical to replace lighting systems lamp for lamp that are more than 10 percent lower in light output unless the space is considered overlit to begin with or the space was repurposed. (GE, Public Meeting Transcript, No. 30 at pp. 90–91) For a fair comparison between lighting systems, GE recommended that DOE stay as close as possible to 10 percent and not to go beyond this threshold as some systems do in the analysis presented. (GE, Public Meeting Transcript, No. 30 at pp. 119–120)

EEI agreed that at this time, retrofits are being done from T8 to T8 and electronic ballast to electronic ballast and therefore lumen depreciation is limited, at most 10 percent versus 20 or 30 percent when replacing a T12. EEI noted that this could make a difference in design for a new building and total renovations that are meeting building codes. (EEI, Public Meeting Transcript, No. 30 at pp. 109–110) EEI recommended analyzing equal to or higher lumen output replacement systems to maximize consumer utility in terms of maintaining lumen output in retrofit scenarios. (EEI, Public Meeting Transcript, No. 30 at p. 121) Cooper Lighting added that light level is important in accurately and correctly doing a task in a space and the impact of light levels on efficiency in the workplace should be given consideration. (Cooper, Public Meeting Transcript, No. 30 at pp. 110)

The CA IOUs agreed with DOE's analysis of replacement systems that maintained mean lumen output within 10 percent of the mean lumens of the baseline system. Based on experience from offering rebate lamps through its programs, the CA IOUs had found that nine times out of ten after changing the lights in a commercial space, the complaints are that it is too bright. The CA IOUs asserted that most spaces were not designed exactly to IES standards but give a little extra light initially. Additionally, the CA IOUs noted that lumen maintenance is a significant issue with fluorescent systems, particularly because the replacement of older T12 systems with newer, more efficacious systems makes the space seem even brighter after a retrofit. The CA IOUs further stated that the scenarios where you increase light output by 5, 8, 12 percent are not going to work for consumers and reducing light output by 2, 4, 6, 8 percent will still seem too bright. (CA IOUs, Public Meeting Transcript, No. 30 at pp. 106–108)

As stated previously, because light output decreases over time, DOE

available at *www.regulations.gov/#!docketDetail;D=EERE-2007-BT-STD-0016.*

[31] BLE is the ratio of the total lamp arc power to ballast input power multiplied by the appropriate frequency adjustment factor.

analyzed more efficacious systems that maintain mean lumen output within 10 percent of the baseline when possible. DOE established the 10 percent threshold based on feedback from manufacturers that, in general, consumers would not notice a change in light output that is up to 10 percent. Manufacturers noted during interviews that when a space needs to be relamped, lumen depreciation has already typically occurred and thus lower light levels of a newly installed lamp would likely not be detected. Manufacturers also noted that while application dependent, designing to achieve energy savings is common and a decreased lumen output as a result is generally accepted as long as it is somewhere in the range of 10 percent of the baseline system mean lumen output. DOE concluded that selecting lamp-and-ballast system replacements within 10 percent of the baseline system when possible ensures sufficient light levels are maintained and accurately reflects common practices. Therefore, in this NOPR analysis, DOE is continuing to utilize the criterion of maintaining 10 percent of the mean lumen output when possible in developing lamp-and-ballast replacement scenarios. If it was not possible to identify a lamp-and-ballast replacement that maintained the 10 percent mean lumen output criterion, DOE prioritized energy savings and analyzed a lamp-and-ballast system that reduced light output by more than 10 percent [32] but saved energy relative to the baseline system. DOE continued to do this in the NOPR analysis because feedback during manufacturer interviews confirmed that changes in mean lumen output outside 10 percent of the baseline system are acceptable in some applications.

In the preliminary analysis, some lamp-and-ballast replacement systems maintained light output within 10 percent of the baseline system but did not save energy. DOE analyzed these lamp and ballast combinations as the only replacement option because they met the 10 percent mean lumen output criterion. For the NOPR analysis, DOE considered additional scenarios for this situation based on feedback from stakeholders and manufacturer interviews. DOE added another replacement option in which the consumer could prioritize energy savings by selecting a lamp-and-ballast system that reduced lumen output by more than 10 percent but also reduced energy consumption. Therefore, for certain lamp-and-ballast replacement scenarios, two ballast selections may exist: (1) A ballast that maintains system mean lumen output within 10 percent of the baseline; and (2) a ballast that achieves energy savings but does not maintain system mean lumen output within 10 percent of the baseline. DOE added this option only if ballasts with the required lower ballast factor were commercially available. Thus, it remains possible that certain scenarios do not result in energy savings if a lower BF ballast or reduced wattage lamp is not available (*e.g.,* 8-foot RDC HO product class). See chapter 5 of the NOPR TSD for more information.

In response to the lamp-and-ballast system selections presented in the preliminary analysis, EEI commented that light output was being reduced between 8 and 13.8 percent. EEI stated this is important because even if it is possible to meet the watts per square requirements in new buildings, the lumen output requirements on the surface must also be met by putting in more fixtures. Therefore, EEI argued that system input power calculations presented in the preliminary analysis may show savings that disappear once the space is designed to put in more fixtures. (EEI, Public Meeting Transcript, No. 30 at pp. 103–105) Philips noted that putting in more fixtures is not going to help because fixtures are mainly in the middle of the room. (Philips, Public Meeting Transcript, No. 30 at pp. 105–106)

As noted, for the lamp-and-ballast replacement scenarios, DOE attempted to select a ballast that would result in energy savings and still maintain the mean lumen output within 10 percent of the baseline when possible. DOE determined that maintaining 10 percent of mean lumen output allows for changes in lumen output within an acceptable range to the consumer. If this was not possible, DOE prioritized energy savings and analyzed a lamp-and-ballast system that reduced light output by more than 10 percent but saved energy relative to the baseline system. DOE did not analyze the installation of additional fixtures due to feedback received from stakeholders that spacing adjustments are not practical (for a discussion of this conclusion, see section VI.G.9).

Energy Savings Over Light Output

The CA IOUs and NEEA and NPCC did not agree with DOE's consideration of lamp-and-ballast system replacements where the light output increases without a reduction in system wattage. (CA IOUs, No. 32 at pp. 13–14; NEEA and NPCC, No. 34 at p. 2, 4) The CA IOUs stated that commercial occupants are sensitive to changes in workplace lighting, and react negatively to light increases. Furthermore, commercial building operators are very sensitive to operating costs; and will choose the retrofit option that results in energy cost savings without significantly reducing the light levels unless the space was known to be underlit. Therefore, where DOE is presented with a choice between a lighting retrofit that would result in an increase of light levels between 0–10 percent, with no energy savings, and another that would result in a decrease of light levels between 0–10 percent, with energy savings, DOE should model the energy saving option as the most likely scenario for consumers. (CA IOUs, No. 32 at p. 14)

The CA IOUs and NEEA and NPCC cited the following available options for reducing system wattage without reducing system lumen output by more than 10 percent: installing reduced wattage lamps, reducing ballast factors, delamping, and installing dimming ballasts. Though some reduced wattage T8 lamps currently have some difficulty dimming as well as their full wattage counterparts, this is only an issue for lamps installed with dimming ballasts. (Although, they noted that this may be improving in the future through the use of dimming ballasts designed to operate reduced wattage lamps.) The CA IOUs noted that reduced wattage lamps, lower ballast factor ballasts, or delamping are valid options, when not using a dimming ballast. Further even if a dimming ballast is installed, higher efficacy (brighter), full wattage lamps can be installed and tuned to the appropriate light level, which reduces system wattage. (CA IOUs, No. 32 at pp. 13–14)

The CA IOUs and NEEA and NPCC noted that using these measures to achieve energy savings for the end user is a far more likely scenario for a real-world lighting retrofit project. (CA IOUs, No. 32 at pp. 13–14; NEEA and NPCC, No. 34 at p. 2, 4) NEEA and NPCC added that resulting energy cost savings also help pay for the retrofit, and retrofits may only infrequently result in increased light levels. (NEEA and NPCC, No. 34 at p. 2, 4)

DOE acknowledges that consumers may prioritize energy savings over maintaining light output in some applications. DOE also observes that several options exist to reduce system wattage while maintaining lumen output. DOE analyzed reduced wattage lamps and low BF ballasts as

[32] Light output was reduced up to 18 percent in some replacement scenarios. The percent reduction in light output was based on the ballast factor of the commercially available ballasts analyzed. For more information, see chapter 5 of the NOPR TSD.

replacement options in the engineering analysis. DOE also analyzed the use of dimming ballasts paired with both reduced wattage and full wattage lamps (for applicable product classes) to achieve energy savings in a lighting controls scenario conducted as a sensitivity in the LCC and NIA. See appendix 6A and chapter 12 of the NOPR TSD for further information on the dimming analysis.

In addition to the above mentioned approaches utilized in the preliminary analysis, DOE added scenarios in the NOPR to incorporate the feedback from stakeholders that some consumers would prioritize energy savings over increasing or maintaining light output. As discussed previously, for the lamp-and-ballast replacement scenarios that resulted only in increased light output, DOE added another replacement option for this situation in which the consumer could prioritize energy savings by selecting a lamp-and-ballast system that reduced lumen output by more than 10 percent but also reduced energy consumption. DOE received feedback from manufacturers that maintenance of less than 10 percent of lumen output of the baseline system is more likely than increasing lumen output when replacing systems in order to achieve energy savings. Thus, DOE added the option for a consumer to select a lower BF ballast, if commercially available, that results in mean lumen output outside 10 percent of the baseline system in order to provide an energy-saving option if possible. As in the preliminary analysis, DOE did not consider delamping in this NOPR because manufacturer feedback confirmed that delamping is not common practice when retrofitting existing T8 systems.

Summary

DOE maintained its overall methodology from the preliminary analysis for selecting lamp-and-ballast systems with the addition of new replacement options in some scenarios for the NOPR analysis to incorporate stakeholder feedback. To develop representative lamp-and-ballast system pairings, DOE used manufacturer feedback and information provided in the 2011 Ballast Rule to determine the most common fluorescent lamp ballasts. In the preliminary and NOPR analyses, DOE paired the representative ballasts utilized in the 2011 Ballast Rule with the representative lamps selected in this analysis to characterize the most common lamp-and-ballast combinations present in the market.

In events where consumers needed to replace both the lamp and the ballast, DOE identified a new lamp-and-ballast system by pairing a more efficacious lamp with a commercially available ballast that had the lowest BF possible that still maintained system mean lumen output within 10 percent of the baseline system. When multiple ballast options with the same BF existed, DOE selected the most efficient ballast based on the BLE metric, as this was considered to be the most likely ballast substitute in a lamp-and-ballast replacement scenario designed to achieve energy savings. If it was not possible to identify a lamp-and-ballast replacement that maintained the 10 percent mean lumen output criterion, DOE prioritized energy savings and analyzed a lamp-and-ballast system that reduced light output by more than 10 percent [33] but saved energy relative to the baseline system.

In the preliminary analysis, some lamp-and-ballast replacement systems maintained light output within 10 percent of the baseline system but did not save energy. In the preliminary analysis, DOE analyzed these lamp-and-ballast combinations as the only replacement option because they met the 10 percent mean lumen output criterion. However, in the NOPR analysis, DOE added another replacement option for this situation in which the consumer could prioritize energy savings by selecting a lamp-and-ballast system that reduced lumen output by more than 10 percent but also reduced energy consumption. DOE added this option only if ballasts with the required lower BF were commercially available. See chapter 5 of the NOPR TSD for more information. DOE welcomes comments on its methodology for developing lamp-and-ballast systems and as well as the results of these GSFL systems.

f. Maximum Technologically Feasible

DOE received several comments on the max tech level presented in the preliminary analysis for GSFLs. Lutron commented that with the exception of the 4-foot MBP class, CSLs presented in the preliminary analysis were higher than the max tech levels identified in the 2009 Lamps Rule. Lutron noted that for the 8-foot SP slimline product class the max tech level in the 2009 Lamps Rule was 98 lm/W while the CSL level being considered is at 99 lm/W; for the 8-foot RDC HO product class the 2009 Lamps Rule max tech was 95 lm/W while the preliminary analysis CSL is 97 lm/W; for the T5 MiniBP SO product class the 2009 Lamps Rule max tech level was 90 lm/W while the preliminary analysis CSL is 98.2 lm/W; for the T5 MiniBP HO product class the 2009 Lamps Rule max tech level was 76 lm/W and the preliminary analysis CSL is 86.2 lm/W. (Lutron, Public Meeting Transcript, No. 30 at pp. 129–130) NEEA and NPCC doubted the data used because CSLs presented were at higher efficacy levels than the max tech levels identified in the 2009 Lamps Rule. (NEEA and NPCC, No. 34 at p. 2, 3) NEMA also commented that having one CSL eliminates DOE's ability to analyze standard levels other than the baseline and max tech and makes it more likely that max tech will become the new standard. (NEMA, Public Meeting Transcript, No. 30 at p. 350)

NEMA asked for an explanation of CSL levels higher than the max tech identified in the 2009 Lamps Rule for the 8-foot lamps. (NEMA, Public Meeting Transcript, No. 30 at pp. 12–13) Lutron stated and NEMA concurred that unless there had been major technological breakthrough in fluorescent lamps, adopting standards more stringent than the max tech levels identified in the 2009 Lamps Rule would not be justified. (Lutron, Public Meeting Transcript, No. 30 at pp. 129–130; NEMA, Public Meeting Transcript, No. 30 at pp. 137) Philips and GE confirmed that there had been no recent technology changes in fluorescent lamp technology to warrant higher levels being considered than the max tech levels identified in the 2009 Lamps Rule. (Philips, Public Meeting Transcript, No. 30 at p. 130; GE, Public Meeting Transcript, No. 30 at p. 130–131) NEMA concluded that because there have been no noteworthy technological breakthroughs since the last rulemaking or great changes in the market, the maximum-feasible performance levels of the previous rule have not changed (NEMA, No. 36 at p. 1)

GE noted that because the 2009 Lamps Rule was moving from relatively modest efficiency levels, the discussion did not center around what lm/W are being reported and what is stated in catalogs. However, GE noted that in this rulemaking because the levels being considered are at very high levels it is important to consider whether the lm/W numbers are actually achievable. GE recommended that for max tech levels DOE use test data that show exactly what these products are capable of and not base levels on marketing claims to avoid situations where the established efficacy turns out to be unachievable, resulting in the elimination of a product class. (GE, Public Meeting Transcript,

[33] Light output was reduced up to 18 percent in some replacement scenarios. The percent reduction in light output was based on the ballast factor of the commercially available ballasts analyzed. For more information, see chapter 5 of the NOPR TSD.

No. 30 at pp. 144–146) Specifically, GE noted that it was concerned that the CSLs presented were based on more aggressive marketing claims in catalogs and not on any real change in technology. (GE, Public Meeting Transcript, No. 30 at pp. 138–139)

DOE identified several commercially available lamps performing at efficacy levels higher than the max tech levels established in the 2009 Lamps Rule. Thus, manufacturers appear to be utilizing more advanced technologies or to be more efficiently utilizing existing technologies. The efficacy values provided in manufacturer product catalogs and certification data supplied by manufacturers indicate that these levels are achievable. DOE welcomes comment on the max tech levels identified in this analysis and more information on the accuracy of catalog and certification data.

g. Efficacy Levels

After identifying more efficacious substitutes for each of the baseline lamps, in the preliminary analysis DOE developed CSLs based on the consideration of several factors, including: (1) The design options associated with the specific lamps being studied (*e.g.,* grades of phosphor for GSFLs); (2) the ability of lamps across wattages to comply with the standard level of a given product class; [34] and (3) the max tech level. When evaluating CSLs in the preliminary analysis, DOE considered only CSLs at which a full wattage version of the lamp type was available because reduced wattage lamps have limited utility. DOE received several comments on the CSLs considered in the preliminary analysis.

NEMA recommended revisions to the CSLs presented in the preliminary analysis. Specifically, NEMA proposed a level at 89 lm/W for the 4-foot MBP product class, 97 lm/W for the 8-foot SP slimline product class, 94 lm/W for the 8-foot RDC HO product class, 90 lm/W for the 4-foot T5 MiniBP SO product class, and 80 lm/W for the 4-foot T5 MiniBP HO product class. (NEMA, No. 36 at p. 9) Further, in reference to T5 lamps, NEMA noted that regardless of whether DOE had presented CSLs at 25 °C or 35 °C, the efficacies of the analyzed products are too high to serve as representative products. (NEMA, No. 36 at p. 10)

In the preliminary analysis, DOE considered two CSLs for the 4-foot MBP product class. DOE found two levels of efficacy above the existing standard that commercially available lamps were able to achieve. The baseline represented a standard 800 series full wattage T8 lamp. CSL 1 (90.0 lm/W) represented an improved 800 series full wattage T8 lamp in which the phosphor mix and/or coating was enhanced to increase efficacy. CSL 2 (93.0 lm/W) represented an 800 series full wattage T8 high lumen lamp able to achieve a higher efficacy with even more advanced phosphors. Reduced wattage lamps also met CSL 2. DOE analyzed publicly available certification data to determine if any adjustments were needed to ensure that proposed levels can be met based on the certification data. DOE determined that the representative units and/or equivalent lamps complied with the CSLs for the 4-foot MBP product class. DOE therefore concluded that no adjustments were necessary in the preliminary analysis based on the available certification data.

In response to the preliminary analysis CSLs, NEMA proposed revising CSL 1 to 89 lm/W for the 4-foot MBP product class, which is equivalent to the existing standard. In the NOPR analysis, DOE continued to identify two levels of efficacy above the baseline. Manufacturer-provided information in catalogs indicates that there are two distinct product lines available with efficacies higher than the baseline products. The baseline level represents a standard 800 series full wattage T8 lamp. In the NOPR analysis, DOE maintained EL 1 (90.0 lm/W) which represents an improved 800 series full wattage T8 lamp. DOE also maintained EL 2 (93.0 lm/W) which represents an 800 series high lumen output full wattage T8 lamp and the 25 W and 28 W reduced wattage lamps. DOE analyzed available certification information and found that EL 1 did not need to be adjusted from 90.0 lm/W. DOE adjusted EL 2 from the preliminary analysis value of 93.0 lm/W to 92.4 lm/W based on additional certification data.

DOE considered one CSL for the 8-foot SP slimline product class at 99.0 lm/W in the preliminary analysis. The baseline represented a standard 800 series full wattage T8 lamp, and DOE identified one level of efficacy above the baseline. CSL 1 represented an improved 800 series full wattage (59 W) T8 lamp in which the phosphor mix and/or coating is enhanced to increase efficacy. Reduced wattage lamps also met this CSL. DOE determined through publicly available compliance reports that the 54 W representative unit and/or equivalent lamps complied with CSL 1. Thus, DOE concluded that no adjustment was necessary to CSL 1 in the preliminary analysis.

NEMA recommended revising CSL 1 to 97 lm/W for the 8-foot SP slimline product class, which is equivalent to the existing standard, in response to the preliminary analysis. For the NOPR analysis, as mentioned previously, DOE selected a new baseline lamp that just complies with the existing standard level of 97 lm/W. The baseline level represents a less efficient 800 series full wattage T8 lamp. DOE then identified two levels of efficacy above this baseline that commercially available lamps are able to achieve. Manufacturer-provided information in catalogs indicates that there are two distinct product lines available with efficacies higher than the baseline product. EL 1 represents a standard 800 series full wattage T8 lamp. EL 2 represents an improved 800 series full wattage T8 lamp in which the phosphor mix and/or coating is enhanced to increase efficacy. Reduced wattage lamps also meet EL 2. DOE found no adjustments were necessary based on certification data and established EL 1 at 98.2 lm/W and EL 2 at 99.0 lm/W.

For the 8-foot RDC HO product class, DOE had put forth CSL 1 at 97.0 lm/W in the preliminary analysis. The baseline represented a 700 series full wattage (86 W) T8 lamp, and DOE identified one level of efficacy above the baseline. CSL 1 represented a shift from 700 series to 800 series full wattage T8 lamps. Based on available certification data for the 86 W T8 representative unit and/or equivalent lamps at CSL 1, DOE adjusted CSL 1 from 97.6 lm/W to 97.0 lm/W for 800 series full wattage T8 lamps.

In response to the CSL proposed in the preliminary analysis for the 8-foot RDC HO product class, NEMA suggested changing CSL 1 to 94 lm/W. DOE revised its analysis for the NOPR and modeled a baseline that just met the existing standard level of 92 lm/W, as described in section VI.D.2.c. DOE then identified two levels of efficacy above the baseline level. EL 1 now represents a 700 series full wattage T8 lamp with basic coating, gas composition, and phosphor mix. EL 2 represents a shift to an 800 series full wattage T8 lamp. DOE again analyzed publicly available certification data and determined that EL 1 should be adjusted from 95.2 lm/W to 94.0 lm/W for 700 series full wattage T8 lamps based on available certification data. EL 2 was not adjusted based on available certification data and remains 97.6 lm/W. DOE notes that this level representing the 800 series design option in the preliminary analysis (previously CSL 1) was adjusted to 97.0 lm/W; however, based on additional

[34] ELs span multiple lamps of different wattages. In selecting CSLs, DOE considered whether these multiple lamps can meet the ELs.

certification data, an adjustment is not necessary.

In the preliminary analysis, DOE had considered one CSL at 98.2 lm/W for the 4-foot T5 MiniBP SO product class. The baseline represented an 800 series full wattage (28 W) T5 lamp with basic coating, gas composition, and phosphor mix. CSL 1 represented an improved 800 series full wattage T8 lamp in which the phosphor mix and/or coating was enhanced to increase efficacy. Reduced wattage lamps also met this level. DOE then compared the certification data to the initial efficacy level at 25 °C to determine if adjustments were necessary. DOE determined through publicly available compliance reports that the representative unit and/or equivalent lamps complied with CSL 1. Therefore, DOE did not adjust the initial CSL considered for this product class.

NEMA recommended revising CSL 1 to 90 lm/W for the 4-foot T5 MiniBP SO product class. DOE updated its analysis for the NOPR and modeled a baseline that just met the existing standard level of 86 lm/W, as described in section VI.D.2.c. The baseline level represents a less efficient full wattage (28 W) lamp. Based on a review of commercially available products, DOE then identified two levels of efficacy above the baseline level at which lamps were consistently performing. Manufacturer-provided information in catalogs indicates that there are two distinct product lines available with efficacies higher than the baseline product. EL 1 represents an 800 series full wattage T5 lamp with basic coating, gas composition, and phosphor mix. EL 2 represents an improved 800 series full wattage T8 lamp in which the phosphor mix and/or coating is enhanced to increase efficacy. Reduced wattage lamps also meet this level. DOE found that no adjustments were necessary for EL 1 and therefore established EL 1 at 93.5 lm/W. For EL 2 representing improved 800 series full wattage T8 lamps, DOE adjusted EL 2 from 98.2 lm/W to 97.1 lm/W based on additional certification data.

In the preliminary analysis, DOE considered one CSL for the 4-foot T5 MiniBP HO product class at 86.2 lm/W. The baseline represented an 800 series full wattage (54 W) T5 lamp with basic coating, gas composition, and phosphor mix. CSL 1 represented reduced wattage lamps, including 50 W T5 and 47 W T5 lamps, or an improved 800 series full wattage T8 lamp in which the phosphor mix and/or coating is enhanced to increase efficacy. Because there were no commercially available full wattage higher efficacy replacements for the 4-foot T5 MiniBP HO baseline lamps, DOE modeled a more efficacious full wattage lamp. DOE determined through publicly available compliance reports that the commercially available reduced wattage representative units and/or equivalent lamps complied with CSL 1. Therefore, DOE did not adjust the initial CSL considered for this product class.

For the T5 MiniBP HO product class, NEMA suggested revising CSL 1 to 80 lm/W. DOE agrees with NEMA that there is only one level of efficacy above the baseline level for this product class; however, performance based on commercially available lamps corresponded to 76 lm/W. DOE revised its analysis for the NOPR and modeled a baseline that just met the existing standard level of 76 lm/W, as described in section VI.D.2.c. The baseline level represents a less efficient full wattage (54 W) lamp. Manufacturer-provided information in catalogs indicates that there is one distinct product line available with efficacy higher than the baseline product. EL 1 represents an 800 series full wattage T5 lamp with basic coating, gas composition, and phosphor mix. Reduced wattage lamps also meet this level. DOE did not adjust this level based on certification data and is therefore evaluating EL 1 at 82.7 lm/W.

NEMA commented that having one CSL eliminates DOE's ability to analyze standard levels other than the baseline and max tech and makes it more likely that max tech will become the new standard. (NEMA, Public Meeting Transcript, No. 30 at p. 350) EEI also expressed concern that besides the 4-foot MBP product class, only one CSL was being considered for all other product classes which was also representative of the max tech level based on the criteria that full wattage lamps had to meet every CSL being considered. EEI further noted that it was not aware of any other rulemaking where no other levels were proposed between the baseline and max tech. (EEI, Public Meeting Transcript, No. 30 at pp. 124, 135–137)

As described in the preceding paragraphs, DOE revised its engineering analysis for the NOPR analysis. DOE surveyed the market, analyzed product catalogs, and took into account feedback from manufacturers to develop ELs. Based on this assessment, DOE identified varying levels of efficacy that reflected technology changes and met the criteria for developing ELs outlined above. In the NOPR, DOE is considering two ELs in each product class with the exception of the T5 MiniBP HO product class.

DOE also received several comments regarding full wattage lamps meeting efficacy levels under consideration. NEMA stated that if the efficacy level at CSL 2 for the 4-foot MBP lamp can be achieved only with more efficient krypton-filled (*i.e.,* reduced wattage) fluorescent lamps, it will come at the cost of reliable dimming that will have an impact on energy savings compared to the baseline. Lutron stated that the full wattage lamps in both the T8 and T5 categories are the only ones for which there are dimming standards in the industry. Lutron expressed concern that the CSLs being considered by DOE would eliminate full wattage lamps and that would result in a loss of significant energy savings, not just the theoretical energy savings associated with the lamp efficacy, which may or may not result in any actual energy savings in buildings. (Lutron, Public Meeting Transcript, No. 30 at pp. 133–134) NEMA strongly cautioned DOE to bear in mind that reduced wattage lamps are often ''energy saver'' models, which lack the robust performance of full wattage models. Full functionality for dimming, a desirable characteristic, is typically only available in full wattage models. (NEMA, No. 36 at p. 11)

DOE acknowledges that there are limitations with using reduced wattage fluorescent lamps. DOE received feedback during manufacturer interviews that reduced wattage lamps cannot act as replacements for full wattage lamps in all applications, particularly in cold temperature applications below 60–65 °F. Manufacturers also noted that striations remain an issue for reduced wattage lamps because not all ballasts contain striation control circuitry, and those equipped with striation control circuitry do not completely eliminate striation. Further, manufacturers identified issues with dimming reduced wattage lamps indicating that these lamps dim unreliably in certain applications. Manufacturers noted that problems encountered with dimming linear fluorescent lamps, including lamp starting, striations, and dropout, are exacerbated by the use of krypton in reduced wattage lamps (see section VI.C.1 for more information). Therefore, DOE has continued to ensure that full wattage lamps can meet all ELs under consideration in this NOPR analysis.

For the NOPR analysis, DOE used updated catalog and certification data, which resulted in slightly different ELs than those considered in the preliminary analysis. The ELs for the representative product classes of GSFLs are presented in Table VI.8. For further information on the development of ELs, please refer to chapter 5 of the NOPR TSD. DOE welcomes comments on the

methodology used to develop ELs for GSFLs as well as on the ELs.

TABLE VI.8—SUMMARY OF ELS FOR GSFL REPRESENTATIVE PRODUCT CLASSES

CCT	Lamp type	Efficacy level lm/W	
		1	2
≤4,500 K	4-foot MBP	90.0	92.4
	8-foot SP slimline	98.2	99.0
	8-foot RDC HO	94.0	97.6
	4-foot T5 MiniBP SO	93.5	97.1
	4-foot T5 MiniBP HO	82.7	N/A

h. Scaling to Other Product Classes

As noted previously, DOE analyzes the representative product classes directly. DOE then scales the levels developed for the representative product classes to determine levels for product classes not analyzed directly. For GSFLs, the representative product classes analyzed were all lamp types with CCTs ≤4,500 K, with the exception of 2-foot U-shaped lamps. For the 2-foot U shaped product class DOE scaled the efficacy levels developed for the 4-foot MBP product class.

Therefore, efficacy levels developed for lamp types with CCTs less than or equal to the 4,500 K were scaled to obtain levels for higher CCT product classes not analyzed. In the preliminary analysis, DOE developed this scaling factor by identifying pairs of the same lamp type manufactured by the same manufacturer, within the same product family, and differed only by CCT. DOE determined the average difference in efficacy between these lamp pairs to be 2 percent. DOE received several comments on this approach and resulting scaling factor.

CCT Scaling

NEMA stated that the 2 percent decrease for lamps with CCT >4,500 K is insufficient to reflect the actual drop in lm/W that occurs. NEMA stated it is well known in the industry that as CCT increases above 4,500 K, the lumen output and consequently the lm/W continues to decrease. Actual performance data for the common F32T8 5,000 K tri-phosphor lamps indicates the decrease in lm/W to be in the 4–6 percent range and in the 6–8 percent rage for an F32T8 6,500 K tri-phosphor lamp. NEMA noted that this reduction in lm/W at >4,500 K CCT becomes more significant for higher targets of lm/W. (NEMA, No. 36 at pp. 12–13)

NEMA also noted that the 1 percent reduction from the 4-foot MBP product class with ≤4,500 K CCT to the higher CCT lamps set by the 2009 Lamps Rule was a significant error in the analysis. NEMA stated that because of the resulting high lm/W target for the 4-foot MBP lamps, the T8 tri-phosphor 6,500 K products were almost eliminated from the market. Further, NEMA asserted that when the waiver of standards for 700 series lamps is lifted this product may be eliminated because manufacturers may not be able to reliably meet current regulations for the high CCT products. (NEMA, No. 36 at pp. 12–13)

GE stated that the 2 percent decrease for the high chromaticity lamps is probably accurate. (GE, Public Meeting Transcript, No. 30 at pp. 153–154) NEMA recommended a scaling factor that allows a decrease of at least 7 percent to accommodate the average performance of the higher CCT's. These highly efficient high CCT families of products have been growing in importance and sales in recent years due to results from studies (*i.e.,* IESNA TM–24) indicating that lighting that has more blue component actually provides for better visual capabilities, especially for the aging population. NEMA stated that this has resulted in a noticeable shift in the market to >4,500 K products. Any increase in the lm/W requirements for the >4,500 K lamps will eliminate some, and possibly all, of these higher performing high CCT lamps in the remaining classifications. While the prior ruling may have already destined the elimination of the 6,500 K tri-phosphor 4-foot T8–T12 linear classification of GSFLs, there is still the opportunity to protect the 5,000 K tri-phosphor family of lamps by not changing the lm/W targets for this group. (NEMA, No. 36 at pp. 12–13)

Based on comments received from stakeholders and feedback in manufacturer interviews, DOE reassessed the scaling analysis for the higher CCT lamps. DOE examined the differences in efficacies between lower and higher CCT lamps in each product class based on performance data provided in manufacturer catalogs. Finding substantial variation in the percent reduction in efficacy associated with increased CCT among product classes, DOE is proposing a separate scaling factor for each product class. DOE is proposing to maintain a 2 percent scaling factor for the 4-foot MBP product class in order to ensure that any proposed level does not allow for more energy use than the current minimum standard.[35] Based on its assessment, DOE is proposing a 3 percent scaling factor for the 2-foot U-shaped product class, 5 percent for the 8-foot SP slimline product class, 2 percent for the 8-foot RDC HO product class, 6 percent for the T5 SO product class, and 5 percent for the T5 HO product class. DOE also verified the scaling factors developed against certification data. Further, DOE confirmed that lamps with CCT greater than 4,500 K will meet the scaled levels. See chapter 5 of the NOPR TSD for more information on CCT scaling. DOE welcomes comments on the scaling factors developed to scale GSFL product classes from the less than or equal to 4,500 K CCT lamps to the greater than 4,500 K CCT lamps.

2-Foot U-Shaped Scaling

NEMA stated that the scaling factor for 2-foot U-shaped lamps of 2 percent is too small. Because no technology changes or improvements have been made to U-shaped lamps during the past three years, NEMA recommended remaining consistent with the 2009 Lamp Rule scaling factor and use 6 percent. NEMA added that the efficiency of these lamps cannot be significantly, feasibly raised, so the minimum efficiency of these products should remain 84 lm/W. (NEMA, No. 36 at p. 12) GE noted there are some confounding factors for which DOE needs to account if the scaling factor analysis for the 2-foot U-shaped class is

[35] Current standards for the 4-foot MBP product classes are 89 lm/W for CCT ≤4,500 K and 88 lm/W for CCT >4,500 K. Because the difference between existing standards is small, the allowable scaling factor is restricted to 2 percent.

based on catalog data and even manufacturer to manufacturer data. GE stated that efficacy difference was more likely in the 4–6 percent range as opposed to what is found in catalog data. (GE, Public Meeting Transcript, No. 30 at p. 154)

DOE reassessed the scaling analysis for 2-foot U-shaped lamps based on comments received. In the preliminary analysis, DOE had based its scaling assessment on lamp performance data found in catalogs. However, DOE revised its analysis to utilize certification data for the NOPR based on feedback received from manufacturers indicating that confounding factors exist that are not reflected in catalog data. By comparing certification data for 2-foot U-shaped lamps with equivalent 4-foot MBP lamps, DOE determined an average efficacy reduction of 6 percent for the 2-foot U-shaped lamps from the 4-foot MBP lamps was appropriate. DOE confirmed that the technology impacts of the scaled ELs for the 2-foot U-shaped lamps were consistent with those of the proposed ELs for the 4-foot MBP product class. See chapter 5 of the NOPR TSD for more information on 2-foot U-shaped scaling. DOE welcomes comments on the scaling factor developed to scale from the 4-foot MBP product class to the 2-foot U-shaped product class.

i. Rare Earth Phosphors

NEMA restated its support of previous submitted comments of its concerns regarding the rare earth phosphor issue. (NEMA, No. 36 at p. 14) NEMA asked how the analysis accounts for the current shortage of rare earth elements and the existing practice of waivers and further how these factors impact compliance capability. (NEMA, Public Meeting Transcript, No. 30 at pp. 131–132) NEMA recommended the DOE confer with Dr. Alan King of the Critical Materials Institute of the AMES Laboratories to fully understand and predict the availability of critical materials, including rare earth elements. He observed to the NEMA Lighting Systems Division recently that once a material becomes critical, it tends to stay critical, with fluctuations, but no slacking of demand/criticality until the product demand disappears altogether. (NEMA, No. 36 at p. 14)

DOE notes that manufacturers, in their applications for exception relief, stated that they expected an improvement in the rare earth market, specifically noting that supplies of key rare earth phosphors used in fluorescent lamps will become more equal to estimated demand beginning in 2014. Manufacturers also stated that the two-year relief would provide time for potential development of additional supplies outside of China, for progress in technology advancements and development of alternative technologies that use lesser amounts of rare earth material, and for the expansion of recycling and reclamation initiatives.[36] DOE understands a constrained supply of rare earth phosphors may have impacts on the production of higher efficiency fluorescent lamps. DOE also acknowledges that supply and demand of rare earth phosphors should continue to be considered when evaluating amended standards for GSFLs. Thus as in the preliminary analysis, for this NOPR analysis DOE is considering a scenario of increased rare earth phosphor prices in the LCC and NIA. See appendices 7B and 9B of the NOPR TSD for more information.

3. Incandescent Reflector Lamp Engineering

For IRLs, DOE received comments on the engineering analysis presented in the preliminary TSD. Stakeholders provided feedback on the metric used to measure IRL efficacy, as well as feedback on DOE's representative product classes, selection of more efficacious substitutes, baseline lamps, max tech level, CSLs, scaling, and proposing standards for IRLs. The following sections summarize the comments and responses received on these topics, and present the IRL engineering methodology for this NOPR analysis.

a. Metric

Existing IRL standards are based on lamp efficacy measured as the lumen output of the lamp per watt supplied to the lamp. Further, the scope of coverage for existing IRL standards includes lamps that are equal to or greater than 40 W and less than or equal to 205 W. (See section V.C for further information on IRL scope.) Noting that wattage is a factor in defining the scope of IRLs covered, The CA IOUs recommended moving in the direction of lumen-based standards because lumens are useful to a consumer, whereas watts are no longer a useful metric. For example, the CA IOUs noted that lamp packaging that says that the lamp's rated 55 W equals 70 W does not make sense. The CA IOUs recommended that in general, DOE should do as much as possible to help shift discourse to be lumen-based instead of wattage-based, and standards are one way to help do so. Additionally, the CA IOUs stated that for a specific product type, manufacturers are accustomed to designing to a wattage because that is what consumers are used to (*e.g.,* designing to 50 W regardless of the product efficacy), which produces a volume of products giving more or less light. However, the CA IOUs asserted that efficacy should be improved by reducing wattage rather than increasing light output. (CA IOUs, Public Meeting Transcript, No. 30 at pp. 45–48)

EEI, however, noted that the wattage equivalency provided on packaging is useful to the consumer. They noted that the standards are in lumens per watt, which is a formula that provides a requirement for lamps to be more efficient on an efficacy, rather than wattage, basis. However, especially for incandescent lamps, packaging stating that the 72 W halogen lamp is equal to an old 100 W incandescent lamp lets consumers know what they are getting, including the associated light output. Otherwise, as historically higher watts produce higher lumens, consumers would be confused, especially with CFLs and LED lamps. (EEI, Public Meeting Transcript, No. 30 at pp. 48–50)

Energy conservation standards must prescribe either a minimum level of energy efficiency or a maximum quantity of energy use, where the former is a ratio of the useful output of services to the energy use of the product. 42 U.S.C. 6291(5)(6) The existing standard for IRLs is a lumens per watt, or lamp efficacy, metric. Setting a standard based on lumens alone would not capture the efficiency of the product nor allow for a true comparison of efficiency across lamp wattages. By relating the input power to the light output, this metric appropriately measures the efficiency of the lamp.

Regarding setting standards that would drive manufacturers to meet energy conservation standards by reducing wattage and not increasing light output, DOE standards do not aim to favor any one design pathway for achieving energy efficiency and saving energy. DOE employs an equation that relates lumens to wattage and sets a minimum efficacy requirement across all wattages for IRLs. This power law equation captures the potential efficacy using a particular design option for all wattages. DOE acknowledges that manufacturers may choose to increase lumen output rather than decrease wattage to meet the minimum efficacy requirement. Therefore, the engineering analysis considers energy-saving options. Further, lumen outputs that are not within 10 percent of the baseline lumens are not considered in the

[36] *Philips Lighting Company, et al.* OHA Case Nos. EXC–12–0001, EXC–12–0002, EXC–12–0003 (2012). Accessible here: *http://energy.gov/sites/prod/files/oha/EE/EXC-12-0001thru03.pdf.*

analysis. (See chapter 5 of the NOPR TSD for further details on the engineering analysis.) The NIA considers all available options for consumers in choosing IRLs. (See section VI.J and chapter 12 of the NOPR TSD.)

DOE acknowledges consumer understanding of the relationship between watts and lumens could be improved through labeling and marketing of lamps. However, this is not within the scope of DOE's authority in this rulemaking. Therefore, because the lumens per watt metric is an appropriate measure of the energy efficiency of IRLs and DOE considers energy savings when developing efficacy levels, DOE is not proposing to change this metric for IRLs in this rulemaking.

b. Representative Product Classes

When a product has multiple product classes, DOE identifies and selects certain product classes as representative and analyzes those product classes directly. DOE chooses these representative product classes primarily due to their high market volumes. For IRLs, in the preliminary analysis DOE identified standard spectrum lamps, with diameters greater than 2.5 inches, and input voltage less than 125 V as the representative product class, shown in gray in Table VI.9. NEMA agreed with the representative product classes presented for IRLs. (NEMA, No. 36 at p. 7) DOE did not receive any other comments regarding representative product classes for IRLs. In this NOPR, DOE is maintaining the same IRL representative product classes as presented in the preliminary analysis.

TABLE VI.9—IRL REPRESENTATIVE PRODUCT CLASSES

Lamp type	Diameter (in inches)	Voltage
Standard spectrum	>2.5	≥125
		* <125
	≤2.5	≥125
		<125
Modified spectrum	>2.5	≥125
		<125
	≤2.5	≥125
		<125

* Representative.

c. Baseline Lamps

Once DOE identifies representative product classes for analysis, it selects baseline lamps to analyze in each representative product class. Typically, a baseline lamp is the most common, least efficacious lamp that meets existing energy conservation standards. To identify baseline lamps, DOE reviews product offerings in catalogs, shipment information, and manufacturer feedback obtained during interviews. For IRLs, the most common lamps were determined based on characteristics such as wattage, diameter, lifetime, lumen package, and efficacy.

In the preliminary analysis, DOE identified a PAR38 lamp as the most prevalent lamp shape and diameter in the representative product class. From all PAR38 lamps with the most common characteristics, DOE selected two lamps that just met existing standards as baselines. One was a 60 W halogen lamp with a lifetime of 1,500 hours that utilized a higher efficiency inert fill gas and a higher efficiency reflector coating, and had an efficacy right at the existing standard, $5.9P^{0.27}$. The other was a 60 W HIR lamp with a lifetime of 3,000 hours that utilized IR glass coatings and had an efficacy very close to the existing standard. DOE received several comments on its selection of two baselines for IRLs.

The CA IOUs and NEEA and NPCC stated that DOE should use only one baseline lamp which should have an efficacy that just meets the current IRL standards, and it should provide the minimum lamp life expected of these products. (CA IOUs, Public Meeting Transcript, No. 30 at p. 163; CA IOUs, No. 32 at p. 2; NEEA and NPCC, No. 34 at pp. 2, 4–5) The Joint Comment stated that DOE must select the least efficacious lamp meeting current conservation standards as its baseline for IRLs. (Joint Comment, No. 35 at p. 2) ASAP also stated that DOE should not consider two baselines and pointed out that typically, a baseline is the commercially available product with the lowest efficiency. ASAP provided the example of a dishwasher rulemaking, where the most common dishwasher was an ENERGY STAR compliant product. As this product was above the minimum of the last standard, the previous standard itself was used as the baseline. Thus, using the most common product is different than using the least efficient product available. (ASAP, Public Meeting Transcript, No. 30 at p. 158)

NEMA also disagreed with two baselines for IRLs, stating that the two baseline products being compared are not identical, and a dual-baseline will eliminate a product class. NEMA further recommended that rather than expend numerous resources trying to interpolate what the market ''might'' be, DOE should simply employ the baseline selection criteria from the 2009 Lamps Rule and use the standard from that rulemaking as the baseline. (NEMA, No. 36 at p. 7) NEMA stated that the arguments for baseline, CSL 0 in the preliminary TSD, are based on predictions of market shift that erroneously justify a new baseline higher than the minimum requirements put forth by the 2009 Lamps Rule. (NEMA, No. 36 at p. 1)

The CA IOUs, NEEA and NPCC, and GE agreed that the true baseline is the less efficient product with the shorter lifetime (*i.e.,* the 60 W halogen lamp with a 1,500-hour lifetime). (CA IOUs, Public Meeting Transcript, No. 30 at p. 163; NEEA and NPCC, No. 34 at p. 5; GE, Public Meeting Transcript, No. 30 at pp. 159–161) The CA IOUs and the Joint Comment noted that the 60 W halogen lamp with a 1,500-hour lifetime is representative of the minimum performance that is compliant with July 2012 standards, which require an efficacy of 17.8 lm/W for a 60 W lamp. (CA IOUs, No. 32 at p. 2; Joint Comment, No. 35 at p. 2)

The CA IOUs, NEEA and NPCC, the Joint Comment, and GE also agreed that the 60 W HIR lamp with a 3,000-hour lifetime was not a baseline lamp because it was using more advanced technology. (CA IOUs, No. 32 at pp. 2–3; NEEA and NPCC, No. 34 at pp. 2, 4–

5; Joint Comment, No. 35 at p. 2) The CA IOUs, ASAP, and NEEA and NPCC noted there is a trade-off between lifetime and efficacy in incandescent lamp designs and absent other design improvements, an increase in lamp life results in a decrease in efficacy, and vice versa. (CA IOUs, No. 32 at pp. 2–3; ASAP, Public Meeting Transcript, No. 30 at p. 159; NEEA and NPCC, No. 34 at pp. 4–5) Because the second lamp proposed as a baseline lamp in DOE's analysis has a longer life and a higher efficacy, it clearly includes some other advanced design features that have allowed for improved performance in both metrics. (CA IOUs, No. 32 at pp. 2–3) The Joint Comment added that if the lifetime of the second baseline lamp was reduced to 1,500 hours to allow for an accurate comparison to the first baseline lamp, its efficacy would be even greater than 18.3 lm/W. (Joint Comment, No. 35 at p. 2) Further, the CA IOUs and NEEA and NPCC pointed out that the higher cost of the HIR lamp indicated that it was a more technologically advanced product than the halogen lamp. (CA IOUs, No. 32 at pp. 2–3, NEEA and NPCC, No. 34 at pp. 2, 4–5)

The CA IOUs also noted that minimum product performance generally gravitates towards the minimum standards set for a product and such IRL products are on the market. Therefore, the CA IOUs contended it is inaccurate to define a baseline product that is higher than the minimum standard. (CA IOUs, No. 32 at p. 2) ASAP further added that by introducing the 60 W HIR, 3,000-hour lifetime lamp as a baseline, DOE took that first, most cost effective improvement and averaged it into the baseline. (ASAP, Public Meeting Transcript, No. 30 at p. 161)

DOE recognizes that the HIR baseline lamp with the longer lifetime considered in the preliminary analysis is using more advanced technology than the halogen baseline lamp. Therefore, in this NOPR, DOE is not proposing to analyze the 60 W HIR lamp with a 3,000-hour lifetime as a baseline lamp. DOE is proposing one baseline represented by the 60 W halogen lamp with a 1,500-hour lifetime.

The CA IOUs noted that, historically, many reflector lamps have been offered with a minimum lifetime of 1,000 hours, and generally no fewer. Therefore, DOE could even more accurately represent the baseline by lowering the baseline lifetime to 1,000 hours. (CA IOUs, No. 32 at p. 2)

DOE reviewed product offerings in catalogs, shipment trends, and information obtained during manufacturer interviews to identify the common characteristics of lamps that meet standards. Based on DOE's analysis, the 1,500-hour lamps are much more common than other lower lifetime lamps, including 1,000-hour lamps, among the covered IRLs. Therefore, DOE is proposing a 1,500-hour lamp as the baseline.

Stakeholders also commented on whether it was necessary to have different lamp lifetimes for different sectors. GE stated that the consumer market, which does not necessarily need the long lifetime, is looking for a less expensive opening price point. However, the 60 W HIR with the 3,000-hour lifetime would be sold to a commercial customer who is more concerned about long operating hours and does not want to replace lamps frequently. Therefore, the commercial consumer will gravitate more towards the higher technology lamp, trying to reduce maintenance costs. (GE, Public Meeting Transcript, No. 30 at pp. 159–161)

The CA IOUs disagreed that a shorter lifetime lamp was appropriate for only the residential sector and a longer lifetime lamp for the commercial sector. They stated that products with shorter lifetimes are commonly marketed and sold into various market segments, including the commercial sector. They provided the examples of Halco Haloxen SPAR Series product line and the Satco Xenon Halogen line,[37] both of which are standards-compliant 1,500-hour life lamps specifically marketed for use in the commercial sector. According to the CA IOUs, this suggests that the shorter lifetime products (1,000–1,500 hours) are appropriate to represent the baseline lamp for both the residential and commercial sectors. (CA IOUs, No. 32 at p. 2) NEEA and NPCC added that both the 60 W halogen lamp with a 1,500-hour lifetime and the 60 W HIR lamp with a 3,000-hour lifetime can be found at typical do-it-yourself (DIY) stores and in commercial lamp catalogs. (NEEA and NPCC, No. 34 at p. 5)

Several stakeholders asked for further information about the market share breakdown of these lamps by sector. EEI asked about the percentage of the IRL market that is residential versus commercial. (EEI, Public Meeting Transcript, No. 30 at pp. 163–164) EEI also asked how the baseline characteristics put forth in the preliminary analysis compared to those in the marketplace in terms of what is actually being sold using 2012 or 2013 data. (EEI, Public Meeting Transcript, No. 30 at p. 157) Noting that it was difficult to determine where a lamp going through distribution channels such as Home Depot or Lowe's ends up, NEEA asked how DOE determines which lamps are in the residential sector and which are in the commercial sector (*e.g.,* by distribution channel or socket). (NEEA, Public Meeting Transcript, No. 30 at p. 164) NEMA asked if the 2010 LMC contained data on sockets in specific sectors so as to determine what percentage of those tend to be the higher technology. (NEMA, Public Meeting Transcript, No. 30 at pp. 165–166)

ASAP agreed that the market is important but noted that it is factored into the downstream analyses. ASAP provided an example that if 100-percent of commercial shipments are already at this level, then this will be reflected in the shipments analysis and it would flow through to the LCC and NIA, rather than be built into the baseline. (ASAP, Public Meeting Transcript, No. 30 at pp. 162–163)

DOE acknowledges that different lamps may be popular in different market sectors. The 2010 LMC provides data on the inventories of halogen reflector lamps in each sector. However, because there is nothing that would limit the use of a covered IRL in a specific sector, DOE does not conduct sector-based assessments in the engineering analysis. Rather, the LCC and NIA consider lamp use in different market sectors. The LCC analysis provides results for each analyzed lamp in each relevant sector. The shipments analysis accounts for the number of shipments by sector and the popularity of analyzed lamps in each sector. The results are subsequently used in the NIA analysis. Please see section VI.J for more detail.

Summary of IRL Baseline Lamps

DOE is proposing the baseline lamp for IRLs specified in Table VI.10. For further information, please see chapter 5 of the NOPR TSD. DOE requests comments on its selection of baseline lamps for IRLs.

[37] More information on these lamps is provided in the written comment available on regulations.gov under docket number EERE–2011–BT–STD–0006.

TABLE VI.10—IRL BASELINE LAMP

Representative product class	Baseline lamp					
	Lamp type	Descriptor	Wattage	Efficacy	Initial light output	Lifetime
			W	*lm/W*	*lm*	*hr*
Standard Spectrum, Voltage <125 V, Diameter >2.5 Inches.	PAR38	Improved Halogen	60	17.8	1,070	1,500

d. More Efficacious Substitutes

DOE selects more efficacious replacements for the baseline lamps considered within each representative product class. DOE considers only design options identified in the screening analysis. In the preliminary analysis, DOE considered substitute lamps that saved energy and, where possible, had a light output within 10 percent of the baseline lamp's light output. In identifying the more efficacious substitutes, DOE utilized a database of commercially available lamps. In the preliminary analysis, DOE identified a higher efficacy, lower wattage lamp, referred to in this analysis as an improved HIR lamp with a lifetime of 4,400 hours, as a more efficacious substitute for the two baseline lamps. DOE received several comments regarding its choice for a more efficacious substitute.

ASAP expressed concern that two dependent variables, lumens per watt and lifetime, are changed so that the more efficacious substitute is providing not just greater efficacy but also more light, more hours of lighting, and greater utility. The product is different and is designed to meet some commercial consumers' desire for a long-lived product. If the hours were reduced for that product to be equivalent to the baseline lamp lifetime, it would have a significantly higher efficacy from an engineering perspective. ASAP concluded that lifetime is a limiting factor on the efficacies that can be used for the selection of more efficacious, commercially available lamps. (ASAP, Public Meeting Transcript, No. 30 at p. 169)

The CA IOUs provided information on the relationship between lifetime and efficacy in incandescent lamps, noting that a lamp's efficacy could be improved by increasing current, but if no other design options are employed, the lamp will have a shorter lifetime. On the other hand, decreasing current can increase lamp lifetime, but if no other design changes are made, the resulting product would have a reduced efficacy. The CA IOUs also put forth a relationship where $life = life0 \times \{lpw/lpw0\}^{-7.1}$ to show that the efficacy of a lamp could be improved at the expense of lamp life rather than investment or improvement in the lamp design.[38] (CA IOUs, No. 32 at pp. 3–4)

DOE recognizes that there is an inverse relationship between efficacy and lifetime for IRLs. The engineering analysis focuses on commercially available products. DOE is aware that to meet higher efficacy levels, manufacturers can choose to produce lamps with a shorter lifetime than the baseline lamp to achieve higher efficacy. Given that manufacturers responded to the July 2012 standards by introducing IRLs with shorter lifetimes, DOE understands that this is a likely path manufacturers may take in response to higher standards. To capture the impacts of the relationship between lifetime and efficacy in IRLs, DOE determined how much the lifetime of a lamp with the same wattage as the baseline lamp must be shortened to achieve each efficacy level under consideration in the NOPR analysis. (See chapter 5 of the NOPR TSD for further information.) The impact of these shortened lifetime lamps are assessed as sensitivities in the LCC, NIA, and MIA. (See respectively, appendix 8B, chapter 12, and appendix 13C of the NOPR TSD).

In the main engineering analysis, DOE did not model IRLs with shortened lifetimes at efficacy levels higher than those at which they are currently commercially available because DOE believes that lifetime is a feature valued by consumers. DOE believes typical lifetimes of IRLs regulated by this rulemaking are between 1,500 and 4,400 hours. The longest lifetime products are available at EL 1, the highest analyzed efficacy level in this NOPR analysis. While manufacturers can choose to introduce shorter lifetime products in the future, DOE does not require shortening of lamp lifetime to meet any analyzed level.

In the preliminary analysis, DOE had put forth a representative lamp with a 4,400-hour lifetime and improved HIR technology as the more efficacious substitute. For the NOPR analysis, after reassessing updated catalog and compliance information, DOE identified an alternative representative lamp that better reflected the minimum efficacy level for lamps with improved HIR technology. This representative lamp has a lifetime of 4,200 hours. Because there is a range of lifetimes available at a higher efficacy, in addition to the 4,200-hour representative lamp, DOE is proposing a second representative lamp as a more efficacious substitute at EL 1 in this NOPR analysis. The 2,500-hour lamp offers a different technology pathway to achieve EL 1, namely IR glass coating without the use of higher efficiency reflector coatings. Therefore DOE analyzes the 2,500-hour lamp as a representative lamp at EL 1. DOE requests comment on the lifetimes of the IRL baseline and more efficacious substitutes.

Summary of IRL Representative Lamps

DOE is proposing the representative lamps for IRLs specified in Table VI.11. For further information please see chapter 5 of the NOPR TSD. DOE requests comments on its selection of representative lamps for IRLs.

[38] In the equation, ''$life_0$'' is equal to the design life at the designed efficacy (lpw_0), while ''life'' is the resultant life when the designed efficacy is altered to a new operational efficacy (lpw).

TABLE VI.11—IRL REPRESENTATIVE LAMPS

Representative product class	Representative lamps					
	Lamp type	Descriptor	Wattage	Efficacy *	Initial light output	Lifetime
			W	*lm/W*	*lm*	*hr*
Standard Spectrum, Voltage <125 V, Diameter >2.5 Inches.	PAR38	HIR	55	18.5	980	2,500
	PAR38	Improved HIR	55	18.5	1120	4,200

* Efficacy values are based on data from DOE's certification database.

e. Maximum Technologically Feasible

DOE presented one efficacy level (CSL 1) for consideration in the preliminary analysis. Therefore, this level was also the max tech level identified for IRLs. DOE received several comments on the max tech level presented in the preliminary analysis.

The CA IOUs expressed their belief that DOE had not captured the total potential energy savings from IRL standards. They noted that according to the 2010 LMC, IRLs represent a sizable end use, an estimated 39 TWh of annual energy use in the United States. (CA IOUs, No. 32 at pp. 1–2) The CA IOUs cited the case of *Natural Resources Defense Council* v. *Herrington,* 768 F.2d 1355, 1391–92 (D.C. Cir. 1985), in which the D.C. Circuit Court explained the EPCA provision that requires DOE to identify and analyze the ''maximum technology feasible level'' to determine whether that level is both cost-effective and feasible. The ruling further stated that DOE must explain why a standard achieving max tech was rejected. (CA IOUs, No. 32 at p. 4) Specifically, CA IOUs made the following assertions regarding the max tech for IRLs presented in the preliminary analysis: (1) There are commercially available IRLs higher than the max tech; (2) advanced technology being used in other lamp types can be transferred to produce higher efficacy IRLs; and (3) there are prototype IRLs that demonstrate the feasibility of higher efficacy IRLs. (CA IOUs, No. 32 at pp. 4–7)

The CA IOUs commented that there is a wide array of currently, commercially available products that are significantly more efficient, by 13–20 percent, than the CSL proposed by DOE. (CA IOUs, No. 32 at p. 4) In the DOE certification database there is a Philips 70 W PAR38 at 22 lm/W, which is 13 percent better than CSL 1; a Philips 55 W lamp at 20.1 lm/W, which is 10 percent better than CSL 1; and a GE lamp at 23 lm/W, which is 12 percent better. The CA IOUs noted that OSI's best products are not yet in DOE's certification database. They also noted that smaller manufacturers with products such as one with 25 percent higher performance than CSL 1 are not represented in the analysis. (CA IOUs, Public Meeting Transcript, No. 30 at p. 172) ASAP stated it is important that DOE analyze a max tech level chosen from all lamps on the market and then examine the impacts of that level on utility. (ASAP, Public Meeting Transcript, No. 30 at pp. 181–182) NEEA and NPCC stated products that should be commercially available in 2013 range in efficacy from the minimum federal standard to over 30 lm/W, and max tech is probably over 35 lm/W, even at lower wattages, far above what DOE has acknowledged. (NEEA and NPCC, No. 34 at pp. 2, 5) NEMA, however, stated that there have been no noteworthy technological breakthroughs since the last rulemaking or great changes in the market. Therefore, the maximum-feasible performance levels of the previous rule have not changed. (NEMA, No. 36 at p. 1)

In the preliminary analysis, DOE evaluated the latest catalogs and DOE's certification database to identify the most efficacious IRLs to develop the max tech level. DOE selected more efficacious replacements with a similar reflector shape (PAR38) and lumen output (within 10 percent) as the baseline lamp. In the engineering analysis, DOE considered only replacements that saved energy. Based on DOE's analysis, the max tech presented in the preliminary analysis represented the highest-efficacy commercially available lamp meeting these criteria.

The CA IOUs noted that over the last few years, a number of products have been designed and tested using improved halogen IR capsules with new mixes and more layers of materials in the thin-film coatings. IRLs have demonstrated efficacies above 30 to 35 lm/W, with efficacies of 45 lm/W (with a 1,000-hour lifetime) having also been achieved for omni-directional lamps in lab settings.[39] The CA IOUs cited a November 2012 Electric Power Research Institute (EPRI) study[40] that conducted extensive photometric, electrical, and durability testing on a 32 lm/W A-lamp, including extended lifetime measurements and testing of the lamp's ability to withstand sudden changes in voltage, to assess its performance. All lamps were still functional at 1,000 hours and 70 percent of the test samples exceeded 2,000 hours. The independent study concluded that the high efficacy lamps were ''a true 100 watt incandescent-equivalent with respect to all output/performance values, lifespan.'' The CA IOUs argued that the high efficiency halogen IR capsules in those lamps could be inserted into reflector lamps as well. (CA IOUs, No. 32 at pp. 5–6)

The CA IOUs further noted that Venture Lighting is offering 2X halogen A-lamps ($6.98, 32 lm/W, 1,500 hours)[41] and 2X halogen MR–16 lamps ($6.90, 22 lm/W, 6,000 hours)[42] on the Web site, *www.2XLightDirect.com*. The 2X lamps are deemed to be two times as efficient as their typical incandescent counterparts. (CA IOUs, No. 32 at pp. 5–6) CA IOUs emphasized that the 2X MR–16 is a commercially available product using technology that can be used in other lamp form factors. The CA IOUs acknowledged, however, that the MR–16 lamp, which is not a covered product, cannot be used for a direct comparison with the lamps covered under this rulemaking due to different design parameters, coatings on the lenses, and low voltage operation. Additionally, the CA IOUs stated that the challenges encountered with designing a smaller form factor lamp

[39] ETCC presentation, Dec 2010, slide 2. *www.etcc-ca.com/pdfs/10_2X_Incandescent_ET_Open_Forum_121207_R1.pptx.*

[40] EPRI report # 1025779; *www.epri.com/abstracts/Pages/ProductAbstract.aspx?ProductId=0000000000001025779&Mode=download.*

[41] *www.2xlightdirect.com/product-categories/a-line.*

[42] *www.2xlightdirect.com/product-categories/2x-mr16.*

such as an MR–16 may be more easily overcome with PAR lamps. (CA IOUs, Public Meeting Transcript, No. 30 at pp. 170–173, 179–180) The CA IOUs noted that the Web site *www.2Xlightdirect.com*, where these 2X lamps can be found, states that PAR lamps are ''coming soon.'' [43] (CA IOUs, No. 32 at pp. 5–6)

Philips stated that it is unknown if IRLs utilizing the 2X lamp technology are technically viable. Philips provided the example that a 37 lm/W lamp can be demonstrated, but that it could only last 24 hours. (Philips, Public Meeting Transcript, No. 30 at pp. 173–174)

DOE acknowledges that efficacious A-shape and MR–16 lamps are currently being offered on the market. However, DOE cannot assume that lamp designs and technologies that work for certain lamp shapes (*e.g.,* MR–16 and A-shape lamps) and at low voltages will achieve the same efficacies in the IRLs that are the subject of this rulemaking. The incandescent lamps studied by EPRI and available from Venture Lighting (the 2X A-lamps and MR–16s) are not covered IRLs. They do not utilize the same reflector shapes and the MR–16s do not operate at the same input voltage as the covered IRLs. Therefore, DOE cannot consider these lamp types to determine a max tech for IRLs.

The CA IOUs asserted that covered IRLs exist in prototype form that are dramatically more efficient than DOE's proposed CSL. (CA IOUs, No. 32 at p. 4) The CA IOUs stated that, in 2009, they funded the development of a super-efficient PAR lamp achieving 37 lm/W at 57 W with a lifetime of 1,500 hours. The CA IOUs provided information about the lamp and its testing completed in 2009.[44] (CA IOUs, No. 32 at p. 6; CA IOUs, Public Meeting Transcript, No. 30 at p. 173)

Additionally, the CA IOUs pointed out a presentation from the Emerging Technologies Coordinating Council (ETCC) site [45] that includes information about the market potential for advanced IR coatings. Several PAR lamps achieving approximately 30 lm/W are forecasted to be available by mid-2013, at a price point of $8 to $9.[46] The CA IOUs stated that they are tracking the development of these products and intend to obtain samples to submit to DOE. The CA IOUs encouraged DOE to reach out to manufacturers of these products directly to understand more specifics about product development schedules, manufacturing capability, likely cost points, technical potential, and to potentially obtain prototypes of these lamps. (CA IOUs, No. 32 at p. 6)

The CA IOUs concluded that DOE needs to look at max tech and then identify what is cost effective, feasible and can be scaled up for production. The CA IOUs noted that this was not adequately addressed in the preliminary analysis. Further, the CA IOUs suggested that one of the CSLs should be set in line with the max tech level and another should be set in line with the maximum commercially available level. NEEP agreed with this recommendation. (CA IOUs, Public Meeting Transcript, No. 30 at pp. 170–173; CA IOUs, No. 32 at pp. 6–7; NEEP, No. 33 at p. 3) The Joint Comment also stated that to properly identify the max tech level, DOE should examine those sources referenced in the CA IOUs' comments, namely, EPRI, 2Xlightdirect.com, and ETCC. (Joint Comment, No. 35 at p. 3)

NEMA stated that if DOE chooses to consider higher performance levels based on any recently introduced technologies, they are obligated to conduct actual testing of these lamps for all performance parameters, such as reliability, lifetime, dimmability, beam spread, light pattern, and any other performance features expected of new/substitute lamps in this class. (NEMA, No. 36 at p. 11) NEMA also cautioned DOE that emerging technology and prototype models do not reliably represent the market, only market attempts. NEMA further stated that technologies on which to base the future of an entire product class must be demonstrated and proven for long-term feasibility and market acceptance. (NEMA, No. 36 at p. 11)

For the NOPR analysis, DOE contacted manufacturers producing high efficacy prototype IRLs and conducted independent testing of these lamps. The testing indicated that these lamps were more efficacious than the max tech level determined by DOE in this analysis.[47] DOE notes that the lamps tested were prototype lamps and were not manufactured during commercial scale production runs. However, the measured efficacy of the prototype lamps greatly exceeded the efficacy of commercially available lamps with similar lumen packages. DOE does not, however, have the necessary information to do a cost analysis to determine if an efficacy level based on these lamps would be economically justified. In appendix 5A of the NOPR TSD, DOE provides an assessment of these higher efficacy prototypes (including test data), conducts a further examination of the highly efficacious lamps relevant to this rulemaking noted by stakeholders in comments, and specifies the additional information it would need to consider prototypes in a rulemaking analysis. DOE welcomes comments on the max tech level as well as any further information on prototype lamps.

While DOE received several comments stating that the max tech level is greater than that analyzed in the preliminary analysis, DOE also received comments that the max tech level is not higher than the analyzed level. GE stated that it did not believe technology existed that would triple the efficiency of these lamps. GE noted that although there may be a few more players in the market, the technology itself or what can be done with it has not changed in the last three or four years. GE asserted that the baseline technology represents the highest technology available today that meets many different needs in the marketplace. As efficacy requirements increase, even to the CSL 1, utility is lost, potentially leading to only one product that works for one consumer and one application. GE stated that CSL 1 represents the max tech of what is available today that could cover all the different market needs. (GE, Public Meeting Transcript, No. 30 at pp. 176–178)

As discussed previously, based on DOE's analysis of commercially available lamps and because it does not have the adequate information to conduct a full analysis on any lamp that represents an efficacy level higher than EL 1, DOE is proposing $6.2P^{0.27}$ as EL 1 and the max tech level.

Proprietary Technology

In response to the max tech level presented in the preliminary analysis, DOE received several comments regarding the use of proprietary technology. NEMA stated that for all IRLs, no further elevations in product performance are possible. As support, NEMA quoted from the final rule notice of the 2009 Lamps Rule, in which DOE had noted that the max tech level was possible with the use of the highest-efficiency technologically feasible reflector, halogen IR coating, and filament design and because this would require the use of proprietary technology, DOE could not consider this

[43] *www.2xlightdirect.com/product-categories/2x-par.*

[44] Appendix A is available at the end of the CA IOUs written comment in the docket for this rulemaking.

[45] ETCC presentation, Dec 2010, slide 5. *http://www.etcc-ca.com/pdfs/10_2X_Incandescent_ET_Open_Forum_121207_R1.pptx*

[46] At the time of the NOPR analysis, these lamps were not commercially available.

[47] While DOE independently verified efficacy values, the manufacturer's testing for lifetime was still ongoing at the time of the NOPR analysis.

level further in its analyses. 74 FR 34080, 34096 (July 14, 2009). NEMA stated that if DOE proposes to raise the CSL above the existing level set by the 2009 Lamps Rule, DOE must explain why the proprietary technology hurdle no longer exists, and then explain how to achieve those higher CSLs. (NEMA, No. 36 at p. 11) Specifically, Philips expressed concern that the improved reflector technology option, such as a silver reflector coating, was proprietary. (Philips, Public Meeting Transcript, No. 30 at p. 169) GE added that requiring proprietary technology could impact competition. (GE, Public Meeting Transcript, No. 30 at pp. 169–170)

EEI expressed similar concerns as NEMA and stated that during the 2009 Lamps Rule, the Department of Justice was concerned about the higher standard levels because certain technologies for HIR lamps were proprietary and that because only a few companies made the highest efficacy lamp, competition in the industry could be impacted. EEI asked whether there were issues with the particular technology used in the more efficacious substitute, such that it might be a proprietary technology and made only by a very limited number or even one manufacturer, which could limit its availability and result in an extremely high price point. (EEI, Public Meeting Transcript, No. 30 at pp. 167–168)

The CA IOUs noted that they had provided a number of comments to that rulemaking's docket about alternate silverized reflector technologies, and suggested that manufacturers would be able to utilize them to improve efficacy of their lamps. The CA IOUs reported that since the 2009 Lamps Rule, several manufacturers have begun making lamps with silver reflectors, including, but not limited to, Halco, Satco, Ushio, and Osram Sylvania.[48] Further, the CA IOUs noted that the Lawrence Livermore Lab has a patent; GE and DSI likely also have patents related to reflector technology. (CA IOUs, Public Meeting Transcript, No. 30 at pp. 170–171) Given the wide variety of major PAR lamp manufacturers that are utilizing silverized reflectors, the CA IOUs encouraged DOE to consider this a viable design option for all IRL manufacturers. (CA IOUs, No. 32 at pp. 8–9)

In the 2009 Lamps Rule, the highest level analyzed for IRLs was based on a commercially available lamp that employed a silver reflector, an improved IR coating, and a filament design that resulted in a lifetime of 4,200 hours. While DOE had determined that the silver reflector was patented technology, DOE research indicated that there were alternate pathways to achieve this level, such as filament redesign to achieve higher temperature operation (thus reducing the lifetime), non-proprietary higher efficiency reflectors, and a higher efficiency IR coating. 74 FR 34080, 34133 (July 14, 2009). In interviews conducted in the preliminary analysis for this rulemaking, manufacturers indicated that there were no specific patent or intellectual property barriers to obtaining commercially available IRL technologies. Further, in the preliminary analysis, DOE put forth a CSL 1 that was based on a commercially available improved HIR lamp that does not necessarily require a silverized reflector coating to achieve its efficacy. Several manufacturers have found means of designing more efficacious IRLs that are commercially available, such as through the use of IR glass coatings and higher efficiency reflector coatings that do not use proprietary technology. In the NOPR analysis, DOE confirmed during interviews that proprietary technology is not a barrier to achieving the proposed max tech level, which is also EL 1. Therefore, in this NOPR analysis, DOE is proposing the same efficacy level put forth in the preliminary analysis. DOE has determined that this level can be achieved without the use of proprietary technology.

f. Efficacy Levels

For IRLs, DOE developed a continuous equation that specifies a minimum efficacy requirement across wattages and represents the potential efficacy a lamp achieves using a particular design option. DOE observed an efficacy division among commercially available IRL products that corresponded to the design options utilized to increase lamp efficacy. Based on this efficacy division, DOE considered one CSL in the preliminary analysis. DOE received several comments regarding the CSL presented for IRLs in the preliminary analysis.

The CA IOUs expressed concern that there is only one CSL. The CA IOUs stated that DOE is not capturing the huge potential in the IRL market for efficacy gains, both for commercially available and non-commercially available products. The CA IOUs stated that based on commercially available IRL products and other known high-performing products, DOE should add at least three additional, higher efficacy CSLs to its IRL analysis. (CA IOUs, No. 32 at p. 4)

The Joint Comment agreed with the CA IOUs, stating that DOE should add multiple high efficacy CSLs to its analysis; ASAP suggested two or three additional levels. (Joint Comment, No. 35 at p. 3; ASAP, Public Meeting Transcript, No. 30 at pp. 171–172) NEEP noted that the higher efficacies in DOE's certification database for standard levels should be included in the analysis at this stage. NEEP suggested DOE consider adding at least two additional CSLs to the analysis between CSL 1 and the maximum commercially available level. (NEEP, No. 33 at p. 3) NEEA and NPCC stated there is more than enough rationale to examine at least two or three additional CSLs, if not three or four, including a ''max tech'' level, which DOE has not included for this family of products. (NEEA and NPCC, No. 34 at pp. 2, 5)

To demonstrate the feasibility of potential efficacy improvements beyond the CSL 1 presented in the preliminary analysis, the CA IOUs provided a graph that showed efficacy levels of commercially available lamps from four manufacturers based on catalog data, plotted against the considered CSL 1 and the standard from the 2009 Lamps Rule. In further support, the CA IOUs provided another graph showing efficacy levels of over 20 manufacturers from DOE's certification database, also plotted against the considered CSL 1 and the standard from the 2009 Lamps Rule. Both graphs show a number of lamps above the considered CSL 1. (CA IOUs, No. 32 at pp. 4–5) ASAP asked how old the data DOE used in its preliminary analysis was and why the lamps with higher efficacies in DOE's database were not captured. (ASAP, Public Meeting Transcript, No. 30 at pp. 171–172)

For the preliminary analysis, DOE conducted a thorough review of the latest catalog and certification data provided for covered IRLs. Because PAR38 lamps are the most popular products on the market and a PAR38 lamp was selected as the baseline, DOE considered only PAR38 lamps when selecting more efficacious substitutes. Further, DOE selected more efficacious substitutes with a lumen output within 10 percent of the baseline lumens, as this is the amount of change in light output deemed acceptable to consumers. (See section VI.D.2.e for further information.)

To ensure energy savings, DOE also chose higher efficacy lamps with a lower wattage than the baseline lamp. DOE also did not consider any lamp that could not be purchased in the United

[48] More information on associated products can be found in the written comment available on regulations.gov under docket number EERE–2011–BT–STD–0006.

States. Some of the products with the highest efficacies in DOE's certification database were not found for sale in the United States.

Thus, although there are certain lamps with efficacies higher than the levels proposed by DOE, DOE did not consider them in the preliminary analysis for the reasons stated above. DOE maintained this methodology for the NOPR analysis.

NEMA stated that the CSL 1 presented in the preliminary analysis was infeasible given that there have been no technological breakthroughs since the 2009 Lamps Rule. (NEMA, No. 36 at pp. 9–11) NEMA also commented that having one CSL eliminates DOE's ability to analyze standard levels other than the baseline and max tech and makes it more likely that max tech will become the new standard. (NEMA, Public Meeting Transcript, No. 30 at p. 350)

DOE based CSL 1 on commercially available products that achieved catalog efficacies above the existing standard. Specifically, the representative lamp for CSL 1 was a commercially available 55 W IRL with a catalog efficacy of 20 lm/W. Acknowledging that the catalog efficacy of a lamp varies from its certified efficacy, DOE also reviewed certification data for IRLs. Based on certification data, DOE accordingly adjusted CSL 1, resulting in an efficacy level of $6.2P^{0.27}$. Because DOE based CSL 1 on a commercially available lamp and accounted for variances in efficacies between catalog and certification data when establishing CSL 1, DOE believes that CSL 1 is technologically feasible and is also the appropriate max tech level.

The CA IOUs recommended that DOE revisit the slope of the candidate standard lines to better reflect the performance of lamps on the market. The CA IOUs provided graphs that demonstrated three possible additional CSLs that could be used to more effectively evaluate potential standards at higher, technically feasible efficacy tiers. The CA IOUs adjusted the slopes of the curves to account for higher efficacy potential at higher wattage. (CA IOUs, No. 32 at pp. 7–8)

DOE examined the possibility of changing the exponent of the existing equation for IRL standards to better reflect the performance of lamps on the market. DOE conducted a best fit analysis and determined that the current equation accurately reflects the wattages and associated efficacies of commercially available products. Thus, DOE retained the current standard equation.

Summary of IRL Efficacy Levels

For the NOPR analysis, DOE again reviewed the most updated catalog and certification data available for covered IRLs. As in the preliminary analysis, DOE used the catalog data to determine initial efficacy levels and then adjusted the ELs to ensure that commercially available IRLs would meet proposed levels based on compliance information provided in DOE's certification database. In the preliminary analysis, DOE had found there to be certification data for only 36 percent of covered IRL products compliant with the July 2012 standards. For the NOPR analysis, DOE found that updates to DOE's certification database resulted in certification data for 51 percent of covered IRL products. Using certification data reported for the PAR38 2,500 hour HIR and 4,200 hour improved HIR representative lamps, DOE adjusted EL 1. As mentioned previously, DOE developed a continuous equation that specifies a minimum efficacy requirement across wattages for IRLs. The proposed EL based on the representative lamps is a curve that represents a standard across all wattages.

Table VI.12 presents the proposed efficacy level for IRLs. See chapter 5 of the NOPR TSD for additional information on how the engineering analysis was conducted.

TABLE VI.12—EFFICACY LEVELS FOR STANDARD SPECTRUM, VOLTAGE <125 V, DIAMETER >2.5 INCHES IRLS

Efficacy level	Efficacy requirement *lm/W*
EL 1	$6.2P^{0.27}$

P = rated wattage.

g. Scaling to Other Product Classes

When more than one product class exists for a covered product, DOE identifies and selects representative product classes to analyze directly. Efficacy levels developed for these representative product classes are then scaled to products not analyzed directly. For IRLs, DOE analyzed directly standard spectrum lamps greater than 2.5 inches in diameter and with input voltages less than 125 V. The efficacy levels developed for this representative product class were then scaled to product classes not analyzed, using a scaling factor to adjust levels for modified spectrum lamps, smaller diameter lamps, and lamps with higher input voltages. DOE received several comments specific to the scaling factors applied to develop efficacy levels for the product classes analyzed directly.

Diameters Less Than or Equal to 2.5 Inches

In the preliminary analysis, DOE scaled from the CSLs developed for the IRLs with diameters greater than 2.5 inches (hereafter ''large diameter lamps'') to IRLs with diameters less than or equal to 2.5 inches (hereafter ''small diameter lamps''). Based on catalog data, DOE determined the reduction in efficacy caused by the smaller lamp diameter to be approximately 12 percent. DOE also determined that the more efficient double-ended HIR burners could not fit into small diameter lamps. Therefore, in the preliminary analysis, DOE applied an additional 3.5 percent reduction to account for the ability of small diameter lamps to utilize only less efficient single-ended HIR burners.

Asserting that double-ended burners can be utilized in small diameter lamps, NEEA and NPCC and the CA IOUs urged DOE not to use an additional scaling factor to account for the use of a single-ended burner in a small diameter lamp. (CA IOUs, No. 32 at p. 10, NEEA and NPCC, No. 34 at p. 6) The CA IOUs noted that by providing a PAR20 lamp with a double ended burner at the public meeting, they had demonstrated that double-ended burners can be used in small diameter lamps. At the preliminary analysis public meeting, the CA IOUs had presented two small diameter lamps with double-ended burners. One was a commercially available Philips MR–16 lamp, which the CA IOUs acknowledged to be out of the scope of this rulemaking, but asserted that the MR–16 burner would fit into a covered IRL. The other was a PAR20 lamp covered under this rulemaking that was not yet commercially available. (CA IOUs, Public Meeting Transcript, No. 30 at pp. 195–197) GE noted that the MR16 uses a 12 V filament, which is much shorter than the filament at 120 V, and NEMA stated that many technical features are not transferrable between 12 V and 120 V products. (GE, Public Meeting Transcript, No. 30 at pp. 196–197, NEMA, No. 36 at p. 11) The CA IOUs acknowledged that the MR16 used a 12 V filament, but noted that the PAR20 lamp with a double-ended burner was designed for operation at 120 V. (CA IOUs, Public Meeting Transcript, No. 30 at p. 197) Further, the CA IOUs noted that the PAR20 lamp with a double-ended burner achieved an efficacy of 16.1 lm/W, which is 12 percent higher than the CSL proposed

by DOE for this lamp type in the preliminary analysis. (CA IOUs, No. 32 at p. 10)

ADLT agreed with the CA IOUs, noting that these double-end burners have a length of 52 mm and new double-end burners are being introduced to the market that are 45 mm in length, which further mitigates mechanical fit problems related with smaller reflectors. (ADLT, No. 31 at pp. 2–3) However, NEMA contended that double-ended burners will not fit into existing small diameter PAR20 lamps without extending the lens cover. The extension of the lens cover would lessen the utility as the product would not fit into all fixtures designed to use PAR20 lamps, and therefore could not be considered as an acceptable substitute. (NEMA, No. 36 at p. 12) GE agreed that there were difficulties in fitting halogen IR burners into small PAR20 envelopes. (GE, Public Meeting Transcript, No. 30 at pp. 191–193)

Regarding the PAR20 lamp with a double-ended burner provided by the CA IOUs at the preliminary analysis public meeting, DOE notes that it must also consider how the use of a design option affects product utility and whether a more efficacious product is an appropriate substitute for the existing product. DOE must also consider whether the product can be manufactured at a commercial scale by the compliance date of any amended standards. Based on feedback given by manufacturers in interviews, fitting a double-ended burner into a small diameter lamp would require changes to the physical shape of the lamp, specifically requiring an extension of the reflector lens. While the modified lamp may still meet ANSI standards for a small diameter lamp such as a PAR20, it would be larger than any PAR20 lamps sold in the past and those currently installed. Because the lamp shape would be different from the standard sizes of commercially available small diameter lamps, the modified lamp may not fit in existing structures. Past a certain wattage threshold, heat dissipation in lamps with a smaller envelope using a double-ended burner could also become an issue. Further, manufacturers stated that even if the double-ended burner could fit into a small diameter lamp, it would be difficult to place the burner/filament in the optimal position.

Therefore, in this NOPR analysis DOE continues to apply an additional 3.5 percent reduction factor when scaling efficacies of large diameter to small diameter lamps to account for the limitation of small diameter lamps being able to utilize only single-ended burners.

The CA IOUs questioned DOE's methodology for determining the scaling factor for large diameter to small diameter lamps. The CA IOUs stated that it understood DOE compared the efficacies of small diameter lamps to larger diameter lamps on the market, and established that there was a 12 percent difference. Under the assumption that the single-ended burner could not fit in small diameter lamps, DOE then modeled the losses of using a single-ended burner. However, the CA IOUs did not understand why these losses were added to the original 12 percent difference which represents the efficacy reduction going from a large diameter to small diameter lamp. (CA IOUs, Public Meeting Transcript, No. 30 at pp. 194–195)

ADLT stated that it supported a 12 percent scaling factor based on the impact of the less efficient diameter of the reflector because it was independent of capsule design. ADLT noted that a typical PAR30 aluminum-coated reflector with a front lens is approximately 75 percent optically efficient while the same type of PAR20 reflector (aluminum coated with a front lens) is approximately 66 percent efficient. Therefore, ADLT concluded that the 12 percent reduction in efficiency from large to small diameter lamps corresponds to DOE's findings when comparing catalog efficacy data of each lamp type from several lamp manufacturers (all other features remaining approximately the same). (ADLT, No. 31 at p. 2)

In the preliminary analysis, DOE compared the catalog efficacies of halogen PAR20 lamps (the most common IRL with a diameter less than or equal to 2.5 inches) and their PAR30 or PAR38 counterparts from several lamp manufacturers (all other lamp features remaining approximately the same). Based on these results, DOE found that the reduction in efficacy caused by the smaller lamp diameter was approximately 12 percent for IRLs. Because only halogen lamps were used (no HIR lamps were included), the 12 percent included the efficacy difference due only to lamp diameter because the additional impact of a single-ended versus double-ended burner on lamp efficacy is relevant only for HIR lamps. In the NOPR analysis, using the same methodology, DOE confirmed that the efficacy reduction from a large diameter to a small diameter lamp should be 12 percent.

ADLT stated that the 3.5 percent scaling factor going from double-ended to single-ended burners was also unnecessary because single-ended burners can be highly efficient within small diameter reflectors. They cited the example of an MR–16 lamp (2 inch diameter reflector) utilizing single-ended IR halogen burner with an 85 percent optical efficiency compared to a typical PAR38 (4.75 inch diameter reflector, aluminized) with a 78 to 80 percent optical efficiency. Therefore, ADLT urged DOE to consider a 12 percent reduction factor, which would equate to an efficacy requirement of $5.5P^{0.27}$ for small lamp diameters. (ADLT, No. 31 at pp. 2–3)

DOE cannot base its analysis on an MR–16 lamp because it is not designed to operate at the same voltage as covered IRLs, and MR–16 lamps are not the subject of this rulemaking; DOE can assess the efficiency of a single-ended burner only in a small diameter IRL covered under this rulemaking.

With regards to scaling, NEMA stated that DOE must ensure not only that the filaments and halogen burners must be able to be inserted into all lamps scaled, but also that the beam characteristics required for those lamps, a market-demanded performance characteristic, can be met. NEMA suggested that DOE develop demonstration models to verify performance; otherwise, scaling is not possible. (NEMA, No. 36 at p. 12)

As noted, DOE determined that double-ended burners cannot fit into small diameter lamps without changes to the lamp shape that could affect lamp characteristics and thereby product utility. Therefore, DOE scaled from large diameter lamps with double-ended burners to small diameter lamps with single-ended burners. DOE did not create demonstration models because the scaling was based on lamp designs in commercially available lamps.

Operating Voltages Greater Than or Equal to 125 Volts

In the preliminary analysis, DOE scaled from IRLs with voltages less than 125 V to IRLs with voltages greater than or equal to 125 V. DOE developed a scaling factor that would require 130 V lamps tested at 130 V to use the same technology and possess the same general performance characteristics as 120 V lamps tested at 120 V. DOE found that while there may be a slight decrease in efficacy, the lifetime of a 130 V lamp is doubled when it is operated at 120 V, giving it an advantage over 120 V lamps. Using the IESNA Lighting Handbook equations that relate lifetime, lumens, and wattage to voltage of incandescent lamps, DOE determined that a 15 percent scaling factor was necessary.

The CA IOUs stated that it can be assumed the primary utility of the 130

V lamps was long life. However, they noted that the utility has not been removed from the market, as there are still many other commercially available long-life lamps. (CA IOUs, Public Meeting Transcript, No. 30 at pp. 66–67) NEMA clarified that the primary utility and selling point of the 130 V lamps was their ability to withstand voltage spikes. The additional lifetime was just an added benefit. (NEMA, Public Meeting Transcript, No. 30 at pp. 67) EEI agreed that in some areas where the line voltage can be higher than 120 V, the 130 V lamps provided a safeguard against the lamp blowing out. (EEI, Public Meeting Transcript, No. 30 at pp. 61–63) NEMA asserted that consumers have arguably lost a utility and noted that elimination of a market-desired performance characteristic is counter to requirements in EPCA. (NEMA, No. 36 at p. 1, 5) Additionally, according to EEI, consumers that now have to switch from 130 V to 120 V have to buy more lamps. (EEI, Public Meeting Transcript, No. 30 at pp. 61–63)

DOE received feedback in manufacturer interviews that in certain areas where voltage spikes may occur, a 130 V lamp will last longer than a 120 V lamp. DOE remains concerned, however, that the operation of 130 V lamps at 120 V has the potential to significantly affect energy savings. DOE's research has shown that 130 V lamps are usually operated by consumers at 120 V rather than at a higher voltage line. This could incentivize manufacturers to design a less efficient and less expensive 130 V lamp that would meet standards when tested at 130 V. Because they would be cheaper, there could be a market migration to 130 V lamps and due to the lower lumen output when 130 V lamps are operated at 120 V, consumers may purchase more 130 V lamps, resulting in increased energy consumption.

EEI noted that when 130 V lamps are operated at 120 V, their lifetime is increased by about 2.5 times. (EEI, Public Meeting Transcript, No. 30 at pp. 61) GE noted that as 130 V lamps are operated on higher voltages, their efficacy decreases. GE stated that this relationship was misanalysed in the 2009 Lamps Rule, and as a result, the July 2012 standards have eliminated 130 V lamps from the market. (GE, Public Meeting Transcript, No. 30 at pp. 60–61)

DOE's research indicates that operating 130 V lamps at 120 V increases lifetime and lowers efficacy compared to operating these lamps at 130 V. Therefore, to develop an appropriate scaling factor, DOE determined the efficacy of 130 V lamps operated at 120 V if their additional lifetime over that of 120 V lamps were instead used to increase their efficacy. DOE found this increase in efficacy to be 15 percent. Therefore in this NOPR analysis, DOE is proposing a scaling factor of a 15 percent efficacy increase from an IRL with voltages less than 125 V to voltages greater than or equal to 125 V.

Modified Spectrum

In the preliminary analysis, DOE established CSLs for modified spectrum IRLs by scaling from the CSLs developed for the standard spectrum product class. DOE determined that a reduction of 15 percent from the standard spectrum CSLs would be appropriate for modified spectrum IRLs.

The Joint Comment urged DOE to eliminate the 15 percent allowance for modified spectrum IRLs. The Joint Comment noted that a 2009 Ecos Consulting study [49] that found an average light loss of 9 to 11 percent associated with modified spectrum lenses. The study also highlighted the feasibility of modified spectrum IRLs exceeding the highest efficacy levels in the 2009 Lamps Rule. Therefore, the Joint Comment found that the 15 percent scaling factor should be eliminated, as there are high efficacy modified spectrum lamps, or DOE should reduce the factor to 10 percent to match the findings of the Ecos Consulting study. (Joint Comment, No. 35 at p. 3)

In the 2009 Lamps Rule, DOE assessed the efficacy differences between standard and modified spectrum IRLs by measuring the efficacies of commercially available standard and modified spectrum lamps. 74 FR 34080 (July 14, 2009). In that analysis, DOE correlated the measured color point data of the lamps with lamp light output reduction and lamp spectral power distribution. By analyzing the data, DOE established that a reduction of 15 percent from the standard spectrum to modified spectrum lamps was necessary.

In the preliminary analysis, DOE confirmed this 15 percent reduction by determining the difference between the catalog efficacies of the standards-compliant modified spectrum lamps to comparable standard spectrum lamps. Using the available data for standards-compliant modified spectrum lamps on the market, DOE compared the efficacies of these two lamps with standard spectrum lamps with the same wattage and lifetime by the same manufacturer and confirmed a 15 percent reduction in efficacy from a modified spectrum lamp to a standard spectrum lamp. Therefore, in this NOPR analysis DOE is proposing a 15 percent efficacy reduction from a standard spectrum IRL to a modified spectrum IRL.

h. Xenon

DOE identified higher efficiency inert fill gas as a design option for improving lamp efficacy of IRLs. Specifically, xenon, due to its low thermal conductivity, can greatly increase lamp efficacy and is utilized in most covered standards-compliant IRLs. NEMA commented that the availability of xenon is decreasing. If standards are set at a level requiring the use of xenon, it will increase its use, driving up prices and reducing availability, similar to the rare earth phosphor shortage issue. (NEMA, Public Meeting Transcript, No. 30 at pp. 80–81) NEMA noted that xenon is becoming increasingly scarce, and its loss is an automatic 5–7 percent efficacy reduction in IRLs. The loss of xenon will make it impossible to meet CSL 1. NEMA referred DOE to a February 2013 article in CryoGas International Magazine,[50] which provides additional information on the xenon supply and demand market. These estimates show a 2013 increase in demand of 15–20 percent followed by steady 10 percent demand growth in outyears, with a potential for dramatic spike if emerging demands from technology related to satellites, anesthesia and electronics are realized as anticipated. NEMA stated that DOE should add an investigation of xenon availability trends and pricing to its analysis. (NEMA, No. 36 at p. 3)

NEEA and NPCC disagreed, stating that as there is no current shortage of xenon fill gas, and a standard requiring it would not demand a significant increase in xenon use, then xenon price and supply should not be an issue for this rulemaking. (NEEA and NPCC, No. 34 at p. 2, 5) The CA IOUs further noted that xenon is already being used as the primary fill gas in virtually all IRLs, so a requirement of its use would not especially impact any constraints on supply or price instability in the market. (CA IOUs, No. 32 at pp. 9–10)

DOE acknowledges that xenon supply and prices are an important factor for the lighting industry, including IRLs. Therefore, in the preliminary analysis DOE conducted a market assessment of xenon supply, demand, and prices as

[49] Ecos Consulting (prepared for Pacific Gas & Electric, Natural Resources Defense Council, and the Appliance Standards Awareness Project), 2009. Optical Losses of Modified Spectrum Lenses on Incandescent Reflector Lamps.

[50] CryoGas International Magazine, February 4, 2013 ''Ever Changing Rare Gas Market'' Richard Betzendahl.

well as an LCC sensitivity to determine the impact of increased end user lamp prices due to increases in the price of xenon. DOE updated this assessment for the NOPR analysis.

For the NOPR analysis, DOE examined various industry sources relevant to the xenon market including the February 2013 article in CryoGas International Magazine cited by NEMA. While, the article did forecast increases in xenon demand in 2013 and 2014, it also stated that it expected this to flatten out due to penetration of LEDs into the market. A 2012 CryoGas International Magazine article noted that xenon price increases predicted for 2012 did not occur to the extent expected.[51] DOE understands that fluctuations in xenon supply and price are possible and difficult to predict. Based on its research, DOE did not find that there was currently a major shortage of xenon. To further inform the impact of xenon demand and prices, in the NOPR analysis, DOE conducted an LCC sensitivity that determines how high the xenon price would have to increase to result in zero LCC savings for the consumer at the proposed level. Based on the results of this analysis, DOE determined that EL 1 is achievable even with fluctuations in xenon price. See appendix 7C of the NOPR TSD for complete details on the xenon price sensitivity conducted in the LCC. Additionally, for this NOPR analysis, a xenon price sensitivity was also conducted in the NIA. Detailed results can be found in chapter 12 of the NOPR TSD.

i. Proposed Standard

DOE received several comments that no standards should be proposed for IRLs. NEMA indicated that the CSL 1, which was also the max tech level presented in the preliminary analysis should be eliminated. (NEMA, No. 36 at p. 1, 9) GE suggested that the existing standard for IRLs is appropriate, and DOE does not need to establish a higher standard. (GE, Public Meeting Transcript, No. 30 at pp. 176–178) DOE has identified that there are achievable efficacy levels higher than the existing standard and has developed an EL based on the latest catalog and certification information. See section VI.D.3.f for more details.

NEMA, in general, did not believe that any increase in efficacy for small diameter, modified spectrum, or greater than 125 V IRLs would be warranted. (NEMA, No. 36 at p. 5) NEMA expanded on the 130 V IRL, asserting that these lamps appear to have been eliminated by the 2009 Lamps Rule and arguing against further regulation. (NEMA, No. 36 at p. 1, 5) Further, NEMA found the lack of 130 V lamps on the market as evidence that current standards for these lamps are technically or economically infeasible. NEMA noted that there is still difficulty in making these IRLs comply with the July 2012 standards. (NEMA, No. 36 at p. 5) Therefore, NEMA strongly recommended that for IRLs with voltages greater than or equal to 125 V the CSL be ''No New Standard,'' not CSL 0, which implies there are products to regulate rather than acknowledging the inability to further raise efficiency requirements. (NEMA, No. 36 at pp. 10–11)

GE also strongly disagreed with applying another 15 percent increase on top of an already unachievable standard for the 130 V IRLs, particularly when it was not clear how energy savings could be justified and why products that don't meet existing standards would be further regulated. (GE, Public Meeting Transcript, No. 30 at pp. 191–193) EEI asked what percentage of the lighting market the 130 V lamps represent and questioned what can be gained by additional analysis if the standards adopted by the 2009 Lamps Rule have eliminated 130 V lamps from the market. (EEI, Public Meeting Transcript, No. 30 at pp. 58–60, 68)

DOE has not found evidence that more efficacious small diameter, modified spectrum, or 130 V IRLs are not technologically feasible or practicable to manufacture. DOE research indicates that the basic structure, components, and operating requirements of these lamps do not prevent the application of design options considered in the engineering analysis to achieve the proposed efficacy levels. Therefore, in this NOPR analysis, DOE is proposing efficacy levels for these lamp types. DOE requests comment on any technological barriers in manufacturing more efficacious small diameter, modified spectrum, or 130 V rated lamps for commercial production.

E. Product Pricing Determination

Typically, DOE develops manufacturer selling prices (MSPs) for covered products and applies markups to create end-user prices to use as inputs to the LCC analysis and NIA. Because GSFLs and IRLs are difficult to reverse-engineer (*i.e.,* not easily disassembled), DOE did not use this approach to derive end-user prices for the lamps covered in this rulemaking. In the preliminary analysis, DOE estimated end-user prices for lamps by establishing discounts from manufacturer suggested price lists (hereafter ''blue book prices''). DOE revised its methodology for the NOPR, as described below, to account for additional information that became available after publication of the preliminary analysis.

For this NOPR analysis, DOE gathered publicly available lamp pricing data after the compliance date of the July 2012 standards. Based on feedback from manufacturer interviews, DOE determined that GSFLs and IRLs are sold through three main channels (state procurement, large distributors including DIY stores (*i.e.,* Lowe's and Home Depot), and Internet retailers). Using these main channels and the pricing data, DOE developed three different end-user prices as representative of a range of publicly available prices: Low, based on the state procurement channel; medium, based on large distributors and DIY stores; and high, based on Internet retailers. In the preliminary analysis, the medium end-user prices were used in the main results of the LCC and NIA analysis while the low and high end-user prices were used in sensitivity analyses in the LCC. DOE received several comments on this methodology and the resulting end-user prices. NEMA deferred comment on product price determination to individual manufacturer interviews. (NEMA, No. 36 at p. 13)

Stakeholders had specific comments regarding the IRL prices. ASAP and the CA IOUs found the price estimates for IRL standards case lamps provided by DOE to be higher than the typical pricing they found on the market. (ASAP, Public Meeting Transcript, No. 30 at pp. 200–201; CA IOUs, No. 32 at pp. 10–11) The CA IOUs stated that low, medium, and high prices were provided for a 55 W IRL at 20 lm/W for CSL 1, however, CSL 1 required an efficacy of only 18.3 lm/W for a 55 W lamp. The CA IOUs suggested that DOE collect cost information more representative of the minimum efficacy needed for each CSL analyzed. The CA IOUs asserted high outlier price points should not be given equal weight in DOE's analysis; with minimal shopping, consumers will find lower priced products readily available. The CA IOUs provided a table showing some end-user price information gathered by ASAP and the CA IOUs. The information gathered includes price points for some of the higher performing IRLs from the major manufacturers collected from seven different retail outlets, including both online outlets

[51] Betzendahl, Richard. ''Still Bullish on Rare Gases: A CryoGas International Market Report.'' CryoGas International, February 2012. (Last accessed October 25, 2013.) <*www.cryogas-digital.com/cryogas/201202?pg=30#pg30*>

and brick and mortar stores, with the highest price at $16.49 and the average price of $13.03. (CA IOUs, No. 32 at pp. 10–11) NEEA and NPCC also questioned the high prices, specifically prices greater than $15 for 50–70 W halogen lamps with an efficacy of 20 lm/W or less. (NEEA and NPCC, No. 34 at p. 6)

In the preliminary analysis, while the representative lamp at CSL 1 had a 20 lm/W catalog efficacy, its compliance values indicated a lower tested efficacy, resulting in an adjustment of CSL 1 to the $6.2P^{0.27}$ coefficient that would result in an efficacy of 18.3 lm/W for a 55 W lamp. Therefore, in the preliminary analysis, DOE determined prices of a lamp that represented the minimum efficacy at CSL 1. Further, the representative lamp prices at CSL 1 for IRLs were determined to be $9.29 for the low price, $16.34 for the medium price, and $23.77 for the high price in the preliminary analysis. These prices were based on publicly available price data, including prices from available state procurement contracts and a substantive number of Internet retailers. Any lamp prices from only one Internet retailer or one state procurement contract were removed from the pricing analysis, as were any extremely high prices (*i.e.,* extreme outliers in the price trend observed for a lamp). DOE also examined the lamp prices cited by the CA IOUs and ASAP by identifying prices for these lamps at generally known lighting retailers, such as Home Depot, Lowe's, Grainger, and eLightBulbs, and found average prices up to $20. Regarding the CA IOUs' comment that consumers will find lower-priced products, DOE conducts the high price sensitivity in the LCC in part to address scenarios where consumers do not purchase lamps at the lowest price.

Several stakeholders provided general comments indicating that the prices based on Internet retail presented in the preliminary analysis were too high. ASAP questioned why the Internet prices were higher than the DIY store prices that make up DOE's medium case. ASAP noted that because such stores also sell products online, residential consumers would find these medium prices on the Internet. Additionally, ASAP mentioned that commercial customers would be educated enough to avoid the higher Internet prices, making it unlikely for anyone to purchase products at the high prices DOE presented. (ASAP, Public Meeting Transcript, No. 30 at pp. 204–205) GE, however, noted that DOE found the prices online, demonstrating that the channel does exist. GE also stated that some retailers, small stores or online sites set their own price points and these can be very high. (GE, Public Meeting Transcript, No. 30 at p. 201)

For this NOPR analysis, DOE updated its pricing database and its blue book information and developed updated high, medium, and low prices for the IRL representative lamps at CSL 1. These prices were slightly lower than those determined in the preliminary analysis because of updated price data collected from online retailers and updated blue book prices. DOE also received updated blue book prices for lamps covered under this rulemaking. DOE's pricing analysis intends to capture a full range of available prices. DOE believes that the medium prices used in the main results are representative of the average price paid by the consumer.

DOE also received comments regarding using a weighted price in its main results. NEEA and ASAP urged DOE to weight the high, medium, and low end-user prices rather than using sensitivities. (NEEA, Public Meeting Transcript, No. 30 at pp. 202–203; ASAP, Public Meeting Transcript, No. 30 at pp. 203–204) NEEA also emphasized the importance of weighting the different market prices in rulemakings, such as this one, where the nature of the product prohibits the typical markup analysis methodology. (NEEA, Public Meeting Transcript, No. 30 at p. 232) While it may be possible for some markets sources to charge more for the product, NEEA and NPCC contended that such pricing has nothing to do with the cost efficiency and should not impact the analysis. An ideal pricing proposal would be one based on sales-weighted average pricing. NEEA and NPCC urged DOE to seriously revisit this part of the analysis. (NEEA and NPCC, No. 34 at p. 6)

NEEA cautioned DOE to be careful in determining what fraction of the market is paying what price at each channel, and ASAP suggested DOE account for the end-user and volume of lamps specific to a channel. (NEEA, Public Meeting Transcript, No. 30 at p. 232; ASAP, Public Meeting Transcript, No. 30 at pp. 202–203) For the state procurement channel, NEEA noted that in the lighting market in their service area, state contract pricing is available for every government or semi-government entity, and therefore many lamps are sold at the low price. (NEEA, Public Meeting Transcript, No. 30 at pp. 231–232) ASAP also noted that many lamps are being sold through each state procurement contract but cautioned that accessibility to these contracts is limited and therefore, the low price they offer is available to only a very small number of consumers. (ASAP, Public Meeting Transcript, No. 30 at pp. 202–203)

Additionally, ASAP remarked that if a consumer pays the high price, they are probably doing so by choice, as the medium price is accessible. ASAP likened the scenario to purchasing a book, where large online retailers and bookstore chains will have the book significantly marked down, but a consumer could choose to pay a high price in order to support a small local bookstore. ASAP reasoned that very few lamps would be sold at the high price and suggested DOE weight the prices accordingly. (ASAP, Public Meeting Transcript, No. 30 at pp. 202–203)

Taking into consideration the above comments, in this NOPR analysis DOE developed an end-user price weighted by distribution channel. Using manufacturer feedback in interviews, DOE determined an aggregated percentage of shipments that go through each of the main channels for GSFLs and IRLs. The large distributors and DIY stores channel was estimated at 85 percent, the state procurement channel at 10 percent, and the Internet retail channel at 5 percent. DOE then applied these percentages respectively to the average medium price determined for large distributor and DIY stores, the average low price determined for state procurement contracts, and the average high price determined for Internet retailers. The sum of these weighted prices was used as the average consumer price for GSFLs and IRLs in the main LCC analysis and NIA. DOE continued to utilize the low prices and high prices in a sensitivity analysis in the LCC analysis. See chapter 7 of the NOPR TSD for further information on the pricing analysis. DOE welcomes feedback on the pricing methodology used in this analysis.

F. Energy Use

For the energy use analysis, DOE estimated the energy use of lamps in the field (*i.e.,* as they are actually used by consumers). 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 amended standard levels.

1. Operating Hours

To develop annual energy use estimates, DOE multiplied annual usage (in hours per year) by the lamp power (in watts) for IRLs and the lamp-and-ballast system input power (in watts) for GSFLs. DOE characterized representative lamp or lamp-and-ballast systems in the engineering analysis. To

characterize the country's average use of lamps for a typical year, DOE developed annual operating hour distributions by sector, using data published in the 2010 U.S. Lighting Market Characterization report (2010 LMC),[52] the Commercial Building Energy Consumption Survey (CBECS),[53] the Manufacturer Energy Consumption Survey (MECS),[54] and the Residential Energy Consumption Survey (RECS).[55]

NEMA agreed with the considered operating profiles. (NEMA, No. 36 at p. 15) GE also stated that the operating hours looked reasonable. (GE, Public Meeting Transcript, No. 30 at p. 212) However, EEI found the similarity between the GSFL commercial and industrial operating hours to be surprising. (EEI, Public Meeting Transcript, No. 30 at pp. 212–213)

In the preliminary analysis, DOE calculated weighted average operating hours using the probability of a building type within each sector using the data sources described above. These sources provide the most accurate and recent data available on a national scale. DOE's approach resulted in similar operating hours for the commercial and industrial sectors.

DOE updated the methodology for determining operating hours in the NOPR analysis. The weighted average operating hours are based on the probability of a GSFL or IRL within a specific building type, rather than based on the probability of the building type. DOE used the average lamps per square foot and the percentage of lamps that are linear fluorescent or halogen from the 2010 LMC to calculate these values. The average operating hours using the revised methodology are similar to those found in the preliminary analysis. For further details on the operating hours, see chapter 6 of the NOPR TSD.

NEEA offered data from their residential sector energy use field survey of 2,200 lighting fixtures in 1,400 houses. NEEA noted that DOE could use the data to verify analyses and findings. NEEA also mentioned their commercial sector energy use field survey, but stated that they might not have those data in time for NOPR analyses. (NEEA, Public Meeting Transcript, No. 30 at pp. 210, 212) DOE examined NEEA's Residential Building Stock Assessment reports,[56] but continued to use the data sources described above in its analysis because NEEA's data is limited to the northwest region. DOE did not find any recent NEEA report regarding energy usage in the commercial sector at the publication of this notice.

2. Lighting Controls

DOE evaluated the impact of lighting controls on the energy use of GSFLs and IRLs. Most lighting controls have one of two impacts: Reducing operating wattage or reducing operating hours. DOE refers to these two groups of controls as dimmers or light sensors, and occupancy sensors, respectively. The calculated operating hours used in the reference case already account for the use of occupancy sensors because the 2010 LMC operating hour data are based on building surveys and metering data. In the preliminary analysis, DOE accounted for the use of dimmers or light sensors by modeling GSFLs and IRLs on dimmers and developing associated energy use results for both types of covered lamps as a sensitivity analysis. See appendix 6A of the NOPR TSD for further information.

Regarding the dimming scenarios, NEMA noted that the dimming systems save more energy than the standards considered in this rulemaking. NEMA asserted that this furthered their arguments that this rulemaking is unnecessary and a ''system approach'' would be more advantageous for energy efficiency. NEMA contended that DOE pursues diminishing returns through component standards and distracts resources from more beneficial efficiency efforts. (NEMA, No. 36 at p. 15) DOE did not consider a system approach in this rulemaking because EPCA directs DOE to undertake a review of standards for GSFLs and IRLs and determine if amended standards for these lamp types would result in energy savings. (42 U.S.C. 6295(i)(1) and (3)–(5))

a. General Service Fluorescent Lamp Lighting Controls

In the preliminary analysis, DOE assessed the impacts of dimmers on GSFLs by determining the reduction in system lumen output and system input power as a result of using dimming ballasts. Based on product research and manufacturer feedback, DOE analyzed dimming scenarios for 2-lamp 4-foot MBP systems, 4-lamp 4-foot MBP systems, 2-lamp 4-foot T5 MiniBP SO systems, and 2-lamp 4-foot T5 MiniBP HO systems operating in the commercial and industrial sectors. DOE determined that the average reduction of system lumen output for GSFLs was 33 percent based on research and manufacturer input.

GE asked for clarification on how DOE was incorporating the percentage to which the dimmed lamps were being dimmed. (GE, Public Meeting Transcript, No. 30 at pp. 211) DOE incorporated this assumption by decreasing the BF of the baseline ballast by 33 percent and subsequently calculating the system mean lumen output of the baseline lamp-and-ballast system. DOE then assumed that each higher efficacy lamp-and-ballast system would be dimmed to equal the mean lumen output of the baseline system and adjusted the BF accordingly. DOE calculated the percentage each higher efficacy lamp-and-ballast system was dimmed by dividing the BF at the dimmed light output by the catalog BF at full light output. For more information, see appendix 6A of the NOPR TSD.

Several commenters supported DOE's analysis of dimming systems for GSFLs, noting that dimming systems are growing in popularity and provide the potential for significant energy savings. NEMA stated that when it encourages high efficacy fluorescent retrofits through one of its marketing programs, it always tries to encourage lighting controls. Thus, when a retrofit results in increased brightness there is the option to dim, which is where the largest amount of savings lies. (NEMA, Public Meeting Transcript, No. 30 at pp. 108–109) Further, Lutron stated that it agreed that the 33 percent energy savings from dimming systems cited in the preliminary analysis is close to the actual savings that can be expected as opposed to the savings estimated from higher lamp efficacy. (Lutron, Public Meeting Transcript, No. 30 at pp. 73–74)

Commenters expressed concerns, however, regarding the calculated energy consumption of a dimmed lamp-and-ballast system and the inclusion of reduced wattage lamps in the dimming

[52] U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy. Energy Conservation Program for Consumer Products: 2010 U.S. Lighting Market Characterization. 2012. Washington, DC. *http://apps1.eere.energy.gov/buildings/publications/pdfs/ssl/2010-lmc-final-jan-2012.pdf.*

[53] 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. Washington, DC. *www.eia.gov/consumption/commercial/data/2003/index.cfm?view=microdata.*

[54] U.S. Department of Energy, Energy Information Administration. Manufacturing Energy Consumption Survey, Table 9.1: Enclosed Floorspace and Number of Establishment Buildings. 2006. Washington, DC. *www.eia.gov/consumption/manufacturing/data/2006/xls/Table9_1.xlsl.*

[55] U.S. Department of Energy, Energy Information Administration. RECS Public Use Microdata files. 2009. Washington, DC. *www.eia.gov/consumption/residential/data/2009/.*

[56] NEEA's Residential Building Stock Assessment available at *http://neea.org/resource-center/regional-data-resources/residential-building-stock-assessment.*

analysis. Lutron noted that GSFL light output and input power do not scale perfectly linearly from zero. Lutron explained that there is an offset at the low end that accounts for the required electrode heating, typically a few percent of the total maximum rated power. The light output and input power scale linearly after this point. (Lutron, Public Meeting Transcript, No. 30 at p. 220) NEMA referenced their white paper LSD–345 and added that the need for cathode heat skews efficacy calculations. The lower the light output, the more cathode heat power increases, lowering the efficacy of the system. The systems are the most efficacious at full power, but NEMA clarified that this does not mean that they do not save energy when dimmed, only that it is not a linear scale. (NEMA, No. 36 at p. 14)

DOE agrees that GSFL light output and input power do not scale linearly from zero for dimming systems. In the preliminary analysis, DOE utilized manufacturer-published performance characteristics of the dimming systems to develop the relationship between light output and input power. DOE plotted the minimum and maximum light output levels and associated system input powers published in catalogs, and then fit a linear equation to the points. The published system input power values at minimum light output reflected the presence of cathode heat at minimum light output and thus the linear equations did not originate at zero. This approach was maintained in the NOPR analysis. For more information, see appendix 6A of the NOPR TSD.

Regarding reduced wattage lamps, commenters noted that reduced wattage lamps, which contain krypton, did not provide the same dimming functionality as full wattage lamps. GE observed that if the GSFL standard is set at a level requiring a heavier fill gas, namely krypton, then the NES would start to decrease. GE and Lutron noted that even though controls and dimmers are already becoming required in buildings, the krypton eliminates the ability to control and dim the lamps, negatively affecting the energy savings. (GE, Public Meeting Transcript, No. 30 at pp. 220–221; Lutron, Public Meeting Transcript, No. 30 at pp. 73–74) Philips stated that there is no published testing of dimming with krypton fill gas and currently no standards for dimming ballasts. (Philips, Public Meeting Transcript, No. 30 at p. 222) NEMA further emphasized these points, cautioning DOE that reduced wattage 28 W lamps are less feasible to dim than 32 W lamps. NEMA suggested DOE model a 32 W lamp for their dimming analyses. NEMA further stated that CSLs should be set to retain the 32 W lamps. (NEMA, No. 36 at p. 14)

DOE acknowledges that reduced wattage lamps may dim unreliably in certain applications. DOE discusses the dimmability of reduced wattage lamps in VI.B.1. In the preliminary analysis and this NOPR analysis, however, DOE identified several manufacturers that published performance data of both 28 W and 25 W 4-foot MBP lamps when paired with dimming ballasts. This data indicates that these reduced wattage lamp types can be utilized in some dimming applications. For this reason, DOE continues to analyze reduced wattage 4-foot MBP lamps in its dimming analysis in addition to full wattage 4-foot MBP lamps. Regarding T5 lamps, DOE found that catalog information generally did not indicate that reduced wattage T5 lamps should be operated on dimming ballasts. Therefore, as in the preliminary analysis, DOE does not analyze reduced wattage T5 lamps in dimming systems. As noted in section VI.D.2.g, DOE has ensured that the full wattage lamps in all product classes meet the proposed ELs so that full wattage lamps are available in situations where reduced wattage fluorescent lamps are unacceptable.

b. Incandescent Reflector Lamp Lighting Controls

In the preliminary analysis, DOE research indicated that, on average, consumers using dimmers reduce lamp wattage by 20 percent, corresponding to a lumen reduction of 25 percent and an increase in lifetime by a factor of 3.94. DOE analyzed two scenarios in LCC sensitivity analyses: (1) The light output of the baseline lamp was reduced by 25 percent and more efficient lamps were dimmed to the same light output and (2) the characteristics of the lamps analyzed represented the distribution of dimmers across the nation. For the second scenario, DOE used the 2010 LMC to determine that 29 percent of halogen IRLs operate on dimmers or light sensors in the residential sector and 5 percent of halogen IRLs operate on dimmers in the commercial sector and used these percentages to calculate weighted-average performance characteristics. DOE received several comments on its IRL dimming analysis.

Lutron stated that they did not have independent data, but the estimate of five percent of lamps in the commercial sector operating on dimmers seems reasonably accurate. (Lutron, Public Meeting Transcript, No. 30 at p. 217) However, Lutron and NEMA disagreed with the value used for the lifetime multiplier.

Lutron commented that the lifetime multiplier given for IRLs appears to be based on the standard incandescent formula published in the IESNA Lighting Handbook. Lutron stated that the multiplier that should be used for halogen PAR lamps, while still between three and four, is lower than the multiplier DOE used. (Lutron, Public Meeting Transcript, No. 30 at pp. 214–215) NEMA also disagreed with DOE's assumption that the lamp life for halogen products follows the incandescent curve of ''Life ~ V^{-13},'' where V is the voltage across the filament. Based on NEMA's research, NEMA put forward the proper relationship as ''Life ~ V^{-10},'' which would result in a multiplier of 3 rather than 4 for the reduction in light output DOE considered. Therefore, NEMA recommended a multiplier of 3, instead of the multiplier of 4 suggested in the preliminary TSD. (NEMA, No. 36 at p. 15)

In the preliminary analysis, DOE did not use an equation in the IESNA Lighting Handbook to calculate the lifetime multiplier and therefore was not employing the incandescent curve referenced by NEMA or Lutron. Rather, DOE used Lutron's Energy Savings Calculator, available on the Lutron Web site.[57] The values provided in this calculator are based on experiments conducted on halogen lamps, which provide the most accurate representation of the lifetime increase that occurs as a result of dimming halogen IRLs because they are based on halogen technology instead of incandescent technology and use experimental data. In this NOPR analysis, DOE has continued to utilize Lutron's Energy Savings Calculator to determine the lifetime multiplier associated with various levels of dimmed light output.

G. Life-Cycle Cost Analysis and Payback Period Analysis

In the preliminary analysis, DOE conducted LCC and PBP analyses to evaluate the economic impacts of potential energy conservation standards for GSFLs and IRLs on individual consumers. The LCC is the total consumer expense over the life of a product, consisting of purchase, installation, and operating costs (operating costs are 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

[57] *www.lutron.com/en-US/Education-Training/Pages/Tools/EnergySavingCalc.aspx.*

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 change in purchase cost (normally higher) by the change in average annual operating cost (normally lower) that results from the more efficient standard. DOE used a ''simple'' PBP for this rulemaking, which does not take into account other changes in operating expenses over time or the time value of money.

For any given efficacy or energy use level, DOE measures the PBP and the change in LCC relative to an estimated base-case product efficacy or energy use level. The base-case estimate reflects the market without new or amended mandatory energy conservation standards, including the market for products that exceed the current energy conservation standards.

Inputs to the calculation of total installed cost include the cost of the product—which includes consumer product price 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 in which compliance with proposed standards would be required. DOE also incorporated a residual value calculation to account for any remaining lifetime of lamps at the end of the analysis period. The residual value is an estimate of the product's value to the consumer at the end of the LCC analysis period. In addition, this residual value recognizes that a lamp may continue to function beyond the end of the analysis period. DOE calculates the residual value by linearly prorating the product's initial cost consistent with the methodology described in the *Life-Cycle Costing Manual for the Federal Energy Management Program.*[58]

As inputs to the PBP analysis, DOE used the total installed cost of the product to the consumer for each efficacy level, as well as the first-year annual operating costs for each efficacy level. The calculation requires the same inputs as the LCC, except for energy price trends and discount rates; only energy prices for the year in which compliance with any new standard would be required (2017, in this case) are needed.

To account for uncertainty and variability, DOE created value distributions for inputs as appropriate, including 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 or lamp-and-ballast systems for three sectors (commercial, industrial, and residential).

DOE conducted the LCC and PBP analyses using a spreadsheet model developed in Microsoft Excel. When combined with Crystal Ball (a commercially available software program), the spreadsheet model generates a Monte Carlo simulation[59] to perform the analysis by incorporating uncertainty and variability considerations. The Monte Carlo simulations randomly sample input values from the probability distributions and lamp user samples, performing 1,000 iterations per simulation run.

NEMA commented on the general LCC methodology used in the preliminary analysis, stating that it appears the 30-year payback period for LCC analysis timeline, about which they had previously expressed concern, has been stretched to a 70-year period for this rulemaking. NEMA assumed the time period was chosen to justify feasibility arguments that have miniscule payback estimates. NEMA requested that DOE clarify the 70-year forecasting and related analyses, and explain the justification for examining such a long period. (NEMA, No. 36 at pp. 3–4)

The PBP is the amount of time it takes the consumer to recover the assumed higher purchase cost of a more-efficacious product through lower operating costs. DOE calculates and presents the payback period for all LCC scenarios, regardless of the value of the payback period, including the long payback periods referenced by NEMA. Payback periods are one of the factors that DOE considers when weighing the benefits and burdens of TSLs.

In the NOPR analysis, DOE generally maintained the methodology from the preliminary analysis, with a few changes. Table VI.13 summarizes the approach and data DOE used to derive inputs to the LCC and PBP calculations for the preliminary analysis as well as the changes made for this NOPR. The NOPR TSD chapter 8 and its appendices provide details on the spreadsheet model and of all the inputs to the LCC and PBP analyses. The NOPR TSD appendix 8B provides results of the sensitivity analyses conducted using Monte Carlo simulation. The subsections that follow discuss the comments regarding each initial input and any changes made to them in the NOPR analysis.

TABLE VI.13—SUMMARY OF INPUTS AND KEY ASSUMPTIONS IN THE LCC AND PBP ANALYSES *

Inputs	Preliminary TSD	Changes for the proposed rule
Consumer Product Price	Applied discounts to manufacturer catalog (''blue book'') pricing in order to represent low, medium, and high prices for all lamp categories. Used medium prices in the main analysis.	Applied discounts to manufacturer catalog (''blue book'') pricing in order to represent low, medium, and high prices for all lamp categories. Used a weighted average price in the main analysis based on the percentage of shipments that go through the distribution channel having low, medium, or high prices.

[58] Fuller, Sieglinde K. and Stephen R. Peterson. *National Institute of Standards and Technology Handbook 135 (1996 Edition); Life-Cycle Costing Manual for the Federal Energy Management Program.* (Prepared for U.S. Department of Energy, Federal Energy Management Program, Office of the Assistant Secretary for Conservation and Renewable Energy.) February 1996. NIST: Gaithersburg, MD. Available at: *http://fire.nist.gov/bfrlpubs/build96/PDF/b96121.pdf.*

[59] Monte Carlo simulations model uncertainty by utilizing probability distributions instead of single values for certain inputs and variables.

TABLE VI.13—SUMMARY OF INPUTS AND KEY ASSUMPTIONS IN THE LCC AND PBP ANALYSES *—Continued

Inputs	Preliminary TSD	Changes for the proposed rule
Sales Tax	Derived population-weighted-average tax values for each census division and large state [60] from data provided by the Sales Tax Clearinghouse.	Derived sector-specific average tax values based on the probability of purchasing a GSFL or IRL in each census division and large state from data provided by the Sales Tax Clearinghouse.
Installation Cost	Derived costs using the RS Means Electrical Cost Data and U.S. Bureau of Labor Statistics to obtain average labor times for installation, as well as labor rates for electricians and helpers based on wage rates, benefits, and training costs.	No change.
Annual Operating Hours	Determined operating hours by associating building-type-specific operating hour data with regional distributions of various building types using the 2010 LMC and EIA's 2003 CBECS, 2009 RECS, and 2006 MECS.	Determined operating hours by associating operating hours for a GSFL or IRL in a specific building type using the average lamps per square foot and the percentage of lamps of each type with regional distributions of various building types using the 2010 LMC and EIA's 2003 CBECS, 2009 RECS, and 2006 MECS.
Product Energy Consumption Rate	Determined lamp input power for IRLs based on published manufacturer literature. Calculated system input power for GSFLs. Used lamp arc power, catalog BF, number of lamps per system, and tested BLE (when possible) to calculate system input power for each unique lamp-and-ballast combination.	No change.
Electricity Prices	Electricity: Based on EIA's Form 861 data for 2011.	Electricity: Based on EIA's Form 861 data for 2011 scaled to 2012 (the dollar year of the analysis) using *AEO 2013* and the consumer price index.
	Variability: Weighted average national price for each sector calculated from the probability of each building type within each census division or large state.	Variability: Weighted average national price for each sector and lamp type calculated from the probability of a GSFL or IRL purchased in each census division or large state
Electricity Price Projections	Forecasted using *AEO 2012*	Forecasted using *AEO 2013*.
Replacement and Disposal Costs	Commercial and industrial: Included labor and materials costs for lamp replacement, and disposal costs for failed GSFLs.	No change.
	Residential: Included only materials cost for lamps, with no lamp disposal costs.	
Product Lifetime	Ballast lifetime based on average ballast life of 49,054 from 2011 Ballast Rule. Lamp lifetime based on published manufacturer literature where available.	No change.
Discount Rates	Commercial and industrial: Derived discount rates using the cost of capital of publicly traded firms in the sectors that purchase lamps, based on data in the 2003 CBECS, Damodaran Online,[61] Office of Management and Budget (OMB) Circular No. A–94,[62] and state and local bond interest rates [63].	No change.
	Residential: Derived discount rates using the finance cost of raising funds to purchase lamps either through the financial cost of any debt incurred to purchase product or the opportunity cost of any equity used to purchase equipment, based on the Federal Reserve's Survey of Consumer Finances data [64] for 1989, 1992, 1995, 1998, 2001, 2004, 2007, and 2010.	
Analysis Period	IRLs and commercial and industrial GSFLs: Based on the baseline lamp life in hours divided by the annual operating hours of that lamp.	IRLs and commercial and industrial GSFLs: No change.
	Residential GSFLs lamp failure: Based on the baseline lamp life in hours divided by the annual operating hours of that lamp.	Residential GSFLs lamp failure: Based on the lifetime of the ballast.

TABLE VI.13—SUMMARY OF INPUTS AND KEY ASSUMPTIONS IN THE LCC AND PBP ANALYSES *—Continued

Inputs	Preliminary TSD	Changes for the proposed rule
	Residential GSFLs ballast failure and new construction/renovation: Based on the lifetime of the ballast.	Residential GSFLs ballast failure and new construction/renovation: No change.
Compliance Date of Standards	2017	No change.
Lamp Purchase Events	Assessed three events: lamp failure, ballast failure (GSFLs only), 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 NOPR TSD.

1. Consumer Product Price

In the preliminary analysis, DOE used a variety of sources to develop consumer product prices, including lamp prices from manufacturers' blue books, state procurement contracts, large electrical supply distributors, hardware and home improvement stores, Internet retailers, and other similar sources. DOE then developed low, medium, and high prices based on its findings. Medium prices were used in the main analysis results. In the NOPR analysis, DOE maintained the same methodology but calculated a weighted average price based on the percentage of shipments going through the low discount (high price), medium discount (medium price), and high discount (low price) distribution channels. Because fluorescent lamps operate on a ballast in practice, DOE analyzed lamp-and-ballast systems in the engineering analysis and therefore also determined end-user prices for ballasts. DOE utilized the end-user prices from the 2011 Ballast Rule converted to 2012$ to develop prices for replacement ballasts.

On February 22, 2011, DOE published a notice of data availability (NODA; 76 FR 9696) stating that DOE may consider whether its regulatory analysis would be improved by addressing product price trends. Using three decades of historic data on the quantities and values of domestic shipments of fluorescent lamps and PAR lamps reported by the U.S. Census Bureau in their Current Industrial Reports, DOE examined product prices trends, fitting the data to an experience curve, as described in chapter 11 of the NOPR TSD. DOE found that the data are well-represented by the experience curve and consistent with price learning theory. Therefore, consistent with the NODA, DOE incorporated price trends into this rulemaking. In the LCC analysis, DOE adjusts prices for each year using the experience curve.

2. Sales Tax

In the preliminary analysis, DOE obtained state and local sales tax data from the Sales Tax Clearinghouse. The data represented weighted averages that included county and city rates. DOE used the data to compute population-weighted average tax values for each census division and four large states (New York, California, Texas, and Florida).

EEI asked if DOE had any information on local sales taxes, such as city or county taxes, which would be added to the state sales tax. EEI noted that without considering the additional local taxes, especially in urban areas with commercial buildings, DOE may be missing relevant sales tax data. (EEI, Public Meeting Transcript, No. 30 at pp. 230–231) NEEA added that there are some publicly available local tax data by county. (NEEA, Public Meeting Transcript, No. 30 at p. 231)

In the preliminary analysis, DOE used the Sales Tax Clearinghouse for sales tax data by state. Because the Sales Tax Clearinghouse specifies that the aggregate rates are weighted averages that include county and city rates, DOE accounts for the levels of taxes described in the comments.

In this NOPR analysis, DOE used updated sales tax data from the Sales Tax Clearinghouse.[65] DOE recognized that a population-weighted tax value may not accurately represent the probability of a lamp type purchased in each census division and large state. Therefore, in the NOPR analysis, DOE calculated a weighted average sales tax based on the probability of a GSFL or IRL purchased for a particular building type in each census division and large state. DOE used information in the 2010 LMC, such as the number of lamps per square feet and the percentage of lamps within a building that are linear fluorescent or halogen. In combination with this information, DOE used CBECS, MECS, and RECS respectively, for commercial, industrial, and residential building data on building types in each census division and large state. Thus, in the preliminary analysis, the sales tax was averaged based on the number of people in a region or state, whereas in the NOPR, the sales tax is averaged based on how many people purchase a GSFL or IRL in a region or state.

3. Installation Cost

The installation cost is the total cost to the consumer to install the product, excluding the consumer product price. Installation costs include labor, overhead, and any miscellaneous materials and parts. As detailed in the preliminary analysis, DOE considered the total installed cost of a lamp or lamp-and-ballast system to be the consumer product price (including sales taxes) plus the installation cost. For the commercial and industrial sectors, DOE assumed consumers must pay to install the lamp or lamp-and-ballast system and assumed the installation cost was the product of the average labor rate and the time needed to install a lamp or lamp and ballast. In the residential sector, DOE assumed that consumers must pay for only the installation of a lamp-and-ballast system. Therefore, the installation cost assumed was the product of the average labor rate and the time needed to install the lamp-and-ballast system. DOE assumed that residential consumers would install their own replacement lamps and, thus, would incur no installation cost when replacing their own lamp.

[60] The four large states are New York, California, Texas, and Florida.

[61] Damodaran Online, *The Data Page: Historical Returns on Stocks, Bonds, and Bills—United States* (2013). Available at: *http://pages.stern.nyu.edu/~adamodar*. (Last accessed September, 2013.)

[62] U.S. Office of Management and Budget, Circular No. A–94 Appendix C (2012). Available at: *www.whitehouse.gov/omb/circulars_a094/a94_appx-c*.

[63] Federal Reserve Board, Statistics: Releases and Historical Data—Selected Interest Rates—State and Local Bonds (2013). Available at: *http://www.federalreserve.gov/pubs/oss/oss2/scfindex.html*.

[64] The Federal Reserve Board, Survey of Consumer Finances. Available at: *www.federalreserve.gov/PUBS/oss/oss2/scfindex.html*.

[65] Sales Tax Clearinghouse. *Aggregate State Tax Rates*. (2013). Available at: *http://thestc.com/STrates.stm*.

DOE did not receive any comments on the installation cost. DOE retained this methodology for determining installation costs in this NOPR analysis.

4. Annual Energy Use

As discussed in section VI.F, DOE estimated the annual energy use of representative lamp or lamp-and-ballast systems by multiplying input power and sector operating hours. DOE maintained its methodology of determining annual energy use inputs in this NOPR analysis.

5. Product Energy Consumption Rate

As in the preliminary analysis, DOE determined lamp input power for IRLs based on published manufacturer literature. For GSFLs, DOE calculated the system input power using published manufacturer literature and test data. DOE used lamp arc power, catalog BF, number of lamps per system, and tested BLE (when possible) to calculate system input power for each unique lamp-and-ballast combination. The rated system input power was then multiplied by the annual operating hours of the system to determine the annual energy consumption. DOE did not receive any comments on energy consumption rate calculations. DOE retained this methodology for determining energy consumption in this NOPR analysis.

6. Electricity Prices

For the LCC and PBP in the preliminary analysis, 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 EIA Form 861, ''Annual Electric Power Industry Database.'' DOE calculated a weighted average national electricity price for each sector using the probability of each building type within each census division or large state. DOE did not receive any comments on this approach.

In the NOPR analysis, DOE calculated weighted average electricity prices based on the probability of a GSFL or IRL purchased in each census division and large state. The same methodology as noted previously for determining average weighted sales tax was used to calculate average weighted electricity prices. DOE used data published in the 2010 LMC in combination with CBECS, MECS, and RECS to determine an average weighted electricity price based on the probability of a GSFL or IRL in a particular building type in each census division and large state. DOE requests comment on its methodology of determining average weighted electricity prices.

7. Electricity Price Projections

To estimate the trends in energy prices for the preliminary analysis, DOE used the price forecasts in *AEO 2012.* To arrive at prices in future years, DOE multiplied current average prices by the forecast of annual average price changes in *AEO 2012.* In this NOPR analysis, DOE used the same approach, but updated its energy price forecasts using *AEO 2013.* DOE intends to update its energy price forecasts for the final rule based on the latest available *AEO.* In addition, the spreadsheet tools 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 did not receive any comments on its methodology for determining electricity price projections.

8. Replacement and Disposal Costs

In its preliminary analysis, DOE addressed lamp replacements occurring within the analysis period as part of installed costs for considered lamp or 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 assumed that consumers would install their own replacement lamps and incur no related labor costs.

Some consumers recycle failed GSFLs, thus incurring a disposal cost. In its research, DOE found average disposal costs of 10 cents per linear foot for GSFLs.[66] 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.[67] DOE considered the 30 percent lamp-recycling rate to be significant and incorporated GSFL disposal costs into the LCC analysis for commercial and industrial consumers. Given the very low (2 percent) estimated lamp recycling rate in the residential sector, DOE assumed that residential consumers would be less likely to voluntarily incur the higher disposal costs. Therefore, DOE excluded the disposal costs for lamps or ballasts from the LCC analysis for residential GSFLs.

DOE received no comments concerning these assumed recycling rates, disposal costs, and their application in the LCC analysis. DOE maintained this approach in the NOPR analysis.

9. Lamp Purchase Events

DOE designed the LCC and PBP analyses for this rulemaking around scenarios where consumers need to purchase a lamp. Each of these events may give the consumer a different set of lamp or lamp-and-ballast designs and, therefore, a different set of LCC savings for a certain efficacy level. In the preliminary analysis, DOE evaluated three types of events that would prompt a consumer to purchase a lamp. These events are described below. DOE requests comments on these lamp purchasing events developed for this analysis. Though described primarily in the context of GSFLs, lamp purchase events can be applied to IRLs as well. However, considering that IRLs are not used with a ballast, the only lamp purchase events applicable to IRLs are lamp failure (Event I) and new construction and renovation (Event III).

- *Lamp Failure* (Event I): This event reflects a scenario in which a lamp has failed (spot relamping) or is about to fail (group relamping). In the base case, identical lamps are installed as replacements. In the standards case, the consumer installs a standards compliant lamp that is compatible with the existing ballast.
- *Ballast Failure* (Event II): This is a scenario in which the failure of the installed ballast triggers a lamp and ballast purchase.
- *New Construction and Renovation* (Event III): This event encompasses all fixture installations where the lighting design will be completely new or can be completely changed. During new construction and renovation, the spatial layout of fixtures in a building space is not constrained to any previous configuration. However, because DOE's higher efficacy replacements generally maintain lumen output within 10 percent of the baseline system, DOE did not assume that spacing was changed.

DOE received comments stating that fixture spacing is adjusted during new construction and renovation. NEEA related that during tenant improvement in their market, the ceiling is the first

[66] Environmental Health and Safety Online's fluorescent lights and lighting disposal and recycling Web page—Recycling Costs. Available at *www.ehso.com/fluoresc.php.* (Last accessed October 11, 2013.)

[67] Association of Lighting and Mercury Recyclers, ''National Mercury-Lamp Recycling Rate and Availability of Lamp Recycling Services in the U.S.'' Nov. 2004.

item to be stripped, and the lighting system is redesigned as part of the regular renovation between tenant occupancies. Therefore, NEEA contended, brand new ballasts and lamps are installed without regard to the previous fixture locations. NEEA added that T8 lamps are the only lighting element likely to be preserved in this scenario, and they would be used in a new fixture with a new ballast. (NEEA, Public Meeting Transcript, No. 30 at pp. 261–262) EEI commented that there are minimum foot-candle requirements to light spaces, and scenarios that result in lower lumen output from the baseline system will also include adjustments to the fixture spacing to maintain those lumens. (EEI, Public Meeting Transcript, No. 30 at pp. 257–258)

NEEA also argued that respacing would occur with a new renovation because the space would likely gain a whole new control system with daylighting and dimming fixtures not installed previously. Due to a different number people in a different office configuration, everything would have to be redesigned, making renovation more like new construction. (NEEA, Public Meeting Transcript, No. 30 at p. 263) However, Lutron stated that all the elements added in the described renovation were the result of design and technical changes unrelated to the lighting regulations. (Lutron, Public Meeting Transcript, No. 30 at p. 263) Lutron noted that even if the lighting design of a space was completely altered during renovation, there would still be the same number of lamps and the same load. (Lutron, Public Meeting Transcript, No. 30 at pp. 262–263)

DOE also received several comments indicating that the respacing of fixtures, even in new construction or renovation, is unlikely due to ceiling grid constraints. NEMA stated that respacing is not a practical assumption for this rulemaking, and would not happen in practice other than to existing ready-made dimensions. Spacing is effectively constrained by existing practices and ceiling grid construction, and not determined by the lighting selected. Further, NEMA clarified that spacing is almost always based on the available 1 by 1, 2 by 2, or 2 by 4 ceiling grids, and that must be factored into the analysis. The likelihood of other spacing is near zero. (NEMA, No. 36 at p. 16) GE agreed that the standard 2 by 4 ceiling grids make it nearly impossible to respace fixtures in response to a change of a few lumens per watt. (GE, Public Meeting Transcript, No. 30 at pp. 258–289)

NEMA also noted that there is an interdependence among the ceiling material, the modular wire strings, the fixtures, and the fixtures' performance. (NEMA, Public Meeting Transcript, No. 30 at pp. 259–260) Philips added that when adjusting fixture spacing, the hangers for the lights will also have to be changed in many scenarios. Given that this modification necessitates going into the ceiling, and the prevalence of asbestos, it is unlikely the consumer would want to make this adjustment. (Philips, Public Meeting Transcript, No. 30 at pp. 260–261) If consumers were not installing new lamps, GE believed they would more likely switch to a ballast with a better ballast factor rather than respace fixtures. (GE, Public Meeting Transcript, No. 30 at pp. 258–259)

NEMA further remarked that substantial changes in efficacy or lumen output are necessary to warrant space changes. (NEMA, No. 36 at p. 16) GE agreed that it would be very unlikely for users to respace fixtures to accommodate compliant lamps' lumen output. (GE, Public Meeting Transcript, No. 30 at pp. 258–289)

DOE agrees that spacing adjustments are not practical. Ceiling grid systems typically come in fixed layouts, and lamp fixtures are sized to be compatible with the commonly available grid options. Thus, DOE believes that consumers are limited in the spacing of fixtures by the ceiling grid and its associated components. DOE also agrees that consumers would be more likely to change light output levels by adjusting system components such as the ballast factor (*i.e.,* use a high BF or low BF ballast) or lamp lumen output levels (*e.g.,* 32 W 4-foot MBP high lumen lamp) rather than attempting to adjust fixture spacing using non-standard ceiling grids. DOE acknowledges that fixture spacing adjustments may be done in certain cases as cited by NEEA. Based on available information and the other comments discussed above, however, such adjustments are not a common practice nationwide. Thus, DOE did not include spacing adjustments as part of the LCC analysis.

10. Product Lifetime

a. Lamp Lifetime

In the preliminary analysis, DOE used manufacturer literature to determine lamp lifetimes. DOE also considered the impact of group relamping practices on GSFL lifetime in the commercial and industrial sectors. In the preliminary analysis, DOE assumed that a lamp subject to group relamping operates for 75 percent of its rated lifetime, an estimate obtained from the 2011 Ballast Rule. However, DOE received information from manufacturers in interviews that consumer behavior has changed and group relamping now occurs at 85–90 percent of rated life. Therefore, in the NOPR analysis DOE assumes that a lamp subject to group relamping operates for 85 percent of its rated lifetime. By considering lamp rated lifetimes and the prevalence of group versus spot relamping practices, DOE derived an average lifetime for a GSFL. This ranged from 94 percent of rated lifetime for 8-foot SP slimline lamps to 96 percent of rated lifetime for 4-foot MBP lamps. See chapter 8 of the NOPR TSD for further details. DOE requests comment on its spot and group relamping assumptions, particularly the percent of rated life at which group relamping occurs.

As stated above, DOE is using 15 years as the estimated fixture and ballast lifetime in the residential sector for purposes of its analyses. In the preliminary analysis, the lifetime of the baseline GSFL in the residential sector was calculated by dividing the life in hours by the average operating hours of a GSFL in the residential sector (648 hours per year), which resulted in a lifetime of 37 years for the baseline lamp. Because this lifetime of the baseline lamp was longer than the average lifetime of a fixture and ballast, for the lamp failure scenario, DOE assumed that residential sector GSFL consumers were able to realize the full rated lifetime of their lamps. Therefore, at the average operating hours of 648 hours per year, DOE utilized the full lifetime of the baseline lamp (37 years) as the analysis period. DOE assumed that when a ballast is removed in the middle of the analysis period, these consumers preserve their lamps, purchase a new ballast of the same type as the initial ballast, and then have the new ballast installed with the preserved lamps (incurring a lamp-and-ballast system installation cost). In contrast, for the ballast failure and new construction and renovation events, DOE assumed that the ballast or fixture lifetime limits the lifetime of an average lamp in the residential sector. Under average operating hours of 648 hours per year, DOE assumed that lamp lifetime of the baseline-case and standards-case lamps is limited to 9,723 hours or 15 years, due to a ballast or fixture failure. See section VI.G.9 and chapter 5 of the NOPR TSD for a description of lamp purchase events. DOE requests comment on its general approach to determining lamp lifetime for this analysis.

NEMA disagreed with the assumption that lamps will be retained upon ballast failure. NEMA stated that the most likely thing that occurs when a light fixture in the residential sector fails to

provide light is that new lamps are purchased. The next step if the fixture still does not work is to replace the whole fixture, not just the ballast. As a result, NEMA contended that a failed ballast will result in the lamps (new and old) being scrapped (or returned) when the entire fixture is replaced. (NEMA, No. 36 at p. 16) GE explained that when a ballast fails, it can operate in such a way that damages the lamp, especially the cathodes. When a lamp goes out, a residential consumer will likely assume that the problem is the lamp itself; very rarely would a consumer understand that only the ballast needs to be replaced and instead replace the entire fixture. (GE, Public Meeting Transcript, No. 30 at pp. 235–237)

DOE evaluated the likely replacement scenarios suggested by stakeholders and agrees that it is more likely for a residential consumer to replace an entire lamp-and-ballast system rather than only the ballast because consumers would not necessarily be aware that only the ballast failed. Thus, in the NOPR analysis, DOE no longer assumes that consumers retain their lamp when the ballast fails. See Appendix 8B of the NOPR TSD for more details. DOE requests comment on its approach to determining lamp lifetime.

b. Ballast Lifetime

Chapter 8 of the preliminary analysis detailed DOE's development of average ballast lifetimes, which were based on assumptions used in the 2011 Ballast Rule. For ballasts in the commercial and industrial sectors, DOE used an average ballast lifetime of 49,054 hours. Consistent with the 2011 Ballast Rule, DOE assumed an average ballast lifetime of approximately 15 years in the residential sector. DOE received no comments on this approach. In this NOPR analysis DOE retained the ballast lifetimes used in the preliminary analysis.

11. Discount Rates

The calculation of consumer LCC requires the use of an appropriate discount rate. DOE used the discount rate to determine the present value of lifetime operating expenses. The discount rate used in the LCC analysis represents the rate from an individual consumer's perspective.[68]

In the preliminary analysis, for the residential sector, DOE derived discount rates from estimates of the interest or ''finance cost'' to purchase residential products. The finance cost of raising funds to purchase these products can be interpreted as: (1) The financial cost of any debt incurred to purchase products (principally interest charges on debt), or (2) the opportunity cost of any equity used to purchase products (principally interest earnings on household equity). Household equity is represented by holdings in assets such as stocks and bonds, as well as the return on homeowner equity. Much of the data required, which involves determining the cost of debt and equity, comes from the Federal Reserve Board's triennial ''Survey of Consumer Finances.''[69] For the commercial and industrial sectors, DOE derived discount rates from the cost of capital of publicly traded firms in the business sectors that purchase lamps.

EEI pointed out residential consumers have a lower discount rate than industrial customers do. EEI noted that if residential consumers use any form of credit, the nominal interest rate typically will be above 10 percent. Thus, EEI questioned why a well-capitalized industrial company would have a higher discount rate than residential consumers with varying incomes and credit card interest rates. (EEI, Public Meeting Transcript, No. 30 at pp. 228–229)

The discount rate is the rate at which future expenditures are discounted to estimate their present value. The discount rate accounts for consumers placing a certain value on spending money now versus in the future. For residential consumers, DOE estimated the discount rate by looking across all possible debt or asset classes. Thus, the residential discount rate is not limited to credit. The residential discount rate analysis factors in 12 different methods to finance purchases and the rates for these methods vary from 0 to 10.4 percent. As DOE estimates the discount rate by looking across all 12 of these debt and asset classes, and the discount rate is not limited to credit, the average rate is lower than 10 percent. For the commercial and industrial consumers, DOE estimated the cost of capital for commercial and industrial companies by examining both debt and equity capital, and developed an appropriate weighted average of the cost to the company of equity and debt financing. After performing these calculations and averaging each discount rate across various types of consumers, the residential discount rate was calculated to be lower than the industrial discount rate. Therefore, DOE believes it is appropriately determining discount rates for all types of consumers and has maintained this methodology in this NOPR analysis. For further details on discount rates, see chapter 8 and appendix 8C of the NOPR TSD.

12. Analysis Period

The analysis period is the span of time over which the LCC is calculated. In the preliminary analysis, DOE used the longest baseline lamp life in a product class divided by the annual operating hours of that lamp as the analysis period. During Monte Carlo simulations for the LCC analysis, DOE selected the analysis period based on the longest baseline lamp life divided by the annual operating hours chosen by Crystal Ball. For GSFLs in the residential sector, the analysis period is based on the useful life of the baseline lamp for a specific event. DOE did not receive any comments on this methodology. DOE maintained this approach for determining the analysis period in the NOPR analysis. DOE requests comment on its LCC analysis period assumptions. In particular, DOE requests comment on basing the analysis period on the baseline lamp life divided by the annual operating hours of that lamp for the IRL and commercial and industrial sector GSFL analyses. DOE also requests comment on basing the analysis period on the useful life of the baseline lamp for a specific event for residential GSFLs.

13. Compliance Date of Standards

The compliance date is the date when a covered product is required to meet a new or amended standard. DOE expects to publish any amended standards for GSFLs and IRLs in 2014. As a result, consistent with 42 U.S.C. 6295(i)(5), DOE expects the compliance date to be 2017, three years after the publication of any final amended standards. DOE received no comments on its expected standards compliance date of 2017 and calculated the LCC for all end users as if each one would purchase a new lamp in the year compliance with the standard is required.

14. General Service Fluorescent Lamp Life-Cycle Cost Results in the Preliminary Analysis

NEMA and EEI noted that in the tables presented at the public meeting, the results for the GSFL LCC savings included instances of ''NR.'' (NEMA, No. 36 at pp. 15–16; EEI, Public Meeting Transcript, No. 30 at pp. 245–246) NEMA assumed NR indicated that the

[68] The consumer discount rate is in contrast to the discount rates used in the NIA, which are intended to represent the rate of return of capital in the U.S. economy as well as the societal rate of return on private consumption.

[69] The Federal Reserve Board. *Survey of Consumer Finances 1989, 1992, 1995, 1998, 2001, 2004, 2007, 2010.* Federal Reserve Board: Washington, DC. Available at: *www.federalreserve.gov/pubs/oss/oss2/scfindex.html.*

energy savings were zero or negative and stated that figures should be added to the results because missing data points would skew the findings. NEMA stated that DOE should factor CSLs' negative impacts into the analysis or give reasons why figures should not be included. (NEMA, No. 36 at pp. 15–16) EEI attributed the ''NR'' to the baseline and CSL 1 lamps having the same nominal and rated wattages. EEI urged DOE to show the energy savings for every event, even if they are zero. As the event is a possibility under standards, it will be an economic cost to the consumer and the results need to be factored into the analysis and reported numerically rather than ''NR.'' (EEI, Public Meeting Transcript, No. 30 at pp. 245–246)

In the preliminary analysis for the lamp replacement scenario, DOE utilized ''NR'' to indicate that no replacement option existed that reduced energy consumption at a given efficacy level because the lamp wattage at the higher efficacy level was the same as the baseline and the higher efficacy lamp was operated on the same ballast. DOE revised its NOPR engineering analysis to consider lamps that do not reduce energy consumption. These were incorporated into the NOPR LCC analysis. See section VI.D.2.e for further details on lamp-and-ballast systems developed in the engineering analysis.

Regarding the instant start 4-foot MBP results, EEI also noted that another lamp at CSL 2 had the same nominal and rated wattage as the baseline lamp, but shows positive energy savings. EEI asked for an explanation for the reported positive energy savings where EEI would not expect there to be any. (EEI, Public Meeting Transcript, No. 30 at pp. 245–246) For the 4-foot MBP instant start lamps at CSL 2 with the same nominal and rated wattage as the baseline lamp, the BF of the ballast on which the higher efficacy lamp was operating was lower than the BF of the ballast on which the baseline lamp was operating. A lamp-and-ballast system with a more efficacious, similar wattage lamp and lower BF ballast will consume less energy while maintaining similar light output compared to the baseline system. DOE considered ballasts with varying BFs in the ballast failure event and new construction and renovation event.

Lutron expressed concern that there were positive LCC savings only for reduced wattage lamp replacements. Lutron questioned whether DOE was taking into account the probable increased use of dimming systems in the future, especially in new construction and renovation. As reduced wattage lamps are not compatible with dimming, their LCC savings would likely be lower than shown, but would be greater if total energy use was taken into account. (Lutron, Public Meeting Transcript, No. 30 at p. 251) DOE accounts for lighting controls in the LCC in a sensitivity analysis. See section VI.F.2 and appendix 8B of the NOPR TSD for more details.

NEEP provided information that some of the ballast failure scenarios included in the analysis are very uncommon. For example, DOE analyzed T8 programmed start ballasts when the vast majority of existing ballasts are instant start. (NEEP, No. 33 at p. 3)

Although certain ballast scenarios may be less common, DOE's research indicates that they are already in use and increasing in market share. In the 2011 Ballast Rule,[70] DOE analyzed programmed start ballasts for 4-foot MBP lamps directly due to their increasing market share. Programmed start ballasts are typically used in applications with frequent switching such as those with occupancy sensors. Because lighting controls are becoming more common, as discussed in section I.A.1.a, the use of programmed start ballasts is expected to increase. Additionally, DOE notes that the start year of the analysis is 2017 and, therefore, it was appropriate to include programmed start ballasts because of their expected increase in market share. DOE continued to include these scenarios in the LCC NOPR analysis.

CA Utilities questioned why DOE had not considered delamping scenarios, using high ballast factors such as 1 or 1.15, adding reflectors, or other kinds of optimized retrofits. (CA IOUs, Public Meeting Transcript, No. 30 at pp. 253–254) The CA IOUs stated that there would be scenarios where DOE could use such measures to optimize cost-effectiveness. (CA IOUs, Public Meeting Transcript, No. 30 at p. 254) However, EEI reasoned that there are too many other options and materials that could be included, and some of them would be possibilities for the baseline lamps as well, such as reflectors and ballasts with tandem wiring. EEI concluded that if DOE attempts to account for all possible scenarios, the analysis may no longer reflect what is actually happening with lamp efficacy or the most likely retrofit or new construction scenario in the presence of amended standards. (EEI, Public Meeting Transcript, No. 30 at pp. 254–256)

NEEA noted that delamping is a fairly common scenario, especially if DOE considers lighting retrofit as renovation, and NEEA stated they may have some data on such scenarios. (NEEA, Public Meeting Transcript, No. 30 at pp. 256) GE agreed that delamping is a very typical situation when moving from T12 to T8 systems. GE noted, however, that in a T8 to T8 analysis, delamping would be much less likely. GE agreed that the practice was common in the past, but did not anticipate it being that common going forward. (GE, Public Meeting Transcript, No. 30 at pp. 256–257)

DOE did not analyze delamping in the preliminary analysis. Available information indicates that delamping is not a common retrofit for T8 fluorescent systems. DOE received feedback during manufacturer interviews that delamping was previously very common with T12 systems as these systems were typically designed such that spaces were overlit. However, delamping is not common with T8 systems because lumen output levels have already been reduced to comply with newer recommended lighting levels and building codes. Therefore, DOE maintained its assumption and did not considering delamping in the NOPR analysis.

DOE also received comments regarding rare earth oxide prices and their impact on lamp prices and costs to the consumer. NEMA stated that to make products conforming to the 2009 Lamps Rule, the most efficacious rare earth phosphors are used. This leaves only the amount of rare earth phosphors in each lamp as a design option for achieving higher efficacy. Additionally, NEMA noted that while the phosphor weight is increased linearly, the correlating efficacy gain diminishes. NEMA pointed to the estimates for 4-foot T8 lamps, the most common GSFL analyzed in this rulemaking. The estimates show that to achieve the proposed 1.1 percent increase in efficacy from 89 lm/W (2009 Lamps Rule) to 90 lm/W (CSL 1), nearly 10 percent more of the associated rare earth oxide supply would be consumed. Further, to reach the CSL 2 level of 93 lm/W, more than 40 percent additional rare earth phosphors will be needed for GSFLs. NEMA anticipated that the increased demand for this critical material will impact rare earth oxide prices and increase the costs of GSFLs to U.S. consumers. (NEMA, No. 36 at p. 14)

In the preliminary analysis, DOE conducted a sensitivity analysis in the LCC using low and high rare earth oxide

[70] The final rule amending energy conservation standards for fluorescent lamp ballasts published in 2011 with a compliance date of November 14, 2014. 76 FR 70548 (Nov. 14, 2011). The full text and all related documents of the 2011 Ballast Rule can be found on regulations.gov, docket number EERE–2007–BT–STD–0016 at *www.regulations.gov/#!docketDetail;D=EERE-2007-BT-STD-0016.*

prices developed based on historical oxide price data to assess the impact on the cost to consumer purchasing a GSFL. Because the rare earth oxide prices have stabilized since hitting a peak in 2011, DOE conducted a sensitivity analysis using only a forecasted high rare earth oxide price in the NOPR analysis. See section VI.I and appendix 11B for further information on the methodology used to develop rare earth oxide prices. DOE also utilized information provided by NEMA on how the amount of phosphor varies with efficacy to develop rare earth oxide costs attributable to different ELs. The results of this sensitivity are presented in appendix 8B of the NOPR TSD. Further, DOE also assessed the maximum possible increase in rare earth oxide prices that would maintain positive LCC savings for consumers at each EL. See appendix 7B of the NOPR TSD for results of this analysis.

15. Incandescent Reflector Lamp Life-Cycle Cost Results in the Preliminary Analysis

A member of Congress commented that the July 2012 standards raised consumer prices on IRLs from approximately $4.50 to $8. The member anticipated that additional regulations would likely further increase the price to $10–12, while the return on investment based on energy savings would be 8 to 10 years. In this economic climate, the member believed imposing additional regulations on IRL manufacturers would be bad public policy. (Barr, No. 25 at p. 2)

The weighted average lamp prices that DOE calculated for IRLs in this NOPR analysis are similar to the prices the member of Congress provided. (See chapter 7 of the NOPR TSD for further information.) In the LCC analysis, DOE calculates the payback period, which is the amount of time it takes the consumer to recover the assumed higher purchase cost of a more-efficacious product through lower operating costs (*i.e.,* energy savings). DOE considers the calculated payback periods, as well as impacts on manufacturers when determining if a TSL is economically justified. Please see section VII.C of this NOPR for more details on the selection of the proposed TSL.

H. Consumer Subgroup 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. In the preliminary analysis, DOE stated it was considering the following subgroups for analysis: Low-income consumers, institutions of religious worship, and institutions serving low-income consumers.

EEI generally agreed with the consumer subgroups considered, but noted that how the current RECS data is structured would affect the analysis. EEI specifically questioned whether RECS broke out energy data specific to the poverty level. (EEI, Public Meeting Transcript, No. 30 at pp. 352–353) DOE notes that RECS data specifies whether consumers are at or below 100 percent of the poverty line. DOE believes this data is appropriate to conduct an LCC analysis on the low-income consumer subgroup.

In the NOPR analysis, DOE evaluated low-income consumers and institutions that serve low-income populations (*e.g.,* small nonprofits) as subgroups. However, DOE did not evaluate institutions of religious worship as a subgroup. In the 2009 Lamps Rule, DOE found that institutions of religious worship operate for fewer hours per year than any other building type in the commercial sector according to U.S. LMC: Volume I[71] data. DOE's review of the 2010 LMC data indicated that the operating hours of institutions of religious worship are comparable to other commercial building operating hours. Therefore, because they do not have inputs to the LCC that would be different from the main LCC analysis, DOE did not analyze them as subgroups. The NOPR TSD chapter 9 presents the results of the consumer subgroup analysis.

I. Shipments Analysis

DOE uses projections of product shipments to calculate the national impacts of standards on energy use, NPV, and future manufacturer cash flows. DOE develops shipment projections based on historical data and an analysis of key market drivers for each product. Historical shipments data are used to build up an equipment stock and also to calibrate the shipments model. The details of the shipments model are described in chapter 11 of the NOPR TSD.

The shipments model projects shipments of GSFLs and IRLs over a thirty-year analysis period for the base case (no standards) and for all standards cases. DOE invites comment on this choice of analysis period. Separate shipments projections are calculated for the residential sector and for the commercial and industrial sectors. The shipments model used to estimate GSFL and IRL lamp shipments for this rulemaking has four main interacting elements: (1) A lamp demand module that estimates the demand for GSFL and IRL lighting for each year of the analysis period; (2) a price-learning module, which projects future prices based on historic price trends; (3) substitution matrices, which specify the product choices available to consumers (lamps as well as lamp-and-ballast combinations for fluorescent lamps) depending on whether they are renovating lighting systems, installing lighting systems in new construction, or simply replacing lamps; and (4) a market-share module that assigns shipments to product classes, ballasts, and lamp options, based on consumer sensitivities to first costs (prices) and operation and maintenance costs.

The lamp demand module first estimates the lumen demand for GSFL and IRL lighting. The lumen demand calculation assumes that sector-specific lighting capacity (maximum lumen output of installed lamps) remains fixed per square foot of floor space over the analysis period. Floor space changes over the analysis period according to the EIA's *AEO 2013* projections of residential and commercial floor space; industrial floor space is assumed to grow at the same rate as commercial floor space. A lamp turnover calculation estimates shipments of lamps in each year given the initial stock, the expected lifetimes of the lamps (and ballasts for GSFLs), and sector-specific assumptions on operating hours. The turnover model attempts to meet the lumen demand as closely as possible, subject to the constraint that the areal density of lighting fixtures is fixed for existing buildings that are not renovated.

The lamp demand module accounts for the penetration of LED lighting into the GSFL and IRL markets. The reference assumption for LED market penetration is based on projections developed for DOE's Solid-State Lighting (SSL) Program.[72] The SSL Program projections extend only to 2030; DOE extrapolated to the end of the shipments forecast period. In the preliminary analysis, DOE assumed an upper limit on market penetration of 80

[71] U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy. Energy Conservation Program for Consumer Products: Final Report: U.S. Lighting Market Characterization, Volume I: National Lighting Inventory and Energy Consumption Estimate. 2002. Washington, DC <*http://apps1.eere.energy.gov/buildings/publications/pdfs/ssl/lmc_vol1_final.pdf*>.

[72] Navigant Consulting, Inc. *Energy Savings Potential of Solid-State Lighting in General Illumination Applications.* U.S. DOE Solid State Lighting Program, January 2012. Available at *http://apps1.eere.energy.gov/buildings/publications/pdfs/ssl/ssl_energy-savings-report_jan-2012.pdf.*

percent for IRLs, 70 percent for commercial GSFLs, and 60 percent for residential GSFLs.

Philips questioned why DOE did not expect LEDs to take over the entire market. (Philips, Public Meeting Transcript, No. 30 at p. 270) Given that LED technology has been progressing faster than expected, DOE has revised its analysis and is now fitting the technology adoption curve, allowing an entire market takeover by LEDs. Given the best fit to the SSL forecast, DOE estimates that LEDs will achieve close to 100 percent penetration in both the GSFL and IRL markets by 2046.

The shipments model accounts for the use of lighting controls, including dimming and on-off controls, because controls affect ballast and lamp requirements and therefore lifetimes and shipments. The reference assumption for lighting system controls for the commercial sector is that state building energy code requirements for lighting controls remain constant at current levels, as does the ratio of voluntary to code-driven demand. Because code provisions are implemented only in new construction and building renovations that meet certain threshold requirements, code-driven implementation of lighting controls grows in slowly over time.

GE noted that, in the future, an increasing number of fluorescent systems will be controlled and dimmed in the commercial sector. GE pointed to an increase of controls requirements in commercial building codes and suggested that the initial five percent dimming population assumed in the analysis increase over the analysis period. (GE, Public Meeting Transcript, No. 30 at p. 217) EEI stated that, given the amount of dimmers in office spaces, they expected the percentage of lamps in the commercial sector that are on controls to be higher. (EEI, Public Meeting Transcript, No. 30 at pp. 216–217) EEI noted that the next edition of ASHRAE 90.1–2013, contains more control systems requirements for more lighting fixtures. (EEI, Public Meeting Transcript, No. 30 at p. 218)

DOE is aware that current building codes will lead to an increase in the fraction of lamps coupled to lighting control systems. Accordingly, DOE included a projection of growth in the fraction of commercial floor space subject to such building codes. The result is that the fraction of floor space utilizing various types of controls grows from 30 percent today to a projected value of 80 percent in 2046.

The CA IOUs stated that dimming ballasts will become more common with time. Specifically, the CA IOUs noted that California's Title 24 will require all new commercial buildings, and most lighting renovations in existing commercial buildings, to install dimming ballasts beginning January 2014. (CA IOUs, No. 32 at pp. 13–14) Lutron asked if DOE took California's Title 24 into account. (Lutron, Public Meeting Transcript, No. 30 at p. 218) The CA IOUs noted that Title 24 would not have been included in the 2010 LMC because the provision was passed after the 2010 LMC was published. (CA IOUs, Public Meeting Transcript, No. 30 at pp. 218–219)

DOE is aware that current building energy codes will lead to an increase in the fraction of lamps coupled to lighting control systems and dimming ballasts. Accordingly, in the shipments analysis and NIA, DOE included a projection of growth in the fraction of commercial floor space subject to such state codes, including California's Title 24 requirements, as renovations and new construction trigger compliance requirements. As mentioned previously, the result is that the fraction of floor space utilizing controls grows from 30 percent today to a projected value of 80 percent in 2046. DOE assumed that 26 percent of control systems for GSFL applications include dimming ballasts, based on data in the 2010 LMC.[73] Based on assumptions of the fraction of each control type that relies on a dimming ballast, DOE projects that the market share of dimming ballasts grows from an estimated 8 percent at present to an estimated 20 percent in 2046. DOE seeks input on the current fraction of GSFL ballast shipments that are dimming ballasts and the likely rate of growth of dimming ballasts in the future. The details of the analysis on controls and dimming are presented in chapter 11 and appendix 11A of the NOPR TSD.

The price-learning module estimates lamp and ballast prices in each year of the analysis period using a standard price-learning model.[74] The model is calibrated using three decades of historic data on the volume and value of fluorescent and PAR lamp shipments in the U.S. market, from which cumulative shipments and average prices are derived. Prices and cumulative shipments are fit to an experience curve. They are then augmented in each subsequent year of the analysis based on the shipments determined for the prior year by the module that assigns shipments to product classes and ELs. The current year's shipments, in turn, affect the subsequent year's prices. As shown in chapter 11 of the NOPR TSD, because fluorescent and PAR lamps have been on the market for decades, cumulative shipments are changing slowly, therefore experience curve effects are relatively small—an effect that is further constrained by the expected incursion of solid-state lighting into the GSFL and IRL markets.

The market-share module apportions the lamp and ballast shipments in each year among the different product classes, ballast types, and lamp options based on consumer sensitivities to first costs and operation and maintenance costs. To determine the prices used as inputs to the market-share module, DOE uses the ballast prices, weighted average lamp prices, and installation costs developed in the engineering and LCC analyses. The operation and maintenance costs are based on the power required to operate a particular lamp-and-ballast system, the price of electricity, and the annualized cost of lamp replacements over the lifetime of that system. To enable a fair comparison between systems with different light output, the module considers the prices and operating and maintenance costs computed per kilolumen of light output. For consumers replacing lamps on existing ballasts, only the lamp-related prices and energy costs are considered by the market share module. For consumers replacing an entire lamp-and-ballast system, the full price of the system, as well as the energy and annualized relamping costs, are considered. In this case, the comparison between different ballast types and product classes is made by considering a representative lamp-and-ballast combination.

The ballast types and lamp options considered in the shipments model were determined in the engineering analysis. Whereas the earlier analyses considered only lamp-and-ballast combinations that save energy relative to the baseline system, the shipments analysis allows consumers to choose among all different lamp-and-ballast systems. These lamp-and-ballast combinations include full wattage and reduced wattage lamps coupled to ballasts with high, normal, or low ballast factors, and dimming ballasts. Programmed start and instant start ballasts are also considered separately,

[73] U.S. Department of Energy—Energy Efficiency & Renewable Energy Building Technologies Program. *2010 U.S. Lighting Market Characterization.* January 2012. Washington, DC. *http://apps1.eere.energy.gov/buildings/publications/pdfs/ssl/2010-lmc-final-jan-2012.pdf.*

[74] For discussion of approaches for incorporating learning in regulatory analysis, see Taylor, Margaret, and Sydny K. Fujita. *Accounting for Technological Change in Regulatory Impact Analyses: The Learning Curve Technique.* Berkeley: Lawrence Berkeley National Laboratory, 2013. LBNL–6195E.

where appropriate. DOE limits or excludes lamp-and-ballast combinations that DOE's research indicates would not provide acceptable performance or would only do so in limited circumstances. The remaining combinations allow for a variety of different energy-saving and non-energy-saving options relative to the baseline. Details of the selection of allowable lamp-and-ballast combinations are given in chapter 11 of the NOPR TSD.

The market-share module allows for the possibility that consumers will switch among the different product classes, ballast types, and lamp options over time. Substitution matrices were developed to specify the product choices available to consumers (lamps as well as lamp-and-ballast combinations), depending on whether they are renovating lighting systems, installing lighting systems in new construction, or simply replacing lamps, and depending on the particular lighting application. In this way, the module assigns market shares to the different product classes, ballast types, and ELs based on historical observations of consumer sensitivity to price and to operating and maintenance costs.

The market-share module incorporates a limit on the diffusion of new technology into the market using the widely accepted Bass adoption model,[75] the parameters of which are based on historic penetration rates of new lighting technologies into the market. It also accounts for other observed deviations from purely price- and cost-driven behavior using an acceptance factor, which sets an upper limit on the market share of certain product classes and lamp options that DOE research indicates are acceptable only to a subset of the market. The available options depend on the case under consideration; in each of the standards cases corresponding to the different TSLs, only those lamp options at or above the particular standard level in each product class are considered to be available.

Because DOE executes the market-share module for the base case and each of the standards cases independently, the shipments analysis allows for the possibility that setting a standard on one product class could shift market share toward a different product class. The costs and benefits accruing to consumers from such market share shifts are fully accounted for in the NIA.

When the shipments model selects lamps for replacement, renovation, or new construction, it accepts only lamps or lamp-and-ballast combinations that retain lumen capacity within acceptable bounds. DOE received a number of comments on what consumers would find acceptable in terms of changes in light levels.

NEMA stated that while, in the past, it was common practice to reduce light levels by 10 percent or more when retrofitting from a T12 to a T8 lighting system, this was because the older lighting systems were typically designed to higher light levels. NEMA commented that, over the years, light level requirements specified by IESNA have been reduced, so future 4-foot linear fluorescent systems will already be operating at the appropriate lower light levels, and further light level reductions of 6 percent to 14 percent cannot be justified against the T8 systems operating in 2018. NEMA stated that DOE should seek to match the existing light levels within a plus or minus 5 percent range. (NEMA, No. 36 at p. 8)

The CA IOUs commented that scenarios in which lighting designers would specify an increase in light output instead of a reduction in system wattage will not be common in the commercial sector because (1) commercial occupants are often very sensitive to changes in workplace lighting and react negatively to light increases; and (2) commercial building operators are very sensitive to operating costs. The CA IOUs further stated that commercial building operators will prefer a retrofit option that will result in energy cost savings (without significantly reducing the light levels) over another option that increases light and doesn't save energy (unless the space was known to be underlit). The CA IOUs stated that, where DOE has a standards-case modeling choice between a lighting retrofit that would result in an increase of light levels of between 0 percent and 10 percent with no energy cost savings, and another that would result in a decrease of light levels of between 0 percent and 10 percent with energy cost savings, DOE should model the energy-saving option as the most likely scenario for consumers. (CA IOUs, No. 32 at p. 14) NEEA and NPCC commented on the modeled lamp or lighting system replacement options in which light output levels are increased 10 percent or more instead of maintaining light levels with an appropriate reduction in system power use. They contended that it is highly unlikely that a lighting retrofit or lamp replacement project would be undertaken that would result in a light output increase without using the opportunity to save energy (which often pays for or helps pay for the retrofit). (NEEA and NPCC, No. 34 at pp. 2, 4)

As discussed previously, based on manufacturer feedback, DOE determined that consumers would not notice a change in light output that is up to 10 percent, and that some consumers will choose to reduce light levels beyond 10 percent to conserve energy. Accordingly, in the shipments analysis, DOE assumes that consumers choose between lighting systems within 10 percent of current light output by considering the trade-off between first cost and operating costs, and not the relative light output. In this approach, systems that save energy in a cost-effective way will tend to be selected over systems that increase light output without saving energy. DOE further assumes that the fraction of the market that will accept larger reductions in lumen output is fixed throughout the analysis period. The size of this market segment was estimated from the current market share of reduced wattage lamps that reduce light levels by more than 10 percent compared to the baseline lamp. The model does now allow cumulative reductions in light levels. The model retains national average light levels within 10 percent of the average level at the beginning of the analysis period. No potential standards considered in this analysis lead to average light levels outside of this range.

The CA IOUs commented that there are a number of tools available to lighting designers to reduce system wattage while maintaining acceptable light levels. These options include installing lower wattage lamps, reducing ballast factors, delamping, or installing dimming ballasts. (CA IOUs, No. 32 at pp. 13–14) NEEA and NPCC commented that, if a 32 W T8 lamp replacement is undertaken, there are options available for maintaining acceptable light output while reducing energy use, such as 30 W and 28 W T8s, ballasts with a lower ballast factor, and dimming ballasts. (NEEA and NPCC, No. 34 at pp. 2, 4) NEMA commented that the energy consumption of GSFL systems is highly dependent on ballast selection and pairing, and asserted that NES of lighting systems will not be affected significantly by this proposed rulemaking on GSFL efficacy due to the overwhelming influence of ballast selection on final performance. (NEMA, No. 36 at p. 1)

DOE is aware of the substantial impact of the ballast and lamp choice on the energy consumption of a lamp-and-ballast system. As discussed earlier in this section, the shipments analysis explicitly models the possibility that

[75] Bass, F.M. A New Product Growth Model for Consumer Durables. *Management.* 1969. 15(5): pp. 215–227.

consumers will choose to reduce their ballast factor during a renovation or retrofit or switch to reduced wattage lamps when relamping an existing system. In addition, this analysis models the growth of dimming ballasts in the market and allows a variety of lamps to be coupled to dimming ballasts to achieve a fixed light output. Thus, when high-efficacy lamps are coupled to dimming ballasts, the overall energy savings are greater than those that are achieved when lower-efficacy lamps are coupled to dimming ballasts. DOE assigns market share to these lamp-and-ballast pairings using a model based on historical consumer sensitivity to price and operating costs. When a particular pairing saves energy in a cost-effective manner compared to other pairings, its market share is increased compared to less cost-effective options. Given that the lamp options considered in this rulemaking represent a fairly narrow range in lumen output within each product class, DOE does not consider delamping to be a likely means of saving energy for consumers who are only replacing failed lamps (see section VI.D.2.e for more information on delamping). The shipments model, however, allows for the possibility that consumers will alter the number of lamps per square foot during renovations to maintain light levels.

NEMA commented that reduced wattage lamps have limited utility as a substitute for full wattage lamps. NEMA noted that, while standard fluorescent lamp technology dims reliably, more efficient krypton-filled fluorescent lamps do not dim reliably in many applications. (NEMA, No. 36 at p.6) The CA IOUs stated that California's Title 24 requirement for controls in new buildings will result in high efficacy, full wattage T8s capable of dimming to custom light levels, ensuring higher efficacy lamps yield greater energy savings. (CA IOUs, No. 32 at p. 14) The Northeast Energy Efficiency Partnership (NEEP) also noted that high efficacy lamps do not impede control capabilities. NEEP commented that, while manufacturers had said that adding control functionality to a fluorescent fixture was the next frontier of efficiency for GSFLs, regional program administrators have not reported concerns that high efficacy GSFLs sacrifice dimming capabilities. (NEEP, No. 33 at p. 2)

DOE's research indicates that krypton gas is generally used to reduce the wattage of lamps and that full wattage lamps can generally be dimmed reliably. DOE notes that full wattage lamp options are available for all product classes at all efficacy levelss considered in this analysis. Also, as discussed previously, DOE found that dimming ballasts for 4-foot MBP lamps are commonly marketed as compatible with reduced wattage lamps, which are presumably krypton filled. Accordingly, in the shipments analysis and the NIA, DOE allows all full wattage lamp options to be coupled to dimming ballasts. DOE also allowed reduced wattage options in the 4-foot MBP category to be coupled to dimming ballasts, but, because the range of applications for this combination is restricted, DOE limits its market share in the analysis. DOE welcomes input on the assumption that a limited fraction of reduced-wattage 4-foot MBP lamps may be coupled to dimming ballasts.

NEMA commented on the issue of lamp replacement upon ballast failure. NEMA contends that when a residential ballast fails, residential GSFL consumers tend to first try to replace the lamp, and when that fails they replace the entire fixture, discarding the lamps from the old fixture. The effect is to reduce the lamp's usage life below its potential and therefore to increase shipments. (NEMA, No. 36 at p. 16) The shipments model assumes that when a residential ballast fails, all associated lamps are assumed to be replaced.

Rare earth oxides are used in GSFL phosphors to increase their efficiency. The shipments model considers the potential impact of changes in rare earth oxide prices on fluorescent lamp prices and, thereby, on GSFL shipments. Large increases in rare earth oxide prices in 2010 and 2011 raised manufacturer concerns that future price increases could have adverse impacts on the market. DOE developed shipments scenarios in its preliminary analysis to reflect uncertainties in the prices of rare earth oxides.

In the preliminary analysis, DOE assumed that the rare earth phosphor content was the same at all considered efficacy levels for each lamp type. NEMA stated that there is a relationship between rare earth phosphor content and efficiency. Specifically, NEMA indicated that to increase the efficacy of 4-foot MBP GSFLs from 89 to 90 lm/W would require 10 percent more rare earth phosphor and to reach 93 lm/W would require a 40 percent increase in rare earth phosphor. (NEMA, No. 36 at p. 14) Based on an examination of fluorescent lamp patents, DOE agrees with NEMA's comment, and has adjusted its analysis accordingly, as described in appendix 11B of the NOPR TSD.

In the preliminary analysis, DOE's reference case assumed that rare earth phosphor prices would remain constant at the October 2012 level, but DOE acknowledged the uncertainty about prices and included a scenario with much higher prices. NEEP commented that DOE appropriately addressed the variability of rare earth phosphor prices in the preliminary analysis. (NEEP, No. 33 at pp. 2–3) NEMA commented that rare earth phosphors are likely to remain critical (*i.e.,* volatile), that prices are more likely to go up than down, and suggested that DOE consult Dr. Alex King of the Critical Materials Institute of the Ames Laboratory on the subject. (NEMA, No. 36 at p. 14)

DOE examined the rare earth market and believes that the very large reduction in rare earth prices seen since the 2011 peak may represent some stabilization of the market, but it still considers future rare earth prices significantly uncertain.[76] DOE therefore considered two price scenarios in its shipments modeling for GSFLs, as described in appendix 11B of the NOPR TSD. The reference scenario assumes that rare earth prices remain fixed at their September 2013 level. The high rare earth price scenario assumes an average rare earth price 3.4 times the reference level, representing a value that is half way between the low pre-2010 baseline price and the 2011 peak price. This scenario represents the average price of regular price fluctuations between the peak and baseline amounts. The impact of the latter scenario on the results is discussed in section 0. DOE invites comment on its assumptions about future prices of rare earth elements.

Stakeholders also commented on the possibility of future scarcity in the supply of xenon gas, which could affect future prices of IRLs. NEMA commented that xenon is becoming increasingly scarce and that its loss would result in a 5 to 7 percent reduction in IRL efficacy, making it impossible to meet CSL 1 of the preliminary analysis (20 lm/W). NEMA advised DOE to investigate xenon availability trends and future prices. (NEMA, No. 36 at p. 3)

[76] DOE conferred with Dr. King, who indicated that a good comparison can be made between rare earths and cobalt, which are comparable (within about a factor of ten) in abundance in the earth's crust. In 1978, world cobalt supplies were dominated by a single source (Zaire). In 2010, rare earth supplies were dominated by a single source (China). In 1978, the use of cobalt was growing both in existing and emerging technologies. The same is true for rare earths today. Following the 1978 crisis, new cobalt mines opened, and substitute materials were developed. Markets are pursuing the same paths for the rare earths today. DOE examined inflation-adjusted cobalt prices from 1970 through 2012 and found that cobalt prices did continue to remain volatile, although later price fluctuations were less than half of the initial price peak seen in 1978.

The CA IOUs commented that xenon is already used as the primary gas fill in most IRLs and that future efficacy standards should not be affected by potential constraints on xenon supply or xenon price fluctuations. (CA IOUs, No. 32 at p. 9) NEEA pointed out that there is no current shortage of xenon gas fill and that a new standard would not require any significant amount of increased xenon supply. Therefore, the supply and price of xenon should not be an issue for the rulemaking. (NEEA, No. 34 at p. 2)

To assess the need for further investigation, DOE conducted a sensitivity analysis on the potential impact on the rulemaking of a ten-fold increase in xenon prices. The impact of the latter scenario on the results is discussed in section 0.. DOE welcomes input on its assumptions regarding the future price of xenon gas.

J. National Impact Analysis—National Energy Savings and Net Present Value Analysis

The NIA assesses the NES and the national NPV of total consumer costs and savings expected to result from amended standards for GSFLs and IRLs at specific efficacy levels. Analyzing impacts of potential energy conservation standards for GSFLs and IRLs requires comparing projections of U.S. energy consumption with amended energy conservation standards against projections of energy consumption without the standards (the base case).

Because the shipments model allows for substitutions across product classes, to understand the impact of setting a standard at any given level for any given product class, the impact on all other product classes must be considered. Therefore, in addition to conducting the analysis for the covered products as a whole, DOE evaluated the NPV and NES by product class to determine the impact of consumer switching between product classes. The NIA was developed in a Microsoft Excel spreadsheet,[77] allowing access to a broad range of scenario assumptions for conducting sensitivity analyses on specific input values.

TABLE VI.14—INPUTS FOR THE NATIONAL IMPACT ANALYSIS

Input	Description
Shipments	Annual shipments from shipments model.
Compliance date of standard	January 1, 2017.
Base case efficiencies	Estimated by market-share module of shipments model.
Standards case efficiencies	Estimated by market-share module of shipments model.
Annual energy consumption per unit	Calculated for each efficacy level and product class based on inputs from the energy use analysis.
Total installed cost per unit	Lamp prices by efficacy level, ballast prices by ballast type, and lamp and ballast installation costs. The weighted average prices and installation costs developed in the engineering analysis and LCC analysis were used.
Electricity expense per unit	Annual energy use for each product class is multiplied by the corresponding average energy price.
Escalation of electricity prices	*AEO 2013* forecasts (to 2040) and extrapolation beyond 2040.
Electricity site-to-primary energy conversion	A time series conversion factor; includes electric generation, transmission, and distribution losses.
Discount rates	3% and 7% real.
Present year	2013.

1. National Energy Savings

The inputs for determining the NES for each product class are: (1) Lamp shipments; (2) annual energy consumption per unit; (3) installed stocks of lamps (coupled to each analyzed ballast type for GSFLs) in each year; and (4) site-to-primary energy and FFC conversion factors. The lamp stocks were calculated by the shipments model for each year of the analysis period from the prior year's stock, minus retirements, plus new shipments, accounting for lamp and ballast lifetimes. DOE calculated the national electricity consumption in each year by multiplying the number of units of each product class and EL in the stock by each unit's power consumption and operating hours. The power consumption is determined by the lamp wattage and, for each GSFL, by the ballast type to which each lamp is coupled. The operating hours are given by taking a weighted average of the distributions developed in the LCC analysis. The electricity savings are estimated from the difference in national electricity consumption by GSFL between the base case (without new standards) and each of the standards cases for lamps shipped during the 2017–2046 period.

NEMA commented that DOE appears to be using a new (arbitrary) 70-year period in its analysis and requested explanation and justification for examining such a long stretch of time. (NEMA, No. 36 at pp. 2–3) In the NIA, DOE accounts for the lifetime impacts of the products shipped during a 30-year period. In the case of GSFLs and IRLs, most of the products are retired from the stock within five years. The lifetime distribution used by DOE shows a small number of lamps shipped for use in homes at the end of the 30-year shipments analysis period survive for much longer. While the energy use of these lamps is insignificant to the overall results, the calculation period for the NIA is extended to account for them.

DOE accounted for the impact of lighting system controls on lighting energy use as well as on lamp shipments, as discussed in the previous section. NEEA noted that as many as a third of commercial building control systems do not achieve their design performance and thus yield a smaller energy savings than expected. (NEEA, No. 30 at pp. 317–318) DOE understands that many lighting control systems may not achieve the savings for which they were designed. Accordingly, the estimated average energy reduction from controls is based on a meta-analysis of studies on the performance of actual lighting controls systems in the field.[78]

NEMA pointed out that light output and input power do not scale linearly for dimming GSFL systems due to the increasing importance of cathode heat

[77] Available at *www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/24.*

[78] Williams, A., B. Atkinson, K. Garbesi, E. Page, and F. Rubinstein (2012). Lighting controls in commercial buildings. *Leukos* 8(3): 161–180. *www.ies.org/leukos/samples/1_Jan12.pdf.*

power at reduced light levels. (NEMA, No. 36 at p. 14) DOE recognizes the need for cathode heating in dimming ballast systems and has included this effect in its energy consumption calculations. In particular, the shipments analysis and NIA use power consumption assumptions identical to those used in the engineering analysis, which account for cathode heating in dimming systems.

NEMA expressed concern that the highest considered efficacy levels would lead to the loss of reliable dimming and would have a negative impact on NES. NEMA asserted that, in future years, most of the energy savings from fluorescent lighting will be achieved through the increased use of lighting controls, not through increasing the efficacy of lamps, and that an aggressive standard on lamp efficacy could make these savings unachievable. (NEMA, No. 36 at p.6) NEMA further suggested that DOE perform and report an analysis of the impacts of the loss of dimming savings for efficacy levels that they claimed will drive out dimmable lamps in favor of low wattage versions. NEMA asserted that this would show a negative impact on the market and payback. They contended that increased efficiency and dimmability are inversely proportional. (NEMA 36 at p.17)

As discussed in the previous section, DOE modeled the growth of dimming ballasts in the shipments analysis and excluded or limited, as appropriate, the coupling of reduced wattage lamps to these ballasts. Therefore, the issues discussed in the previous comment are accounted for, and the NES and NPV results include any potential loss of dimming functionality.

DOE accounts for the direct rebound effect in its NES analyses. Direct rebound reflects the idea that, as appliances become more efficient, consumers use more of their service because their operating cost is reduced. In the case of lighting, the rebound could be manifested in increased hours of use or in increased lighting density (fixtures per square foot). Based on information evaluated for the preliminary analysis, DOE assumed no rebound for the residential or commercial lighting in its reference scenario for the NOPR analysis. DOE also conducted a sensitivity analysis on the rebound rate, which is presented in chapter 12 of the NOPR TSD. DOE welcomes comment on its assumptions and methodology for estimating the rebound effect for the products covered in this NOPR, including potential magnitudes of rebound effects.

DOE converted the site electricity consumption and savings to primary energy (power sector energy consumption) using annual conversion factors derived from the *AEO 2013* version of NEMS. Cumulative energy savings are the sum of the NES for each year in which product shipped during 2017 through 2046 continue to operate.

In 2011, in response to the recommendations of a committee on ''Point-of-Use and Full-Fuel-Cycle Measurement Approaches to Energy Efficiency Standards'' appointed by the National Academy of Science, DOE announced its intention to use FFC measures of energy use and GHG and other emissions in the NIA and emissions analysis included in future energy conservation standards rulemakings. 76 FR 51281 (August 18, 2011). While DOE stated in that notice that it intended to use the Greenhouse Gases, Regulated Emissions, and Energy Use in Transportation (GREET) model to conduct the analysis, it also said it would review alternative methods, including the use of EIA's NEMS. After evaluating both models and the approaches discussed in the August 18, 2011 notice, DOE published a statement of amended policy in the **Federal Register** in which DOE explained its determination that NEMS is a more appropriate tool for this specific use. 77 FR 49701 (August 17, 2012). Therefore, DOE is using a NEMS-based approach to conduct FFC analyses. The approach used for today's NOPR is described in appendix 12C of the NOPR TSD.

2. Net Present Value of Consumer Benefit

The inputs for determining the NPV of the total costs and benefits experienced by consumers of the considered product are: (1) Total annual installed cost; (2) total annual savings in operating costs; and (3) a discount factor to calculate the present value of costs and savings. DOE calculated net savings each year as the difference between the base case and each standards case in terms of total savings in operating costs versus total increases in installed costs. DOE calculated savings over the lifetime of products shipped during the period starting January 1, 2017 and ending December 31, 2046. DOE calculated NPV as the difference between the present value of operating cost savings and the present value of total installed costs.

a. Total Annual Installed Cost

The total installed cost includes both the product price and the installation cost. For each product class, DOE utilized weighted average prices for each of the lamp and ballast options, as well as installation costs, as developed in the engineering and LCC analyses. DOE calculated the total installed cost for each lamp-and-ballast option and determined annual total installed costs based on the annual shipments of lamps and ballasts determined in the shipments model. As noted in section VI.I, DOE assumed that GSFL and IRL prices decline slowly over the analysis period according to a learning rate developed from historical data.

As discussed in section VI.I, DOE considered two price scenarios in its modeling for GSFLs. The reference scenario assumes that rare earth prices remain fixed at their September 2013 level. The high rare earth price scenario assumes that rare earth prices are 3.4 times higher than the reference level, representing a value at the midpoint of the low pre-2010 baseline price and the peak 2011 price. The impact of the latter scenario on the NPV results is discussed in section 0.

For IRLs, DOE conducted a sensitivity analysis on the potential impact on the rulemaking of a ten-fold increase in xenon prices. The impact of the scenario on the results is discussed in section 0.

b. Total Annual Operating Cost Savings

The per-unit energy savings were derived as described in section VI.I. To calculate future electricity prices, DOE applied the projected trend in national average commercial and residential electricity prices from the *AEO 2013* Reference case, which extends to 2040, to the energy prices derived in the LCC and payback period analysis. DOE used the trend from 2030 to 2040 to extrapolate beyond 2040. In addition, DOE analyzed scenarios that used the trends in the *AEO 2013* Low Economic Growth and High Economic Growth cases. These cases have energy price trends that are, respectively, lower and higher in the long term compared to the Reference case. These price trends, and the NPV results from the associated cases, are described in chapter 12 of the NOPR TSD.

DOE estimated that annual maintenance costs do not vary with efficiency within each product class, so they do not figure into the annual operating cost savings for a given standards case. DOE utilized the lamp disposal costs developed in the LCC analysis, along with the shipments model forecast of the lamp retirements in each year, to estimate the annual cost savings related to lamp disposal costs. In this part of the analysis, DOE assumes that 30 percent of commercial consumers are subject to disposal costs.

In calculating the NPV, DOE multiplies the net savings in future years by a discount factor to determine

their present value. DOE estimates the NPV using both a 3 percent and a 7 percent real discount rate, in accordance with guidance provided by the Office of Management and Budget (OMB) to federal agencies on the development of regulatory analysis.[79] The discount rates for the determination of NPV are in contrast to the discount rates used in the LCC analysis, which are designed to reflect a consumer's perspective. The 7 percent real value is an estimate of the average before-tax rate of return to private capital in the U.S. economy. The 3 percent real value represents the ''social rate of time preference,'' which is the rate at which society discounts future consumption flows to their present value.

K. Manufacturer Impact Analysis

1. Overview

DOE conducted separate MIAs for GSFLs and IRLs to estimate the financial impact of amended energy conservation standards on manufacturers of GSFLs and IRLs, respectively. The MIA has both quantitative and qualitative aspects. The quantitative part of the MIA relies on the GRIM, an industry cash-flow model customized for GSFLs and IRLs covered in this rulemaking. The key GRIM inputs are data on the industry cost structure, equipment costs, shipments, and assumptions about markups and conversion costs. The key MIA output is 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 case). The difference in INPV between the base and standards cases represents the financial impact of amended energy conservation standards on GSFL and IRL manufacturers. Different sets of assumptions (scenarios) produce different INPV results. The qualitative part of the MIA addresses factors such as manufacturing capacity; characteristics of, and impacts on, any particular sub-group of manufacturers; and impacts on competition.

DOE conducted the MIAs for this rulemaking in three phases. In the first phase DOE prepared an industry characterization based on the market and technology assessment, preliminary manufacturer interviews, and publicly available information. In the second phase, DOE estimated industry cash flows in the GRIMs using industry financial parameters derived in the first phase and the shipment scenarios used in the NIAs. In the third phase, DOE conducted interviews with a variety of GSFL and IRL manufacturers that account for more than 90 percent of domestic GSFL sales and more than 80 percent of domestic IRL sales covered by this rulemaking. During these interviews, DOE discussed engineering, manufacturing, procurement, and financial topics specific to each company and obtained each manufacturer's view of the GSFL and IRL industries as a whole. The interviews provided information that DOE used to evaluate the impacts of amended standards on manufacturers' cash flows, manufacturing capacities, and direct domestic manufacturing employment levels. See section VII.B.2.b of this NOPR for the discussion on the estimated changes in the number of domestic employees involved in manufacturing GSFLs and IRLs covered by standards. See section VI.K.4 of this NOPR for a description of the key issues manufacturers raised during the interviews.

During the third phase, DOE also used the results of the industry characterization analysis in the first phase and feedback from manufacturer interviews to group manufacturers that exhibit similar production and cost structure characteristics. DOE identified one manufacturer sub-group for a separate impact analysis—small business manufacturers—using the small business employee threshold of 1,000 total employees published by the Small Business Administration (SBA). This threshold includes all employees in a business' parent company and any other subsidiaries. Based on this classification, DOE identified 21 GSFL manufacturers that qualify as small businesses and 15 IRL manufacturers that qualify as small businesses. The complete MIA is presented in chapter 13 of the NOPR TSD, and the analysis required by the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., is presented in section VIII.B of this NOPR and chapter 13 of the NOPR TSD.

2. GRIM Analysis and Key Inputs

DOE uses the GRIM to quantify the changes in cash flows over time due to amended energy conservation standards. These changes in cash flows result in either a higher or lower INPV for the standards case compared to the base case (the case where a standard is not set). The GRIM analysis uses a standard annual cash flow analysis that incorporates manufacturer costs, markups, shipments, and industry financial information as inputs. It then models changes in costs, investments, and manufacturer margins that result from amended energy conservation standards. The GRIM uses these inputs to calculate a series of annual cash flows beginning with the base year of the analysis, 2013, and continuing to 2046. DOE computes INPV by summing the stream of annual discounted cash flows during the analysis period. DOE used a real discount rate of 9.2 percent for both GSFL and IRL manufacturers. The discount rate estimates were derived from industry corporate annual reports to the Securities and Exchange Commission (SEC 10-Ks). During manufacturer interviews GSFL and IRL manufacturers were asked to provide feedback on this discount rate. Most manufacturers agreed that a discount rate of 9.2 was appropriate to use for both GSFL and IRL manufacturers. Many inputs into the GRIM come from the engineering analysis, the NIA, manufacturer interviews, and other research conducted during the MIA. The major GRIM inputs are described in detail in the sections below.

a. Capital and Product Conversion Costs

DOE expects amended energy conservation standards of GSFLs and IRLs to cause manufacturers to incur conversion costs to bring their production facilities and product designs into compliance with amended standards. For the MIA, DOE classified these conversion costs into two major groups: (1) Capital conversion costs and (2) product 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. Product conversion costs are investments in research, development, testing, marketing, certification, and other non-capitalized costs necessary to make product designs comply with amended standards.

Using feedback from manufacturer interviews, DOE conducted both top-down and bottom-up analyses to calculate the capital and product conversion costs for GSFL and IRL manufacturers. DOE then adjusted these conversion costs if there were any discrepancies between the two methods to arrive at a final capital and product conversion cost estimate for each GSFL and IRL product class at each EL.

To conduct the top-down analysis, DOE asked manufacturers during manufacturer interviews to estimate the total capital and product conversion costs they would need to incur to be able to produce each GSFL and IRL product class at specific ELs. DOE then summed these values provided by manufacturers to arrive at total top-

[79] OMB Circular A–4, section E (Sept. 17, 2003). Available at: *www.whitehouse.gov/omb/circulars_a004_a-4.*

down industry conversion costs for GSFLs and IRLs.

To conduct the bottom-up analysis, DOE used manufacturer input from manufacturer interviews regarding the types and dollar amounts of discrete capital and product expenditures that would be necessary to convert specific production lines for GSFLs or IRLs to each EL. GSFL manufacturers identified upgrading and recalibrating production automation systems as the primary capital cost that would be necessary to meet higher efficacy levels for GSFLs. IRL manufacturers identified several potential capital costs that could be required to meet higher efficacy levels for IRLs. These include purchasing new burner coating machines, increasing the capacity of existing burner machines, purchasing reflector coating machines, and purchasing coiling machines, as well as other retooling costs. The two main types of product conversion costs for GSFLs and IRLs that manufacturers shared with DOE during manufacturer interviews were the engineering hours necessary to redesign lamps to meet higher efficacy standards and the testing and certification costs necessary to comply with higher efficacy standards. Once DOE had compiled these capital and product conversion costs, DOE then took average values (*i.e.,* average number of hours or average dollar amounts) based on the range of responses given by manufacturers for each capital and product conversion cost at each ELs.

The bottom-up conversion costs estimates DOE created were consistent with the manufacturer top-down estimates provided, so DOE used these cost estimates as the final values for each GSFL and IRL product class at each EL in the MIA.

See chapter 13 of the NOPR TSD for a complete description of DOE's assumptions for the capital and product conversion costs.

b. Manufacturer Production Costs

Manufacturing more efficacious GSFLs or IRLs is typically more expensive than manufacturing a baseline product due to the need for more costly materials and components. One of the primary drivers behind increased material costs is the need for enhanced reflectors and/or burner coatings for IRLs or rare earth oxides (REOs) for GSFLs, as well as the need for higher volumes of these materials. The higher manufacturer production costs (MPCs) for these more efficacious products can affect the revenue, gross margin, and lifetime of the product, which will then affect total volume of future shipments, and the cash flows of GSFL and IRL manufacturers. Typically, DOE develops MPCs for the covered products and uses the prices as an input to the LCC analysis and NIA. However, because GSFLs and IRLs are difficult to reverse-engineer, DOE derived end-user prices for the lamps covered in this rulemaking. DOE observed a range of end-user prices paid for GSFLs and IRLs depending on the distribution channel through which the lamps are purchased. DOE then developed three sets of discounts from the manufacturer blue-book prices representing low (state procurement), medium (electrical distributors and big box retailers), and high (Internet retailers) lamp prices for both GSFLs and IRLs. For more information about pricing, see section VI.E of this NOPR.

To calculate the MSP, the price at which manufacturers sell lamps to their customer, DOE calculated the distribution chain markup for the GSFL and IRL industries. DOE examined the SEC 10-Ks of publicly traded big box retail stores to determine the average retail markup for the medium end-user price distribution chain. DOE found the typical retail markup for big box stores was 1.52. DOE divided the medium end-user price for all GSFLs and IRLs by this value to arrive at MSPs for all GSFLs and IRLs. DOE invites comment on its methodology of using a 1.52 distribution chain markup in combination with the medium end-user price to estimate the MSP of all GSFLs and IRLs.

DOE also examined the SEC 10-Ks of all publicly traded GSFL and IRL manufacturers to estimate the average GSFL and IRL manufacturer markup. The manufacturer markup represents the markup lamp manufacturers apply to their MPCs to arrive at the MSPs. This is different from the distribution chain markup, which is the markup retail stores apply to the MSP to arrive at the end user price. Based on SEC 10-Ks, DOE found the typical manufacturer markup for GSFL and IRL manufacturers on a corporate level was 1.58. During manufacturer interviews, DOE asked manufacturers if 1.58 was an appropriate markup to use for GSFLs and IRLs. Based on manufacturer feedback that the 1.58 manufacturer markup was too high for both GSFLs and IRLs and should be lowered, DOE revised the manufacturer markup for both GSFLs and IRLs to be 1.52. The 1.52 figure is the same manufacturer markup used for these products in the 2009 Lamps Rule.

For a complete description of the end-user prices, see the product price determination in section VI.E of this NOPR.

c. Shipment Scenarios

INPV, the key GRIM output, depends on industry revenue, which depends on the quantity and prices of GSFLs and IRLs shipped in each year of the analysis period. Industry revenue calculations require forecasts of: (1) Total annual shipment volume of GSFLs and IRLs; (2) the distribution of shipments across product classes (because prices vary by product class); and, (3) the distribution of shipments across efficacy levels (because prices vary with lamp efficacy).

In the base case shipment analysis, DOE first established a lumen capacity demand per square foot for commercial and residential spaces serviced by GSFLs and IRLs. While this lumen capacity per square foot demand is assumed to remain unchanged over the analysis period, the total lumen demand grows proportionally with the growth of new commercial and residential floor space, as projected by *AEO 2013.* DOE also expects the lighting demand for GSFLs and IRLs to be eroded by increased penetration of LEDs into the market. This LED penetration rate for the reference shipment scenario is based on the rate forecasted in DOE's Solid-State Lighting Program. (See section VI.I of this NOPR for further information.) Overall, while demand for lighting is expected to increase for the entire economy as the amount of floor space increases, the demand for GSFL and IRL specific lighting is projected to decline in the base case due to the increased penetration of alternative lighting sources such as LEDs.

In the standards case for GSFLs, DOE used a consumer choice model the shipments analysis and NIA to analyze how consumers would shift between GSFL product classes in response to standards (*e.g.,* consumers might forgo purchases of 4-foot MBP GSFLs in favor of 4-foot T5 MiniBP SO GSFLs in response to a higher 4-foot MBP GSFL standard). GSFL consumers were not, however, assumed to increase the purchase of LEDs in response to increased GSFL energy conservation standards. As discussed in section VI.I of this NOPR, the transition from GSFLs to LEDs is accounted for in the base case shipment analysis, and additional shifting to LEDs due to GSFL standards was not modeled in the standards case shipment analysis or in the NIA.

In the standards case for IRLs, the change in the number of shipments from the base case is mainly due to the increase in IRL lifetime at TSL 1 compared to the base case shipment lifetime. IRLs that meet the efficacy level specified at TSL 1 have a longer

lifetime than the baseline IRLs. As a result, there are fewer shipments of IRLs at TSL 1 than in the base case over the analysis period, because the lamps at TSL1 last longer. The NIA also modeled an alternative IRL shipment scenario where the lifetime of IRLs at TSL 1 is shorter than the base case lifetime. DOE examined the impacts of a shortened lifetime scenario on manufacturers' cash flow as a sensitivity analysis. The results of the sensitivity analysis are presented in appendix 13C of the NOPR TSD. Also, similar to GSFLs, the shipments analysis and the NIA for IRLs did not model standards induced shifts to alternative lighting technologies, such as LEDs. Therefore, the MIA did not examine the revenue from LEDs in the manufacturers' cash flows as part of the IRL MIA. While the shipments analysis and the NIA recognize that consumers are shifting to alternative lighting technologies, which are accounted for in the base case shipments projection, the shipments analysis and the NIA did not model an accelerated shift to these alternative technologies specifically due to increased standards of IRLs.

For a complete description of the shipments see the shipments analysis discussion in section VI.I of this NOPR.

d. Markup Scenarios

As discussed in the manufacturer production costs section above, the MPCs for each of the product classes of GSFLs and IRLs are the manufacturers' factory costs for those units. These costs include materials, direct labor, depreciation, and overhead, which are collectively referred to as the cost of goods sold (COGS). The MSP is the price received by GSFL and IRL manufacturers from their customers, typically a distributor, regardless of the downstream distribution channel through which the lamps are ultimately sold. The MSP is not the cost the end-user pays for GSFLs and IRLs because there are typically multiple sales along the distribution chain and various markups applied to each sale. The MSP equals the MPC multiplied by the manufacturer markup. The manufacturer markup covers all the GSFL and IRL manufacturer's non-production costs (*i.e.,* selling, general and administrative expenses [SG&A], research and development [R&D], and interest, etc.) as well as profit. Total industry revenue for GSFL and IRL manufacturers equals the MSPs at each EL for each product class multiplied by the number of shipments at that EL.

Modifying these manufacturer markups in the standards case yields a different set of impacts on GSFL and IRL manufacturers than in the base case. For the MIA, DOE modeled two standards case markup scenarios for GSFLs and IRLs to represent the uncertainty regarding the potential impacts on prices and profitability for GSFL and IRL manufacturers following the implementation of amended energy conservation standards. The two scenarios are: (1) A flat, or preservation of gross margin, markup scenario and (2) a preservation of operating profit markup scenario. Each scenario leads to different manufacturer markup values, which, when applied to the inputted MPCs, result in varying revenue and cash flow impacts on GSFL and IRL manufacturers.

The flat, or preservation of gross margin, markup scenario assumes that the COGS for each product is marked up by a flat percentage to cover SG&A expenses, R&D expenses, interest expenses, and profit. This allows manufacturers to preserve the same gross margin percentage in the standards case as in the base case. This markup scenario represents the upper bound of the GSFL and IRL industries' profitability in the standards case because GSFL and IRL manufacturers are able to fully pass through additional costs due to standards to their consumers.

To derive the flat, or preservation of gross margin, markup percentages for GSFLs and IRLs, DOE examined the SEC 10-Ks of all publicly traded GSFL and IRL manufacturers to estimate the industry average gross margin percentage. Manufacturers were then asked about the industry gross margin percentage derived from SEC 10-Ks during manufacturer interviews. GSFL and IRL manufacturers stated that this average industry gross margin was too large and needed to be reduced. In response to these comments, DOE used the manufacturer markups from the 2009 Lamps Rule for GSFLs and IRLs, which was slightly less than the average industry gross margin derived from SEC 10-Ks of GSFL and IRL manufacturers.

DOE included an alternative markup scenario, the preservation of operating profit markup, because manufacturers stated they do not expect to be able to markup the full cost of production in the standards case, given the highly competitive GSFL and IRL lighting markets. The preservation of operating profit markup scenario assumes that manufacturers are able to maintain only the base case total operating profit in absolute dollars in the standards case, despite higher product costs and investment. The base case total operating profit is derived from marking up the COGS for each product by the flat markup described above. In the standards case for the preservation of operating profit markup scenario, DOE adjusted the GSFL and IRL 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 amended GSFL and IRL standards as in the base case. Under this scenario, while manufacturers are not able to yield additional operating profit from higher production costs and the investments that are required to comply with amended GSFL and IRL energy conservation standards, they are able to maintain the same operating profit in the standards case that was earned in the base case.

The preservation of operating profit markup scenario represents the lower bound of industry profitability in the standards case. This is because manufacturers are not able to fully pass through the additional costs necessitated by GSFL and IRL energy conservation standards, as they are able to do in the flat (preservation of gross margin) markup scenario. Therefore, manufacturers earn less revenue in the preservation of operating profit markup scenario than they do in the flat markup scenario.

3. Discussion of Comments

Interested parties commented on the assumptions and results of the preliminary analysis. Comments addressed several topics: the potential shift to other lighting technologies in response to GSFL and IRL standards, the overall cumulative regulatory burden facing lighting manufacturers, the potential decrease in competition due to IRL standards, and the potential required use of proprietary technologies to achieve higher efficacy levels for IRLs. DOE addresses these comments below.

a. Potential Shift to Other Lighting Technologies

NEMA commented that further investments in GSFL and IRL technologies due to energy conservation standards will divert resources away from LED technology development. NEMA states that continued development of LEDs could lead to much great energy savings potential than the lighting technologies included in this rulemaking. NEMA recommends that DOE include in the MIA for GSFLs and IRLs the impact that such diversion of resources will have on LED technology if the lighting industry is required by a potential GSFL and IRL standard to make additional investments in GSFL and IRL

technologies that are already experiencing diminishing returns on investment and use. (NEMA, No. 36 at p. 1)

DOE recognizes the opportunity cost associated with any investment, and agrees that manufacturers would need to spend capital to meet any proposed GSFL and IRL standards that they would not have to spend in the base case. The allocation of company resources among different lighting technologies is a complex business decision that each individual manufacturer will ultimately have to make. As a result, manufacturers must determine the extent to which they will balance investment in the GSFL and IRL markets with investment in emerging technologies, such as LEDs. The companies will have to weigh tradeoffs between deferring investments and deploying additional capital. DOE includes the costs on manufacturers of meeting today's proposed standards in its analysis.

NEEP commented that the MIA should account for any potential growth in LED sales lighting manufacturers might experience if the GSFL and IRL markets are projected to shrink throughout the years of the analysis. Instead of only accounting for lost revenues associated with a decrease in GSFL and IRL sales, NEEP suggests DOE also factor in the benefits those same manufacturers are potential gaining in the growing LED markets. (NEEP, No. 33 at p. 3)

Based on the shipment analysis DOE does not believe GSFL and IRL markets will increasingly migrate from traditional GSFL and IRL technologies to alternate lighting technologies, such as LEDs, in direct response to GSFL and IRL energy conservation standards. While DOE recognizes that LEDs are continuing to capture more and more of the traditional lighting markets serviced by GSFLs and IRLs, DOE does not believe that GSFL and IRL standards will increase this shift to LEDs. Therefore, this market shift to LEDs is captured in the base case shipment scenario and is not a standards-induced market shift. DOE excludes the revenue from LEDs earned by manufacturers who produce GSFLs and IRLs in the GRIM since the revenue stream would be present in both the base case and the standards case, resulting in no net impact on the change in INPV.

b. Cumulative Regulatory Burden

NEMA, along with some individual manufacturers, commented on the cumulative regulatory burden of this rulemaking given there are several DOE energy conservation standards that affect the major lighting manufacturers of this rulemaking. NEMA stated that DOE does not adequately address or quantify the cumulative regulatory burden. NEMA urges DOE to adopt a more transparent and open decision-making process to better address their continued concerns. (NEMA, No. 30 at pp. 338–340; NEMA, No. 36 at pp. 18–19) The cumulative regulatory burden is explained in greater detail in section VII.B.2.e of this NOPR, and a complete description of the cumulative regulatory burden is included in chapter 13 of the NOPR TSD. A complete description of the proposal selection process is provided in section VII.C of this NOPR.

GE commented they are concerned about the speed of this amended GSFL and IRL energy conservation standard, given that the 2009 Lamps Rule was published in 2009 and required compliance in 2012. They believe that it is difficult for manufacturers to recover their previous investments made in new technologies in only five and a half years. This potential loss in investments has a severe and negative manufacturer impact when rulemakings covering the same products are so close together. (GE, No. 30 at p. 188)

Philips similarly commented that they had invested millions of dollars in incandescent technologies to meet EISA 2007's general service lighting requirements, which could become obsolete due to amended IRL energy conservation standards. (Philips, No. 30 at p. 187) EEI also made similar comments stating that manufacturers who made long-term investments to comply with the 2009 Lamps Rule might not have had time to recover their investments in five or six years. (EEI, No. 30 at p. 187) A member of Congress commented that the OSI facility in Kentucky recently underwent major retooling to bring the facility into compliance with EISA's incandescent lighting requirements. Bringing that facility into compliance with even more stringent IRL regulations would require an increased capital outlay that is unavailable to the company at this time. This could result in a reduction of U.S. manufacturing jobs. (Barr, No. 25 at p. 1–2) As part of the cumulative regulatory burden analysis in section VII.B.2.e of this NOPR, DOE examines the investments manufacturers have made to comply with previous rulemakings.

Philips also commented on the cumulative regulatory burden, asking DOE to specify the criteria that determines if the proposed standards constitute a cumulative regulatory burden on manufacturers. (Philips, No. 30 at pp. 339–340; 347) DOE examines the cumulative regulatory burden as one of the potential impacts of potential standard levels before ultimately selecting an appropriate proposed standard. This examination of the costs and benefits of potential proposed standards is addressed in section VII.C of this NOPR.

c. Potential Decrease in Competition

EEI commented they are concerned that there could be a reduction in competition as a result of more stringent GSFL and IRL energy conservation standards. EEI stated they are especially concerned about any amended standards for IRLs due to the fact that DOJ determined that the 2009 Lamps Rule would have anti-competitive impacts on the IRL industry. EEI contends that any increase in the efficacy of IRLs due to amended standards could potentially increase these anti-competitive impacts. (EEI, No. 30 at pp. 335–337)

NEEA stated there seems to be an increase in the number of brand names available in the marketplace for IRLs. (NEEA, No. 30 at pp. 337–338) In the 2009 Lamps Rule, DOJ had expressed concerns that the proposed TSL 4 for IRLs could adversely affect competition noting that only two of the three large manufacturers manufacture IRLs that would meet the new standard and one of these manufacturers uses proprietary technology to do so. However, DOE research showed that all three large manufacturers had products that met TSL 4 and access to alternative technology pathways to achieve this efficacy that did not require propriety technology. Further, based on market research, analysis of HIR burner production, and interviews with manufacturers and HIR burner suppliers, DOE determined that manufacturers would not face any long-term capacity constraints. Therefore, DOE concluded that the proposed level in the 2009 Lamps rule for IRLs would not result in lessening competition. 74 FR 34080, 34160 (July 14, 2009).

DOE examines the potential decrease in competition from amended energy conservation standards in section VII.B.5 of this NOPR. DOE also submits a copy of the NOPR to DOJ for review as part of the rulemaking process and considers input from DOJ in developing any final standards.

4. Manufacturer Interviews

DOE conducted additional interviews with manufacturers following the preliminary analysis in preparation for the NOPR analysis. In these interviews, DOE asked manufacturers to describe their major concerns with this GSFL and

IRL rulemaking. The following section describes the key issues identified by GSFL and IRL manufacturers during these interviews.

a. Rare Earth Oxides in General Service Fluorescent Lamps

Several manufacturers are concerned that increasing the efficacy of GSFLs in response to amended energy conservation standards will require the use of significantly more REOs in GSFLs. This could expose GSFL manufacturers to the risk of another significant increase in the price of REOs. Over the past several years the price of REOs used in GSFLs has been extremely volatile. In 2011, the price of REOs significantly increased but has slowly been coming down over the past couple of years. While the current price of many of these REOs has returned to much lower levels than the peak prices experienced between 2010 and 2012, GSFL manufacturers are concerned that the price of REOs could return to those peak prices in the future. GSFL manufacturers are also concerned an increase in the demand for REOs due to amended energy conservation standards could cause the price for these REOs to spike.

Several GSFL manufacturers also noted that amended energy conservation standards for GSFLs could have adverse impacts on the domestic production of GSFLs. China is currently the dominant miner and producer of REOs worldwide and imposes quotas on the export of raw REOs. This drives up the costs for manufacturers of products using REOs that manufacture these products outside of China. As a result, manufacturers pointed out that amended GSFL standards could make it more attractive to manufacture GSFLs in China, rather than domestically, because the price of REOs would likely be much lower in China. See section VI.D.2.i of this NOPR for further discussion of the assessments of rare earth phosphor impacts from amended standards undertake in this NOPR analysis.

b. Unknown Impacts of the 2009 Lamps Rule

Several manufacturers expressed concern that amended energy conservation standards for GSFLs and IRLs would be premature given that the last round of DOE energy conservation standards for GSFLs and IRLs required compliance in July 2012. Manufacturers are still unsure how the standards from the 2009 Lamps Rule will ultimately affect their future sales and shipments as consumer preferences shift since there are a relatively large number of alternative lighting options available on the market. Manufacturers noted that they have developed new products to meet the 2009 Lamps Rule standards and are still waiting to see which consumers purchase which types of lamps.

Furthermore, manufacturers stated they have already made significant capital investments in order to be able to produce the more efficacious GSFLs and IRLs required by the 2009 Lamps Rule standards. Manufacturers are concerned that any additional increase in the efficacy of those products due to amended energy conservation standards could potentially strand the substantial capital investments made to comply with the 2009 Lamps Rule, as manufacturers have not yet fully recouped these capital investments. Manufacturers stated that a five year time period between the compliance date of the 2009 Lamps Rule (July 2012) and the estimated compliance date of the current GSFL and IRL rulemaking (2017) is too short for most manufacturers to recoup their capital investments, since manufacturing machinery typically has a much longer useful lifetime than five years. See section VII.B.2 of this NOPR for an analysis of the investments manufacturers must make to comply with standards.

c. Technology Shift

Several manufacturers contended that regardless of amended energy conservation standards, a technological shift away from GSFLs and IRLs is already occurring. They pointed out that the market is already moving toward LEDs, especially in the commercial sector. Manufacturers are concerned that amended standards would force them to divert resources away from the R&D of more efficacious lighting products, such as LEDs, by forcing manufacturers to spend time and money on GSFLs and IRLs, which have diminishing market shares. This increase in the efficacy of GSFLs and IRLs would increase the end-user price of GSFLs and IRLs which could ultimately drive consumers to purchase other lighting technologies, like LEDs. This could result in a further stranding of any capital investments made for GSFLs and IRLs. See section VI.I of this NOPR for discussion on the LED market penetration shipment scenario.

d. Impact on Residential Sector

Several manufacturers expressed concern that amended energy conservation standards for GSFLs and IRLs would not achieve substantial energy savings in the residential sector. Residential consumers do not have long operating hours and manufacturers are concerned that they will give up longer life to get a cheaper lamp. Furthermore, manufacturers expressed concern that amended GSFL standards may be overly burdensome by forcing some residential consumers of GSFLs to switch out their entire lighting system (*i.e.,* ballast and fixture) due to replacement lamps being regulated out of production for only minimal energy savings. DOE acknowledges that residential consumers could be differentially impacted by GSFL and IRL standards compared to commercial consumers. DOE analyzed residential and commercial consumers separately in the LCC analysis for GSFLs and IRLs. These results are presented in section VII.B.1.a of this NOPR.

L. Emissions Analysis

In the emissions analysis, DOE estimated the reduction in power sector emissions of SO_2, NO_X, CO_2, and Hg from potential energy conservation standards for GSFLs and IRLs. In addition, DOE estimates emissions impacts in production activities (extracting, processing, and transporting fuels) that provide the energy inputs to power plants. These are referred to as ''upstream'' emissions. Together, these emissions account for the FFC.

DOE conducted the emissions analysis using emissions factors for CO_2 and other gases derived from data in the EIA's *AEO 2013,* supplemented by data from other sources. DOE developed separate emissions factors for power sector emissions and upstream emissions. EIA prepares the *AEO* using NEMS. Each annual version of NEMS incorporates the projected impacts of existing air quality regulations on emissions. *AEO 2013* generally represents current legislation and environmental regulations, including recent government actions, for which implementing regulations were available as of December 31, 2012. The method that DOE used to derive emissions factors is described in chapter 14 of the NOPR TSD.

SO_2 emissions from affected electric generating units (EGUs) are subject to nationwide and regional emissions cap-and-trade programs. 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 (D.C.). SO_2 emissions from 28 eastern states and D.C. were also limited under the Clean Air Interstate Rule (CAIR; 70 FR 25162 (May 12, 2005)), which created an allowance-based trading program that operates along with the Title IV program. CAIR was remanded to the U.S. Environmental

Protection Agency (EPA) by the U.S. Court of Appeals for the District of Columbia Circuit but it remained in effect. See *North Carolina* v. *EPA,* 550 F.3d 1176 (D.C. Cir. 2008); *North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008). On July 6, 2011 EPA issued a replacement for CAIR, the Cross-State Air Pollution Rule (CSAPR). 76 FR 48208 (August 8, 2011). On August 21, 2012, the D.C. Circuit issued a decision to vacate CSAPR. See EME Homer City *Generation, LP* v. *EPA,* No. 11–1302, 2012 WL 3570721 at *24 (D.C. Cir. Aug. 21, 2012). The court ordered EPA to continue administering CAIR. The *AEO 2013* emissions factors used for today's NOPR assumes that CAIR remains a binding regulation through 2040.

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 adoption of an efficacy standard could be used to permit offsetting increases in SO_2 emissions by any regulated EGU. In past rulemakings, DOE recognized that there was uncertainty about the effects of efficiency standards on SO_2 emissions covered by the existing cap-and-trade system, but it concluded that negligible reductions in power sector SO_2 emissions would occur as a result of standards.

Beginning in 2015, however, SO_2 emissions will fall as a result of the Mercury and Air Toxics Standards (MATS) for power plants, which were announced by EPA on December 21, 2011. 77 FR 9304 (Feb. 16, 2012). In the final MATS rule, EPA established a standard for hydrogen chloride as a surrogate for acid gas hazardous air pollutants (HAP), and also established a standard for SO_2 (a non-HAP acid gas) as an alternative equivalent surrogate standard for acid gas HAP. The same controls are used to reduce HAP and non-HAP acid gas; thus, SO_2 emissions will be reduced as a result of the control technologies installed on coal-fired power plants to comply with the MATS requirements for acid gas. *AEO 2013* assumes that, to continue operating, coal plants must have either flue gas desulfurization or dry sorbent injection systems installed by 2015. Both technologies, which are used to reduce acid gas emissions, also reduce SO_2 emissions. Under the MATS, NEMS shows a reduction in SO_2 emissions when electricity demand decreases (*e.g.,* as a result of energy efficiency standards). Emissions will be far below the cap established by CAIR, so it is unlikely that excess SO_2 emissions allowances resulting from the lower electricity demand would be needed or used to permit offsetting increases in SO_2 emissions by any regulated EGU. Therefore, DOE believes that efficiency standards will reduce SO_2 emissions in 2015 and beyond.

CAIR established a cap on NO_X emissions in 28 eastern states and the District of Columbia. Energy conservation standards are expected to have little effect on NO_X emissions in those states covered by CAIR because excess NO_X emissions allowances resulting from the lower electricity demand could be used to permit offsetting increases in NO_X emissions. However, standards would be expected to reduce NO_X emissions in the states not affected by the caps, so DOE estimated NO_X emissions reductions from the standards considered in this NOPR for these states.

The MATS limit mercury emissions from power plants, but they do not include emissions caps and, as such, DOE's energy conservation standards would likely reduce Hg emissions. DOE estimated Hg emissions reduction using emissions factors based on *AEO 2013,* which incorporates the MATS.

In accordance with DOE's FFC Statement of Policy (76 FR 51282 (Aug. 18, 2011)), the FFC analysis includes impacts on emissions of methane (CH_4) and nitrous oxide (N_2O), both of which are recognized as GHGs. For CH_4 and N_2O, DOE calculated emissions reductions in tons and also in terms of units of carbon dioxide equivalent (CO_2eq). Gases are converted to CO_2eq by multiplying the emissions reduction in tons by the gas' global warming potential (GWP) over a 100-year time horizon. Based on the Fourth Assessment Report of the Intergovernmental Panel on Climate Change,[80] DOE used GWP values of 25 for CH_4 and 298 for N_2O.

M. Monetizing Carbon Dioxide and Other Emissions Impacts

As part of the development of this proposed rule, DOE considered the estimated monetary benefits from the reduced emissions of CO_2 and NO_X expected to result from each of the TSLs considered. 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 product 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 NOPR, DOE is relying on a set of values for the social cost of carbon (SCC) that was developed by an interagency process. A summary of the basis for these values is provided below, and a more detailed description of the methodologies used is provided in appendices to chapter 15 of the NOPR TSD.

1. Social Cost of Carbon

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. 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.

Under section 1(b)(6) of Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993), agencies must, to the extent permitted by law, assess both the costs 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 the 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

[80] Forster, P., V. Ramaswamy, P. Artaxo, T. Berntsen, R. Betts, D.W. Fahey, J. Haywood, J. Lean, D.C. Lowe, G. Myhre, J. Nganga, R. Prinn, G. Raga, M. Schulz and R. Van Dorland. 2007: Changes in Atmospheric Constituents and in Radiative Forcing. In *Climate Change 2007: The Physical Science Basis.* Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change. S. Solomon, D. Qin, M. Manning, Z. Chen, M. Marquis, K.B. Averyt, M.Tignor and H.L. Miller, Editors. 2007. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA. p. 212.

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

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 points out that any assessment will suffer from uncertainty, speculation, and lack of information about: (1) Future emissions of GHGs; (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. 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 emissions in any future year by multiplying the change in emissions in that year by the SCC value appropriate for that year. The NPV of the benefits can then be calculated by multiplying the 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 rulemaking, however.

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. 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

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 metric ton of CO_2 and a ''global'' SCC value of $33 per metric ton of CO_2 for 2007 emission reductions (in 2007$), increasing both values at 2.4 percent per year. DOT also included a sensitivity analysis at $80 per metric ton of CO_2.[81] A 2008 regulation proposed by DOT assumed a domestic SCC value of $7 per metric ton of CO_2 (in 2006$) for 2011 emission reductions (with a range of $0 to $14 for sensitivity analysis), also increasing at 2.4 percent per year.[82] A regulation for packaged terminal air conditioners and packaged terminal heat pumps finalized by DOE in October of 2008 used a domestic SCC range of $0 to $20 per metric ton CO_2 for 2007 emission reductions (in 2007$). 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 $40 per metric ton CO_2 for discount rates of approximately 2 percent and 3 percent, respectively (in 2006$ 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 metric ton of CO_2. These interim values represented 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.

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. 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. 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.

In 2010, the interagency group selected four sets of SCC values for use

[81] 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: *www.nhtsa.gov/fuel-economy*) (Last accessed December 2012).

[82] 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: *www.nhtsa.gov/fuel-economy*) (Last accessed December 2012).

in regulatory analyses.[83] Three sets of values are based on the average SCC from three integrated assessment models, at discount rates of 2.5 percent, 3 percent, and 5 percent. The fourth set, 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 climate change further out in the tails of the SCC distribution. The 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, although preference is given to consideration of the global benefits of reducing CO_2 emissions. Table VI.15 presents the values in the 2010 interagency group report, which is reproduced in appendix 15A of the NOPR TSD.

TABLE VI.15—ANNUAL SCC VALUES FROM 2010 INTERAGENCY REPORT, 2010–2050

[In 2007 dollars per metric ton CO_2]

Year	Discount rate %			
	5	3	2.5	3
	Average	Average	Average	95th Percentile
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

The SCC values used for today's notice were generated using the most recent versions of the three integrated assessment models that have been published in the peer-reviewed literature.[84] Table VI.16 shows the updated sets of SCC estimates from the 2013 interagency update in five-year increments from 2010 to 2050. Appendix 15B of the NOPR TSD provides the full set of values. The central value that emerges is the average SCC across models at 3 percent discount rate. However, for purposes of capturing the uncertainties involved in regulatory impact analysis, the interagency group emphasizes the importance of including all four sets of SCC values.

TABLE VI.16—ANNUAL SCC VALUES FROM 2013 INTERAGENCY UPDATE, 2010–2050

[In 2007 dollars per metric ton CO_2]

Year	Discount rate %			
	5	3	2.5	3
	Average	Average	Average	95th Percentile
2010	11	32	51	89
2015	11	37	57	109
2020	12	43	64	128
2025	14	47	69	143
2030	16	52	75	159
2035	19	56	80	175
2040	21	61	86	191
2045	24	66	92	206
2050	26	71	97	220

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. The National Research Council report mentioned previously points out that 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. The interagency group intends to periodically review and reconsider those estimates to reflect increasing

[83] *Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866.* Interagency Working Group on Social Cost of Carbon, United States Government, February 2010. *www.whitehouse.gov/sites/default/files/omb/inforeg/for-agencies/Social-Cost-of-Carbon-for-RIA.pdf.*

[84] Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866. Interagency Working Group on Social Cost of Carbon, United States Government. May 2013; revised November 2013. *http://www.whitehouse.gov/sites/default/files/omb/assets/inforeg/technical-update-social-cost-of-carbon-for-regulator-impact-analysis.pdf.*

knowledge of the science and economics of climate impacts, as well as improvements in modeling.

In summary, in considering the potential global benefits resulting from reduced CO_2 emissions resulting from today's rule, DOE used the values from the 2013 interagency report, adjusted to 2012$ using the Gross Domestic Product price deflator. For each of the four SCC cases specified, the values used for emissions in 2015 were $11.8, $39.7, $61.2, and $117 per metric ton avoided (values expressed in 2012$). DOE derived values after 2050 using the relevant growth rates for the 2040–2050 period in the interagency update. DOE invites comment on the methodology used to estimate the social cost of carbon.

DOE multiplied the CO_2 emissions reduction estimated for each year by the SCC value for that year in each of the four cases. 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

As noted previously, DOE has taken into account how new or amended energy conservation standards would reduce NO_X emissions in those 22 states not affected by the CAIR. DOE estimated the monetized value of NO_X emissions reductions resulting from each of the TSLs considered for today's NOPR based on estimates found in the relevant scientific literature. Estimates of monetary value for reducing NO_X from stationary sources range from $468 to $4,809 per ton in 2012$.[85] DOE calculated monetary benefits using a medium value for NO_X emissions of $2,639 per short ton (in 2012$) and real discount rates of 3 percent and 7 percent.

DOE is evaluating appropriate monetization of avoided SO_2 and Hg emissions in energy conservation standards rulemakings. It has not included monetization in the current analysis.

N. Utility Impact Analysis

The utility impact analysis estimates several effects on the power generation industry that would result from the adoption of new or amended energy conservation standards. In the utility impact analysis, DOE analyzes the changes in installed electricity capacity and generation that would result for each trial standard level. The utility impact analysis uses a variant of NEMS,[86] which is a public domain, multi-sectored, partial equilibrium model of the U.S. energy sector. DOE uses a variant of this model, referred to as NEMS–BT, to account for selected utility impacts of new or amended energy conservation standards. DOE's analysis consists of a comparison between model results for the most recent *AEO* Reference Case and for cases in which energy use is decremented to reflect the impact of potential standards. The energy savings inputs associated with each TSL come from the NIA. Chapter 16 of the NOPR TSD describes the utility impact analysis in further detail.

NEEP urged DOE to quantify the economic benefits of electricity demand reductions for this rulemaking. (NEEP, No. 51 at p. 3)

For the NOPR, DOE used NEMS–BT, along with EIA data on the capital cost of various power plant types, to estimate the reduction in national expenditures for electricity generating capacity due to potential GSFL–IRL energy efficiency standards. The method used and the results are described in chapter 16 of the NOPR TSD.

DOE is evaluating whether parts of the cost reduction are a transfer and, thus, according to guidance provided by OMB to Federal agencies, should not be included in the estimates of the benefits and costs of a regulation.[87] Transfer payments are monetary payments from one group to another that do not affect total resources available to society (*i.e.,* exchanges that neither decrease nor increase total welfare). Benefits occur when savings to consumers result from real savings to producers, which increase societal benefits. Cost savings from reduced or delayed capital expenditure on power plants are a benefit, and not a transfer, to the extent that the reduced expenditure provides savings to both producers and consumers without affecting other groups. There would be a transfer to the extent that the delayed construction caused some other group (*e.g.,* product suppliers or landowners who might have assets committed to the projects) to realize a lower return on those assets. DOE is evaluating these issues to determine the extent to which the cost savings from delayed capital expenditure on power plants are a benefit to society.[88]

O. Employment Impact Analysis

Employment impacts from new or amended energy conservation standards include direct and indirect impacts. Direct employment impacts are any changes in the number of employees of manufacturers of the product subject to standards; the MIA addresses those impacts. Indirect employment impacts are changes in national employment that occur due to the shift in expenditures and capital investment caused by the purchase and operation of more efficient product. Indirect employment impacts from standards consist of the jobs created or eliminated in the national economy, other than in the manufacturing sector being regulated, due to: (1) Reduced spending by end users on energy; (2) reduced spending on new energy supply by the utility industry; (3) increased consumer spending on the purchase of new product; and (4) the effects of those three factors throughout the economy.

One method for assessing the possible effects on the demand for labor of such shifts in economic activity is to compare sector employment statistics developed by the Labor Department's Bureau of Labor Statistics (BLS). 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. 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

[85] 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.

[86] For more information on NEMS, refer to the U.S. Department of Energy, Energy Information Administration documentation. A useful summary is *National Energy Modeling System: An Overview 2003,* DOE/EIA–0581 (2003) (March, 2003).

[87] OMB Circular A–4 (Sept. 17, 2003), p. 38.

[88] Although delayed investment implies a savings in total cost, the savings may be less than the savings in capital cost because the delay may also cause increases in other costs. For example, if the delayed investment was the replacement of an existing facility with a larger, more efficient facility, the increased cost of operating the old facility during the period of delay might offset much of the savings from delayed investment. That the project was delayed is evidence that doing so decreased overall cost, but it does not indicate that the decrease was equal to the entire savings in capital cost.

sector (*i.e.,* the utility sector) to more labor-intensive sectors (*e.g.,* the retail and service sectors). Based on the BLS data, DOE expects that net national employment may increase because of shifts in economic activity resulting from amended standards.

For the standard levels considered in the NOPR, DOE estimated indirect national employment impacts using an input/output model of the U.S. economy called Impact of Sector Energy Technologies, Version 3.1.1 (ImSET). ImSET is a special-purpose version of the ''U.S. Benchmark National Input-Output'' (I–O) model, which was designed to estimate the national employment and income effects of energy-saving technologies. The ImSET software includes a computer-based I–O model having structural coefficients that characterize economic flows among the 187 sectors. ImSET's national economic I–O structure is based on a 2002 U.S. benchmark table, specially aggregated to the 187 sectors most relevant to industrial, commercial, and residential building energy use. 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. Because ImSET does not incorporate price changes, the employment effects predicted by ImSET may over-estimate actual job impacts over the long run. For the NOPR, DOE used ImSET only to estimate short-term employment impacts. For more details on the employment impact analysis, see chapter 17 of the NOPR TSD.

P. Other Comments

DOE received several comments that address the overall merits of adopting amended standards for GSFLs and IRLs.

NEMA stated that existing voluntary incentives are already shifting the market to higher-efficiency products and systems. (NEMA, No. 36 at p. 17) Trends in the GSFL and IRL market are accounted for in DOE's projection of the base case. The impacts estimated for potential standards are above movement toward higher efficiency in the base case.

NEMA commented that standards are not justified for IRLs. Specifically, NEMA stated that the miniscule energy savings estimated for IRLs, combined with elimination of their market share by 2025, demonstrate why this class should not be further regulated and DOE should not adopt a new standard. (NEMA, No. 36 at pp. 2, 17) DOE's analysis indicates that the market share of IRLs would decline under the proposed standards, but the product would not be eliminated. The reasons for DOE's decision to propose standards for IRLs are explained in section VII.C of this notice.

NEMA also stated that, if DOE were to proceed with a higher standard for T5 SO lamps, the projected shipments go up (compared with the base case). It noted that, as the only competitor for T5 SO is LED, increasing the demand for T5 SO takes market share away from LED, a technology that is on the rise for reasons of popularity, lifetime, and efficiency. It stated that decreasing demand for LED technology in favor of an obsoleting technology that relies on critical materials (rare earth phosphors) and mercury is not a sound decision. (NEMA, No. 36 at p. 17) As discussed in chapter 11 of the NOPR TSD, the model accounts for the progressive and large incursion of LEDs into the GSFL market. The model then apportions the remaining demand for GSFL lamps among the product classes. The projected increase in shipments of T5 SO lamps relative to the base case is at the expense of 4-foot MBP lamps, not LEDs.

VII. Analytical Results

A. Trial Standard Levels

At the NOPR stage, DOE develops trial standard levels (TSLs) for consideration. The GSFL and IRL TSLs are formed by grouping different efficacy levels, which are potential standard levels for each product class. TSL 5 is composed of the max tech efficacy levels. TSL 4 is composed of the efficacy levels that, in combination, yield the maximum NPV. TSL 3 is composed of the efficacy levels that yield the maximum energy savings without using any of the EL 2 levels. TSL 2 is composed of the efficacy levels that would bring all product classes to approximately the same level of rare earth phosphor. TSL 1 is composed of the levels that represent the least efficacious lamps currently available on the U.S. market; currently there are no products in the market at the baseline (EL 0) for 8-foot RDC HO lamps or T5 lamps. For IRLs, DOE considered one TSL because only one efficacy level was analyzed (Table VII.2).

DOE used data on the representative product classes from the engineering and pricing analyses described in section VI.D.2.b for GSFLs and section VI.D.3.b for IRLs to evaluate the benefits and burdens of each of the GSFL and IRL TSLs. DOE analyzed the benefits and burdens by conducting the analyses described in section VI for each TSL. Table VII.1 presents the GSFL TSLs analyzed and the corresponding efficacy level for each GSFL representative product class. Table VII.2 presents the IRL TSL analyzed and the corresponding efficacy level for the representative IRL product class.

TABLE VII.1—COMPOSITION OF TSLS FOR GSFLS BY EFFICACY LEVEL

Representative product class	TSL 1 Current market min	TSL 2 Same phosphor level	TSL 3 Best non-EL 2	TSL 4 Max NPV	TSL 5 Max tech
1. 4-foot medium bipin, CCT ≤4,500 K	0	0	1	2	2
2. 8-foot single pin slimline, CCT ≤4,500 K	0	1	0	0	2
3. 8-foot RDC high output, CCT ≤4,500 K	1	2	1	1	2
4. 4-foot T5, Mini bipin standard output, CCT ≤4,500 K	1	1	1	1	2
5. 4-foot T5, Mini bipin high output, CCT ≤4,500 K	1	1	1	1	1

TABLE VII.2—COMPOSITION OF TSLS FOR IRLS BY EFFICACY LEVEL

Representative product class	TSL 1
Standard spectrum; >2.5 inch diameter; <125 V	1

B. Economic Justification and Energy Savings

1. Economic Impacts on Individual Consumers

DOE analyzed the economic impacts on GSFL and IRL consumers by looking at the effects standards would have on the LCC and PBP. DOE also examined the impacts of potential standards on consumer subgroups. These analyses are discussed below.

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 impacts on individual consumers are best captured by changes in LCCs and by the payback period. DOE's LCC and PBP analyses provide key outputs for each TSL, which are reported by product class in Table VII.3–Table VII.15. DOE designed the LCC analysis around lamp purchasing events and calculated the LCC savings relative to the baseline for each lamp replacement event separately in each lamp product class. 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 base-case forecast. When an EL results in ''positive LCC savings,'' the LCC of the lamp or lamp-and-ballast system is less than the LCC of the baseline lamp or lamp-and-ballast system, and the consumer benefits economically. When an EL results in ''negative LCC savings,'' the LCC of the lamp or lamp-and-ballast system is higher than the LCC of the baseline lamp or lamp-and-ballast system, and the consumer is adversely affected economically. The last outputs in the tables are the mean PBPs for the consumer that is purchasing a design compliant with the TSL. Entries of ''NER'' indicate standard levels that do not reduce operating costs, which prevents the consumer from recovering the increased purchase cost. The PBP cannot be calculated in those instances because the denominator of the PBP equation is 0. Because LCC savings and PBP are not relevant at the baseline level, results are ''N/A'' (not applicable) for the baselines. Chapter 8 of the NOPR TSD provides a detailed description of the LCC and PBP analysis and the results. Appendix 8B of the NOPR TSD presents Monte Carlo simulation results performed by DOE as part of the LCC analysis and also presents sensitivity results, such as LCC savings under the *AEO 2013* high-economic-growth and low-economic-growth cases.

The results for each TSL are 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))

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Table VII.3 through Table VII.11 present the results for each of the five GSFL representative product classes that DOE analyzed. Specifically, these were the 4-foot MBP product class, 4-foot MiniBP SO product class, 4-foot MiniBP HO product class, 8-foot SP slimline product class, and 8-foot RDC HO product class. For GSFLs, results for the most common sector for each product class are presented. Chapter 8 of the NOPR TSD provides the LCC and PBP results for each product class in all relevant sectors.

TABLE VII.3—LCC AND PBP RESULTS FOR A 2-LAMP 4-FOOT 32 W T8 MEDIUM BIPIN INSTANT START SYSTEM OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2012$	Dis-counted operating cost 2012$	LCC 2012$	LCC savings 2012$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure.	Baseline	Baseline	89.2	32.5 W T8 & 0.88 BF Inst.	17.19	116.96	134.33	N/A	N/A	N/A	N/A
	Lamp Re-place-ment.	EL 1	90.0	32.5 W T8 & 0.88 BF Inst.	33.38	116.96	138.62	−4.29	100	0	NER
		EL 2	93.0		29.79	98.00	127.98	6.36	0.1	99.9	3.2
		EL 2	95.4	26.6 W T8 & 0.88 BF Inst.	26.73	116.96	143.88	−9.55	100	0	NER
		EL 2	96.0	32.5 W T8 & 0.88 BF Inst. 28.4 W T8 & 0.88 BF Inst.	23.99	105.12	129.29	5.04	0	100	2.8
Event II: Ballast Failure.	Baseline	Baseline	89.2	32.5 W T8 & 0.88 BF Inst.	59.99	115.47	158.74	N/A	N/A	N/A	N/A
	Lamp & Ballast Replace-ment.	EL 1	90.0	32.5 W T8 & 0.78 BF Inst.	76.18	103.28	150.84	7.90	0	100	0.4
		EL 2	93.0		72.59	96.70	152.58	6.17	0.1	99.9	3.3
		EL 2	95.4	26.6 W T8 & 0.88 BF Inst.	69.53	101.06	153.88	4.87	0.1	99.9	3.2
		EL 2	96.0	32.5 W T8 & 0.77 BF Inst. 28.4 W T8 & 0.87 BF Inst.	66.79	101.96	152.03	6.72	0	100	2.4
Event III: New Construc-tion and Renova-tion.	Baseline	Baseline	89.2	32.5 W T8 & 0.88 BF Inst.	62.78	115.47	160.44	N/A	N/A	N/A	N/A
	New Lamp & Ballast Purchase.	EL 1	90.0	32.5 W T8 & 0.78 BF Inst.	78.97	103.28	152.53	7.90	0	100	0.4
		EL 2	93.0		75.39	96.70	154.27	6.17	0.1	99.9	3.3
		EL 2	95.4	26.6 W T8 & 0.88 BF Inst.	72.33	101.06	155.57	4.87	0.1	99.9	3.2
		EL 2	96.0	32.5 W T8 & 0.77 BF Inst. 28.4 W T8 & 0.87 BF Inst.	69.58	101.96	153.72	6.72	0	100	2.4

TABLE VII.4—LCC AND PBP RESULTS FOR A 2-LAMP 4-FOOT 32 W T8 MEDIUM BIPIN PROGRAMMED START SYSTEM OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2012$	Dis-counted operating cost 2012$	LCC 2012$	LCC savings 2012$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure.	Baseline	Baseline	89.2	32.5 W T8 & 0.88 BF Prog.	17.19	178.88	196.22	N/A	N/A	N/A	N/A
	Lamp Re-place-ment.	EL 1	90.0	32.5 W T8 & 0.88 BF Prog.	31.26	178.88	202.33	−6.11	100.0	0.0	NER
		EL 2	93.0		29.79	150.18	180.13	16.09	0.0	100.0	3.3
		EL 2	95.4	26.6 W T8 & 0.88 BF Prog.	26.73	178.88	205.77	−9.55	100.0	0.0	NER
		EL 2	96.0	32.5 W T8 & 0.88 BF Prog. 28.4 W T8 & 0.88 BF Prog.	23.99	160.96	185.10	11.12	0.0	100.0	2.8
Event II: Ballast Failure.	Baseline	Baseline	89.2	32.5 W T8 & 0.88 BF Prog.	61.19	178.88	234.11	N/A	N/A	N/A	N/A
	Lamp & Ballast Replace-ment.	EL 1	90.0	32.5 W T8 & 0.88 BF Prog.	75.27	178.88	240.22	−6.11	100.0	0.0	NER
		EL 1	90.0		75.27	150.40	211.74	22.37	0.0	100.0	0.3
		EL 2	93.0	32.5 W T8 & 0.72 BF Prog.	73.80	150.18	218.02	16.09	0.0	100.0	3.3
		EL 2	95.4		70.74	178.88	243.66	−9.55	100.0	0.0	NER
		EL 2	95.4	26.6 W T8 & 0.88 BF Prog.	70.74	150.40	215.18	18.93	0.0	100.0	2.5
		EL 2	96.0	32.5 W T8 & 0.88 BF Prog. 32.5 W T8 & 0.72 BF Prog. 28.4 W T8 & 0.88 BF Prog.	67.99	160.96	222.99	11.12	0.0	100.0	2.8
Event III: New Construc-tion and Renova-tion.	Baseline	Baseline	89.2	32.5 W T8 & 0.88 BF Prog.	63.98	178.88	236.52	N/A	N/A	N/A	N/A
	New Lamp & Ballast Purchase.	EL 1	90.0	32.5 W T8 & 0.88 BF Prog.	78.06	178.88	242.63	−6.11	100.0	0.0	NER
		EL 1	90.0		78.06	150.40	214.15	22.37	0.0	100.0	0.3
		EL 2	93.0	32.5 W T8 & 0.72 BF Prog.	76.59	150.18	220.43	16.09	0.0	100.0	3.3
		EL 2	95.4		73.53	178.88	246.06	−9.55	100.0	0.0	NER
		EL 2	95.4	26.6 W T8 & 0.88 BF Prog.	73.53	150.40	217.59	18.93	0.0	100.0	2.5
		EL 2	96.0	32.5 W T8 & 0.88 BF Prog. 32.5 W T8 & 0.72 BF Prog. 28.4 W T8 & 0.88 BF Prog.	70.79	160.96	225.40	11.12	0.0	100.0	2.8

TABLE VII.5—LCC AND PBP RESULTS FOR A 4-LAMP 4-FOOT 32 W T8 MEDIUM BIPIN INSTANT START SYSTEM OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Life-cycle cost			Life-Cycle Cost Savings			Mean payback period years
					Installed cost 2012$	Dis-counted operating cost 2012$	LCC 2012$	LCC Savings 2012$	Percentage of consumers that experience		
									Net Cost	Net Ben-efit	
Event I: Lamp Fail-ure.	Baseline	Baseline	89.2	32.5 W T8 & 0.87 BF Inst.	27.95	225.79	254.11	N/A	N/A	N/A	N/A
	Lamp Re-placement.	EL 1	90.0	32.5 W T8 & 0.87 BF Inst.	55.06	225.79	261.52	−7.41	100.0	0.0	NER
		EL 2	93.0		53.17	188.99	242.52	11.58	0.2	99.8	3.3
		EL 2	95.4	26.6 W T8 & 0.87 BF Inst.	47.05	225.79	273.20	−19.10	100.0	0.0	NER
		EL 2	96.0	32.5 W T8 & 0.87 BF Inst. 28.4 W T8 & 0.87 BF Inst.	41.56	202.80	244.72	9.39	0.0	100.0	2.9
Event II: Bal-last Failure.	Baseline	Baseline	89.2	32.5 W T8 & 0.87 BF Inst.	86.30	223.94	287.56	N/A	N/A	N/A	N/A

TABLE VII.5—LCC AND PBP RESULTS FOR A 4-LAMP 4-FOOT 32 W T8 MEDIUM BIPIN INSTANT START SYSTEM OPERATING IN THE COMMERCIAL SECTOR—Continued

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Life-cycle cost			Life-Cycle Cost Savings			Mean payback period years
					Installed cost 2012$	Dis-counted operating cost 2012$	LCC 2012$	LCC Savings 2012$	Percentage of consumers that experience		
									Net Cost	Net Benefit	
	Lamp & Ballast Replacement.	EL 1	90.0	32.5 W T8 & 0.78 BF Inst.	113.40	202.45	273.49	14.07	0.0	100.0	0.5
		EL 2	93.0		111.51	187.37	276.22	11.35	0.3	99.7	3.3
		EL 2	95.4	26.6 W T8 & 0.87 BF Inst.	105.39	195.81	278.53	9.03	0.2	99.8	3.3
		EL 2	96.0	32.5 W T8 & 0.74 BF Inst. 28.4 W T8 & 0.87 BF Inst.	99.90	201.09	278.32	9.24	0.0	100.0	2.9
Event III: New Construction and Renovation.	Baseline	Baseline	89.2	32.5 W T8 & 0.87 BF Inst.	89.09	223.94	289.26	N/A	N/A	N/A	N/A
	New Lamp & Ballast Purchase.	EL 1	90.0	32.5 W T8 & 0.78 BF Inst.	116.20	202.45	275.18	14.07	0.0	100.0	0.5
		EL 2	93.0		114.31	187.37	277.91	11.35	0.3	99.7	3.3
		EL 2	95.4	26.6 W T8 & 0.87 BF Inst.	108.19	195.81	280.23	9.03	0.2	99.8	3.3
		EL 2	96.0	32.5 W T8 & 0.74 BF Inst. 28.4 W T8 & 0.87 BF Inst.	102.70	201.09	280.02	9.24	0.0	100.0	2.9

TABLE VII.6—LCC AND PBP RESULTS FOR A 4-LAMP 4-FOOT 32 W T8 MEDIUM BIPIN PROGRAMMED START SYSTEM OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2012$	Dis-counted operating cost 2012$	LCC 2012$	LCC savings 2012$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure.	Baseline	Baseline	89.2	32.5 W T8 & 0.89 BF Prog.	27.95	354.89	383.16	N/A	N/A	N/A	N/A
	Lamp Replacement.	EL 1	90.0	32.5 W T8 & 0.89 BF Prog.	51.55	354.89	393.58	−10.42	100.0	0.0	NER
		EL 2	93.0		53.17	297.59	351.07	32.08	0.0	100.0	3.3
		EL 2	95.4	26.6 W T8 & 0.89 BF Prog.	47.05	354.89	402.25	−19.10	100.0	0.0	NER
		EL 2	96.0	32.5 W T8 & 0.89 BF Prog. 28.4 W T8 & 0.89 BF Prog.	41.56	319.10	360.97	22.19	0.0	100.0	2.8
Event II: Ballast Failure.	Baseline	Baseline	89.2	32.5 W T8 & 0.89 BF Prog.	88.14	354.89	434.98	N/A	N/A	N/A	N/A
	Lamp & Ballast Replacement.	EL 1	90.0	32.5 W T8 & 0.87 BF Prog.	111.73	339.09	429.60	5.38	0.4	99.6	1.0
		EL 2	93.0		113.36	297.59	402.90	32.08	0.0	100.0	3.3
		EL 2	95.4	26.6 W T8 & 0.89 BF Prog.	107.24	339.09	438.28	−3.29	81.9	18.1	9.0
		EL 2	96.0	32.5 W T8 & 0.87 BF Prog. 28.4 W T8 & 0.87 BF Prog.	101.75	304.62	398.32	36.66	0.0	100.0	2.0
Event III: New Construction and Renovation.	Baseline	Baseline	89.2	32.5 W T8 & 0.89 BF Prog.	90.94	354.89	437.39	N/A	N/A	N/A	N/A
	New Lamp & Ballast Purchase.	EL 1	90.0	32.5 W T8 & 0.87 BF Prog.	114.53	339.09	432.01	5.38	0.4	99.6	1.0
		EL 2	93.0		116.15	297.59	405.30	32.08	0.0	100.0	3.3
		EL 2	95.4	26.6 W T8 & 0.89 BF Prog.	110.03	339.09	440.68	−3.29	81.9	18.1	9.0
		EL 2	96.0	32.5 W T8 & 0.87 BF Prog. 28.4 W T8 & 0.87 BF Prog.	104.54	304.62	400.73	36.66	0.0	100.0	2.0

TABLE VII.7—LCC AND PBP RESULTS FOR A 2-LAMP 4-FOOT 32 W T8 MEDIUM BIPIN INSTANT START SYSTEM OPERATING IN THE RESIDENTIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2012$	Dis-counted operating cost 2012$	LCC 2012$	LCC savings 2012$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure.	Baseline	Baseline	89.2	32.5 W T8 & 0.87 BF Inst.	10.48	46.85	57.34	N/A	N/A	N/A	N/A
	Lamp Replacement.	EL 1	90.0	32.5 W T8 & 0.87 BF Inst.	11.58	46.85	58.43	−1.09	100	0	NER
		EL 2	93.0		23.09	39.29	62.38	−5.05	94.8	5.2	17.6
		EL 2	95.4	26.6 W T8 & 0.87 BF Inst.	20.03	46.85	66.88	−9.55	100	0	NER
		EL 2	96.0	32.5 W T8 & 0.87 BF Inst. 28.4 W T8 & 0.87 BF Inst.	17.29	42.13	59.41	−2.08	89.8	10.2	15.2
Event II: Ballast Failure.	Baseline	Baseline	89.2	32.5 W T8 & 0.87 BF Inst.	52.71	46.85	99.56	N/A	N/A	N/A	N/A
	Lamp & Ballast Replacement.	EL 1	90.0	32.5 W T8 & 0.83 BF Inst.	53.80	44.48	98.28	1.28	1.1	98.9	4.9
		EL 2	93.0		65.32	39.29	104.61	−5.05	94.8	5.2	17.6
		EL 2	95.4	26.6 W T8 & 0.87 BF Inst.	62.26	44.48	106.73	−7.17	100	0	42.5
		EL 2	96.0	32.5 W T8 & 0.83 BF Inst. 28.4 W T8 & 0.83 BF Inst.	59.51	39.99	99.50	0.06	49	51	10.5
Event III: New Construction and Renovation.	Baseline	Baseline	89.2	32.5 W T8 & 0.87 BF Inst.	55.51	46.85	102.36	N/A	N/A	N/A	N/A
	New Lamp & Ballast Purchase.	EL 1	90.0	32.5 W T8 & 0.83 BF Inst.	56.60	44.48	101.08	1.28	1.1	98.9	4.9
		EL 2	93.0		68.11	39.29	107.40	−5.05	94.8	5.2	17.6
		EL 2	95.4	26.6 W T8 & 0.87 BF Inst.	65.05	44.48	109.53	−7.17	100	0	42.5
		EL 2	96.0	32.5 W T8 & 0.83 BF Inst. 28.4 W T8 & 0.83 BF Inst.	62.31	39.99	102.30	0.06	49	51	10.5

TABLE VII.8—LCC AND PBP RESULTS FOR A TWO-LAMP 4-FOOT 54 W T5 MINIATURE BIPIN HIGH OUTPUT SYSTEM OPERATING IN THE INDUSTRIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2012$	Dis-counted operating cost 2012$	LCC 2012$	LCC savings 2012$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure.	Baseline	Baseline ...	83.6	53.8 W T5 & 1 BF Prog	18.58	181.10	199.85	N/A	N/A	N/A	N/A
	Lamp Replacement.	EL 1	92.9	53.8 W T5 & 1 BF Prog	26.60	181.10	207.87	−8.02	100.0	0.0	NER
		EL 1	102.0	49 W T5 & 1 BF Prog ..	32.52	165.38	191.12	8.73	0.0	100.0	3.9
		EL 1	102.1	47 W T5 & 1 BF Prog ..	35.43	158.83	190.02	9.83	0.0	100.0	3.3
Event II: Ballast Failure.	Baseline	Baseline ...	83.6	53.8 W T5 & 1 BF Prog	72.69	181.10	233.62	N/A	N/A	N/A	N/A
	Lamp & Ballast Replacement.	EL 1	92.9	53.8 W T5 & 1 BF Prog	80.72	181.10	241.65	−8.02	100.0	0.0	NER
		EL 1	102.0	49 W T5 & 1 BF Prog ..	86.64	165.38	224.89	8.73	0.0	100.0	3.9
		EL 1	102.1	47 W T5 & 1 BF Prog ..	89.55	158.83	223.79	9.83	0.0	100.0	3.3
Event III: New Construction and Renovation.	Baseline	Baseline ...	83.6	53.8 W T5 & 1 BF Prog	75.49	181.10	235.37	N/A	N/A	N/A	N/A
	New Lamp & Ballast Purchase.	EL 1	92.9	53.8 W T5 & 1 BF Prog	83.51	181.10	243.39	−8.02	100.0	0.0	NER
		EL 1	102.0	49 W T5 & 1 BF Prog ..	89.43	165.38	226.64	8.73	0.0	100.0	3.9
		EL 1	102.1	47 W T5 & 1 BF Prog ..	92.35	158.83	225.54	9.83	0.0	100.0	3.3

TABLE VII.9—LCC AND PBP RESULTS FOR A TWO-LAMP 4-FOOT 28 W T5 MINIATURE BIPIN STANDARD OUTPUT SYSTEM OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2012$	Discounted operating cost 2012$	LCC 2012$	LCC savings 2012$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure.	Baseline	Baseline	94.6	27.8 W T5 & 1 BF Prog.	15.30	152.84	168.31	N/A	N/A	N/A	N/A
	Lamp Replacement.	EL 1	104.3	27.8 W T5 & 1 BF Prog.	19.17	152.84	172.18	−3.87	100.0	0.0	NER
		EL 2	109.7		21.52	152.84	174.54	−6.22	100.0	0.0	NER
		EL 2	111.5	27.8 W T5 & 1 BF Prog.	24.67	143.23	168.07	0.25	57.9	42.1	5.7
		EL 2	116.0	26 W T5 & 1 BF Prog. 25 W T5 & 1 BF Prog.	27.41	137.88	162.64	5.68	0.2	99.8	4.8
Event II: Ballast Failure.	Baseline	Baseline	94.6	27.8 W T5 & 1 BF Prog.	68.19	152.84	205.74	N/A	N/A	N/A	N/A
	Lamp & Ballast Replacement.	EL 1	104.3	27.8 W T5 & 0.85 BF Prog.	72.06	134.13	190.90	14.84	0.0	100.0	1.2
		EL 2	109.7		74.41	134.13	193.25	12.49	0.0	100.0	2.0
		EL 2	111.5	27.8 W T5 & 0.85 BF Prog.	77.56	125.79	188.05	17.69	0.0	100.0	2.0
		EL 2	116.0	26 W T5 & 0.85 BF Prog. 25 W T5 & 0.85 BF Prog.	80.30	121.15	183.32	22.42	0.0	100.0	2.2
Event III: New Construction and Renovation.	Baseline	Baseline	94.6	27.8 W T5 & 1 BF Prog.	70.99	152.84	207.72	N/A	N/A	N/A	N/A
	New Lamp & Ballast Purchase.	EL 1	104.3	27.8 W T5 & 0.85 BF Prog.	74.86	134.13	192.88	14.84	0.0	100.0	1.2
		EL 2	109.7		77.21	134.13	195.23	12.49	0.0	100.0	2.0
		EL 2	111.5	27.8 W T5 & 0.85 BF Prog.	80.35	125.79	190.03	17.69	0.0	100.0	2.0
		EL 2	116.0	26 W T5 & 0.85 BF Prog. 25 W T5 & 0.85 BF Prog.	83.10	121.15	185.30	22.42	0.0	100.0	2.2

TABLE VII.10—LCC AND PBP RESULTS FOR A TWO-LAMP 8-FOOT 59 W T8 SINGLE PIN SLIMLINE SYSTEM OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2012$	Discounted operating cost 2012$	LCC 2012$	LCC savings 2012$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure.	Baseline	Baseline	96.5	60.1 W T8 & 0.87 BF Inst.	26.72	219.51	246.59	N/A	N/A	N/A	N/A
	Lamp Replacement.	EL 1	98.2	60.1 W T8 & 0.87 BF Inst.	29.40	219.51	249.27	−2.68	100.0	0.0	NER
		EL 2	99.0		34.52	219.51	254.39	−7.80	100.0	0.0	NER
		EL 2	105.6	60.1 W T8 & 0.87 BF Inst.	43.51	208.16	252.02	−5.43	96.1	3.9	7.1
		EL 2	108.0	54 W T8 & 0.87 BF Inst. 50 W T8 & 0.87 BF Inst.	50.87	193.01	244.23	2.36	44.6	55.4	4.3
Event II: Ballast Failure.	Baseline	Baseline	96.5	60.1 W T8 & 0.87 BF Inst.	102.46	216.15	288.57	N/A	N/A	N/A	N/A
	Lamp & Ballast Replacement.	EL 1	98.2	60.1 W T8 & 0.77 BF Inst.	105.14	193.01	268.11	20.46	0.0	100.0	0.6
		EL 2	99.0		110.25	193.01	273.23	15.34	0.0	100.0	1.6
		EL 2	105.6	60.1 W T8 & 0.77 BF Inst.	119.24	183.01	272.22	16.35	0.0	100.0	2.4
		EL 2	108.0	54 W T8 & 0.77 BF Inst. 50 W T8 & 0.87 BF Inst.	126.60	189.96	286.53	2.05	47.6	52.4	4.4

TABLE VII.10—LCC AND PBP RESULTS FOR A TWO-LAMP 8-FOOT 59 W T8 SINGLE PIN SLIMLINE SYSTEM OPERATING IN THE COMMERCIAL SECTOR—Continued

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2012$	Dis-counted operating cost 2012$	LCC 2012$	LCC savings 2012$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event III: New Construction and Renovation.	Baseline	Baseline	96.5	60.1 W T8 & 0.87 BF Inst.	105.25	216.15	290.24	N/A	N/A	N/A	N/A
	New Lamp & Ballast Purchase.	EL 1	98.2	60.1 W T8 & 0.77 BF Inst.	107.93	193.01	269.78	20.46	0.0	100.0	0.6
		EL 2	99.0		113.05	193.01	274.90	15.34	0.0	100.0	1.6
		EL 2	105.6	60.1 W T8 & 0.77 BF Inst.	122.04	183.01	273.89	16.35	0.0	100.0	2.4
		EL 2	108.0	54 W T8 & 0.77 BF Inst. 50 W T8 & 0.87 BF Inst.	129.40	189.96	288.20	2.05	47.6	52.4	4.4

TABLE VII.11—LCC AND PBP RESULTS FOR A TWO-LAMP 8-FOOT 86 W T8 RECESSED DOUBLE CONTACT HO SYSTEM OPERATING IN THE INDUSTRIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2012$	Dis-counted operating cost 2012$	LCC 2012$	LCC savings 2012$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure.	Baseline	Baseline	92.0	84 W T8 & 0.81 BF Inst.	24.45	171.55	196.38	N/A	N/A	N/A	N/A
	Lamp Replacement.	EL 1	95.2	84 W T8 & 0.81 BF Inst.	34.01	171.55	205.94	−9.56	100.0	0.0	NER
		EL 2	97.6	84 W T8 & 0.81 BF Inst.	41.22	171.55	213.15	−16.77	100.0	0.0	NER
Event II: Ballast Failure.	Baseline	Baseline	92.0	84 W T8 & 0.81 BF Inst.	100.34	171.55	233.59	N/A	N/A	N/A	N/A
	Lamp & Ballast Replacement.	EL 1	95.2	84 W T8 & 0.81 BF Inst.	109.90	171.55	243.15	−9.56	100.0	0.0	NER
		EL 2	97.6	84 W T8 & 0.81 BF Inst.	117.11	171.55	250.36	−16.77	100.0	0.0	NER
Event III: New Construction and Renovation.	Baseline	Baseline	92.0	84 W T8 & 0.81 BF Inst.	103.14	171.55	234.96	N/A	N/A	N/A	N/A
	New Lamp & Ballast Purchase.	EL 1	95.2	84 W T8 & 0.81 BF Inst.	112.70	171.55	244.52	−9.56	100.0	0.0	NER
		EL 2	97.6	84 W T8 & 0.81 BF Inst.	119.91	171.55	251.73	−16.77	100.0	0.0	NER

Incandescent Reflector Lamps

Table VII.12 through Table VII.15 present the commercial and residential sector LCC results for the IRL representative product class, the standard spectrum IRLs with diameters greater than 2.5 inches, input voltages less than 125 V.

TABLE VII.12—LCC AND PBP RESULTS FOR A 55 W PAR38 2,500 HOUR HIR EL 1 REPRESENTATIVE LAMP OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Lamp option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2012$	Dis-counted operating cost 2012$	LCC 2012$	LCC savings 2012$	Percentage of onsumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure; or Event III: New Construction and Renovation.	Baseline	Baseline	17.8	60W, 1500hrs, Improved Halogen.	10.52	9.06	19.58	N/A	N/A	N/A	N/A
	Lamp Replacement or New Lamp Purchase.	EL 1	18.5	55W, 2500hrs, HIR	13.07	8.30	16.14	3.44	0.0	100.0	3.2

TABLE VII.13—LCC AND PBP RESULTS FOR A 55 W PAR38 2,500 HOUR HIR EL 1 REPRESENTATIVE LAMP OPERATING IN THE RESIDENTIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Lamp option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2012$	Dis-counted operating cost 2012$	LCC 2012$	LCC avings 2012$	Percentage of onsumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure; or Event III: New Construction and Renovation.	Baseline	Baseline	17.8	60W, 1500hrs, Improved Halogen.	9.40	10.36	19.75	N/A	N/A	N/A	N/A
	Lamp Replacement or New Lamp Purchase.	EL 1	18.5	55W, 2500hrs, HIR	11.94	9.49	17.10	2.65	0.0	100.0	5.4

TABLE VII.14—LCC AND PBP RESULTS FOR A 55 W PAR38 4,200 HOUR IMPROVED HIR EL 1 REPRESENTATIVE LAMP OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Lamp option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2012$	Dis-counted operating cost 2012$	LCC 2012$	LCC savings 2012$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure; or Event III: New Construction and Renovation.	Baseline	Baseline	17.8	60W, 1500hrs, Improved Halogen.	10.52	9.06	19.58	N/A	N/A	N/A	N/A
	Lamp Replacement or New Lamp Purchase.	EL 1	18.5	55W, 4200hrs, Improved HIR.	14.94	8.30	13.64	5.94	0	100	5.6

TABLE VII.15—LCC AND PBP RESULTS FOR A 55 W PAR38 4,200 HOUR IMPROVED HIR EL 1 REPRESENTATIVE LAMP OPERATING IN THE RESIDENTIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy *lm/W*	Lamp option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2012$	Dis-counted operating cost 2012$	LCC 2012$	LCC savings 2012$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure; or Event III: New Construction and Renovation.	Baseline	Baseline	17.8	60W, 1500hrs, Improved Halogen.	9.40	10.36	19.75	N/A	N/A	N/A	N/A
	Lamp Replacement or New Lamp Purchase.	EL 1	18.5	55W, 4200hrs, Improved HIR.	13.81	9.49	15.26	4.49	0	100	9.4

b. Consumer Subgroup Analysis

Certain consumer subgroups may be disproportionately affected by standards. Using the LCC spreadsheet model, DOE determined the impact of the TSLs on the following consumer subgroups: low-income consumers and institutions that serve low-income populations.

To reflect conditions faced by the identified subgroups, DOE adjusted particular inputs to the LCC model. For low-income consumers, DOE only used RECS data for consumers living below the poverty line. For institutions serving low-income populations, DOE assumed that the majority of these institutions are small nonprofits, and used a higher discount rate of 9.6 percent (versus 5.1 percent for the main commercial sector analysis). DOE found the differences between the LCC and PBP results for the subgroups analyzed and the primary LCC and PBP analysis to be minimal. See chapter 9 of the NOPR TSD further details of the consumer subgroup analysis.

General Service Fluorescent Lamps

Table VII.16 through Table VII.24 below show the LCC impacts and payback periods for the identified subgroups for GSFLs. Entries of ''NER'' indicate standard levels that do not reduce operating costs.

TABLE VII.16—LCC AND PBP SUBGROUP RESULTS FOR INSTITUTIONS SERVING LOW INCOME POPULATIONS FOR A 2-LAMP 4-FOOT 32 W T8 MEDIUM BIPIN INSTANT START SYSTEM OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2012$	Dis-counted operating cost 2012$	LCC 2012$	LCC savings 2012$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure.	Baseline	Baseline	89.2	32.5 W T8 & 0.88 BF Inst.	17.19	102.28	119.60	N/A	N/A	N/A	N/A
	Lamp Replacement.	EL 1	90.0	32.5 W T8 & 0.88 BF Inst.	31.03	102.28	124.21	−4.61	100	0	NER
		EL 2	93.0		29.79	85.69	115.63	3.97	4.2	95.8	3.2
		EL 2	95.4	26.6 W T8 & 0.88 BF Inst.	26.73	102.28	129.15	−9.55	100	0	NER
		EL 2	96.0	32.5 W T8 & 0.88 BF Inst. 28.4 W T8 & 0.88 BF Inst.	23.99	91.92	116.05	3.56	0	100	2.8
Event II: Ballast Failure.	Baseline	Baseline	89.2	32.5 W T8 & 0.88 BF Inst.	59.99	100.97	147.99	N/A	N/A	N/A	N/A
	Lamp & Ballast Replacement.	EL 1	90.0	32.5 W T8 & 0.78 BF Inst.	73.83	90.31	141.93	6.05	0	100	0.4
		EL 2	93.0		72.59	84.55	144.18	3.81	6.6	93.4	3.3
		EL 2	95.4	26.6 W T8 & 0.88 BF Inst.	69.53	88.37	144.93	3.06	3.6	96.4	3.2
		EL 2	96.0	32.5 W T8 & 0.77 BF Inst. 28.4 W T8 & 0.87 BF Inst.	66.79	89.15	142.97	5.02	0	100	2.4
Event III: New Construction and Renovation.	Baseline	Baseline	89.2	32.5 W T8 & 0.88 BF Inst.	62.78	100.97	149.93	N/A	N/A	N/A	N/A

TABLE VII.16—LCC AND PBP SUBGROUP RESULTS FOR INSTITUTIONS SERVING LOW INCOME POPULATIONS FOR A 2-LAMP 4-FOOT 32 W T8 MEDIUM BIPIN INSTANT START SYSTEM OPERATING IN THE COMMERCIAL SECTOR—Continued

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2012$	Dis-counted operating cost 2012$	LCC 2012$	LCC savings 2012$	Percentage of consumers that experience		
									Net cost	Net benefit	
	New Lamp & Ballast Purchase.	EL 1	90.0	32.5 W T8 & 0.78 BF Inst.	76.62	90.31	143.87	6.05	0	100	0.4
		EL 2	93.0		75.39	84.55	146.12	3.81	6.6	93.4	3.3
		EL 2	95.4	26.6 W T8 & 0.88 BF Inst.	72.33	88.37	146.87	3.06	3.6	96.4	3.2
		EL 2	96.0	32.5 W T8 & 0.77 BF Inst. 28.4 W T8 & 0.87 BF Inst.	69.58	89.15	144.91	5.02	0	100	2.4

TABLE VII.17—LCC AND PBP SUBGROUP RESULTS FOR INSTITUTIONS SERVING LOW INCOME POPULATIONS FOR A 2-LAMP 4-FOOT 32 W T8 MEDIUM BIPIN PROGRAMMED START SYSTEM OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2012$	Dis-counted operating cost 2012$	LCC 2012$	LCC savings 2012$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure.	Baseline	Baseline	89.2	32.5 W T8 & 0.88 BF Prog.	17.19	146.45	163.74	N/A	N/A	N/A	N/A
	Lamp Replacement.	EL 1	90.0	32.5 W T8 & 0.88 BF Prog.	27.94	146.45	169.05	−5.31	100.0	0.0	NER
		EL 2	93.0	26.6 W T8 & 0.88 BF Prog.	29.79	122.95	152.85	10.89	0.0	100.0	3.3
		EL 2	95.4	32.5 W T8 & 0.88 BF Prog.	26.73	146.45	173.29	−9.55	100.0	0.0	NER
		EL 2	96.0	28.4 W T8 & 0.88 BF Prog.	23.99	131.77	155.87	7.87	0.0	100.0	2.8
Event II: Ballast Failure.	Baseline	Baseline	89.2	32.5 W T8 & 0.88 BF Prog.	61.19	146.45	203.56	N/A	N/A	N/A	N/A
	Lamp & Ballast Replacement.	EL 1	90.0	32.5 W T8 & 0.88 BF Prog.	71.94	146.45	208.87	−5.31	100.0	0.0	NER
		EL 1	90.0	32.5 W T8 & 0.72 BF Prog.	71.94	123.13	185.56	18.01	0.0	100.0	0.3
		EL 2	93.0	26.6 W T8 & 0.88 BF Prog.	73.80	122.95	192.68	10.89	0.0	100.0	3.3
		EL 2	95.4	32.5 W T8 & 0.88 BF Prog.	70.74	146.45	213.11	−9.55	100.0	0.0	NER
		EL 2	95.4	32.5 W T8 & 0.72 BF Prog.	70.74	123.13	189.80	13.77	0.0	100.0	2.5
		EL 2	96.0	28.4 W T8 & 0.88 BF Prog.	67.99	131.77	195.69	7.87	0.0	100.0	2.8
Event III: New Construction and Renovation.	Baseline	Baseline	89.2	32.5 W T8 & 0.88 BF Prog.	63.98	146.45	206.09	N/A	N/A	N/A	N/A
	New Lamp & Ballast Purchase.	EL 1	90.0	32.5 W T8 & 0.88 BF Prog.	74.73	146.45	211.40	−5.31	100.0	0.0	NER
		EL 1	90.0	32.5 W T8 & 0.72 BF Prog.	74.73	123.13	188.09	18.01	0.0	100.0	0.3
		EL 2	93.0	26.6 W T8 & 0.88 BF Prog.	76.59	122.95	195.21	10.89	0.0	100.0	3.3
		EL 2	95.4	32.5 W T8 & 0.88 BF Prog.	73.53	146.45	215.64	−9.55	100.0	0.0	NER
		EL 2	95.4	32.5 W T8 & 0.72 BF Prog.	73.53	123.13	192.33	13.77	0.0	100.0	2.5
		EL 2	96.0	28.4 W T8 & 0.88 BF Prog.	70.79	131.77	198.22	7.87	0.0	100.0	2.8

TABLE VII.18—LCC AND PBP SUBGROUP RESULTS FOR INSTITUTIONS SERVING LOW INCOME POPULATIONS FOR A 4-LAMP 4-FOOT 32 W T8 MEDIUM BIPIN INSTANT START SYSTEM OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2012$	Dis-counted operating cost 2012$	LCC 2012$	LCC savings 2012$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure.	Baseline	Baseline	89.2	32.5 W T8 & 0.87 BF Inst.	27.95	197.44	225.67	N/A	N/A	N/A	N/A
	Lamp Replacement.	EL 1	90.0	32.5 W T8 & 0.87 BF Inst.	51.18	197.44	233.62	−7.95	100.0	0.0	NER
		EL 2	93.0	26.6 W T8 & 0.87 BF Inst.	53.17	165.26	218.70	6.96	8.8	91.2	3.3
		EL 3	95.4	32.5 W T8 & 0.87 BF Inst.	47.05	197.44	244.76	−19.10	100.0	0.0	NER
		EL 2	96.0	28.4 W T8 & 0.87 BF Inst.	41.56	177.33	219.17	6.50	0.1	99.9	2.9
Event II: Ballast Failure.	Baseline	Baseline	89.2	32.5 W T8 & 0.87 BF Inst.	86.30	195.81	264.52	N/A	N/A	N/A	N/A
	Lamp & Ballast Replacement.	EL 1	90.0	32.5 W T8 & 0.78 BF Inst.	109.52	177.03	253.68	10.84	0.0	100.0	0.5
		EL 2	93.0	26.6 W T8 & 0.87 BF Inst.	111.51	163.84	257.76	6.76	9.4	90.6	3.3
		EL 2	95.4	32.5 W T8 & 0.74 BF Inst.	105.39	171.22	259.02	5.50	7.9	92.1	3.3
		EL 2	96.0	28.4 W T8 & 0.87 BF Inst.	99.90	175.84	258.15	6.37	0.2	99.8	2.9
Event III: New Construction and Renovation.	Baseline	Baseline	89.2	32.5 W T8 & 0.87 BF Inst.	89.09	195.81	266.46	N/A	N/A	N/A	N/A
	New Lamp & Ballast Purchase.	EL 1	90.0	32.5 W T8 & 0.78 BF Inst.	112.32	177.03	255.62	10.84	0.0	100.0	0.5
		EL 2	93.0	26.6 W T8 & 0.87 BF Inst.	114.31	163.84	259.70	6.76	9.4	90.6	3.3
		EL 2	95.4	32.5 W T8 & 0.74 BF Inst.	108.19	171.22	260.96	5.50	7.9	92.1	3.3
		EL 2	96.0	28.4 W T8 & 0.87 BF Inst.	102.70	175.84	260.09	6.37	0.2	99.8	2.9

TABLE VII.19—LCC AND PBP SUBGROUP RESULTS FOR INSTITUTIONS SERVING LOW INCOME POPULATIONS FOR A 4-LAMP 4-FOOT 32 W T8 MEDIUM BIPIN PROGRAMMED START SYSTEM OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2012$	Dis-counted operating cost 2012$	LCC 2012$	LCC savings 2012$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure.	Baseline	Baseline	89.2	32.5 W T8 & 0.89 BF Prog.	27.95	290.55	318.71	N/A	N/A	N/A	N/A
	Lamp Replacement.	EL 1	90.0	32.5 W T8 & 0.89 BF Prog.	46.06	290.55	327.82	−9.11	100.0	0.0	NER
		EL 2	93.0	26.6 W T8 & 0.89 BF Prog.	53.17	243.64	297.02	21.70	0.0	100.0	3.3
		EL 2	95.4	32.5 W T8 & 0.89 BF Prog.	47.05	290.55	337.81	−19.10	100.0	0.0	NER
		EL 2	96.0	28.4 W T8 & 0.89 BF Prog.	41.56	261.25	303.02	15.70	0.0	100.0	2.8
Event II: Ballast Failure.	Baseline	Baseline	89.2	32.5 W T8 & 0.89 BF Prog.	88.14	290.55	373.19	N/A	N/A	N/A	N/A
	Lamp & Ballast Replacement.	EL 1	90.0	32.5 W T8 & 0.87 BF Prog.	106.25	277.61	369.36	3.83	4.6	95.4	1.0
		EL 2	93.0	26.6 W T8 & 0.89 BF Prog.	113.36	243.64	351.49	21.70	0.0	100.0	3.3
		EL 2	95.4	32.5 W T8 & 0.87 BF Prog.	107.24	277.61	379.35	−6.16	96.0	4.0	9.0
		EL 2	96.0	28.4 W T8 & 0.87 BF Prog.	101.75	249.39	345.64	27.55	0.0	100.0	2.0
Event III: New Construction and Renovation.	Baseline	Baseline	89.2	32.5 W T8 & 0.89 BF Prog.	90.94	290.55	375.72	N/A	N/A	N/A	N/A

TABLE VII.19—LCC AND PBP SUBGROUP RESULTS FOR INSTITUTIONS SERVING LOW INCOME POPULATIONS FOR A 4-LAMP 4-FOOT 32 W T8 MEDIUM BIPIN PROGRAMMED START SYSTEM OPERATING IN THE COMMERCIAL SECTOR—Continued

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2012$	Dis-counted operating cost 2012$	LCC 2012$	LCC savings 2012$	Percentage of consumers that experience		
									Net cost	Net benefit	
	New Lamp & Ballast Pur-chase.	EL 1	90.0	32.5 W T8 & 0.87 BF Prog.	109.04	277.61	371.89	3.83	4.6	95.4	1.0
		EL 2	93.0	26.6 W T8 & 0.89 BF Prog.	116.15	243.64	354.02	21.70	0.0	100.0	3.3
		EL 2	95.4	32.5 W T8 & 0.87 BF Prog.	110.03	277.61	381.88	−6.16	96.0	4.0	9.0
		EL 2	96.0	28.4 W T8 & 0.87 BF Prog.	104.54	249.39	348.17	27.55	0.0	100.0	2.0

TABLE VII.20—LCC AND PBP SUBGROUP RESULTS FOR LOW-INCOME CONSUMERS FOR A 2-LAMP 4-FOOT 32 W T8 MEDIUM BIPIN INSTANT START SYSTEM OPERATING IN THE RESIDENTIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2012$	Dis-counted operating cost 2012$	LCC 2012$	LCC savings 2012$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure.	Baseline	Baseline	89.2	32.5 W T8 & 0.87 BF Inst.	10.49	46.83	57.32	N/A	N/A	N/A	N/A
	Lamp Re-place-ment.	EL 1	90.0	32.5 W T8 & 0.87 BF Inst.	11.59	46.83	58.42	−1.09	100	0	NER
		EL 2	93.0	26.6 W T8 & 0.87 BF Inst.	23.11	39.27	62.38	−5.06	94.9	5.1	17.6
		EL 2	95.4	32.5 W T8 & 0.87 BF Inst.	20.05	46.83	66.88	−9.56	100	0	NER
		EL 2	96.0	28.4 W T8 & 0.87 BF Inst.	17.30	42.11	59.41	−2.09	90.3	9.7	15.2
Event II: Ballast Failure.	Baseline	Baseline	89.2	32.5 W T8 & 0.87 BF Inst.	52.73	46.83	99.56	N/A	N/A	N/A	N/A
	Lamp & Ballast Replace-ment.	EL 1	90.0	32.5 W T8 & 0.83 BF Inst.	53.82	44.45	98.28	1.28	1.1	98.9	4.9
		EL 2	93.0	26.6 W T8 & 0.87 BF Inst.	65.35	39.27	104.62	−5.06	94.9	5.1	17.6
		EL 2	95.4	32.5 W T8 & 0.83 BF Inst.	62.29	44.45	106.74	−7.18	100	0	42.5
		EL 2	96.0	28.4 W T8 & 0.83 BF Inst.	59.54	39.97	99.51	0.05	49.9	50.1	10.5
Event III: New Construc-tion and Renova-tion.	Baseline	Baseline	89.2	32.5 W T8 & 0.87 BF Inst.	55.53	46.83	102.35	N/A	N/A	N/A	N/A
	New Lamp & Ballast Purchase.	EL 1	90.0	32.5 W T8 & 0.83 BF Inst.	56.62	44.45	101.07	1.28	1.1	98.9	4.9
		EL 2	93.0	26.6 W T8 & 0.87 BF Inst.	68.14	39.27	107.41	−5.06	94.9	5.1	17.6
		EL 2	95.4	32.5 W T8 & 0.83 BF Inst.	65.08	44.45	109.54	−7.18	100	0	42.5
		EL 2	96.0	28.4 W T8 & 0.83 BF Inst.	62.33	39.97	102.30	0.05	49.9	50.1	10.5

TABLE VII.21—LCC AND PBP SUBGROUP RESULTS FOR INSTITUTIONS SERVING LOW INCOME POPULATIONS FOR A TWO-LAMP 4-FOOT 54 W T5 MINIATURE BIPIN HIGH OUTPUT SYSTEM OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2012$	Dis-counted operating cost 2012$	LCC 2012$	LCC savings 2012$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure.	Baseline	Baseline	83.6	53.8 W T5 & 1 BF Prog.	18.57	219.84	238.55	N/A	N/A	N/A	N/A
	Lamp Replacement.	EL 1	92.9	53.8 W T5 & 1 BF Prog.	26.59	219.84	246.57	−8.02	100.0	0.0	NER
		EL 1	102.0	49 W T5 & 1 BF Prog.	32.51	200.77	227.96	10.60	0.0	100.0	3.2
		EL 1	102.1	47 W T5 & 1 BF Prog.	35.42	192.81	224.90	13.65	0.0	100.0	2.7
Event II: Ballast Failure.	Baseline	Baseline	83.6	53.8 W T5 & 1 BF Prog.	72.68	219.84	276.70	N/A	N/A	N/A	N/A
	Lamp & Ballast Replacement.	EL 1	92.9	53.8 W T5 & 1 BF Prog.	80.70	219.84	284.72	−8.02	100.0	0.0	NER
		EL 1	102.0	49 W T5 & 1 BF Prog.	86.62	200.77	266.11	10.60	0.0	100.0	3.2
		EL 1	102.1	47 W T5 & 1 BF Prog.	89.53	192.81	263.05	13.65	0.0	100.0	2.7
Event III: New Construction and Renovation.	Baseline	Baseline	83.6	53.8 W T5 & 1 BF Prog.	75.47	219.84	278.68	N/A	N/A	N/A	N/A
	New Lamp & Ballast Purchase.	EL 1	92.9	53.8 W T5 & 1 BF Prog.	83.49	219.84	286.69	−8.02	100.0	0.0	NER
		EL 1	102.0	49 W T5 & 1 BF Prog.	89.41	200.77	268.08	10.60	0.0	100.0	3.2
		EL 1	102.1	47 W T5 & 1 BF Prog.	92.32	192.81	265.03	13.65	0.0	100.0	2.7

TABLE VII.22—LCC AND PBP SUBGROUP RESULTS FOR INSTITUTIONS SERVING LOW INCOME POPULATIONS FOR A TWO-LAMP 4-FOOT 28 W T5 MINIATURE BIPIN STANDARD OUTPUT SYSTEM OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2012$	Dis-counted operating cost 2012$	LCC 2012$	LCC savings 2012$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure.	Baseline	Baseline	94.6	27.8 W T5 & 1 BF Prog.	15.30	130.31	145.74	N/A	N/A	N/A	N/A
	Lamp Replacement.	EL 1	104.3	27.8 W T5 & 1 BF Prog.	19.17	130.31	149.61	−3.87	100.0	0.0	NER
		EL 2	109.7	27.8 W T5 & 1 BF Prog.	21.52	130.31	151.96	−6.22	100.0	0.0	NER
		EL 2	111.5	26 W T5 & 1 BF Prog.	24.67	122.12	146.91	−1.17	75.3	24.7	5.7
		EL 2	116.0	25 W T5 & 1 BF Prog.	27.41	117.56	142.99	2.75	11.4	88.6	4.8
Event II: Ballast Failure.	Baseline	Baseline	94.6	27.8 W T5 & 1 BF Prog.	68.19	130.31	187.13	N/A	N/A	N/A	N/A
	Lamp & Ballast Replacement.	EL 1	104.3	27.8 W T5 & 0.85 BF Prog.	72.06	114.36	175.05	12.08	0.0	100.0	1.2
		EL 2	109.7	27.8 W T5 & 0.85 BF Prog.	74.41	114.36	177.40	9.73	0.0	100.0	2.0
		EL 2	111.5	26 W T5 & 0.85 BF Prog.	77.56	107.25	173.43	13.70	0.0	100.0	2.0
		EL 2	116.0	25 W T5 & 0.85 BF Prog.	80.30	103.29	170.11	17.02	0.0	100.0	2.2
Event III: New Construction and Renovation.	Baseline	Baseline	94.6	27.8 W T5 & 1 BF Prog.	70.99	130.31	189.32	N/A	N/A	N/A	N/A
	New Lamp & Ballast Purchase.	EL 1	104.3	27.8 W T5 & 0.85 BF Prog.	74.86	114.36	177.23	12.08	0.0	100.0	1.2
		EL 2	109.7	27.8 W T5 & 0.85 BF Prog.	77.21	114.36	179.59	9.73	0.0	100.0	2.0
		EL 2	111.5	26 W T5 & 0.85 BF Prog.	80.35	107.25	175.62	13.70	0.0	100.0	2.0

TABLE VII.22—LCC AND PBP SUBGROUP RESULTS FOR INSTITUTIONS SERVING LOW INCOME POPULATIONS FOR A TWO-LAMP 4-FOOT 28 W T5 MINIATURE BIPIN STANDARD OUTPUT SYSTEM OPERATING IN THE COMMERCIAL SECTOR—Continued

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2012$	Dis-counted operating cost 2012$	LCC 2012$	LCC savings 2012$	Percentage of consumers that experience		
									Net cost	Net benefit	
		EL 2	116.0	25 W T5 & 0.85 BF Prog.	83.10	103.29	172.30	17.02	0.0	100.0	2.2

TABLE VII.23—LCC AND PBP SUBGROUP RESULTS FOR INSTITUTIONS SERVING LOW INCOME POPULATIONS FOR A TWO-LAMP 8-FOOT 59 W T8 SINGLE PIN SLIMLINE SYSTEM OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2012$	Dis-counted operating cost 2012$	LCC 2012$	LCC savings 2012$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure.	Baseline	Baseline	96.5	60.1 W T8 & 0.87 BF Inst.	26.72	192.30	219.30	N/A	N/A	N/A	N/A
	Lamp Replacement.	EL 1	98.2	60.1 W T8 & 0.87 BF Inst.	29.40	192.30	221.98	−2.68	100.0	0.0	NER
		EL 2	99.0	60.1 W T8 & 0.87 BF Inst.	34.52	192.30	227.10	−7.80	100.0	0.0	NER
		EL 2	105.6	54 W T8 & 0.87 BF Inst.	43.51	182.36	226.14	−6.84	99.6	0.4	7.1
		EL 2	108.0	50 W T8 & 0.87 BF Inst.	50.87	169.08	220.23	−0.92	67.7	32.3	4.3
Event II: Ballast Failure.	Baseline	Baseline	96.5	60.1 W T8 & 0.87 BF Inst.	102.46	189.36	268.51	N/A	N/A	N/A	N/A
	Lamp & Ballast Replacement.	EL 1	98.2	60.1 W T8 & 0.77 BF Inst.	105.14	169.09	250.92	17.59	0.0	100.0	0.6
		EL 2	99.0	60.1 W T8 & 0.77 BF Inst.	110.25	169.09	256.04	12.47	0.0	100.0	1.6
		EL 2	105.6	54 W T8 & 0.77 BF Inst.	119.24	160.33	256.27	12.24	0.0	100.0	2.4
		EL 2	108.0	50 W T8 & 0.87 BF Inst.	126.60	166.42	269.71	−1.20	68.7	31.3	4.4
Event III: New Construction and Renovation.	Baseline	Baseline	96.5	60.1 W T8 & 0.87 BF Inst.	105.25	189.36	270.44	N/A	N/A	N/A	N/A
	New Lamp & Ballast Purchase.	EL 1	98.2	60.1 W T8 & 0.77 BF Inst.	107.93	169.09	252.84	17.59	0.0	100.0	0.6
		EL 2	99.0	60.1 W T8 & 0.77 BF Inst.	113.05	169.09	257.96	12.47	0.0	100.0	1.6
		EL 2	105.6	54 W T8 & 0.77 BF Inst.	122.04	160.33	258.19	12.24	0.0	100.0	2.4
		EL 2	108.0	50 W T8 & 0.87 BF Inst.	129.40	166.42	271.64	−1.20	68.7	31.3	4.4

TABLE VII.24—LCC AND PBP SUBGROUP RESULTS FOR INSTITUTIONS SERVING LOW INCOME POPULATIONS FOR A TWO-LAMP 8-FOOT 86 W T8 RECESSED DOUBLE CONTACT HO SYSTEM OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2012$	Dis-counted operating cost 2012$	LCC 2012$	LCC savings 2012$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure.	Baseline	Baseline	92.0	84 W T8 & 0.81 BF Inst.	24.45	214.21	238.99	N/A	N/A	N/A	N/A
	Lamp Replacement.	EL 1	95.2	84 W T8 & 0.81 BF Inst.	34.00	214.21	248.54	−9.56	100.0	0.0	NER
		EL 2	97.6	84 W T8 & 0.81 BF Inst.	41.21	214.21	255.75	−16.76	100.0	0.0	NER
Event II: Ballast Failure.	Baseline	Baseline	92.0	84 W T8 & 0.81 BF Inst.	100.33	214.21	280.62	N/A	N/A	N/A	N/A

TABLE VII.24—LCC AND PBP SUBGROUP RESULTS FOR INSTITUTIONS SERVING LOW INCOME POPULATIONS FOR A TWO-LAMP 8-FOOT 86 W T8 RECESSED DOUBLE CONTACT HO SYSTEM OPERATING IN THE COMMERCIAL SECTOR—Continued

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2012$	Dis-counted operating cost 2012$	LCC 2012$	LCC savings 2012$	Percentage of consumers that experience		
									Net cost	Net benefit	
	Lamp & Ballast Replacement.	EL 1	95.2	84 W T8 & 0.81 BF Inst.	109.89	214.21	290.18	−9.56	100.0	0.0	NER
		EL 2	97.6	84 W T8 & 0.81 BF Inst.	117.09	214.21	297.38	−16.76	100.0	0.0	NER
Event III: New Construction and Renovation.	Baseline	Baseline	92.0	84 W T8 & 0.81 BF Inst.	103.13	214.21	282.16	N/A	N/A	N/A	N/A
	New Lamp & Ballast Purchase.	EL 1	95.2	84 W T8 & 0.81 BF Inst.	112.68	214.21	291.71	−9.56	100.0	0.0	NER
		EL 2	97.6	84 W T8 & 0.81 BF Inst.	119.89	214.21	298.92	-16.76	100.0	0.0	NER

Incandescent Reflector Lamps

Table VII.25 through Table VII.28 below show the LCC impacts and payback periods for the identified subgroups for IRLs.

TABLE VII.25—LCC AND PBP SUBGROUP RESULTS FOR INSTITUTIONS SERVING LOW INCOME POPULATIONS FOR A 55 W PAR38 2,500 HOUR HIR EL 1 REPRESENTATIVE LAMP OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Lamp option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2012$	Dis-counted operating cost 2012$	LCC 2012$	LCC savings 2012$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure; or Event III: New Construction and Renovation.	Baseline	Baseline	17.8	60W, 1500hrs, Improved Halogen.	10.52	8.68	19.21	N/A	N/A	N/A	N/A
	Lamp Replacement or New Lamp Purchase.	EL 1	18.5	55W, 2500hrs, HIR	13.07	7.96	15.80	3.41	0.0	100.0	3.2

TABLE VII.26—LCC AND PBP SUBGROUP RESULTS FOR LOW-INCOME CONSUMERS FOR A 55 W PAR38 2,500 HOUR HIR EL 1 REPRESENTATIVE LAMP OPERATING IN THE RESIDENTIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Lamp option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2012$	Dis-counted operating cost 2012$	LCC 2012$	LCC savings 2012$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure; or Event III: New Construction and Renovation.	Baseline	Baseline	17.8	60W, 1500hrs, Improved Halogen.	9.40	10.21	19.62	N/A	N/A	N/A	N/A

TABLE VII.26—LCC AND PBP SUBGROUP RESULTS FOR LOW-INCOME CONSUMERS FOR A 55 W PAR38 2,500 HOUR HIR EL 1 REPRESENTATIVE LAMP OPERATING IN THE RESIDENTIAL SECTOR—Continued

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Lamp option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2012$	Dis-counted operating cost 2012$	LCC 2012$	LCC savings 2012$	Percentage of consumers that experience		
									Net cost	Net benefit	
	Lamp Replacement or New Lamp Purchase.	EL 1	18.5	55W, 2500hrs, HIR	11.95	9.36	16.98	2.64	0.0	100.0	5.5

TABLE VII.27—LCC AND PBP SUBGROUP RESULTS FOR INSTITUTIONS SERVING LOW INCOME POPULATIONS FOR A 55 W PAR38 4,200 HOUR IMPROVED HIR EL 1 REPRESENTATIVE LAMP OPERATING IN THE COMMERCIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Lamp option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2012$	Dis-counted operating cost 2012$	LCC 2012$	LCC savings 2012$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure; or Event III: New Construction and Renovation.	Baseline	Baseline	17.8	60W, 1500hrs, Improved Halogen.	10.52	8.68	19.21	N/A	N/A	N/A	N/A
	Lamp Replacement or New Lamp Purchase.	EL 1	18.5	55W, 4200hrs, Improved HIR.	14.94	7.96	13.30	5.91	0.0	100.0	5.6

TABLE VII.28—LCC AND PBP SUBGROUP RESULTS FOR LOW-INCOME CONSUMERS FOR A 55 W PAR38 4,200 HOUR IMPROVED HIR EL 1 REPRESENTATIVE LAMP OPERATING IN THE RESIDENTIAL SECTOR

Event	Response	Efficacy level	Rated lamp efficacy lm/W	Lamp option	Life-cycle cost			Life-cycle cost savings			Mean payback period years
					Installed cost 2012$	Dis-counted operating cost 2012$	LCC 2012$	LCC savings 2012$	Percentage of consumers that experience		
									Net cost	Net benefit	
Event I: Lamp Failure; or Event III: New Construction and Renovation.	Baseline	Baseline	17.8	60W, 1500hrs, Improved Halogen.	9.40	10.21	19.62	N/A	N/A	N/A	N/A
	Lamp Replacement or New Lamp Purchase.	EL 1	18.5	55W, 4200hrs, Improved HIR.	13.82	9.36	15.13	4.48	0	100	9.5

c. Rebuttable Presumption Payback

EPCA establishes 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 that calculate the payback period for consumers of potential energy conservation standards, which include, but are not limited to, the 3-year payback period contemplated under the rebuttable presumption test. However, DOE routinely conducts a full 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). 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.29 shows the GSFL payback periods that are less than 3 years for the most common sector for each product class. There are no IRL payback periods less than 3 years.

TABLE VII.29—GSFL EFFICACY LEVELS WITH REBUTTABLE PAYBACK PERIOD LESS THAN THREE YEARS

Lamp description	Sector	Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Mean payback period years
2-Lamp 4-foot Medium Bipin Instant Start.	Commercial ...	Event I: Lamp Failure.	Lamp Replacement.	EL 2	96.0	28.4 W T8 & 0.88 BF Inst.	2.8
		Event II: Ballast Failure.	Lamp & Ballast Replacement.	EL 1	90.0	32.5 W T8 & 0.78 BF Inst.	0.4
				EL 2	96.0	28.4 W T8 & 0.87 BF Inst.	2.4
		Event III: New Construction and Renovation.	New Lamp & Ballast Purchase.	EL 1	90.0	32.5 W T8 & 0.78 BF Inst.	0.4
				EL 2	96.0	28.4 W T8 & 0.87 BF Inst.	2.4
2-Lamp 4-foot Medium Bipin Programmed Start.	Commercial ...	Event I: Lamp Failure.	Lamp Replacement.	EL 2	96.0	28.4 W T8 & 0.88 BF Prog.	2.8
		Event II: Ballast Failure.	Lamp & Ballast Replacement.	EL 1	90.0	32.5 W T8 & 0.72 BF Prog.	0.3
				EL 2	95.4	32.5 W T8 & 0.72 BF Prog.	2.5
				EL 2	96.0	28.4 W T8 & 0.88 BF Prog.	2.8
		Event III: New Construction and Renovation.	New Lamp & Ballast Purchase.	EL 1	90.0	32.5 W T8 & 0.72 BF Prog.	0.3
				EL 2	95.4	32.5 W T8 & 0.72 BF Prog.	2.5
				EL 2	96.0	28.4 W T8 & 0.88 BF Prog.	2.8
4-Lamp 4-foot Medium Bipin Instant Start.	Commercial ...	Event I: Lamp Failure.	Lamp Replacement.	EL 2	96.0	28.4 W T8 & 0.87 BF Inst.	2.9
		Event II: Ballast Failure.	Lamp & Ballast Replacement.	EL 1	90.0	32.5 W T8 & 0.78 BF Inst.	0.5
				EL 2	96.0	28.4 W T8 & 0.87 BF Inst.	2.9
		Event III: New Construction and Renovation.	New Lamp & Ballast Purchase.	EL 1	90.0	32.5 W T8 & 0.78 BF Inst.	0.5
				EL 2	96.0	28.4 W T8 & 0.87 BF Inst.	2.9
4-Lamp 4-foot Medium Bipin Programmed Start.	Commercial ...	Event I: Lamp Failure.	Lamp Replacement.	EL 2	96.0	28.4 W T8 & 0.89 BF Prog.	2.8
		Event II: Ballast Failure.	Lamp & Ballast Replacement.	EL 1	90.0	32.5 W T8 & 0.87 BF Prog.	1.0
				EL 2	96.0	28.4 W T8 & 0.87 BF Prog.	2.0
		Event III: New Construction and Renovation.	New Lamp & Ballast Purchase.	EL 1	90.0	32.5 W T8 & 0.87 BF Prog.	1.0
				EL 2	96.0	28.4 W T8 & 0.87 BF Prog.	2.0
T5 Miniature Bipin Standard Output.	Commercial ...	Event II: Ballast Failure.	Lamp & Ballast Replacement.	EL 1	104.3	27.8 W T5 & 0.85 BF Prog.	1.2

TABLE VII.29—GSFL EFFICACY LEVELS WITH REBUTTABLE PAYBACK PERIOD LESS THAN THREE YEARS—Continued

Lamp description	Sector	Event	Response	Efficacy level	Rated lamp efficacy lm/W	Design option	Mean payback period years
				EL 2	109.7	27.8 W T5 & 0.85 BF Prog.	2.0
				EL 2	111.5	26 W T5 & 0.85 BF Prog.	2.0
				EL 2	116.0	25 W T5 & 0.85 BF Prog.	2.2
		Event III: New Construction and Renovation.	New Lamp & Ballast Purchase.	EL 1	104.3	27.8 W T5 & 0.85 BF Prog.	1.2
				EL 2	109.7	27.8 W T5 & 0.85 BF Prog.	2.0
				EL 2	111.5	26 W T5 & 0.85 BF Prog.	2.0
				EL 2	116.0	25 W T5 & 0.85 BF Prog.	2.2
T8 Single Pin Slimline	Commercial ...	Event II: Ballast Failure.	Lamp & Ballast Replacement.	EL 1	98.2	60.1 W T8 & 0.77 BF Prog.	0.6
				EL 2	99.0	60.1 W T8 & 0.77 BF Prog.	1.6
				EL 2	105.6	54 W T8 & 0.77 BF Prog.	2.4
		Event III: New Construction and Renovation.	New Lamp & Ballast Purchase.	EL 1	98.2	60.1 W T8 & 0.77 BF Prog.	0.6
				EL 2	99.0	60.1 W T8 & 0.77 BF Prog.	1.6
				EL 2	105.6	54 W T8 & 0.77 BF Prog.	2.4

2. Economic Impacts on Manufacturers

DOE performed MIAs to estimate the impact of amended energy conservation standards on manufacturers of GSFLs and IRLs. The section below describes the expected impacts on GSFL and IRL manufacturers at each TSL. Chapter 13 of the NOPR TSD explains the MIA in further detail.

a. Industry Cash-Flow Analysis Results

The tables below depict the financial impacts (represented by changes in INPV) of amended energy standards on GSFL and IRL manufacturers as well as the conversion costs that DOE estimates GSFL and IRL manufacturers would incur at each TSL. DOE breaks out the impacts on GSFL and IRL manufacturers separately. To evaluate the range of cash flow impacts on the GSFL and IRL industries, DOE modeled two markup scenarios that correspond to the range of anticipated market responses to amended standards. Each scenario results in a unique set of cash flows and corresponding industry values at each TSL.

In the following discussion, the INPV results refer to the difference in industry value between the base case and the standards case that result from the sum of discounted cash flows from the base year (2013) through the end of the analysis period. The results also discuss the difference in cash flows between the base case and the standards case in the year before the compliance date for amended energy conservation standards. This figure represents the size of the required conversion costs relative to the cash flow generated by the GSFL and IRL industries in the absence of amended energy conservation standards.

Cash-Flow Analysis Results by TSL for General Service Fluorescent Lamps

To assess the upper (less severe) end of the range of potential impacts on GSFL manufacturers, DOE modeled a flat, or preservation of gross margin, markup scenario. This scenario assumes that in the standards case, manufacturers would be able to pass along all the higher production costs required for more efficacious products to their consumers. Specifically, the industry would be able to maintain its average base case gross margin (as a percentage of revenue) despite the higher product costs in the standards case. In general, the larger the product price increases, the less likely manufacturers are to achieve the cash flow from operations calculated in this scenario because it is less likely that manufacturers would be able to fully mark up these larger cost increases.

To assess the lower (more severe) end of the range of potential impacts on the GSFL manufacturers, DOE modeled the preservation of operating profit markup scenario. This scenario represents the lower end of the range of potential impacts on manufacturers because no additional operating profit is earned on the higher production costs, eroding profit margins as a percentage of total revenue.

Table VII.30 and Table VII.31 present the projected results for GSFLs under the flat and preservation of operating profit markup scenarios. DOE examined results for all five product classes (4-foot MBP, 8-foot SP slimline, 8-foot RDC HO, 4-foot T5 MiniBP SO, and 4-foot T5 MiniBP HO) together.

TABLE VII.30—MANUFACTURER IMPACT ANALYSIS FOR GENERAL SERVICE FLUORESCENT LAMPS—FLAT MARKUP SCENARIO

	Units	Base case	Trial standard level				
			1	2	3	4	5
INPV	*(2012$ millions)*	1,542.5	1,584.4	1,580.3	1,663.1	1,901.1	1,939.7
Change in INPV	*(2012$ millions)*		41.8	37.8	120.5	358.5	397.1
	(%)		2.7%	2.5%	7.8%	23.2%	25.7%
Product Conversion Costs	*(2012$ millions)*		0.9	2.0	5.3	7.5	9.1
Capital Conversion Costs	*(2012$ millions)*		1.0	11.0	3.0	5.5	29.5
Total Conversion Costs	*(2012$ millions)*		1.9	13.0	8.3	13.0	38.6

TABLE VII.31—MANUFACTURER IMPACT ANALYSIS FOR GENERAL SERVICE FLUORESCENT LAMPS—PRESERVATION OF OPERATING PROFIT MARKUP SCENARIO

	Units	Base case	Trial standard level				
			1	2	3	4	5
INPV	*(2012$ millions)*	1,542.5	1,541.7	1,533.4	1,531.0	1,519.6	1,502.6
Change in INPV	*(2012$ millions)*		(0.9)	(9.2)	(11.5)	(22.9)	(39.9)
	(%)		−0.1%	−0.6%	−0.7%	−1.5%	−2.6%
Product Conversion Costs	*(2012$ millions)*		0.9	2.0	5.3	7.5	9.1
Capital Conversion Costs	*(2012$ millions)*		1.0	11.0	3.0	5.5	29.5
Total Conversion Costs	*(2012$ millions)*		1.9	13.0	8.3	13.0	38.6

TSL 1 sets the efficacy level at baseline for two product classes (4-foot MBP and 8-foot SP slimline) and EL 1 for three product classes (8-foot RDC HO, 4-foot T5 MiniBP SO, and 4-foot T5 MiniBP HO). EL 1 for the 4-foot T5 MiniBP HO product class represents the max tech efficacy level. At TSL 1, DOE estimates impacts on INPV range from $41.8 million to −$0.9 million, or a change in INPV of 2.7 percent to −0.1 percent. At TSL 1, industry free cash flow (operating cash flow minus capital expenditures) is estimated to decrease by approximately 0.5 percent to $156.9 million, compared to the base case value of $157.7 million in 2016, the year leading up to proposed energy conservation standards.

Percentage impacts on INPV are slightly positive to slightly negative at TSL 1. DOE does not anticipate that manufacturers would lose a significant portion of their INPV at this TSL. This is because the vast majority of shipments already meets or exceeds the efficacy levels prescribed at TSL 1. DOE projects that in the expected year of compliance (2017), 100 percent of 4-foot MBP and 8-foot SP slimline shipments would meet or exceed the efficacy levels at TSL 1. DOE estimates that these lamps account for 88 percent of GSFL shipments in 2017. Meanwhile, in 2017, 33 percent of 8-foot RDC HO shipments, 45 percent of 4-foot T5 MiniBP SO, and 37 percent of 4-foot T5 MiniBP HO shipments would meet the efficacy levels at TSL 1. Because these products comprise a very small percentage of total GSFL shipments in 2017, a very small percentage of total GSFL shipments would need to be converted at TSL 1 to meet these efficacy standards.

DOE expects conversion costs to be small compared to the industry value because most of the GSFL shipments, on a total volume basis, already meet or exceed the efficacy levels analyzed at this TSL. DOE expects GSFL manufacturers to incur $0.9 million in product conversion costs for lamp redesign and testing. DOE estimates manufacturers will have minimal capital conversion costs associated with TSL 1, as most efficacy gains will be achieved through increasing the amount of REOs used to coat the lamps, not through any major equipment upgrades or capital investments. DOE expects $1 million in capital conversion costs for manufacturers to upgrade and recalibrate production line automation.

At TSL 1, under the flat markup scenario, the shipment-weighted average MPC increases by approximately 5 percent relative to the base case MPC. Manufacturers are able to fully pass on this cost increase to consumers by design in this markup scenario. This slight price increase would mitigate the $1.9 million in conversion costs estimated at TSL 1, resulting in slightly positive INPV impacts at TSL 1 under the flat markup scenario.

Under the preservation of operating profit markup scenario, manufacturers earn the same operating profit as would be earned in the base case, but manufacturers do not earn additional profit from their investments. The 5 percent MPC increase is slightly outweighed by a lower average markup of 1.51 (compared to the flat markup of 1.52) and $1.9 million in conversion costs, resulting in small negative impacts at TSL 1.

TSL 2 sets the efficacy level at baseline for one product class (4-foot MBP), EL 1 for three product classes (8-foot SP slimline, 4-foot T5 MiniBP SO, and 4-foot T5 MiniBP HO), and EL 2 for one product class (8-foot RDC HO). EL 1 for the 4-foot T5 MiniBP HO product class and EL 2 for the 8-foot RDC HO product class represent the max tech efficacy levels. At TSL 2, DOE estimates

impacts on INPV to range from $37.8 million to −$9.2 million, or a change in INPV of 2.5 percent to −0.6 percent. At this proposed level, industry free cash flow is estimated to decrease by approximately 4 percent to $152.1 million, compared to the base case value of $157.7 million in 2016.

Percentage impacts on INPV are slightly positive to slightly negative at TSL 2. DOE does not anticipate that manufacturers would lose a significant portion of their INPV at this TSL because the vast majority of shipments already meets or exceeds the efficacy levels prescribed at TSL 2. DOE projects that in 2017, 100 percent of 4-foot MBP shipments would meet or exceed the efficacy levels at TSL 2. DOE estimates that shipments of this product classes will comprise 86 percent of GSFL shipments in 2017. Meanwhile, in 2017, 57 percent of 8-foot SP slimline lamps shipments, 10 percent of 8-foot RDC HO shipments, 45 percent of 4-foot T5 MiniBP SO, and 37 percent of 4-foot T5 MiniBP HO shipments would meet or exceed the efficacy levels at TSL 2.

DOE expects conversion costs to be small compared to the industry value because most of the GSFL shipments, on a total volume basis, already meet or exceed the efficacy levels analyzed at this TSL. DOE expects that product conversion costs will rise from $0.9 million at TSL 1 to $2.0 million at TSL 2 for lamp redesign and testing. Capital conversion costs will increase from $1.0 million at TSL 1 to $11.0 million at TSL 2. This is driven by the fact that both 8-foot product classes would have to meet higher efficacy levels at this TSL. DOE believes this will result in higher capital conversion costs related to upgrading and recalibrating production line automation.

At TSL 2, under the flat markup scenario, the shipment-weighted average MPC increases by 5 percent relative to the base case MPC. In this scenario, INPV impacts are slightly positive because of manufacturers' ability to pass the higher production costs to consumers outweighs the $13.0 million in conversion costs. Under the preservation of operating profit markup scenario, the 5 percent MPC increase is slightly outweighed by a lower average markup of 1.51 (compared to the flat markup of 1.52) and $13.0 million in conversion costs, resulting in slightly negative impacts at TSL 2.

TSL 3 sets the efficacy level at baseline for one product class (8-foot SP slimline) and EL 1 for four product classes (4-foot MBP, 8-foot RDC HO, 4-foot T5 MiniBP SO, and 4-foot T5 MiniBP HO). EL 1 for the 4-foot T5 MiniBP HO product class represents the max tech efficacy level. At TSL 3, DOE estimates impacts on INPV to range from $120.5 million to −$11.5 million, or a change in INPV of 7.8 percent to −0.7 percent. At this proposed level, industry free cash flow is estimated to decrease by approximately 2 percent to $154.7 million, compared to the base case value of $157.7 million in 2016.

While more significant than the impacts at TSL 2, the impacts on INPV at TSL 3 are still relatively minor compared to the total industry value. Percentage impacts on INPV are slightly positive to slightly negative at TSL 3. DOE does not anticipate that manufacturers would lose a significant portion of their INPV TSL 3. While less than the previous TSLs, a large percentage of total shipments still already meet or exceed the efficacy levels prescribed at TSL 3. DOE projects that in 2016, 56 percent of the 4-foot MBP, 100 percent of 8-foot SP slimline, 33 percent of 8-foot RDC HO shipments, 45 percent of 4-foot T5 MiniBP SO, and 37 percent of 4-foot T5 MiniBP HO shipments would meet or exceed the efficacy levels at TSL 3.

DOE expects conversion costs to remain small at TSL 3 compared to the industry value because a significant percentage of the GSFL shipments, on a total volume basis, already meet or exceed the efficacy levels proposed at this TSL. TSL 3 is the first TSL that increases the efficacy requirement for 4-foot MBP, which as previously noted, comprise a large majority of GSFL shipments. Efficacy gains for these products, however, would likely be achieved with additional REOs, which would not require any significant capital investments. At TSL 3, DOE expects product conversion costs to increase from TSL 2 to $5.3 million. DOE, however, estimates that capital conversion costs will decrease from TSL 2 to $3.0 million at TSL 3 since no amended efficacy standards would be set at TSL 3 for 8-foot SP slimline products and the 8-foot RDC HO product class has a lower EL at TSL 3 than at TSL 2. The lower ELs for these two product classes outweigh the increase in EL of the 4-ft MBP product class and would cause manufacturers to invest less in capital conversion costs at TSL 3 than at TSL 2.

At TSL 3, under the flat markup scenario, the shipment-weighted average MPC increases by 16 percent relative to the base case MPC. In this scenario, INPV impacts are slightly positive because manufacturers' ability to pass the higher production costs to consumers outweighs the $8.3 million in conversion costs. Under the preservation of operating profit markup scenario, the 16 percent MPC increase is slightly outweighed by a lower average markup of 1.51 (compared to the flat markup scenario markup of 1.52) and $8.3 million in conversion costs, resulting in negative impacts at TSL 3.

TSL 4 sets the efficacy level at baseline for one product class (8-foot SP slimline), EL 1 for three product classes (8-foot RDC HO, 4-foot T5 MiniBP SO, and 4-foot T5 MiniBP HO), and EL 2 for one product class (4-foot MBP). EL 1 for the 4-foot T5 MiniBP HO product class and EL 2 for the 4-foot MBP product class represent the max tech efficacy levels. At TSL 4, DOE estimates impacts on INPV to range from $358.5 million to −$22.9 million, or a change in INPV of 23.2 percent to −1.5 percent. At this proposed level, industry free cash flow is estimated to decrease by approximately 3 percent to $152.9 million, compared to the base case value of $157.7 million in the year leading up to energy conservation standards.

Percentage impacts on INPV are moderately positive to slightly negative at TSL 4. DOE projects that in 2017, 21 percent of 4-foot MBP, 100 percent of 8-foot SP slimline, 33 percent of 8-foot RDC HO shipments, 45 percent of 4-foot T5 MiniBP SO, and 37 percent of 4-foot T5 MiniBP HO shipments would meet or exceed the efficacy levels at TSL 4.

While DOE expects conversion costs to increase from TSL 3 to TSL 4, DOE estimates the costs will still be small compared to the total industry value. DOE expects product conversion costs for GSFL manufacturers to increase from $5.3 million at TSL 3 to $7.5 million at TSL 4. DOE expects capital conversion costs to increase from $3.0 million at TSL 3 to $5.5 million at TSL 4. While a higher percentage of shipments would need to be converted to meet the efficacy requirements at TSL 4, increasing the efficacy of GSFLs will not likely be a very capital-intensive process. Instead, increasing GSFL efficacy will likely be more focused around increasing the amount of REOs in the lamps.

At TSL 4, under the flat markup scenario the shipment-weighted average MPC increases by 52 percent relative to the base case MPC. In this scenario, INPV impacts are slightly positive because of manufacturers' ability to pass the higher production costs to consumers outweighs the $13.0 million in conversion costs. Under the preservation of operating profit markup scenario, the 52 percent MPC increase is slightly outweighed by a lower average markup of 1.51 (compared to the flat markup scenario markup of 1.52) and $13.0 million in conversion costs, resulting in negative impacts at TSL 4.

TSL 5 sets the efficacy level at max tech for all product classes. This represents EL 1 for one product class (4-foot T5 MiniBP HO) and EL 2 for five product classes (4-foot MBP, 8-foot SP slimline, 8-foot RDC HO, and 4-foot T5 MiniBP SO). At TSL 5, DOE estimates impacts on INPV to range from $397.1 million to −$39.9 million, or a change in INPV of 25.7 percent to −2.6 percent. At this proposed level, industry free cash flow is estimated to decrease by approximately 10 percent to $143.4 million, compared to the base case value of $157.7 million in 2016.

Percentage impacts on INPV are significantly positive to slightly negative at TSL 5. DOE projects that in 2017, 21 percent of the 4-foot MBP, 25 percent of 8-foot SP slimline, 10 percent of 8-foot RDC HO shipments, 14 percent of 4-foot T5 MiniBP SO, and 37 percent of 4-foot T5 MiniBP HO shipments would meet the efficacy levels at TSL 5.

DOE expects conversion costs to increase from TSL 4 to TSL 5 due to the 8-foot slimline, 8-foot RDC HO, and 4-foot T5 MiniBP HO product classes moving to max tech ELs at TSL 5. DOE estimates that capital conversion costs will be $29.5 million at TSL 5 as a result of manufacturers having to upgrade all of their production lines to manufacture max tech products. DOE expects GSFL manufacturers to incur $9.1 million in product conversion costs for lamp redesigns and testing. However, these larger total conversion costs at TSL 5, $38.6 million remain relatively small compared to the almost $2 billion total GSFL industry value at TSL 5.

At TSL 5, under the flat markup scenario, the shipment-weighted average MPC increases by 57 percent relative to the base case MPC. In this scenario, INPV impacts are slightly positive because of manufacturers' ability to pass the higher production costs to consumers outweighs the $38.6 million in conversion costs. Under the preservation of operating profit markup scenario, the 57 percent MPC increase is slightly outweighed by a lower average markup of 1.51 (compared to the flat markup scenario markup of 1.52) and $38.6 million in conversion costs, resulting in negative impacts at TSL 5.

Cash Flow Analysis Results by TSL for Incandescent Reflector Lamps

DOE incorporated the same markup scenarios to represent the upper and lower bounds of industry impacts for IRLs as was done for GSFLs: the flat, or preservation of gross margin, markup scenario and the preservation of operating profit markup scenario. DOE, however, analyzed one TSL for IRLs in addition to the baseline levels. DOE also analyzed an alternative shipment scenario for IRLs, the shortened lifetime scenario, in addition to the reference case. DOE acknowledges that to meet the proposed IRL energy conservation standards, IRL manufacturers may choose to shorten the lifetime of some of their IRLs, rather than make the investments to increase the efficacy of the lamps. DOE presents the results of this analysis in appendix 13C of the NOPR TSD.

Table VII.32 and Table VII.33 present the projected results for IRLs under the flat and preservation of operating profit scenarios. DOE examined results for one representative product class for IRLs.

TABLE VII.32—MANUFACTURER IMPACT ANALYSIS FOR INCANDESCENT REFLECTOR LAMPS—FLAT MARKUP SCENARIO

	Units	Base case	Trial standard level 1
INPV	*(2012$ millions)*	176.0	128.6
Change in INPV	*(2012$ millions)*		(47.5)
	(%)		−27.0%
Product Conversion Costs	*(2012$ millions)*		6.1
Capital Conversion Costs	*(2012$ millions)*		65.4
Total Conversion Costs	*(2012$ millions)*		71.5

TABLE VII.33—MANUFACTURER IMPACT ANALYSIS FOR INCANDESCENT REFLECTOR LAMPS—PRESERVATION OF OPERATING PROFIT MARKUP SCENARIO

	Units	Base case	Trial standard level 1
INPV	*(2012$ millions)*	176.0	124.2
Change in INPV	*(2012$ millions)*		(51.8)
	(%)		−29.5%
Product Conversion Costs	*(2012$ millions)*		6.1
Capital Conversion Costs	*(2012$ millions)*		65.4
Total Conversion Costs	*(2012$ millions)*		71.5

TSL 1 sets the efficacy level at EL 1, max tech, for the IRL representative unit. At TSL 1, DOE estimates impacts on INPV to range from −$47.5 million to −$51.8 million, or a change in INPV of −27.0 percent to −29.5 percent. At TSL 1, industry free cash flow is estimated to decrease by approximately 131 percent to −7.5 million, compared to the base case value of $23.8 million in 2016.

INPV impacts are negative at TSL 1 regardless of the markup scenario chosen. DOE estimates that in 2017, 41 percent of IRL shipments would meet the efficacy requirements proposed at TSL 1. The majority of shipments would need to be converted to meet the standards proposed at this TSL.

DOE expects substantial conversion costs for IRL manufacturers at TSL 1 associated with increasing the efficacy of IRLs. Manufacturers would have to invest in retooling burner machines, increasing coating capacity, and upgrading their production lines to allow for enhanced reflector coating. Some manufacturers expressed concern that they do not currently possess the technology required at the analyzed standard level and could exit the market entirely. Overall, DOE expects these capital conversion costs to total $65.4 million for the industry. DOE estimates that IRL manufacturers will also incur

$6.1 million in product conversion costs for lamp and production line redesign, as well as testing and certification.

At TSL 1, under the flat markup scenario, the shipment-weighted average MPC increases by 13 percent relative to the base case MPC. In this scenario, INPV impacts are negative because the manufacturers' ability to pass the higher production costs to consumers does not outweigh $71.5 million in conversion costs. Under the preservation of operating profit markup scenario, the 13 percent MPC increase is outweighed by a lower average markup of 1.50 (compared to the flat markup scenario markup of 1.52) and $71.5 million in conversion costs, resulting in negative impacts at TSL 1. The significant capital and product conversion costs that IRL manufacturers must make at TSL 1 cause INPV to be negative regardless of the markup chosen.

DOE also analyzed a shortened lifetime sensitivity scenario where manufacturers shorten the lifetime of IRLs to mitigate the costs of complying with the proposed standard. By shortening the lifetime of IRLs manufacturers reduce the capital conversion costs they must make to comply with the proposed standard. DOE presents the INPV results of this analysis in appendix 13C of this NOPR TSD. DOE requests comment on the $6.1 product conversion costs and $65.4 capital conversion costs necessary for manufacturers to comply with the proposed standards.

b. Impacts on Employment

DOE quantitatively assessed the impacts of potential amended energy conservation standards on direct employment. DOE used the GRIM to estimate the domestic labor expenditures and number of domestic production workers in the base case and at each TSL from 2013 to 2046. DOE used statistical data from the U.S. Census Bureau's 2011 Annual Survey of Manufacturers (ASM), the results of the engineering analysis, and interviews with manufacturers to determine the inputs necessary to calculate industry-wide labor expenditures and domestic employment levels. Labor expenditures involved with the manufacture of the product are a function of the labor intensity of the product, the sales volume, and an assumption that wages remain fixed in real terms over time.

In the GRIM, DOE used the labor content of each product and the manufacturing production costs to estimate the annual labor expenditures in the industry. DOE used census data and interviews with manufacturers to estimate the portion of the total labor expenditures that is attributable to domestic labor.

The production worker estimates in this section cover only workers up to the line-supervisor level directly involved in fabricating and assembling a product within a manufacturing facility. Workers performing services that are closely associated with production operations, such as material handing with a forklift, are also included as production labor. DOE's estimates account for production workers who manufacture only the specific products covered of this rulemaking. For example, a worker on a fluorescent lamp ballast production line would not be included with the estimate of the number of GSFL or IRL workers.

The employment impacts shown in Table VII.34 and Table VII.35 below represent the potential production employment that could result following amended energy conservation standards. The upper bound of the results estimates the maximum change in the number of production workers that could occur after compliance with amended energy conservation standards when assuming that manufacturers continue to produce the same scope of covered products in the same production facilities. It also assumes that domestic production does not shift to lower labor-cost countries. Because there is a real risk of manufacturers evaluating sourcing decisions in response to amended energy conservation standards, the lower bound of the employment results includes the estimated total number of U.S. production workers in the industry who could lose their jobs if some or all existing production were moved outside of the United States. While the results present a range of employment impacts following 2017, the sections below also include qualitative discussions of the likelihood of negative employment impacts at the various TSLs. Finally, the employment impacts shown are independent of the employment impacts from the broader U.S. economy, documented in chapter 17 of the NOPR TSD. DOE seeks comment on the potential domestic employment impacts to GSFL and IRL manufacturers at the proposed efficacy levels.

Employment Impacts for General Service Fluorescent Lamps

Using 2011 ASM data and interviews with manufacturers, DOE estimates that approximately three quarters of the GSFLs sold in the United States are manufactured domestically. With this assumption, DOE estimates that in the absence of amended energy conservation standards, there would be approximately 1,800 domestic production workers involved in manufacturing GSFLs in 2017. The table below shows the range of the impacts of potential amended energy conservation standards on U.S. production workers in the GSFL industry.

TABLE VII.34—POTENTIAL CHANGES IN THE TOTAL NUMBER OF DOMESTIC GENERAL SERVICE FLUORESCENT LAMP PRODUCTION WORKERS IN 2017

Base case	Trial standard level					
		1	2	3	4	5
Total Number of Domestic Production Workers in 2017 (without changes in production locations)	1,848	1,848	1,847	1,844	1,814	1,817
Potential Changes in Domestic Production Workers in 2017*	.....	0	(1)	(4)–(1,848)	(34)–(1,848)	(31)–(1,848)

* DOE presents a range of potential employment impacts. Numbers in parentheses indicate negative numbers.

At the upper end of the range, all examined TSLs show slight negative impacts on domestic employment levels. DOE believes that manufacturers could face slight negative impacts on domestic employment levels because there would be an increase in the shipments of products typically not manufactured domestically, such as 4-foot T5 MiniBP lamps, and a decrease of products typically manufactured domestically, such as 4-foot MBP lamps.

Several manufacturers emphasized that it is difficult to predict employment impacts of energy conservation standards. One potential uncertainty is the future price of REOs and these employment decisions become more complex when more REOs are required for higher efficacious products.

DOE does not expect any significant changes in domestic employment at TSLs 1 or 2 because standards would not be amended for 4-foot MBP lamps, which comprise approximately 86 percent of GSFL shipments in 2017. While DOE does not anticipate the entire, or even a large portion of, domestic employment to move abroad at TSLs 3, 4 or 5, DOE acknowledges that there could be a loss of domestic employment at these TSLs due to the required increase in efficacy of 4-foot MBP lamps. The potential loss of domestic employment would most likely be a result of a possible increase in the price of REOs. Based on the REO prices modeled in the reference case, DOE does not estimate a significant loss of domestic employment at TSLs 3, 4, or 5. Overall, manufacturers were uncertain about how amended energy conservation standards would affect domestic employment and sourcing decisions. Ultimately, both employment and sourcing decisions could be determined by the stability and predictability of REO prices.

Employment Impacts for Incandescent Reflector Lamps

Using 2011 ASM data and interviews with manufacturers, DOE estimates that approximately half of the IRLs sold in the United States are manufactured domestically. With this assumption, DOE estimates that in the absence of amended energy conservation standards, there would be approximately 300 domestic production workers involved in manufacturing IRLs in 2017. The table below shows the range of the impacts of potential amended energy conservation standards on U.S. production workers in the IRL industry.

TABLE VII.35—POTENTIAL CHANGES IN THE TOTAL NUMBER OF DOMESTIC INCANDESCENT REFLECTOR LAMP PRODUCTION WORKERS IN 2017

Base case		Trial standard level
		1
Total Number of Domestic Production Workers in 2017 (without changes in production locations)	308	335
Potential Changes in Domestic Production Workers in 2017*		27–(308)

*DOE presents a range of potential employment impacts. Numbers in parentheses indicate negative numbers.

At the upper end of the range TSL 1 shows a slight positive impact on domestic employment levels. The increasing product cost at TSL 1 would result in higher labor expenditures per-unit, which could cause manufacturers to hire more domestic workers to meet this added labor demand, assuming IRL production remains in domestic facilities.

Manufacturers are concerned that higher prices for IRLs will drive consumers to alternate technologies and it may not make economic sense for them to continue to produce IRLs. Increasing the efficacy of IRLs would cost manufacturers millions in capital conversion costs. Some stated that they do not have the technology to meet the proposed energy conservation standards and said it is possible they would not spend their limited resources to convert all IRL production to meet efficacy levels at TSL 1. Ultimately, the high costs associated with increasing the efficacy of IRLs could cause some IRL manufacturers to exit the market.

c. Impacts on Manufacturing Capacity

GSFL manufacturers stated that they did not anticipate any capacity constraints outside of the availability of REOs. One manufacturer pointed out that moving the industry to max tech efficacy levels could triple the amount of REOs demanded by GSFL manufacturers. Tripling the demand for REOs that are already difficult to come by could trigger some capacity concerns by creating extra volatility in the market. The sharp increase in demand for REOs could cause wide variations in the price and availability of REOs, making production costs more unpredictable.

A few IRL manufacturers expressed concern about the capacity of their IR coating machines and that the companies that manufacture those machines might not be able to respond to the demand for IR coating machines necessary to manufacture higher efficacious IRLs. DOE, however, received a comment from ADLT, a company that manufactures IR coating machines, that they estimate the current global capacity of IR coatings for IRLs to be over 50 million units annually. ADLT claims this IR coating capacity is supported by three different coating processes and provided by at least five different companies. ADLT stated they are in a position to increase their IR coating capacity by 20 million units annually using existing equipment within a two-year time period. ADLT believes that additional coating capacity can be generated from one or more of at least five IR coating facilities owned and operated by other companies worldwide. Given a three-year period between the ruling and its effective date, ADLT believes there is ample time available for various companies to react to the potential increase in IR coating demand. Given that DOE estimated approximately 65 million IRLs may be sold in 2017 in the preliminary analysis, ADLT believes that IR coating capacity in excess of 70 million units in total can readily be made available. (ADLT, No. 31 at p. 3) While this exceeds DOE's NOPR IRL shipment estimate of approximately 32 million units to be sold in 2017, ADLT did not provide a source for their claim that the current IR coating capacity is 50 million units annually or for the potential to increase this IR coating capacity to 70 million units annually in 2017. Therefore, it is unclear if this additional IR coating capacity or current IR coating capacity is sufficient to meet the potential U.S. demand for IRLs at the higher EL.

d. Impacts on Sub-Groups of Manufacturers

Using average cost assumptions to develop an industry cash-flow estimate may not be adequate for assessing differential impacts among manufacturer subgroups. Small manufacturers, niche product manufacturers, and manufacturers exhibiting cost structures substantially different from the industry average could be affected disproportionately. DOE analyzed the impacts to small businesses in section VIII.B and did not identify any other adversely impacted subgroups for GSFLs or IRLs for this

rulemaking based on the results of the industry characterization.

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 a cumulative regulatory burden analysis as part of its rulemakings pertaining to lighting efficacy.

During previous stages of this rulemaking, DOE identified a number of requirements, in addition to amended energy conservation standards for GSFLs and IRLs, that manufacturers will face for products they manufacture three years prior to and three years after the compliance date of the amended standards. The following section briefly addresses comments DOE received with respect to cumulative regulatory burden and summarizes other key related concerns that manufacturers raised during interviews.

Several manufacturers expressed concern that GSFLs and IRLs face several regulations and that they have not had time to fully assess the effects of the 2009 Lamps Rule, compliance with which was required in 2012. Several manufacturers also expressed concern about the overall volume of DOE's energy conservation standards with which they must comply. Most GSFL and IRL manufacturers also make a full range of lighting products and share engineering and other resources with these other internal manufacturing divisions for different products (including certification testing for regulatory compliance). Manufacturers cited current DOE rulemakings for high intensity discharge (HID) lamps, metal halide fixtures, LEDs, and CFLs. Some manufacturers also raised concerns about other existing regulations separate from DOE's energy conservation standards that manufacturers of GSFLs and IRLs must meet. These include: the Restriction of Hazardous Substances (RoHS) Directive, California Title 20, FTC labeling requirements, Interstate Mercury Education and Reduction Clearinghouse (IMERC) labeling requirements, the Minamata Convention on Mercury, and disclosure of procurement methods of conflict minerals mandated by the Wall Street Reform and Consumer Protection Act, among others. DOE seeks comment on GSFL manufacturers potentially increasing the amount of mercury in GSFLs in order to comply with the proposed GSFL standards.

DOE discusses these and other requirements in chapter 13 of the NOPR TSD, which lists the estimated compliance costs of those requirements when available. In considering the cumulative regulatory burden, DOE evaluates the timing of regulations that impact the same product because the coincident requirements could strain financial resources in the same profit center and consequently impact capacity. DOE also identified several ongoing rulemakings that could potentially impact other business units of GSFL and IRL manufacturers in general, but the impacts of those ongoing rulemakings remain speculative and are therefore not included in the analysis for today's proposed rule. DOE did not receive any data on other regulatory costs that affect the industry modeled in the cash-flow analysis. To the extent DOE receives specific costs associated with other regulations affecting those profit centers (GSFL and IRL) modeled in the GRIM, DOE can incorporate that information into its cash-flow analysis. The cash-flow scenarios analyzed for today's proposed rule include the impacts of the 2009 Lamps Rule, as the levels established in that rule have become the baseline for the proposed standards and the lamp prices estimated in the engineering analysis reflect the investments that manufacturers made to comply with the 2009 Lamps Rule. DOE seeks comment on the compliance costs of any other regulations GSFL or IRL manufacturers must make, especially if compliance with those regulations is required three years before or after the estimated compliance date of these proposed standards (2017).

3. Shipments Analysis and National Impact Analysis

Projections of shipments are an important input to the NIA. As discussed in section VI.I, DOE developed a shipments model that incorporated substitution matrixes, which specify the product choices available to consumers (lamps as well as lamp-and-ballast combinations for fluorescent lamps) depending on whether they are renovating lighting systems, installing lighting systems in new construction, or simply replacing lamps; and a module that assigns shipments to product classes and efficacy levels based on consumer sensitivities to first costs and operation and maintenance costs. The model estimates the shipments of each lamp type in the base case and under the conditions set by each TSL. Table VII.36 and Table VII.37 present the estimated cumulative shipments in the base case and the relative change under each TSL.

TABLE VII.36—EFFECT OF STANDARD CASES ON CUMULATIVE SHIPMENTS OF GSFL IN 2017–2046

Lamp type	Base case	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
	Cumulative shipments millions	Change in shipments relative to base case (percent)	Change in shipments relative to base case (percent)	Change in shipments relative to base case (percent)	Change in shipments relative to base case (percent)	Change in shipments relative to base case (percent)
4-foot MBP	5,700	0.0	0.34	−2.7	−24	−18
8-foot SP slimline	110	0.0	−13	8.6	71	24
8-foot RDC HO	21	0.0	−8.5	0.0	0.0	−8.5
4-foot T5, MiniBP SO	410	0.0	0.83	28	250	210
4-foot T5, MiniBP HO	660	0.0	0.27	−0.01	−0.12	0.17
2-foot U-shaped	230	0.0	0.0	−0.0	−0.0	−0.0
Total GSFL*	7,100	0.0	0.13	−0.39	−3.4	−2.4

* May not sum due to rounding.

As shown in the preceding Table, depending on TSL, the consumer choice model projects significant shifts across product classes, in particular, it projects significant shifts to 4-foot T5 standard output lamps in the TSL 4 and TSL 5 standards cases. DOE requests comment on the reasonableness of its assumption that first cost is a significant driver of consumers' choice of product class, which results in the shipments analysis projecting a rapid shift from 4-foot MBP T8s to standard output T5s in the TSL 5 standards case. The TSL5 standards case substantially increases first cost for 4-foot MBP T8s.

Noting that DOE projects a sharp decrease in total GSFL shipments both with and without standards during the rulemaking period because of the projected sharp incursion of LEDs into the GSFL market, DOE also seeks comment on the reasonableness of the shipments model projection for TSL 5. Specifically, DOE seeks comment on whether standard output T5 lamps could increase from 3 to 4 percent of the standard output GSFL market presently, to approximately 13 percent of the same market by 2020, and to approximately 30 percent of the much attenuated standard output GSFL market by 2046.

TABLE VII.37—EFFECT OF STANDARD CASES ON CUMULATIVE SHIPMENTS OF IRL IN 2017–2046

Lamp Type	Base case	TSL 1
	Cumulative shipments millions	Change in shipments relative to base case (percent)
Standard spectrum; >2.5 inch diameter; <125 V	230	−20

a. Significance of Energy Savings

For each TSL, DOE projected energy savings for GSFLs and IRLs purchased in the 30-year period that begins in the year of anticipated compliance with amended standards (2017–2046). The savings are measured over the entire lifetime of product purchased in the 30-year period. DOE quantified the energy savings attributable to each TSL as the difference in energy consumption between each standards case and the base case, accounting for the effects of the standards on product switching and shipments. Table VII.38 presents the estimated energy savings for each considered GSFL TSL, and Table VII.39 presents the estimated energy savings for each IRL TSL. The approach for estimating shipments and NES is further described in sections V.I and V.J and is detailed in chapter 11 and 12 of the TSD of the NOPR TSD.

TABLE VII.38—CUMULATIVE ENERGY SAVINGS FOR GSFL TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2017–2046

	Trial standard level				
	1	2	3	4	5
	Quads				
Primary Energy (Power Sector Consumption)	0.20	0.20	0.86	2.9	3.3
FFC Energy	0.21	0.21	0.89	3.0	3.5

TABLE VII.39—CUMULATIVE ENERGY SAVINGS FOR IRL TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2017–2046

	Trial standard level
	1
	Quads
Primary Energy (Power Sector Consumption)	0.012
FFC Energy	0.013

Circular A–4 requires agencies to present analytical results, including separate schedules of the monetized benefits and costs that show the type and timing of benefits and costs. Circular A–4 also directs agencies to consider the variability of key elements underlying the estimates of benefits and costs. For this rulemaking, DOE undertook a sensitivity analysis using nine, rather than 30, years of product shipments. The choice of a nine-year period is a proxy for the timeline in EPCA for the review of certain energy conservation standards and potential revision of and compliance with such revised standards.[89] The review timeframe established in EPCA is generally not synchronized with the product lifetime, product manufacturing cycles, or other factors specific to GSFLs and IRLs. Thus, this information is presented for informational purposes only and is not indicative of any change in DOE's analytical methodology. The NES results based on nine years of shipments are presented in Table VII.40 and Table VII.41. The impacts are counted over the lifetime of GSFL and IRL purchased in 2017–2025.

[89] Section 325(m) of EPCA requires DOE to review its standards at least once every 6 years, and requires, for certain products, a 3-year period after any new standard is promulgated before compliance is required, except that in no case may any new standards be required within 6 years of the compliance date of the previous standards. While adding a 6-year review to the 3-year compliance period adds up to 9 years, DOE notes that it may undertake reviews at any time within the 6 year period and that the 3-year compliance date may yield to the 6-year backstop. A 9-year analysis period may not be appropriate given the variability that occurs in the timing of standards reviews and the fact that for some consumer products, the compliance period is 5 years rather than 3 years.

TABLE VII.40—CUMULATIVE ENERGY SAVINGS FOR GSFL TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2017–2025

	Trial standard level				
	1	2	3	4	5
	Quads				
Primary Energy (Power Sector Consumption)	0.10	0.10	0.42	1.3	1.5
FFC Energy	0.10	0.10	0.44	1.4	1.5

TABLE VII.41—CUMULATIVE ENERGY SAVINGS FOR IRL TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2017–2025

	Trial standard level
	1
	Quads
Primary Energy (Power Sector Consumption)	0.008
FFC Energy	0.008

b. Net Present Value of Consumer Costs and Benefits

DOE estimated the cumulative NPV of the total costs and savings for consumers that would result from the TSLs considered for GSFLs and IRLs. DOE quantified the costs and benefits attributable to each TSL as the difference in total product costs and total operating costs between each standards case and the base case, accounting for the effects of the standards on product switching and shipments.

In accordance with OMB's guidelines on regulatory analysis,[90] DOE calculated the 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 on private capital in the U.S. economy; it reflects the returns on real estate and small business capital as well as corporate capital. This discount rate approximates the opportunity cost of capital in the private sector. The 3 percent rate reflects the potential effects of standards on private consumption (*e.g.,* through higher prices for product and reduced purchases of energy). This rate represents the rate at which society discounts future consumption flows to their present value. It can be approximated by the real rate of return on long-term government debt (*i.e.,* yield on United States Treasury notes), which has averaged about 3 percent for the past 30 years.

Table VII.42 shows the consumer NPV results for each TSL considered for GSFLs, and Table VII.43 shows the consumer NPV results for each TSL considered for IRL. In each case, the impacts cover the lifetime of product purchased in 2017–2046.

TABLE VII.42—NET PRESENT VALUE OF CONSUMER BENEFITS FOR GSFL TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2017–2046

	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
	Billion 2012$				
7% discount rate	−0.39	−0.48	0.23	3.2	3.1
3% discount rate	−0.49	−0.63	1.0	8.1	8.1

TABLE VII.43—NET PRESENT VALUE OF CONSUMER BENEFITS FOR IRL TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2017–2046

	TSL 1
	Billion 2012$
7% discount rate	0.18

TABLE VII.43—NET PRESENT VALUE OF CONSUMER BENEFITS FOR IRL TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2017–2046—Continued

	TSL 1
	Billion 2012$
3% discount rate	0.28

[90] OMB Circular A–4, section E (Sept. 17, 2003). Available at: *www.whitehouse.gov/omb/circulars_a004_a-4.*

The NPV results based on the aforementioned nine-year shipments period are presented in Table VII.44 and Table VII.45. The impacts are counted over the lifetime of product purchased in 2017–2025. As mentioned previously, this information is presented for informational purposes only and is not indicative of any change in DOE's analytical methodology or decision criteria.

TABLE VII.44—NET PRESENT VALUE OF CONSUMER BENEFITS FOR GSFL TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2017–2025

	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
	Billion 2012$				
7% discount rate	−0.26	−0.33	0.04	1.1	1.1
3% discount rate	−0.29	−0.39	0.37	2.5	2.7

TABLE VII.45—NET PRESENT VALUE OF CONSUMER BENEFITS FOR IRL TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2017–2025

	TSL 1
	Billion 2012$
7% discount rate	0.13
3% discount rate	0.18

c. Impact of Product Class Switching

As discussed at the beginning of section VII.B.3, consumer switching between product classes yields an increase in shipments for some GSFL product classes, with corresponding reductions in shipments in other product classes (see Table VII.36). Therefore, a portion of the energy savings for some of the TSLs is due to consumers' switching between product classes to more energy efficient products with lower operating costs. Similarly, the increase in product costs for some of the TSLs is substantially impacted by product-class switching. For the standard level proposed for GSFL's in this rulemaking, increases in the typical cost of 4-foot MBP GSFLs relative to 8-foot SP slimline or 4-foot MiniBP T5s is expected to drive some consumers to shift toward the latter two product classes, yielding a reduction in energy consumption relative to the base case, with a lower increase in purchase costs than would be obtained without the product-class switching. Conversely, as is true for TSL1, potential standard level that increases the typical purchase prices of the latter two product classes above would reduce migration to these product classes, yielding a net reduction in the energy savings relative to the base case, with a greater increment in product costs. This is true for example with TSL1 where the efficiency requirements are increased for product classes which are already relatively efficient (e.g., 4 foot T5 miniBP) while not increased for product classes which are relatively inefficient (e.g., 4 foot MBP). In this case, there is no product class switching as consumers are forecasted to continue purchasing the less costly and less efficient technology (4 foot MBP).

Because of these assumed shifts in shipments between product classes, the NES and monetized cost and benefit values computed for a single product class, considered in isolation, may yield negative energy savings and associated benefits as well as negative associated costs . For the proposed standard level, the increased shipments of MiniBP T5 lamps and 8-foot SP slimline lamps will lead to negative energy savings and costs for both of those product classes, when viewed in isolation, simply because significantly more lamps from those product classes are purchased and operated in the standards case than in the base case. Those negative values, however, do not represent an actual reduction in consumer benefit for the service being delivered to the consumer since the negative values for the particular product classes are more than offset by the large positive contributions to the aggregate energy savings and monetized benefits across all product classes partially due to the corresponding reduction in shipments of 4-ft MBP T8s. DOE requests comment on the consumer choice model that projects shifts in shipments between product classes and whether there are other factors (e.g. utility, costs to replace light fixtures, design incompatibility) that may preclude or limit that shifting that may not be considered in DOE's analysis. For informational purposes, chapter 12 of the TSD presents NES and NPV values computed for each product class individually.

d. Alternative Scenario Analyses

As discussed in section VI.I and VI.J, DOE conducted several sensitivity analyses to determine the potential impact of uncertain future prices for materials that are important to the manufacture of efficient GSFL and IRL products.

In the case of GSFLs, DOE considered the possibility that the price of rare earth oxides rises again. As mentioned in section V.I, rare earth oxides, used in GSFL phosphors to improve lamp efficiency, underwent a large price spike in 2010 and 2011, but their prices have since lowered to almost their pre-spike level. To assess the effect of higher rare earth prices on the impact of energy conservation standards for GSFLs, DOE performed an alternative analysis in which the average price of rare earth oxides was assumed to be midway between the peak of the 2011 price spike and the pre-spike level, and was assumed to remain at that elevated level throughout the analysis period. The details of the price model that DOE used for this analysis are given in appendix 11B of the NOPR TSD. The impacts of the modeled rare earth oxide price increase on the NES and NPV of this rulemaking were small to moderate and did not affect the ranking of the TSLs (see chapter 12 of the NOPR TSD).

In the case of IRLs, DOE considered the possibility of a significant increase in the price of xenon gas, which DOE believes is now used as a fill gas in all standards-compliant IRL products. Demand for xenon gas has been rising recently, which may lead to price increases in the future. To assess the effect of a significant xenon price increase on the impact of an energy conservation standard for IRL, DOE performed an alternative analysis in which the price of xenon is assumed to increase by a factor of ten in the near future and remain at these elevated levels throughout the analysis period. The details of the xenon market assessment used to inform this analysis are given in appendix 7C of the TSD for the NOPR. The impacts of the modeled xenon price increase on the NES and NPV of this rulemaking were minimal and did not affect the ranking of the TSLs (see chapter 12 of the NOPR TSD).

e. Indirect Impacts on Employment

DOE expects energy conservation standards for GSFLs and IRLs to reduce energy costs for product owners, and the resulting net savings to be redirected to

other forms of economic activity. Those shifts in spending and economic activity could affect the demand for labor. As described in section VI.O, DOE used an input/output model of the U.S. economy to estimate indirect employment impacts of the TSLs that DOE considered in this rulemaking. DOE understands that there are uncertainties involved in projecting employment impacts, especially changes in the later years of the analysis. Therefore, DOE generated results for near-term time frames, where these uncertainties are reduced.

The results suggest that the proposed standards are likely to have negligible impact on the net demand for labor in the economy. The net change in jobs is so small that it would be imperceptible in national labor statistics and might be offset by other, unanticipated effects on employment. Chapter 17 of the NOPR TSD presents detailed results.

4. Impact on Utility or Performance

DOE believes that the standards it is proposing today will not lessen the utility or performance of GSFLs and IRLs. DOE reached this conclusion based on the analyses conducted to develop the proposed GSFL and IRL efficacy levels. In the engineering analysis, DOE considered only technology options that would not have adverse impacts on product utility. See section VI.B and chapter 4 of this TSD for further details regarding the screening analysis. DOE also divided products in to classes based on performance-related features that justify different standard levels such as those impacting consumer utility. DOE then developed separate standard levels for each product class. See section VI.C and chapter 3 of this TSD for further details regarding product classes selected and consumer utility.

Further, DOE's evaluation shows that products meeting proposed efficacy levels are not of lesser utility or performance than products at existing standard levels. DOE considered several characteristics when evaluating utility and performance of GSFLs including physical constraints (*i.e.,* shape and size), diameter, lumen package, color quality (*i.e.,* CCT and CRI), lifetime, and ability to dim. DOE determined that these GSFL performance characteristics were not diminished for any proposed standard level. For IRLs, DOE considered lumen package, lifetime, shape, and diameter when evaluating utility and performance. DOE determined that these IRL performance characteristics were not diminished for any proposed standard level. DOE did not assess CRI or CCT for IRLs because they are intended as a measure of the light quality of non-incandescent/halogen lamps when compared with incandescent/halogen lamps. See section VI.D and chapter 5 of this TSD for further details on the selection of more efficacious substitutes for the baseline and development of proposed efficacy levels.

DOE requests comment on its assumption that there will be no lessening of utility or performance such that the performance characteristics, including physical constraints, diameter, lumen package, color quality, lifetime, and ability to dim, would be adversely affected for the GSFL efficacy levels. Similarly, DOE also requests comment on its assumption that there will be no lessening of utility or performance such that the performance characteristics, including lumen package, lifetime, shape, diameter, and light quality, would be adversely affected for the IRL efficacy levels.

5. Impact of Any Lessening of Competition

DOE considers any lessening of competition that is likely to result from amended standards. The Attorney General determines the impact, if any, of any lessening of competition likely to result from a proposed standard, and transmits such determination to the Secretary, together with an analysis of the nature and extent of such impact.

To assist the Attorney General in making such determination, DOE will provide DOJ with copies of the NOPR and the TSD for review. DOE will consider DOJ's comments on the proposed rule in preparing the final rule, and DOE will publish and respond to DOJ's comments in that document.

6. Need of the Nation To Conserve Energy

Enhanced energy efficiency, where economically justified, improves the nation's energy security, strengthens the economy, and reduces the environmental impacts or costs of energy production. Reduced electricity demand due to energy conservation standards is also likely to reduce the cost of maintaining the reliability of the electricity system, particularly during peak-load periods. As a measure of this reduced demand, chapter 16 in the NOPR TSD presents the estimated reduction in generating capacity for the TSLs that DOE considered in this rulemaking.

Energy savings from standards for GSFLs and IRLs could also produce environmental benefits in the form of reduced emissions of air pollutants and GHGs associated with electricity production. Table VII.46 and Table VII.47 provide DOE's estimate of cumulative emissions reductions projected to result from the TSLs considered in this rulemaking. DOE reports annual emissions reductions for each TSL in chapter 14 of the NOPR TSD.

TABLE VII.46—CUMULATIVE EMISSIONS REDUCTION ESTIMATED FOR GSFL TRIAL STANDARD LEVELS

	Trial standard level				
	1	2	3	4	5
Power Sector Emissions					
CO_2 (million metric tons)	9.9	9.7	42	140	160
SO_2 (thousand tons)	15	15	64	220	250
NO_X (thousand tons)	5.5	5.5	23	78	89
Hg (tons)	0.019	0.019	0.082	0.28	0.32
N_2O (thousand tons)	0.16	0.16	0.69	2.4	2.7
CH_4 (thousand tons)	1.1	1.0	4.5	15	18
Upstream Emissions					
CO_2 (million metric tons)	0.52	0.51	2.2	7.6	8.6
SO_2 (thousand tons)	0.11	0.11	0.48	1.6	1.9
NO_X (thousand tons)	7.2	7.0	31	100	120

TABLE VII.46—CUMULATIVE EMISSIONS REDUCTION ESTIMATED FOR GSFL TRIAL STANDARD LEVELS—Continued

	Trial standard level				
	1	2	3	4	5
Hg (tons)	0.00028	0.00028	0.0012	0.0041	0.0047
N_2O (thousand tons)	0.0053	0.0052	0.023	0.077	0.088
CH_4 (thousand tons)	43	42	180	630	720
Total Emissions					
CO_2 (million metric tons)	10	10	44	150	170
SO_2 (thousand tons)	15	15	65	220	250
NO_X (thousand tons)	13	12	54	180	210
Hg (tons)	0.020	0.019	0.083	0.28	0.32
N_2O (thousand tons)	0.17	0.16	0.71	2.5	2.8
N_2O (thousand tons CO_2eq)*	49	48	210	730	830
CH_4 (thousand tons)	44	43	190	640	730
CH_4 (million tons CO_2eq)*	1,100	1,100	4,700	16,000	18,000

* CO_2eq is the quantity of CO_2 that would have the same GWP.

TABLE VII.47—CUMULATIVE EMISSIONS REDUCTION ESTIMATED FOR IRL TRIAL STANDARD LEVELS

	Trial standard level
	1
Power Sector Emissions	
CO_2 (million metric tons)	0.66
SO_2 (thousand tons)	0.69
NO_X (thousand tons)	0.35
Hg (tons)	0.0012
N_2O (thousand tons)	0.0095
CH_4 (thousand tons)	0.066
Upstream Emissions	
CO_2 (million metric tons)	0.032
SO_2 (thousand tons)	0.0069
NO_X (thousand tons)	0.45
Hg (tons)	0.00002
N_2O (thousand tons)	0.00033
CH_4 (thousand tons)	2.7
Total Emissions	
CO_2 (million metric tons)	0.70
SO_2 (thousand tons)	0.69
NO_X (thousand tons)	0.79
Hg (tons)	0.0012
N_2O (thousand tons)	0.0099
N_2O (thousand tons CO_2eq)*	2.9
CH_4 (thousand tons)	2.7
CH_4 (million tons CO_2eq)*	68

* CO_2eq is the quantity of CO_2 that would have the same GWP.

As part of the analysis for this 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 VI.M.1, DOE used the most recent values for the SCC developed by an interagency process. The four sets of SCC values resulting from that process (expressed in 2012$) represented by $11.8/metric ton (the average value from a distribution that uses a 5 percent discount rate), $39.7/metric ton (the average value from a distribution that uses a 3 percent discount rate), $61.2/metric ton (the average value from a distribution that uses a 2.5 percent discount rate), and $117/metric 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 2015; the values for later years are higher due to increasing damages as the projected magnitude of climate change increases.

Table VII.48 and Table VII.49 present the global value of CO_2 emissions reductions at each TSL. For each of the four cases, DOE calculated a present value of the stream of annual values 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, and these results are presented in chapter 15 of the NOPR TSD.

TABLE VII.48—ESTIMATES OF GLOBAL PRESENT VALUE OF CO_2 EMISSIONS REDUCTION UNDER GSFL TRIAL STANDARD LEVELS

TSL	SCC Case*			
	5% discount rate, average*	3% discount rate, average*	2.5% discount rate, average*	3% discount rate, 95th percentile*
	Billion 2012$			
Power Sector Emissions				
1	77	330	520	1,000
2	76	330	520	1,000
3	330	1,400	2,200	4,300
4	1,100	4,700	7,300	14,000
5	1,200	5,300	8,400	16,000

TABLE VII.48—ESTIMATES OF GLOBAL PRESENT VALUE OF CO_2 EMISSIONS REDUCTION UNDER GSFL TRIAL STANDARD LEVELS—Continued

TSL	SCC Case*			
	5% discount rate, average*	3% discount rate, average*	2.5% discount rate, average*	3% discount rate, 95th percentile*
Upstream Emissions				
1	4.0	17	27	54
2	4.0	17	27	53
3	17	74	120	230
4	57	250	390	760
5	65	280	450	870
Total Emissions				
1	81	350	550	1,100
2	80	350	540	1,100
3	340	1,500	2,300	4,500
4	1,100	4,900	7,700	15,000
5	1,300	5,600	8,900	17,000

* For each of the four cases, the corresponding SCC value for emissions in 2015 is $11.8, $39.7, $61.2, and $117 per metric ton (2012$).

TABLE VII.49—ESTIMATES OF GLOBAL PRESENT VALUE OF CO_2 EMISSIONS REDUCTION UNDER IRL TRIAL STANDARD LEVELS

TSL	SCC Case*			
	5% discount rate, average*	3% discount rate, average*	2.5% discount rate, average*	3% discount rate, 95th percentile*
	Billion 2012$			
Power Sector Emissions				
1	5.8	24	37	72
Upstream Emissions				
1	0.28	1.2	1.8	3.5
Total Emissions				
1	6.1	25	39	75

* For each of the four cases, the corresponding SCC value for emissions in 2015 is $11.8, $39.7, $61.2, and $117 per metric ton (2012$).

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 on reducing CO_2 emissions in this rulemaking 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 proposed rule the most recent values and analyses resulting from the interagency process.

DOE also estimated the cumulative monetary value of the economic benefits associated with NO_X emissions reductions anticipated to result from amended standards for GSFLs and IRLs. The dollar-per-ton value that DOE used is discussed in section VI.L. Table VII.50 and Table VII.51 present the cumulative present values for each TSL calculated using 7 percent and 3 percent discount rates.

TABLE VII.50—ESTIMATES OF PRESENT VALUE OF NO_X EMISSIONS REDUCTION UNDER GSFL TRIAL STANDARD LEVELS

TSL	3% discount rate	7% discount rate
	Million 2012$	
Power Sector Emissions		
1	9.6	5.8
2	9.5	5.8
3	40	24
4	130	77
5	150	89
Upstream Emissions		
1	12	6.9
2	12	6.9
3	50	29
4	170	93
5	190	110
Total Emissions		
1	21	13
2	21	13
3	90	53
4	290	170
5	340	200

TABLE VII.51—ESTIMATES OF PRESENT VALUE OF NO_X EMISSIONS REDUCTION UNDER IRL TRIAL STANDARD LEVELS

TSL	3% discount rate	7% discount rate
	Million 2012$	
Power Sector Emissions		
1	0.71	0.52
Upstream Emissions		
1	0.87	0.61
Total Emissions		
1	1.6	1.1

7. Summary of National Economic Impacts

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.52 presents the NPV values that result from adding the estimates of the potential economic benefits resulting from reduced CO_2 and NO_X emissions in each of four valuation scenarios to the NPV of consumer savings calculated for each TSL considered in this rulemaking, at both a 7 percent and 3 percent discount rate. The CO_2 values used in the columns of each table correspond to the four sets of SCC values discussed above.

TABLE VII.52—NET PRESENT VALUE OF CONSUMER SAVINGS COMBINED WITH PRESENT VALUE OF MONETIZED BENEFITS FROM CO_2 AND NO_X EMISSIONS REDUCTIONS UNDER GSFL TRIAL STANDARD LEVELS

TSL	Consumer NPV at 3% discount rate added with:			
	SCC Case $11.8/metric ton CO_2*	SCC Case $39.7/metric ton CO_2*	SCC Case $61.2/metric ton CO_2*	SCC Case $117/metric ton CO_2*
	Billion 2012$			
1	−0.39	−0.12	0.08	0.60
2	−0.53	−0.27	−0.07	0.44
3	1.5	2.6	3.4	5.7
4	9.5	13	16	23
5	9.7	14	17	26
TSL	Consumer NPV at 7% discount rate added with:			
	SCC Case $11.8/metric ton CO_2*	SCC Case $39.7/metric ton CO_2*	SCC Case $61.2/metric ton CO_2*	SCC Case $117/metric ton CO_2*
	Billion 2012$			
1	−0.30	−0.03	0.17	0.70
2	−0.38	−0.12	0.08	0.59
3	0.63	1.8	2.6	4.8
4	4.5	8.3	11	18
5	4.6	9.0	12	21

*These label values represent the global SCC in 2015, in 2012$. For NO_X emissions, each case uses the medium value, which corresponds to $2,639 per ton.

TABLE VII.53—NET PRESENT VALUE OF CONSUMER SAVINGS COMBINED WITH PRESENT VALUE OF MONETIZED BENEFITS FROM CO_2 AND NO_X EMISSIONS REDUCTIONS UNDER IRL TRIAL STANDARD LEVELS

TSL	Consumer NPV at 3% discount rate added with:			
	SCC Case $11.8/metric ton CO_2*	SCC Case $39.7/metric ton CO_2*	SCC Case $61.2/metric ton CO_2*	SCC Case $117/metric ton CO_2*
	Billion 2012$			
1	0.29	0.31	0.32	0.36
	Consumer NPV at 7% discount rate added with:			
TSL	SCC Case $11.8/metric ton CO_2*	SCC Case $39.7/metric ton CO_2*	SCC Case $61.2/metric ton CO_2*	SCC Case $117/metric ton CO_2*
	Billion 2012$			
1	0.19	0.20	0.22	0.25

* These label values represent the global SCC in 2015, in 2012$. For NO_X emissions, each case uses the medium value, which corresponds to $2,639 per ton.

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 reductions is based on a global value. Second, the assessments of operating cost savings and the SCC are performed with different methods that use different time frames for analysis. The national operating cost savings is measured for the lifetime of product shipped in 2017–2046. The SCC values, on the other hand, reflect the present value of future climate-related impacts resulting from the emission of one metric ton of CO_2 in each year. These impacts continue well beyond 2100.

8. Other Factors

The Secretary, in determining whether a standard is economically justified, may consider any other factors that the Secretary deems to be relevant. (42 U.S.C. 6295(o)(2)(B)(i)) No other factors were considered in this analysis.

C. Proposed Standards

When considering proposed standards, the new or amended energy conservation standard that DOE adopts for any type (or class) of covered product must 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, 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 significant conservation of energy.'' (42 U.S.C. 6295(o)(3)(B))

DOE considers the impacts of standards at each TSL, beginning with the max tech level, to determine whether that level met the evaluation criteria. Where the max tech level is not justified, DOE then considers the next most efficient level and undertakes the same evaluation until it reaches the highest efficiency level that is technologically feasible, economically justified, and saves a significant amount of energy.

To aid the reader in understanding the benefits and/or burdens of each TSL, Table VII.54 and Table VII.55 in this section summarize the quantitative analytical results for each TSL, based on the assumptions and methodology discussed herein. The efficacy levels contained in each TSL are described in section VI.D. In addition to the quantitative results presented in the tables, DOE also considers other burdens and benefits that affect economic justification. These include the impacts on identifiable subgroups of consumers who may be disproportionately affected by a national standard (see section VI.H), and impacts on employment. DOE discusses the impacts on employment in GSFL and IRL manufacturing in section VII.B.2.b, and discusses the indirect employment impacts in section VI.O.

As discussed in previous DOE standards rulemakings and the February 2011 NODA (76 FR 9696, Feb. 22, 2011), DOE also notes that 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 economics literature attempts to explain why consumers appear to undervalue energy efficiency improvements. This undervaluation suggests that regulation promoting 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 savings to warrant accelerating or altering purchases (*e.g.,* an inefficient ventilation fan in a new building or the delayed replacement of a water pump), (3) inconsistent weighting of future energy cost savings relative to available returns on other investments, (4) computational or other difficulties associated with the evaluation of relevant tradeoffs, and (5) a divergence in incentives (*e.g.,* renter versus owner; builder vs. purchaser). Other literature indicates that with less-than-perfect foresight and a high degree of uncertainty about the future, it may be rational for consumers to trade off these types of investments at a higher-than-expected rate between current consumption and uncertain future energy cost savings. Some studies suggest that this seeming undervaluation may be explained in certain circumstances by differences between tested and actual energy savings, or by uncertainty and irreversibility of energy investments. There may also be ''hidden'' welfare losses to consumers if newer energy efficient products are imperfect substitutes for the less efficient products they replace, in terms of performance or other attributes that consumers value. In the abstract, it may be difficult to say how a welfare gain from correcting

potential under-investment in energy conservation compares in magnitude to the potential welfare losses associated with no longer purchasing a machine or switching to an imperfect substitute, both of which still exist in this framework.

The mix of evidence in the empirical economics literature suggests that if feasible, analysis of regulations mandating energy-efficiency improvements should explore the potential for both welfare gains and losses and move toward a fuller economic framework where all relevant changes can be quantified.[91] While DOE is not prepared at present to provide a fuller quantifiable framework for this discussion, DOE seeks comments on how to assess these possibilities.[92] In particular, DOE requests comment on whether there are features or attributes of the more energy efficient GSFLs and IRLs that manufacturers would produce to meet the standards in this proposed rule that might affect the welfare, positively or negatively, of consumers who purchase these lamps.

1. Benefits and Burdens of Trial Standard Levels Considered for General Service Fluorescent Lamps

Table VII.54 and Table VII.55 summarize the quantitative impacts estimated for each TSL for GSFL.

TABLE VII.54—SUMMARY OF ANALYTICAL RESULTS FOR GSFL: NATIONAL IMPACTS

Category	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
National FFC Energy Savings quads					
	0.21	0.21	0.89	3.0	3.5
NPV of Consumer Benefits 2012$ billion					
3% discount rate	−0.49	−0.63	1.0	8.1	8.1
7% discount rate	−0.39	−0.48	0.23	3.2	3.1
Cumulative Emissions Reduction (Total FFC Emissions)					
CO_2 (million metric tons)	10	10	44	150	170
SO_2 (thousand tons)	15	15	65	220	250
NO_X (thousand tons)	13	12	54	180	210
Hg (tons)	0.020	0.019	0.083	0.28	0.32
N_2O (thousand tons)	0.17	0.16	0.71	2.5	2.8
N_2O (thousand tons CO_2eq)*	49	48	210	730	830
CH_4 (thousand tons)	44	43	190	640	730
CH_4 (million tons CO_2eq)*	1,100	1,100	4,700	16,000	18,000
Value of Emissions Reduction (Total FFC Emissions)					
CO_2 *2012$ million***	82 to 1,100	80 to 1,100	340 to 4,500	1,100 to 15,000	1,300 to 17,000
NO_X—3% discount rate, *2012$ million*	21	21	90	290	340
NO_X—7% discount rate, *2012$ million*	13	13	53	170	200

* CO_2eq is the quantity of CO_2 that would have the same GWP.
** Range of the economic value of CO_2 reductions is based on estimates of the global benefit of reduced CO_2 emissions.

TABLE VII.55—SUMMARY OF ANALYTICAL RESULTS FOR GSFL: MANUFACTURER AND CONSUMER IMPACTS

Category	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
Manufacturer Impacts					
Change in Industry NPV (*2012$ million*)†	41.8—(0.9)	37.8—(9.2)	120.5—(11.5)	358.5—(22.9)	397.1—(39.9)
Change in Industry NPV (*%*)†	2.7—(0.1)	2.5—(0.6)	7.8—(0.7)	23.2—(1.5)	25.7—(2.6)
Consumer Mean LCC Savings 2012$					
4-foot MBP ≤4,500 K	0.00	0.00	0.54	3.14	3.14
4-foot T5 MiniBP SO ≤4,500 K	2.33	2.33	2.33	2.33	2.76
4-foot T5 MiniBP HO ≤4,500 K	2.28	2.28	2.28	2.28	2.28
8-foot SP Slimline ≤4,500 K	0.00	6.88	0.00	0.00	2.08
8-foot RDC HO ≤4,500 K	−9.56	−16.76	−9.56	−9.56	−16.76
Weighted Average*	−0.68	−1.00	−0.22	1.77	1.43
Consumer Mean PBP years**					
4-foot MBP ≤4,500 K	0.0	0.0	0.6	3.6	3.6
4-foot T5 MiniBP SO ≤4,500 K	1.2	1.2	1.2	1.2	4.3
4-foot T5 MiniBP HO ≤4,500 K	3.0	3.0	3.0	3.0	3.0
8-foot SP Slimline ≤4,500 K	0.0	0.6	0.0	0.0	4.5
8-foot RDC HO ≤4,500 K	NER	NER	NER	NER	NER
Weighted Average*	0.1	0.1	0.6	3.2	3.7
Weighted Average Customers with Net Cost (%)*	9.5	11.5	59.5	29.4	34.5

[91] A good review of the literature related to this issue can be found in Gillingham, K., R. Newell, K. Palmer. (2009). ''Energy Efficiency Economics and Policy,'' *Annual Review of Resource Economics,* 1: 597–619; and Tietenberg, T. (2009). ''Energy Efficiency Policy: Pipe Dream or Pipeline to the Future?'' *Review of Environmental Economics and Policy.* Vol. 3, No. 2: 304–320.

[92] A draft paper, ''Notes on the Economics of Household Energy Consumption and Technology Choice,'' proposes a broad theoretical framework on which an empirical model might be based and is posted on the DOE Web site along with this notice at *www.eere.energy.gov/buildings/appliance_standards.*

TABLE VII.55—SUMMARY OF ANALYTICAL RESULTS FOR GSFL: MANUFACTURER AND CONSUMER IMPACTS—Continued

Category	TSL 1	TSL 2	TSL 3	TSL 4	TSL 5
Weighted Average Customers with Net Benefit (%)*	1.1	2.6	36.0	60.4	65.5
Weighted Average Customers with No Impact (%)*	89.4	85.8	4.5	10.2	0.0

* Weighted by shares of each product class in total projected shipments in 2017.
** Does not include weighting for "NER" scenarios. Entries of "NER" indicate standard levels that do not reduce operating costs, which prevents the consumer from recovering the increased purchase cost.
† Values in parentheses are negative values.

First, DOE considered TSL 5, the most efficient level (max tech), which would save an estimated total of 3.5 quads of energy, an amount DOE considers significant. TSL 5 has an estimated NPV of consumer benefit of $3.1 billion using a 7 percent discount rate, and $8.1 billion using a 3 percent discount rate.

The cumulative emissions reductions at TSL 5 are 170 million metric tons of CO_2, 210 thousand tons of NO_X, 250 thousand tons of SO_2, 0.32 tons of Hg, 730 thousand tons of CH_4, and 2.8 thousand tons of N_2O. The estimated monetary value of the CO_2 emissions reductions at TSL 5 ranges from $1,300 million to $17,000 million.

At TSL 5, the weighted average LCC savings is $3.14 for the 4-foot MBP lamps, $2.76 for the 4-foot T5 MiniBP SO lamps, $2.28 for the 4-foot T5 MiniBP HO lamps, $2.08 for the 8-foot SP slimline lamps, and −$16.76 for the 8-foot RDC HO lamps.

At TSL 5, the projected change in INPV ranges from a decrease of $39.9 million to an increase of $397.1 million. If the decrease is realized, TSL 5 could result in a net loss of up to 2.6 percent in INPV to manufacturers of covered GSFLs. Also at TSL 5, DOE estimates industry will need to invest approximately $38.6 million in conversion costs.

After considering the analysis and weighing the benefits and the burdens, DOE has tentatively concluded that, at TSL 5 for GSFL, the benefits of energy savings, positive NPV of total consumer benefits, positive impacts on consumers (as indicated by positive average LCC savings, favorable PBPs, and the large percentage of consumers who would experience LCC benefits), emission reductions and the estimated monetary value of the emissions reductions would outweigh the potential reduction in industry value, and increase in LCCs experienced by certain consumers at TSL 5. The Secretary has concluded that TSL 5 would save a significant amount of energy and is technologically feasible and economically justified.

Based on the above considerations, DOE today proposes to adopt the energy conservation standards for GSFL at TSL 5. Table VII.56 presents the proposed energy conservation standards for GSFL.

TABLE VII.56—PROPOSED ENERGY CONSERVATION STANDARDS FOR GSFL

Lamp type	CCT K	Proposed level lm/W
4-Foot Medium Bipin	≤4,500	92.4
	>4,500	90.6
2-Foot U-Shaped	≤4,500	86.9
	>4,500	84.3
8-Foot Slimline	≤4,500	99.0
	>4,500	94.1
8-Foot High Output	≤4,500	97.6
	>4,500	95.6
4-Foot Miniature Bipin Standard Output	≤4,500	97.1
	>4,500	91.3
4-Foot Miniature Bipin High Output	≤4,500	82.7
	>4,500	78.6

2. Summary of Benefits and Costs (Annualized) of the Proposed Standards for General Service Fluorescent Lamps

The benefits and costs of today's proposed standards, for product sold in 2017–2046, can also be expressed in terms of annualized values. The annualized monetary values are the sum of (1) the annualized national economic value of the benefits from consumer operation of product that meet the proposed standards (consisting primarily of operating cost savings from using less energy, minus increases in product purchase and installation costs, which is another way of representing consumer NPV), and (2) the annualized monetary value of the benefits of emission reductions, including CO_2 emission reductions.[93]

Estimates of annualized benefits and costs of the proposed standards for GSFL are shown in Table VII.57. 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 average SCC series that uses a 3-percent discount rate, the cost of the standards proposed in today's rule is $873 million per year in increased product costs; while the estimated benefits are $1,180 million per year in reduced product operating costs, $314 million per year in CO_2 reductions, and $19.3 million per year in reduced NO_X emissions. In this case, the net benefit would amount to $642 million per year. Using a 3-percent discount rate for all benefits and costs

[93] 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 2013, 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 3 and 7 percent for all costs and benefits except for the value of CO_2 reductions. For the latter, DOE used a range of discount rates. From the present value, DOE then calculated the fixed annual payment over a 30-year period (2017 through 2046) that yields the same present value. 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.

and the average SCC series, the estimated cost of the standards proposed in today's rule is $751 million per year in increased product costs; while the estimated benefits are $1,200 million per year in reduced operating costs, $314 million per year in CO_2 reductions, and $18.9 million per year in reduced NO_X emissions. In this case, the net benefit would amount to approximately $783 million per year.

TABLE VII.57—ANNUALIZED BENEFITS AND COSTS OF PROPOSED STANDARDS FOR GSFL (TSL 5)

	Discount rate	Primary estimate *	Low net benefits estimate *	High net benefits estimate *
	.....	Million 2012$/year		
Benefits				
Operating Cost Savings	7%	1,180	1,160	1,220
	3%	1,200	1,170	1,250
CO_2 Reduction Monetized Value ($11.8/t case) **	5%	98	98	98
CO_2 Reduction Monetized Value ($39.7/t case) **	3%	314	314	314
CO_2 Reduction Monetized Value ($61.2/t case) **	2.5%	456	456	456
CO_2 Reduction Monetized Value ($117/t case) **	3%	968	968	968
NO_X Reduction Monetized Value (at $2,639/ton) **	7%	19.3	19.3	19.3
	3%	18.9	18.9	18.9
Total Benefits †	7% plus CO_2 range	1,300 to 2,160	1,280 to 2,140	1,340 to 2,210
	7%	1,520	1,490	1,560
	3% plus CO_2 range	1,320 to 2,180	1,290 to 2,160	1,370 to 2,230
	3%	1,530	1,510	1,580
Costs				
Incremental Product Costs	7%	873	910	873
	3%	751	785	751
Net Benefits				
Total †	7% plus CO_2 range	426 to 1,291	367 to 1,232	469 to 1,330
	7%	642	583	685
	3% plus CO_2 range	567 to 1,432	505 to 1,370	615 to 1,480
	3%	783	722	831

* This table presents the annualized costs and benefits associated with GSFLs shipped in 2017–2046. These results include benefits to consumers which accrue after 2046 from the products purchased in 2017–2046. The results account for the incremental variable and fixed costs incurred by manufacturers due to the standard, some of which may be incurred in preparation for the rule. The Primary Benefits Estimate assumes the central energy prices from *AEO2013* and a decreasing incremental product cost, due to price learning. The Low Benefits Estimate assumes the low estimate of energy prices from *AEO2013* and constant real product prices. The High Benefits Estimate assumes the high energy price estimates from *AEO2013* and decreasing incremental product costs, due to price learning.

** The CO_2 values represent global monetized values of the SCC, in 2012$, in 2015 under several scenarios of the updated SCC values. The first three cases use the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The fourth case represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. The SCC time series used by DOE incorporate an escalation factor. The value for NO_X 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 series corresponding to average SCC with 3-percent discount rate. In the rows labeled "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.

3. Benefits and Burdens of Trial Standard Levels Considered for Incandescent Reflector Lamps

Table VII.58 and Table VII.59 summarize the quantitative impacts estimated for the potential IRL standards.

TABLE VII.58—SUMMARY OF ANALYTICAL RESULTS FOR IRL: NATIONAL IMPACTS

Category	TSL 1
National FFC Energy Savings Quads	
	0.013
NPV of Consumers Benefits 2012$ Billion	
3% discount rate	0.28
7% discount rate	0.18
Cumulative Emissions Reduction (Total FFC Emissions)	
CO_2 (million metric tons)	0.70
SO_2 (thousand tons)	0.69

TABLE VII.58—SUMMARY OF ANALYTICAL RESULTS FOR IRL: NATIONAL IMPACTS—Continued

Category	TSL 1
NO_X (thousand tons)	0.79
Hg (tons)	0.0012
N_2O (thousand tons)	0.0099
N_2O (thousand tons CO_2eq)*	2.9
CH_4 (thousand tons)	2.7
CH_4 (thousand tons CO_2eq)*	68
Value of Emissions Reduction (Total FFC Emissions)	
CO_2 *2012$ million***	6.1 to 75
NO_X—3% discount rate *2012$ million*	1.6
NO_X—7% discount rate *2012$ million*	1.1

* CO_2eq is the quantity of CO_2 that would have the same GWP.
** Range of the economic value of CO_2 reductions is based on estimates of the global benefit of reduced CO_2 emissions.

TABLE VII.59—SUMMARY OF ANALYTICAL RESULTS FOR IRL: MANUFACTURER AND CONSUMER IMPACTS

Category	TSL 1
Manufacturer Impacts	
Change in Industry NPV *2012$ million***	(47.5) – (51.8)
Change in Industry NPV *%***	(27.0) – (29.5)
Consumer Mean LCC Savings* 2012$	
Standard spectrum; >2.5 inch diameter; <125 V	2.95
Consumer Mean PBP* years	
Standard spectrum; >2.5 inch diameter; <125 V	5.4
Consumers with Net Cost *%*	0.0
Consumers with Net Benefit *%*	100.0
Consumers with No Impact *%*	0.0

* Weighted by shares of each equipment class in total projected shipments in 2017.
** Values in parentheses are negative values.

DOE considered TSL 1, which would save an estimated total of 0.013 quads of energy, an amount DOE considers significant. TSL 1 has an estimated NPV of consumer benefit of $0.18 billion using a 7 percent discount rate, and $0.28 billion using a 3 percent discount rate.

The cumulative emissions reductions at TSL 1 are 0.70 million metric tons of CO_2, 0.79 thousand tons of NO_X, 0.69 thousand tons of SO_2, 0.0012 tons of Hg, 2.7 thousand tons of CH_4, and 0.0099 thousand tons of N_2O. The estimated monetary value of the CO_2 emissions reductions at TSL 1 ranges from $6.1 million to $75 million.

At TSL 1, the weighted average LCC savings for the standard spectrum, > 2.5 inch diameter, < 125 V product class is $2.95. The LCC savings were positive for both representative lamp units in each sector.

At TSL 1, the projected change in INPV ranges from a decrease of $51.8 million to decrease of $47.5 million. If the larger decrease is realized, TSL 1 could result in a net loss of up to 29.5 percent in INPV to manufacturers of covered IRLs. Also at TSL 1, DOE estimates industry would need to invest approximately $71.5 million in conversion costs.

After considering the analysis and weighing the benefits and the burdens, DOE concludes that, at TSL 1 for IRLs, the benefits of energy savings, positive NPV of consumer benefits, positive impacts on consumers (as indicated by positive average LCC savings and the large percentage of consumers who would experience LCC benefits), emission reductions and the estimated monetary value of the emissions reductions would outweigh the potential reduction in industry value. Consequently, DOE has concluded that TSL 1 is economically justified.

Based on the above considerations, DOE today proposes to adopt the energy conservation standards for IRL at TSL 1. Table VII.60 presents the proposed energy conservation standards for IRL.

TABLE VII.60—PROPOSED ENERGY CONSERVATION STANDARDS FOR IRL

Lamp type	Diameter inches	Voltage V	Proposed level lm/W
Standard Spectrum			
40 W – 205 W	>2.5	≥125	$7.1P^{0.27}$
		<125	$6.2P^{0.27}$
	≤2.5	≥125	$6.0P^{0.27}$
		<125	$5.2P^{0.27}$

TABLE VII.60—PROPOSED ENERGY CONSERVATION STANDARDS FOR IRL—Continued

Lamp type	Diameter inches	Voltage V	Proposed level lm/W
Modified Spectrum			
40 W – 205 W	>2.5	≥125	$6.0P^{0.27}$
		<125	$5.2P^{0.27}$
	≤2.5	≥125	$5.1P^{0.27}$
		<125	$4.4P^{0.27}$

4. Summary of Benefits and Costs (Annualized) of the Proposed Standards for Incandescent Reflector Lamps

The benefits and costs of today's proposed standards for IRL, for product sold in 2017–2046, can also be expressed in terms of annualized values. The annualized monetary values are the sum of (1) the annualized national economic value of the benefits from consumer operation of product that meet the proposed standards (consisting primarily of operating cost savings from using less energy, minus increases in product purchase and installation costs, which is another way of representing consumer NPV), and (2) the annualized monetary value of the benefits of emission reductions, including CO_2 emission reductions.

Estimates of annualized benefits and costs of the proposed standards for IRL are shown in Table VII.61. 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 average SCC series that uses a 3-percent discount rate, the annualized incremental equipment cost of the standards proposed in today's rule is negative $10.4 million per year,[94] and the annualized benefits of the standards proposed in today's rule are $7.2 million per year in reduced product operating costs, $1.4 million per year in CO_2 reductions, and $0.11 million per year in reduced NO_X emissions. In this case, the net benefit would amount to $19 million per year. Using a 3-percent discount rate for all benefits and costs and the average SCC series, the estimated annualized incremental equipment cost of the standards proposed in today's rule is negative $9.7 million per year,[94] and the annualized benefits of the standards proposed in today's rule are $5.9 million per year in reduced operating costs, $1.4 million per year in CO_2 reductions, and $0.09 million per year in reduced NO_X emissions. In this case, the net benefit would amount to approximately $17 million per year.

TABLE VII.61—ANNUALIZED BENEFITS AND COSTS OF PROPOSED STANDARDS FOR IRL (TSL 1)

	Discount rate	Primary estimate*	Low net benefits estimate*	High net benefits estimate*
		Million 2012$/year		
Benefits				
Operating Cost Savings	7%	7.2	7.1	10
	3%	5.9	5.8	5.8
CO_2 Reduction Monetized Value ($11.8/t case)**	5%	0.5	0.5	0.5
CO_2 Reduction Monetized Value ($39.7/t case)**	3%	1.4	1.4	1.4
CO_2 Reduction Monetized Value ($61.2/t case)**	2.5%	2.0	2.0	2.0
CO_2 Reduction Monetized Value ($117/t case)*	3%	4.2	4.2	4.2
NO_X Reduction Monetized Value (at $2,639/ton)**.	7%	0.11	0.11	0.16
	3%	0.09	0.09	0.09
Total Benefits †	7% plus CO_2 range	7.8 to 12	7.7 to 11	7.8 to 12
	7%	8.7	8.6	8.7
	3% plus CO_2 range	6.4 to 10	6.4 to 10	6.4 to 10
	3%	7.4	7.3	7.3
Costs				
Incremental Product Costs ‡	7%	−10.4	−10.5	−10.4
	3%	−9.7	−9.8	−9.7
Net Benefits				
Total †	7% plus CO_2 range	18 to 22	18 to 22	18 to 22
	7%	19	19	19
	3% plus CO_2 range	16 to 20	16 to 20	16 to 20

[94] This represents a reduction in product costs compared to the base case, because the more efficacious products have substantially longer lifetimes than the products that would be eliminated by the proposed standard.

TABLE VII.61—ANNUALIZED BENEFITS AND COSTS OF PROPOSED STANDARDS FOR IRL (TSL 1)—Continued

	Discount rate	Primary estimate*	Low net benefits estimate*	High net benefits estimate*
	3%	17	17	17

* This table presents the annualized costs and benefits associated with IRLs shipped in 2017–2046. These results include benefits to consumers which accrue after 2046 from the products purchased in 2017–2046. The results account for the incremental variable and fixed costs incurred by manufacturers due to the standard, some of which may be incurred in preparation for the rule. The Primary Benefits Estimate assumes the central energy prices from *AEO2013* and a decreasing incremental product cost, due to price learning. The Low Benefits Estimate assumes the low estimate of energy prices from *AEO2013* and constant real product prices. The High Benefits Estimate assumes the high energy price estimates from *AEO2013* and decreasing incremental product costs, due to price learning.

** The CO_2 values represent global monetized values of the SCC, in 2012$, in 2015 under several scenarios of the updated SCC values. The first three cases use the averages of SCC distributions calculated using 5%, 3%, and 2.5% discount rates, respectively. The fourth case represents the 95th percentile of the SCC distribution calculated using a 3% discount rate. The SCC time series used by DOE incorporate an escalation factor. The value for NO_X 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 series corresponding to average SCC with 3-percent discount rate. In the rows labeled "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.

‡ This reduction in product costs occurs because the more efficacious products have substantially longer lifetimes than the products that would be eliminated by the proposed standard.

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 the 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 GSFLs and IRLs 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 GHGs.

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 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. In this NOPR, DOE has taken particular note of the potential for future volatility in the price of rare earth oxides used in the manufacture of GSFLs as it affects the future costs and benefits of the proposed standard. DOE plans to pursue a retrospective review of rare earth prices as input for any future updates to GSFL standards. For the reasons stated in the preamble, DOE believes that today's NOPR is consistent with these with the principles laid out in Executive Order 13563, including the requirement that, to the extent permitted by law, benefits justify costs and that net benefits are maximized.

B. Review Under the Regulatory Flexibility Act

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

Counsel's Web site (*http://energy.gov/gc/office-general-counsel*).

As a result of this review, DOE has prepared an IRFA for GSFLs and IRLs, a copy of which DOE will transmit to the Chief Counsel for Advocacy of the Small Business Administration (SBA) for review under 5 U.S.C. 605(b). As presented and discussed below, the IFRA describes potential impacts on GSFL and IRL manufacturers and discusses alternatives that could minimize these impacts.

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

1. Description and Estimated Number of Small Entities Regulated

a. Methodology for Estimating the Number of Small Entities

For manufacturers of GSFLs and IRLs, the SBA has set a size threshold, which defines those entities classified as ''small businesses'' for the purposes of the statute. DOE used the SBA's small business size standards to determine whether any small entities would be subject to the requirements of the rule. 65 FR 30836, 30848 (May 15, 2000), as amended at 65 FR 53533, 53544 (Sept. 5, 2000) and codified at 13 CFR part 121. The size standards are listed by North American Industry Classification System (NAICS) code and industry description available at: *http://www.sba.gov/content/table-small-business-size-standards*. GSFL and IRL manufacturing is classified under NAICS code 335110, ''Electric Lamp Bulb and Part Manufacturing.'' The SBA sets a threshold of 1,000 employees or less for an entity to be considered as a small business for this category.

To estimate the number of companies that could be small business manufacturers of GSFLs and IRLs covered by this rulemaking, DOE conducted a market survey using publicly available information. DOE's research involved industry trade association membership directories (including NEMA), information from previous rulemakings, individual company Web sites, SBA's database, and market research tools (*e.g.,* Hoover's reports). DOE also asked stakeholders and industry representatives if they were aware of any small manufacturers during manufacturer interviews and DOE public meetings. DOE used information from these sources to create a list of companies that potentially manufacture or sell GSFLs or IRLs and would be impacted by this rulemaking. As necessary, DOE contacted companies to determine whether they met the SBA's definition of a small business manufacturer of GSFLs or IRLs. DOE screened out companies that do not offer products covered by this rulemaking, do not meet the definition of a ''small business,'' or are completely foreign owned and operated.

For GSFLs, DOE initially identified a total of 47 potential companies that sell GSFLs in the United States. After reviewing publicly available information on these potential GSFL manufacturers, DOE determined that 26 were either large manufacturers, manufacturers that were completely foreign owned and operated, or did not sell GSFLs covered by this rulemaking. DOE then contacted the remaining 21 GSFL companies to determine whether they met SBA's definition of a small business and whether they manufactured or sold GSFLs that would be affected by today's proposal. Based on these efforts, DOE estimated that there are 21 small businesses that either manufacture or sell covered GSFLs in the United States.

For IRLs, DOE initially identified a total of 37 potential companies that sell IRLs in the United States. After reviewing publicly available information on these potential IRL manufacturers, DOE determined that 22 were either large manufacturers, manufacturers that were completely foreign owned and operated, or did not sell IRLs covered by this rulemaking. DOE then contacted the remaining 15 IRL companies to determine whether they met SBA's definition of a small business and whether they manufactured or sold IRLs that would be affected by today's proposal. Based on these efforts, DOE estimated that there are 15 small businesses that either manufacture or sell covered IRLs in the United States.

b. Manufacturer Participation

DOE contacted all 21 identified GSFL small businesses to invite them to take part in a small business MIA interview. Of the GSFL manufacturers DOE contacted, eight responded to DOE's email and phone communications and 13 did not. DOE was able to reach and discuss potential standards with two of the eight GSFL small business manufacturers that responded. The remaining six declined DOE's request to be interviewed for this rulemaking. DOE also contacted all 15 identified IRL small businesses to invite them to take part in a small business MIA interview. Of the IRL manufacturers DOE contacted, five responded to DOE's email and phone communications and 10 did not. DOE was able to reach and discuss potential standards with two of the five IRL small business manufacturers. The remaining three declined DOE's request to be interviewed for this rulemaking. DOE also obtained information about small business manufacturers and potential impacts on small businesses while interviewing large manufacturers.

c. General Service Fluorescent Lamp and Incandescent Reflector Lamp Industry Structures and Nature of Competition

Three major manufacturers supply approximately 90 percent of the GSFL market. None of these three major GSFL manufacturers are small businesses. DOE estimates that the remaining 10 percent of the GSFL market is served by either small businesses or manufacturers that are completely foreign owned and operated. No small business has more than a three percent market share in the GSFL industry. Similarly in the IRL market, the same three major GSFL manufacturers supply approximately 80 percent of the IRL market. Again, none of these three major IRL manufacturers is a small business. DOE estimates that the remaining 20 percent of the IRL market is served by either small businesses or manufacturers that are completely foreign owned and operated. No small business has more than three percent of the IRL market individually. Small businesses that sell covered GSFLs and IRLs tend to be companies that outsource the manufacturing to overseas companies who produce the lamps specified by the small businesses. These small businesses provide the specifications for these lamps as well as the testing and certification to comply with any U.S. energy conservation standards.

d. Comparison Between Large and Small Entities

For GSFLs and IRLs, small businesses differ from large manufacturers in several ways that directly affect the extent to which a company would be impacted by any potential energy conservation standards. The main differences between small and large entities for this rulemaking are that small manufacturers of GSFLs and IRLs have lower sales volumes and are frequently not the original manufacturers of GSFLs and IRLs. Therefore, these small businesses would not have any capital conversion costs to comply with amended standards, since the machinery used to produce GSFLs and IRLs is owned and operated by overseas manufacturers. The small businesses would most likely experience higher per-unit costs for the

products if the conversion costs experienced by the overseas manufacturers are passed through to the small businesses, potentially reducing those small business' manufacturer markups and profits. Small businesses would also have product conversion costs associated with testing and certifying any lamps that would need to be redesigned due to standards. Typically the testing and certification costs are proportional to the number of products offered by a company and not the volume of sales. Some small businesses stated they could offer up to 75 percent of the number of covered products that large manufacturers offer; however, the volume of sales for each single product offered by a small business would be significantly smaller than that of a larger manufacturer. Consequently, the revenue associated with a single product is much smaller for small businesses than for large manufacturers. Therefore, these small businesses could have product conversion costs in the same range as large manufacturers, since product conversion costs scale to number of products offered, even though the total revenue is significantly lower for small businesses compared to large manufacturers.

Lower sales volumes are the biggest disadvantage for most small businesses. A lower-volume business' product conversion costs are spread over fewer units than a larger competitor. Thus, unless the small business can differentiate its product in some way that earns a price premium, the small business experiences a reduction in profit per-unit relative to the large manufacturer. Most small GSFL and IRL businesses operate in the same lighting markets as large manufacturers and do not operate in niche GSFL and IRL markets. Much of the same equipment would need to be purchased by both large manufacturers and small businesses to produce GSFLs and IRLs at higher efficacy levels. If the small business is not the original lamp manufacturer, the manufacturer that sells to the small business would have to purchase this equipment. Therefore, undifferentiated small businesses would face a greater per-unit cost penalty because they must spread the conversion costs over fewer units. While small businesses may not be directly paying these capital conversion costs, they are still responsible for selling certified products made by the original lamp manufacturers. The costs incurred by contracted manufacturers are passed on to small businesses that must maintain profit margins by either increasing product prices or decreasing profitability.

2. Description and Estimate of Compliance Requirements

Small GSFL and IRL businesses will be affected differently by the proposed energy conservation standards compared to large manufacturers. One of the key differences between large manufacturers and the small businesses identified by DOE for this rulemaking is that small IRL and GSFL businesses typically outsource the manufacturing of the lamps they sell to original equipment manufacturers abroad. This, in addition to the small volume of sales typical of small businesses, results in small GSFL and IRL businesses having different types and amounts of conversion costs compared to large manufacturers.

As a result of this rulemaking, small businesses will incur product conversion costs because products that no longer meet the proposed efficacy levels of amended energy conservation standards will most likely need to be redesigned, retested, and recertified. Since small businesses have significantly less revenue and annual R&D budgets than large manufacturers, the product conversion costs necessary to comply with amended standards represent a significant portion of a small business' annual revenue. However, unlike large manufacturers, small businesses will most likely not incur any capital conversion costs due to amended standards because small businesses usually do not own and operate the machinery used to manufacture the covered lamps. The capital conversion costs incurred by original equipment manufacturers will instead be passed along indirectly to the domestic small businesses.

In the GSFL market, DOE identified 21 small GSFL businesses with covered products affected by this rulemaking. It is unlikely that small GSFL businesses will incur any capital conversion costs because small businesses usually do not own and operate the machinery used to manufacture the covered lamps; however, they will likely face significant product conversion costs to cover R&D, certification, and testing of products that need to be redesigned to meet the proposed GSFL efficacy levels of today's NOPR. DOE estimates that approximately 20 percent of the covered products offered by small GSFL manufacturers meet the proposed efficacy levels at TSL 5. As a result, an average of approximately 80 percent of products would need to be redesigned to meet proposed efficacy levels, resulting in small GSFL businesses incurring more than $1.6 million on average in product conversion costs or nearly seven times as much as typical annual GSFL R&D expenses. GSFL sales account for approximately 25 percent of a typical small business' annual revenue, so redesigning up to 80 percent of those offerings could have a significant impact on their business. Redesigning a large majority of product offerings that represent a significant revenue stream will be more difficult for small businesses, compared to large businesses, as they have less R&D and revenue.

TABLE VIII.1—ESTIMATED GSFL PRODUCT CONVERSION COSTS AS A PERCENTAGE OF ANNUAL GSFL R&D EXPENSE

	Product conversion cost as a percentage of annual R&D expense (percent)	Total conversion cost as a percentage of annual revenue (percent)
Typical Large Manufacturer	1	0
Typical Small Manufacturer	692	31

In the IRL market, DOE identified 15 small IRL businesses with covered products affected by this rulemaking. DOE estimates that a typical small IRL business will not incur any direct capital conversion costs at TSL 1, the proposed standard in today's NOPR, since most IRL small businesses do not own and operate the machinery used to manufacture IRLs. The small businesses would most likely experience higher per-unit costs for the products if the

conversion costs experienced by the overseas manufacturers are passed through to the small businesses, potentially reducing those small business' manufacturer markups. Small IRL businesses are expected to incur product capital conversion costs of approximately $836 thousand per manufacturer. As Table VIII.2 below illustrates, small businesses would have significant product conversion costs amounting to nearly nine times the annual amount spent on IRL R&D. Small IRL businesses have much smaller annual R&D budgets as well as smaller annual revenue streams, so incurring the product conversion costs necessary to meet the efficacy standards at TSL 1 could be problematic for those small businesses that have a large majority of their IRLs at the baseline efficacy level. Total conversion cost for a typical small business could amount to nearly a third that small business' annual IRL revenue.

TABLE VIII.2—ESTIMATED IRL PRODUCT CONVERSION COSTS AS A PERCENTAGE OF ANNUAL IRL R&D EXPENSE

	Product conversion cost as a percentage of annual R&D expense (percent)	Total conversion cost as a percentage of annual revenue (percent)
Typical Large Manufacturer	387	28
Typical Small Manufacturer	852	29

While some small businesses would have some products meet the IRL efficacy levels proposed in today's NOPR, there are a few small businesses that may not be able to meet the IRL efficacy levels proposed in today's NOPR. Not meeting TSL 1 for IRL products may also be a strategic decision for some small businesses since IRL products make up about five percent of a typical small IRL business' revenue. Therefore, some small lighting businesses may choose to not sell IRLs covered by this rulemaking and exit the market.

Small businesses in both the IRL and GSFL industries expressed concern that possible manufacturing downtime, discontinuation of product lines, and high direct and indirect conversion costs resulting from amended GSFL and IRL energy conservation standards could have a significant impact on their revenue and could affect domestic employment decisions. Domestic employment impacts would be especially prevalent in the GSFL market where GSFL revenue accounts for approximately 25 percent of a typical small business' revenue. Domestic employment impacts would be seen in small business' sales forces and warehouse staff that could be potentially downsized as a result of amended GSFL and IRL standards.

3. Duplication, Overlap, and Conflict With Other Rules and Regulations

DOE is not aware of any rules or regulations that duplicate, overlap, or conflict with the rule being considered today.

4. Significant Alternatives to the Proposed Rule

The discussion above analyzes impacts on small businesses that would result from the GSFL TSL and IRL TSL DOE is proposing in today's notice. Though TSLs lower than the proposed TSLs 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. Therefore, DOE rejected the lower TSLs.

The NOPR TSD includes a regulatory impact analysis in chapter 18. For GSFLs and IRLs, this report discusses the following policy alternatives in addition to the other TSLs being considered: (1) Consumer rebates, (2) consumer tax credits, and (3) manufacturer tax credits. DOE does not intend to consider these alternatives further because they either are not feasible to implement or are not expected to result in energy savings as large as those that would be achieved by the standard levels under consideration.

DOE continues to seek input from businesses that would be affected by this rulemaking and will consider comments received in the development of any final rule.

5. Significant Issues Raised by Public Comments

NEMA commented during the framework comment period there is an added burden of significantly more testing and reporting of a lot of small sales volume lamps which would result from the proposed increase in regulations. This increased burden would be much harder on small business manufacturers, especially if those small business manufacturers have to pay testing costs to a National Voluntary Laboratory Accreditation Program (NVLAP) source facility. (NEMA, No. 10 at p. 75) NEMA also commented during the framework comment period that there is a substantial cumulative effect of numerous concurrent lighting regulations being carried out in addition to this rulemaking and small business manufacturers are even harder hit because of this cumulative regulatory burden. NEMA believes that small business manufacturers should not have to bear an unfair burden as a result of overly aggressive policies. (NEMA, No. 10 at pp. 74–75) DOE agrees that there is potential for small manufacturers to be disproportionately burdened by additional regulations as a result of additional testing and reporting costs and from the potential of a cumulative regulatory burden, DOE outlines its conclusions on the potential impacts of amended standards on small businesses in the above section of today's NOPR.

DOE's MIA suggests that most GSFL small businesses will generally be able to maintain profitability at the TSL proposed in today's rulemaking. It is possible, however, that small IRL manufacturers could incur significant conversion costs as a result of this proposed rule, and those high costs could endanger their IRL business. However, based on the fact that IRL sales typically only account for a small but non-trivial overall portion of a small lighting business' sales, DOE does not believe that any small business will go out of business due to the IRL standard proposed in today's NOPR. DOE's MIA is based on its interviews of both small and large manufacturers, and consideration of the small business impacts explicitly enters into DOE's choice of the TSLs proposed in today's NOPR.

DOE did not receive any public comments suggesting that small businesses would not be able to achieve the efficiency levels at TSL 5 for GSFLs and at TSL 1 for IRLs. DOE seeks

comment on the feasibility of small business to achieve the efficacy levels for GSFLs and IRLs proposed in today's NOPR.

C. Review Under the Paperwork Reduction Act

Manufacturers of GSFLs and IRLs 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 GSFLs and IRLs, 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 GSFLs and IRLs. 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

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

E. Review Under Executive Order 13132

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

F. Review Under Executive Order 12988

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

G. Review Under the Unfunded Mandates Reform Act of 1995

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

Although today's proposed rule does not contain a Federal intergovernmental mandate, it may require expenditures of $100 million or more on the private sector. Specifically, the proposed rule will likely result in a final rule that could require expenditures of $100 million or more. Such expenditures may include: (1) Investment in research and development and in capital expenditures by GSFL and IRL 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 GSFL and IRL, 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 proposed 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 NOPR and the ''Regulatory Impact Analysis'' section of the TSD for this proposed rule respond to those requirements.

Under section 205 of UMRA, the Department 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 proposed 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(i)(4)–(5), today's proposed rule would establish energy conservation standards for GSFLs and IRLs 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 proposed 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 (Mar. 18, 1988), that this regulation would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

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

K. Review Under Executive Order 13211

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

DOE has tentatively concluded that today's regulatory action, which sets forth energy conservation standards for GSFLs and IRLs, is not a significant energy action because the proposed 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 proposed rule.

L. Review Under the Information Quality Bulletin for Peer Review

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

In response to OMB's Bulletin, DOE conducted formal in-progress peer reviews of the energy conservation standards development process and analyses and has prepared a Peer Review Report pertaining to the energy conservation standards rulemaking analyses. Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. The ''Energy Conservation Standards Rulemaking Peer Review Report'' dated February 2007 has been disseminated and is available at the following Web site: *www1.eere.energy.gov/buildings/appliance_standards/peer_review.html*.

IX. Public Participation

A. Attendance at the Public Meeting

The time, date, and location of the public meeting are listed in the **DATES** and **ADDRESSES** sections at the beginning of this notice. If you plan to attend the public meeting, please notify Ms. Brenda Edwards at (202) 586–2945 or *Brenda.Edwards@ee.doe.gov*. As explained in the **ADDRESSES** section, foreign nationals visiting DOE Headquarters are subject to advance security screening procedures.

In addition, you can attend the public meeting via webinar. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's Web site at: *www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/24*. Participants are responsible for ensuring their

systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has plans to present a prepared general statement may request that copies of his or her statement be made available at the public meeting. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this notice. The request and advance copy of statements must be received at least one week before the public meeting and may be emailed, hand-delivered, or sent by mail. DOE prefers to receive requests and advance copies via email. Please include a telephone number to enable DOE staff to make follow-up contact, if needed.

C. Conduct of the Public Meeting

DOE will designate a DOE official to preside at the public meeting and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. After the public meeting, interested parties may submit further comments on the proceedings as well as on any aspect of the rulemaking until the end of the comment period.

The public meeting will be conducted in an informal, conference style. DOE will present summaries of comments received before the public meeting, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will allow, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly and comment on statements made by others. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the public meeting.

A transcript of the public meeting will be included in the docket, which can be viewed as described in the *Docket* section at the beginning of this notice. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

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

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

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

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

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

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

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

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

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

Confidential Business Information. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: one copy of the document

marked confidential including all the information believed to be confidential, and one copy of the document marked non-confidential with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

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

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

E. Issues on Which DOE Seeks Comment

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

1. DOE requests comment on the overall methodology, assumptions, and results of the GSFL and IRL engineering analyses. (See section VI.D for further details.)

2. In the engineering analysis, DOE selects a baseline lamp as a reference point against which to measure changes resulting from energy conservation standards. DOE requests comments on the baseline lamps selected in this analysis for GSFLs. (See section VI.D.2.c for further details.)

3. For GSFLs, the baseline and more efficacious substitutes selected represent the most common lifetimes for each product class. DOE requests comment on the rated lifetimes of the GSFL baselines and more efficacious substitutes. (See section VI.D.2.d for further details.)

4. Because fluorescent lamps operate on a ballast in practice, DOE analyzed lamp-and-ballast systems in the engineering analysis, to more accurately capture real-world energy use and light output. DOE requests comments on its methodology for developing lamp-and-ballast systems as well as the results of these GSFL systems. (See section VI.D.2.e for further details.)

5. For GSFLs, DOE requests comment on the max tech levels identified in this analysis and more information on the accuracy of catalog and certification data which were used to identify these levels. (See section VI.D.2.f for further details.)

6. DOE develops ELs based on three factors: (1) The design options associated with the specific lamps studied; (2) the ability of lamps across wattages to comply with the standard level of a given product class; and (3) the max tech EL. DOE requests comments on the methodology used to develop ELs for GSFLs as well as on the resulting ELs. (See section VI.D.2.g for further details.)

7. DOE develops scaling factors to scale the levels developed directly for the representative product classes and determine levels for product classes not analyzed directly. DOE requests comments on the scaling factors developed to scale GSFL product classes from the less than or equal to 4,500 K CCT lamps to the greater than 4,500 K CCT lamps. DOE also requests comments on the scaling factor developed to scale from the 4-foot MBP product class to the 2-foot U-shaped product class. (See section VI.D.2.h for further details.)

8. In the engineering analysis, DOE selects a baseline lamp as a reference point against which to measure changes resulting from energy conservation standards. DOE requests comments on the baseline lamps selected in this analysis for IRLs. (See section VI.D.3.c for further details.)

9. In the engineering analysis for IRLs, DOE observed lifetime changes for different technologies. DOE requests comment on the rated lifetimes of the baseline and more efficacious substitutes. (See section VI.D.3.d for further details).

10. DOE requests comment on the max tech levels identified in this analysis and information on high efficacy IRLs including prototype lamps. (See section VI.D.3.e for further details.)

11. DOE has not found evidence that more efficacious small diameter, modified spectrum, or 130 V IRLs are not technologically feasible or practicable to manufacture, and therefore is proposing to increase efficacy levels for these lamp types. DOE requests comment on any technological barriers in manufacturing more efficacious small diameter, modified spectrum, or 130 V rated lamps for commercial production. (See section VI.D.3.i for further details.)

12. Because GSFLs and IRLs are difficult to reverse-engineer (i.e., not easily disassembled), DOE directly estimated end-user prices for lamps by establishing discounts from manufacturer suggested price lists. DOE requests feedback on the pricing methodology used in this analysis. (See section VI.E for further details.)

13. DOE used data published in the 2010 LMC in combination with CBECS, MECS, and RECS to determine an average weighted electricity price based on the probability of a GSFL or IRL in a particular building type in each census division and large state. DOE requests comment on its methodology of determining average weighted electricity prices in the LCC. (See section VI.G.6 for further details.)

14. DOE determined LCC savings and PBP results for different scenarios where consumers need to purchase a lamp (*i.e.,* lamp failure, ballast failure, and new construction and renovation for GSFLs and lamp failure and new construction and renovation for IRLs). DOE requests comments on these lamp purchasing events developed for this analysis. (See section VI.G.9 for further details.)

15. DOE conducts the LCC and PBP analyses over the lifetime of the product. DOE considered the impact of group relamping practices on GSFL lifetime in the commercial and industrial sectors. DOE requests comment on its spot and group relamping assumptions, particularly the percent of rated life at which group relamping occurs. DOE also requests comment on its general approach to determining lamp lifetime for this analysis. (See section VI.G.10.a for further details.)

16. DOE requests comment on its LCC analysis period assumptions. In particular, DOE requests comment on basing the analysis period on the baseline lamp life divided by the annual operating hours of that lamp for the IRL and the commercial and industrial sector GSFL analyses. DOE also requests comment on basing the analysis period on the useful life of the baseline lamp for a specific event for residential GSFLs. (See section VI.G.12 for further details.)

17. For this rulemaking, DOE analyzed the effects of this proposal assuming that the GSFLs and IRLs would be available to purchase for 30 years and undertook a sensitivity analysis using 9 years rather than 30 years of product shipments. The choice of a 30-year period of shipments is consistent with the DOE analysis for

other products and commercial equipment. The choice of a 9-year period is a proxy for the timeline in EPCA for the review of certain energy conservation standards and potential revision of and compliance with such revised standards. DOE is seeking input, information and data on whether there are ways to further refine the analytic timeline. (See section VI.I for further details.)

18. DOE assumes in its shipments and national impacts analyses that reduced wattage 4-foot MBP lamps can be coupled to dimming ballasts, but it assumes that no individual reduced wattage lamp option will be coupled to more than 10 percent of the dimming ballasts in the installed stock, owing to performance problems that may arise in some applications. DOE welcomes input on the reasonableness and appropriateness of these assumptions. (See section VI.I for further details.)

19. DOE assumes in its reference shipments and national impacts analyses that the future real price of rare earth oxides used in the manufacture of GSFLs will remain near current levels on average. DOE further assumes in an alternative-scenario analysis that the future price of rare earth oxides may increase owing to market forces outside of this proposed rulemaking, but DOE assumes that the future price is not likely to exceed 3.4 times the current price on average. DOE estimates that the standard proposed here would cause a maximum annual increase in demand for rare earth oxides of 296 tons in 2017, with lower demand increases in later years. DOE welcomes input on the reasonableness and appropriateness of these estimates and assumptions. (See section VI.I for further details.)

20. DOE assumes in its reference shipments and national impacts analyses that the future price of xenon gas will remain near current levels on average. DOE further assumes in an alternative-scenario analysis that the future price of xenon gas may rise but that it is not likely to exceed ten times the current price on average. DOE welcomes input on the reasonableness and appropriateness of these assumptions. (See section VI.I for further details.)

21. To improve DOE's estimates of the potential impact of lighting controls on this rulemaking, DOE seeks input on the current fraction of GSFL ballast shipments that are dimming ballasts and the likely rate of growth of dimming ballasts in the future. (See section VI.I for further details.)

22. DOE assumed zero direct rebound effect for efficiency improvements in GSFLs and IRLs. DOE conducted sensitivity analyses to evaluate alternative assumptions about rebound. DOE welcomes comment on its assumptions and methodology for estimating the rebound effect including potential magnitudes of rebound effects. (See section VI.J.1for further details.)

23. To calculate the MSP, in the MIA, DOE determined the distribution chain markup for the GSFL and IRL industries. DOE invites comment on its methodology of using a 1.52 distribution chain markup in combination with the medium end-user price to estimate the MSP of all GSFLs and IRLs. (See section VI.K.2 for further details.)

24. As part of the MIA, DOE estimates the product and capital conversion costs that all manufacturers must make to comply with potential standards. DOE requests comment on the $6.1 product conversion costs and $65.4 capital conversion costs necessary for IRL manufacturers to comply with the proposed standards. (See sections VI.K.2.a and VII.B.2.a for further details.)

25. DOE solicits comment on the application of the new SCC values used to determine the social benefits of CO_2 emissions reductions over the rulemaking analysis period. (The rulemaking analysis period covers from 2017 to 2046 plus the appropriated number of years to account for the lifetime of the equipment purchased between 2017 and 2046.) In particular, the agency solicits comment on the agency's derivation of SCC values after 2050 where the agency applied the average annual growth rate of the SCC estimates in 2040–2050 associated with each of the four sets of values. (See section VI.M.1 for further details.)

26. As part of the MIA, DOE quantitatively assessed the impacts of potential amended energy conservation standards on direct employment. DOE seeks comment on the potential domestic employment impacts to GSFL and IRL manufacturers at the proposed efficacy levels. (See section VII.B.2.b for further details.)

27. In the cumulative regulatory burden analysis, DOE assess the combined effects of recent or impending regulations on manufacturers. DOE seeks comment on the compliance costs of any other regulations GSFL or IRL manufacturers must make, especially if compliance with those regulations is required three years before or after the estimated compliance date of these proposed standards (2017). (See section VII.B.2.e for further details.)

28. As part of the cumulative regulatory burden analysis, DOE examines how the proposed standards affect manufacturers complying with other regulations. Since GSFL manufacturers must also comply with the Minimata Convention on Mercury, DOE seeks comment on GSFL manufacturers potentially increasing the amount of mercury in GSFLs in order to comply with the proposed GSFL standards. (See section VII.B.2.e for further details.)

29. For the proposed GSFL standards, DOE requests comment on the reasonableness of its assumption that first cost is a significant driver of consumers' choice of product class, which results in the shipments analysis projecting a rapid shift from 4-foot MBP T8s to standard output T5s in the TSL 5 standards case. The TSL 5 standards case substantially increases first cost for 4-foot MBP T8s. (See section VII.B.3 for further details.)

30. Noting that DOE projects a sharp decrease in total GSFL shipments both with and without standards during the rulemaking period because of the projected sharp incursion of LEDs into the GSFL market—DOE seeks comment on the reasonableness of the shipments model projection for TSL 5, specifically, that standard output T5 lamps could increase from 3 to 4 percent of the standard output GSFL market presently, to approximately 13 percent of the same market by 2020, and to approximately 30 percent of the much attenuated standard output GSFL market by 2046. (See section VII.B.3 for further details.)

31. DOE requests comment on its assumption that there will be no lessening of utility or performance such that the performance characteristics, including lumen package, color quality, lifetime, and ability to dim, would be adversely affected for the GSFL efficacy levels. (See sections VII.B.4, VI.A, VI.B, VI.C, and VI.D for further details.)

32. DOE requests comment on whether there are features or attributes, including physical constraints such as shape or diameter, of the more energy-efficient GSFL lamps that manufacturers would produce to meet the standards in this proposed rule that might affect how they would be used by consumers. DOE requests comment specifically on how any such effects should be weighed in the choice of standards for GSFLs for the final rule.

33. DOE requests comment on its assumption that there will be no lessening of utility or performance such that the performance characteristics, including lumen package and lifetime, would be adversely affected for the IRL efficacy levels. (See sections VII.B.4, VI.A, VI.B, VI.C, and VI.D for further details.)

34. DOE requests comment on whether there are features or attributes,

such as the shape or diameter, of the more energy-efficient IRL lamps that manufacturers would produce to meet the standards in this proposed rule that might affect how they would be used by consumers. DOE requests comment specifically on how any such effects should be weighed in the choice of standards for the IRLs for the final rule.

35. Due to the assumed shifts in shipments between product classes, the energy savings and monetized cost and benefit values computed for a single product class, considered in isolation, may yield negative energy savings but are more than offset by the large positive contributions to the aggregate energy savings and monetized benefits across all product classes. The expected switching between product classes also led to an aggregate negative cost estimate for the proposed standard level. In part due to the negative cost estimate for IRLs, DOE requests comment on the consumer choice model that projects shifts in shipments between product classes and whether there are other factors (e.g. utility, costs to replace light fixtures, design incompatibility) that may preclude or limit that shifting that may not be considered in DOE's analysis. (See section VII.3.c. and chapter 12 of the TSD for more details).

36. The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires DOE to analyze the impact of its proposed standards on small entities, as well as any alternatives that accomplish the stated objectives of EPCA and minimize any significant economic impact of the proposed rule on small entities. DOE requests comment on the potential impacts to GSFL and IRL small businesses at the proposed efficacy levels. (See section VIII.B for further details.)

X. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of today's proposed 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 April 11, 2014.

David T. Danielson,

Assistant Secretary, Energy Efficiency and Renewable Energy.

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

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

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

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

■ 2. In § 430.2, add the definitions for ''700 series fluorescent lamp'', ''Designed and marketed,'' ''Fluorescent lamp designed for use in reprographic equipment,'' ''Impact-resistant fluorescent lamp,'' ''Lamps primarily designed to produce radiation in the ultra-violet region of the spectrum,'' ''Reflectorized or aperture lamp,'' in alphabetical order, and revise the definition for ''fluorescent lamp'' to read as follows:

§ 430.2 Definitions.

* * * * *

700 series fluorescent lamp means a fluorescent lamp with a color rendering index (measured according to the test procedures outlined in Appendix R to subpart B of this part) that is in the range (inclusive) of 70 to 79.

* * * * *

Designed and marketed means that the intended application of the lamp is stated in a publicly available document (e.g., product literature, catalogs, packaging labels, and labels on the product itself). This definition is applicable to terms related to the following covered lighting products: fluorescent lamp ballasts; fluorescent lamps; general service fluorescent lamps; general service incandescent lamps; incandescent lamps; incandescent reflector lamps; medium base compact fluorescent lamps; and specialty application mercury vapor lamp ballasts.

* * * * *

Fluorescent lamp means 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, including only the following:

(1) Any straight-shaped lamp (commonly referred to as 4-foot medium bipin lamps) with medium bipin bases of 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 of 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 of nominal overall length of 96 inches;

(4) Any instant start lamp (commonly referred to as 8-foot slimline lamps) with single pin bases of nominal overall length of 96 inches and rated wattage of 49 or more;

(5) Any straight-shaped lamp (commonly referred to as 4-foot miniature bipin standard output lamps) with miniature bipin bases of nominal overall length between 45 and 48 inches and rated wattage of 25 or more; and

(6) Any straight-shaped lamp (commonly referred to 4-foot miniature bipin high output lamps) with miniature bipin bases of nominal overall length between 45 and 48 inches and rated wattage of 44 or more.

* * * * *

Fluorescent lamp designed for use in reprographic equipment means a fluorescent lamp intended for use in equipment used to reproduce, reprint, or copy graphic material.

* * * * *

Impact-resistant fluorescent lamp means a lamp that

(1) Has a coating or equivalent technology that is compliant with NSF/ANSI 51 (incorporated by reference; see § 430.3) and is designed to contain the glass if the glass envelope of the lamp is broken; and

(2) Is designated and marketed for the intended application, with:

(i) The designation on the lamp packaging; and

(ii) Marketing materials that identify the lamp as being impact-resistant, shatter-resistant, shatter-proof, or shatter-protected.

* * * * *

Lamps primarily designed to produce radiation in the ultra-violet region of the spectrum mean fluorescent lamps that primarily emit light in the portion of the electromagnetic spectrum where light has a wavelength between 10 and 400 nanometers.

* * * * *

Reflectorized or aperture lamp means a fluorescent lamp that contains an inner reflective coating on the bulb to direct light.

* * * * *

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

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

* * * * *

(n) *General service fluorescent lamps and incandescent reflector lamps.* (1) Except as provided in paragraphs (n)(2),

(n)(3), and (n)(4) of this section, each of the following general service fluorescent lamps manufactured after the effective dates specified in the table shall meet or exceed the following lamp efficacy and CRI standards:

Lamp type	Nominal lamp wattage	Minimum CRI	Minimum average lamp efficacy lm/W	Effective date
4-foot medium bipin	>35 W	69	75.0	Nov. 1, 1995.
	≤35 W	45	75.0	Nov. 1, 1995.
2-foot U-shaped	>35 W	69	68.0	Nov. 1, 1995.
	≤35 W	45	64.0	Nov. 1, 1995.
8-foot slimline	>65 W	69	80.0	May 1, 1994.
	≤65 W	45	80.0	May 1, 1994.
8-foot high output	>100 W	69	80.0	May 1, 1994.
	≤100 W	45	80.0	May 1, 1994.

(2) The standards described in paragraph (n)(1) of this section do not apply to:

(i) Any 4-foot medium bipin lamp or 2-foot U-shaped lamp with a rated wattage less than 28 watts;

(ii) Any 8-foot high output lamp not defined in ANSI C78.81 (incorporated by reference; see § 430.3) or related supplements, or not 0.800 nominal amperes; or

(iii) Any 8-foot slimline lamp not defined in ANSI C78.3 (incorporated by reference; see § 430.3).

(3) Except as provided in paragraph (n)(4) of this section, each of the following general service fluorescent lamps manufactured after July 14, 2012, shall meet or exceed the following lamp efficacy standards shown in the table:

Lamp type	Correlated color temperature	Minimum average lamp efficacy lm/W
4-foot medium bipin	≤4,500K	89
	>4,500K and ≤7,000K	88
2-foot U-shaped	≤4,500K	84
	>4,500K and ≤7,000K	81
8-foot slimline	≤4,500K	97
	>4,500K and ≤7,000K	93
8-foot high output	≤4,500K	92
	>4,500K and ≤7,000K	88
4-foot miniature bipin standard output	≤4,500K	86
	>4,500K and ≤7,000K	81
4-foot miniature bipin high output	≤4,500K	76
	>4,500K and ≤7,000K	72

(4) Each of the following general service fluorescent lamps manufactured on or after [3 Years after Date of Publication of final rule in the **Federal Register**], shall meet or exceed the following lamp efficacy standards shown in the table:

Lamp type	Correlated color temperature	Minimum average lamp efficacy lm/W
4-foot medium bipin	≤4,500K	92.4
	>4,500K and ≤7,000K	90.6
2-foot U-shaped	≤4,500K	86.9
	>4,500K and ≤7,000K	84.3
8-foot slimline	≤4,500K	99.0
	>4,500K and ≤7,000K	94.1
8-foot high output	≤4,500K	97.6
	>4,500K and ≤7,000K	95.6
4-foot miniature bipin standard output	≤4,500K	97.1
	>4,500K and ≤7,000K	91.3
4-foot miniature bipin high output	≤4,500K	82.7
	>4,500K and ≤7,000K	78.6

(5) Except as provided in paragraphs (n)(6) and (n)(7) of this section, each of the following incandescent reflector lamps manufactured after November 1, 1995, shall meet or exceed the lamp efficacy standards shown in the table:

Nominal lamp wattage	Minimum average lamp efficacy lm/W
40–50	10.5
51–66	11.0
67–85	12.5
86–115	14.0
116–155	14.5
156–205	15.0

(6) Except as provided in paragraph (n)(7) of this section each of the following incandescent reflector lamps manufactured after July 14, 2012, shall meet or exceed the lamp efficacy standards shown in the table:

Rated lamp wattage	Lamp spectrum	Lamp diameter inches	Rated voltage	Minimum average lamp efficacy lm/W
40–205	Standard Spectrum	>2.5	≥125 V	$6.8*P^{0.27}$
			<125 V	$5.9*P^{0.27}$
		≤2.5	≥125 V	$5.7*P^{0.27}$
			<125 V	$5.0*P^{0.27}$
40–205	Modified Spectrum	>2 .5	≥125 V	$5.8*P^{0.27}$
			<125 V	$5.0*P^{0.27}$
		≤2.5	≥125 V	$4.9*P^{0.27}$
			<125 V	$4.2*P^{0.27}$

Note 1: P is equal to the rated lamp wattage, in watts.
Note 2: Standard Spectrum means any incandescent reflector lamp that does not meet the definition of modified spectrum in 430.2.

(7) Each of the following incandescent reflector lamps with the exception of BPAR, BR, and ER lamps manufactured on or after [3 Years after Date of Publication of final rule in the **Federal Register**], shall meet or exceed the following lamp efficacy standards shown in the table:

Rated lamp wattage	Lamp spectrum	Lamp diameter inches	Rated voltage	Minimum average lamp efficacy lm/W
40–205	Standard Spectrum	>2.5	≥125V	$7.1P^{0.27}$
			<125V	$6.2P^{0.27}$
		≤2.5	≥125V	$6.0P^{0.27}$
			<125V	$5.2P^{0.27}$
40–205	Modified Spectrum	>2.5	≥125V	$6.0P^{0.27}$
			<125V	$5.2P^{0.27}$
		≤2.5	≥125V	$5.1P^{0.27}$
			<125V	$4.4P^{0.27}$

Note 1: P is equal to the rated lamp wattage, in watts.
Note 2: Standard Spectrum means any incandescent reflector lamp that does not meet the definition of modified spectrum in 430.2.

(8)(i)(A) Subject to the exclusions in paragraph (n)(8)(ii) of this section, the standards specified in this section shall apply to ER incandescent reflector lamps, BR incandescent reflector lamps, BPAR incandescent reflector lamps, and similar bulb shapes on and after January 1, 2008.

(B) Subject to the exclusions in paragraph (n)(8)(ii) of this section, the standards specified in this section shall apply to incandescent reflector lamps with a diameter of more than 2.25 inches, but not more than 2.75 inches, on and after June 15, 2008.

(ii) The standards specified in this section shall not apply to the following types of incandescent reflector lamps:

(A) Lamps rated at 50 watts or less that are ER30, BR30, BR40, or ER40 lamps;

(B) Lamps rated at 65 watts that are BR30, BR40, or ER40 lamps; or

(C) R20 incandescent reflector lamps rated 45 watts or less.

* * * * *

[FR Doc. 2014–08740 Filed 4–24–14; 8:45 am]

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FEDERAL REGISTER

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Part III

Department Of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Chapter 1

Federal Acquisition Regulation; Final Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR 2014–0051, Sequence No. 1]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–73; Introduction

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Summary presentation of final rules.

SUMMARY: This document summarizes the Federal Acquisition Regulation (FAR) rules agreed to by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) in this Federal Acquisition Circular (FAC) 2005–73. A companion document, the *Small Entity Compliance Guide* (SECG), follows this FAC. The FAC, including the SECG, is available via the Internet at *http://www.regulations.gov.*

DATES: For effective dates and comment dates see separate documents, which follow.

FOR FURTHER INFORMATION CONTACT: The analyst whose name appears in the table below in relation to the FAR case. Please cite FAC 2005–73 and the specific FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755.

RULES LISTED IN FAC 2005–73

Item	Subject	FAR Case	Analyst
I	Positive Law Codification of Title 41	2011–018	Chambers
II	Technical Amendments		

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2005–73 amends the FAR as specified below:

Item I—Positive Law Codification of Title 41 (FAR Case 2011–018)

This final rule amends the Federal Acquisition Regulation (FAR) to conform references throughout the FAR to the new Positive Law Codification of Title 41, United States Code, ''Public Contracts'' and other conforming changes. The new codification of Title 41 was enacted on January 4, 2011, under Public Law 111–350. Additionally, the rule completes the implementation of the recodification of Title 40. The codifications reorganized and renumbered the statutes, but did not change the meaning or legal effect.

A table at FAR 1.110 provides the popular names of Acts, the present statutory citation, and the new titles of the statutes. For example the ''Service Contract Act of 1965'' is now the ''Service Contract Labor Standards statute''.

The rule does not have a significant effect beyond the internal operating procedures of the Government, and consequently does not have a significant cost or administrative impact on entities either large or small.

Item II—Technical Amendments

Editorial changes are made at FAR 9.105–2, 9.203, 11.201, 52.203–17, 52.208–8, 52.211–2, and 52.212–1.

Dated: April 11, 2014.

William Clark,

Acting Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Federal Acquisition Circular (FAC) 2005–73 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2005–73 is effective April 29, 2014 except for items I, which is effective May 29, 2014.

Dated: April 8, 2014.

Amy G. Williams,

Deputy Director, Defense Acquisition Regulations Council, Defense Procurement and Acquisition Policy.

Dated: April 11, 2014.

Jeffrey Koses,

Senior Procurement Executive/Deputy CAO, Office of Acquisition Policy, U.S. General Services Administration.

Dated: April 7, 2014.

William P. McNally,

Assistant Administrator for Procurement, National Aeronautics and Space Administration.

[FR Doc. 2014–08743 Filed 4–28–14; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 22, 23, 24, 25, 26, 27, 28, 30, 31, 32, 33, 36, 37, 38, 39, 41, 42, 43, 44, 46, 47, 48, 50, 51, 52, and 53

[FAC 2005–73; FAR Case 2011–018; Item I; Docket 2011–0018, Sequence 1]

RIN 9000–AM30

Federal Acquisition Regulation; Positive Law Codification of Title 41

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to conform references throughout the FAR to the new Positive Law Codification of Title 41, United States Code, ''Public Contracts'' and other conforming changes.

DATES: *Effective:* May 29, 2014.

FOR FURTHER INFORMATION CONTACT: Mr. Edward N. Chambers, Procurement Analyst, at 202–501–3221 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory

Secretariat at 202–501–4755. Please cite FAC 2005–73, FAR Case 2011–018.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published a proposed rule in the **Federal Register** at 77 FR 57950 on September 18, 2012, to implement the positive law codification of Title 41, United States Code, ''Public Contracts'' (Pub. L. 111–350). Changes to standard forms were published in a correction document in the **Federal Register** at 77 FR 60343 on October 3, 2012.

Furthermore, the rule proposed further updates to complete the implementation of the recodification of title 40 in the FAR (see final rule under FAR Case 2005–010, Title 40 of United States Code Reference Corrections, published in the **Federal Register** at 70 FR 57453 on September 30, 2005).

The proposed rule included the following:

1. Changes to citations (*e.g.,* ''41 U.S.C. 10a–10d'' now reads ''41 U.S.C. chapter 83'').

2. Changes to the popular names of the Acts (*e.g.,* the ''Service Contract Act of 1965'' is now the ''Service Contract Labor Standards statute''). A table providing the popular names of the Acts, the present statutory citation, and the new titles of the statutes appears at FAR 1.110. This table covers Acts under both Titles 40 and 41.

3. Changes to terminology which did not involve substantive changes to the meaning of the statutes.

4. Numerous minor corrections to the FAR apart from the changes directly due to the recodification, such as corrections to references to Title 10 of the United States Code; addition of codification citations are added for authorization acts, appropriations acts, and other public laws.

Two respondents submitted comments on the proposed rule.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the comments in the development of the final rule. A discussion of the comments and the changes made to the rule as a result of those comments are provided as follows:

A. Summary of Significant Changes

There are no changes in the final rule from those proposed, other than minor edits.

B. Analysis of Public Comments

1. Changes to the Popular Names of the Acts

a. Davis-Bacon Act

Comment: One respondent was particularly concerned about removal of references to the Davis-Bacon Act. The respondent stated that there was no mandate to remove references to the Davis-Bacon Act from the FAR. The 2005 rulemaking, which amended the FAR to correct the statutory references to Title 40, was sufficient. The respondent also stated that the new phrase ''Wage Rate Requirements (Construction)'' does not appear in the statutory text itself, although the subchapter heading is ''Wage Rate Requirements.''

Furthermore, the respondent was concerned that the Department of Labor has not made similar changes in the Department of Labor regulations, which will result in confusion.

Response: The codifications of Title 40 and Title 41 have removed all references to the popular names of the statutes codified therein. There are also conforming changes to other titles of the United States Code, to likewise remove the use of the popular names throughout the United States Code. When the Councils decided that the change was necessary for conformity to the United States Code, the 2005 case was reviewed and conforming changes to the statutory titles in Title 40 were included in this case. Future changes to these sections of the United States Code will no longer be in terms of the old statutes, but in terms of the new codification. Therefore, the old popular names will gradually have little meaning to the newer workforce. As an aid to recognition of new statutory citations, the headings have been used to identify the statutes. In the case of ''Wage Rate Requirements,'' it appeared too generic, possibly leading to confusion with the wage rate requirements under the Service Contract Labor Standards statute. Therefore, when citing the title for 40 U.S.C. chapter 31, Subchapter IV, ''(Construction)'' has been added in parentheses, and when citing the statute, the regulations refer to it as the Construction Wage Rate Requirements statute.

The Department of Labor has confirmed that it is in the process of updating its regulations to conform to the codification of Titles 40 and 41.

b. Procurement Integrity Act and Truth in Negotiations Act

Comment: One respondent comments that changing the name of the ''Procurement Integrity Act'' to ''Restrictions on Obtaining and Disclosing Certain Information'' seems to take personal integrity as a government contractor or employee out of the picture and replace it with compliance with applicable rules. The respondent also expressed concern that the change in the title of the ''Truth in Negotiations Act'' to ''Truthful Cost or Pricing Data'' indicates that the Government does not care about dishonest or misleading conduct in negotiations as long as the underlying data is truthful.

Response: The codification did not change the substance of the statutes, just the titles. The FAR did not create these titles but is reflecting the new statutory chapter titles in Title 41, as enacted into law.

2. Terminology Changes

Comment: One respondent stated that some of the changes in the proposed rule indicate that the agencies no longer are interested in honesty in fact, but only in compliance with the law. According to the respondent, the Government is more interested in minor technicalities than the many serious issues necessary to maintain an honest and open procurement system.

Response: The Defense Acquisition Regulations Council and the Civilian Agencies Acquisition Council (the Councils) continue to demonstrate an ongoing interest in the serious issues relating to honesty and openness in procurement, and important issues such as personal and organizational conflicts of interest, fairness and integrity in competition, and collection of data in the Federal Awardee Procurement Integrity Information System. However, the acquisition regulations must also stay current with all statutory changes, Executive orders, the regulations of other agencies (*e.g.,* the Department of Labor and the Small Business Administration), finance and pricing issues, international agreements, and systems changes, as well as making any necessary technical corrections to ensure the accuracy of the regulations.

The positive law codification of Title 41 did not involve any substantive changes to the meaning of the statutes. Nevertheless, the Councils undertook the effort to make all necessary changes to the FAR to make it consistent with Title 41, including terminology changes. Making a small change to maintain consistency with a statute does not indicate a lack of concern for the substantive issues.

C. Other Changes

There are no other substantive changes in the final rule from those proposed.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Office of Information and Regulatory Affairs (OIRA) has determined that this rule is not a significant regulatory action under section 6(a)(3)(A) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. Therefore, this rule was not subject to OIRA review under section 6(b) of E.O. 12866. OIRA has determined that this rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration certify that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the rule does not change or add any policies or procedures. The rule merely updates references and terminology.

V. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does apply; however these changes to the FAR do not imposed additional information collection requirements to the paperwork burden previously approved under the Office of Management and Budget (OMB) Control Numbers 9000–0014, titled: Statement and Acknowledgment (SF 1413); 9000–0024, titled: Buy American Act Certificate; 9000–0025, titled: Buy American Act, Trade Agreements Act Certificate; 9000–0035, titled: Claims and Appeals; 9000–0045, titled: Bid Guarantees, Performance, and Payments Bonds; 9000–0070, titled: Payments; 9000–0089, titled: Request for Authorization of Additional Classification and Rate; 9000–0090, titled: Rights in Data and Copyrights; 9000–0091, titled: Anti-Kickback Procedures; 9000–0094, titled: Debarment and Suspension; 9000–0102, titled: Prompt Payment; 9000–0113, titled: Acquisition of Helium; 9000–0130, titled: Buy American Act-Free Trade Agreements—Israeli Trade Act Certificate; 9000–0135, titled: Prospective Subcontractor Requests for Bonds; 9000–0136, titled: Commercial Item Acquisitions; 9000–0138, titled: Contract Financing; 9000–0139, titled: Federal Acquisition and Community Right-to-know; 9000–0141, titled: Buy American—Construction; and 9000–0154, titled: Davis-Bacon Act—Price Adjustment (Actual Method).

List of Subjects in 48 CFR Parts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 22, 23, 24, 25, 26, 27, 28, 30, 31, 32, 33, 36, 37, 38, 39, 41, 42, 43, 44, 46, 47, 48, 50, 51, 52, and 53

Government procurement.

Dated: April 11, 2014.

William Clark,

Acting Director, Office of Government-Wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 22, 23, 24, 25, 26, 27, 28, 30, 31, 32, 33, 36, 37, 38, 39, 41, 42, 43, 44, 46, 47, 48, 50, 51, 52, and 53 as set forth below:

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

■ 1. The authority citation for 48 CFR parts 1, 2, 3, 4 and 5 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

■ 2. Amend section 1.103 by revising paragraph (a) to read as follows:

1.103 Authority.

(a) The development of the FAR System is in accordance with the requirements of 41 U.S.C. chapter 13, Acquisition Councils.

* * * * *

1.106 [Amended]

■ 3. Amend section 1.106 by removing from the introductory text ''(Pub. L. 96–511)'' and adding ''(44 U.S.C. chapter 35)'' in its place.

■ 4. Amend section 1.107 by revising the introductory text to read as follows:

1.107 Certifications.

In accordance with 41 U.S.C. 1304, a new requirement for a certification by a contractor or offeror may not be included in this chapter unless—

* * * * *

■ 5. Amend section 1.109 by removing from paragraph (a) ''41 U.S.C. 431a'' and adding ''41 U.S.C. 1908'' in its place; and revising paragraph (c) to read as follows:

1.109 Statutory acquisition-related dollar thresholds—adjustment for inflation.

* * * * *

(c) The statute does not permit escalation of acquisition-related dollar thresholds established by:

(1) 40 U.S.C. chapter 31, subchapter IV, Wage Rate Requirements (Construction);

(2) 41 U.S.C. chapter 67, Service Contract Labor Standards; or

(3) The United States Trade Representative pursuant to the authority of the Trade Agreements Act of 1979 (19 U.S.C. 2511 *et seq.*).

* * * * *

■ 6. Add section 1.110 to subpart 1.1 to read as follows:

1.110 Positive law codification.

(a) Public Law 107–217 revised, codified, and enacted as title 40, United States Code, Public Buildings, Property, and Works, certain general and permanent laws of the United States.

(b) Public Law 111–350 revised, codified, and enacted as title 41, United States Code, Public Contracts, certain general and permanent laws of the United States.

(c) The following table provides cross references between the historical titles of the acts, and the current reference in title 40 or title 41.

Historical title of act	Division/chapter/subchapter	Title
Anti-Kickback Act	41 U.S.C. chapter 87	Kickbacks.
Brooks Architect-Engineer Act	40 U.S.C. chapter 11	Selection of Architects and Engineers.
Buy American Act	41 U.S.C. chapter 83	Buy American.
Contract Disputes Act of 1978	41 U.S.C. chapter 71	Contract Disputes.
Contract Work Hours and Safety Standards Act	40 U.S.C. chapter 37	Contract Work Hours and Safety Standards.
Davis-Bacon Act	40 U.S.C. chapter 31, Subchapter IV.	Wage Rate Requirements (Construction).

Historical title of act	Division/chapter/subchapter	Title
Drug-Free Workplace Act	41 U.S.C. chapter 81	Drug-Free Workplace.
Federal Property and Administrative Services Act of 1949, Title III.	41 U.S.C. Div. C of subtitle I [1]	Procurement.
Javits-Wagner-O'Day Act	41 U.S.C. chapter 85	Committee for Purchase from People Who Are Blind or Severely Disabled.
Miller Act	40 U.S.C. chapter 31, subchapter III.	Bonds.
Office of Federal Procurement Policy Act	41 U.S.C. Div. B of subtitle I [2]	Office of Federal Procurement Policy.
Procurement Integrity Act	41 U.S.C. chapter 21	Restrictions on Obtaining and Disclosing Certain Information.
Service Contract Act of 1965	41 U.S.C. chapter 67	Service Contract Labor Standards.
Truth in Negotiations Act	41 U.S.C. chapter 35	Truthful Cost or Pricing Data.
Walsh-Healey Public Contracts Act	41 U.S.C. chapter 65	Contracts for Materials, Supplies, Articles, and Equipment Exceeding $15,000.

[1] Except sections 3302, 3501(b), 3509, 3906, 4710, and 4711.
[2] Except sections 1704 and 2303.

■ 7. Amend section 1.301 by revising the first sentence of paragraph (b) to read as follows:

1.301 Policy.

* * * * *

(b) Agency heads shall establish procedures to ensure that agency acquisition regulations are published for comment in the **Federal Register** in conformance with the procedures in subpart 1.5 and as required by 41 U.S.C. 1707, and other applicable statutes, when they have a significant effect beyond the internal operating procedures of the agency or have a significant cost or administrative impact on contractors or offerors. * * *

* * * * *

1.501–1 [Amended]

■ 8. Amend section 1.501–1 by removing from the first sentence ''having a significant'' and adding ''and which have a significant'' in its place.

1.602–3 [Amended]

■ 9. Amend section 1.602–3 by removing from paragraph (b)(5) ''under the Contract Disputes Act of 1978'' and adding ''under 41 U.S.C. chapter 71, Contract Disputes,'' in its place.

1.603–1 [Amended]

■ 10. Amend section 1.603–1 by removing ''Subsection 414(4) of Title 41, United States Code,'' and adding ''41 U.S.C. 1702(b)(3)(F)'' in its place.

PART 2—DEFINITIONS OF WORDS AND TERMS

■ 11. Amend section 2.101 in paragraph (b) by—

■ a. Removing from the definition ''Certified cost or pricing data'' the citation ''41 U.S.C. 254b)'' and adding ''41 U.S.C. chapter 35)'' in its place;

■ b. Removing from the definition ''Chief Acquisition Officer'' the words ''the Services Acquisition Reform Act of 2003, Section 1421 of Public Law 108–136'' and adding ''41 U.S.C. 1702'' in its place;

■ c. Removing from the definition ''Claim'' the words ''the Contract Disputes Act of 1978'' and ''by the Act'' and adding ''41 U.S.C. chapter 71, Contract Disputes,'' and ''by the statute'' in their place, respectively;

■ d. Removing from the first sentence of the definition ''Cost or pricing data'' the words ''41 U.S.C. 254b)'' and adding ''41 U.S.C. chapter 35)'' in its place;

■ e. Removing from the definition ''Humanitarian or peacekeeping operation'' the words ''41 U.S.C. 259(d)'' and adding ''41 U.S.C. 153(2)'' in its place;

■ f. Revising the definition ''Ineligible'';

■ g. Removing from the definition ''Major system'', in paragraph (3), ''41 U.S.C. 403'' and adding ''41 U.S.C. 109'' in its place;

■ h. Revising the definition ''Micro-purchase threshold'';

■ i. Revising the definition ''Senior procurement executive'';

■ j. Removing from the definition ''Simplified acquisition threshold'' in the introductory text, ''(41 U.S.C. 428a)'' and adding ''(41 U.S.C. 1903)'' in its place;

■ k. Removing from the definition ''Technical data'' the words ''(See 41 U.S.C. 403(8))'' and adding ''(See 41 U.S.C. 116)'' in its place; and

■ l. Revising the definition ''Value engineering'' to read as follows:

2.101 Definitions.

* * * * *

(b) * * *

(2) * * *

Ineligible means excluded from Government contracting (and subcontracting, if appropriate) pursuant to statutory, Executive order, or regulatory authority other than this regulation (48 CFR chapter 1) and its implementing and supplementing regulations; for example, pursuant to—

(1) 40 U.S.C. chapter 31, subchapter IV, Wage Rate Requirements (Construction), and its related statutes and implementing regulations;

(2) 41 U.S.C. chapter 67, Service Contract Labor Standards;

(3) The Equal Employment Opportunity Acts and Executive orders;

(4) 41 U.S.C. chapter 65, Contracts for Material, Supplies, Articles, and Equipment Exceeding $15,000;

(5) 41 U.S.C. chapter 83, Buy American; or

(6) The Environmental Protection Acts and Executive orders.

* * * * *

Micro-purchase threshold means $3,000, except it means—

(1) For acquisitions of construction subject to 40 U.S.C. chapter 31, subchapter IV, Wage Rate Requirements (Construction), $2,000;

(2) For acquisitions of services subject to 41 U.S.C. chapter 67, Service Contract Labor Standards, $2,500; and

(3) For acquisitions of supplies or services that, as determined by the head of the agency, are to be used to support a contingency operation or to facilitate defense against or recovery from nuclear, biological, chemical or radiological attack as described in 13.201(g)(1), except for construction subject to 40 U.S.C. chapter 31, subchapter IV, Wage Rate Requirements (Construction) (41 U.S.C. 1903)—

(i) $15,000 in the case of any contract to be awarded and performed, or purchase to be made, inside the United States; and

(ii) $30,000 in the case of any contract to be awarded and performed, or purchase to be made, outside the United States.

* * * * *

Senior procurement executive means the individual appointed pursuant to 41 U.S.C. 1702(c) who is responsible for

management direction of the acquisition system of the executive agency, including implementation of the unique acquisition policies, regulations, and standards of the executive agency.

* * * * *

Value engineering means an analysis of the functions of a program, project, system, product, item of equipment, building, facility, service, or supply of an executive agency, performed by qualified agency or contractor personnel, directed at improving performance, reliability, quality, safety, and life-cycle costs (41 U.S.C. 1711). For use in the clause at 52.248–2, see the definition at 52.248–2(b).

* * * * *

PART 3—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

■ 12. Amend section 3.104–1 in the definition ''Contractor bid or proposal information'' by revising paragraph (1); and removing from the definition ''Federal agency procurement'' the words ''of the Act'' and adding ''of 41 U.S.C. chapter 21'' in its place.

The revised text reads as follows:

3.104–1 Definitions.

* * * * *

Contractor bid or proposal information * * *

(1) Cost or pricing data (as defined by 10 U.S.C. 2306a(h)) with respect to procurements subject to that section, and 41 U.S.C. 3501(a)(2), with respect to procurements subject to that section.

* * * * *

■ 13. Amend section 3.104–2 by revising paragraph (a) to read as follows:

3.104–2 General.

(a) This section implements 41 U.S.C. chapter 21, Restrictions on Obtaining and Disclosing Certain Information. Agency supplementation of 3.104, including specific definitions to identify individuals who occupy positions specified in 3.104–3(d)(1)(ii), and any clauses required by 3.104 must be approved by the senior procurement executive of the agency, unless a law establishes a higher level of approval for that agency.

* * * * *

3.104–3 [Amended]

■ 14. Amend section 3.104–3 by—

■ a. Removing from the heading of paragraph (a) ''(*subsection 27(a) of the Act*)'' and adding ''(*41 U.S.C. 2102*)'' in its place;

■ b. Removing from the heading of paragraph (b) ''(*subsection 27(b) of the Act*)'' and adding ''(*41 U.S.C. 2102*)'' in its place;

■ c. Removing from the heading of paragraph (c) ''(*subsection 27(c) of the Act*)'' and adding ''(*41 U.S.C. 2103*)'' in its place;

■ d. Removing from paragraph (c)(4) ''subsection 27(c) of the Act'' and adding ''41 U.S.C. 2103'' in its place; and

■ e. Removing from the heading of paragraph (d) ''*subsection 27(d) of the Act''* and adding ''*41 U.S.C. 2104)''* in its place.

3.104–4 [Amended]

■ 15. Amend section 3.104–4 by removing from paragraph (f)(1) ''section 27 of the Act'' and adding ''41 U.S.C. chapter 21'' in its place.

3.104–6 [Amended]

■ 16. Amend section 3.104–6 by removing from paragraphs (a), (c), and (d)(3) ''subsection 27(d) of the Act'' and adding ''41 U.S.C. 2104'' in its place.

3.104–7 [Amended]

■ 17. Amend section 3.104–7 by—

■ a. Removing from the introductory text of paragraph (a) ''subsection 27(a), (b), (c), or (d) of the Act'' and adding ''41 U.S.C. 2102, 2103, or 2104'' in its place;

■ b. Removing from paragraph (b)(5) ''subsection 27(e) of the Act'' and adding ''41 U.S.C. 2105'' in its place;

■ c. Removing from paragraph (c) ''the Act'' and adding ''41 U.S.C. chapter 21'' in its place;

■ d. Removing from the introductory text of paragraph (d) ''section 27 of the Act'' and adding ''41 U.S.C. chapter 21'' in its place;

■ e. Removing from paragraph (d)(2)(ii)(A) ''subsections 27(a) or (b) of the Act'' and adding ''41 U.S.C. 2102'' in its place; and

■ f. Removing from paragraph (d)(2)(ii)(B) ''subsection 27(e)(1) of the Act'' and adding ''41 U.S.C. 2105(a)'' in its place.

3.104–8 [Amended]

■ 18. Amend section 3.104–8 by removing from the introductory text ''the Act'' and adding ''41 U.S.C. chapter 21'' in its place; and removing from paragraphs (a) and (b) ''subsection 27(e) of the Act'' and adding ''41 U.S.C. 2105'' in its place.

3.303 [Amended]

■ 19. Amend section 3.303 by removing from paragraph (a) ''41 U.S.C. 253b(i)'' and adding ''41 U.S.C. 3707'' in its place; and removing from paragraph (c)(5) ''let by'' and adding ''awarded by'' in its place.

3.400 [Amended]

■ 20. Amend section 3.400 by removing ''41 U.S.C. 254(a)'' and adding ''41 U.S.C. 3901'' in its place.

3.402 [Amended]

■ 21. Amend section 3.402 by removing from the introductory text ''41 U.S.C. 254(a)'' and adding ''41 U.S.C. 3901'' in its place.

3.502–1 [Amended]

■ 22. Amend section 3.502–1 by removing from the definition ''Kickback'' the words '', directly or indirectly,''.

■ 23. Amend section 3.502–2 by—

■ a. Revising the introductory text, and paragraphs (d)(3) and (g);

■ b. Removing from the introductory text of paragraph (h), and paragraphs (i)(1), and (i)(2) ''Act'' and adding ''Kickbacks statute'' in its place; and

■ c. Revising paragraph (j).

The revised text reads as follows:

3.502–2 Subcontractor kickbacks.

The Anti-Kickback Act of 1986 (now codified at 41 U.S.C. chapter 87, Kickbacks,) was passed to deter subcontractors from making payments and contractors from accepting payments for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or a subcontract relating to a prime contract. The Kickbacks statute—

* * * * *

(d) * * *

(3) An offset under paragraph (d)(1) or a direction under paragraph (d)(2) of this subsection is a claim by the Government for the purposes of 41 U.S.C. chapter 71, Contract Disputes.

* * * * *

(g) Requires a prime contractor or subcontractor to report in writing to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Attorney General any possible violation of the Kickbacks statute when the prime contractor or subcontractor has reasonable grounds to believe such violation may have occurred.

* * * * *

(j) Notwithstanding paragraph (i) of this section, a prime contractor shall cooperate fully with any Federal Government agency investigating a violation of 41 U.S.C. 8702 (see 41 U.S.C. 8703(b)).

3.503–1 [Amended]

■ 24. Amend section 3.503–1 by removing ''41 U.S.C. 253g'' and adding ''41 U.S.C. 4704'' in its place.

■ 25. Amend section 3.703 by revising the introductory text of paragraph (b) and paragraph (b)(1) to read as follows:

3.703 Authority.

* * * * *

(b) 41 U.S.C. 2105(c) requires a Federal agency, upon receiving information that a contractor or a person has violated 41 U.S.C. 2102, to consider rescission of a contract with respect to which—

(1) The contractor or someone acting for the contractor has been convicted for an offense punishable under 41 U.S.C. 2105(a); or

* * * * *

3.704 [Amended]

■ 26. Amend section 3.704 by removing from the introductory text of paragraph (c) ''subsection 27(e) of the OFPP Act'' and adding ''41 U.S.C. 2105'' in its place.

■ 27. Amend section 3.705 by revising paragraph (e) to read as follows:

3.705 Procedures.

* * * * *

(e) *Final agency decision.* The final agency decision shall be based on the information available to the agency head or designee, including any pertinent information submitted or, if a hearing was held, presented at the hearing. If the agency decision declares void and rescinds the contract, the final decision shall specify the amounts due and property to be returned to the agency, and reflect consideration of the fair value of any tangible benefits received and retained by the agency. Notice of the decision shall be sent promptly by certified mail, return receipt requested. Rescission of contracts under the authority of the Act and demand for recovery of the amounts expended and property transferred therefor, is not a claim within the meaning of 41 U.S.C. chapter 71, Contract Disputes, or part 33. Therefore, the procedures required by the statute and the FAR for the issuance of a final contracting officer decision are not applicable to final agency decisions under this subpart, and shall not be followed.

■ 28. Revise section 3.1000 to read as follows:

3.1000 Scope of subpart.

This subpart—

(a) Implements 41 U.S.C. 3509, Notification of Violations of Federal Criminal Law or Overpayments; and

(b) Prescribes policies and procedures for the establishment of contractor codes of business ethics and conduct, and display of agency Office of Inspector General (OIG) fraud hotline posters.

■ 29. Revise section 3.1100 to read as follows:

3.1100 Scope of subpart.

This subpart implements policy on personal conflicts of interest by employees of Government contractors as required by 41 U.S.C. 2303.

PART 4—ADMINISTRATIVE MATTERS

■ 30. Revise section 4.500 to read as follows:

4.500 Scope of subpart.

This subpart provides policy and procedures for the establishment and use of electronic commerce in Federal acquisition as required by 41 U.S.C. 2301.

4.502 [Amended]

■ 31. Amend section 4.502 by removing from the introductory text of paragraph (b) ''Section 30 of the OFPP Act (41 U.S.C. 426)'' and adding ''41 U.S.C. 2301'' in its place.

■ 32. Amend section 4.602 by revising paragraph (a)(2) to read as follows:

4.602 General.

(a) * * *

(2) A means of measuring and assessing the effect of Federal contracting on the Nation's economy and the extent to which small, veteran-owned small, service-disabled veteran-owned small, HUBZone small, small disadvantaged, women-owned small business concerns, and AbilityOne nonprofit agencies operating under 41 U.S.C. chapter 85, Committee for Purchase from People Who Are Blind or Severely Disabled, are sharing in Federal contracts;

* * * * *

4.805 [Amended]

■ 33. Amend section 4.805 by removing from paragraph (b)(1) ''Disputes Act'' and adding ''Disputes statute'' in its place.

4.1202 [Amended]

■ 34. Amend section 4.1202 by—

■ a. Removing from paragraph (p) ''Contract Act'' and ''Certification'' and adding ''Contract Labor Standards'' and ''-Certification'' in their place, respectively;

■ b. Removing from paragraph (q) ''Contract Act'' and adding ''Contract Labor Standards'' in its place; and

■ c. Removing from paragraphs (u) and (v) ''Buy American Act'' and adding ''Buy American'' in its place.

PART 5—PUBLICIZING CONTRACT ACTIONS

■ 35. Amend section 5.101 by revising the introductory text of paragraph (a) to read as follows:

5.101 Methods of disseminating information.

(a) As required by the Small Business Act (15 U.S.C. 637(e)) and 41 U.S.C. 1708, contracting officers must disseminate information on proposed contract actions as follows:

* * * * *

■ 36. Amend section 5.201 by revising paragraph (a) to read as follows:

5.201 General.

(a) As required by the Small Business Act (15 U.S.C. 637(e)) and 41 U.S.C. 1708, agencies must make notices of proposed contract actions available as specified in paragraph (b) of this section.

* * * * *

■ 37. Amend section 5.202 by revising paragraph (a)(4) to read as follows:

5.202 Exceptions.

* * * * *

(a) * * *

(4) The proposed contract action is expressly authorized or required by a statute to be made through another Government agency, including acquisitions from the Small Business Administration (SBA) using the authority of section 8(a) of the Small Business Act (but see 5.205(f)), or from a specific source such as a workshop for the blind under the rules of the Committee for Purchase from People Who Are Blind or Severely Disabled;

* * * * *

■ 38. Amend section 5.207 by removing from paragraph (c)(14)(i) ''American Act'' and adding ''American'' in its place; and revising paragraph (c)(14)(iii) to read as follows:

5.207 Preparation and transmittal of synopses.

* * * * *

(c) * * *

(14) * * *

(iii) If the solicitation will include the FAR clause at 52.225–11, Buy American-Construction Materials under Trade Agreements, 52.225–23, Required Use of American Iron, Steel, and Manufactured Goods—Buy American Statute—Construction Materials under Trade Agreements, or an equivalent agency clause, insert the following notice in the synopsis: ''One or more of the items under this acquisition is subject to the World Trade Organization

Government Procurement Agreement and Free Trade Agreements.''

* * * * *

PART 6—COMPETITION REQUIREMENTS

■ 39. The authority citation for 48 CFR part 6 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

6.000 [Amended]

■ 40. Amend section 6.000 by removing ''and competition advocates'' and adding ''and advocates for competition'' in its place.

6.101 [Amended]

■ 41. Amend section 6.101 by—

■ a. Removing from paragraph (a) ''41 U.S.C. 253'' and adding ''41 U.S.C. 3301'' in its place.

■ b. Removing from paragraph (b) ''41 U.S.C. 253'' and adding ''41 U.S.C. 3301'' in its place.

6.102 [Amended]

■ 42. Amend section 6.102 by removing from paragraph (d)(3) ''41 U.S.C. 259(b)(3)(A)'' and adding ''41 U.S.C. 152(3)(A)'' in its place.

6.301 [Amended]

■ 43. Amend section 6.301 by removing from paragraph (a) ''41 U.S.C. 253(c)'' and adding ''41 U.S.C. 3304'' in its place (twice).

6.302–1 [Amended]

■ 44. Amend section 6.302–1 by—

■ a. Removing from paragraph (a)(1) ''41 U.S.C. 253(c)(1)'' and adding ''41 U.S.C. 3304(a)(1)'' in its place;

■ b. Removing from paragraph (a)(2)(i)(C) ''41 U.S.C. 253(d)(1)(A)'' and adding ''41 U.S.C. 3304(b)(1)'' in its place; and

■ c. Removing from paragraph (a)(2)(ii)(B) ''41 U.S.C. 253(d)(1)(B)'' and adding ''41 U.S.C. 3304(b)(2)'' in its place.

6.302–2 [Amended]

■ 45. Amend section 6.302–2 by removing from paragraph (a)(1) ''41 U.S.C. 253(c)(2)'' and adding ''41 U.S.C. 3304(a)(2)'' in its place.

6.302–3 [Amended]

■ 46. Amend section 6.302–3 by removing from paragraph (a)(1) ''41 U.S.C. 253(c)(3)'' and adding ''41 U.S.C. 3304(a)(3)'' in its place.

6.302–4 [Amended]

■ 47. Amend section 6.302–4 by removing from paragraph (a)(1) ''41 U.S.C. 253(c)(4)'' and adding ''41 U.S.C. 3304(a)(4)'' in its place.

■ 48. Amend section 6.302–5 by revising paragraphs (a)(1), (b)(2), and (c)(1)(ii), and the introductory text of paragraph (c)(1)(iii), to read as follows:

6.302–5 Authorized or required by statute.

(a) *Authority.* (1) Citations: 10 U.S.C. 2304(c)(5) or 41 U.S.C. 3304(a)(5).

* * * * *

(b) * * *

(2) Qualified nonprofit agencies for the blind or other severely disabled—41 U.S.C. chapter 85, Committee for Purchase From People Who Are Blind or Severely Disabled (see subpart 8.7).

* * * * *

(c) * * *

(1) * * *

(ii) Refers to 10 U.S.C. 2304(k) for armed services acquisitions or 41 U.S.C. 3105 for civilian agency acquisitions; and

(iii) States that award to that entity shall be made in contravention of the merit-based selection procedures in 10 U.S.C. 2304(k) or 41 U.S.C. 3105, as appropriate. However, this limitation does not apply—

* * * * *

6.302–6 [Amended]

■ 49. Amend section 6.302–6 by removing from paragraph (a)(1) ''41 U.S.C. 253(c)(6)'' and adding ''41 U.S.C. 3304(a)(6)'' in its place.

6.302–7 [Amended]

■ 50. Amend section 6.302–7 by removing from paragraph (a)(1) ''41 U.S.C. 253(c)(7)'' and adding ''41 U.S.C. 3304(a)(7)'' in its place.

6.304 [Amended]

■ 51. Amend section 6.304 by removing from paragraph (a)(2) ''by the competition advocate'' and adding ''by the advocate for competition''; and by removing from paragraph (a)(4) ''the OFPP Act (41 U.S.C. 414(3))'' and adding ''41 U.S.C. 1702(c)'' in its place.

6.305 [Amended]

■ 52. Amend section 6.305 by removing from paragraph (a) ''41 U.S.C. 253(j).'' and adding ''41 U.S.C. 3304(f).'' in its place.

■ 53. Revise the heading of subpart 6.5 to read as set forth below:

SUBPART 6.5—ADVOCATES FOR COMPETITION

■ 54. Amend section 6.501 by revising the introductory text to read as follows:

6.501 Requirement.

As required by 41 U.S.C. 1705, the head of each executive agency shall designate an advocate for competition for the agency and for each procuring activity of the agency. The advocates for competition shall—

* * * * *

6.502 [Amended]

■ 55. Amend section 6.502 by removing from paragraph (a) and the introductory text of paragraph (b) ''competition advocates'' and adding ''advocates for competition'' in their places.

PART 7—ACQUISTION PLANNING

■ 56. The authority citation for 48 CFR parts 7, 8, 9, 10, 11, 12, and 13 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

7.102 [Amended]

■ 57. Amend section 7.102 by removing from paragraph (a)(1) ''41 U.S.C. 251, *et seq.''* and adding ''41 U.S.C. 3307'' in its place; and removing from paragraph (a)(2) ''10 U.S.C. 2301(a)(5) and 41 U.S.C. 253a(a)(1)'' and adding ''10 U.S.C. 2305(a)(1)(A) and 41 U.S.C. 3306(a)(1)'' in its place.

7.103 [Amended]

■ 58. Amend section 7.103 by—

■ a. Removing from paragraph (a) ''41 U.S.C. 253a(a)(1))'' and adding ''41 U.S.C. 3306(a)(1)'' in its place;

■ b. Removing from paragraph (b) ''41 U.S.C. 251, *et seq.''* and adding ''41 U.S.C 3307'' in its place; and

■ c. Removing from paragraph (c) ''41 U.S.C. 253A(a)(1)'' and adding ''41 U.S.C. 3306(a)(1)'' in its place.

7.104 [Amended]

■ 59. Amend section 7.104 by removing from paragraph (c) ''competition advocate'' and adding ''advocate for competition'' in its place.

7.108 [Amended]

■ 60. Amend section 7.108 by removing from the introductory text ''section 1428 of Public Law 108–136'' and adding ''41 U.S.C. 3306(f)'' in its place.

7.202 [Amended]

■ 61. Amend section 7.202 by removing from paragraph (a) ''10 U.S.C. 2384(a) and 41 U.S.C. 253(f)'' and adding ''10 U.S.C. 2384a and 41 U.S.C. 3310'' in its place.

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

8.401 [Amended]

■ 62. Amend section 8.401 in the definition ''Multiple Award Schedule (MAS)'' by removing ''Title III of the

Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251, *et seq.*) and Title'' and adding ''41 U.S.C. 152(3), Competitive Procedures, and'' in its place.

8.403 [Amended]

■ 63. Amend section 8.403 by removing from the introductory text of paragraph (c) ''Public Law 108–136'' and adding ''Public Law 108–136 (40 U.S.C. 1103 note)'' in its place.

8.405–6 [Amended]

■ 64. Amend section 8.405–6 by removing from paragraph (d)(2) ''competition advocate'' and adding ''advocate for competition'' in its place.

8.602 [Amended]

■ 65. Amend section 8.602 by removing from the introductory text of paragraph (a) ''(Pub. L. 108–447)'' and adding ''(Pub. L. 108–447) (18 U.S.C. 4124 note)'' in its place.

■ 66. Amend section 8.603 by revising the introductory text, and removing from paragraph (a)(1) ''(41 U.S.C. 48)'' and adding ''(41 U.S.C. 8504)'' in its place.

The revised text reads as follows:

8.603 Purchase priorities.

FPI and nonprofit agencies participating in the AbilityOne Program under 41 U.S.C. chapter 85, Committee for Purchase from People Who Are Blind or Severely Disabled (see subpart 8.7), may produce identical supplies or services. When this occurs, ordering offices shall purchase supplies and services in the following priorities:

* * * * *

■ 67. Revise section 8.700 to read as follows:

8.700 Scope of subpart.

This subpart prescribes the policies and procedures for implementing—

(a) 41 U.S.C. chapter 85, Committee for Purchase from People Who Are Blind or Severely Disabled; and

(b) The rules of the Committee for Purchase from People Who Are Blind or Severely Disabled (41 CFR Chapter 51), which implements the AbilityOne program.

8.701 [Amended]

■ 68. Amend section 8.701 by—

■ a. Removing from the definition ''Procurement List'' ''the Javits-Wagner-O'Day Act'' and adding ''41 U.S.C. chapter 85'' in its place; and

■ b. Removing from the definition ''Nonprofit agency serving people who are blind,'' the words ''the Act'' and adding ''41 U.S.C. chapter 85'' in its place.

8.702 [Amended]

■ 69. Amend section 8.702 by removing from paragraph (c) ''the Javits-Wagner-O'Day Act'' and adding ''41 U.S.C. chapter 85'' in its place.

8.704 [Amended]

■ 70. Amend section 8.704 by removing from the introductory text of paragraph (a) ''The Javits-Wagner-O'Day Act'' and adding ''41 U.S.C. chapter 85'' in its place; and removing from paragraph (a)(1)(i) ''(41 U.S.C. 48)'' and adding ''(41 U.S.C. 8504)'' in its place.

8.1104 [Amended]

■ 71. Amend section 8.1104 by removing from paragraph (e)(3) ''Walsh-Healey Public Contracts Act'' and adding ''Contracts for Materials, Supplies, Articles, and Equipment Exceeding $15,000'' in its place.

PART 9—CONTRACTOR QUALIFICATIONS

9.102 [Amended]

■ 72. Amend section 9.102 by removing from paragraph (b)(3) ''the blind or other severely handicapped'' and adding ''people who are blind or severely disabled'' in its place.

■ 73. Amend section 9.107 by revising the section heading; and removing from paragraph (a) ''41 U.S.C. 46–48c'' and adding ''41 U.S.C. chapter 85'' in its place. The revised text reads as follows:

9.107 Surveys of nonprofit agencies participating in the AbilityOne Program.

* * * * *

■ 74. Revise section 9.200 to read as follows:

9.200 Scope of subpart.

This subpart implements 10 U.S.C. 2319 and 41 U.S.C. 3311 and prescribes policies and procedures regarding qualification requirements and the acquisitions that are subject to such requirements.

9.202 [Amended]

■ 75. Amend section 9.202 by removing from paragraph (b) ''competition advocate'' and adding ''advocate for competition'' in its place (twice).

9.402 [Amended]

■ 76. Amend section 9.402 by removing from paragraph (d) ''(Pub. L. 110–417)'' and adding ''(Pub. L. 110–417) (31 U.S.C. 6101 note)'' in its place.

■ 77. Amend section 9.406–2 by revising the introductory text of paragraph (b)(1)(ii) to read as follows:

9.406–2 Causes for debarment.

* * * * *

(b)(1) * * *

(ii) Violations of 41 U.S.C. chapter 81, Drug-Free Workplace, as indicated by—

* * * * *

9.406–4 [Amended]

■ 78. Amend section 9.406–4 by removing from paragraph (a)(1)(i) ''the Drug-Free Workplace Act of 1988'' and adding ''41 U.S.C. chapter 81, Drug-Free Workplace'' in its place.

■ 79. Amend section 9.407–2 by revising the introductory text of paragraph (a)(4) to read as follows:

9.407–2 Causes for suspension.

(a) * * *

(4) Violations of 41 U.S.C. chapter 81, Drug-Free Workplace, as indicated by—

* * * * *

PART 10—MARKET RESEARCH

10.000 [Amended]

■ 80. Amend section 10.000 by removing ''41 U.S.C. 253a(a)(1), 41 U.S.C. 264b'' and adding ''41 U.S.C. 3306(a)(1), 41 U.S.C. 3307'' in its place.

PART 11—DESCRIBING AGENCY NEEDS

11.002 [Amended]

■ 81. Amend section 11.002 by removing from the introductory text of paragraph (a) ''41 U.S.C. 253a(a), and 41 U.S.C. 264b'' and adding ''41 U.S.C. 3306(a), and 41 U.S.C. 3307'' in its place.

11.103 [Amended]

■ 82. Amend section 11.103 by removing from the introductory text of paragraph (a) ''Section 8002(c) of Pub. L. 103–355'' and adding ''41 U.S.C. 3307(e)'' in its place.

11.500 [Amended]

■ 83. Amend section 11.500 by removing ''Standards Act'' and adding ''Standards statute'' in its place.

PART 12—ACQUISITION OF COMMERCIAL ITEMS

12.000 [Amended]

■ 84. Amend section 12.000 by removing ''Title VIII of the Federal Acquisition Streamlining Act of 1994 (Pub. L. 103–355)'' and adding ''41 U.S.C. 1906, 1907, and 3307 and 10 U.S.C. 2375–2377'' in its place.

12.102 [Amended]

■ 85. Amend section 12.102 by removing from the introductory text of paragraph (g)(1) ''section 1431 of the National Defense Authorization Act for

Fiscal Year 2004 (Pub. L. 108–136) (41 U.S.C. 437)'' and adding ''41 U.S.C. 2310'' in its place.

■ 86. Revise section 12.103 to read as follows:

12.103 Commercially available off-the-shelf (COTS) items.

Commercially available off-the-shelf (COTS) items are defined in 2.101. Unless indicated otherwise, all of the policies that apply to commercial items also apply to COTS items. Section 12.505 lists the laws that are not applicable to COTS items (in addition to 12.503 and 12.504); the components test of the Buy American statute, and the two recovered materials certifications in subpart 23.4, do not apply to COTS items.

■ 87. Revise section 12.201 to read as follows:

12.201 General.

This subpart identifies special requirements for the acquisition of commercial items intended to more closely resemble those customarily used in the commercial marketplace, as well as other considerations necessary for proper planning, solicitation, evaluation, and award of contracts for commercial items.

12.301 [Amended]

■ 88. Amend section 12.301 by removing from the introductory text of paragraph (a) ''Section 8002 of Public Law 103–355 (41 U.S.C. 264, note)'' and adding ''41 U.S.C. 3307'' in its place.

12.404 [Amended]

■ 89. Amend section 12.404 by removing from the introductory text of paragraph (b) ''The Federal Acquisition Streamlining Act of 1994 (41 U.S.C. 264 note)'' and adding ''41 U.S.C. 3307(e)(5)(B)'' in its place.

12.500 [Amended]

■ 90. Amend section 12.500 by removing from the introductory text of paragraph (a) ''sections 34 and 35 of the Office of Federal Procurement Policy Act (41 U.S.C. 430 and 431)'' and adding ''41 U.S.C. 1906 and 1907'' in its place.

12.502 [Amended]

■ 91. Amend section 12.502 by removing from paragraph (b) ''and Commercial Components''.

■ 92. Amend section 12.503 by—

■ a. Revising paragraphs (a)(1) through (a)(4), and (a)(7) through (a)(9), and paragraphs (b)(1), and (b)(2);

■ b. Removing from paragraph (c)(1) ''41 U.S.C. 253g'' and adding ''41 U.S.C. 4704'' in its place;

■ c. Revising paragraph (c)(2); and

■ d. Removing from paragraph (c)(3) ''41 U.S.C. 422'' and adding ''41 U.S.C. chapter 15'' in its place.

The revised text reads as follows:

12.503 Applicability of certain laws to Executive agency contracts for the acquisition of commercial items.

(a) * * *

(1) 41 U.S.C. chapter 65, Contracts for Materials, Supplies, Articles, and Equipment Exceeding $15,000 (see subpart 22.6).

(2) 41 U.S.C. 3901(b) and 10 U.S.C. 2306(b), Contingent Fees (see 3.404).

(3) 41 U.S.C. 1708(e)(3), Minimum Response Time for Offers (see 5.203).

(4) 41 U.S.C. chapter 81, Drug-Free Workplace (see 23.501).

* * * * *

(7) Section 806(a)(3) of Pub. L. 102–190, as amended by sections 2091 and 8105 of Pub. L. 103–355 (10 U.S.C. 2302 note), Payment Protections for Subcontractors and Suppliers (see 28.106–6).

(8) 41 U.S.C. 4706(d)(1) and 10 U.S.C. 2313(c)(1), GAO Access to Contractor Employees, section 871 of Pub. L. 110–417 (see 52.214–26 and 52.215–2).

(9) 41 U.S.C. 2303(b), Policy on Personal Conflicts of Interest by Contractor Employees (see subpart 3.11).

(b) * * *

(1) 40 U.S.C. chapter 37, Requirement for a certificate and clause under the Contract Work Hours and Safety Standards statute (see 22.305).

(2) 41 U.S.C. 8703 and 8704, Requirement for a clause and certain other requirements related to kickbacks (see 3.502).

* * * * *

(c) * * *

(2) 41 U.S.C. chapter 35, Truthful Cost or Pricing Data, and 10 U.S.C. 2306a, Truth in Negotiations (see 15.403).

* * * * *

■ 93. Amend section 12.504 by—

■ a. Revising paragraphs (a)(4) through (a)(10);

■ b. Removing from paragraph (a)(13) ''Pub. L. 103–355'' and adding ''Pub. L. 103–355 (10 U.S.C. 2302 note)'' in its place;

■ c. Removing from paragraph (b) ''Act, 40 U.S.C. 3701, *et seq.*'' and adding ''statute, 40 U.S.C. chapter 37'' in its place; and

■ d. Revising paragraphs (c)(1) through (c)(3).

The revised text reads as follows:

12.504 Applicability of certain laws to subcontracts for the acquisition of commercial items.

(a) * * *

(4) 41 U.S.C. 6505, Contracts for Materials, Supplies, Articles, and Equipment Exceeding $15,000 (see subpart 22.6).

(5) 41 U.S.C. 4703, Validation of Proprietary Data restrictions (see subpart 27.4).

(6) 41 U.S.C. 3901(b) and 10 U.S.C. 2306(b), Contingent Fees (see subpart 3.4).

(7) 41 U.S.C. 4706(d) and 10 U.S.C. 2313(c), Examination of Records of Contractor, when a subcontractor is not required to provide certified cost or pricing data (see 15.209(b)), unless using funds appropriated or otherwise made available by the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5).

(8) 41 U.S.C. 1708(e)(3), Minimum Response Time for Offers (see subpart 5.2).

(9) 41 U.S.C. 2302, Rights in Technical Data (see subpart 27.4).

(10) 41 U.S.C. chapter 81, Drug-Free Workplace (see subpart 23.5).

* * * * *

(c) * * *

(1) 41 U.S.C. 4704 and 10 U.S.C. 2402, Prohibition on Limiting Subcontractor Direct Sales to the United States (see subpart 3.5).

(2) 41 U.S.C. chapter 35, Truthful Cost or Pricing Data, and 10 U.S.C. 2306a, Truth in Negotiations (see subpart 15.4).

(3) 41 U.S.C. chapter 15, Cost Accounting Standards (48 CFR chapter 99) (see 12.214).

■ 94. Amend section 12.505 by revising paragraph (a) to read as follows:

12.505 Applicability of certain laws to contracts for the acquisition of COTS items.

* * * * *

(a)(1) The portion of 41 U.S.C. 8302(a)(1) that reads ''substantially all from articles, materials, or supplies mined, produced, or manufactured in the United States,'' Buy American—Supplies, component test (see 52.225–1 and 52.225–3).

(2) The portion of 41 U.S.C. 8303(a)(2) that reads ''substantially all from articles, materials, or supplies mined, produced, or manufactured in the United States,'' Buy American—Construction Materials, component test (see 52.225–9 and 52.225–11).

* * * * *

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

■ 95. Amend section 13.005 by—

■ a. Revising the section heading;

■ b. Removing from the introductory text of paragraph (a) ''threshold'' and adding ''threshold pursuant to 41 U.S.C. 1905'' in its place;

■ c. Removing from paragraph (a)(1) ''41 U.S.C. 57(a) and (b) (Anti-Kickback Act of 1986)'' and adding ''41 U.S.C. 8703 (Kickbacks statute)'' in its place;
■ d. Removing from paragraph (a)(2) ''40 U.S.C. 3131 (Miller Act). (Although the Miller Act does'' and adding ''40 U.S.C. 3131 (Bonds statute). (Although the Bonds statute does'' in its place;
■ e. Revising paragraphs (a)(3), (a)(4), and (a)(6) through (a)(8); and
■ f. Removing from paragraph (c)(2) ''Section 4101, Public Law 103–355'' and adding ''41 U.S.C. 1905'' in its place.

The revised text reads as follows:

13.005 List of laws inapplicable to contracts and subcontracts at or below the simplified acquisition threshold.

(a) * * *

(3) 40 U.S.C. chapter 37 (Contract Work Hours and Safety Standards—Overtime Compensation).

(4) 41 U.S.C. 8102(a)(1) (Drug-Free Workplace), except for individuals.

* * * * *

(6) 10 U.S.C. 2306(b) and 41 U.S.C. 3901(b) (Contract Clause Regarding Contingent Fees).

(7) 10 U.S.C. 2313 and 41 U.S.C. 4706 (Authority to Examine Books and Records of Contractors).

(8) 10 U.S.C. 2402 and 41 U.S.C. 4704 (Prohibition on Limiting Subcontractors Direct Sales to the United States).

* * * * *

13.006 [Amended]

■ 96. Amend section 13.006 by removing from paragraph (e) the word ''Act''.

13.302–5 [Amended]

■ 97. Amend section 13.302–5 by removing from paragraph (d)(3)(i) ''Buy American Act'' and adding ''Buy American'' in its place (two times).

13.500 [Amended]

■ 98. Amend section 13.500 by removing from the introductory text of paragraph (a) ''41 U.S.C. 253(g) and 253a and 253b'' and adding ''41 U.S.C. 3305, 3306, and chapter 37, Awarding of Contracts'' in its place; and removing from the introductory text of paragraph (e) ''41 U.S.C. 428a'' and adding ''41 U.S.C. 1903'' in its place.

13.501 [Amended]

■ 99. Amend section 13.501 by—
■ a. Removing from paragraph (a)(1)(ii) ''(section 4202 of the Clinger-Cohen Act of 1996) or the authority of the Services Acquisition Reform Act of 2003 (41 U.S.C. 428a)'' and adding ''at 41 U.S.C. 1901 or the authority of 41 U.S.C. 1903'' in its place; and
■ b. Removing from paragraph (a)(2)(ii) ''competition advocate'' and adding ''advocate for competition'' in its place.

PART 14—SEALED BIDDING

■ 100. The authority citation for 48 CFR part 14 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

14.201–8 [Amended]

■ 101. Amend section 14.201–8 by removing from paragraph (e) ''American Act'' and adding ''American statute'' in its place.

14.404–2 [Amended]

■ 102. Amend section 14.404–2 by removing from paragraph (l) ''41 U.S.C. 15'' and adding ''41 U.S.C. 6305'' in its place.

■ 103. The authority citation for 48 CFR parts 15, 16, 17, 19, and 22 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 15—CONTRACTING BY NEGOTIATION

15.207 [Amended]

■ 104. Amend section 15.207 by removing from paragraph (b) ''41 U.S.C. 423'' and adding ''41 U.S.C. chapter 21, Restrictions on Obtaining and Disclosing Certain Information'' in its place.

15.209 [Amended]

■ 105. Amend section 15.209 by removing from the introductory text of paragraph (b)(1) ''41 U.S.C. 254d'' and adding ''41 U.S.C. 4706'' in its place.

15.303 [Amended]

■ 106. Amend section 15.303 by—
■ a. Removing from paragraph (b)(4) ''10 U.S.C. 2305(b)(1) and 41 U.S.C. 253b(d)(3)'' and adding ''10 U.S.C. 2305(b)(4)(C) and 41 U.S.C. 3703(c)'' in its place; and
■ b. Removing from paragraph (b)(6) ''10 U.S.C. 2305(b)(4)(B) and 41 U.S.C. 253b(d)(3)'' and adding ''10 U.S.C. 2305(b)(4)(C) and 41 U.S.C. 3703(c)'' in its place.

15.304 [Amended]

■ 107. Amend section 15.304 by—
■ a. Removing from paragraph (c)(1) ''41 U.S.C. 253a(c)(1)(B)'' and adding ''41 U.S.C. 3306(c)(1)(B)'' in its place; and removing from the end of sentence ''.'' and adding a period in its place;
■ b. Removing from paragraph (c)(2) ''41 U.S.C. 253a(c)(1)(A); and'' and adding ''3306(c)(1)(A).'' in its place;
■ c. Removing from paragraph (d) ''41 U.S.C. 253a(b)(1)(A)'' and adding ''41 U.S.C. 3306(b)(1)(A)'' in its place; and
■ d. Removing from paragraph (e)(3) ''41 U.S.C. 253a(c)(1)(C)'' and adding ''41 U.S.C. 3306(c)(1)(C)'' in its place.

15.306 [Amended]

■ 108. Amend section 15.306 by—
■ a. Removing from paragraph (a)(3) ''41 U.S.C. 253b(d)(1)(B)'' and adding ''41 U.S.C. 3703(a)(2)'' in its place;
■ b. Removing from paragraph (c)(2) ''41 U.S.C. 253b(d)'' and adding ''41 U.S.C. 3703'' in its place; and
■ c. Removing from paragraphs (e)(3) and (e)(5) ''41 U.S.C. 423(h)(1)(2)'' and adding ''41 U.S.C. 2102 and 2107'' in its place.

15.401 [Amended]

■ 109. Amend section 15.401 by removing from the definition ''Subcontract'' the citation ''41 U.S.C. 254b(h)(2)'' and adding ''41 U.S.C. 3501(a)(3)'' in its place.

■ 110. Amend section 15.403–1 by—
■ a. Revising the section heading;
■ b. Removing from paragraph (c)(3)(ii) introductory text ''section 868 of Pub. L. 110–417'' and adding ''41 U.S.C. 3501'' in its place;
■ c. Removing from paragraph (c)(3)(ii)(A) ''41 U.S.C. 254b'' and adding ''41 U.S.C. chapter 35'' in its place; and
■ d. Removing from paragraph (c)(3)(iv) ''41 U.S.C. 428a'' and adding ''41 U.S.C. 1903'' in its place.

The revised text reads as follows:

15.403–1 Prohibition on obtaining certified cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. chapter 35).

* * * * *

15.403–3 [Amended]

■ 111. Amend section 15.403–3 by—
■ a. Removing from paragraph (a)(1)(ii) ''41 U.S.C. 254b(d)(1)'' and adding ''41 U.S.C. 3505(a)'' in its place; and
■ b. Removing from the heading of paragraph (c)(2) ''*41 U.S.C. 254b(d)(2)*'' and adding ''*41 U.S.C. 3505(b)*'' in its place.

■ 112. Amend section 15.403–4 by revising the section heading to read as follows:

15.403–4 Requiring certified cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. chapter 35).

* * * * *

15.404–1 [Amended]

■ 113. Amend section 15.404–1 by removing from paragraph (f)(2) ''10 U.S.C. 2304 and 41 U.S.C. 254(d)(5)(A)(i)'' and adding ''10 U.S.C.

2306a(b)(1)(A)(i) and 41 U.S.C. 3503(a)(1)(A)'' in its place.

15.404–2 [Amended]

■ 114. Amend section 15.404–2 by removing from paragraph (c)(2) ''41 U.S.C. 254d'' and adding ''41 U.S.C. 4706'' in its place.

15.404–4 [Amended]

■ 115. Amend section 15.404–4 by removing from the introductory text of paragraph (c)(4)(i) ''41 U.S.C. 254(b)'' and adding ''41 U.S.C. 3905'' in its place; and removing from paragraph (d)(1)(iii) ''handicapped sheltered workshops'' and adding ''sheltered workshops for workers with disabilities'' in its place.

15.407–1 [Amended]

■ 116. Amend section 15.407–1 by removing from paragraph (d)(1) ''Disputes Act'' and adding ''Disputes statute'' in its place.

15.503 [Amended]

■ 117. Amend section 15.503 by removing from the introductory text of paragraph (b)(1) ''41 U.S.C. 253b(c)'' and adding ''41 U.S.C. 3704'' in its place.

15.505 [Amended]

■ 118. Amend section 15.505 by removing from the introductory text ''41 U.S.C. 253b(f)–(h)'' and adding ''41 U.S.C. 3705'' in its place.

PART 16—TYPES OF CONTRACTS

16.102 [Amended]

■ 119. Amend section 16.102 by—

■ a. Removing from paragraph (b) ''41 U.S.C. 254(a)'' and adding ''41 U.S.C. 3901'' in its place; and

■ b. Removing from paragraph (c) ''41 U.S.C. 254(b)'' and adding ''41 U.S.C. 3905(a)'' in its place.

16.501–2 [Amended]

■ 120. Amend section 16.501–2 by removing from paragraph (a) ''Pursuant to 10 U.S.C. 2304d and section 303K of the Federal Property and Administrative Service Act of 1949'' and adding ''Pursuant to 10 U.S.C. 2304d and 41 U.S.C. 4101'' in its place.

16.505 [Amended]

■ 121. Amend section 16.505 by—

■ a. Removing from the introductory text of paragraph (a)(9) ''Public Law 108–136'' and adding ''Public Law 108–136 (40 U.S.C. 1103 note)'' in its place; and

■ b. Removing from paragraphs (b)(2)(ii)(C)(*2*) and (b)(8) ''competition advocate'' and adding ''advocate for competition'' in its place.

PART 17—SPECIAL CONTRACTING METHODS

■ 122. Revise section 17.101 to read as follows:

17.101 Authority.

This subpart implements 41 U.S.C. 3903 and 10 U.S.C. 2306b and provides policy and procedures for the use of multi-year contracting.

■ 123. Amend section 17.109 by revising paragraph (b)(1) to read as follows:

17.109 Contract clauses.

* * * * *

(b) * * *

(1) Shall add the clause at 52.222–43, Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment (Multiple Year and Option Contracts), when the contract includes the clause at 52.222–41, Service Contract Labor Standards;

* * * * *

17.204 [Amended]

■ 124. Amend section 17.204 by removing from paragraph (e) ''Contract Act'' and adding ''Contract Labor Standards statute'' in its place.

■ 125. Amend section 17.501 by revising paragraph (d) to read as follows:

17.501 General.

* * * * *

(d) An agency shall not use an interagency acquisition to make acquisitions conflicting with any other agency's authority or responsibility (for example, that of the Administrator of General Services under title 40, United States Code, ''Public Buildings, Property and Works'' and 41 U.S.C. division C of subtitle I, Procurement).

17.602 [Amended]

■ 126. Amend section 17.602 by removing from paragraph (a) ''the Competition in Contracting Act of 1984'' and adding ''41 U.S.C. chapter 33'' in its place.

PART 19—SMALL BUSINESS PROGRAMS

■ 127. Amend section 19.000 by revising the introductory text of paragraph (a) to read as follows:

19.000 Scope of part.

(a) This part implements the acquisition-related sections of the Small Business Act (15 U.S.C. 631, *et seq.*); applicable sections of 10 U.S.C. 2302, *et seq.;* 41 U.S.C. 3104; 10 U.S.C. 2323; and Executive Order 12138, May 18, 1979. It covers—

* * * * *

■ 128. Amend section 19.201 by revising the introductory text of paragraph (d) to read as follows:

19.201 General policy.

* * * * *

(d) The Small Business Act requires each agency with contracting authority to establish an Office of Small and Disadvantaged Business Utilization (see section (k) of the Small Business Act). For the Department of Defense, in accordance with section 904 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163) (10 U.S.C. 144 note), the Office of Small and Disadvantaged Business Utilization has been redesignated as the Office of Small Business Programs. Management of the office shall be the responsibility of an officer or employee of the agency who shall, in carrying out the purposes of the Act—

* * * * *

19.800 [Amended]

■ 129. Amend section 19.800 by removing from paragraph (a) ''agencies and let'' and adding ''agencies and award'' in its place.

19.811–1 [Amended]

■ 130. Amend section 19.811–1 by removing from paragraph (b)(1) ''41 U.S.C. 253(c)(5)'' and adding ''41 U.S.C. 3304(a)(5)'' in its place.

19.1304 [Amended]

■ 131. Amend section 19.1304 by removing from paragraph (a)(2) ''Javits-Wagner-O'Day Act participating'' and adding ''AbilityOne participating'' in its place.

19.1404 [Amended]

■ 132. Amend section 19.1404 by removing from paragraph (a)(2) ''Javits-Wagner-O'Day Act participating'' and adding ''AbilityOne participating'' in its place.

19.1504 [Amended]

■ 133. Amend section 19.1504 by removing from paragraph (b)(2) ''Javits-Wagner-O'Day Act participating'' and adding ''AbilityOne participating'' in its place.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

■ 134. Amend section 22.001 by—

■ a. Removing from the definition ''e98'' the words ''Contract Act'' and adding

''Contract Labor Standards statute'' in its place; and

■ b. Revising the definitions ''Service Contract'' and ''Wage Determinations Online (WDOL)'' to read as follows:

22.001 Definitions.

* * * * *

Service contract means any Government contract, or subcontract thereunder, the principal purpose of which is to furnish services in the United States through the use of service employees, except as exempted by 41 U.S.C. chapter 67, Service Contract Labor Standards; see 22.1003–3 and 22.1003–4. See 22.1003–5 and 29 CFR 4.130 for a partial list of services covered by the Service Contract Labor Standards statute.

* * * * *

Wage Determinations OnLine (WDOL) means the Government Internet Web site for both Construction Wage Rate Requirements statute and Service Contract Labor Standards statute wage determinations available at *http://www.wdol.gov.*

22.102–1 [Amended]

■ 135. Amend section 22.102–1 by removing from paragraph (h) ''the handicapped'' and adding ''workers with disabilities'' in its place.

■ 136. Amend section 22.102–2 by revising paragraph (c) to read as follows:

22.102–2 Administration.

* * * * *

(c)(1) The U.S. Department of Labor is responsible for the administration and enforcement of the Occupational Safety and Health Act. The Department of Labor's Wage and Hour Division is responsible for administration and enforcement of numerous wage and hour statutes including—

(i) 40 U.S.C. chapter 31, subchapter IV, Wage Rate Requirements (Construction);

(ii) 40 U.S.C. chapter 37, Contract Work Hours and Safety Standards;

(iii) The Copeland Act (18 U.S.C. 874 and 40 U.S.C. 3145);

(iv) 41 U.S.C. chapter 65, Contracts for Materials, Supplies, Articles, and Equipment Exceeding $15,000;

(v) 41 U.S.C. chapter 67, Service Contract Labor Standards.

(2) Contracting officers should contact the Wage and Hour Division's regional offices when required by the subparts relating to these statutes unless otherwise specified. Addresses for these offices may be found at Appendix B to 29 CFR Part 1.

■ 137. Amend section 22.202 by revising paragraph (a) to read as follows:

22.202 Contract clause.

* * * * *

(a) The contract will be subject to 41 U.S.C. chapter 65, Contracts for Materials, Supplies, Articles, and Equipment Exceeding $15,000 (see subpart 22.6), which contains a separate prohibition against the employment of convict labor;

* * * * *

■ 138. Revise section 22.300 to read as follows:

22.300 Scope of subpart.

This subpart prescribes policies and procedures for applying the requirements of 40 U.S.C. chapter 37, Contract Work Hours and Safety Standards (the statute) to contracts that may require or involve laborers or mechanics. In this subpart, the term ''laborers or mechanics'' includes apprentices, trainees, helpers, watchmen, guards, firefighters, fireguards, and workmen who perform services in connection with dredging or rock excavation in rivers or harbors, but does not include any employee employed as a seaman.

22.301 [Amended]

■ 139. Amend section 22.301 by removing ''Act requires'' and adding ''statute requires'' in its place.

22.302 [Amended]

■ 140. Amend section 22.302 by removing from paragraph (a), and the introductory text of paragraphs (b) and (c), ''the Act'' and adding ''the statute'' in its place.

22.303 [Amended]

■ 141. Amend section 22.303 by removing ''the Act'' and adding ''the statute'' in its place.

22.304 [Amended]

■ 142. Amend section 22.304 by removing from paragraph (a) ''the Act'' and adding ''the statute'' in its place.

■ 143. Amend section 22.305 by revising the introductory text and paragraphs (d) and (e) to read as follows:

22.305 Contract clause.

Insert the clause at 52.222–4, Contract Work Hours and Safety Standards—Overtime Compensation, in solicitations and contracts (including, for this purpose, basic ordering agreements) when the contract may require or involve the employment of laborers or mechanics. However, do not include the clause in solicitations and contracts—

* * * * *

(d) To be performed outside the United States, Puerto Rico, American Samoa, Guam, the U.S. Virgin Islands, Johnston Island, Wake Island, and the outer Continental Shelf as defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331) (29 CFR 5.15);

(e) For work to be done solely in accordance with 41 U.S.C. chapter 65, Contracts for Materials, Supplies, Articles, and Equipment Exceeding $15,000 (see subpart 22.6);

* * * * *

22.401 [Amended]

■ 144. Amend section 22.401 by removing from the definition ''Laborers or mechanics'', paragraph (1)(ii), ''Standards Act'' and adding ''Standards statute'' in its place; and removing from the definition ''Wages'' the words ''Davis-Bacon Act'' and adding ''Construction Wage Rate Requirements statute'' in its place.

22.402 [Amended]

■ 145. Amend section 22.402 by removing from paragraph (b)(1)(ii) ''Davis Bacon Act'' and adding ''Construction Wage Rate Requirements statute'' in its place.

■ 146. Revise section 22.403–1 to read as follows:

22.403–1 Construction Wage Rate Requirements statute.

40 U.S.C. chapter 31, subchapter IV, Wage Rate Requirements (Construction), formerly known as the Davis-Bacon Act, provides that contracts in excess of $2,000 to which the United States or the District of Columbia is a party for construction, alteration, or repair (including painting and decorating) of public buildings or public works within the United States, shall contain a clause (see 52.222–6) that no laborer or mechanic employed directly upon the site of the work shall receive less than the prevailing wage rates as determined by the Secretary of Labor.

■ 147. Revise section 22.403–3 to read as follows:

22.403–3 Contract Work Hours and Safety Standards.

40 U.S.C. chapter 37, Contract Work Hours and Safety Standards, requires that certain contracts (see 22.305) contain a clause (see 52.222–4) specifying that no laborer or mechanic doing any part of the work contemplated by the contract shall be required or permitted to work more than 40 hours in any workweek unless paid for all additional hours at not less than 1 1/2 times the basic rate of pay (see 22.301).

■ 148. Amend section 22.403–4 by revising paragraph (b) to read as follows:

22.403–4 Department of Labor regulations.

* * * * *

(b) The Department of Labor regulations include—

(1) Part 1, relating to Construction Wage Rate Requirements statute minimum wage rates;

(2) Part 3, relating to the Copeland (Anti-Kickback) Act and requirements for submission of weekly statements of compliance and the preservation and inspection of weekly payroll records;

(3) Part 5, relating to enforcement of the:

(i) Construction Wage Rate Requirements statute;

(ii) Contract Work Hours and Safety Standards statute; and

(iii) Copeland (Anti-Kickback) Act;

(4) Part 6, relating to rules of practice for appealing the findings of the Administrator, Wage and Hour Division, in enforcement cases under the various labor statutes, and by which Administrative Law Judge hearings are held; and

(5) Part 7, relating to rules of practice by which contractors and other interested parties may appeal to the Department of Labor Administrative Review Board, decisions issued by the Administrator, Wage and Hour Division, or administrative law judges under the various labor statutes.

* * * * *

■ 149. Amend section 22.404 by revising the section heading to read as follows:

22.404 Construction Wage Rate Requirements statute wage determinations.

* * * * *

22.404–1 [Amended]

■ 150. Amend section 22.404–1 by removing from paragraph (a)(2) ''Davis-Bacon Act'' and adding ''Construction Wage Rate Requirements statute'' in its place.

22.404–11 [Amended]

■ 151. Amend section 22.404–11 by removing ''Davis-Bacon Act'' and adding ''Construction Wage Rate Requirements statute'' in its place.

22.404–12 [Amended]

■ 152. Amend section 22.404–12 by removing from paragraph (c)(3) ''Davis-Bacon Act'' and adding ''Construction Wage Rate Requirements statute'' in its place; and removing from paragraph (c)(4) ''Service Contract Act'' and adding ''Service Contract Labor Standards statute'' in its place.

22.406–2 [Amended]

■ 153. Amend section 22.406–2 by removing from the introductory text of paragraph (b)(1) ''Davis-Bacon Act'' and adding ''Construction Wage Rate Requirements'' in its place.

22.406–3 [Amended]

■ 154. Amend section 22.406–3 by removing from paragraph (a) ''Davis-Bacon Act'' and adding ''Construction Wage Rate Requirements'' in its place.

22.406–8 [Amended]

■ 155. Amend section 22.406–8 by—

■ a. Removing from paragraph (d)(2)(i)(B) ''Davis-Bacon Act'' and adding ''Construction Wage Rate Requirements statute'' in its place;

■ b. Removing from paragraph (d)(2)(ii)(D) ''Standards Act'' and adding ''Standards statute'' in its place;

■ c. Removing from paragraph (e)(2) ''Davis-Bacon Act'' and adding ''Construction Wage Rate Requirements statute'' in its place; and

■ d. Removing from paragraph (e)(3) ''Standards Act'' and adding ''Standards statute'' in its place.

■ 156. Amend section 22.406–9 by—

■ a. Removing from the introductory text of paragraph (a) ''Standards Act'' and adding ''Standards statute'' in its place;

■ b. Removing from paragraph (a)(1) ''Davis-Bacon Act'' and ''Standards Act'' and adding ''Construction Wage Rate Requirements statute'' and ''Standards statute'' in their place, respectively;

■ c. Removing from paragraph (b) ''Davis-Bacon Act'' and adding ''Construction Wage Rate Requirements statute'' in its place; and

■ d. Revising paragraph (c)(1) to read as follows:

22.406–9 Withholding from or suspension of contract payments.

* * * * *

(c) *Disposition of contract payments withheld or suspended*—(1) *Forwarding wage underpayments to the Comptroller General.* Upon final administrative determination, if the contractor or subcontractor has not made restitution, the contracting officer must forward to the appropriate disbursing office Standard Form (SF) 1093, Schedule of Withholdings Under the Construction Wage Rate Requirements statute (40 U.S.C. chapter 31, subchapter IV) and/or Contract Work Hours and Safety Standards statute (40 U.S.C. chapter 37). Attach to the SF 1093 a list of the name, social security number, and last known address of each affected employee; the amount due each employee; employee claims if feasible; and a brief rationale for restitution. Also, the contracting officer must indicate if restitution was not made because the employee could not be located. The Government may assist underpaid employees in preparation of their claims. The disbursing office must submit the SF 1093 with attached additional data and the funds withheld (by check) to the Comptroller General (Claims Section).

* * * * *

■ 157. Amend section 22.406–10 by revising paragraph (f) to read as follows:

22.406–10 Disposition of disputes concerning construction contract labor standards enforcement.

* * * * *

(f) The Administrator, Wage and Hour Division, may institute debarment proceedings against the contractor or subcontractor if the Administrator finds reasonable cause to believe that the contractor or subcontractor has committed willful or aggravated violations of the Contract Work Hours and Safety Standards statute or the Copeland (Anti-Kickback) Act, or any of the applicable statutes listed in 29 CFR 5.1 other than the Construction Wage Rate Requirements statute, or has committed violations of the Construction Wage Rate Requirements statute that constitute a disregard of its obligations to employees or subcontractors under 40 U.S.C. 3144.

■ 158. Amend section 22.406–12 by revising paragraph (b) to read as follows:

22.406–12 Cooperation with the Department of Labor.

* * * * *

(b) If a Department of Labor representative undertakes an investigation at a construction project, the contracting officer shall inquire into the scope of the investigation, and request to be notified immediately of any violations discovered under the Construction Wage Rate Requirements statute, the Contract Work Hours and Safety Standards statute, or the Copeland (Anti-Kickback) Act.

■ 159. Revise section 22.406–13 to read as follows:

22.406–13 Semiannual enforcement reports.

A semiannual report on compliance with and enforcement of the construction labor standards requirements of the Construction Wage Rate Requirements statute and Contract Work Hours and Safety Standards statute is required from each contracting agency. The reporting periods are October 1 through March 31 and April 1 through September 30. The reports shall only contain information as to the enforcement actions of the contracting agency and shall be prepared as prescribed in Department of Labor memoranda and submitted to the

Department of Labor within 30 days after the end of the reporting period. This report has been assigned interagency report control number 1482–DOL–SA.

■ 160. Amend section 22.407 by—

■ a. Removing from paragraph (a)(1) ''Davis-Bacon Act'' and adding ''Construction Wage Rate Requirements'' in its place;

■ b. Revising paragraph (a)(8);

■ c. Removing from the introductory text of paragraph (e) ''Davis-Bacon Act'' and adding ''Construction Wage Rate Requirements'' in its place;

■ d. Removing from paragraph (e)(1) and (e)(2) ''Davis-Bacon Act'' and adding ''Construction Wage Rate Requirements statute'' in its place;

■ e. Revising paragraphs (f) and (g); and

■ f. Removing from paragraph (h) ''Davis-Bacon Act'' and adding ''Construction Wage Rate Requirements'' in its place.

The revised text reads as follows:

22.407 Solicitation provision and contract clauses.

(a) * * *

(8) 52.222–13, Compliance with Construction Wage Rate Requirements and Related Regulations.

* * * * *

(f) Insert the clause at 52.222–31, Construction Wage Rate Requirements—Price Adjustment (Percentage Method), in solicitations and contracts if the contract is expected to be a fixed-price contract subject to the Construction Wage Rate Requirements statute that will contain option provisions by which the contracting officer may extend the term of the contract, and the contracting officer determines the most appropriate contract price adjustment method is the method at 22.404–12(c)(3).

(g) Insert the clause at 52.222–32, Construction Wage Rate Requirements—Price Adjustment (Actual Method), in solicitations and contracts if the contract is expected to be a fixed-price contract subject to the Construction Wage Rate Requirements statute that will contain option provisions by which the contracting officer may extend the term of the contract, and the contracting officer determines the most appropriate method to establish contract price is the method at 22.404–12(c)(4).

* * * * *

■ 161. Revise the heading of subpart 22.6 to read as follows:

Subpart 22.6—Contracts For Materials, Supplies, Articles, and Equipment Exceeding $15,000

■ 162. Revise section 22.602 to read as follows:

22.602 Statutory requirements.

Except for the exemptions at 22.604, all contracts subject to 41 U.S.C. chapter 65, Contracts for Materials, Supplies, Articles, and Equipment Exceeding $15,000 (the statute), and entered into by any executive department, independent establishment, or other agency or instrumentality of the United States, or by the District of Columbia, or by any corporation (all the stock of which is beneficially owned by the United States) for the manufacture or furnishing of materials, supplies, articles, and equipment (referred to in this subpart as supplies) in any amount exceeding $15,000, shall include or incorporate by reference the stipulations required by the statute pertaining to such matters as minimum wages, maximum hours, child labor, convict labor, and safe and sanitary working conditions.

22.604–1 [Amended]

■ 163. Amend section 22.604–1 by removing from the introductory text ''the Act'' and adding ''the statute'' in its place.

22.604–2 [Amended]

■ 164. Amend section 22.604–2 by removing from paragraph (a) introductory text and paragraph (a)(3) ''the Act'' and adding ''the statute'' in their places.

22.605 [Amended]

■ 165. Amend section 22.605 by

■ a. Revising the section heading, and

■ b. Removing from paragraphs (a) introductory text, (a)(1), (a)(2), (a)(3), (a)(4), and (a)(5) ''the Act'' and adding ''the statute'' in their places (eight times).

The revised text reads as follows:

22.605 Rulings and interpretations of the statute.

* * * * *

22.608 [Amended]

■ 166. Amend section 22.608 by removing from paragraphs (a) and (b) ''the Act'' and adding ''the statute'' in their places.

■ 167. Revise section 22.610 to read as follows:

22.610 Contract clause.

The contracting officer shall insert the clause at 52.222–20, Contracts for Materials, Supplies, Articles, and Equipment Exceeding $15,000, in solicitations and contracts covered by the statute (see 22.603, 22.604, and 22.605).

■ 168. Revise the heading of subpart 22.10 to read as follows:

Subpart 22.10—Service Contract Labor Standards

■ 169. Revise section 22.1000 to read as follows:

22.1000 Scope of subpart.

This subpart prescribes policies and procedures implementing the provisions of 41 U.S.C. chapter 67, Service Contract Labor Standards (formerly known as the Service Contract Act of 1965), the applicable provisions of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201, et seq.), and related Secretary of Labor regulations and instructions (29 CFR parts 4, 6, 8, and 1925).

■ 170. Amend section 22.1001 by—

■ a. Removing the definition ''Act or Service Contract Act'';

■ b. Removing from the definition ''Contractor'' the words ''the Act'' and adding ''the statute'' in its place; and

■ c. Revising the definitions, ''United States'', ''Wage and Hour Division'', and ''Wage determination'' to read as follows:

22.1001 Definitions.

* * * * *

United States means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, Johnston Island, Wake Island, and the outer Continental Shelf as defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331, *et seq.*), but does not include any other place subject to U.S. jurisdiction or any U.S. base or possession within a foreign country (29 CFR 4.112).

Wage and Hour Division means the unit in the Employment Standards Administration of the Department of Labor to which is assigned functions of the Secretary of Labor under the Service Contract Labor Standards statute.

Wage determination means a determination of minimum wages or fringe benefits made under 41 U.S.C. 6703 or 6707(c) applicable to the employment in a given locality of one or more classes of service employees.

22.1002–1 [Amended]

■ 171. Amend section 22.1002–1 by removing ''41 U.S.C. 353(d)'' and adding ''41 U.S.C. 6707(d)'' in its place.

■ 172. Revise section 22.1003–2 to read as follows:

22.1003–2 Geographical coverage of the Service Contract Labor Standards statute.

The Service Contract Labor Standards statute applies to service contracts performed in the United States (see 22.1001). The Service Contract Labor

Standards statute does not apply to contracts performed outside the United States.

■ 173. Amend section 22.1003–3 by revising the introductory text and paragraph (b) to read as follows:

22.1003–3 Statutory exemptions.

The Service Contract Labor Standards statute does not apply to—

* * * * *

(b) Any work required to be done in accordance with the provisions of 41 U.S.C. chapter 65, Contracts for Materials, Supplies, Articles, and Equipment Exceeding $15,000;

* * * * *

■ 174. Amend section 22.1003–4 by—

■ a. Revising paragraph (a);

■ b. Removing from the introductory text of paragraph (b) ''the Act'' and adding ''the Service Contract Labor Standards statute'' in its place;

■ c. Removing from the introductory text of paragraph (c)(1) ''the Act'' and adding ''the Service Contract Labor Standards statute'' in its place;

■ d. Removing from paragraph (c)(3)(i) ''Contract Act'' and adding ''Contract Labor Standards statute'' in its place;

■ e. Removing from paragraphs (c)(3)(ii) and (c)(3)(iii) ''Contract Act'' and adding ''Contract Labor Standards'' in its place;

■ f. Removing from paragraph (c)(4)(i) ''Contract Act'' and adding ''Contract Labor Standards statute'' in its place;

■ g. Removing from paragraph (c)(4)(ii), and the introductory text of paragraph (d)(1), ''the Act'' and adding ''the Service Contract Labor Standards statute'' in their places;

■ h. Removing from paragraph (d)(1)(iv) ''Davis-Bacon Act'' and adding ''Construction Wage Rate Requirements statute'' in its place;

■ i. Removing from paragraphs (d)(3)(i), (d)(3)(ii), and (d)(3)(iii) ''Contract Act'' and adding ''Contract Labor Standards'' in their places;

■ j. Removing from paragraph (d)(4)(i) ''Contract Act'' and ''the Act'' and adding ''Contract Labor Standards statute'' and ''the Service Contract Labor Standards statute'' in its place; and

■ k. Revising paragraphs (d)(5)(i) and (d)(5)(iii).

The revised text reads as follows:

22.1003–4 Administrative limitations, variations, tolerances, and exemptions.

(a) The Secretary of Labor may provide reasonable limitations and may make rules and regulations allowing reasonable variations, tolerances, and exemptions to and from any or all provisions of the Service Contract Labor Standards statute other than 41 U.S.C. 6707(f). These will be made only in special circumstances where it has been determined that the limitation, variation, tolerance, or exemption is necessary and proper in the public interest or to avoid the serious impairment of Government business, and is in accord with the remedial purpose of the Service Contract Labor Standards statute to protect prevailing labor standards (41 U.S.C. 6707(b)). See 29 CFR 4.123 for a listing of administrative exemptions, tolerances, and variations. Requests for limitations, variances, tolerances, and exemptions from the Service Contract Labor Standards statute shall be submitted in writing through contracting channels and the agency labor advisor to the Wage and Hour Administrator.

* * * * *

(d) * * *

(5) * * *

(i) Awarded under 41 U.S.C. chapter 85, Committee for Purchase from People Who Are Blind or Severely Disabled (see subpart 8.7).

* * * * *

(iii) Subject to 41 U.S.C. 6707(c) (see 22.1002–3).

22.1003–5 [Amended]

■ 175. Amend section 22.1003–5 by removing from the introductory text ''the Act'' and adding ''the Service Contract Labor Standards statute'' in its place.

■ 176. Amend section 22.1003–6 by revising paragraph (a) introductory text; and by removing from paragraph (b) introductory text ''Contract Act'' and adding ''Contract Labor Standards statute'' in its place.

The revised text reads as follows:

22.1003–6 Repair distinguished from remanufacturing of equipment.

(a) Contracts principally for remanufacturing of equipment which is so extensive as to be equivalent to manufacturing are subject to 41 U.S.C. chapter 65, Contracts for Materials, Supplies, Articles, and Equipment Exceeding $15,000, rather than to the Service Contract Labor Standards statute. Remanufacturing shall be deemed to be manufacturing when the criteria in either paragraphs (a)(1) or (a)(2) of this subsection are met.

* * * * *

■ 177. Amend section 22.1003–7 by—

■ a. Revising the section heading; and

■ b. Removing ''the Act'' and adding ''the Service Contract Labor Standards statute'' in its place.

The revised text reads as follows:

22.1003–7 Questions concerning applicability of the Service Contract Labor Standards statute.

* * * * *

22.1004 [Amended]

■ 178. Amend section 22.1004 by removing from the introductory text and paragraph (c) ''the Act'' and adding ''the Service Contract Labor Standards statute'' in its place (three times).

■ 179. Amend section 22.1006 by—

■ a. Removing from the introductory text of paragraph (a)(1) the words ''Act of 1965'' and ''the Act'' and adding ''Labor Standards'' and ''the Service Contract Labor Standards statute'' in their place, respectively;

■ b. Removing from the introductory text of paragraph (a)(2) ''Contract Act'' and adding ''Contract Labor Standards statute'' in its place;

■ c. Removing from paragraphs (a)(2)(i)(A) and (a)(2)(i)(B) the words ''Contract Act'' and adding ''Contract Labor Standards'' in their places;

■ d. Revising paragraph (a)(2)(ii);

■ e. Removing from paragraph (b) ''the Act'' and adding ''the Service Contract Labor Standards statute'' in its place;

■ f. Removing from paragraphs (c)(1) and (c)(2) the words ''Service Contract Act'' and ''Service Contract Act of 1965'' and adding ''Service Contract Labor Standards'' in their places (six times);

■ g. Revising paragraphs (e)(1), (e)(2), (e)(3)(i), (e)(4), and (f).

The revised text reads as follows:

22.1006 Solicitation provisions and contract clauses.

(a) * * *

(2) * * *

(ii) The contracting officer has made the determination, in accordance with paragraphs (c)(3) or (d)(3) of subsection 22.1003–4, that the Service Contract Labor Standards statute does not apply to the contract. (In such case, insert the clause at 52.222–51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements, or 52.222–53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements, in the contract, in accordance with the prescription at paragraph (e)(2)(ii) or (e)(4)(ii) of this subsection).

* * * * *

(e)(1) The contracting officer shall insert the provision at 52.222–48, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Certification, in solicitations that—

(i) Include the clause at 52.222–41, Service Contract Labor Standards; and

(ii) The contract may be exempt from the Service Contract Labor Standards statute in accordance with 22.1003–4(c).

(2) The contracting officer shall insert the clause at 52.222–51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements—

(i) In solicitations that include the provision at 52.222–48, or the comparable provision is checked as applicable in the clause at 52.204–8(c)(2)(iii) or 52.212–3(k)(1); and

(ii) In resulting contracts in which the contracting officer has determined, in accordance with 22.1003–4(c)(3), that the Service Contract Labor Standards statute does not apply.

(3)(i) Except as provided in paragraph (e)(3)(ii) of this section, the contracting officer shall insert the provision at 52.222–52, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Certification, in solicitations that—

(A) Include the clause at 52.222–41, Service Contract Labor Standards, and

(B) The contract may be exempt from the Service Contract Labor Standards statute in accordance with 22.1003–4(d).

* * * * *

(4) The contracting officer shall insert the clause at 52.222–53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements—

(i) In solicitations that include the provision at 52.222–52, or the comparable provision is checked as applicable in 52.204–8(c)(2)(iv) or 52.212–3(k)(2); and

(ii) In resulting contracts in which the contracting officer has determined, in accordance with 22.1003–4(d)(3), that the Service Contract Labor Standards statute does not apply.

(f) The contracting officer shall insert the clause at 52.222–49, Service Contract Labor Standards—Place of Performance Unknown, if using the procedures prescribed in 22.1009–4.

* * * * *

22.1008–1 [Amended]

■ 180. Amend section 22.1008–1 by removing from paragraph (e)(3) ''whether Section 4(c) of the Act applies'' and adding ''whether 41 U.S.C. 6707(c) applies'' in its place.

■ 181. Amend section 22.1008–2 by—

■ a. Revising the section heading and paragraph (a);

■ b. Removing from paragraphs (b) introductory text and (c)(1) introductory text ''Section 4(c) of the Act'' and adding ''41 U.S.C. 6707(c)'' in its place;

■ c. Removing from paragraphs (c) introductory text and (c)(2) introductory text ''section 4(c) of the Act'' and adding ''41 U.S.C. 6707(c)'' in its place;

■ d. Removing from paragraph (d)(1) ''section 4(c) of the Act'' and adding ''41 U.S.C. 6707(c)'' in its place; and removing ''Service Contract Act of 1965'' and adding ''Service Contract Labor Standards'' in its place;

■ e. Removing from paragraph (d)(3) ''applicability of the Act'' and adding ''applicability of the Service Contract Labor Standards statute'' in its place; and

■ f. Removing from paragraph (e)(1) ''Section 4(c) of the Act'' and adding ''41 U.S.C. 6707(c)'' in its place.

The revised text reads as follows:

22.1008–2 Successorship with incumbent contractor collective bargaining agreement.

(a) Early in the acquisition cycle, the contracting officer shall determine whether 41 U.S.C. 6707(c) affects the new acquisition. The contracting officer shall determine whether there is a predecessor contract covered by the Service Contract Labor Standards statute and, if so, whether the incumbent prime contractor or its subcontractors and any of their employees have a collective bargaining agreement.

* * * * *

22.1009–4 [Amended]

■ 182. Amend section 22.1009–4 by removing from paragraph (b) ''Service Contract Act-Place'' and adding ''Service Contract Labor Standards-Place'' in its place; and removing from paragraph (e)(3) ''Service Contract-Place'' and adding ''Service Contract Labor Standards-Place'' in its place.

22.1012–2 [Amended]

■ 183. Amend section 22.1012–2 by removing from paragraphs (a) and (b) ''section 4(c) of the Act'' and adding ''41 U.S.C. 6707(c)'' in their places (three times).

22.1015 [Amended]

■ 184. Amend section 22.1015 by removing ''Service Contract Act'' and ''section 10 of the Act (41 U.S.C. 358)'' and adding ''Service Contract Labor Standards statute'' and ''41 U.S.C. 6707(f)'' in their place, respectively.

22.1018 [Amended]

■ 185. Amend section 22.1018 by—

■ a. Removing from paragraph (a) ''the Act'' and adding ''the Service Contract Labor Standards statute'' in its place; and

■ b. Removing from paragraph (b) ''the Act'' and ''Service Contract Act of 1965'' and adding ''the Service Contract Labor Standards statute'' and ''Service Contract Labor Standards'' in their place, respectively.

22.1019 [Amended]

■ 186. Amend section 22.1019 by—

■ a. Removing from paragraph (a) ''Service Contract Act of 1965'' and adding ''Service Contract Labor Standards'' in its place; and

■ b. Removing from paragraph (c) ''handicapped workers'' and ''Service Contract Act of 1965'' and adding ''disabled workers'' and ''Service Contract Labor Standards'' in their place, respectively.

22.1020 [Amended]

■ 187. Amend section 22.1020 by removing ''Service Contract Act of 1965'' and adding ''Service Contract Labor Standards'' in its place.

22.1022 [Amended]

■ 188. Amend section 22.1022 by removing ''Service Contract Act of 1965'' and ''Service Contract Act'' and adding ''Service Contract Labor Standards'' and ''Service Contract Labor Standards statute'' in their place, respectively.

■ 189. Revise section 22.1023 to read as follows:

22.1023 Termination for default.

As provided by the Service Contract Labor Standards statute, any contractor failure to comply with the requirements of the contract clauses related to the Service Contract Labor Standards statute may be grounds for termination for default (see paragraph (k) of the clause at 52.222–41, Service Contract Labor Standards).

22.1025 [Amended]

■ 190. Amend section 22.1025 by removing ''the Act'' and adding ''the Service Contract Labor Standards statute'' in its place twice.

22.1026 [Amended]

■ 191. Amend section 22.1026 by removing ''Act of 1965'' and adding ''Labor Standards'' in its place.

■ 192. Revise section 22.1101 to read as follows:

22.1101 Applicability.

The Service Contract Act of 1965, now codified at 41 U.S.C. chapter 67, Service Contract Labor Standards, was enacted to ensure that Government contractors compensate their blue-collar service workers and some white-collar

service workers fairly, but it does not cover bona fide executive, administrative, or professional employees.

22.1204 [Amended]

■ 193. Amend section 22.1204 by removing from paragraph (a) ''Act of 1965'' and adding ''Labor Standards'' in its place.

■ 194. Revise section 22.1502 to read as follows:

22.1502 Policy.

Agencies must take appropriate action to enforce the laws prohibiting the manufacture or importation of products that have been mined, produced, or manufactured wholly or in part by forced or indentured child labor, consistent with 19 U.S.C. 1307, 29 U.S.C. 201, *et seq.,* and 41 U.S.C. chapter 65. Agencies should make every effort to avoid acquiring such products.

PART 23—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

■ 195. The authority citation for 48 CFR part 23 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

■ 196. Revise section 23.500 to read as follows:

23.500 Scope of subpart.

This subpart implements 41 U.S.C. chapter 81, Drug-Free Workplace.

■ 197. Revise section 23.502 to read as follows:

23.502 Authority.

41 U.S.C. chapter 81, Drug-Free Workplace.

■ 198. Amend section 23.704 by revising paragraph (b)(1)(ii) to read as follows:

23.704 Electronic products environmental assessment tool.

* * * * *

(b) * * *

(1) * * *

(ii) Is a voluntary consensus standard consistent with section 12(d) of Pub. L. 104–113 (15 U.S.C. 272 note), the ''National Technology Transfer and Advancement Act of 1995'', (see 11.102(c));

* * * * *

PART 24—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

■ 199. The authority citation for 48 CFR part 24 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

24.202 [Amended]

■ 200. Amend section 24.202 by—

■ a. Removing from paragraph (a) ''41 U.S.C. 253b(m)'' and adding ''41 U.S.C. 4702'' in its place; and

■ b. Removing from paragraph (b) ''41 U.S.C. 254b(d)(2)(C)'' and adding ''41 U.S.C. 3505(b)(3)'' in its place.

■ 201. The authority citation for 48 CFR parts 25 and 26 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 25—FOREIGN ACQUISITION

■ 202. Amend section 25.000 by revising paragraph (b) to read as follows:

25.000 Scope of part.

* * * * *

(b) It implements 41 U.S.C. chapter 83, Buy American; trade agreements; and other laws and regulations.

■ 203. Amend section 25.001 by—

■ a. Revising the introductory text of paragraph (a); and

■ b. Removing from paragraphs (b), (c) introductory text, and (c)(1) ''Buy American Act'' and adding ''Buy American statute'' in its place.

The revised text reads as follows:

25.001 General.

(a) 41 U.S.C. chapter 83, Buy American—

* * * * *

■ 204. Amend section 25.002 by revising the entries for 25.1 through 25.6 in the table to read as follows:

25.002 Applicability of subparts.

* * * * *

Subpart	Supplies for use		Construction		Services performed	
	Inside U.S.	Outside U.S.	Inside U.S.	Outside U.S.	Inside U.S.	Outside U.S.
25.1 Buy American—Supplies	X					
25.2 Buy American—Construction Materials			X			
25.3 Contracts Performed Outside the United States		X		X		X
25.4 Trade Agreements	X	X	X	X	X	X
25.5 Evaluating Foreign Offers—Supply Contracts	X	X				
25.6 American Recovery and Reinvestment Act—Buy American statute—Construction Materials			X			

* * * * * * *

■ 205. Revise the heading of subpart 25.1 to read as follows:

Subpart 25.1—Buy American—Supplies

■ 206. Amend section 25.100 by revising paragraphs (a)(1) and (a)(3) to read as follows:

25.100 Scope of subpart.

(a) * * *

(1) 41 U.S.C. chapter 83, Buy American;

* * * * *

(3) Waiver of the component test of the Buy American statute for acquisition of commercially available off-the-shelf (COTS) items in accordance with 41 U.S.C. 1907.

* * * * *

25.101 [Amended]

■ 207. Amend section 25.101 by—

■ a. Removing from the introductory text of paragraph (a) ''Buy American Act'' and adding ''Buy American statute'' in its place (two times);

■ b. Removing from paragraph (a)(2) ''41 U.S.C. 431'' and ''Buy American Act'' and adding ''41 U.S.C. 1907'' and ''Buy American statute'' in their place, respectively; and

■ c. Removing from paragraph (b) ''Buy American Act'' and adding ''Buy American statute'' in its place.

25.103 [Amended]

■ 208. Amend section 25.103 by removing from the introductory text, paragraphs (a), (b) introductory text, and (b)(1)(iii)(A) ''Buy American Act'' and adding ''Buy American statute'' in its place.

25.105 [Amended]

■ 209. Amend section 25.105 by removing from the introductory text of paragraph (b) ''Buy American Act'' and adding ''Buy American statute'' in its place.

■ 210. Revise the heading of subpart 25.2 to read as follows:

Subpart 25.2—Buy American—Construction Materials

■ 211. Amend section 25.200 by revising paragraphs (a)(1) and (a)(3) to read as follows:

25.200 Scope of subpart.

(a) * * *

(1) 41 U.S.C. chapter 83, Buy American;

* * * * *

(3) Waiver of the component test of the Buy American statute for acquisitions of commercially available off-the-shelf (COTS) items in accordance with 41 U.S.C. 1907.

* * * * *

25.202 [Amended]

■ 212. Amend section 25.202 by removing from paragraphs (a) introductory text and (a)(1) ''Buy American Act'' and adding ''Buy American statute'' in its place (three times).

25.203 [Amended]

■ 213. Amend section 25.203 by removing from paragraph (a) ''Buy American Act'' and adding ''Buy American statute'' in its place.

25.204 [Amended]

■ 214. Amend section 25.204 by removing from paragraph (b) ''Buy American Act'' and adding ''Buy American statute'' in its place.

25.205 [Amended]

■ 215. Amend section 25.205 by removing from paragraphs (a), (b), and (c) ''Buy American Act'' and adding ''Buy American statute'' in their places.

25.206 [Amended]

■ 216. Amend section 25.206 by removing from paragraphs (a), (c)(1), and (c)(3) ''Buy American Act'' and adding ''Buy American statute'' in their places (four times).

25.400 [Amended]

■ 217. Amend section 25.400 by removing from paragraph (a)(6) ''Buy American Act'' and adding ''Buy American statute'' in its place.

25.402 [Amended]

■ 218. Amend section 25.402 by removing from the introductory text of paragraph (a)(1) ''Buy American Act'' and adding ''Buy American statute'' in its place (two times).

25.405 [Amended]

■ 219. Amend section 25.405 by removing ''(Pub. L. 109–53)'' and adding ''(Pub. L. 109–53) (19 U.S.C. 4031)'' in its place.

25.406 [Amended]

■ 220. Amend section 25.406 by removing ''Buy American Act'' and adding ''Buy American statute'' in its place.

25.407 [Amended]

■ 221. Amend section 25.407 by removing ''Buy American Act'' and adding ''Buy American statute'' in its place.

25.501 [Amended]

■ 222. Amend section 25.501 by removing from paragraph (d) ''Buy American Act'' and adding ''Buy American statute'' in its place.

25.502 [Amended]

■ 223. Amend section 25.502 by removing from paragraphs (c) introductory text, (c)(3), (d)(2), and (d)(3) ''Buy American Act'' and adding ''Buy American statute'' in its place.

■ 224. Amend section 25.504–1 by revising the section heading; and removing from paragraphs (a)(2) and (b)(2) ''Buy American Act'' and adding ''Buy American statute'' in its place.

The revised text reads as follows:

25.504–1 Buy American statute.

* * * * *

25.504–4 [Amended]

■ 225. Amend section 25.504–4 by removing from paragraph (b) under the heading ''Problem'' the words ''Buy American Act'' and adding ''Buy American statute'' in its place.

■ 226. Revise the heading of subpart 25.6 to read as follows:

Subpart 25.6—American Recovery and Reinvestment Act—Buy American Statute—Construction Materials

25.600 [Amended]

■ 227. Amend section 25.600 by removing ''the Buy American Act'' and adding ''41 U.S.C. chapter 83, Buy American (referred to in this subpart as the Buy American statute)'' in its place.

25.601 [Amended]

■ 228. Amend section 25.601 by removing from paragraph (1) of the definition ''Domestic construction material'' the words ''Buy American Act'' and adding ''Buy American statute'' in its place.

■ 229. Amend section 25.602–2 by revising the section heading; and removing ''Buy American Act'' and adding ''Buy American statute'' in its place. The revised text reads as follows:

25.602–2 Buy American statute.

* * * * *

25.603 [Amended]

■ 230. Amend section 25.603 by removing from paragraphs (a)(1) introductory text, (a)(1)(iii), and (a)(2) ''Buy American Act'' and adding ''Buy American statute'' in its place.

■ 231. Amend section 25.604 by revising the section heading; and removing from paragraph (a) ''Buy American Act'' and adding ''Buy American statute'' in its place. The revised text reads as follows:

25.604 Preaward determination concerning the inapplicability of section 1605 of the Recovery Act or the Buy American statute.

* * * * *

25.606 [Amended]

■ 232. Amend section 25.606 by removing from paragraphs (a), (b), and (c) ''Buy American Act'' and adding ''Buy American statute'' in its place.

25.607 [Amended]

■ 233. Amend section 25.607 by removing from paragraphs (a), (c)(1), and (c)(3) ''Buy American Act'' and adding ''Buy American statute'' in its places (four times).

25.700 [Amended]

■ 234. Amend section 25.700 by removing from paragraph (b) ''110–174)'' and adding ''110–174) (50 U.S.C. 1701 note)'' in its place.

25.1001 [Amended]

■ 235. Amend section 25.1001 by removing from paragraph (a) introductory text ''41 U.S.C. 254d'' and adding ''41 U.S.C. 4706'' in its place.

25.1101 [Amended]

■ 236. Amend section 25.1101 by—

■ a. Removing from the introductory text of paragraph (a)(1) ''Buy American

Act'' and adding ''Buy American'' in its place;

■ b. Removing from paragraphs (a)(1)(ii), (c)(1), and (d) ''Buy American Act'' and adding ''Buy American statute'' in their places; and

■ c. Removing from paragraphs (a)(2), (b)(1)(i) introductory text, and (b)(2)(i) ''Buy American Act'' and adding ''Buy American'' in its place.

25.1102 [Amended]

■ 237. Amend section 25.1102 by—

■ a. Removing from the introductory text of paragraph (a) ''Buy American Act'' and adding ''Buy American'' in its place;

■ b. Removing from paragraph (a)(1) ''Buy American Act'' and adding ''Buy American statute'' in its place;

■ c. Removing from paragraph (b)(1) ''Buy American Act'' and adding ''Buy American'' in its place;

■ d. Removing from paragraph (b)(2) ''Buy American Act'' and adding ''Buy American statute'' in its place;

■ e. Removing from the introductory text of paragraph (c) ''Buy American Act'' and adding ''Buy American'' in its place;

■ f. Removing from paragraphs (c)(1) and (c)(3) ''Buy American Act'' and adding ''Buy American statute'' in its place;

■ g. Removing from paragraph (d)(1) ''Buy American Act'' and adding ''Buy American'' in its place; and

■ h. Removing from paragraphs (d)(2), (e)(3)(i), and the introductory text of paragraph (e)(3)(ii) ''Buy American Act'' and adding ''Buy American statute'' in its place.

PART 26—OTHER SOCIOECONOMIC PROGRAMS

26.400 [Amended]

■ 238. Amend section 26.400 by removing ''(Pub. L. 110–247)'' and adding ''(42 U.S.C. 1792)'' in its place.

■ 239. Amend section 26.403 by revising the introductory text of paragraph (a) to read as follows:

26.403 Procedures.

(a) In accordance with the Federal Food Donation Act of 2008 an executive agency shall comply with the following:

* * * * *

PART 27—PATENTS, DATA, AND COPYRIGHTS

■ 240. The authority citation for 48 CFR part 27 is added to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

27.304–4 [Amended]

■ 241. Amend section 27.304–4 by removing from paragraph (c) ''Act'' and adding ''statute'' in its place (two times).

27.406–3 [Amended]

■ 242. Amend 27.406–3 by removing from paragraph (a) ''418a(d)'' and adding ''2302(e)'' in its place.

PART 28—BONDS AND INSURANCE

■ 243. The authority citation for 48 CFR part 28 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

■ 244. Amend section 28.102–1 by revising the introductory text of paragraph (a) and paragraph (a)(2) to read as follows.

28.102–1 General.

(a) 40 U.S.C. chapter 31, subchapter III, Bonds (formerly known as the Miller Act), requires performance and payment bonds for any construction contract exceeding $150,000, except that this requirement may be waived—

* * * * *

(2) As otherwise authorized by the Bonds statute or other law.

* * * * *

28.102–2 [Amended]

■ 245. Amend section 28.102–2 by removing from the heading of paragraph (b) ''*$150,000 (Miller Act)*'' and adding ''*$150,000*'' in its place.

28.106–1 [Amended]

■ 246. Amend section 28.106–1 by removing from paragraphs (h) and (i) ''Miller Act'' and adding ''Bonds Statute'' in its place.

28.106–4 [Amended]

■ 247. Amend section 28.106–4 by removing from paragraph (b) ''Pub. L. 103–355'' and adding ''Pub. L. 103–355 (10 U.S.C. 2302 note)'' in its place; and removing the words ''the Miller Act'' and adding ''40 U.S.C. chapter 31, subchapter III, Bonds'' in its place.

28.106–6 [Amended]

■ 248. Amend section 28.106–6 by removing from the introductory text of paragraph (d) ''Pub. L. 103–355'' and adding ''Pub. L. 103–355 (10 U.S.C. 2302 note)'' in its place; and removing ''Miller Act'' and adding ''Bonds statute'' in its place.

■ 249. Amend section 28.202 by revising paragraph (a)(4) to read as follows.

28.202 Acceptability of corporate sureties.

(a) * * *

(4) When specified in the solicitation, the contracting officer may accept a bond from the direct writing company in satisfaction of the total bond requirement of the contract. This is permissible until necessary reinsurance agreements are executed, even though the total bond requirement may exceed the insurer's underwriting limitation. The contractor shall execute and submit necessary reinsurance agreements to the contracting officer within the time specified on the bid form, which may not exceed 45 calendar days after the execution of the bond. The contractor shall use Standard Form 273, Reinsurance Agreement for a Bonds Statute Performance Bond, and Standard Form 274, Reinsurance Agreement for a Bonds Statute Payment Bond, when reinsurance is furnished with the required performance or payment bonds. Standard Form 275, Reinsurance Agreement in Favor of the United States, is used when reinsurance is furnished with bonds for other purposes.

* * * * *

28.203–5 [Amended]

■ 250. Amend section 28.203–5 by removing from the headings of paragraphs (a)(1) and (a)(3) ''*Miller Act*'' and adding ''*Bonds statute*'' in its place.

28.204–3 [Amended]

■ 251. Amend section 28.204–3 by removing from the introductory text of paragraphs (f)(2)(i) and (f)(2)(ii), ''Miller Act'' and adding ''Bonds statute'' in its place.

PART 30—COST ACCOUNTING STANDARDS ADMINISTRATION

■ 252. The authority citation for 48 CFR part 30 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

30.101 [Amended]

■ 253. Amend section 30.101 by—

■ a. Removing from paragraph (a) ''Public Law 100–679 (41 U.S.C. 422)'' and adding ''41 U.S.C. chapter 15, Cost Accounting Standards,'' in its place; and

■ b. Removing from paragraph (b) ''Public Law 100–679'' and adding ''41 U.S.C. chapter 15'' in its place.

■ 254. The authority citation for 48 CFR parts 31, 32, and 33 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

31.205–1 [Amended]

■ 255. Amend section 31.205–1 by removing from paragraph (f)(8) ''Pub L. 110–247) (see FAR subpart 26.4)'' and adding ''42 U.S.C. 1792, see subpart 26.4)'' in its place.

■ 256. Amend section 31.205–6 by revising paragraph (g)(6) to read as follows:

31.205–6 Compensation for personal services.

* * * * *

(g) * * *

(6) Under 10 U.S.C. 2324(e)(1)(M) and 41 U.S.C. 4304(a)(13), the costs of severance payments to foreign nationals employed under a service contract performed outside the United States are unallowable to the extent that such payments exceed amounts typically paid to employees providing similar services in the same industry in the United States. Further, under 10 U.S.C. 2324(e)(1)(N) and 41 U.S.C. 4304(a)(14), all such costs of severance payments that are otherwise allowable are unallowable if the termination of employment of the foreign national is the result of the closing of, or the curtailment of activities at, a United States facility in that country at the request of the government of that country; this does not apply if the closing of a facility or curtailment of activities is made pursuant to a status-of-forces or other country-to-country agreement entered into with the government of that country before November 29, 1989. 10 U.S.C. 2324(e)(3) and 41 U.S.C. 4304(b) permit the head of the agency to waive these cost allowability limitations under certain circumstances (see 37.113 and the solicitation provision at 52.237–8).

* * * * *

31.205–47 [Amended]

■ 257. Amend section 31.205–47 by-

■ a. Removing from paragraph (a) introductory text ''subpart'' and adding ''subsection'' in its place; and

■ b. In the introductory text of the definition of ''Fraud'', removing ''*Fraud,* as used in this subsection'', and adding ''Fraud'' in its place;

c. In paragraph (3) of the definition of ''Fraud'', removing ''the Anti-Kickback Act, 41 U.S.C., sections 51 and 54'' and adding ''41 U.S.C. chapter 87, Kickbacks'' in its place.

31.603 [Amended]

■ 258. Amend section 31.603 by—

■ a. Removing from the introductory text of paragraph (b) ''41 U.S.C. 256(e)'' and adding ''41 U.S.C. 4304(a)'' in its place; and

■ b. Removing from paragraph (b)(15) ''41 U.S.C. 256(k)'' and adding ''41 U.S.C. 4310'' in its place.

31.703 [Amended]

■ 259. Amend section 31.703 by removing from paragraph (b) ''41 U.S.C. 256(e)'' and adding ''41 U.S.C. 4304'' in its place.

PART 32—CONTRACT FINANCING

■ 260. Amend section 32.006–1 by revising paragraph (a) and the first sentence of paragraph (b) to read as follows:

32.006–1 General.

(a) Under 10 U.S.C. 2307(i)(8), the statutory authority implemented by this section is available to the Department of Defense and the National Aeronautics and Space Administration; this statutory authority is not available to the United States Coast Guard. Under 41 U.S.C. 4506, this statutory authority is available to all agencies subject to Division C of subtitle I of title 41.

(b) 10 U.S.C. 2307(i)(2) and 41 U.S.C. 4506 provide for a reduction or suspension of further payments to a contractor when the agency head determines there is substantial evidence that the contractor's request for advance, partial, or progress payments is based on fraud. * * *

* * * * *

32.006–2 [Amended]

■ 261. Amend section 32.006–2 by removing from the definition ''Remedy coordination official'' the citation ''41 U.S.C. 255(g)(9)'' and adding ''41 U.S.C. 4506(a)'' in its place.

32.006–5 [Amended]

■ 262. Amend section 32.006–5 by removing from paragraph (a) and from the introductory text of paragraph (b) ''41 U.S.C. 255'' and ''10 U.S.C. 2307'' and adding ''41 U.S.C. 4506(h)'' and ''10 U.S.C. 2307(i)(7)'' in their places, respectively;

■ 263. Revise section 32.101 to read as follows:

32.101 Authority.

The basic authority for the contract financing described in this part is contained in 41 U.S.C. chapter 45, Contract Financing, 10 U.S.C. 2307, and Title III of the Defense Production Act of 1950 (50 U.S.C. App. 2091).

32.102 [Amended]

■ 264. Amend section 32.102 by removing from paragraph (d) ''41 U.S.C. 255'' and adding ''41 U.S.C. chapter 45'' in its place.

32.112–1 [Amended]

■ 265. Amend section 32.112–1 by removing from the introductory text of paragraph (a) ''Pub. L. 103–355'' and adding ''Pub. L. 103–355 (10 U.S.C. 2302 note)'' in its place.

32.112–2 [Amended]

■ 266. Amend section 32.112–2 by removing from the introductory text of paragraph (a) ''Pub. L. 103–355'' and adding ''Pub. L. 103–355 (10 U.S.C. 2302 note)'' in its place.

32.201 [Amended]

■ 267. Amend section 32.201 by removing ''41 U.S.C. 255(f)'' and adding ''41 U.S.C. 4505'' in its place.

32.202–4 [Amended]

■ 268. Amend section 32.202–4 by removing from the introductory text of paragraph (a)(1) ''41 U.S.C. 255(f)'' and adding ''41 U.S.C. 4505'' in its place.

■ 269. Amend section 32.401 by revising paragraphs (a) and (b) to read as follows:

32.401 Statutory authority.

* * * * *

(a) 41 U.S.C. chapter 45;

(b) 10 U.S.C. 2307; or

* * * * *

32.410 [Amended]

■ 270. Amend section 32.410(b) by removing from paragraph (c) of the example ''Findings, Determination, and Authority for Advance Payments'' ''(section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255)) (the Armed Services Procurement Act (10 U.S.C. 2307))'' and adding ''(41 U.S.C. chapter 45, Contract Financing) (10 U.S.C. 2307)'' in its place.

32.501–1 [Amended]

■ 271. Amend section 32.501–1 by removing from paragraph (d) ''41 U.S.C. 255'' and adding ''41 U.S.C. 4504(b)'' in its place.

32.604 [Amended]

■ 272. Amend section 32.604 by removing from paragraph (b)(4)(ii) ''Section 611 of the Contract Disputes Act of 1978 (Public Law 95–563)'' and adding ''41 U.S.C. 7109'' in its place.

32.606 [Amended]

■ 273. Amend section 32.606, by removing from paragraph (a) ''41 U.S.C. 15'' and adding ''41 U.S.C. 6305'' in its place.

32.703–3 [Amended]

■ 274. Amend section 32.703–3, by removing from paragraph (a), ''41 U.S.C. 11a'' and adding ''41 U.S.C. 6302'' in its place; and removing from paragraph (b) ''41 U.S.C. 253l'' and adding ''41 U.S.C. 3902'' in its place.

32.800 [Amended]

■ 275. Amend section 32.800 by removing ''31 U.S.C. 3727'' and adding ''(31 U.S.C. 3727, 41 U.S.C. 6305)'' in its place.

32.805 [Amended]

■ 276. Amend section 32.805(c), under the heading ''Notice of Assignment'', by removing from the third paragraph, ''31 U.S.C. 3727, 41 U.S.C. 15'' and adding ''(31 U.S.C. 3727, 41 U.S.C. 6305)'' in its place.

PART 33—PROTESTS, DISPUTES, AND APPEALS

33.102 [Amended]

■ 277. Amend section 33.102 by removing from paragraph (f) ''41 U.S.C. 423(g)'' and adding ''41 U.S.C. 2106'' in its place.

33.201 [Amended]

■ 278. Amend section 33.201 by removing from the definition ''Defective certification'' the words ''a person duly'' and adding ''a person'' in its place.

■ 279. Revise the section heading and the introductory text of section 33.202 to read as follows.

33.202 Disputes.

41 U.S.C. chapter 71, Disputes, establishes procedures and requirements for asserting and resolving claims subject to the Disputes statute. In addition, the Disputes statute provides for—

* * * * *

■ 280. Amend section 33.203 by—
■ a. Revising paragraph (b)(1);
■ b. Removing from paragraphs (b)(2) ''Act'' and adding ''Disputes statute'' in its place; and
■ c. Revising paragraph (c).

The revised text reads as follows:

33.203 Applicability.

* * * * *

(b) * * *

(1) A foreign government or agency of that government; or

* * * * *

(c) This part applies to all disputes with respect to contracting officer decisions on matters ''arising under'' or ''relating to'' a contract. Agency Boards of Contract Appeals (BCAs) authorized under the Disputes statute continue to have all of the authority they possessed before the Disputes statute with respect to disputes arising under a contract, as well as authority to decide disputes relating to a contract. The clause at 52.233–1, Disputes, recognizes the ''all disputes'' authority established by the Disputes statute and states certain requirements and limitations of the Disputes statute for the guidance of contractors and contracting agencies. The clause is not intended to affect the rights and obligations of the parties as provided by the Disputes statute or to constrain the authority of the statutory agency BCAs in the handling and deciding of contractor appeals under the Disputes statute.

■ 281. Amend section 33.205 by—
■ a. Revising the section heading;
■ b. Removing from paragraph (a) ''Contract Disputes Act of 1978'' and adding ''Disputes statute'' in its place (two times);
■ c. Removing from paragraph (b) ''under the Act'' and adding ''under the Dispute statute'' in its place; and
■ d. Removing from paragraph (c) ''Contract Disputes Act of 1978'' and adding ''Disputes statute'' in its place; and removing ''Subpart'' and adding ''subpart'' in its place (two times).

The revised text reads as follows:

33.205 Relationship of the Disputes statute to Pub. L. 85–804.

* * * * *

33.207 [Amended]

■ 282. Amend section 33.207 by removing from paragraph (e) ''duly''.

33.208 [Amended]

■ 283. Amend section 33.208 by removing from paragraph (b) ''the Act'' and adding ''the Disputes statute'' in its place.

33.210 [Amended]

■ 284. Amend section 33.210 by removing from the introductory text ''the Act'' and adding ''the Disputes statute'' in its place.

33.211 [Amended]

■ 285. Amend section 33.211 by removing from paragraph (2) of the text in quotation marks following paragraph (a)(4)(v) ''the Contract Disputes Act of 1978, 41 U.S.C. 603'' and adding ''41 U.S.C. 7102(d)'' in its place.

33.213 [Amended]

■ 286. Amend section 33.213 by removing from paragraph (a) ''the Act'' and adding ''the Disputes statute'' in its place (two times); and removing ''41 U.S.C. 605(b)'' and adding ''41 U.S.C. 7103(g)'' in its place.

PART 36—CONSTRUCTION AND ARCHITECT—ENGINEER

■ 287. The authority citation for 48 CFR part 36 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

36.104 [Amended]

■ 288. Amend section 36.104 by removing from paragraph (a) ''the Brooks Architect-Engineers Act (40 U.S.C. 1101 *et seq.*)'' and ''41 U.S.C. 253m'' and adding ''40 U.S.C. chapter 11, Selection of Architects and Engineers,'' and ''41 U.S.C. 3309'' in their places.

36.300 [Amended]

■ 289. Amend section 36.300 by removing ''41 U.S.C. 253m'' and adding ''41 U.S.C. 3309'' in its place.

PART 37—SERVICE CONTRACTING

■ 290. The authority citation for 48 CFR part 37 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

■ 291. Amend section 37.000 by revising the last sentence to read as follows:

37.000 Scope of part.

* * * This part includes, but is not limited to, contracts for services to which 41 U.S.C. chapter 67, Service Contract Labor Standards, applies (see subpart 22.10).

37.106 [Amended]

■ 292. Amend section 37.106 by removing from paragraph (b) ''41 U.S.C. 253l'' and adding ''41 U.S.C. 3902'' in its place.

■ 293. Revise section 37.107 to read as follows.

37.107 Service Contract Labor Standards.

41 U.S.C. chapter 67, Service Contract Labor Standards, provides for minimum wages and fringe benefits as well as other conditions of work under certain types of service contracts. Whether or not the Service Contract Labor Standards statute applies to a specific service contract will be determined by the definitions and exceptions given in the Service Contract Labor Standards statute, or implementing regulations.

37.202 [Amended]

■ 294. Amend section 37.202 by removing from paragraph (b) ''the Brooks Architect-Engineers Act (40 U.S.C. 1102)'' and adding ''40 U.S.C. 1102'' in its place.

■ 295. Amend section 37.203 by revising paragraph (d)(2) to read as follows.

37.203 Policy.

* * * * *

(d) * * *

(2) The contractor is a Federally-Funded Research and Development Center (FFRDC) as authorized in 41 U.S.C. 1709(c) and the work placed under the FFRDC's contract meets the criteria of 35.017–3; or

* * * * *

■ 296. Revise section 37.301 to read as follows:

37.301 Labor standards.

Contracts for dismantling, demolition, or removal of improvements are subject to either 41 U.S.C. chapter 67, Service Contract Labor Standards, or 40 U.S.C. chapter 31, subchapter IV, Wage Rate Requirements (Construction). If the contract is solely for dismantling, demolition, or removal of improvements, the Service Contract Labor Standards statute applies unless further work which will result in the construction, alteration, or repair of a public building or public work at that location is contemplated. If such further construction work is intended, even though by separate contract, then the Construction Wage Rate Requirements statute applies to the contract for dismantling, demolition, or removal.

37.302 [Amended]

■ 297. Amend section 37.302 by removing from the introductory text ''the Miller Act (40 U.S.C. 3131 *et seq.*)'' and adding ''40 U.S.C. chapter 31, subchapter III, Bonds,'' in its place.

37.401 [Amended]

■ 298. Amend section 37.401 by removing from the introductory text ''41 U.S.C. 253'' and adding ''41 U.S.C. chapter 33, Planning and Solicitation'' in its place.

PART 38—FEDERAL SUPPLY SCHEDULE CONTRACTING

■ 299. The authority citation for 48 CFR part 38 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

38.101 [Amended]

■ 300. Amend section 38.101 by removing from paragraph (a) ''41 U.S.C. 259(b)(3)(A)'' and adding ''41 U.S.C. 152(3)'' in its place.

PART 39—ACQUISITION OF INFORMATION TECHNOLOGY

■ 301. The authority citation for 48 CFR part 39 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

39.103 [Amended]

■ 302. Amend section 39.103 by removing from paragraph (a) ''Section 5202, Incremental Acquisition of Information Technology, of the Clinger-Cohen Act of 1996 (Public Law 104–106)'' and adding ''41 U.S.C. 2308'' in its place.

PART 41—ACQUISITION OF UTILITY SERVICES

■ 303. The authority citation for 48 CFR part 41 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

41.101 [Amended]

■ 304. Amend section 41.101 by removing from the definition ''Utility service'' the words ''Service Contract Act of 1965'' and adding ''41 U.S.C. chapter 67, Service Contract Labor Standards'' in its place.

■ 305. The authority citation for 48 CFR parts 42, 43, and 44 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES

42.703–1 [Amended]

■ 306. Amend section 42.703–1 by—

■ a. Removing from paragraph (a) ''41 U.S.C. 254d(d)'' and adding ''41 U.S.C. 4706(e)'' in its place; and

■ b. Removing from the introductory text of paragraph (c) ''41 U.S.C. 256(a)'' and adding ''41 U.S.C. 4303(a)'' in its place.

42.703–2 [Amended]

■ 307. Amend section 42.703–2 by—

■ a. Removing from paragraph (a) ''41 U.S.C. 256(h)'' and adding ''41 U.S.C. 4307'' in its place; and

■ b. Removing from paragraph (e) ''41 U.S.C. 256(a) through (d)'' and adding ''41 U.S.C. 4303'' in its place.

42.705–1 [Amended]

■ 308. Amend section 42.705–1 by removing from paragraph (b)(4) introductory text ''41 U.S.C. 256(f)'' and adding ''41 U.S.C. 4305'' in its place.

42.705–3 [Amended]

■ 309. Amend section 42.705–3 by removing from paragraph (b)(1) ''41 U.S.C. 254a'' and adding ''41 U.S.C. 4708'' in its place.

42.709 [Amended]

■ 310. Amend section 42.709 by removing from the introductory text of paragraph (a) ''41 U.S.C. 256(a) through (d)'' and adding ''41 U.S.C. 4303'' in its place.

■ 311. Amend section 42.1203 by revising paragraph (a) to read as follows:

42.1203 Processing agreements.

(a) If a contractor wishes the Government to recognize a successor in interest to its contracts or a name change, the contractor must submit a written request to the responsible contracting officer (see 42.1202). If the contractor received its contract under subpart 8.7 under 41 U.S.C. chapter 85, Committee for Purchase from People Who Are Blind or Severely Disabled, use the procedures at 8.716 instead.

* * * * *

42.1204 [Amended]

■ 312. Amend section 42.1204 by removing from the introductory text of paragraph (a) ''41 U.S.C. 15'' and adding ''41 U.S.C. 6305'' in its place.

42.1601 [Amended]

■ 313. Amend section 42.1601 by removing ''the Contract Disputes Act of 1978 (41 U.S.C. 601–613)'' and adding ''41 U.S.C. chapter 71, Contract Disputes'' in its place.

PART 43—CONTRACT MODIFICATIONS

43.102 [Amended]

■ 314. Amend section 43.102 by removing paragraph (c).

PART 44—SUBCONTRACTING POLICIES AND PROCEDURES

44.201–2 [Amended]

■ 315. Amend section 44.201–2 by removing from paragraph (b) ''41 U.S.C. 254(b)'' and adding ''41 U.S.C. 3905'' in its place.

44.202–2 [Amended]

■ 316. Amend section 44.202–2 by removing from paragraph (a)(4)(ii) ''Javits-Wagner-O'Day Act (41 U.S.C. 48)'' and adding ''41 U.S.C. 8504'' in its place.

44.400 [Amended]

■ 317. Amend section 44.400 by removing ''with section 8002(b)(2) of

Public Law 103–355'' and adding ''with 41 U.S.C. 3307'' in its place.

44.402 [Amended]

■ 318. Amend section 44.402 by removing from paragraph (b) ''and Commercial Components''.

PART 46—QUALITY ASSURANCE

■ 319. The authority citation for 48 CFR part 46 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

46.102 [Amended]

■ 320. Amend section 46.102 by removing from paragraph (f) ''Section 8002 of Public Law 103–355'' and adding ''41 U.S.C. 3307'' in its place.

PART 47—TRANSPORTATION

■ 321. The authority citation for 48 CFR part 47 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

■ 322. Amend section 47.202 by revising paragraph (a) to read as follows:

47.202 Presolicitation planning.

* * * * *

(a) The Service Contract Labor Standards statute requirement to obtain a wage determination by accessing the Wage Determination OnLine Web site (*http://www.wdol.gov*) using the WDOL process or by submitting a request directly to the Department of Labor on this Web site using the e98 process before the issuance of an invitation for bid, request for proposal, or commencement of negotiations for any contract exceeding $2,500 that may be subject to the Service Contract Labor Standards statute (see subpart 22.10);

* * * * *

PART 48—VALUE ENGINEERING

■ 323. The authority citation for 48 CFR part 48 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

48.102 [Amended]

■ 324. Amend section 48.102 by—

■ a. Removing from paragraph (a) ''Section 36 of the Office of Federal Procurement Policy Act (41 U.S.C. 401, *et seq.*)'' and adding ''41 U.S.C. 1711'' in its place; and

■ b. Removing from paragraph (e) ''41 U.S.C. 254(b)'' and adding ''41 U.S.C. 3905'' in its place.

PART 50—EXTRAORDINARY CONTRACTUAL ACTIONS AND THE SAFETY ACT

■ 325. The authority citation for 48 CFR part 50 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

50.101–2 [Amended]

■ 326. Amend section 50.101–2 by removing from paragraph (c) ''the Contract Disputes Act of 1978'' and adding ''41 U.S.C. chapter 71, Contract Disputes'' in its place; removing ''Part'' and adding ''part'' in its place (two times); and removing ''Subpart'' and adding ''subpart'' in its place.

50.102–3 [Amended]

■ 327. Amend section 50.102–3 by removing from paragraph (c) ''10 U.S.C. 2304(a)(15) or 41 U.S.C. 252(c)(14), or FAR''.

■ 328. Amend section 50.103–7 by revising paragraph (b) to read as follows:

50.103–7 Contract requirements.

* * * * *

(b) The authority in 50.101–1(a) shall not be used to omit from contracts, when otherwise required, the clauses at 52.203–5, Covenant Against Contingent Fees; 52.215–2, Audit and Records—Negotiation; 52.222–4, Contract Work Hours and Safety Standards—Overtime Compensation; 52.222–6, Construction Wage Rate Requirements; 52.222–10, Compliance With Copeland Act Requirements; 52.222–20, Contracts for Materials, Supplies, Articles, and Equipment Exceeding $15,000; 52.222–26, Equal Opportunity; and 52.232–23, Assignment of Claims.

PART 51—USE OF GOVERNMENT SOURCES BY CONTRACTORS

■ 329. The authority citation for 48 CFR part 51 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

■ 330. Amend section 51.101 by—

■ a. Revising the introductory text of paragraph (a)(3); and

■ b. Removing from paragraph (a)(3)(i) ''Government,'' and adding ''Government;'' in its place.

The revised text reads as follows:

51.101 Policy.

(a) * * *

(3) A contract under 41 U.S.C. chapter 85, Committee for Purchase from People Who Are Blind or Severely Disabled, if—

* * * * *

■ 331. The authority citation for 48 CFR parts 52 and 53 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 332. Amend section 52.203–5 by—

■ a. Revising the date of the clause; and

■ b. Removing from paragraph (a) ''liability or, in its discretion,'' and adding ''liability or'' in its place.

The revised text reads as follows:

52.203–5 Covenant Against Contingent Fees.

* * * * *

Covenant Against Contingent Fees (MAY 2014)

* * * * *

■ 333. Amend section 52.203–7 by—

■ a. Revising the date of the clause; and

■ b. Removing from paragraph (a), in the definition ''Kickback'' the words '', directly or indirectly,''.

■ c. Revising the introductory text of paragraph (b); and

■ d. Removing from paragraph (c)(2) ''Department of Justice'' and adding ''Attorney General'' in its place.

The revised text reads as follows:

52.203–7 Anti-Kickback Procedures.

* * * * *

Anti-Kickback Procedures (MAY 2014)

* * * * *

(b) 41 U.S.C. chapter 87, Kickbacks, prohibits any person from—

* * * * *

■ 334. Amend section 52.203–8 by—

■ a. Revising the date of the clause; and

■ b. Revising the introductory text of paragraph (a), and the introductory text of paragraph (a)(2)(i), and revising paragraph (a)(2)(ii) to read as follows:

52.203–8 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity.

* * * * *

Cancellation, Rescission, and Recovery of Funds for Illegal Or Improper Activity (MAY 2014)

(a) If the Government receives information that a contractor or a person has violated 41 U.S.C. 2102–2104, Restrictions on Obtaining and Disclosing Certain Information, the Government may—

* * * * *

(2) * * *

(i) The Contractor or someone acting for the Contractor has been convicted for an offense where the conduct

violates 41 U.S.C. 2102 for the purpose of either—

* * * * *

(ii) The head of the contracting activity has determined, based upon a preponderance of the evidence, that the Contractor or someone acting for the Contractor has engaged in conduct punishable under 41 U.S.C. 2105(a).

* * * * *

■ 335. Amend section 52.203–10 by—
■ a. Revising the date of the clause;
■ b. Revising paragraph (a); and
■ c. Removing from paragraph (c) ''Act'' and adding ''statute'' in its place.

The revised text reads as follows:

52.203–10 Price or Fee Adjustment for Illegal or Improper Activity.

* * * * *

Price or Fee Adjustment for Illegal or Improper Activity (MAY 2014)

(a) The Government, at its election, may reduce the price of a fixed-price type contract and the total cost and fee under a cost-type contract by the amount of profit or fee determined as set forth in paragraph (b) of this clause if the head of the contracting activity or designee determines that there was a violation of 41 U.S.C. 2102 or 2103, as implemented in section 3.104 of the Federal Acquisition Regulation.

* * * * *

■ 336. Amend section 52.204–8 by—
■ a. Revising the date of the provision; and
■ b. Revising paragraph (c)(1)(xvi), the introductory text of paragraph (c)(1)(xvii), and paragraphs (c)(2)(iii) and (c)(2)(iv).

The revised text reads as follows:

52.204–8 Annual Representations and Certifications.

* * * * *

Annual Representations and Certifications (MAY 2014)

* * * * *

(c)(1) * * *

(xvi) 52.225–2, Buy American Certificate. This provision applies to solicitations containing the clause at 52.225–1.

(xvii) 52.225–4, Buy American—Free Trade Agreements—Israeli Trade Act Certificate. (Basic, Alternates I, II, and III.) This provision applies to solicitations containing the clause at 52.225–3.

* * * * *

(2) * * *

__ (iii) 52.222–48, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Certification.

__ (iv) 52.222–52, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Certification.

* * * * *

■ 337. Amend section 52.208–9 by—
■ a. Revising the date of the clause;
■ b. Removing from paragraph (a) ''the Javits-Wagner-O'Day Act (41 U.S.C. 48)'' and adding ''41 U.S.C. 8504'' in its place.

The revised text reads as follows:

52.208–9 Contractor Use of Mandatory Sources of Supply or Services.

* * * * *

Contractor Use of Mandatory Sources of Supply or Services (MAY 2014)

* * * * *

■ 338. Amend section 52.212–3 by—
■ a. Revising the date of the provision;
■ b. Removing from the heading and introductory text of paragraph (f) the word ''Act'' (two times);
■ c. Removing from paragraph (f)(1) ''Act'';
■ d. Removing from paragraph (g)(1) heading and introductory text ''*American Act''* and ''American Act'' and adding ''*American''* and ''American'' in their places;
■ e. Removing from paragraphs (g)(1)(i), (g)(1)(ii), and (g)(1)(iii) ''American Act'' adding ''American'' in their places respectively (three times);
■ f. Removing from paragraphs (g)(2), (g)(3), and (g)(4) ''*American Act''* and ''American Act'', and adding ''*American''* and ''American'' in their places wherever they appear;
■ g. Removing from paragraph (g)(5)(iii) ''American Act'' and adding ''American statute'' in its place;
■ h. Removing from the heading of paragraph (k) ''*Contract Act''* and adding ''*Contract Labor Standards''* in its place; and
■ i. Removing from paragraph (k)(3)(i) ''Contract Act'' and adding ''Contract Labor Standards'' in its place.
■ j. Amending Alternate I by—
■ i. Revising the date of Alternate I;
■ ii. Removing from paragraph (12), fourth subparagraph ''U.S. Trust Territory of the Pacific Islands (Republic of Palau)'' and adding ''Republic of Palau'' in its place.

The revised text reads as follows:

52.212–3 Offeror Representations and Certifications—Commercial Items.

* * * * *

Offeror Representations and Certifications—Commercial Items (MAY 2014)

* * * * *

Alternate I (MAY 2014). * * *

* * * * *

■ 339. Amend section 52.212–4 by—
■ a. Revising the date of the clause;
■ b. Removing from paragraph (d) ''the Contract Disputes Act of 1978, as amended (41 U.S.C. 601–613)'' and adding ''41 U.S.C. chapter 71, Contract Disputes'' in its place;
■ c. Removing from paragraph (i)(6)(i) ''Section 611 of the Contract Disputes Act of 1978 (Public Law 95–563)'' and adding ''41 U.S.C. 7109'' in its place;
■ d. Revising paragraph (r); and
■ e. Amending Alternate I by—
■ i. Revising the date of Alternate I; and
■ ii. Removing from paragraph (i)(6)(i) ''section 611 of the Contract Disputes Act of 1978 (Public Law 95–563)'' and adding ''41 U.S.C. 7109'' in its place.

The revised text reads as follows:

52.212–4 Contract Terms and Conditions—Commercial Items.

* * * * *

Contract Terms and Conditions—Commercial Items (MAY 2014)

* * * * *

(r) *Compliance with laws unique to Government contracts.* The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. chapter 37, Contract Work Hours and Safety Standards; 41 U.S.C. chapter 87, Kickbacks; 41 U.S.C. 4712 and 10 U.S.C. 2409 relating to whistleblower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. chapter 21 relating to procurement integrity.

* * * * *

Alternate I (MAY 2014). * * *

* * * * *

■ 340. Amend section 52.212–5 by—
■ a. Revising the date of the clause;
■ b. Removing from paragraph (a)(3) ''(Pub. L. 108–77, 108–78).'' and adding ''(Public Laws 108–77 and 108–78 (19 U.S.C. 3805 note)).'' in its place;
■ c. Removing from paragraph (b)(1) ''(41 U.S.C. 253g'' and adding ''(41 U.S.C. 4704'' in its place;
■ d. Removing from paragraph (b)(2) ''(Pub. L. 110–252, Title VI, Chapter 1 (41 U.S.C. 251 note)).'' and adding ''(41 U.S.C. 3509).'' in its place;
■ e. Revising paragraphs (b)(16), (b)(41) and (b)(42);
■ f. Removing from paragraphs (b)(48) and (b)(49) ''(41 U.S.C. 255(f)'' and adding ''(41 U.S.C. 4505'' in their places;
■ g. Revising paragraph (b)(52);
■ h. Revising paragraphs (c)(1) through (c)(8);

■ i. Removing from paragraph (e)(1)(i) ''(Pub. L. 110–252, Title VI, Chapter 1 (41 U.S.C. 251 note))'' and adding ''(41 U.S.C. 3509)'' in its place;
■ j. Revising paragraphs (e)(1)(ii), (e)(1)(iii), (e)(1)(viii), (e)(1)(x), (e)(1)(xi), and (e)(1)(xiv);
■ k. Amending Alternate II by—
■ i. Revising the date of the Alternate;
■ ii. Removing from paragraph (e)(1)(ii)(A) ''(Pub. L. 110–252, Title VI, Chapter 1 (41 U.S.C. 251 note)'' and adding ''(41 U.S.C. 3509)'' in its place;
■ iii. Revising paragraphs (e)(1)(ii)(C), (e)(1)(ii)(H), (e)(1)(ii)(J), (e)(1)(ii)(K) and (e)(1)(ii)(M).

The revised text reads as follows:

52.212–5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items.

* * * * *

Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items (MAY 2014)

* * * * *

(b) * * *

__ (16) 52.219–8, Utilization of Small Business Concerns (**MAY 2014**) (15 U.S.C. 637(d)(2) and (3).

* * * * *

__ (41) 52.225–1, Buy American—Supplies (**MAY 2014**) (41 U.S.C. chapter 83).

__ (42)(i) 52.225–3, Buy American—Free Trade Agreements—Israeli Trade Act (**MAY 2014**) (41 U.S.C. chapter 83, 19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, 19 U.S.C. 4001 note, Pub. L. 103–182, 108–77, 108–78, 108–286, 108–302, 109–53, 109–169, 109–283, 110–138, 112–41, 112–42, and 112–43.

__ (ii) Alternate I (**MAY 2014**) of 52.225–3.

__ (iii) Alternate II (**MAY 2014**) of 52.225–3.

__ (iv) Alternate III (**MAY 2014**) of 52.225–3.

* * * * *

__ (52) 52.232–36, Payment by Third Party (**MAY 2014**) (31 U.S.C. 3332).

* * * * *

(c) * * *

__ (1) 52.222–41, Service Contract Labor Standards (**MAY 2014**) (41 U.S.C. chapter 67).

__ (2) 52.222–42, Statement of Equivalent Rates for Federal Hires (**MAY 2014**) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

__ (3) 52.222–43, Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment (Multiple Year and Option Contracts) (**MAY 2014**) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

__ (4) 52.222–44, Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment (**MAY 2014**) (29 U.S.C 206 and 41 U.S.C. chapter 67).

__ (5) 52.222–51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (**MAY 2014**) (41 U.S.C. chapter 67).

__ (6) 52.222–53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements (**MAY 2014**) (41 U.S.C. chapter 67).

__ (7) 52.222–17, Nondisplacement of Qualified Workers (**MAY 2014**) (E.O. 13495).

__ (8) 52.226–6, Promoting Excess Food Donation to Nonprofit Organizations (**MAY 2014**) (42 U.S.C. 1792).

* * * * *

(e)(1) * * *

(ii) 52.219–8, Utilization of Small Business Concerns (**MAY 2014**) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds $650,000 ($1.5 million for construction of any public facility), the subcontractor must include 52.219–8 in lower tier subcontracts that offer subcontracting opportunities.

(iii) 52.222–17, Nondisplacement of Qualified Workers (**MAY 2014**) (E.O. 13495). Flow down required in accordance with paragraph (l) of FAR clause 52.222–17.

* * * * *

(viii) 52.222–41, Service Contract Labor Standards (**MAY 2014**) (41 U.S.C. chapter 67).

* * * * *

(x) 52.222–51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (**MAY 2014**) (41 U.S.C. chapter 67).

(xi) 52.222–53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements (**MAY 2014**) (41 U.S.C. chapter 67).

* * * * *

(xiv) 52.226–6, Promoting Excess Food Donation to Nonprofit Organizations (**MAY 2014**) (42 U.S.C. 1792). Flow down required in accordance with paragraph (e) of FAR clause 52.226–6.

* * * * *

Alternate II (MAY 2014). * * *

* * * * *

(e)(1)(ii) * * *

(C) 52.219–8, Utilization of Small Business Concerns (**MAY 2014**) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds $650,000 ($1.5 million for construction of any public facility), the subcontractor must include 52.219–8 in lower tier subcontracts that offer subcontracting opportunities.

* * * * *

(H) 52.222–41, Service Contract Labor Standards (**MAY 2014**) (41 U.S.C. chapter 67).

* * * * *

(J) 52.222–51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (**MAY 2014**) (41 U.S.C. chapter 67).

(K) 52.222–53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements (**MAY 2014**) (41 U.S.C. chapter 67).

* * * * *

(M) 52.226–6, Promoting Excess Food Donation to Nonprofit Organizations. (**MAY 2014**) (42 U.S.C. 1792). Flow down required in accordance with paragraph (e) of FAR clause 52.226–6.

* * * * *

■ 341. Amend section 52.213–4 by—
■ a. Revising the date of the clause;
■ b. Removing from paragraph (a)(1)(vii) ''(Pub. L. 108–77, 108–78)'' and adding ''(Public Laws 108–77 and 108–78 (19 U.S.C. 3805 note))'' in its place;
■ c. Revising paragraphs (a)(2)(vii) and (a)(2)(viii);
■ d. Revising paragraphs (b)(1)(iii), (b)(1)(vii) and (b)(1)(x);
■ e. Redesignating paragraphs (b)(1)(xi) through (b)(1)(xiii) as paragraph (b)(1)(xii) through (b)(1)(xiv) respectively;
■ f. Adding a new paragraph (b)(1)(xi);
■ g. Removing paragraph (b)(2)(iii); and
■ h. Redesignating paragraphs (b)(2)(iv) and (b)(2)(v) as paragraphs (b)(2)(iii) and (b)(2)(iv), respectively.

The revised text reads as follows:

52.213–4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

* * * * *

Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items) (MAY 2014)

* * * * *

(a) * * *

(2) * * *

(vii) 52.233–1, Disputes (**MAY 2014**).

(viii) 52.244–6, Subcontracts for Commercial Items (**MAY 2014**).

* * * * *

(b) * * *

(1) * * *

(iii) 52.222–20, Contracts for Materials, Supplies, Articles, and Equipment Exceeding $15,000 (**MAY 2014**) (41 U.S.C. chapter 65) (Applies to supply contracts over $15,000 in the United States, Puerto Rico, or the U.S. Virgin Islands).

* * * * *

(vii) 52.222–41, Service Contract Labor Standards (**MAY 2014**) (41 U.S.C. chapter 67) (Applies to service contracts over $2,500 that are subject to the Service Contract Labor Standards statute and will be performed in the United States, District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, Johnston Island, Wake Island, or the outer Continental Shelf.)

* * * * *

(x) 52.225–1, Buy American—Supplies (**MAY 2014**) (41 U.S.C. chapter 83) (Applies to contracts for supplies, and to contracts for services involving the furnishing of supplies, for use in the United States or its outlying areas, if the value of the supply contract or supply portion of a service contract exceeds the micro-purchase threshold and the acquisition—

(A) Is set aside for small business concerns; or

(B) Cannot be set aside for small business concerns (see 19.502–2), and does not exceed $25,000.)

* * * * *

(xi) 52.226–6, Promoting Excess Food Donation to Nonprofit Organizations (**MAY 2014**) (42 U.S.C. 1792) (Applies to contracts greater than $25,000 that provide for the provision, the service, or the sale of food in the United States.)

* * * * *

■ 342. Amend section 52.219–1 by revising the date of Alternate I and the checklist item ''Asian-Pacific American'' in paragraph (b)(9) to read as follows:

52.219–1 Small Business Program Representations.

* * * * *

Alternate I (MAY 2014) * * *

* * * * *

(9) * * *

* * * * *

__ Asian-Pacific American (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, Republic of Palau, Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru).

* * * * *

■ 343. Amend section 52.219–8 by—

■ a. Revising the section heading and the date of the clause; and

■ b. Removing from paragraph (a) ''contracts let'' and adding ''contracts awarded'' in its place.

The revised text reads as follows:

52.219–8 Utilization of Small Business Concerns.

* * * * *

Utilization of Small Business Concerns (MAY 2014)

* * * * *

■ 344. Amend section 52.222–4 by—

■ a. Revising the section and clause headings;

■ b. Removing from paragraph (b) ''Standards Act'' and adding ''Standards statute (found at 40 U.S.C. chapter 37)'' in its place;

■ c. Removing from paragraph (c) ''Standards Act''; and adding ''Standards statute'' in its place; and

■ d. Removing from paragraph (d)(1) ''Davis-Bacon Act'' and adding ''Construction Wage Rate Requirements statute'' in its place.

The revised text reads as follows:

52.222–4 Contract Work Hours and Safety Standards—Overtime Compensation.

* * * * *

Contract Work Hours and Safety Standards—Overtime Compensation (MAY 2014)

* * * * *

■ 345. Amend section 52.222–5 by—

■ a. Revising the section and provision headings; and

■ b. Removing from paragraph (a)(1) ''Davis-Bacon Act'' and adding ''Construction Wage Rate Requirements'' in its place.

The revised text reads as follows:

52.222–5 Construction Wage Rate Requirements—Secondary Site of the Work.

* * * * *

Construction Wage Rate Requirements—Secondary Site of the Work (MAY 2014)

* * * * *

■ 346. Amend section 52.222–6 by—

■ a. Revising the section and clause headings;

■ b. Removing from paragraph (b)(2) ''Davis-Bacon Act'' and adding ''Construction Wage Rate Requirements statute'' in its place;

■ c. Removing from paragraph (b)(4) ''Davis-Bacon'' and adding ''Construction Wage Rate Requirements (Davis-Bacon Act)'' in its place; and

■ d. Removing from paragraph (e) ''Davis-Bacon Act'' and adding ''Construction Wage Rate Requirements statute'' in its place.

The revised text reads as follows:

52.222–6 Construction Wage Rate Requirements.

* * * * *

Construction Wage Rate Requirements (MAY 2014)

* * * * *

■ 347. Amend section 52.222–7 by revising the date of the clause; and removing from the clause ''Davis-Bacon''.

The revised text reads as follows:

52.222–7 Withholding of Funds.

* * * * *

Withholding of Funds (MAY 2014)

* * * * *

■ 348. Amend section 52.222–8 by revising the date of the clause and paragraph (a) to read as follows:

52.222–8 Payrolls and Basic Records.

* * * * *

Payrolls and Basic Records (MAY 2014)

(a) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 40 U.S.C. 3141(2)(B) (Construction Wage Rate Requirement statute)), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found, under paragraph (d) of the clause entitled Construction Wage Rate Requirements, that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in 40 U.S.C. 3141(2)(B), the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records

which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

* * * * *

■ 349. Amend section 52.222–11 by—

■ a. Revising the date of the clause;

■ b. Removing from paragraph (a)(4) ''Davis-Bacon Act'' and adding ''Construction Wage Rate Requirements'' in its place, and removing ''site of work'' and adding ''site of the work'' in its place;

■ c. Removing from paragraph (a)(5) ''Davis-Bacon Act'' and adding ''Construction Wage Rate Requirements'' in its place; and

■ d. Revising paragraphs (b)(1), (b)(2), and (b)(10) to read as follows:

52.222–11 Subcontracts (Labor Standards).

* * * * *

Subcontracts (Labor Standards) (MAY 2014)

* * * * *

(b) * * *

(1) Construction Wage Rate Requirements;

(2) Contract Work Hours and Safety Standards—Overtime Compensation (if the clause is included in this contract);

* * * * *

(10) Compliance with Construction Wage Rate Requirements and Related Regulations; and

* * * * *

■ 350. Revising section 52.222–12 to read as follows:

52.222–12 Contract Termination—Debarment.

As prescribed in 22.407(a), insert the following clause:

Contract Termination—Debarment (MAY 2014)

A breach of the contract clauses entitled Construction Wage Rate Requirements, Contract Work Hours and Safety Standards—Overtime Compensation, Apprentices and Trainees, Payrolls and Basic Records, Compliance with Copeland Act Requirements, Subcontracts (Labor Standards), Compliance with Construction Wage Rate Requirements and Related Regulations, or Certification of Eligibility may be grounds for termination of the contract, and for debarment as a Contractor and subcontractor as provided in 29 CFR 5.12.

(End of Clause)

■ 351. Revise section 52.222–13 to read as follows:

52.222–13 Compliance With Construction Wage Rate Requirements and Related Regulations.

As prescribed in 22.407(a), insert the following clause:

Compliance With Construction Wage Rate Requirements and Related Regulations (MAY 2014)

All rulings and interpretations of the Construction Wage Rate Requirements and related statutes contained in 29 CFR parts 1, 3, and 5 are hereby incorporated by reference in this contract.

(End of clause)

■ 352. Amend section 52.222–15 by revising the date of the clause, and paragraphs (a) and (b), to read as follows:

52.222–15 Certification of Eligibility.

* * * * *

Certification of Eligibility (MAY 2014)

(a) By entering into this contract, the Contractor certifies that neither it nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of 40 U.S.C. 3144(b)(2) or 29 CFR 5.12(a)(1).

(b) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of 40 U.S.C. 3144(b)(2) or 29 CFR 5.12(a)(1).

* * * * *

■ 353. Amend section 52.222–16 by—

■ a. Revising the date of the clause; and

■ b. Removing from the clause ''Davis-Bacon Act'' and adding ''Construction Wage Rate Requirements'' in its place.

The revised text reads as follows:

52.222–16 Approval of Wage Rates.

* * * * *

Approval of Wage Rates (MAY 2014)

* * * * *

■ 354. Amend section 52.222–17 by

■ a. Revising the date of the clause; and

■ b. Removing from paragraph (c)(1) ''Act'' and adding ''Labor Standards statute'' in its place.

The revised text reads as follows:

52.222–17 Nondisplacement of Qualified Workers.

* * * * *

Nondisplacement of Qualified Workers (MAY 2014)

* * * * *

■ 355. Revise section 52.222–20 to read as follows:

52.222–20 Contracts for Materials, Supplies, Articles, and Equipment Exceeding $15,000.

As prescribed in 22.610, insert the following clause in solicitations and contracts:

Contracts for Materials, Supplies, Articles, and Equipment Exceeding $15,000 (MAY 2014)

If this contract is for the manufacture or furnishing of materials, supplies, articles or equipment in an amount that exceeds or may exceed $15,000, and is subject to 41 U.S.C. chapter 65, the following terms and conditions apply:

(a) All stipulations required by 41 U.S.C. chapter 65 and regulations issued by the Secretary of Labor (41 CFR Chapter 50) are incorporated by reference. These stipulations are subject to all applicable rulings and interpretations of the Secretary of Labor that are now, or may hereafter, be in effect.

(b) All employees whose work relates to this contract shall be paid not less than the minimum wage prescribed by regulations issued by the Secretary of Labor (41 CFR 50–202.2). Learners, student learners, apprentices, and workers with disabilities may be employed at less than the prescribed minimum wage (see 41 CFR 50–202.3) to the same extent that such employment is permitted under section 14 of the Fair Labor Standards Act (41 U.S.C. 6508).

(End of clause)

■ 356. Amend section 52.222–30 by—

■ a. Revising the section and clause headings; and

■ b. Removing from paragraphs (a) and (b)(3) the words ''Davis-Bacon Act'' and adding ''Construction Wage Rate Requirements statute'' in its place.

The revised text reads as follows:

52.222–30 Construction Wage Rate Requirements—Price Adjustment (None or Separately Specified Method).

* * * * *

Construction Wage Rate Requirements—Price Adjustment (None or Separately Specified Method) (MAY 2014)

* * * * *

■ 357. Amend section 52.222–31 by—

■ a. Revising the section and clause headings; and

■ b. Removing from paragraphs (a), (b) introductory text, (b)(1), (b)(2), and (c)(3) the words ''Davis-Bacon Act'' and adding ''Construction Wage Rate Requirements statute'' in their places.

The revised text reads as follows:

52.222–31 Construction Wage Rate Requirements—Price Adjustment (Percentage Method).

* * * * *

Construction Wage Rate Requirements—Price Adjustment (Percentage Method) (MAY 2014)

* * * * *

■ 358. Amend section 52.222–32 by—

■ a. Revising the section and clause headings; and

■ b. Removing from paragraph (a) the words ''Davis-Bacon Act'' and adding ''Construction Wage Rate Requirements statute'' in its place; and

■ c. Removing from paragraphs (c)(1) and (c)(2) the words ''Davis-Bacon Act'' and adding ''Construction Wage Rate Requirements'' in its place.

The revised text reads as follows:

52.222–32 Construction Wage Rate Requirements—Price Adjustment (Actual Method).

* * * * *

Construction Wage Rate Requirements—Price Adjustment (Actual Method) (MAY 2014)

* * * * *

■ 359. Amend section 52.222–41 by—

■ a. Revising the section and clause headings;

■ b. Removing from paragraph (a) the definition ''Act'';

■ c. Removing from paragraph (b) ''the Act'' and ''41 U.S.C. 356'' and adding ''41 U.S.C. chapter 67, Service Contract Labor Standards,'' and ''41 U.S.C. 6702'' in their places, respectively;

■ d. Removing from paragraphs (c)(2)(v) and (f) ''the Act'' and adding ''the Service Contract Labor Standards statute'' in their places;

■ e. Removing from paragraph (g) ''section 2(a)(4) of the Act'' and adding ''41 U.S.C. 6703'' in its place;

■ f. Removing from paragraphs (i)(1) introductory text and (i)(1)(i) ''the Act'' and adding ''the Service Contract Labor Standards statute'' in its place;

■ g. Removing from paragraph (j) ''the Act'' and ''this Act'' and adding ''the Service Contract Labor Standards statute'' and ''this statute'' in their places, respectively;

■ h. Removing from paragraphs (k), (l), and (o) ''the Act'' and adding ''the Service Contract Labor Standards statute'' in their places; (four times)

■ i. Revising paragraph (p)(1);

■ j. Removing from paragraph (p)(2) ''section 5 of the Act'' and adding ''41 U.S.C. 6706'' in its place;

■ k. Removing from the introductory text of paragraph (q) ''section 4(b) of the Act'' and adding ''41 U.S.C. 6707'' in its place;

■ l. Revising paragraphs (q)(1) and (q)(2);

■ m. Removing from the introductory text of paragraph (s) ''section 2(a)(1) or section 2(b)(1) of the Act'' and adding ''41 U.S.C. 6703(1)'' in its place;

■ n. Removing from paragraph (s)(3) ''Contract Act'' and adding ''Contract Labor Standards'' in its place; and

■ o. Removing from paragraph (s)(4) ''section 4(c) of the Act'' and adding ''41 U.S.C. 6707(c)'' in its place.

The revised text reads as follows:

52.222–41 Service Contract Labor Standards.

* * * * *

Service Contract Labor Standards (MAY 2014)

* * * * *

(p) * * *

(1) By entering into this contract, the Contractor (and officials thereof) certifies that neither it nor any person or firm who has a substantial interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed under 41 U.S.C. 6706.

* * * * *

(q) * * *

(1) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical or mental deficiency, or injury may be employed at wages lower than the minimum wages otherwise required by 41 U.S.C. 6703(1) without diminishing any fringe benefits or cash payments in lieu thereof required under 41 U.S.C. 6703(2), in accordance with the conditions and procedures prescribed for the employment of apprentices, student-learners, persons with disabilities, and disabled clients of work centers under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (29 CFR parts 520, 521, 524, and 525).

(2) The Administrator will issue certificates under the statute for the employment of apprentices, student-learners, persons with disabilities, or disabled clients of work centers not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two statutes, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR parts 520, 521, 524, and 525).

* * * * *

■ 360. Amend section 52.222–42 by revising the date of the clause and the introductory text of the clause to read as follows:

52.222–42 Statement of Equivalent Rates for Federal Hires.

* * * * *

Statement of Equivalent Rates for Federal Hires (MAY 2014)

In compliance with the Service Contract Labor Standards statute and the regulations of the Secretary of Labor (29 CFR part 4), this clause identifies the classes of service employees expected to be employed under the contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of 5 U.S.C. 5341 or 5332.

* * * * *

■ 361. Amend section 52.222–43 by—

■ a. Revising the section and clause headings; and

■ b. Removing from paragraph (c) ''Act of 1965, as amended, (41 U.S.C. 351, *et seq.*)'' and adding ''Labor Standards statute, (41 U.S.C. chapter 67)'' in its place.

The revised text reads as follows:

52.222–43 Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment (Multiple Year and Option Contracts).

* * * * *

Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment (Multiple Year and Option Contracts) (MAY 2014)

* * * * *

■ 362. Amend section 52.222–44 by revising the section and clause headings to read as follows:

52.222–44 Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment.

* * * * *

Fair Labor Standards Act And Service Contract Labor Standards—Price Adjustment (MAY 2014)

* * * * *

■ 363. Amend section 52.222–48 by—

■ a. Revising the section and clause headings;

■ b. Removing from the introductory text of paragraph (b) ''Contract Act'' and adding ''Contract Labor Standards statute'' in its place;

■ c. Removing from paragraph (b)(1) ''Act of 1965'' and adding ''Labor Standards'' in its place; and

■ d. Removing from paragraphs (b)(2), (c)(1), and (c)(2) the words ''Contract Act'' and adding ''Contract Labor Standards'' in its place.

The revised text reads as follows:

52.222–48 Exemption From Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Certification.

* * * * *

Exemption From Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Certification (MAY 2014)

* * * * *

■ 364. Amend section 52.222–49 by—

■ a. Revising the section and clause headings; and

■ b. Removing from paragraph (a) ''Contract Act'' and adding ''Contract Labor Standards statute'' in its place.

The revised text reads as follows:

52.222–49 Service Contract Labor Standards—Place of Performance Unknown.

* * * * *

Service Contract Labor Standards—Place of Performance Unknown (MAY 2014)

* * * * *

■ 365. Amend section 52.222–51 by—

■ a. Revising the section and clause headings;

■ b. Removing from paragraph (e) ''Contract Act'' and adding ''Contract Labor Standards statute'' in its place.

The revised text reads as follows:

52.222–51 Exemption From Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements.

* * * * *

Exemption From Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (MAY 2014)

* * * * *

■ 366. Amend section 52.222–52 by—

■ a. Revising the section and clause headings;

■ b. Removing from the introductory text of paragraph (b) ''Contract Act'' and adding ''Contract Labor Standards statute'' in its place;

■ c. Removing from paragraph (b)(1) ''Act of 1965'' and adding ''Labor Standards'' in its place;

■ d. Removing from paragraphs (b)(2), (c)(1) and (c)(2) ''Contract Act'' and adding ''Contract Labor Standards'' in its place; and

The revised text reads as follows:

52.222–52 Exemption From Application of the Service Contract Labor Standards to Contracts for Certain Services—Certification.

* * * * *

Exemption From Application of the Service Contract Labor Standards to Contracts for Certain Services—Certification (MAY 2014)

* * * * *

■ 367. Amend section 52.222–53 by—

■ a. Revising the section and clause headings;

■ b. Removing from paragraphs (f) and (g) ''Contract Act'' and adding ''Contract Labor Standards statute'' in their places.

The revised text reads as follows:

52.222–53 Exemption From Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements.

* * * * *

Exemption From Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements (MAY 2014)

* * * * *

■ 368. Amend section 52.225–1 by—

■ a. Revising the section and clause headings;

■ b. Removing from paragraph (2) of the definition ''Commercially available off-the-shelf (COTS) item'' in paragraph (a), ''section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702)'' and adding ''46 U.S.C. 40102(4)'' in its place;

■ c. Revising paragraph (b); and

■ d. Removing from paragraph (d) the word ''Act''.

The revised text read as follows:

52.225–1 Buy American—Supplies.

* * * * *

Buy American—Supplies (MAY 2014)

* * * * *

(b) 41 U.S.C. chapter 83, Buy American, provides a preference for domestic end products for supplies acquired for use in the United States. In accordance with 41 U.S.C. 1907, the component test of the Buy American statute is waived for an end product that is a COTS item (See 12.505(a)(1)).

* * * * *

■ 369. Amend section 52.225–2 by—

■ a. Revising the section and clause headings; and

■ b. Removing from paragraph (a) ''Act''.

The revised text reads as follows:

52.225–2 Buy American Certificate.

* * * * *

Buy American Certificate (MAY 2014)

* * * * *

■ 370. Amend section 52.225–3 by—

■ a. Revising the section and clause headings;

■ b. Removing from paragraph (2) of the definition ''Commercially available off-the-shelf (COTS) item'' in paragraph (a), ''section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702)'' and adding ''46 U.S.C. 40102(4)'' in its place;

■ c. Revising the first and second sentence of paragraph (c); and removing from paragraph (c) ''American Act-Free'' and adding ''American-Free'' in its place;

■ d. Amending Alternate I by—

■ i. Revising the date of the Alternate;

■ ii. Removing from paragraph (c) ''American Act is'' and ''American Act-Free'' and adding ''American statute is'' and ''American-Free'' in their places, respectively;

■ e. Amending Alternate II by—

■ i. Revising the date of the Alternate;

■ ii. Removing from paragraph (c) ''American Act is'' and ''American Act-Free'' and adding ''American statute is'' and ''American-Free'' in their places, respectively;

■ f. Amending Alternate III by—

■ i. Revising the date of the Alternate; and

■ ii. Removing from paragraph (c) ''American Act is'' and ''American Act-Free'' and adding ''American statute is'' and ''American-Free'' in their places, respectively.

The revised text reads as follows:

52.225–3 Buy American—Free Trade Agreements—Israeli Trade Act.

* * * * *

Buy American—Free Trade Agreements—Israeli Trade Act (MAY 2014)

* * * * *

(c) *Delivery of end products.* 41 U.S.C. chapter 83, Buy American statute, provides a preference for domestic end products for supplies acquired for use in the United States. In accordance with 41 U.S.C. 1907, the component test of the Buy American statute is waived for an end product that is a COTS item (See 12.505(a)(1)). * * *

Alternate I (MAY 2014). * * *

* * * * *

Alternate II (MAY 2014). * * *

* * * * *

Alternate III (MAY 2014). * * *

* * * * *

■ 371. Amend section 52.225–4 by—

■ a. Revising the section and clause headings;

■ b. Removing from paragraphs (a), (b) and (c) ''American Act—'' and adding ''American—'' in their places; and

■ c. Amend Alternate I by—
■ i. Revising the date of the Alternate;
■ ii. Removing from paragraph (b) ''American Act—'' and adding ''American—'' in its place;
■ d. Amending Alternate II by—
■ i. Revising the date of the Alternate;
■ ii. Removing from paragraph (b) ''American Act—'' and adding ''American—'' in its place;
■ e. Amending Alternate III by—
■ i. Revising the date of the Alternate; and
■ ii. Removing from paragraph (b) ''American Act—'' and adding ''American—'' in its place.

The revised text reads as follows:

52.225–4 Buy American—Free Trade Agreements—Israeli Trade Act Certificate.

* * * * *

Buy American—Free Trade Agreements—Israeli Trade Act Certificate (MAY 2014)

* * * * *

Alternate I (MAY 2014). * * *

* * * * *

Alternate II (MAY 2014). * * *

* * * * *

Alternate III (MAY 2014). * * *

* * * * *

■ 372. Amend section 52.225–6 by—
■ a. Revising the date of the provision; and
■ b. Removing from paragraph (c) ''American Act'' and adding ''American statute'' in its place.

The revised text reads as follows:

52.225–6 Trade Agreements Certificate.

* * * * *

Trade Agreements Certificate (MAY 2014)

* * * * *

■ 373. Amend section 52.225–7 by—
■ a. Revising the section and provision headings; and
■ b. Removing from paragraph (b) ''American Act'' and adding ''American statute'' in its place.

The revised text reads as follows:

52.225–7 Waiver of Buy American Statute for Civil Aircraft and Related Articles.

* * * * *

Waiver of Buy American Statute for Civil Aircraft and Related Articles (MAY 2014)

* * * * *

■ 374. Amend section 52.225–9 by—
■ a. Revising the section and clause headings;
■ b. Removing from paragraph (2) of the definition ''Commercially available off-the-shelf (COTS) item'' in paragraph (a), ''section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702)'' and adding ''46 U.S.C. 40102(4)'' in its place;
■ c. Revising paragraph (b)(1);
■ d. Removing from paragraphs (b)(3)(i) and (b)(3)(ii) ''American Act'' and adding ''American statute'' in their places respectively;
■ e. Removing from the heading of paragraph (c) ''*American Act''* and adding ''*American statute''* in its place; and
■ f. Removing from paragraphs (c)(2) and (c)(3) ''American Act'' wherever it appears and adding ''American statute'' in their places respectively.

The revised text reads as follows:

52.225–9 Buy American—Construction Materials.

* * * * *

Buy American—Construction Materials (MAY 2014)

* * * * *

(b) * * *

(1) This clause implements 41 U.S.C. chapter 83, Buy American, by providing a preference for domestic construction material. In accordance with 41 U.S.C. 1907, the component test of the Buy American statute is waived for construction material that is a COTS item. (See FAR 12.505(a)(2)). The Contractor shall use only domestic construction material in performing this contract, except as provided in paragraphs (b)(2) and (b)(3) of this clause.

* * * * *

■ 375. Amend section 52.225–10 by—
■ a. Revising the section and provision headings;
■ b. Removing from paragraph (a) ''Act'';
■ c. Removing from paragraph (b) ''American Act'' and adding ''American statute'' in its place (two times);
■ d. Removing from paragraph (c)(1) ''American Act'' and adding ''American statute'' in its place;
■ e. Amend Alternate I by—
■ i. Revising the date of the Alternate; and
■ ii. Removing from paragraph (b) ''American Act'' and adding ''American statute'' in its place;

The revised text reads as follows:

52.225–10 Notice of Buy American Requirement—Construction Materials.

* * * * *

Notice of Buy American Requirement—Construction Materials (MAY 2014)

* * * * *

Alternate I (MAY 2014). * * *

* * * * *

■ 376. Amend section 52.225–11 by—
■ a. Revising the section and clause headings;
■ b. Removing from paragraph (2) of the definition ''Commercially available off-the-shelf (COTS) item'' in paragraph (a), ''section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702)'' and adding ''46 U.S.C. 40102(4)'' in its place;
■ c. Revising paragraph (b)(1);
■ d. Removing from paragraphs (b)(4)((i) and (b)(4)(ii) ''American Act'' and adding ''American statute'' in its place;
■ e. Removing from the heading of paragraph (c) ''*American Act''* and adding ''*American statute''* in its place;
■ f. Removing from paragraph (c)(2) and (c)(3) ''American Act'' and adding ''American statute'' in its place (three times); and
■ g. Amend Alternate I by revising the date of the Alternate and paragraph (b)(1).

The revised text read as follows:

52.225–11 Buy American—Construction Materials Under Trade Agreements.

* * * * *

Buy American—Construction Materials Under Trade Agreements (MAY 2014)

* * * * *

(b) * * *

(1) This clause implements 41 U.S.C. chapter 83, Buy American, by providing a preference for domestic construction material. In accordance with 41 U.S.C. 1907, the component test of the Buy American statute is waived for construction material that is a COTS item. (See FAR 12.505(a)(2)). In addition, the Contracting Officer has determined that the WTO GPA and Free Trade Agreements (FTAs) apply to this acquisition. Therefore, the Buy American restrictions are waived for designated country construction materials.

* * * * *

Alternate I (MAY 2014). * * *

* * * * *

(b) * * *

(1) This clause implements 41 U.S.C. chapter 83, Buy American, by providing a preference for domestic construction material. In accordance with 41 U.S.C. 1907, the component test of the Buy American statute is waived for construction material that is a COTS item. (See FAR 12.505(a)(2)). In addition, the Contracting Officer has determined that the WTO GPA and all the Free Trade Agreements except the Bahrain FTA, NAFTA, and the Oman FTA apply to the this acquisition. Therefore, the Buy American statute restrictions are waived for designated country construction materials other than Bahrainian, Mexican, or Omani construction materials.

* * * * *

■ 377. Amend section 52.225–12 by—
■ a. Revising the section and clause headings;
■ b. Removing from paragraph (a) ''Buy American Act'' and adding ''Buy American'' in its place;
■ c. Removing from paragraph (b) ''Buy American Act'' and adding ''Buy American statute'' in its place (two times);
■ d. Removing from paragraph (c)(1) the words ''Buy American Act'' and adding ''Buy American statute'' in its place; and
■ e. Amend Alternate I by—
■ i. Revising the date of the Alternate; and
■ ii. Removing from paragraph (b) ''American Act'' and adding ''American statute'' in its place.

The revised text reads as follows:

52.225–12 Notice of Buy American Requirement—Construction Materials Under Trade Agreements.

* * * * *

Notice of Buy American Requirement—Construction Materials Under Trade Agreements (MAY 2014)

* * * * *

Alternate I (MAY 2014). * * *

* * * * *

■ 378. Amend section 52.225–21 by—
■ a. Revising the section and clause headings;
■ b. Removing from paragraph (1) of the definition ''Domestic construction material'', in paragraph (a) ''American Act'' and adding ''American statute'' in its place;
■ c. Removing from paragraph (b)(1)(ii) ''The Buy American Act (41 U.S.C. 10a–10d)'' and adding ''41 U.S.C. chapter 83, Buy American,'' in its place;
■ d. Removing from paragraph (b)(4)(iii) ''American Act'' and adding ''American statute'' in its place;
■ e. Removing from the heading of paragraph (c) ''*American Act''* and add ''*American statute''* in its place.
■ f. Removing from paragraphs (c)(2) and (c)(3) ''American Act'' and adding ''American statute'' in its place (three times).

The revised text reads as follows:

52.225–21 Required Use of American Iron, Steel, and Manufactured Goods—Buy American Statute—Construction Materials.

* * * * *

Required Use of American Iron, Steel, and Manufactured Goods—Buy American Statute—Construction Materials (MAY 2014)

* * * * *

■ 379. Amend section 52.225–22 by—
■ a. Revising the section and clause headings;
■ b. Removing from paragraph (a) ''American Act'' and adding ''American Statute'' in its place;
■ c. Revising paragraph (b);
■ d. Removing from the introductory text of paragraph (c)(1) ''American Act'' and adding ''American statute'' in its place;
■ e. Amend Alternate I by—
■ i. Revising the date of the Alternate; and
■ ii. Removing from paragraph (b) ''American Act'' and adding ''American statute'' in its place.

The revised text reads as follows:

52.225–22 Notice of Required Use of American Iron, Steel, and Manufactured Goods—Buy American Statute—Construction Materials.

* * * * *

Notice of Required Use of American Iron, Steel, and Manufactured Goods—Buy American Statute—Construction Materials (MAY 2014)

* * * * *

(b) *Requests for determinations of inapplicability.* An offeror requesting a determination regarding the inapplicability of section 1605 of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) (Recovery Act) or the Buy American statute should submit the request to the Contracting Officer in time to allow a determination before submission of offers. The offeror shall include the information and applicable supporting data required by paragraphs (c) and (d) of the clause at FAR 52.225–21 in the request. If an offeror has not requested a determination regarding the inapplicability of section 1605 of the Recovery Act or the Buy American statute before submitting its offer, or has not received a response to a previous request, the offeror shall include the information and supporting data in the offer.

* * * * *

Alternate I (MAY 2014). * * *

* * * * *

■ 380. Amend section 52.225–23 by—
■ a. Revising the section and clause headings;
■ b. Removing from paragraph (1) of the definition ''Domestic construction material'' in paragraph (a) ''Buy American Act'' and adding ''Buy American statute'' in its place;
■ c. Removing from the introductory text of paragraph (b)(1), paragraphs (b)(1)(ii), and (b)(4)(iii) ''Buy American Act'' and adding ''Buy American statute'' in its place;
■ d. Removing from the heading of paragraph (c) ''*Buy American Act''* and adding ''*Buy American statute''* in its place;
■ e. Removing from paragraph (c)(2) ''Buy American Act'' and adding ''Buy American statute'' in its place; and
■ f. Removing from paragraph (c)(3) ''Buy American Act'' and ''applicable Act'' and adding ''Buy American statute'' and ''applicable statute'' in their places respectively;
■ g. Amend Alternate I by—
■ i. Revising the date of the Alternate; and
■ ii. Removing from the introductory text of paragraph (b)(1) and paragraph (b)(1)(ii) ''Buy American Act'' and adding ''Buy American statute'' in its place.

The revised text reads as follows:

52.225–23 Required Use of American Iron, Steel, and Manufactured Goods—Buy American Statute—Construction Materials Under Trade Agreements.

* * * * *

Required Use of American Iron, Steel, and Manufactured Goods—Buy American Statute—Construction Materials Under Trade Agreements (MAY 2014)

* * * * *

Alternate I (MAY 2014). * * *

* * * * *

■ 381. Amend section 52.225–24 by—
■ a. Revising the section and provision headings;
■ b. Removing from paragraph (a) ''American Act'' and adding ''American statute'' in its place;
■ c. Removing from paragraph (b) ''American Act'' and adding ''American statute'' in its place (two times);
■ d. Removing from introductory text of paragraph (c)(1) ''American Act'' and adding ''American statute'' in its place;
■ e. Amend Alternate I by—
■ 1. Revising the date of the Alternate; and
■ 2. Removing from paragraph (b) ''American Act'' and adding ''American statute'' in its place.

The revised text reads as follows:

52.225–24 Notice of Required Use of American Iron, Steel, and Manufactured Goods—Buy American Statute—Construction Materials Under Trade Agreements.

* * * * *

Notice of Required Use of American Iron, Steel, and Manufactured Goods—Buy American Statute—Construction Materials Under Trade Agreements (MAY 2014)

* * * * *

Alternate I (MAY 2014). * * *

* * * * *

■ 382. Amend section 52.226–6 by—
■ a. Revising the date of the clause; and
■ b. Removing from paragraph (b) ''(Pub. L. 110–247)'' and adding ''(42 U.S.C. 1792)'' in its place.

The revised text reads as follows:

52.226–6 Promoting Excess Food Donation to Nonprofit Organizations.

* * * * *

Promoting Excess Food Donation to Nonprofit Organizations (May 2014)

* * * * *

■ 383. Amend section 52.227–11 by—
■ a. Revising the date of the clause; and
■ b. Removing from paragraph (k)(4) ''Contract Disputes Act'' and adding ''Contract Disputes statute'' in its place.

The revised text reads as follows:

52.227–11 Patent Rights—Ownership by the Contractor.

* * * * *

Patent Rights—Ownership by the Contractor (May 2014)

* * * * *

■ 384. Amend section 52.227–14 by—
■ a. Revising the date of the clause;
■ b. Removing from the definition ''Technical data'' in paragraph (a) the words ''databases (See 41 U.S.C. 403(8))'' and adding ''databases. (See 41 U.S.C. 116)'' in its place; and
■ c. Removing from the introductory text of paragraph (e)(1) ''41 U.S.C. 253d'' and adding ''41 U.S.C. 4703'' in its place.

The revised text reads as follows:

52.227–14 Rights in Data—General.

* * * * *

Rights in Data—General (May 2014)

* * * * *

■ 385. Amend section 52.227–20 by revising the date of the clause; and removing from the definition ''Technical data'' in paragraph (a) the words ''41 U.S.C. 403(8)'' and adding ''41 U.S.C. 116'' in their place. The revised text reads as follows:

52.227–20 Rights in Data—SBIR Program.

* * * * *

Rights in Data—SBIR Program (May 2014)

* * * * *

■ 386. Amend section 52.227–21 by—
■ a. Revising the date of the clause; and
■ b. Removing from paragraph (a) ''41 U.S.C. 418a(d)(7)'' and adding ''41 U.S.C. 2302(e)(7)'' in its place.

The revised text reads as follows:

52.227–21 Technical Data Declaration, Revision, and Withholding of Payment—Major Systems.

* * * * *

Technical Data Declaration, Revision, and Withholding of Payment—Major Systems (May 2014)

* * * * *

■ 387. Amend section 52.228–12 by revising the date of the clause and the clause to read as follows:

52.228–12 Prospective Subcontractor Requests for Bonds.

* * * * *

Prospective Subcontractor Requests for Bonds (May 2014)

In accordance with section 806(a)(3) of Pub. L. 102–190, as amended by sections 2091 and 8105 of Pub. L. 103–355 (10 U.S.C. 2302 note), upon the request of a prospective subcontractor or supplier offering to furnish labor or material for the performance of this contract for which a payment bond has been furnished to the Government pursuant to 40 U.S.C. chapter 31, subchapter III, Bonds, the Contractor shall promptly provide a copy of such payment bond to the requester.

(End of clause)

■ 388. Amend section 52.228–14 by—
■ a. Revising the date of the clause; and
■ b. Removing from the introductory text of paragraph (c)(2)(i) and the introductory text of paragraph (c)(2)(ii) ''the Miller Act'' and adding ''40 U.S.C. chapter 31, subchapter III, Bonds'' in its place.

The revised text reads as follows:

52.228–14 Irrevocable Letter of Credit.

* * * * *

Irrevocable Letter of Credit (May 2014)

* * * * *

■ 389. Amend section 52.230–2 by—
■ a. Revising the date of the clause; and
■ b. Removing from paragraph (b) ''the Contract Disputes Act (41 U.S.C. 601)'' and adding ''41 U.S.C. chapter 71, Contract Disputes'' in its place.

The revised text reads as follows:

52.230–2 Cost Accounting Standards.

* * * * *

Cost Accounting Standards (May 2014)

* * * * *

■ 390. Amend section 52.230–3 by—
■ a. Revising the date of the clause; and
■ b. Removing from paragraph (b) ''the Contract Disputes Act (41 U.S.C. 601)'' and adding ''41 U.S.C. chapter 71, Contract Disputes'' in its place.

The revised text reads as follows:

52.230–3 Disclosure and Consistency of Cost Accounting Practices.

* * * * *

Disclosure and Consistency of Cost Accounting Practices (May 2014)

* * * * *

■ 391. Amend section 52.230–4 by—
■ a. Revising the date of the clause; and
■ b. Removing from paragraph (b) ''the Contract Disputes Act (41 U.S.C. 601)'' and adding ''41 U.S.C. chapter 71, Contract Disputes'' in its place.

The revised text reads as follows:

52.230–4 Disclosure and Consistency of Cost Accounting Practices—Foreign Concerns.

* * * * *

Disclosure and Consistency of Cost Accounting Practices—Foreign Concerns (May 2014)

* * * * *

■ 392. Amend section 52.230–5 by—
■ a. Revising the date of the clause; and
■ b. Removing from paragraph (b) ''the Contract Disputes Act (41 U.S.C. 601)'' and adding ''41 U.S.C. chapter 71, Contract Disputes'' in its place.

The revised text reads as follows:

52.230–5 Cost Accounting Standards—Educational Institution.

* * * * *

Cost Accounting Standards—Educational Institution (May 2014)

* * * * *

■ 393. Amend section 52.232–5 by—
■ a. Revising the date of the clause; and
■ b. Removing from paragraph (h)(3) ''41 U.S.C. 15'' and adding ''41 U.S.C. 6305'' in its place.

The revised text reads as follows:

52.232–5 Payments Under Fixed-Price Construction Contracts.

* * * * *

Payments Under Fixed-Price Construction Contracts (May 2014)

* * * * *

■ 394. Amend section 52.232–17 by—
■ a. Revising the date of the clause; and
■ b. Removing from paragraph (a) ''Section 611 of the Contract Disputes Act of 1978 (Public Law 95–563)'' and adding ''41 U.S.C. 7109'' in its place.

The revised text reads as follows:

52.232–17 Interest.

* * * * *

Interest (May 2014)

* * * * *

■ 395. Amend section 52.232–23 by—
■ a. Revising the date of the clause; and
■ b. Removing from paragraph (a) ''41 U.S.C. 15'' and adding ''41 U.S.C. 6305'' in its place.

The revised text reads as follows:

52.232–23 Assignment of Claims.

* * * * *

Assignment of Claims (May 2014)

* * * * *

■ 396. Amend section 52.232–24 by revising the date of the clause and the clause to read as follows:

52.232–24 Prohibition of Assignment of Claims.

* * * * *

Prohibition of Assignment of Claims (May 2014)

The assignment of claims under the Assignment of Claims Act of 1940 ''(31 U.S.C. 3727, 41 U.S.C. 6305)'' is prohibited for this contract.

* * * * *

■ 397. Amend section 52.232–27 by—
■ a. Revising the date of the clause;
■ b. Removing from paragraphs (c)(2)(ii) and (e)(4)(ii) ''section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611)'' and adding ''41 U.S.C. 7109'' in its place;
■ c. Removing from the introductory text of paragraph (f)(1) ''the Miller Act (40 U.S.C. 3133)'' and adding ''40 U.S.C. 3133'' in its place; and
■ d. Removing from paragraph (f)(2)(ii) ''section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611)'' and adding ''41 U.S.C. 7109'' in its place.

The revised text reads as follows:

52.232–27 Prompt Payment for Construction Contracts.

* * * * *

Prompt Payment for Construction Contracts (May 2014)

* * * * *

■ 398. Amend section 52.232–31 by—
■ a. Revising the date of the clause; and
■ b. Removing from the introductory text of paragraph (c) ''41 U.S.C. 255(f)'' and adding ''41 U.S.C. 4505'' in its place.

The revised text reads as follows:

52.232–31 Invitation to Propose Financing Terms.

* * * * *

Invitation To Propose Financing Terms (May 2014)

* * * * *

■ 399. Amend section 52.232–36 by—
■ a. Revising the date of the clause; and
■ b. Removing from paragraph (e) '', as amended, 31 U.S.C. 3727, 41 U.S.C. 15'' and adding ''(31 U.S.C. 3727, 41 U.S.C. 6305)'' in its place.

The revised text reads as follows:

52.232–36 Payment by Third Party.

* * * * *

Payment by Third Party (May 2014)

* * * * *

■ 400. Amend section 52.233–1 by—
■ a. Revising the date of the clause and paragraph (a);
■ b. Removing from paragraph (b) ''the Act'' and adding ''41 U.S.C. chapter 71'' in its place;
■ c. Removing from paragraph (c) ''the Act'' and adding ''41 U.S.C. chapter 71'' in its place (three times);
■ d. Removing from paragraphs (d)(2)(iii) and (d)(3) ''duly''; and
■ e. Removing from paragraph (f) ''the Act'' and adding ''41 U.S.C. chapter 71'' in its place.

The revised text reads as follows:

52.233–1 Disputes.

* * * * *

Disputes (May 2014)

(a) This contract is subject to 41 U.S.C. chapter 71, Contract Disputes.

* * * * *

■ 401. Amend section 52.234–4 by—
■ a. Revising the date of the clause; and
■ b. Removing from paragraph (f) ''a duly'' and adding ''an'' in its place.

The revised text reads as follows:

52.234–4 Earned Value Management System.

* * * * *

Earned Value Management System (May 2014)

* * * * *

■ 402. Amend section 52.237–9 by—
■ a. Revising the date of the clause; and
■ b. Removing from paragraph (a) ''41 U.S.C. 256(e)(2)(A)'' and adding ''41 U.S.C. 4304(b)(1)'' in its place.

The revised text reads as follows:

52.237–9 Waiver of Limitation on Severance Payments to Foreign Nationals.

* * * * *

Waiver of Limitation on Severance Payments to Foreign Nationals (May 2014)

* * * * *

■ 403. Amend section 52.242–3 by—
■ a. Revising the date of the clause;
■ b. Removing from paragraph (b) ''41 U.S.C. 256'' and adding ''41 U.S.C. chapter 43'' in its place; and
■ c. Removing from paragraph (f) ''the Contract Disputes Act of 1978 (41 U.S.C. 601, *et seq.*)'' and adding ''41 U.S.C. chapter 71, Contract Disputes'' in its place.

The revised text reads as follows:

52.242–3 Penalties for Unallowable Costs.

* * * * *

Penalties for Unallowable Costs (May 2014)

* * * * *

■ 404. Amend section 52.244–6 by—
■ a. Revising the date of the clause;
■ b. Removing from paragraph (c)(1)(i) ''(Pub. L. 110–252, Title VI, Chapter 1 (41 U.S.C. 251 note))'' and adding ''(41 U.S.C. 3509)'' in its place; and
■ c. Revising paragraph (c)(1)(iii).

The revised text reads as follows:

52.244–6 Subcontracts for Commercial Items.

* * * * *

Subcontracts for Commercial Items (May 2014)

* * * * *

(c)(1) * * *

(iii) 52.219–8, Utilization of Small Business Concerns (May 2014) (15 U.S.C. 637(d)(2) and (3)), if the subcontract offers further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds $650,000 ($1.5 million for construction of any public facility), the subcontractor must include 52.219–8 in lower tier subcontracts that offer subcontracting opportunities.

* * * * *

PART 53—FORMS

53.214 [Amended]

■ 405. Amend section 53.214 by removing from the heading of paragraph (a) ''*(Rev. 5/2011)*'' and adding ''*(Rev. 3/2013)*'' in its place.

53.215–1 [Amended]

■ 406. Amend section 53.215–1 by removing from the heading of paragraph (a) ''*(Rev. 5/2011)*'' and adding ''*(Rev. 3/2013)*'' in its place.

■ 407. Amend section 53.222 by revising paragraphs (c), (d), (e), (f), and (h) to read as follows:

53.222 Application of labor laws to Government acquisitions (SF's 308, 1093, 1413, 1444, 1445, 1446, WH–347).

* * * * *

(c) *SF 308 (DOL) (Rev. 2/2013), Request for Wage Determination and Response to Request.* (See 22.404–3 (a) and (b).)

(d) *SF 1093 (Rev. 2/2013), Schedule of Withholdings Under the Construction Wage Rate Requirements Statute (40 U.S.C. Chapter 31, Subchapter IV, section 3144) and/or the Contract Work Hours and Safety Standards Statute* (40 U.S.C. Chapter 37, section 3703). (See 22.406–9(c)(1).)

(e) *SF 1413 (Rev. 4/2013), Statement and Acknowledgment.* SF 1413 is prescribed for use in obtaining

contractor acknowledgment of inclusion of required clauses in subcontracts, as specified in 22.406–5.

(f) *Form SF 1444 (Rev. 4/2013), Request for Authorization of Additional Classification and Rate.* (See 22.406–3(a) and 22.1019.)

* * * * *

(h) *SF 1446 (Rev. 4/2013), Labor Standards Investigation Summary Sheet.* (See 22.406–8(d).)

* * * * *

53.228 [Amended]

■ 408. Amend section 53.228 by—

■ a. Removing from the heading of paragraph (b) ''*(Rev. 5/96)*'' and adding ''*(Rev. 3/2013)*'' in its place;

■ b. Removing from the heading of paragraph (c) ''*(Rev. 10/98)*'' and adding ''*(Rev. 3/2013)*'' in its place; and

■ c. Removing from paragraphs (h) and (i) ''(Rev.10/98)'' and ''Miller Act'' and adding ''(Rev. 4/2013)'' and ''Bonds statute'' in their places, respectively.

53.236–2 [Amended]

■ 409. Amend section 53.236–2 by removing from the heading of paragraph (b) ''*(1/04)*'' and adding ''*(Rev. 3/2013)*'' in its place.

■ 410. Revise section 53.301–25 to read as follows:

53.301–25 Performance Bond.

BILLING CODE 6820–EP–P

PERFORMANCE BOND *(See instructions on reverse)*	DATE BOND EXECUTED *(Must be same or later than date of contract)*	OMB Number: 9000-0045 Expiration Date: 6/30/2016

PAPERWORK REDUCTION ACT STATEMENT: Public reporting burden for this collection of information is estimated to average 60 minutes 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. Send comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing this burden, to U.S. General Services Administration, Regulatory Secretariat (MVCB)/IC 9000-0045, Office of Governmentwide Acquisition Policy,1800 F Street, NW, Washington, DC 20405.

PRINCIPAL *(Legal name and business address)*	TYPE OF ORGANIZATION ("X" one) ☐ INDIVIDUAL ☐ PARTNERSHIP ☐ JOINT VENTURE ☐ CORPORATION STATE OF INCORPORATION
SURETY(IES) *(Name(s) and business address(es)*	PENAL SUM OF BOND: MILLION(S) / THOUSANDS / HUNDRED(S) / CENTS CONTRACT DATE / CONTRACT NO.

OBLIGATION

We, the Principal and Surety(ies), are firmly bound to the United States of America (hereinafter called the Government) in the above penal sum. For payment of the penal sum, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally. However, where the Sureties are corporations acting as co-sureties, we the sureties bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us. For all other purposes, each Surety binds itself, jointly and severally with the Principal, for the payment of the sum shown opposite the name of the Surety. If no limit of liability is indicated, the limit of liability is the full amount of the penal sum.

CONDITIONS

The Principal has entered into the contract identified above.

THEREFORE

The above obligation is void if the Principal-

(a)(1) Performs and fulfills all the undertaking, covenants, terms, conditions, and agreements of the contract during the original term of the contract and any extensions thereof that are granted by the Government, with or without notice of the Surety(ies) and during the life of any guaranty required under the contract, and (2) performs and fulfills all the undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications of the contract that hereafter are made. Notice of those modifications to the Surety(ies) are waived.

(b) Pays to the Government the full amount of the taxes imposed by the Government, if the said contract is subject to 41 U.S.C. Chapter 31, Subchapter III, Bonds, which are collected, deducted, or withheld from wages paid by the Principal in carrying out the construction contract with respect to which this bond is furnished.

WITNESS

The Principal and Surety(ies) executed this performance bond and affixed their seals on the above date.

PRINCIPAL				
SIGNATURE(S)	1. (Seal)	2. (Seal)	3. (Seal)	Corporate Seal
NAME(S) & TITLE(S) *(Typed)*	1.	2.	3.	

INDIVIDUAL SURETY(IES)		
SIGNATURE(S)	1. (Seal)	2. (Seal)
NAME(S) *(Typed)*	1.	2.

CORPORATE SURETY(IES)					
SURETY A	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT ($)	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S *(Typed)*	1.	2.		

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STANDARD FORM 25 (REV. 3/2013)
Prescribed by GSA-FAR (48 CFR) 53.228 (b)

CORPORATE SURETY(IES) ***(Continued)***

SURETY B	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT ($)	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) *(Typed)*	1.	2.		
SURETY C	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT ($)	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) *(Typed)*	1.	2.		
SURETY D	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT ($)	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) *(Typed)*	1.	2.		
SURETY E	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT ($)	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) *(Typed)*	1.	2.		
SURETY F	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT ($)	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) *(Typed)*	1.	2.		
SURETY G	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT ($)	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) *(Typed)*	1.	2.		

BOND PREMIUM	RATE PER THOUSAND ($)	TOTAL ($)

INSTRUCTIONS

1. This form is authorized for use in connection with Government contracts. Any deviation from this form will require the written approval of the Administrator of General Services.

2. Insert the full legal name and business address of the Principal in the space designated "Principal" on the face of the form. An authorized person shall sign the bond. Any person signing in a representative capacity (e.g., an attorney-in-fact) must furnish evidence of authority if that representative is not a member of the firm, partnership, or joint venture, or an officer of the corporation involved.

3. (a) Corporations executing the bond as sureties must appear on the Department of the Treasury's list of approved sureties and must act within the limitation listed therein. Where more than one corporate surety is involved, their names and addresses shall appear in the spaces (Surety A, Surety B, etc.) headed "CORPORATE SURETY(IES)." In the space designated "SURETY(IES)" on the face of the form, insert only the letter identification of the sureties.

(b) Where individual sureties are involved, a completed Affidavit of Individual Surety (Standard Form 28) for each individual surety, shall accompany the bond. The Government may require the surety to furnish additional substantiating information concerning their financial capability.

4. Corporations executing the bond shall affix their corporate seals. Individuals shall execute the bond opposite the words "Corporate Seal", and shall affix an adhesive seal if executed in Maine, New Hampshire, or any other jurisdiction requiring adhesive seals.

5. Type the name and title of each person signing this bond in the space provided.

STANDARD FORM 25 (REV. 3/2013) **BACK**

■ 411. Revise section 53.301–25A to read as follows:

53.301–25A Payment Bond.

PAYMENT BOND *(See instructions on reverse)*	DATE BOND EXECUTED *(Must be same or later than date of contract)*	OMB Number: **9000-0045** Expiration Date: **6/30/2016**

PAPERWORK REDUCTION ACT STATEMENT: Public reporting burden for this collection of information is estimated to average 60 minutes 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. Send comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing this burden, to U.S. General Services Administration, Regulatory Secretariat (MVCB)/IC 9000-0045, Office of Governmentwide Acquisition Policy,1800 F Street, NW, Washington, DC 20405.

PRINCIPAL *(Legal name and business address)*	TYPE OF ORGANIZATION *("X" one)* ☐ INDIVIDUAL ☐ PARTNERSHIP ☐ JOINT VENTURE ☐ CORPORATION STATE OF INCORPORATION
SURETY(IES) *(Name(s) and business address(es)*	PENAL SUM OF BOND MILLION(S) / THOUSAND(S) / HUNDRED(S) / CENTS CONTRACT DATE / CONTRACT NO.

OBLIGATION:

We, the Principal and Surety(ies), are firmly bound to the United States of America (hereinafter called the Government) in the above penal sum. For payment of the penal sum, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally. However, where the Sureties are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us. For all other purposes, each Surety binds itself, jointly and severally with the Principal, for the payment of the sum shown opposite the name of the Surety. If no limit is indicated, the limit of liability is the full amount of the penal sum.

CONDITIONS:

The above obligation is void if the Principal promptly makes payment to all persons having a direct relationship with the Principal or a subcontractor of the Principal for furnishing labor, material or both in the prosecution of the work provided for in the contract identified above, and any authorized modifications of the contract that subsequently are made. Notice of those modifications to the Surety(ies) are waived.

WITNESS:

The Principal and Surety(ies) executed this payment bond and affixed their seals on the above date.

PRINCIPAL				
SIGNATURE(S)	1. (Seal)	2. (Seal)	3. (Seal)	Corporate Seal
NAME(S) & TITLE(S) *(Typed)*	1.	2.	3.	

INDIVIDUAL SURETY(IES)		
SIGNATURE(S)	1. (Seal)	2. (Seal)
NAME(S) *(Typed)*	1.	2.

CORPORATE SURETY(IES)					
SURETY A	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT $	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) *(Typed)*	1.	2.		

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STANDARD FORM 25A (REV. 3/2013)
Prescribed by GSA-FAR (48 CFR) 53.2228(c)

CORPORATE SURETY(IES) ***(Continued)***

SURETY B	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT $	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) *(Typed)*	1.	2.		
SURETY C	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT $	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) *(Typed)*	1.	2.		
SURETY D	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT $	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) *(Typed)*	1.	2.		
SURETY E	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT $	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) *(Typed)*	1.	2.		
SURETY F	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT $	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) *(Typed)*	1.	2.		
SURETY G	NAME & ADDRESS		STATE OF INC.	LIABILITY LIMIT $	Corporate Seal
	SIGNATURE(S)	1.	2.		
	NAME(S) & TITLE(S) *(Typed)*	1.	2.		

INSTRUCTIONS

1. This form, for the protection of persons supplying labor and material, is used when a payment bond is required under 40 U.S.C. Chapter 31, Subchapter III, Bonds. Any deviation from this form will require the written approval of the Administrator of General Services.

2. Insert the full legal name and business address of the Principal in the space designated "Principal" on the face of the form. An authorized person shall sign the bond. Any person signing in a representative capacity (e.g., an attorney-in-fact) must furnish evidence of authority if that representative is not a member of the firm, partnership, or joint venture, or an officer of the corporation involved.

3. (a) Corporations executing the bond as sureties must appear on the Department of the Treasury's list of approved sureties and must act within the limitation listed therein. Where more than one corporate surety is involved, their names and addresses shall appear in the spaces (Surety A, Surety B, etc.) headed "CORPORATE SURETY(IES)."

In the space designated "SURETY(IES)" on the face of the form, insert only the letter identification of the sureties.

(b) Where individual sureties are involved, a completed Affidavit of Individual Surety (Standard Form 28) for each individual surety, shall accompany the bond. The Government may require the surety to furnish additional substantiating information concerning their financial capability.

4. Corporations executing the bond shall affix their corporate seals. Individuals shall execute the bond opposite the words "Corporate Seal", and shall affix an adhesive seal if executed in Maine, New Hampshire, or any other jurisdiction requiring adhesive seals.

5. Type the name and title of each person signing this bond in the space provided.

STANDARD FORM 25A (REV. 3/2013) **BACK**

■ 412. Revise section 53.301–26 to read as follows:

53.301–26 Award/Contract.

AWARD/CONTRACT

1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700) ▶ RATING | PAGE OF PAGES

2. CONTRACT *(Proc. Inst. Ident.)* NO. | 3. EFFECTIVE DATE | 4. REQUISITION/PURCHASE REQUEST/PROJECT NO.

5. ISSUED BY CODE | 6. ADMINISTERED BY *(If other than Item 5)* CODE

7. NAME AND ADDRESS OF CONTRACTOR *(No., street, county, State and ZIP Code)*

8. DELIVERY ☐ FOB ORIGIN ☐ OTHER *(See below)*

9. DISCOUNT FOR PROMPT PAYMENT

10. SUBMIT INVOICES *(4 copies unless otherwise specified)* TO THE ADDRESS SHOWN IN ▶ ITEM

CODE | FACILITY CODE

11. SHIP TO/MARK FOR CODE | 12. PAYMENT WILL BE MADE BY CODE

13. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION:

☐ 10 U.S.C. 2304(c)( ) ☐ 41 U.S.C. 3304(a)( )

14. ACCOUNTING AND APPROPRIATION DATA

15A. ITEM NO.	15B. SUPPLIES/SERVICES	15C. QUANTITY	15D.UNIT	15E. UNIT PRICE	15F. AMOUNT

15G. TOTAL AMOUNT OF CONTRACT ▶ $

16. TABLE OF CONTENTS

(X)	SEC.	DESCRIPTION	PAGE(S)	(X)	SEC.	DESCRIPTION	PAGE(S)
		PART I - THE SCHEDULE				PART II - CONTRACT CLAUSES	
	A	SOLICITATION/CONTRACT FORM			I	CONTRACT CLAUSES	
	B	SUPPLIES OR SERVICES AND PRICES/COSTS				PART III - LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACH.	
	C	DESCRIPTION/SPECS./WORK STATEMENT			J	LIST OF ATTACHMENTS	
	D	PACKAGING AND MARKING				PART IV - REPRESENTATIONS AND INSTRUCTIONS	
	E	INSPECTION AND ACCEPTANCE			K	REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS	
	F	DELIVERIES OR PERFORMANCE					
	G	CONTRACT ADMINISTRATION DATA			L	INSTRS., CONDS., AND NOTICES TO OFFERORS	
	H	SPECIAL CONTRACT REQUIREMENTS			M	EVALUATION FACTORS FOR AWARD	

CONTRACTING OFFICER WILL COMPLETE ITEM 17 (SEALED-BID OR NEGOTIATED PROCUREMENT) OR 18 (SEALED-BID PROCUREMENT) AS APPLICABLE

17. ☐ CONTRACTOR'S NEGOTIATED AGREEMENT *(Contractor is required to sign this document and return _____ copies to issuing office.)* Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified above and on any continuation sheets for the consideration stated herein. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this award/contract, (b) the solicitation, if any, and (c) such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein. *(Attachments are listed herein.)*

18. ☐ SEALED-BID AWARD (*Contractor is not required to sign this document.)* Your bid on Solicitation Number _____, including the additions or changes made by you which additions or changes are set forth in full above, is hereby accepted as to the terms listed above and on any continuation sheets. This award consummates the contract which consists of the following documents: (a) the Government's solicitation and your bid, and (b) this award/contract. No further contractual document is necessary. (Block 18 should be checked only when awarding a sealed-bid contract.)

19A. NAME AND TITLE OF SIGNER *(Type or Print)*

20A. NAME OF CONTRACTING OFFICER

19B. NAME OF CONTRACTOR | 19C. DATE SIGNED

BY _____ *(Signature of person authorized to sign)*

20B. UNITED STATES OF AMERICA | 20C. DATE SIGNED

BY _____ *(Signature of Contracting Officer)*

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STANDARD FORM 26 (REV. 3/2013)
Prescribed by GSA - FAR (48 CFR) 53.214(a)

■ 413. Revise section 53.301–273 to read as follows:

53.301–273 Reinsurance Agreement for a Bonds Statute Performance Bond.

REINSURANCE AGREEMENT FOR A BONDS STATUTE PERFORMANCE BOND
(See instructions on reverse)

OMB Number: 9000-0045
Expiration Date: 6/30/2016

PAPERWORK REDUCTION ACT STATEMENT: Public reporting burden for this collection of information is estimated to average 60 minutes 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. Send comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing this burden, to U.S. General Services Administration, Regulatory Secretariat (MVCB)/IC 9000-0045, Office of Governmentwide Acquisition Policy,1800 F Street, NW, Washington, DC 20405.

1. DIRECT WRITING COMPANY*	1A. DATE DIRECT WRITING COMPANY EXECUTES THIS AGREEMENT
	1B. STATE OF INCORPORATION
2. REINSURING COMPANY*	2A. AMOUNT OF THIS REINSURANCE ($)
	2B. DATE REINSURING COMPANY EXECUTES THIS AGREEMENT
	2C. STATE OF INCORPORATION

3. DESCRIPTION OF CONTRACT		4. DESCRIPTION OF BOND	
3A. AMOUNT OF CONTRACT		4A. PENAL SUM OF BOND	
3B. CONTRACT DATE	3C. CONTRACT NO.	4B. DATE OF BOND	4C. BOND NO.
3D. DESCRIPTION OF CONTRACT		4D. PRINCIPAL*	
3E. CONTRACTING AGENCY		4E. STATE OF INCORPORATION *(If Corporate Principal)*	

AGREEMENT:

(a) The Direct Writing Company named above is bound as surety to the United States of America on the performance bond described above, wherein the above described is the principal, for the protection of the United States on the contract described above. The contract is for the construction, alteration, or repair of a public building or public work of the United States, and the performance bond was furnished to the United States under 40 U.S.C. chapter 31, subchapter III, Bonds, known as the Bonds Statute. The Direct Writing Company has applied to the Reinsuring Company named above to be reinsured and countersecured in the amount shown opposite the name of the Reinsuring Company (referred to as the "Amount of this Reinsurance"), or for whatever amount less than the "Amount of this Reinsurance" the Direct Writing Company is liable to pay under or by virtue of the performance bond.

(b) For a sum mutually agreed upon, paid by the Direct Writing Company to the Reinsuring Company which acknowledges its receipt, the parties to this Agreement covenant and agree to the terms and conditions of the agreement.

TERMS AND CONDITIONS:

(a) The purpose and intent of this agreement is to guarantee and indemnify the United States against loss under the performance and to the extent of the "Amount of this Reinsurance," or any sum less than the "Amount of this Reinsurance" that is owing and unpaid by the Direct Writing Company to the United States under the performance bond.

(b) If the Direct Writing Company fails to pay any default under the performance bond equal to or in excess of the "Amount of this Reinsurance," the Reinsuring Company covenants and agrees to pay to the United States, the obligee on the performance bond, the "Amount of this Reinsurance." If the Direct Writing Company fails to pay to the United States any default for a sum less than the "Amount of this Reinsurance" the Reinsuring Company covenants and agrees to pay to the United States the full amount of the default, or so much thereof that is not paid to the United States by the Direct Writing Company.

(c) If there is a default on the performance bond for the "Amount of this Reinsurance," or more, the Reinsuring Company and the Direct Writing Company hereby covenant and agree that the United States may bring suit against the Reinsuring Company for the "Amount of this Reinsurance" or, in case the amount of the default is for less than the "Amount of this Reinsurance," for the full amount of the default.

WITNESS:

The Direct Writing Company and the Reinsuring Company, respectively, have caused this Agreement to be signed and impressed with their respective corporate seals by officers possessing power to sign this instrument, and to be duly attested by officers empowered thereto, on the day and date above written opposite their respective names.

**Items 1, 2, 4D - Furnish legal name, business address and ZIP Code.* *(Over)*

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Previous edition is usable

STANDARD FORM 273 (REV. 4-2013)
Prescribed by GSA - FAR (48 CFR) 53.228(h)

5. DIRECT WRITING COMPANY		
5A(1) SIGNATURE	(2) ATTEST: SIGNATURE	*Corporate Seal*
5B(1) NAME AND TITLE *(Typed)*	(2) NAME AND TITLE *(Typed)*	
6. REINSURING COMPANY		
6A (1) SIGNATURE	(2) ATTEST: SIGNATURE	*Corporate Seal*
6B(1) NAME AND TITLE *(Typed)*	(2) NAME AND TITLE *(Typed)*	

INSTRUCTIONS

This form is to be used in cases where it is desired to cover the excess of a Direct Writing Company's underwriting limitation by reinsurance instead of co-insurance on Bonds Statute performance bonds running to the United States. See FAR (48 CFR) 28.202-1 and 53.228(h).

Execute and file this form as follows:

Original and copies (as specified by the bond-approving officer), signed and sealed, shall accompany the bond or be filed within the time period shown in the bid or proposal.

One copy, signed and sealed, shall accompany the Direct Writing Company's quarterly Schedule of Excess Risks filed with the Department of the Treasury.

Other copies may be prepared for the use of the Direct Writing Company and Reinsuring Company. Each Reinsuring Company should use a separate form.

STANDARD FORM 273 (REV. 4/2013) **BACK**

■ 414. Revise section 53.301–274 to read as follows:

53.301–274 Reinsurance Agreement for a Bonds Statute Payment Bond.

REINSURANCE AGREEMENT FOR A BONDS STATUTE PAYMENT BOND

(See instruction on reverse)

OMB Control Number: 9000-0045
Expiration Date: 6/30/2016

PAPERWORK REDUCTION ACT STATEMENT: Public reporting burden for this collection of information is estimated to average 60 minutes 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. Send comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing this burden, to U.S. General Services Administration, Regulatory Secretariat (MVCB)/IC 9000-0045, Office of Governmentwide Acquisition Policy,1800 F Street, NW, Washington, DC 20405.

1. DIRECT WRITING COMPANY*	1A. DATE DIRECT WRITING COMPANY EXECUTES THIS AGREEMENT
	1B. STATE OF INCORPORATION
2. REINSURING COMPANY*	2A. AMOUNT OF THIS REINSURANCE $
	2B. DATE REINSURING COMPANY EXECUTES THIS AGREEMENT
	2C. STATE OF INCORPORATION

3. DESCRIPTION OF CONTRACT		4. DESCRIPTION OF BOND	
3A. AMOUNT OF CONTRACT		4A. PENAL SUM OF BOND	
3B. CONTRACT DATE	3C. CONTRACT NO.	4B. DATE OF BOND	4C. BOND NO.
3D. DESCRIPTION OF CONTRACT		4D. PRINCIPAL*	
3E. CONTRACTING AGENCY		4E. STATE OF INCORPORATION *(If Corporate Principal)*	

AGREEMENT:

(a) The Direct Writing Company named above is bound as a surety on the payment bond described above, wherein the above described is the principal, for the protection of all persons supplying labor and material on the contract described above, which is for the construction, alteration, or repair of a public building or public work of the United States. The payment bond is for the use of persons supplying labor or material, and is furnished to the United States under 40 U.S.C. chapter 31, subchapter III, Bonds, known as the Bonds Statute. The Direct Writing Company has applied to the Reinsuring Company named above to be reinsured and countersecured in the amount above opposite the name of the Reinsuring Company (referred to as "Amount of this Reinsurance"), or for whatever amount less than the "Amount of this Reinsurance" the Direct Writing Company is liable to pay under or by virtue of the payments bond.

(b) For a sum mutually agreed upon, paid by the Direct Writing Company to the Reinsuring Company which acknowledges its receipt, the parties to this Agreement covenant and agree to the terms and conditions of this agreement.

TERMS AND CONDITIONS:

The purpose and intent of this agreement is (a) to guarantee and indemnify the persons who have furnished or supplied labor or material in the prosecution of the work provided for in the contract referred to above (hereinafter referred to as "laborers and materialmen," the term "materialmen" including persons having a direct contractual relation with a subcontractor but no contractual relationship expressed or implied with the contractor who has furnished the said payment bond) against loss under the payment bond to the extent of the "Amount of this Reinsurance," or for any sum less than the "Amount of this Reinsurance," that is owing and unpaid by the Direct Writing Company to the "laborers and materialmen" on the payment bond; and (b) to make the "laborers and materialmen" obligees under this Reinsurance Agreement to the same extent as if their respective names were written herein.

THEREFORE:

1. The Reinsuring Company covenants and agrees -

(a) To pay the "Amount of this Reinsurance" to the "laborers and materialmen" in the event of the Direct Writing Company's failure to pay to the "laborers and materialmen" any default under the payment bond equal to or in excess of the "Amount of this Reinsurance;" and

(b) To pay (1) the full amount to the "laborers and materialmen," or (2) the amount not paid to them by the Direct Writing Company; in case the Direct Writing Company fails to pay the "laborers and materialmen" any default under the payment bond less than the "Amount of this Reinsurance."

*Items 1, 2 ,4D - furnished legal name, business address and ZIP Code. *(Over)*

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STANDARD FORM 274 (REV. 4-2013)
Prescribed by GSA - FAR (48 CFR) 53.228(i)

2. The Reinsuring Company and the Direct Writing Company covenant and agree that, in the case of default on the payment bond for the "Amount of this Reinsurance," or more, the persons given a "right of action" or a "right to sue" on the payment bond by 40 U.S.C. 3133 may bring suit against the Reinsuring Company in the United States District Court for the district in which the contract described above is to be performed and executed for the "Amount of this Reinsurance" or, if the amount of the default is for less than the "Amount of this Reinsurance," for whatever the full amount of the default may be. The Reinsuring Company further covenants and agrees to comply with all requirements necessary to give such court jurisdiction, and to consent to determination of matters arising under this Reinsurance Agreement in accordance with the law and practice of the court. It is expressly understood by the parties that the rights, powers, and privileges given in this paragraph to persons are in addition to or supplemental to or in accordance with other rights, powers, and privileges which they might have under the statutes of the United States, any States, or the other laws of either, and should not be construed as limitations.

3. The Reinsuring Company and the Direct Writing Company further covenant and agree that the Reinsuring Company designates the process agent, appointed by the Direct Writing Company in the district in which the contract is to be performed and executed, as an agent to accept service of process in any suit instituted on this Reinsurance Agreement, and that the process agent shall send, by registered mail, to the Reinsuring Company at its principal place of business shown above, a copy of the process.

4. The Reinsuring Company and the Direct Writing Company further covenant and agree that this Reinsurance Agreement is an integral part of the payment bond.

WITNESS:

The Direct Writing Company and the Reinsuring Company, respectively, have caused this Agreement to be signed and impressed with their respective corporate seals by officers possessing the power to sign this instrument, and to be duly attested to by officers empowered thereto, on the day and date in Item 1A written opposite their respective names.

5. DIRECT WRITING COMPANY		
5A. (1) SIGNATURE	(2) ATTEST SIGNATURE	*Corporate Seal*
5B. (1) NAME AND TITLE *(Typed)*	(2) NAME AND TITLE *(Typed)*	
6. REINSURING COMPANY		
6A. (1) SIGNATURE	(2) ATTEST SIGNATURE	*Corporate Seal*
6B. (1) NAME AND TITLE *(Typed)*	(2) NAME AND TITLE *(Typed)*	

INSTRUCTIONS

This form is to be used in cases where it is desired to cover the excess of a Direct Writing Company's underwriting limitation by reinsurance instead of co-insurance on Bonds Statute payment bonds running to the United States. See FAR (48 CFR) 28.202-1 and 53.228(i).

Execute and file this form as follows:

Original and copies (as specified by the bond-approving officer), signed and sealed, shall accompany the bond or be filed within the time period shown in bid or proposal.

One copy, signed and sealed, shall accompany the Direct Writing Company's quarterly Schedule of Excess Risks filled with the Department of Treasury.

Other copies may be prepared for the use of the Direct Writing Company and Reinsuring Company. Each Reinsuring Company should use a separate form.

STANDARD FORM 274 (REV. 4-2013) **BACK**

■ 415. Revise section 53.301–308 to read as follows:

53.301–308 Request For wage Determination and Response to Request.

Request For Wage Determination And Response To Request
(Construction Wage Rate Requirements Statute and Related Statutes)

U.S. Department of Labor
Wage and Hour Division

FOR DEPARTMENT OF LABOR USE

Response To Request

☐ Use area determination issued for this area

_____

_____

☐ The attached decision noted below is applicable to this project

Decision Number

Date of Decision

Expires

Supersedes Decision Number

Approved

Mail Your Request To:
U.S. Department of Labor
Wage and Hour Division
Branch of Construction Contract Wage Determinations
Washington, D.C. 20210

Requesting Officer (Typed name *and signature*)

Department, Agency, or Bureau | Phone Number

Date of Request | Estimated Advertising Date | Estimated Bid Opening Date

Prior Decision Number (if any) | Estimated $ Value of Contract: ☐ Under 1/2 Mil ☐ 1 to 5 Mil ☐ 1/2 to 1 Mil ☐ Over 5 Mil | Type of Work: ☐ Bldg. ☐ Highway ☐ Resid. ☐ Heavy

Address to which wage determination should be mailed. (Print or type)

Location of Project *(City, County, State, Zip Code)*

Description of Work *(Be specific) (Print or type)*

CHECK OR LIST CRAFTS NEEDED
(Attach continuation sheet if needed)

_____ Asbestos workers
_____ Boilermakers
_____ Bricklayers
_____ Carpenters
_____ Cement masons
_____ Electricians
_____ Glaziers
_____ Ironworkers
_____ Laborers (Specify classes)
_____ _____
_____ _____
_____ _____
_____ Lathers
_____ Marble & tile setters, terrazzo workers
_____ Painters
_____ Piledrivermen
_____ Plasterers
_____ Plumbers
_____ Roofers
_____ Sheet metal workers
_____ Soft floor layers
_____ Steamfitters
_____ Welders-rate for craft
_____ Truck drivers
_____ Power equipment operators *(Specify types)*
_____ _____
_____ _____
_____ _____
_____ _____
_____ _____
_____ _____

Other Crafts
_____ _____
_____ _____
_____ _____
_____ _____

Standard Form 308 (Rev. 2/2013)
U.S. Department of Labor -29 CFR Part 1

■ 416. Revise section 53.301–330 to read as follows:

53.301–330 Architect-Engineer Qualifications.

ARCHITECT-ENGINEER QUALIFICATIONS

OMB No.: **9000-0157**
Expires: 10/31/2014

PAPERWORK REDUCTION ACT STATEMENT: Public reporting burden for this collection of information is estimated to average 29 hours (25 hours for part 1 and 4 hours for Part 2) 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. Send comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing this burden, to U.S. General Services Administration, Regulatory Secretariat (MVCB)/IC 9000-0157, Office of Governmentwide Acquisition Policy,1800 F Street, NW, Washington, DC 20405.

PURPOSE

Federal agencies use this form to obtain information from architect-engineer (A-E) firms about their professional qualifications. Federal agencies select firms for A-E contracts on the basis of professional qualifications as required by 40 U.S.C. chapter 11, Selection of Architects Engineers, and Part 36 of the Federal Acquisition Regulation (FAR).

The Selection of Architects and Engineers statute requires the public announcement of requirements for A-E services (with some exceptions provided by other statutes), and the selection of at least three of the most highly qualified firms based on demonstrated competence and professional qualifications according to specific criteria published in the announcement. The Act then requires the negotiation of a contract at a fair and reasonable price starting first with the most highly qualified firm.

The information used to evaluate firms is from this form and other sources, including performance evaluations, any additional data requested by the agency, and interviews with the most highly qualified firms and their references.

GENERAL INSTRUCTIONS

Part I presents the qualifications for a specific contract.

Part II presents the general qualifications of a firm or a specific branch office of a firm. Part II has two uses:

1. An A-E firm may submit Part II to the appropriate central, regional or local office of each Federal agency to be kept on file. A public announcement is not required for certain contracts, and agencies may use Part II as a basis for selecting at least three of the most highly qualified firms for discussions prior to requesting submission of Part I. Firms are encouraged to update Part II on file with agency offices, as appropriate, according to FAR Part 36. If a firm has branch offices, submit a separate Part II for each branch office seeking work.

2. Prepare a separate Part II for each firm that will be part of the team proposed for a specific contract and submitted with Part I. If a firm has branch offices, submit a separate Part II for each branch office that has a key role on the team.

INDIVIDUAL AGENCY INSTRUCTIONS

Individual agencies may supplement these instructions. For example, they may limit the number of projects or number of pages submitted in Part I in response to a public announcement for a particular project. Carefully comply with any agency instructions when preparing and submitting this form. Be as concise as possible and provide only the information requested by the agency.

DEFINITIONS

Architect-Engineer Services: Defined in FAR 2.101.

Branch Office: A geographically distinct place of business or subsidiary office of a firm that has a key role on the team.

Discipline: Primary technical capabilities of key personnel, as evidenced by academic degree, professional registration, certification, and/or extensive experience.

Firm: Defined in FAR 36.102.

Key Personnel: Individuals who will have major contract responsibilities and/or provide unusual or unique expertise.

SPECIFIC INSTRUCTIONS

Part I - Contract-Specific Qualifications

Section A. Contract Information.

1. Title and Location. Enter the title and location of the contract for which this form is being submitted, exactly as shown in the public announcement or agency request.

2. Public Notice Date. Enter the posted date of the agency's notice on the Federal Business Opportunity website (FedBizOpps), other form of public announcement or agency request for this contract.

3. Solicitation or Project Number. Enter the agency's solicitation number and/or project number, if applicable, exactly as shown in the public announcement or agency request for this contract.

Section B. Architect-Engineer Point of Contact.

4-8. Name, Title, Name of Firm, Telephone Number, Fax (Facsimile) Number and E-mail (Electronic Mail) Address. Provide information for a representative of the prime contractor or joint venture that the agency can contact for additional information.

Section C. Proposed Team.

9-11. Firm Name, Address, and Role in This Contract. Provide the contractual relationship, name, full mailing address, and a brief description of the role of each firm that will be involved in performance of this contract. List the prime contractor or joint venture partners first. If a firm has branch offices, indicate each individual branch office that will have a key role on the team. The named subcontractors and outside associates or consultants must be used, and any change must be approved by the contracting officer. (See FAR Part 52 Clause "Subcontractors and Outside Associates and Consultants (Architect-Engineer Services)".) Attach an additional sheet in the same format as Section C if needed.

Section D. Organizational Chart of Proposed Team.

As an attachment after Section C, present an organizational chart of the proposed team showing the names and roles of all key personnel listed in Section E and the firm they are associated with as listed in Section C.

Section E. Resumes of Key Personnel Proposed for This Contract.

Complete this section for each key person who will participate in this contract. Group by firm, with personnel of the prime contractor or joint venture partner firms first. The following blocks must be completed for each resume:

12. Name. Self-explanatory.

13. Role in This Contract. Self-explanatory.

14. Years Experience. Total years of relevant experience (block 14a), and years of relevant experience with current firm, but not necessarily the same branch office (block 14b).

15. Firm Name and Location. Name, city and state of the firm where the person currently works, which must correspond with one of the firms (or branch office of a firm, if appropriate) listed in Section C.

16. Education. Provide information on the highest relevant academic degree(s) received. Indicate the area(s) of specialization for each degree.

17. Current Professional Registration. Provide information on current relevant professional registration(s) in a State or possession of the United States, Puerto Rico, or the District of Columbia according to FAR Part 36.

18. Other Professional Qualifications. Provide information on any other professional qualifications relating to this contract, such as education, professional registration, publications, organizational memberships, certifications, training, awards, and foreign language capabilities.

19. Relevant Projects. Provide information on up to five projects in which the person had a significant role that demonstrates the person's capability relevant to her/his proposed role in this contract. These projects do not necessarily have to be any of the projects presented in Section F for the project team if the person was not involved in any of those projects or the person worked on other projects that were more relevant than the team projects in Section F. Use the check box provided to indicate if the project was performed with any office of the current firm. If any of the professional services or construction projects are not complete, leave Year Completed blank and indicate the status in Brief Description and Specific Role (block (3)).

Section F. Example Projects Which Best Illustrate Proposed Team's Qualifications for This Contract.

Select projects where multiple team members worked together, if possible, that demonstrate the team's capability to perform work similar to that required for this contract. Complete one Section F for each project. Present ten projects, unless otherwise specified by the agency. Complete the following blocks for each project:

20. Example Project Key Number. Start with "1" for the first project and number consecutively.

21. Title and Location. Title and location of project or contract. For an indefinite delivery contract, the location is the geographic scope of the contract.

22. Year Completed. Enter the year completed of the professional services (such as planning, engineering study, design, or surveying), and/or the year completed of construction, if applicable. If any of the professional services or the construction projects are not complete, leave Year Completed blank and indicate the status in Brief Description of Project and Relevance to This Contract (block 24).

23a. Project Owner. Project owner or user, such as a government agency or installation, an institution, a corporation or private individual.

23b. Point of Contact Name. Provide name of a person associated with the project owner or the organization which contracted for the professional services, who is very familiar with the project and the firm's (or firms') performance.

23c. Point of Contact Telephone Number Self-explanatory.

24. Brief Description of Project and Relevance to This Contract. Indicate scope, size, cost, principal elements and special features of the project. Discuss the relevance of the example project to this contract. Enter any other information requested by the agency for each example project.

25. Firms from Section C Involved with This Project. Indicate which firms (or branch offices, if appropriate) on the project team were involved in the example project, and their roles. List in the same order as Section C.

Section G. Key Personnel Participation in Example Projects.

This matrix is intended to graphically depict which key personnel identified in Section E worked on the example projects listed in Section F. Complete the following blocks (see example below).

26. and 27. Names of Key Personnel and Role in This Contract. List the names of the key personnel and their proposed roles in this contract in the same order as they appear in Section E.

28. Example Projects Listed in Section F. In the column under each project key number (see block 29) and for each key person, place an "X" under the project key number for participation in the same or similar role.

29. Example Projects Key. List the key numbers and titles of the example projects in the same order as they appear in Section F.

Section H. Additional Information.

30. Use this section to provide additional information specifically requested by the agency or to address selection criteria that are not covered by the information provided in Sections A-G.

Section I. Authorized Representative.

31. and 32. Signature of Authorized Representative and Date. An authorized representative of a joint venture or the prime contractor must sign and date the completed form. Signing attests that the information provided is current and factual, and that all firms on the proposed team agree to work on the project. Joint ventures selected for negotiations must make available a statement of participation by a principal of each member of the joint venture.

33. Name and Title. Self-explanatory.

SAMPLE ENTRIES FOR SECTION G (MATRIX)

26. NAMES OF KEY PERSONNEL (From Section E, Block 12)	27. ROLE IN THIS CONTRACT (From Section E, Block 13)	28. EXAMPLE PROJECTS LISTED IN SECTION F (Fill in "Example Projects Key" section below first, before completing table. Place "X" under project key number for participation in same or similar role.)									
		1	2	3	4	5	6	7	8	9	10
Jane A. Smith	Chief Architect	X		X							
Joseph B. Williams	Chief Mech. Engineer	X	X	X	X						
Tara C. Donovan	Chief Elec. Engineer	X	X		X						

29. EXAMPLE PROJECTS KEY

NO.	TITLE OF EXAMPLE PROJECT (FROM SECTION F)	NO.	TITLE OF EXAMPLE PROJECT (FROM SECTION F)
1	Federal Courthouse, Denver, CO	6	XYZ Corporation Headquarters, Boston, MA
2	Justin J. Wilson Federal Building, Baton Rouge, LA	7	Founder's Museum, Newport RI

Part II - General Qualifications

See the "**General Instructions** " on page 1 for firms with branch offices. Prepare Part II for the specific branch office seeking work if the firm has branch offices.

1. Solicitation Number. If Part II is submitted for a specific contract, insert the agency's solicitation number and/or project number, if applicable, exactly as shown in the public announcement or agency request.

2a-2e. Firm (or Branch Office) Name and Address. Self-explanatory.

3. Year Established. Enter the year the firm (or branch office, if appropriate) was established under the current name.

4. DUNS Number. Insert the Data Universal Numbering System number issued by Dun and Bradstreet Information Services. Firms must have a DUNS number. See FAR Part 4.6.

5. Ownership.

a. Type. Enter the type of ownership or legal structure of the firm (sole proprietor, partnership, corporation, joint venture, etc.).

b. Small Business Status. Refer to the North American Industry Classification System (NAICS) code in the public announcement, and indicate if the firm is a small business according to the current size standard for that NAICS code (for example, Engineering Services (part of NAICS 541330), Architectural Services (NAICS 541310), Surveying and Mapping Services (NAICS 541370)). The small business categories and the internet website for the NAICS codes appear in FAR Part 19. Contact the requesting agency for any questions. Contact your local U.S. Small Business Administration office for any questions regarding Business Status.

6a-6c. Point of Contact. Provide this information for a representative of the firm that the agency can contact for additional information. The representative must be empowered to speak on contractual and policy matters.

7. Name of Firm. Enter the name of the firm if Part II is prepared for a branch office.

8a-8c. Former Firm Names. Indicate any other previous names for the firm (or branch office) during the last six years. Insert the year that this corporate name change was effective and the associated DUNS Number. This information is used to review past performance on Federal contracts.

9. Employees by Discipline. Use the relevant disciplines and associated function codes shown at the end of these instructions and list in the same numerical order. After the listed disciplines, write in any additional disciplines and leave the function code blank. List no more than 20 disciplines. Group remaining employees under "Other Employees" in column b. Each person can be counted only once according to his/her primary function. If Part II is prepared for a firm (including all branch offices), enter the number of employees by disciplines in column c(1). If Part II is prepared for a branch office, enter the number of employees by discipline in column c(2) and for the firm in column c(1).

10. Profile of Firm's Experience and Annual Average Revenue for Last 5 Years. Complete this block for the firm or branch office for which this Part II is prepared. Enter the experience categories which most accurately reflect the firm's technical capabilities and project experience. Use the relevant experience categories and associated profile codes shown at the end of these instructions, and list in the same numerical order. After the listed experience categories, write in any unlisted relevant project experience categories and leave the profile codes blank. For each type of experience, enter the appropriate revenue index number to reflect the professional services revenues received annually (averaged over the last 5 years) by the firm or branch office for performing that type of work. A particular project may be identified with one experience category or it may be broken into components, as best reflects the capabilities and types of work performed by the firm. However, do not double count the revenues received on a particular project.

11. Annual Average Professional Services Revenues of Firm for Last 3 Years. Complete this block for the firm or branch office for which this Part II is prepared. Enter the appropriate revenue index numbers to reflect the professional services revenues received annually (averaged over the last 3 years) by the firm or branch office. Indicate Federal work (performed directly for the Federal Government, either as the prime contractor or subcontractor), non-Federal work (all other domestic and foreign work, including Federally-assisted projects), and the total. If the firm has been in existence for less than 3 years, see the definition for "Annual Receipts" under FAR 19.101.

12. Authorized Representative. An authorized representative of the firm or branch office must sign and date the completed form. Signing attests that the information provided is current and factual. Provide the name and title of the authorized representative who signed the form.

List of Disciplines (Function Codes)

Code	Description	Code	Description
01	Acoustical Engineer	32	Hydraulic Engineer
02	Administrative	33	Hydrographic Surveyor
03	Aerial Photographer	34	Hydrologist
04	Aeronautical Engineer	35	Industrial Engineer
05	Archeologist	36	Industrial Hygienist
06	Architect	37	Interior Designer
07	Biologist	38	Land Surveyor
08	CADD Technician	39	Landscape Architect
09	Cartographer	40	Materials Engineer
10	Chemical Engineer	41	Materials Handling Engineer
11	Chemist	42	Mechanical Engineer
12	Civil Engineer	43	Mining Engineer
13	Communications Engineer	44	Oceanographer
14	Computer Programmer	45	Photo Interpreter
15	Construction Inspector	46	Photogrammetrist
16	Construction Manager	47	Planner: Urban/Regional
17	Corrosion Engineer	48	Project Manager
18	Cost Engineer/Estimator	49	Remote Sensing Specialist
19	Ecologist	50	Risk Assessor
20	Economist	51	Safety/Occupational Health Engineer
21	Electrical Engineer	52	Sanitary Engineer
22	Electronics Engineer	53	Scheduler
23	Environmental Engineer	54	Security Specialist
24	Environmental Scientist	55	Soils Engineer
25	Fire Protection Engineer	56	Specifications Writer
26	Forensic Engineer	57	Structural Engineer
27	Foundation/Geotechnical Engineer	58	Technician/Analyst
28	Geodetic Surveyor	59	Toxicologist
29	Geographic Information System Specialist	60	Transportation Engineer
30	Geologist	61	Value Engineer
31	Health Facility Planner	62	Water Resources Engineer

List of Experience Categories (Profile Codes)

Code	Description
A01	Acoustics, Noise Abatement
A02	Aerial Photography; Airborne Data and Imagery Collection and Analysis
A03	Agricultural Development; Grain Storage; Farm Mechanization
A04	Air Pollution Control
A05	Airports; Navaids; Airport Lighting; Aircraft Fueling
A06	Airports; Terminals and Hangars; Freight Handling
A07	Arctic Facilities
A08	Animal Facilities
A09	Anti-Terrorism/Force Protection
A10	Asbestos Abatement
A11	Auditoriums & Theaters
A12	Automation; Controls; Instrumentation
B01	Barracks; Dormitories
B02	Bridges
C01	Cartography
C02	Cemeteries *(Planning & Relocation)*
C03	Charting: Nautical and Aeronautical
C04	Chemical Processing & Storage
C05	Child Care/Development Facilities
C06	Churches; Chapels
C07	Coastal Engineering
C08	Codes; Standards; Ordinances
C09	Cold Storage; Refrigeration and Fast Freeze
C10	Commercial Building *(low rise)* ; Shopping Centers
C11	Community Facilities
C12	Communications Systems; TV; Microwave
C13	Computer Facilities; Computer Service
C14	Conservation and Resource Management
C15	Construction Management
C16	Construction Surveying
C17	Corrosion Control; Cathodic Protection; Electrolysis
C18	Cost Estimating; Cost Engineering and Analysis; Parametric Costing; Forecasting
C19	Cryogenic Facilities
D01	Dams *(Concrete; Arch)*
D02	Dams *(Earth; Rock)*; Dikes; Levees
D03	Desalinization *(Process & Facilities)*
D04	Design-Build - Preparation of Requests for Proposals
D05	Digital Elevation and Terrain Model Development
D06	Digital Orthophotography
D07	Dining Halls; Clubs; Restaurants
D08	Dredging Studies and Design
E01	Ecological & Archeological Investigations
E02	Educational Facilities; Classrooms
E03	Electrical Studies and Design
E04	Electronics
E05	Elevators; Escalators; People-Movers
E06	Embassies and Chanceries
E07	Energy Conservation; New Energy Sources
E08	Engineering Economics
E09	Environmental Impact Studies, Assessments or Statements
E10	Environmental and Natural Resource Mapping
E11	Environmental Planning
E12	Environmental Remediation
E13	Environmental Testing and Analysis
F01	Fallout Shelters; Blast-Resistant Design
F02	Field Houses; Gyms; Stadiums
F03	Fire Protection
F04	Fisheries; Fish ladders
F05	Forensic Engineering
F06	Forestry & Forest products
G01	Garages; Vehicle Maintenance Facilities; Parking Decks
G02	Gas Systems (Propane; Natural, Etc.)
G03	Geodetic Surveying: Ground and Air-borne
G04	Geographic Information System Services: Development, Analysis, and Data Collection
G05	Geospatial Data Conversion: Scanning, Digitizing, Compilation, Attributing, Scribing, Drafting
G06	Graphic Design
H01	Harbors; Jetties; Piers; Ship Terminal Facilities
H02	Hazardous Materials Handling and Storage
H03	Hazardous, Toxic, Radioactive Waste Remediation
H04	Heating; Ventilating; Air Conditioning
H05	Health Systems Planning
H06	Highrise; Air-Rights-Type Buildings
H07	Highways; Streets; Airfield Paving; Parking Lots
H08	Historical Preservation
H09	Hospital & Medical Facilities
H10	Hotels; Motels
H11	Housing *(Residential, Multi-Family; Apartments; Condominiums)*
H12	Hydraulics & Pneumatics
H13	Hydrographic Surveying

List of Experience Categories (Profile Codes)

Code	Description
I01	Industrial Buildings; Manufacturing Plants
I02	Industrial Processes; Quality Control
I03	Industrial Waste Treatment
I04	Intelligent Transportation Systems
I05	Interior Design; Space Planning
I06	Irrigation; Drainage
J01	Judicial and Courtroom Facilities
L01	Laboratories; Medical Research Facilities
L02	Land Surveying
L03	Landscape Architecture
L04	Libraries; Museums; Galleries
L05	Lighting (Interior; Display; Theater, Etc.)
L06	Lighting (Exteriors; Streets; Memorials; Athletic Fields, Etc.)
M01	Mapping Location/Addressing Systems
M02	Materials Handling Systems; Conveyors; Sorters
M03	Metallurgy
M04	Microclimatology; Tropical Engineering
M05	Military Design Standards
M06	Mining & Mineralogy
M07	Missile Facilities (Silos; Fuels; Transport)
M08	Modular Systems Design; Pre-Fabricated Structures or Components
N01	Naval Architecture; Off-Shore Platforms
N02	Navigation Structures; Locks
N03	Nuclear Facilities; Nuclear Shielding
O01	Office Buildings; Industrial Parks
O02	Oceanographic Engineering
O03	Ordnance; Munitions; Special Weapons
P01	Petroleum Exploration; Refining
P02	Petroleum and Fuel (Storage and Distribution)
P03	Photogrammetry
P04	Pipelines (Cross-Country - Liquid & Gas)
P05	Planning (Community, Regional, Areawide and State)
P06	Planning (Site, Installation, and Project)
P07	Plumbing & Piping Design
P08	Prisons & Correctional Facilities
P09	Product, Machine Equipment Design
P10	Pneumatic Structures, Air-Support Buildings
P11	Postal Facilities
P12	Power Generation, Transmission, Distribution
P13	Public Safety Facilities
R01	Radar; Sonar; Radio & Radar Telescopes
R02	Radio Frequency Systems & Shieldings
R03	Railroad; Rapid Transit
R04	Recreation Facilities (Parks, Marinas, Etc.)
R05	Refrigeration Plants/Systems
R06	Rehabilitation (Buildings; Structures; Facilities)
R07	Remote Sensing
R08	Research Facilities
R09	Resources Recovery; Recycling
R10	Risk Analysis
R11	Rivers; Canals; Waterways; Flood Control
R12	Roofing
S01	Safety Engineering; Accident Studies; OSHA Studies
S02	Security Systems; Intruder & Smoke Detection
S03	Seismic Designs & Studies
S04	Sewage Collection, Treatment and Disposal
S05	Soils & Geologic Studies; Foundations
S06	Solar Energy Utilization
S07	Solid Wastes; Incineration; Landfill
S08	Special Environments; Clean Rooms, Etc.
S09	Structural Design; Special Structures
S10	Surveying; Platting; Mapping; Flood Plain Studies
S11	Sustainable Design
S12	Swimming Pools
S13	Storm Water Handling & Facilities
T01	Telephone Systems *(Rural; Mobile; Intercom, Etc.)*
T02	Testing & Inspection Services
T03	Traffic & Transportation Engineering
T04	Topographic Surveying and Mapping
T05	Towers *(Self-Supporting & Guyed Systems)*
T06	Tunnels & Subways

List of Experience Categories (Profile Codes)

Code	Description
U01	Unexploded Ordnance Remediation
U02	Urban Renewals; Community Development
U03	Utilities (Gas and Steam)
V01	Value Analysis; Life-Cycle Costing
W01	Warehouses & Depots
W02	Water Resources; Hydrology; Ground Water
W03	Water Supply; Treatment and Distribution
W04	Wind Tunnels; Research/Testing Facilities Design
Z01	Zoning; Land Use Studies

ARCHITECT - ENGINEER QUALIFICATIONS

PART I - CONTRACT-SPECIFIC QUALIFICATIONS

A. CONTRACT INFORMATION

1. TITLE AND LOCATION *(City and State)*

2. PUBLIC NOTICE DATE

3. SOLICITATION OR PROJECT NUMBER

B. ARCHITECT-ENGINEER POINT OF CONTACT

4. NAME AND TITLE

5. NAME OF FIRM

6. TELEPHONE NUMBER

7. FAX NUMBER

8. E-MAIL ADDRESS

C. PROPOSED TEAM

(Complete this section for the prime contractor and all key subcontractors.)

	(Check) PRIME	(Check) JV PARTNER	(Check) SUBCON-TRACTOR	9. FIRM NAME	10. ADDRESS	11. ROLE IN THIS CONTRACT
a.				☐ CHECK IF BRANCH OFFICE		
b.				☐ CHECK IF BRANCH OFFICE		
c.				☐ CHECK IF BRANCH OFFICE		
d.				☐ CHECK IF BRANCH OFFICE		
e.				☐ CHECK IF BRANCH OFFICE		
f.				☐ CHECK IF BRANCH OFFICE		

D. ORGANIZATIONAL CHART OF PROPOSED TEAM ☐ *(Attached)*

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STANDARD FORM 330 (REV. 3/2013) PAGE 1

E. RESUMES OF KEY PERSONNEL PROPOSED FOR THIS CONTRACT

(Complete one Section E for each key person.)

12. NAME	13. ROLE IN THIS CONTRACT	14. YEARS EXPERIENCE	
		a. TOTAL	b. WITH CURRENT FIRM

15. FIRM NAME AND LOCATION *(City and State)*

16. EDUCATION *(DEGREE AND SPECIALIZATION)*	17. CURRENT PROFESSIONAL REGISTRATION *(STATE AND DISCIPLINE)*

18. OTHER PROFESSIONAL QUALIFICATIONS *(Publications, Organizations, Training, Awards, etc.)*

19. RELEVANT PROJECTS

	(1) TITLE AND LOCATION *(City and State)*	(2) YEAR COMPLETED	
		PROFESSIONAL SERVICES	CONSTRUCTION *(If applicable)*
a.	(3) BRIEF DESCRIPTION *(Brief scope, size, cost, etc.)* AND SPECIFIC ROLE	☐ Check if project performed with current firm	
	(1) TITLE AND LOCATION *(City and State)*	(2) YEAR COMPLETED	
		PROFESSIONAL SERVICES	CONSTRUCTION *(If applicable)*
b.	(3) BRIEF DESCRIPTION *(Brief scope, size, cost, etc.)* AND SPECIFIC ROLE	☐ Check if project performed with current firm	
	(1) TITLE AND LOCATION *(City and State)*	(2) YEAR COMPLETED	
		PROFESSIONAL SERVICES	CONSTRUCTION *(If applicable)*
c.	(3) BRIEF DESCRIPTION *(Brief scope, size, cost, etc.)* AND SPECIFIC ROLE	☐ Check if project performed with current firm	
	(1) TITLE AND LOCATION *(City and State)*	(2) YEAR COMPLETED	
		PROFESSIONAL SERVICES	CONSTRUCTION *(If applicable)*
d.	(3) BRIEF DESCRIPTION *(Brief scope, size, cost, etc.)* AND SPECIFIC ROLE	☐ Check if project performed with current firm	
	(1) TITLE AND LOCATION *(City and State)*	(2) YEAR COMPLETED	
		PROFESSIONAL SERVICES	CONSTRUCTION *(If applicable)*
e.	(3) BRIEF DESCRIPTION *(Brief scope, size, cost, etc.)* AND SPECIFIC ROLE	☐ Check if project performed with current firm	

F. EXAMPLE PROJECTS WHICH BEST ILLUSTRATE PROPOSED TEAM'S QUALIFICATIONS FOR THIS CONTRACT *(Present as many projects as requested by the agency, or 10 projects, if not specified. Complete one Section F for each project.)*		20. EXAMPLE PROJECT KEY NUMBER
21. TITLE AND LOCATION *(City and State)*	22. YEAR COMPLETED	
	PROFESSIONAL SERVICES	CONSTRUCTION *(If applicable)*

23. PROJECT OWNER'S INFORMATION

a. PROJECT OWNER	b. POINT OF CONTACT NAME	c. POINT OF CONTACT TELEPHONE NUMBER

24. BRIEF DESCRIPTION OF PROJECT AND RELEVANCE TO THIS CONTRACT *(Include scope, size, and cost)*

25. FIRMS FROM SECTION C INVOLVED WITH THIS PROJECT

a.	(1) FIRM NAME	(2) FIRM LOCATION *(City and State)*	(3) ROLE
b.	(1) FIRM NAME	(2) FIRM LOCATION *(City and State)*	(3) ROLE
c.	(1) FIRM NAME	(2) FIRM LOCATION *(City and State)*	(3) ROLE
d.	(1) FIRM NAME	(2) FIRM LOCATION *(City and State)*	(3) ROLE
e.	(1) FIRM NAME	(2) FIRM LOCATION *(City and State)*	(3) ROLE
f.	(1) FIRM NAME	(2) FIRM LOCATION *(City and State)*	(3) ROLE

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G. KEY PERSONNEL PARTICIPATION IN EXAMPLE PROJECTS

26. NAMES OF KEY PERSONNEL (From Section E, Block 12)	27. ROLE IN THIS CONTRACT (From Section E, Block 13)	28. EXAMPLE PROJECTS LISTED IN SECTION F (Fill in "Example Projects Key" section below before completing table. Place "X" under project key number for participation in same or similar role.)									
		1	2	3	4	5	6	7	8	9	10

29. EXAMPLE PROJECTS KEY

NO.	TITLE OF EXAMPLE PROJECT (FROM SECTION F)	NO.	TITLE OF EXAMPLE PROJECT (FROM SECTION F)
1		6	
2		7	
3		8	
4		9	
5		10	

H. ADDITIONAL INFORMATION

30. PROVIDE ANY ADDITIONAL INFORMATION REQUESTED BY THE AGENCY. ATTACH ADDITIONAL SHEETS AS NEEDED.

I. AUTHORIZED REPRESENTATIVE

The foregoing is a statement of facts.

31. SIGNATURE	32. DATE

33. NAME AND TITLE

ARCHITECT-ENGINEER QUALIFICATIONS

1. SOLICITATION NUMBER *(If any)*

PART II - GENERAL QUALIFICATIONS

(If a firm has branch offices, complete for each specific branch office seeking work.)

2a. FIRM (OR BRANCH OFFICE) NAME		3. YEAR ESTABLISHED	4. DUNS NUMBER
2b. STREET		5. OWNERSHIP	
		a. TYPE	
2c. CITY	2d. STATE / 2e. ZIP CODE	b. SMALL BUSINESS STATUS	
6a. POINT OF CONTACT NAME AND TITLE		7. NAME OF FIRM *(If block 2a is a branch office)*	
6b. TELEPHONE NUMBER	6c. E-MAIL ADDRESS		
8a. FORMER FIRM NAME(S) *(If any)*		8b. YR. ESTABLISHED	8c. DUNS NUMBER

9. EMPLOYEES BY DISCIPLINE				10. PROFILE OF FIRM'S EXPERIENCE AND ANNUAL AVERAGE REVENUE FOR LAST 5 YEARS		
a. Function Code	b. Discipline	c. No. of Employees (1) FIRM	c. No. of Employees (2) BRANCH	a. Profile Code	b. Experience	c. Revenue Index Number (see below)
	Other Employees					
	Total					

11. ANNUAL AVERAGE PROFESSIONAL SERVICES REVENUES OF FIRM FOR LAST 3 YEARS *(Insert revenue index number shown at right)*	
a. Federal Work	
b. Non-Federal Work	
c. Total Work	

PROFESSIONAL SERVICES REVENUE INDEX NUMBER

1. Less than $100,000
2. $100,00 to less than $250,000
3. $250,000 to less than $500,000
4. $500,000 to less than $1 million
5. $1 million to less than $2 million
6. $2 million to less than $5 million
7. $5 million to less than $10 million
8. $10 million to less than $25 million
9. $25 million to less than $50 million
10. $50 million or greater

12. AUTHORIZED REPRESENTATIVE

The foregoing is a statement of facts.

a. SIGNATURE	b. DATE
c. NAME AND TITLE	

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STANDARD FORM 330 (REV. 3/2013) **PAGE 6**

■ 417. Revise section 53.301–1093 to read as follows:

53.301–1093 Schedule of Withholdings Under the Construction Wage Rate Requirements Statute (40 U.S.C. Chapter 31, Subchapter IV, section 3144) and/or the Contract Work Hours and Safety Standards Statute (40 U.S.C. Chapter 37, section 3703).

SCHEDULE OF WITHHOLDINGS UNDER THE CONSTRUCTION WAGE RATE REQUIREMENTS STATUTE (40 U.S.C. CHAPTER 31, SUBCHAPTER IV, §3144)

AND/OR

THE CONTRACT WORK HOURS AND SAFETY STANDARDS STATUTE (40 U.S.C. CHAPTER 37, §3703)

U.S. GOVERNMENT ACCOUNTABILITY OFFICE
Office of General Counsel
Davis-Bacon Group
WASHINGTON, DC 20548

Contractor or subcontractor charged with violations _____

Prime contractor _____

Contract No. _____ , _____
(Date)

Report concerning irregularities transmitted to--

_____ , _____
(Date)

Deducted from amounts otherwise due the contractor, for deposit to the account "05X6022," covering wages due the employees whose names, social security numbers, and current addresses are listed on the attached schedule, are withholdings pursuant to the following laws:

Construction Wage Rate Requirements Statute _____ $ _____

Contract Work Hours and Safety Standards Statute _____ $ _____

Total _____ $ _____

Forwarded herewith is check No. _____ , dated _____

for $ _____

_____
(Disbursing officer or other administrative official)

STANDARD FORM 1093 (REV. 2/2013)

■ 418. Revise section 53.301–1413 to read as follows:

53.301–1413 Statement and Acknowledgement.

STATEMENT AND ACKNOWLEDGMENT

OMB No.: **9000-0014**
Expires: 6/30/2014

PAPERWORK REDUCTION ACT STATEMENT: Public reporting burden for this collection of information is estimated to average .05 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. Send comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing this burden, to U.S. General Services Administration, Regulatory Secretariat (MVCB)/IC 9000-0014, Office of Governmentwide Acquisition Policy,1800 F Street, NW, Washington, DC 20405.

PART I - STATEMENT OF PRIME CONTRACTOR

1. PRIME CONTRACT NO.	2. DATE SUBCONTRACT AWARDED	3. SUBCONTRACT NUMBER

4. PRIME CONTRACTOR			5. SUBCONTRACTOR		
a. NAME			a. NAME		
b. STREET ADDRESS			b. STREET ADDRESS		
c. CITY	d. STATE	e. ZIP CODE	c. CITY	d. STATE	e. ZIP CODE

6. The prime contract ☐ does, ☐ does not contain the clause entitled "Contract Work Hours and Safety Standards Act -- Overtime Compensation."

7. The prime contractor states that under the contract shown in Item 1, a subcontract was awarded on the date shown in Item 2 to the subcontractor identified in item 5 by the following firm:

a. NAME OF AWARDING FIRM

b. DESCRIPTION OF WORK BY SUBCONTRACTOR

8. PROJECT	9. LOCATION

10a. NAME OF PERSON SIGNING	11. BY *(Signature)*	12. DATE SIGNED
10b. TITLE OF PERSON SIGNING		

PART II - ACKNOWLEDGMENT OF SUBCONTRACTOR

13. The subcontractor acknowledges that the following clauses of the contract shown in Item 1 are included in this subcontract:

- Contract Work Hours and Safety Standards Act - Overtime Compensation (If included in prime contract see Block 6)
- Payrolls and Basic Records
- Withholding of Funds
- Disputes Concerning Labor Standards
- Compliance with Construction Wage Rate Requirements and Related Regulations
- Construction Wage Rate Requirements
- Apprentices and Trainees
- Compliance with Copeland Act Requirements
- Subcontracts (Labor Standards)
- Contract Termination - Debarment
- Certification of Eligibility

14. NAME(S) OF ANY INTERMEDIATE SUBCONTRACTORS, IF ANY

A		C	
B		D	

15a. NAME OF PERSON SIGNING	16. BY *(Signature)*	17. DATE SIGNED
15b. TITLE OF PERSON SIGNING		

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PREVIOUS EDITION IS NOT USABLE

STANDARD FORM 1413 **(REV. 4/2013)**
Prescribed by GSA/FAR (48 CFR) 53.222(e)

■ 419. Revise section 53.301–1444 to read as follows:

53.301–1444 Request for Authorization of Additional Classification and Rate.

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REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND RATE	CHECK APPROPRIATE BOX ☐ SERVICE CONTRACT ☐ CONSTRUCTION CONTRACT	OMB Number: 9000-0089 Expiration Date: 7/31/2014

PAPERWORK REDUCTION ACT STATEMENT: Public reporting burden for this collection of information is estimated to average .5 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. Send comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing this burden, to U.S. General Services Administration, Regulatory Secretariat (MVCB)/IC 9000-0089, Office of Governmentwide Acquisition Policy, 1800 F Street, NW, Washington, DC 20405.

INSTRUCTIONS: THE CONTRACTOR SHALL COMPLETE ITEMS 3 THROUGH 16, KEEP A PENDING COPY, AND SUBMIT THE REQUEST, IN QUADRUPLICATE, TO THE CONTRACTING OFFICER.

1. **TO:** ADMINISTRATOR, WAGE AND HOUR DIVISION U.S. DEPARTMENT OF LABOR WASHINGTON, D.C. 20210	2. **FROM:** *(REPORTING OFFICE)*

3. CONTRACTOR	4. DATE OF REQUEST

5. CONTRACT NUMBER	6. DATE BID OPENED *(SEALED BIDDING)*	7. DATE OF AWARD	8. DATE CONTRACT WORK STARTED	9. DATE OPTION EXERCISED (IF *APPLICABLE) (SERVICE CONTRACT ONLY)*

10. SUBCONTRACTOR *(IF ANY)*

11. PROJECT AND DESCRIPTION OF WORK *(ATTACH ADDITIONAL SHEET IF NEEDED)*

12. LOCATION *(CITY, COUNTY AND STATE)*

13. IN ORDER TO COMPLETE THE WORK PROVIDED FOR UNDER THE ABOVE CONTRACT, IT IS NECESSARY TO ESTABLISH THE FOLLOWING RATE(S) FOR THE INDICATED CLASSIFICATION(S) NOT INCLUDED IN THE DEPARTMENT OF LABOR DETERMINATION

NUMBER: _____ DATED: _____

a. LIST IN ORDER: PROPOSED CLASSIFICATION TITLE(S); JOB DESCRIPTION(S); DUTIES; AND RATIONALE FOR PROPOSED CLASSIFICATIONS *(Service contracts only)* *(Use reverse or attach additional sheets, if necessary)*	b. WAGE RATE(S)	c. FRINGE BENEFITS PAYMENTS

14. SIGNATURE AND TITLE OF SUBCONTRACTOR REPRESENTATIVE *(IF ANY)*	15. SIGNATURE AND TITLE OF PRIME CONTRACTOR REPRESENTATIVE	
16. SIGNATURE OF EMPLOYEE OR REPRESENTATIVE	TITLE	CHECK APPROPRIATE BOX-REFERENCING BLOCK 13. ☐ AGREE ☐ DISAGREE

TO BE COMPLETED BY CONTRACTING OFFICER *(CHECK AS APPROPRIATE - SEE FAR 22.1019 (SERVICE CONTRACT LABOR STANDARDS) OR FAR 22.406-3 (CONSTRUCTION WAGE RATE REQUIREMENTS))*

☐ THE INTERESTED PARTIES AGREE AND THE CONTRACTING OFFICER RECOMMENDS APPROVAL BY THE WAGE AND HOUR DIVISION. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.

☐ THE INTERESTED PARTIES CANNOT AGREE ON THE PROPOSED CLASSIFICATION AND WAGE RATE. A DETERMINATION OF THE QUESTION BY THE WAGE AND HOUR DIVISION IS THEREFORE REQUESTED. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.

(Send 3 copies to the Department of Labor)

SIGNATURE OF CONTRACTING OFFICER OR REPRESENTATIVE	TITLE AND COMMERCIAL TELEPHONE NUMBER	DATE SUBMITTED

PREVIOUS EDITION IS USABLE

STANDARD FORM 1444 (REV. 4/2013)
Prescribed by GSA-FAR (48 CFR) 53.222(f)

■ 420. Revise section 53.301–1446 to read as follows:

53.301–1446 Labor Standards Investigation Summary Sheet.

LABOR STANDARDS INVESTIGATION SUMMARY SHEET

REPORTING OFFICE	CONTRACT NUMBER	CONTRACT AMOUNT	DATE OF CONTRACT

TYPE OF CONTRACT
☐ FIXED PRICE ☐ CPFF ☐ OTHER *(Specify)*

CONTRACTOR'S NAME AND ADDRESS *(Include ZIP Code)*	EMPLOYER'S NAME AND ADDRESS *(Include ZIP Code)* *(If other than prime contractor)*

PROJECT AND LOCATION

DESCRIPTION OF WORK

BASIS FOR INVESTIGATION

WAGE DETERMINATION NUMBER	WAGE DETERMINATION DATE

NATURE AND EXTENT OF VIOLATION

NO. EMPLOYEES INVOLVED	ARE VIOLATIONS CONSIDERED WILLFUL? ☐Yes ☐No	COPELAND ACT VIOLATIONS ☐Yes ☐No
CONSTRUCTION WAGE RATE REQUIREMENTS STATUTE UNDERPAYMENTS $	CWHSS* UNDERPAYMENTS $	CWHSS * LAW VIOLATIONS $

CORRECTIVE ACTIONS TAKEN

RESTITUTION MADE ☐Yes ☐No	AMOUNT OF RESTITUTION $	CONTRACTORS PAYMENT WITHHELD ☐Yes ☐No
WITHHELD FOR CONSTRUCTION WAGE RATE REQUIREMENTS STATUTE VIOLATIONS $	WITHHELD FOR CWHSS* UNDERPAYMENTS $	WITHHELD FOR CWHSS* VIOLATIONS $

REMARKS

PREPARED BY

DATE	TITLE	SIGNATURE

*Contract Work Hours and Safety Standards Statute

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Previous edition is usable

STANDARD FORM 1446 (REV. 4-2013)
Prescribed by GSA-FAR (48 CFR) 53.222(h)

[FR Doc. 2014–08744 Filed 4–28–14; 8:45 am]

BILLING CODE 6820–EP–C

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 9, 11, and 52

[FAC 2005–73; Item II; Docket No. 2014–0053; Sequence No. 1]

Federal Acquisition Regulation; Technical Amendments

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This document makes amendments to the Federal Acquisition Regulation (FAR) in order to make editorial changes.

DATES: *Effective:* April 29, 2014.

FOR FURTHER INFORMATION CONTACT: The Regulatory Secretariat Division (MVCB), 1800 F Street NW., 2nd Floor, Washington, DC 20405, 202–501–4755, for information pertaining to status or publication schedules. Please cite FAC 2005–73, Technical Amendments.

SUPPLEMENTARY INFORMATION: In order to update certain elements in 48 CFR Parts 9, 11, and 52 this document makes editorial changes to the FAR.

List of Subject in 48 CFR Parts 9, 11, and 52

Government procurement.

Dated: April 11, 2014.

William Clark,

Acting Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 9, 11, and 52 as set forth below:

■ 1. The authority citation for 48 CFR part 9 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 9—CONTRACTOR QUALIFICATIONS

9.105–2 [Amended]

■ 2. Amend section 9.105–2 by removing from the introductory text of paragraph (b)(2)(i) the Web site ''*www.cpars.csd.disa.mil*'' and adding ''*www.cpars.gov*'' in its place.

9.203 [Amended]

■ 3. Amend section 9.203 by removing from paragraph (b)(2) the Web site ''*http://assist.daps.dla.mil*'' and adding ''*https://assist.dla.mil/online/start/*'' in its place.

PART 11—DESCRIBING AGENCY NEEDS

■ 4. The authority citation for 48 CFR part 11 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

11.201 [Amended]

■ 5. Amend section 11.201 by—

■ a. Removing from paragraph (d)(2)(i) the Web site ''*http://assist.daps.dla.mil*'' and adding ''*https://assist.dla.mil/online/start/*'' in its place;

■ b. Removing from paragraph (d)(2)(ii) the Web site ''*http://assist.daps.dla.mil/quicksearch*'' and adding ''*http://quicksearch.dla.mil/*'' in its place; and

■ c. Removing from paragraph (d)(3)(i) the Web site ''*http://assist.daps.dla.mil/wizard''* and adding ''*https://assist.dla.mil/wizard/index.cfm*'' in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 6. The authority citation for 48 CFR part 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

■ 7. Amend section 52.203–17, by revising the clause heading and date to read as follows:

52.203–17 Contractor Employee Whistleblower Rights and Requirement To Inform Employees of Whistleblower Rights.

* * * * *

Contractor Employee Whistleblower Rights and Requirement To Inform Employees of Whistleblower Rights (APR 2014)

* * * * *

■ 8. Amend section 52.208–8 by—

■ a. Revising the date of the clause; and

■ b. Removing from paragraph (a) of the definition ''Federal helium supplier'' the Web site ''*http://www.nm.blm.gov/www/amfo/amfo_home.html*'' and adding ''*http://www.blm.gov/nm/st/en/fo/Amarillo_Field_Office.html*'' in its place.

The revised text reads as follows:

52.208–8 Required Sources for Helium and Helium Usage Data.

* * * * *

Required Sources for Helium and Helium Usage Data (APR 2014)

* * * * *

■ 9. Amend section 52.211–2 by—

■ a. Revising the date of the provision;

■ b. Removing from paragraph (a)(1) the Web site ''*http://assist.daps.dla.mil*'' and adding ''*https://assist.dla.mil/online/start/*'' in its place;

■ c. Removing from paragraph (a)(2) the Web site ''*http://assist.daps.dla.mil/quicksearch*'' and adding ''*http://quicksearch.dla.mil/*'' in its place; and

■ d. Removing from paragraph (b)(1) the Web site ''*http://assist.daps.dla.mil/wizard*'' and adding ''*https://assist.dla.mil/wizard/index.cfm*'' in its place.

The revised text reads as follows:

52.211–2 Availability of Specifications, Standards, and Data Item Descriptions Listed in the Acquisition Streamlining and Standardization Information System (ASSIST).

* * * * *

Availability of Specifications, Standards, and Data Item Descriptions Listed in the Acquisition Streamlining and Standardization Information System (ASSIST) (APR 2014)

* * * * *

■ 10. Amend section 52.212–1 by—

■ a. Revising the date of the provision;

■ b. Removing from paragraph (i)(2)(i) the Web site ''*http://assist.daps.dla.mil*'' and adding ''*https://assist.dla.mil/online/start/*'' in its place;

■ c. Removing from paragraph (i)(2)(ii) the Web site ''*http://assist.daps.dla.mil/quicksearch*'' and adding ''*http://quicksearch.dla.mil/*'' in its place; and

■ d. Removing from paragraph (i)(3)(i) the Web site ''*http://assist.daps.dla.mil/wizard*'' and adding ''*https://assist.dla.mil/wizard/index.cfm*'' in its place.

The revised text reads as follows:

52.212–1 Instructions to Offerors—Commercial Items.

* * * * *

Instructions to Offerors—Commercial Items (APR 2014)

* * * * *

[FR Doc. 2014–08745 Filed 4–28–14; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR 2014–0052, Sequence No. 1]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–73; Small Entity Compliance Guide

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of DOD, GSA, and NASA. This *Small Entity Compliance Guide* has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rules appearing in Federal Acquisition Circular (FAC) 2005–73, which amends the Federal Acquisition Regulation (FAR). An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding these rules by referring to FAC 2005–73, which precedes this document. These documents are also available via the Internet at *http://www.regulations.gov.*

DATES: April 29, 2014.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact the analyst whose name appears in the table below. Please cite FAC 2005–73 and the FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755.

RULES LISTED IN FAC 2005–73

Item	Subject	FAR Case	Analyst
I	Positive Law Codification of Title 41	2011–018	Chambers.
II	Technical Amendment.		

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR cases, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2005–73 amends the FAR as specified below:

Item I—Positive Law Codification of Title 41 (FAR Case 2011–018)

This final rule amends the Federal Acquisition Regulation (FAR) to conform references throughout the FAR to the new Positive Law Codification of Title 41, United States Code, ''Public Contracts'' and other conforming changes. The new codification of Title 41 was enacted on January 4, 2011, under Public Law 111–350. Additionally, the rule completes the implementation of the recodification of Title 40. The codifications reorganized and renumbered the statutes, but did not change the meaning or legal effect.

A table at FAR 1.110 provides the popular names of Acts, the present statutory citation, and the new titles of the statutes. For example the ''Service Contract Act of 1965'' is now the ''Service Contract Labor Standards statute''.

The rule does not have a significant effect beyond the internal operating procedures of the Government, and consequently does not have a significant cost or administrative impact on entities either large or small.

Item II—Technical Amendments

Editorial changes are made at FAR 9.105–2, 9.203, 11.201, 52.203–17, 52.208–8, 52.211–2, and 52.212–1.

Dated: April 11, 2014.

William Clark,

Acting Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2014–08746 Filed 4–28–14; 8:45 am]

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Part IV

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Endangered Species Status for Sierra Nevada Yellow-Legged Frog and Northern Distinct Population Segment of the Mountain Yellow-Legged Frog, and Threatened Species Status for Yosemite Toad; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2012–0100; 4500030113]

RIN 1018–AZ21

Endangered and Threatened Wildlife and Plants; Endangered Species Status for Sierra Nevada Yellow-Legged Frog and Northern Distinct Population Segment of the Mountain Yellow-Legged Frog, and Threatened Species Status for Yosemite Toad

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine endangered species status under the Endangered Species Act of 1973 (Act), as amended, for the Sierra Nevada yellow-legged frog and the northern distinct population segment (DPS) of the mountain yellow-legged frog (mountain yellow-legged frog populations that occur north of the Tehachapi Mountains), and determine threatened species status under the Act for the Yosemite toad. The effect of this regulation will be to add these species to the List of Endangered and Threatened Wildlife.

DATES: This rule becomes effective June 30, 2014.

ADDRESSES: This final rule is available on the Internet at *http://www.regulations.gov* and at the Sacramento Fish and Wildlife Office. Comments and materials we received, as well as supporting documentation used in preparing this rule, are available for public inspection at *http://www.regulations.gov.* All of the comments, materials, and documentation that we considered in this rulemaking are available by appointment, during normal business hours at: U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W–2605, Sacramento, CA 95825; 916–414–6600 (telephone); 916–414–6712 (facsimile).

FOR FURTHER INFORMATION CONTACT: Jennifer Norris, Field Supervisor, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W–2605, Sacramento, CA 95825; 916–414–6600 (telephone); 916–414–6712 (facsimile). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Endangered Species Act, a species may warrant protection through listing if it is endangered or threatened throughout all or a significant portion of its range. Listing a species as an endangered or threatened species can be only completed by issuing a rule.

This rule will finalize the listing of the Sierra Nevada yellow-legged frog (*Rana sierrae*) as an endangered species, the northern DPS of the mountain yellow-legged frog (*Rana muscosa*) as an endangered species, and the Yosemite toad (*Anaxyrus canorus*) as a threatened species.

The basis for our action. Under the Endangered Species Act, we can determine that a species is an endangered or threatened species based on any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) Overutilization for commercial, recreational, scientific, or educational purposes; (C) Disease or predation; (D) The inadequacy of existing regulatory mechanisms; or (E) Other natural or manmade factors affecting its continued existence.

We have determined that both the Sierra Nevada yellow-legged frog and the northern DPS of the mountain yellow-legged frog are presently in danger of extinction throughout their entire ranges, based on the immediacy, severity, and scope of the threats to their continued existence. These include habitat degradation and fragmentation, predation and disease, climate change, inadequate regulatory protections, and the interaction of these various stressors impacting small remnant populations. A rangewide reduction in abundance and geographic extent of surviving populations of frogs has occurred following decades of fish stocking, habitat fragmentation, and most recently a disease epidemic. Surviving populations are smaller and more isolated, and recruitment in diseased populations is much reduced relative to historic norms. This combination of population stressors makes persistence of these species precarious throughout the currently occupied range in the Sierra Nevada.

We have also determined that the Yosemite toad is likely to become endangered throughout its range within the foreseeable future, based on the immediacy, severity, and scope of the threats to its continued existence. These include habitat loss associated with degradation of meadow hydrology following stream incision consequent to the cumulative effects of historical land management activities, notably livestock grazing, and also the anticipated hydrologic effects upon habitat from climate change. We also find that the Yosemite toad is likely to become endangered through the direct effects of climate change impacting small remnant populations, likely compounded with the cumulative effect of other threat factors (such as disease).

Peer review and public comment. We sought comments from independent specialists to ensure that our designations are based on scientifically sound data, assumptions, and analyses. We invited these peer reviewers to comment on our listing proposal. We also considered all comments and information received during the comment period.

Previous Federal Actions

Please refer to the proposed listing rule for the Sierra Nevada yellow-legged frog, the northern DPS of the mountain yellow-legged frog, and the Yosemite toad (78 FR 24472, April 25, 2013) for a detailed description of previous Federal actions concerning these species.

We will also be finalizing critical habitat designations for the Sierra Nevada yellow-legged frog, the northern DPS of the mountain yellow-legged, and the Yosemite toad under the Act in the near future.

Summary of Biological Status and Threats for the Sierra Nevada Yellow-Legged Frog and the Northern DPS of the Mountain Yellow-Legged Frog

Background

Please refer to the proposed listing rule for the Sierra Nevada yellow-legged frog and the northern DPS of the mountain yellow-legged frog under the Act (16 U.S.C. 1531 *et seq.*) for additional species information. In the proposed rule, we described two separate species of yellow-legged frogs, *Rana sierrae* and *Rana muscosa,* that resulted from the recent taxonomic split (see Taxonomy section below) of the previously known *Rana muscosa,* which we referred to in our proposed rule as the mountain yellow-legged frog ''species complex.'' For clarity and in order to maintain consistency with our previous treatment of the southern DPS of the mountain yellow legged frog in southern California (67 FR 44382, July 2, 2002) as well as with our proposed rule, and for the purposes of this document, we retain the common name of mountain yellow-legged frog for *Rana muscosa,* as opposed to the new common name, southern mountain yellow-legged frog, as published by

Crother *et al.* (2008, p. 11). We also note that the California Department of Fish and Game (CDFG) was recently renamed the California Department of Fish and Wildlife (CDFW). We refer to the California Department of Fish and Wildlife in all cases when discussing the agency in the text. Where citations are from CDFG documents, we include CDFW in parentheses for clarification.

Taxonomy

Please refer to the proposed listing rule for the Sierra Nevada yellow-legged frog and the northern DPS of the mountain yellow-legged frog under the Act (16 U.S.C. 1531 *et seq.*) for detailed species information on taxonomy (78 FR 24472, April 25, 2013).

Vredenburg *et al.* (2007, p. 371) determined that *Rana sierrae* occurs in the Sierra Nevada north of the South Fork Kings River watershed, along the east slope of the Sierra Nevada south into Inyo County at the southern extent of its range, and in the Glass Mountains just south of Mono Lake; and that *R. muscosa* occurs in the southern portion of the Sierra Nevada within and south of the South Fork Kings River watershed to the west of the Sierra Nevada crest (along with those populations inhabiting southern California) (Vredenburg *et al.* 2007, pp. 370–371). The Monarch Divide separates these species in the western Sierra Nevada, while they are separated by the Cirque Crest to the east (Knapp 2013, unpaginated).

For purposes of this rule, we recognize the species differentiation as presented in Vredenburg *et al.* (2007, p. 371) and adopted by the official societies mentioned above (Crother *et al.* 2008, p. 11), and in this final rule we refer to *Rana sierrae* as the Sierra Nevada yellow-legged frog, and we refer to the Sierra Nevada populations of *R. muscosa* as the northern DPS of the mountain yellow-legged frog. In California and Nevada, the Sierra Nevada yellow-legged frogs occupy the western Sierra Nevada north of the Monarch Divide (in Fresno County) and the eastern slope of the Sierra Nevada (east of the crest) from Inyo County through Mono County (including the Glass Mountains), to areas north of Lake Tahoe. The northern DPS of the mountain yellow-legged frog occurs only in California in the western Sierra Nevada and extends from south of the Monarch Divide in Fresno County through portions of the Kern River drainage. Figure 1 shows the approximate species boundaries within their historical ranges as determined by Knapp (unpubl. data).

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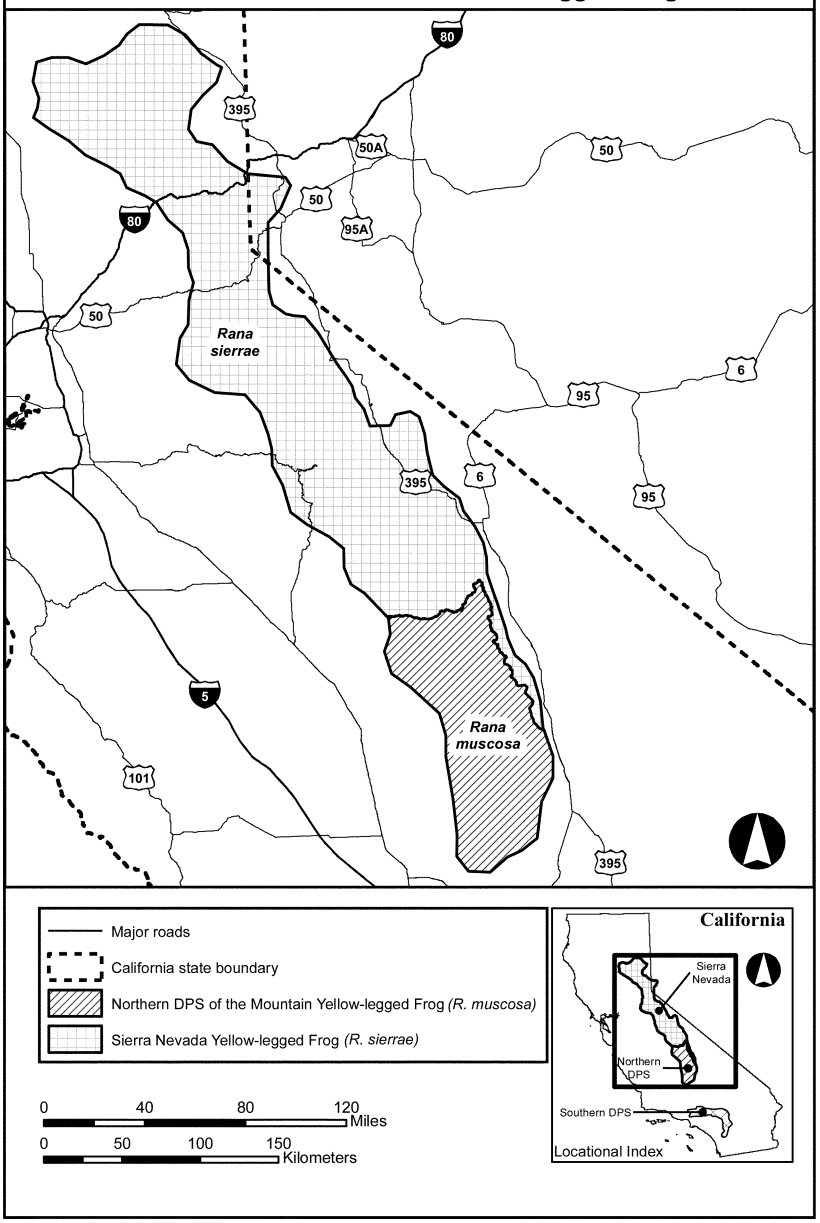
Figure 1
Estimated Historical Range of Sierra Nevada Yellow-legged Frog and Northern DPS of the Mountain Yellow-legged Frog



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Many studies cited in the rest of this document include articles and reports that were published prior to the official species reclassification, where the researchers may reference either one or both species. Where possible and appropriate, information will be referenced specifically (either as Sierra Nevada yellow-legged frog or the northern DPS of the mountain yellow-legged frog) to reflect the split of the species. Where information applies to both species, the two species will be referred to collectively as mountain yellow-legged frog or mountain yellow-legged frog species complex.

Species Description

Please refer to the proposed listing rule for the Sierra Nevada yellow-legged frog and the northern DPS of the mountain yellow-legged frog under the Act (16 U.S.C. 1531 *et seq.*) for additional information about species descriptions (78 FR 24472, April 25, 2013). The body lengths (snout to vent) of the mountain yellow-legged frogs range from 40 to 80 millimeters (mm) (1.5 to 3.25 inches (in)) (Jennings and Hayes 1994, p. 74). Females average slightly larger than males, and males have a swollen, darkened thumb base (Wright and Wright 1949, pp. 424–430; Stebbins 1951, pp. 330–335; Zweifel 1955, p. 235; Zweifel 1968, p. 65.1). Dorsal (upper) coloration in adults is variable, exhibiting a mix of brown and yellow, but also can be grey, red, or green-brown, and is usually patterned with dark spots (Jennings and Hayes 1994, p. 74; Stebbins 2003, p. 233). These spots may be large (6 mm (0.25 in)) and few, smaller and more numerous, or a mixture of both (Zweifel 1955, p. 230). Irregular lichen- or moss-like patches (to which the name *muscosa* refers) may also be present on the dorsal surface (Zweifel 1955, pp. 230, 235; Stebbins 2003, p. 233).

The belly and undersurfaces of the hind limbs are yellow or orange, and this pigmentation may extend forward from the abdomen to the forelimbs (Wright and Wright 1949, pp. 424–429; Stebbins 2003, p. 233). Mountain yellow-legged frogs may produce a distinctive mink or garlic-like odor when disturbed (Wright and Wright 1949, p. 432; Stebbins 2003, p. 233). Although these species lack vocal sacs, they can vocalize in or out of water, producing what has been described as a faint clicking sound (Zweifel 1955, p. 234; Ziesmer 1997, pp. 46–47; Stebbins 2003, p. 233). Mountain yellow-legged frogs have smoother skin, generally with heavier spotting and mottling dorsally, darker toe tips (Zweifel 1955, p. 234), and more opaque ventral coloration (Stebbins 2003, p. 233) than the foothill yellow-legged frog.

The Sierra Nevada yellow-legged frog and the northern DPS of the mountain yellow-legged frog are similar morphologically and behaviorally (hence their shared taxonomic designation until recently). However, these two species can be distinguished from each other physically by the ratio of the lower leg (fibulotibia) length to snout vent length. The northern DPS of the mountain yellow-legged frog has longer limbs (Vredenburg *et al.* 2007, p. 368). Typically, this ratio is greater than or equal to 0.55 in the northern DPS of the mountain yellow-legged frog and less than 0.55 in the Sierra Nevada yellow-legged frog.

Mountain yellow-legged frogs deposit their eggs in globular clumps, which are often somewhat flattened and roughly 2.5 to 5 centimeters (cm) (1 to 2 in) in diameter (Stebbins 2003, p. 444). When eggs are close to hatching, egg mass volume averages 198 cubic cm (78 cubic in) (Pope 1999, p. 30). Eggs have three firm, jelly-like, transparent envelopes surrounding a grey-tan or black vitelline (egg yolk) capsule (Wright and Wright 1949, pp. 431–433). Clutch size varies from 15 to 350 eggs per egg mass (Livezey and Wright 1945, p. 703; Vredenburg *et al.* 2005, p. 565). Egg development is temperature dependent. In laboratory breeding experiments, egg hatching time ranged from 18 to 21 days at temperatures of 5 to 13.5 degrees Celsius (°C) (41 to 56 degrees Fahrenheit (°F)) (Zweifel 1955, pp. 262–264). Field observations show similar results (Pope 1999, p. 31).

The tadpoles of mountain yellow-legged frogs generally are mottled brown on the dorsal side with a faintly yellow venter (underside) (Zweifel 1955, p. 231; Stebbins 2003, p. 460). Total tadpole length reaches 72 mm (2.8 in), the body is flattened, and the tail musculature is wide (about 2.5 cm (1 in) or more) before tapering into a rounded tip (Wright and Wright 1949, p. 431). The mouth has a maximum of eight labial (lip) tooth rows (two to four upper and four lower) (Stebbins 2003, p. 460). Tadpoles may take more than 1 year (Wright and Wright 1949, p. 431), and often require 2 to 4 years, to reach metamorphosis (transformation from tadpoles to frogs) (Cory 1962b, p. 515; Bradford 1983, pp. 1171, 1182; Bradford *et al.* 1993, p. 883; Knapp and Matthews 2000, p. 435), depending on local climate conditions and site-specific variables.

The time required to reach reproductive maturity in mountain yellow-legged frogs is thought to vary between 3 and 4 years post metamorphosis (Zweifel 1955, p. 254). This information, in combination with the extended amount of time as a tadpole before metamorphosis, means that it may take 5 to 8 years for mountain yellow-legged frogs to begin reproducing. While the typical lifespan of mountain yellow-legged frogs is largely unknown, Matthews and Miaud (2007, p. 991) estimated that the total lifespan (including tadpole and adult life stages) ranges up to 14 years, with other documented estimates of up to 16 years of age for the Sierra Nevada yellow-legged frog (Fellers *et al.* 2013, p. 155), suggesting that mountain yellow-legged frogs are long-lived amphibians.

Habitat and Life History

Mountain yellow-legged frogs currently exist in montane regions of the Sierra Nevada of California. Throughout their range, these species historically inhabited lakes, ponds, marshes, meadows, and streams at elevations typically ranging from 1,370 to 3,660 meters (m) (4,500 to 12,000 feet (ft)) ((CDFG (CDFW)) 2011, pp. A–1–A–5), but can occur as low as 1,067 m (3,500 ft) in the northern portions of their range (USFS 2011, geospatial data; USFS 2013, p. 4). Mountain yellow-legged frogs are highly aquatic; they are generally not found more than 1 m (3.3 ft) from water (Stebbins 1951, p. 340; Mullally and Cunningham 1956a, p. 191; Bradford *et al.* 1993, p. 886). Mullally and Cunningham (1956a, p. 191) found adults sitting on rocks along the shoreline, where there was little or no vegetation. Although mountain yellow-legged frogs may use a variety of shoreline habitats, both tadpoles and adults are observed less frequently at shorelines that drop abruptly to a depth of 60 cm (2 ft) than at open shorelines that gently slope up to shallow waters of only 5 to 8 cm (2 to 3 in) in depth (Mullally and Cunningham 1956a, p. 191; Jennings and Hayes 1994, p. 77).

At lower elevations within their historical range, these species have been associated with rocky streambeds and wet meadows surrounded by coniferous forest (Zweifel 1955, p. 237; Zeiner *et al.* 1988, p. 88), although, in general, little is known about the ecology of mountain yellow-legged frogs in Sierra Nevada stream habitats (Brown 2013, unpaginated). Zweifel (1955, p. 237) found that streams utilized by adults varied from streams having high gradients and numerous pools, rapids, and small waterfalls, to streams with low gradients and slow flows, marshy edges, and sod banks, while aquatic substrates varied from bedrock to fine sand, rubble (rock fragments), and boulders. Jennings and Hayes (1994, p. 77) have indicated that mountain yellow-legged frogs appear absent from the smallest creeks, and suggest that it is probably because these creeks have insufficient depth for adequate refuge and overwintering habitat. However, Brown (2013, unpaginated) reports that the frogs are found in small creeks, although she notes that the extent to which these are remnant populations now excluded from preferred habitat is not known. In the northern portion of the Sierra Nevada yellow-legged frog range, the remnant populations primarily occur in stream habitats.

At higher elevations, these species occupy lakes, ponds, tarns (small steep-banked mountain lakes or pools, generally of glacial origin), and streams (Zweifel 1955, p. 237; Mullally and Cunningham 1956a, p. 191). Mountain yellow-legged frogs in the Sierra Nevada are most abundant in high-elevation lakes and slow-moving portions of streams (Zweifel 1955, p. 237; Mullally and Cunningham 1956a, p. 191). The borders of alpine (above the tree line) lakes and mountain meadow streams used by mountain yellow-legged frogs are frequently grassy or muddy, although many are bordered by exposed glaciated bedrock. Zweifel (1955, pp. 237–238) suggested that alpine lakeshores differ from the sandy or rocky shores inhabited by mountain yellow-legged frogs in lower elevation streams.

Adult mountain yellow-legged frogs breed in a variety of habitats including the shallows of stillwater habitat (lakes or ponds) and flowing inlet streams (Zweifel 1955, p. 243; Pope 1999, p. 30). Adults emerge from overwintering sites immediately following snowmelt, and will even move over ice to reach breeding sites (Pope 1999, pp. 46–47; Vredenburg *et al.* 2005, p. 565). Mountain yellow-legged frogs deposit

their eggs underwater in clusters, which they attach to rocks, gravel, or vegetation, or which they deposit under banks (Wright and Wright 1949, p. 431; Stebbins 1951, p. 341; Zweifel 1955, p. 243; Pope 1999, p. 30).

Lake depth is an important attribute defining habitat suitability for mountain yellow-legged frogs. At high elevations, both frogs and tadpoles overwinter under ice in lakes and streams. As tadpoles must overwinter multiple years before metamorphosis, successful breeding sites are located in (or connected to) lakes and ponds that do not dry out in the summer, and also are deep enough that they do not completely freeze or become oxygen-depleted (anoxic) in winter. Both adults and tadpole mountain yellow-legged frogs overwinter for up to 9 months in the bottoms of lakes that are at least 1.7 m (5.6 ft) deep; however, overwinter survival may be greater in lakes that are at least 2.5 m (8.2 ft) deep (Bradford 1983, p. 1179; Vredenburg *et al.* 2005, p. 565).

Bradford (1983, pp. 1173, 1178–1179) found that, in years with exceptional precipitation (61 percent above average) and greater than normal ice-depths, mountain yellow-legged frog die-offs sometimes result from oxygen depletion during winter in lakes less than 4 m (13 ft) in depth, finding that in ice-covered lakes, oxygen depletion occurs most rapidly in shallow lakes relative to deeper lakes. However, tadpoles may survive for months in nearly anoxic conditions when shallow lakes are frozen to the bottom. More recent work reported populations of mountain yellow-legged frogs overwintering in lakes less than 1.5 m (5 ft) deep that were assumed to have frozen to the bottom, and yet healthy frogs emerged the following July (Matthews and Pope 1999, pp. 622–623; Pope 1999, pp. 42–43). Matthews and Pope 1999, p. 619) used radio telemetry to find that, when lakes had begun to freeze over, the frogs were utilizing rock crevices, holes, and ledges near shore, where water depths ranged from 0.2 m (0.7 ft) to 1.5 m (5 ft). Vredenburg *et al.* (2005, p. 565) noted that such behavior may be a response to presence of introduced fish. Matthews and Pope (1999, p. 622) suggested that the granite surrounding these overwintering habitats probably insulates mountain yellow-legged frogs from extreme winter temperatures, and that they can survive, provided there is an adequate supply of oxygen.

Mountain yellow-legged frog tadpoles maintain a relatively high body temperature by selecting warmer microhabitats (Bradford 1984, p. 973). During winter, tadpoles remain in warmer water below the thermocline (the transition layer between thermally stratified water). After spring overturn (thaw and thermal mixing of the water), they behaviorally modulate their body temperature by moving to shallow, near-shore water when warmer days raise surface water temperatures. During the late afternoon and evening, mountain yellow-legged frogs retreat to offshore waters that are less subject to night cooling (Bradford 1984, p. 974).

Available evidence suggests that adult mountain yellow-legged frogs display strong site fidelity and return to the same overwintering and summer habitats from year to year (Pope 1999, p. 45; Matthews and Preisler 2010, p. 252). Matthews and Pope (1999, pp. 618–623) observed that the frogs' movement patterns and habitat associations shifted seasonally. Frogs were well-distributed in most lakes, ponds, and creeks during August, but moved to only a few lakes by October. Matthews and Pope (1999, pp. 618–623) established home-range areas for 10 frogs and found that frogs remained through August in the lake or creek where they'd been captured, with movement confined to areas ranging from 19.4 to 1,028 square meters (m^2) (23.20 to 1,229 square yards (y^2)). In September, movements increased, with home-ranges varying from 53 to 9,807 m^2 in size (63.4 to 11,729 y^2); six of nine frogs tagged in September moved from that lake by the end of the month, suggesting a pattern in which adult mountain yellow-legged frogs move among overwintering, breeding, and feeding sites during the year, with narrow distributions in early spring and late fall due to restricted overwintering habitat (Pope and Matthews 2001, p. 791). Although terrestrial movements of more than two or three hops from water were previously undocumented, overland movements exceeding 66 m (217 ft) were observed in 17 percent of tagged frogs, demonstrating that mountain yellow-legged frogs move overland as well as along aquatic pathways (Pope and Matthews 2001, p. 791). Pope and Matthews (2001, p. 791) also recorded a movement distance of over 1 km (including a minimum of 420 m (0.26 miles) overland movement and movement through a stream course). The farthest reported distance of a mountain yellow-legged frog from water is 400 m (1,300 ft) (Vredenburg 2002, p. 4).

Within stream systems, Sierra Nevada yellow-legged frogs have been documented to move 1,032 m (3,385 ft) over a 29-day period (Fellers *et al.* 2013, p. 159). Wengert (2008, p. 18) conducted a telemetry study that documented single-season movement distances for Sierra Nevada yellow-legged frog of up to 3.3 kilometers (km) (2.05 miles (mi)) along streams. Along stream habitats, adults have been observed greater than 22 m (71 ft) from the water during the overwintering period (Wengert 2008, p. 20). Additionally, during the duration of the study, Wengert (2008, p. 13) found that 14 percent of the documented frog locations occurred greater than 0.2 m (0.66 ft) from the stream edge. While recent information suggests that the frogs in the Wengert study may have actually been foothill yellow-legged frog *(Rana boylii*) (Poorten *et al.,* 2013, p. 4), we expect that the movement distances recorded are applicable to the Sierra Nevada yellow-legged frog within a stream-based system, as the ecology is comparable between the two sister taxa in regard to stream systems.

Almost no data exist on the dispersal of juvenile mountain yellow-legged frogs away from breeding sites; however, juveniles that may be dispersing have been observed in small intermittent streams (Bradford 1991, p. 176). Regionally, mountain yellow-legged frogs are thought to exhibit a metapopulation structure (Bradford *et al.* 1993, p. 886; Drost and Fellers 1996, p. 424). Metapopulations are spatially separated population subunits within migratory distance of one another such that individuals may interbreed among subunits and populations may become reestablished if they are extirpated (Hanski and Simberloff 1997, p. 6).

Historical Range and Distribution

Mountain yellow-legged frogs were historically abundant and ubiquitous across many of the higher elevations within the Sierra Nevada. Grinnell and Storer (1924, p. 664) reported the Sierra Nevada yellow-legged frog to be the most common amphibian surveyed in the Yosemite area. It is difficult to know the precise historical ranges of the Sierra Nevada yellow-legged frog and the northern DPS of the mountain yellow-legged frog, because projections must be inferred from museum collections that do not reflect systematic surveys, and survey information predating significant rangewide reduction is very limited. However, projections of historical ranges are available using predictive habitat modeling based on recent research (Knapp, unpubl. data).

Historically, the range of the Sierra Nevada yellow-legged frog extended in California from north of the Feather River, in Butte and Plumas Counties, south to the Monarch Divide on the west side of the Sierra Nevada crest in Fresno County. East of the Sierra Nevada crest in California, the historical

range of the Sierra Nevada yellow-legged frog extends from areas north of Lake Tahoe, through Mono County (including the Glass Mountains) to Inyo County. Historical records indicate that the Sierra Nevada yellow-legged frog also occurred at locations within the Carson Range of Nevada, including Mount Rose in Washoe County, and also occurred in the vicinity of Lake Tahoe in Douglas County, Nevada (Linsdale 1940, pp. 208–210; Zweifel 1955, p. 231; Jennings 1984, p. 52; Knapp 2013, unpaginated).

Historically, the northern DPS of the mountain yellow-legged frog ranged from the Monarch Divide in Fresno County as far southward as Breckenridge Mountain, in Kern County (Vredenburg *et al.* 2007, p. 371). The historical ranges of the two frog species within the mountain yellow-legged complex, therefore, meet each other roughly along the Monarch Divide to the north, and along the crest of the Sierra Nevada to the east. Because we have determined that the historic range of *R. muscosa* is entirely within the State of California, in this final rule we correct the listing for the southern DPS of the mountain yellow-legged frog to remove Nevada from its historic range.

Current Range and Distribution

Since the time of the mountain yellow-legged frog observations of Grinnell and Storer (1924, pp. 664–665), a number of researchers have reported disappearances of these species from a large fraction of their historical ranges in the Sierra Nevada (Hayes and Jennings 1986, p. 490; Bradford 1989, p. 775; Bradford *et al.* 1994, pp. 323–327; Jennings and Hayes 1994, p. 78; Jennings 1995, p. 133; Stebbins and Cohen 1995, pp. 225–226; Drost and Fellers 1996, p. 414; Jennings 1996, pp. 934–935; Knapp and Matthews 2000, p. 428; Vredenburg *et al.* 2005, p. 564).

The current distributions of the Sierra Nevada yellow-legged frog and the northern DPS of the mountain yellow-legged frog are restricted primarily to publicly managed lands at high elevations, including streams, lakes, ponds, and meadow wetlands located within National Forests and National Parks. National Forests with extant (surviving) populations of mountain yellow-legged frogs include the Plumas National Forest, Tahoe National Forest, Humboldt-Toiyabe National Forest, Lake Tahoe Basin Management Unit, Eldorado National Forest, Stanislaus National Forest, Sierra National Forest, Sequoia National Forest, and Inyo National Forest. National Parks with extant populations of mountain yellow-legged frogs include Yosemite National Park, Kings Canyon National Park, and Sequoia National Park.

The most pronounced declines within the mountain yellow-legged frog complex have occurred north of Lake Tahoe in the northernmost 125-km (78-mi) portion of the range (Sierra Nevada yellow-legged frog) and south of Kings Canyon National Park in Tulare County (the northern DPS of the mountain yellow-legged frog). In the southernmost 50-km (31-mi) portion of the range, only a few populations of the northern DPS of the mountain yellow-legged frog remain (Fellers 1994, p. 5; Jennings and Hayes 1994, pp. 74–78); except for a few small populations in the Kern River drainage, the northern DPS of the mountain yellow-legged frog is entirely extirpated from all of Sequoia National Park (Knapp 2013, unpaginated). As of 2000, mountain yellow-legged frog populations were known to have persisted in greater density in the National Parks of the Sierra Nevada as compared to the surrounding U.S. Forest Service (USFS) lands, and the populations that did occur in the National Parks generally exhibited higher abundances than those on USFS lands (Bradford *et al.* 1994, p. 323; Knapp and Matthews 2000, p. 430).

Population Estimates and Status

Monitoring efforts and research studies have documented substantial declines of mountain yellow-legged frog populations in the Sierra Nevada. The number of extant populations has declined greatly over the last few decades. Remaining populations are patchily scattered throughout the historical range (Jennings and Hayes 1994, pp. 74–78; Jennings 1995, p. 133; Jennings 1996, p. 936). In the northernmost portion of the range (Butte and Plumas Counties), only a few Sierra Nevada yellow-legged frog populations have been documented since 1970 (Jennings and Hayes 1994, pp. 74–78; CDFG (CDFW) *et al.,* unpubl. data). Declines of both species have also been noted in the central and southern Sierra Nevada (Drost and Fellers 1996, p. 420; Knapp and Matthews 2001, pp. 433–437; Knapp 2013, unpaginated). In the southern Sierra Nevada (Sierra, Sequoia, and Inyo National Forests; and Kings Canyon and Yosemite National Parks), modest to relatively large populations (for example, breeding populations of approximately 40 to more than 200 adults) of mountain yellow-legged frogs do remain; however, in recent years some large populations have been extirpated in this area (Bradford 1991, p. 176; Bradford *et al.* 1994, pp. 325–326; Knapp 2002a, p. 10, Wake and Vredenburg 2009, pp. 11467–11470).

Davidson *et al.* (2002, p. 1591) reviewed 255 previously documented mountain yellow-legged frog locations (based on Jennings and Hayes 1994, pp. 74–78) throughout the historical range and concluded that 83 percent of these sites no longer support frog populations. Vredenburg *et al.* (2007, pp. 369–371) compared recent survey records (1995–2004) with museum records from 1899–1994 and reported that 92.5 percent of historical Sierra Nevada yellow-legged frog populations and 92.3 percent of populations of the northern DPS of mountain yellow-legged frog are now extirpated.

CDFW (CDFG (CDFW) 2011, pp. 17–20) used historical localities from museum records covering the same time interval (1899–1994), but updated recent locality information with additional survey data (1995–2010) to significantly increase proportional coverage from the Vredenburg *et al.* (2007) study. These more recent surveys failed to detect any extant frog populations (within 1 km (0.63 mi), a metric used to capture interbreeding individuals within metapopulations) at 220 of 318 historical Sierra Nevada yellow-legged frog localities and 94 of 109 historical northern DPS of the mountain yellow-legged frog localities (in the Sierran portion of their range). This calculates to an estimated loss of 69 percent of Sierra Nevada yellow-legged frog metapopulations and 86 percent of northern DPS of the mountain yellow-legged frog metapopulations from historical occurrences.

In addition to comparisons based on individual localities, CDFW (CDFG 2011, pp. 20–25) compared historical and recent population status at the watershed scale. This is a rough index of the geographic extent of the species through their respective ranges. Within the Sierra Nevada, 44 percent of watersheds historically utilized by Sierra Nevada yellow-legged frogs, and 59 percent of watersheds historically utilized by northern DPS mountain yellow-legged frogs, no longer support extant populations. However, this watershed-level survey methodology is not a good indicator of population changes because a watershed is counted as recently occupied if a single individual (at any life stage) is observed within the entire watershed even though several individual populations may have been lost (CDFG (CDFW) 2011b, p. 20). Therefore, these surveys likely underestimate population declines. Many watersheds support only a single extant metapopulation, which occupies one to several adjacent water bodies

(CDFG (CDFW) 2011, p. 20). Remaining populations are generally very small.

Rangewide, declines of mountain yellow-legged frog populations were estimated at around one-half of historical populations by the end of the 1980s (Bradford *et al.* 1994, p. 323). Between 1988 and 1991, Bradford *et al.* (1994a, pp. 323–327) resurveyed sites known historically (1955 through 1979 surveys) to support mountain yellow-legged frogs. They did not detect frogs at 27 historical sites on the Kaweah River, and they detected frogs at 52 percent of historical sites within Sequoia and Kings Canyon National Parks and 12.5 percent of historical sites outside of Sequoia and Kings Canyon National Parks. Because this work was completed before the taxonomic division of mountain yellow-legged frogs, we have not differentiated between the two species here. When both species are combined, this resurvey effort detected mountain yellow-legged frogs at 19.4 percent of historical sites (Bradford *et al.* 1994, pp. 324–325).

Available information discussed below indicates that the rates of population decline have not abated, and they have likely accelerated during the 1990s into the 2000s. Drost and Fellers (1996, p. 417) repeated Grinnell and Storer's early 20th century surveys in Yosemite National Park, and reported frog presence at 2 of 14 historical sites where what is now known as Sierra Nevada yellow-legged frogs occurred. The two positive sightings consisted of a single tadpole at one site and a single adult female at another. They identified 17 additional sites with suitable mountain yellow-legged frog habitat, and in those surveys, they detected 3 additional populations. In 2002, Knapp (2002a, p. 10) resurveyed 302 water bodies known to be occupied by mountain yellow-legged frogs between 1995 and 1997, and 744 sites where frogs were not previously detected. Knapp found frogs at 59 percent of the previously occupied sites, whereas 8 percent of previously unoccupied sites were colonized. These data suggest an extirpation rate five to six times higher than the colonization rate within this study area. The documented extirpations appeared to occur non-randomly across the landscape, were typically spatially clumped, and involved the disappearance of all or nearly all of the mountain yellow-legged frog populations in a watershed (Knapp 2002a, p. 9). CDFW (CDFG 2011, p. 20) assessed data from sites where multiple surveys were completed after 1995 (at least 5 years apart). They found that the Sierra Nevada yellow-legged frog was not detected at 45 percent of sites where they previously had been confirmed, while the mountain yellow-legged frog (rangewide, including southern California) was no longer detectable at 81 percent of historically occupied sites.

The USFS has been conducting a rangewide, long-term monitoring program for the Sierra Nevada yellow-legged frog and the northern DPS of the mountain yellow-legged frog on National Forest lands in the Sierra Nevada, known as the Sierra Nevada Amphibian Monitoring Program (SNAMPH). This monitoring effort provides unbiased estimates by using an integrated unequal probability design, and it provides numbers for robust statistical comparisons across 5-year monitoring cycles spanning 208 watersheds (Brown *et al.* 2011, pp. 3–4). The results of this assessment indicate that the species have declined in both distribution and abundance. Based on surveys conducted from 2002 through 2009, breeding activity was found in about half (48 percent) of the watersheds where the species were found in the decade prior to SNAMPH monitoring (1990 and 2001) (Brown *et al.* 2011, p. 4). Breeding was found in 3 percent of watersheds where species had been found prior to 1990. Rangewide, breeding was found in 4 percent of watersheds. Moreover, relative abundances were low; an estimated 9 percent of populations were large (numbering more than 100 frogs or 500 tadpoles); about 90 percent of the watersheds had fewer than 10 adults, while 80 percent had fewer than 10 subadults and 100 tadpoles (Brown *et al.* 2011, p. 24).

To summarize population trends over the available historical record, estimates range from losses between 69 to 93 percent of Sierra Nevada yellow-legged frog populations and 86 to 92 percent of the northern DPS of the mountain yellow-legged frog. Rangewide reduction has diminished the number of watersheds that support mountain yellow-legged frogs somewhere between the conservative estimates of 44 percent in the case of Sierra Nevada yellow-legged frogs and at least 59 percent in the case of the northern DPS of the mountain yellow-legged frogs, to as high as 97 percent of watersheds for the mountain yellow-legged frog complex across the Sierra Nevada. Remaining populations are much smaller than historical norms, and the density of populations per watershed has declined substantially; as a result, many watersheds currently support single metapopulations at low abundances.

Distinct Vertebrate Population Segment Analysis

Under the Act, we must consider for listing any species, subspecies, or, for vertebrates, any DPS of these taxa if there is sufficient information to indicate that such action may be warranted. To implement the measures prescribed by the Act, we, along with the National Marine Fisheries Service (National Oceanic and Atmospheric Administration–Fisheries), developed a joint policy that addresses the recognition of DPSs for potential listing actions (61 FR 4722). The policy allows for a more refined application of the Act that better reflects the biological needs of the taxon being considered and avoids the inclusion of entities that do not require the Act's protective measures.

Under our DPS policy, three elements are considered in a decision regarding the status of a possible DPS as endangered or threatened under the Act. The elements are: (1) Discreteness of the population segment in relation to the remainder of the species to which it belongs; (2) the significance of the population segment to the species to which it belongs; and (3) the population segment's conservation status in relation to the Act's standards for listing. In other words, if we determine that a population segment of a vertebrate species being considered for listing is both discrete and significant, we would conclude that it represents a DPS, and thus a ''species'' under section 3(16) of the Act, whereupon we would evaluate the level of threat to the DPS based on the five listing factors established under section 4(a)(1) of the Act to determine whether listing the DPS as an ''endangered species'' or a ''threatened species'' is warranted.

Please refer to the proposed listing rule for detailed information about the distinct vertebrate population segment analysis for the northern DPS of the mountain yellow-legged frog (78 FR 24472, April 25, 2013). We previously confirmed the status of the southern California population of the mountain yellow-legged frog as a DPS at the time that it was listed as endangered under the Act (67 FR 44382, pp. 44384–44385). We summarize below the analysis for discreteness and significance for the northern California population of the mountain yellow-legged frog (in the Sierra Nevada); this summary includes changes from the proposed rule to address comments received from the public (78 FR 24472, April 25, 2013).

Discreteness

Under our DPS Policy, a population segment of a vertebrate species may be considered discrete if it satisfies either of the following two conditions: (1) It is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors (quantitative measures of genetic or morphological discontinuity may provide evidence of this separation); or (2) it is delimited by international governmental boundaries within which significant differences in control of exploitation, management of habitat, conservation, status, or regulatory mechanisms exist.

The analysis of the northern population segment of the mountain yellow-legged frog (*Rana muscosa*) (in the Sierra Nevada) is based on the marked separation from other populations. The range of the mountain yellow-legged frog is divided by a natural geographic barrier, the Tehachapi Mountains, which physically isolates the populations in the southern Sierra Nevada from those in the mountains of southern California. The distance of the geographic separation is about 225 km (140 mi). The geographic separation of the Sierra Nevada and southern California frogs was recognized in the earliest description of the species by Camp (1917), who treated frogs from the two areas as separate subspecies within the *R. boylii* group (see more on classification of the mountain yellow-legged frogs in Taxonomy). There is no contiguous habitat that provides connectivity between the two populations that is sufficient for the migration, growth, rearing, or reproduction of dispersing frogs. Genetic differences well-supported in the scientific literature also provide evidence of this separation (see Taxonomy). Therefore, we find that the northern population segment of the mountain yellow-legged frog (*Rana muscosa*) (in the Sierra Nevada) is discrete from the remainder of the species.

Significance

Under our DPS Policy, once we have determined that a population segment is discrete, we consider its biological and ecological significance to the larger taxon to which it belongs. Our DPS policy provides several potential considerations that may demonstrate the significance of a population segment to the remainder of its taxon, including: (1) Evidence of the persistence of the discrete population segment in an ecological setting unusual or unique for the taxon, (2) evidence that loss of the discrete population segment would result in a significant gap in the range of the taxon, (3) evidence that the population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside its historic range, or (4) evidence that the discrete population segment differs markedly from the remainder of the species in its genetic characteristics.

We have found substantial evidence that three of the four significance criteria are met by the discrete northern population segment of the mountain yellow-legged frog that occurs in the Sierra Nevada. These include its persistence in an ecological setting that is unique for the taxon, evidence that its loss would result in a significant gap in the range of the taxon, and its genetic uniqueness (reflecting significant reproductive isolation over time). To establish the significance of the discrete northern population segment, we rely on the effect that the loss of this population segment would have on the range of the taxon, and supplement that with evidence that the population segment persists in an ecological setting unusual or unique for the taxon and also differs from other population segments in its genetic characteristics. There are no introduced populations of the northern DPS of the mountain yellow-legged frog outside of the species' historical range.

Evidence indicates that loss of the northern population segment of the mountain yellow-legged frog (in the Sierra Nevada) would result in a significant gap in the range of the taxon. The Sierran mountain yellow-legged frogs comprise the entire distribution of the species in approximately the northern half of the species' range, and loss of the distinct population segment in the northern portion of the range could have significant conservation implications for the species. Furthermore, loss of the northern population segment of the mountain yellow-legged frog (in the Sierra Nevada) would reduce the species to the remaining small, isolated sites in the streams of southern California (USFWS, Jul 2012, pp. 11–12). Loss of the northern population segment of the mountain yellow-legged frog would leave an area of the southern Sierra Nevada over 150 km (93 mi) in length without any ranid (frogs in the genus Ranidae) frogs, which were once abundant and widespread in the higher elevation Sierra Nevada (Cory 1962b, p. 515; Fellers 1994, p. 5). The potential loss of the northern population segment of the mountain yellow-legged frog would constitute a significant gap in the range of the species.

One of the most striking differences between the northern population segment and the southern population segment of the mountain yellow-legged frogs is the difference in the ecological setting in which they each persist. Zweifel (1955, pp. 237–241) observed that the frogs in southern California are typically found in steep-gradient streams in the chaparral belt at low elevations (370 m (1,220 ft)), even though they may range into small meadow streams at higher elevations up to 2,290 m (7,560 ft). In contrast, frogs from the northern population segment of mountain yellow-legged frogs are most abundant in high-elevation lakes and slow-moving portions of streams where winter conditions are extreme. David Bradford's (1989) southern Sierra Nevada study of mountain yellow-legged frogs, for example, was conducted in Sequoia and Kings Canyon National Parks at high elevations between 2,910 and 3,430 m (9,600 to 11,319 ft). The rugged canyons of the arid mountain ranges of southern California, where waters seldom freeze, bear little resemblance to the alpine lakes and streams of the Sierra Nevada where adult frogs and tadpoles must overwinter at the bottoms of ice and snow-covered lakes for up to 9 months of the year. The significantly different ecological settings between mountain yellow-legged frogs in southern California and those in the northern population segment (in the Sierra Nevada) distinguish these populations from each other.

Finally, the northern population segment of the mountain yellow-legged frog is biologically significant based on genetic differences. Vredenburg *et al.* (2007, p. 361) identified that two of three distinct genetic clades (groups of distinct lineage) constitute the northern range of the mountain yellow-legged frog found in the Sierra Nevada, with the remaining clade represented by the endangered southern California DPS of the mountain yellow-legged frog. Macey *et al.* (2001, p. 141) estimated the genetic divergence between the northern population of mountain yellow-legged frogs (in the Sierra Nevada) and the southern population of mountain yellow-legged frogs (in southern California) to have occurred 1.4 million years before present (mybp), thereby indicating functional isolation.

The loss of the northern population of the mountain yellow-legged frog would result in a significant gap in the range of the mountain yellow-legged frog species. The differences between the ecological settings for the southern

population of mountain yellow-legged frogs (steep-gradient streams that seldom freeze) and the northern population of mountain yellow-legged frogs (high-elevation lakes and slow-moving portions of streams where frogs overwinter under ice and snow for up to 75 percent of the year) are significant. Additionally, the genetic distinction between these two populations reflects isolation for over a million years. Therefore based on the information discussed above, we find that northern population of the mountain yellow-legged frog (in the Sierra Nevada mountains) meets the significance criteria under our Policy Regarding the Recognition of Distinct Vertebrate Population Segments (61 FR 4722).

DPS Conclusion

Based on the best scientific and commercial data available on distribution as well as ecological setting and genetic characteristics of the species, we have determined that the northern population segment of the mountain yellow-legged frog (in the Sierra Nevada) is both discrete and significant per our DPS policy. Therefore, we conclude that the northern discrete population segment of the mountain yellow-legged frog is a DPS, and thus a ''species'' under section 3(16) of the Act. Our determination of biological and ecological significance is appropriate because the population segment has a geographical distribution that is biologically meaningful.

Summary of Changes From the Proposed Rule for the Sierra Nevada Yellow-Legged Frog and the Northern DPS of the Mountain Yellow-Legged Frog

Based on peer review, Federal and State, and public comments (see comments in the Summary of Comments and Recommendations section below), we have clarified information in the sections provided for the Sierra Nevada yellow-legged frog and the northern DPS of the mountain yellow-legged frog to better characterize our knowledge of the species' habitat requirements, correcting some information based on peer review (vocalizations (Species Description), species ranges (Taxonomy and Historic and Current Ranges and Distribution sections), current distribution in Sequoia National Park (Historic and Current Ranges and Distribution), and clarifying the basis for our determination of significance for the northern population of the mountain yellow-legged frog in response to public comments (Distinct Vertebrate Population Segment)), occasionally adding additional information where needed. In the Summary of Factors Affecting the Species section, we have re-ordered threats in Factor A so that the primary activity that has modified the habitat of the mountain yellow-legged frog complex is addressed first, while activities with potential only for localized effects are addressed later. Based on peer review, and Federal, State, county, and public comments, we have added information where needed and clarified our findings on the role of current activities, such as grazing, recreation, packstock use, etc., in species declines. We reviewed the analysis of dams and diversions that we presented in the proposed rule and determined that most large reservoir facilities are below the current range of the mountain yellow-legged frogs. We revised the dams and water diversions threat magnitude from moderate prevalent in the proposed rule to minor localized where such structures occur in this final rule.

In the proposed rule, we stated that grazing presented a minor prevalent threat. We reworded this final rule to more accurately reflect the contribution of legacy effects of past grazing levels to this threat assessment. We found that current livestock grazing that complies with forest standards and guidelines is not expected to negatively affect mountain yellow-legged frog populations in most cases, although limited exceptions could occur (where extant habitat is limited and legacy effects to meadows still require restoration, where habitat is limited such as in stream riparian zones or small meadows, or where grazing standards are exceeded). Rangewide, livestock grazing is not a substantial threat to the species.

In response to information provided during the public comment period, we added a discussion of mining activities in the Factor A discussion. In this final rule, we determine that, while most mining activities take place below the extant ranges of the species, where some types of mining activities occur, localized habitat-related effects may result.

We added new information available on packstock grazing, retaining our finding that packstock grazing is only likely to be a threat to mountain yellow-legged frogs in limited situations. We also added more information on roads and timber harvests, and we clarified that these activities primarily do not occur where there are extant populations (except where frogs occur in the northern or lower elevation portions of the range), and that USFS standards are generally designed to limit potential effects of such activities. We clarified the threat magnitude for roads and timber harvest from minor prevalence rangewide to not a threat to extant populations across much of the species' ranges (although they may pose important habitat-related effects to the species in localized areas). We reviewed information provided by the U.S. Forest Service (USFS), the National Park Service (NPS), CDFW, and others on recreation activities, and we changed our conclusion on the recreation threat magnitude from low significance to the species overall to not considered a threat to populations over much of their range. However, we recognize that there may be localized effects, especially outside of backcountry areas where use is high or where motorized and mechanical use occurs in extant frog habitat.

We added a brief discussion of bullfrogs (*Lithobates catesbeiana*) under Factor C for mountain yellow-legged frogs noting that bullfrog predation and competition is expected to have population-level effects to mountain yellow-legged frog populations in those low elevation areas, or in the Lake Tahoe Basin, where the two species may co-occur. We slightly revised our characterization of the recent population declines of the mountain yellow-legged frogs due to *Batrachochytrium dendrobatidis* (Bd), identifying the fungus as one of the primary drivers of recent declines, and adding information provided by peer reviewers and agencies. We also added information to our discussion under Factor D, including information about the National Park Service Organic Act, information on the provision in the Wilderness Act about withdrawing minerals, and information on the status of the Sierra Nevada yellow-legged frog and the mountain yellow-legged frog under the California Endangered Species Act (CESA). We also moved discussion of current CDFW fisheries management to the ''Habitat Modification Due to Introduction of Trout to Historically Fishless Areas'' section under Factor A.

We removed the discussion of contaminants under Factor E and refer readers to the proposed rule. Although we received additional information that clarified some text and provided additional references regarding contaminants, the clarifications supported our conclusions in the proposed rule that the best available information indicates that contaminants do not pose a current or continuing threat to the species. We also added additional information either available in our files, or provided by commenters,

to clarify and support our finding on the threat of climate change. We revised the explanation in the determinations for each species to reflect the above changes.

Summary of Factors Affecting the Species

Section 4 of the Act (16 U.S.C. 1533), and its implementing regulations at 50 CFR part 424, set forth the procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. Under section 4(a)(1) of the Act, we may list a species based on any of the following five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; and (E) other natural or manmade factors affecting its continued existence. Listing actions may be warranted based on any of the above threat factors, singly or in combination. Each of these factors is discussed below, and changes from the proposed rule (78 FR 24472, April 25, 2013) are reflected in these discussions. The following analysis is applicable to both the Sierra Nevada yellow-legged frog (*Rana sierrae*) and the northern distinct population segment of the mountain yellow-legged frog (*Rana muscosa*).

Factor A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

A number of hypotheses, including habitat modification (including loss of vegetation, loss of wetlands, habitat modification for urban development, and degradation of upland habitats) have been proposed for recent global amphibian declines (Bradford *et al.* 1993, p. 883; Corn 1994, p. 62; Alford and Richards 1999, p. 134). However, physical habitat modification has not been associated with the rangewide decline of mountain yellow-legged frogs. Mountain yellow-legged frogs occur primarily at high elevations in the Sierra Nevada, which have not had the types or extent of large-scale habitat conversion and physical disturbance that have occurred at lower elevations (Knapp and Matthews 2000, p. 429). Thus, direct habitat destruction or modification associated with intensive human activities has not been implicated in the decline of this species (Davidson *et al.* 2002, p. 1597).

However, other human activities may have played a role in the modification of mountain yellow-legged frog habitat. We have identified the following habitat-related activities as potentially relevant to the conservation status of the mountain yellow-legged frog complex: Fish introductions (see also Factor C, below), dams and water diversions, livestock grazing, timber management, road construction and maintenance, packstock use, recreational activities, and fire management activities. Such activities may have degraded habitat in ways that have reduced its capacity to sustain viable populations and may have fragmented and isolated mountain yellow-legged frog populations from each other.

Habitat Modification Due to Introduction of Trout to Historically Fishless Areas

One habitat feature that is documented to have a significant detrimental impact to mountain yellow-legged frog populations is the presence of introduced trout resulting from stocking programs for the creation and maintenance of a recreational fishery. To further angling success and opportunity, trout stocking programs in the Sierra Nevada started in the late 19th century (Bahls 1992, p. 185; Pister 2001, p. 280). This anthropogenic activity has community-level effects and is one of the primary threats to mountain yellow-legged frog habitat and species viability.

Prior to extensive trout planting programs, almost all streams and lakes in the Sierra Nevada at elevations above 1,800 m (6,000 ft) were fishless. Several native fish species occur naturally in aquatic habitats below this elevation in the Sierra Nevada (Knapp 1996, pp. 12–14; Moyle *et al.* 1996, p. 354; Moyle 2002, p. 25), but natural barriers prevented fish from colonizing the higher-elevation waters of the Sierra Nevada watershed (Moyle *et al.* 1996, p. 354). The upper reaches of the Kern River, where native fish such as the Little Kern golden trout (*Oncorhynchus mykiss whitei*) and California golden trout (*O. m. aguabonita*) evolved, represent the only major exception to the 1,800-m (6,000-ft) elevation limit for fishes within the range of the mountain yellow-legged frog in the Sierra Nevada (Moyle 2002, p. 25). Additionally, prior to extensive planting, native Paiute cutthroat (*O. clarki seleneris*) and Lahontan cutthroat (*O. c. henshawi*) were limited in their distribution to several rivers, streams, and limited large lakes in the eastern Sierra Nevada (Knapp 1996, p. 369; Moyle 1996 *et al.,* pp. 954–958), indicating some overlap with the range of the Sierra Nevada yellow-legged frog.

Some of the first practitioners of trout stocking in the Sierra Nevada were the Sierra Club, local sportsmen's clubs, private citizens, and the U.S. military (Knapp 1996, p. 8; Pister 2001, p. 280). As more hatcheries were built and the management of the trout fishery became better organized, fish planting continued for the purpose of increased angler opportunities and success (Pister 2001, p. 281). After World War II, the method of transporting trout to high-elevation areas changed from packstock to aircraft, which allowed stocking in more remote lakes and in greater numbers. With the advent of aerial stocking, trout planting expanded to new areas, with higher efficiency.

Brook trout (*Salvelinus fontinalis*), brown trout (*Salmo trutta*), rainbow trout (*Oncorhynchus mykiss*), and other trout species assemblages have been planted in most streams and lakes of the Sierra Nevada (Knapp 1996, p. 8; Moyle 2002, p. 25). Since the advent of aerial stocking, backcountry areas not accessible by truck are stocked by air (Pert 2002, pers. comm.), which limits stocking to lakes. National Forests in the Sierra Nevada have a higher proportion of lakes with fish occupancy than do National Parks (Knapp 1996, p. 3), primarily because the National Park Service (NPS) began phasing out fish stocking within their jurisdictional boundaries in 1969, with limited stocking occurring until it was terminated altogether in Sierra Nevada National Parks in 1991 (Knapp 1996, p. 9). California Department of Fish and Wildlife (CDFW) continues to stock trout in National Forest water bodies, but in 2001 reduced the number of stocked water bodies to reduce impacts to native amphibians (ICF Jones & Stokes 2010, pp. ES–1–ES–16). Current stocking decisions are based on criteria outlined in the Environmental Impact Report for the Hatchery and Stocking Program (ICF Jones & Stokes 2010, Appendix K).

Fish stocking as a practice has been widespread throughout the range of both species of mountain yellow-legged frogs. Knapp and Matthews (2000, p. 428) indicated that 65 percent of the water bodies that were 1 ha (2.5 ac) or larger in National Forests they studied were stocked with fish on a regular basis. Over 90 percent of the total water body surface area in the John Muir Wilderness was occupied by nonnative trout (Knapp and Matthews 2000, p. 434).

Another detrimental feature of fish stocking is that, in the Sierra Nevada, fish often persist in water bodies even after stocking ceases. Thirty-five to 50 percent of lakes larger than 1 ha (2.5 ac) within Sierra Nevada National Parks are occupied by nonnative fish, which is

only a 29 to 44 percent decrease in fish occupancy since fish stocking was terminated around 2 decades before the estimate was made (Knapp 1996, p. 1). Though data on fish occupancy in streams are lacking throughout the Sierra Nevada, Knapp (1996, pp. 9–11) estimated that 60 percent of the streams in Yosemite National Park were still occupied by introduced trout because trout readily move out of lakes to colonize both inlet and outlet streams. The presence of trout in these once fishless waters has modified the habitat at a landscape scale.

Thus, the frog's habitat has been modified due to the introduction of a nonnative predator that both competes for limited food resources and directly preys on mountain yellow-legged frog tadpoles and adults (see Factor C below). Presence of nonnative trout in naturally fishless ecosystems has had profound effects on the structure and composition of faunal assemblages, severely reducing not only amphibians, but also zooplankton and large invertebrate species (see Knapp 1996, p. 6; Bradford *et al.* 1998, p. 2489; Finlay and Vredenburg 2007, pp. 2194–2197). Within the frog's historical range, past trout introductions and the continuing presence of fish in most lakes resulted in the elimination of frogs from most waters that were suitable for fish. Across the range of these species in the Sierra Nevada, the presence of fish in most of the deeper lakes has altered the aquatic habitat that mountain yellow-legged frogs rely on for overwintering and breeding, and has also reduced connectivity among frog populations. Fish now populate the deeper lakes and connecting streams and largely separate and increase the distance between the current sites inhabited by the highly-aquatic frogs (the connectivity of occupied sites in present versus former fishless conditions differs by approximately 10-fold) (Bradford *et al.* 1993, pp. 884–887; Knapp 1996, pp. 373–379). Where reservoirs harbor introduced fish, successful reproduction of mountain yellow-legged frogs may be reduced if there are no shallow side channels or separate pools (Jennings 1996, p. 939). Most reservoirs do not overlap significantly with the current extant range of the species (CDFW 2013, p. 3) (see Dams and Water Diversions below); however, a number of reservoirs were constructed in the mid-1900s at mid-elevations within lower edges of the species' historic range (for example, Sierra Nevada yellow-legged frogs were taken from Bear River Reservoir (Eldorado National Forest), Union Reservoir (Stanislaus National Forest), and several others). With the exception of one 1999 record from Faggs Reservoir on the Plumas National Forest, all of several dozen records of the species from reservoirs are pre-1975, and at least half pre-date the water development projects at those locations (Brown *et al.* 2009, p. 78). All of these reservoirs now harbor introduced fish species, and at least two also harbor bullfrogs, suggesting that subsequent introductions may have played a role in past declines in those areas (see Brown *et al.* 2009, p. 78).

The body of scientific research has demonstrated that introduced trout have negatively impacted mountain yellow-legged frogs over much of the Sierra Nevada (Grinnell and Storer 1924, p. 664; Bradford 1989, pp. 775–778; Bradford *et al.* 1993, pp. 882–888; Knapp 1994, p. 3; Drost and Fellers 1996, p. 422; Knapp 1996, pp. 13–15; Bradford *et al.* 1998, pp. 2482, 2489; Knapp and Matthews 2000, p. 428; Knapp *et al.* 2001, p. 401). Fish stocking programs have negative ecological implications because fish eat aquatic fauna, including amphibians and invertebrates (Bahls 1992, p. 191; Erman 1996, p. 992; Jennings 1996, p. 939; Knapp 1996, pp. 373–379; Matthews *et al.* 2001, pp. 1135–1136; Pilliod and Peterson 2001, p. 329; Schindler *et al.* 2001, p. 309; Moyle 2002, p. 58; Epanchin *et al.* 2010, p. 2406). Finlay and Vredenburg (2007, p. 2187) documented that the same benthic (bottom-dwelling) invertebrate resource base sustains the growth of both frogs and trout, suggesting that competition with trout for prey is an important factor that may contribute to the decline of the mountain yellow-legged frog. Introductions of salmonids to fishless lakes have also been associated with alteration of nutrient cycles and primary productivity in mountain lakes, including those in the Sierra Nevada (Schindler *et al.* 2001, pp. 308, 313–319).

Knapp and Matthews (2000, p. 428) surveyed more than 1,700 water bodies, and concluded that a strong negative correlation exists between introduced trout and mountain yellow-legged frogs (Knapp and Matthews 2000, p. 435). Consistent with this finding are the results of an analysis of the distribution of mountain yellow-legged frog tadpoles, which indicate that the presence and abundance of this life stage are reduced dramatically in fish-stocked lakes (Knapp *et al.* 2001, p. 408). Knapp (2005a, pp. 265–279) also compared the distribution of nonnative trout with the distributions of several amphibian and reptile species in 2,239 lakes and ponds in Yosemite National Park, and found that mountain yellow-legged frogs were five times less likely to be detected in waters where trout were present. Even though stocking within the National Park ceased in 1991, more than 50 percent of water bodies deeper than 4 m (13 ft) and 75 percent deeper than 16 m (52 ft) still contained trout populations in 2000–2002 (Knapp 2005a, p. 270). Both trout and mountain yellow-legged frogs utilize deeper water bodies. Based on the results from Knapp (2005a), the reduced detection of frogs in trout-occupied waters indicates that trout are excluding mountain yellow-legged frogs from some of the best aquatic habitat.

Several aspects of the mountain yellow-legged frog's life history are thought to exacerbate its vulnerability to extirpation by trout (Bradford 1989, pp. 777–778; Bradford *et al.* 1993, pp. 886–888; Knapp 1996, p. 14; Knapp and Matthews 2000, p. 435). Mountain yellow-legged frogs are highly aquatic and are found primarily in lakes, most of which now contain trout (Knapp 1996, p. 14). In comparison to other Sierran frogs, mountain yellow-legged frog tadpoles generally need at least 2 years to reach metamorphosis, which restricts breeding to waters that are deep enough to avoid depletion of oxygen when ice-covered (Knapp 1996, p.14). Overwintering adults must also avoid oxygen depletion when the water is covered by ice, generally limiting overwintering to deeper waters that do not become anoxic (Mullally and Cunningham 1956a, p. 194; Bradford 1983, p. 1179; Knapp and Matthews 2000, pp. 435–436). At high elevations, both tadpoles and adults overwinter under ice for up to 9 months (Bradford 1983, p. 1171). These habitat requirements appear to restrict successful breeding and overwintering to the deeper water bodies where the chances of summer drying and winter freezing are reduced, the same water bodies that are most suitable for fishes; fishes also need deeper water bodies where the chances of summer drying and winter freezing are reduced (Bradford 1983, pp. 1172–1179; Knapp 1996, p. 14; Knapp and Matthews 2000, pp. 429, 435–436). Past fish-stocking practices targeted the deeper lakes, so the percentage of water bodies containing fish has increased with water depth, resulting in elimination of mountain yellow-legged frogs from once suitable habitats in which they were historically most common, and thereby generally isolating populations to the shallower, marginal habitats that do not have fish (Bradford 1983, pp. 1172–1179; Bradford *et al.* 1993, pp. 884, 886–

887; Knapp and Matthews 2000, pp. 435–436).

Mountain yellow-legged frogs and trout (native and nonnative) do co-occur at some sites, but these co-occurrences are generally thought to represent mountain yellow-legged frog ''sink'' populations (areas with negative population growth rates in the absence of immigration) (Bradford *et al.* 1998, p. 2489; Knapp and Matthews 2000, p. 436). Mountain yellow-legged frogs have also been extirpated at some fishless bodies of water (Bradford 1991, p. 176; Drost and Fellers 1996, p. 422). A possible explanation is the isolation and fragmentation of remaining populations due to introduced fishes in the streams that once provided mountain yellow-legged frogs with dispersal and recolonization routes; these remote populations are now non-functional as metapopulations (Bradford 1991, p. 176; Bradford *et al.* 1993, p. 887). Based on a survey of 95 basins within Sequoia and Kings Canyon National Parks, Bradford *et al.* (1993, pp. 885–886) estimated that the introduction of fishes into the study area resulted in an approximately 10-fold increase in habitat fragmentation between populations of mountain yellow-legged frogs. Knapp and Matthews (2000, p. 436) believe that this fragmentation has further isolated mountain yellow-legged frogs within the already marginal habitat left unused by fishes.

Fragmentation of mountain yellow-legged frog habitat renders populations more vulnerable to extirpation from random events (such as disease) (Wilcox 1980, pp. 114–115; Bradford *et al.* 1993, p. 887; Hanski and Simberloff 1997, p. 21; Knapp and Matthews 2000, p. 436). Isolated population locations may have higher extinction rates because trout prevent successful recolonization and dispersal to and from these sites (Bradford *et al.* 1993, p. 887; Blaustein *et al.* 1994a, p. 7; Knapp and Matthews 2000, p. 436). If the distance between sites is too great, amphibians may not readily recolonize unoccupied sites following local extinctions because of physiological constraints, the tendency to move only short distances, and high site fidelity. Finally, frogs that do attempt recolonization may emigrate into fish-occupied habitat and perish, rendering sites with such metapopulation dynamics less able to sustain frog populations.

In 2001, CDFW revised fish stocking practices and implemented an informal policy on fish stocking in the range of the Sierra Nevada yellow-legged frog and northern DPS of the mountain yellow-legged frog. This policy directs that: (1) Fish will not be stocked in lakes with known populations of mountain yellow-legged frogs, nor in lakes that have not yet been surveyed for mountain yellow-legged frog presence; (2) waters will be stocked only with a fisheries management justification; and (3) the number of stocked lakes will be reduced over time. In 2001, the number of lakes stocked with fish within the range of the mountain yellow-legged frog in the Sierra Nevada was reduced by 75 percent (Milliron 2002, pp. 6–7; Pert *et al.* 2002, pers. comm.). Current CDFW guidelines stipulate that water bodies within the same basin and 2 km (1.25 mi) from a known mountain yellow-legged frog population will not be stocked with fish unless stocking is justified through a management plan that considers all the aquatic resources in the basin, or unless there is heavy angler use and no opportunity to improve the mountain yellow-legged frog habitat (Milliron 2002a, p. 5). The Hatchery and Stocking Program Environmental Impact Report/Environmental Impact Statement, finalized in 2010 (ICF Jones & Stokes 2010, Appendix K), outlines a decision approach to mitigate fish stocking effects on Sierra amphibians that prohibits fish stocking in lakes with confirmed presence of a limited number of designated species, including the mountain yellow-legged frogs (see ICF Jones & Stokes 2010, Appendix E) using recognized survey protocols. Large reservoirs generally continue to be stocked to provide a put-and-take fishery for recreational angling.

As part of the High Mountain Lakes Project, CDFW is in the process of developing management plans for basins within the range of the Sierra Nevada yellow-legged frog and the northern DPS of mountain yellow-legged frog (CDFG (CDFW) 2001, p. 1; Lockhart 2011, pers. comm.). CDFW states that objectives of the basin plans specific to the mountain yellow-legged frog include management in a manner that maintains or restores native biodiversity and habitat quality, supports viable populations of native species, and provides for recreational opportunities that consider historical use patterns (CDFG (CDFW) 2001, p. 3). They state that, under this approach, lakes that support mountain yellow-legged populations in breeding, foraging, or dispersal, and/or present opportunities to restore or expand habitat, are managed for the conservation of the species. Lakes that do not support mountain yellow-legged frogs are not viable restoration opportunities, and lakes that support trout populations are managed primarily for recreational angling (CDFG (CDFW) 2001, p. 3). They further note that lakes managed for recreational angling may be stocked if CDFW determines that stocking the lake will achieve a desirable fisheries management objective and is not otherwise precluded by stocking decision guidelines and agreements (for stocking decision documents, see CDFW 2013, pp. 1, 2).

Since the mid-1990s, various parties, including researchers, CDFW, NPS, and the USFS, have implemented a variety of projects to actively restore habitat for the mountain yellow-legged frog via the removal of nonnative trout (USFS 2011, pp. 128–130; NPS 2013, pp. 3–5).

Although fish stocking has been curtailed within many occupied basins, the impacts to frog populations persist due to the presence of self-sustaining fish populations in some of the best habitat that normally would have sustained mountain yellow-legged frogs. The fragmentation that persists across the range of these frog species renders them more vulnerable to other population stressors, and recovery is slow, if not impossible, without costly and physically difficult direct human intervention (such as physical and chemical trout removal) (see Knapp *et al.* 2007a, pp. 11–19). While most of the impacts occurred historically, the impact upon the biogeographic (population/metapopulation) integrity of the species will be long-lasting. Currently, habitat degradation and fragmentation by fish is considered a highly significant and prevalent threat to persistence and recovery of the species.

Dams and Water Diversions

While a majority of dams and water diversions within the Sierra Nevada are located at lower elevations (USFS 2011, p. 83), some large reservoirs have been constructed within the historic range of the mountain yellow-legged frog complex. These large reservoirs include, but are not limited to Huntington Lake, Florence Lake, Lake Thomas A. Edison, Saddlebag Lake, Cherry Lake, Hetch Hetchy, Upper and Lower Blue Lakes, Lake Aloha, Silver Lake, Hell Hole Reservoir, French Meadow Reservoir, Lake Spaulding, Alpine Lake, Loon Lake, and Ice House Reservoir. A number of these occur at elevations below the current range of the species, indicating that the network of large water and power projects found at lower elevations does not overlap significantly with the current accepted distribution of the mountain yellow-legged frogs in the Sierra Nevada (CDFW 2013, p. 3).

Kondolf *et al.* (1996, p. 1014) report that dams can have direct effects to

riparian habitat through permanent removal of habitat to construct roads, penstocks, powerhouses, canals, and dams. Impacts of reservoirs include flooding of riparian vegetation and impediments to establishment of new shoreline vegetation by fluctuating water levels. Dams can alter the temperature and sediment load of the rivers they impound (Cole and Landres 1996, p. 175). Dams, water diversions, and their associated structures can also alter the natural flow regime with unseasonal and fluctuating releases of water (Kondolf *et al.* 1996, p. 1014). We expect most such effects to occur in stream systems below the extant range of the mountain yellow-legged frogs, although it is possible that stream localities at the northern extent of the range or at low elevations may be affected (see also CDFW 2013, pp. 2–4).

The extent of past impacts to mountain yellow-legged frog populations from habitat loss or modification due to reservoir projects has not been quantified. CDFW (2013, p. 3) has noted that there are locations where the habitat inundated as the result of dam construction (for example, Lake Aloha in the Desolation Wilderness) may have been of higher quality for mountain yellow-legged frogs than the created impoundment. Reservoirs can provide habitat for introduced predators, including fish, bullfrogs, and crayfish, and in some cases, the past construction of reservoirs has facilitated the spread of nonnative fish (CDFW 2013, pp. 3, 4). In such cases, reservoirs may function as barriers to movement of mountain yellow-legged frogs. However, CDFW reported observing mountain yellow-legged frogs dispersing through fishless reservoirs (CDFW 2013, p. 4). (For a complete discussion of the impacts of fish stocking see Habitat Modification Due to Introduction of Trout to Historically Fishless Areas above and the discussion under Factor C.).

Most of the dams constructed within the historic range of the mountain yellow-legged frogs are small streamflow-maintenance dams (CDFW 2013, p. 13) at the outflows of high-elevation lakes. These small dams may create additional habitat for the species and can act as barriers to fish migration from downstream tributaries into fishless habitats, although they do not impede frog movement (CDFW 2013, p. 3). CDFW staff (2013, p. 13) have observed that extant frog populations may have persisted where such dams have helped to preserve a fishless environment behind the dam.

Based on comments from CDFW and others and the provision of additional information, we have reviewed the analysis of dams and diversions that we presented in the proposed rule. We find that most large facilities are below the current range of the mountain yellow-legged frogs and have revised our finding. In the proposed rule, we stated that dams and diversions presented a moderate, prevalent threat to persistence and recovery of the species. In this final rule, we find that dams and water diversions present a minor, localized threat to persistence and recovery of the species where structures occur.

Livestock Use (Grazing)

The combined effect of legacy conditions from historically excessive grazing use and current livestock grazing activities has the potential to impact habitat in the range of the mountain yellow-legged frog. The following subsections discuss the effects of excessive historical grazing, current extent of grazing, and current grazing management practices. As discussed below, grazing has the potential to reduce the suitability of habitat for mountain yellow-legged frogs by reducing its capability to sustain frogs and facilitate dispersal and migration, especially in stream areas.

Grazing of livestock in riparian areas impacts the function of the aquatic system in multiple ways, including soil compaction, which increases runoff and decreases water availability to plants; vegetation removal, which promotes increased soil temperatures and evaporation rates at the soil surface; and direct physical damage to the vegetation (Kauffman and Krueger 1984, pp. 433–434; Cole and Landres 1996, pp. 171–172; Knapp and Matthews 1996, pp. 816–817). Streamside vegetation protects and stabilizes streambanks by binding soils to resist erosion and trap sediment (Kauffman *et al.* 1983, p. 683; Chaney *et al.* 1990, p. 2). Grazing within mountain yellow-legged frog habitat has been observed to remove vegetative cover, potentially exposing frogs to predation and increased desiccation (Knapp 1993b, p. 1; Jennings 1996, p. 539), and to lead to erosion which may silt in ponds and thereby reduce the water depth needed for overwinter survival (Knapp 1993b, p. 1). However, an appropriately managed grazing regime (including timing and intensity) can enhance primary riparian vegetation attributes that are strongly correlated to stream channel and riparian soil stability conditions necessary to maintain a functioning riparian system (George *et al.* 2011, p. 227). Although, where highly degraded conditions such as downcut channels exist, grazing management alone may not be sufficient to restore former riparian conditions (George *et al.* 2011, p. 227).

Aquatic habitat can also be degraded by grazing. Mass erosion from trampling and hoof slide causes streambank collapse and an accelerated rate of soil transport to streams (Meehan and Platts 1978, p. 274). Accelerated rates of erosion lead to elevated instream sediment loads and depositions, and changes in stream-channel morphology (Meehan and Platts 1978, pp. 275–276; Kauffman and Krueger 1984, p. 432). Livestock grazing may lead to diminished perennial streamflows (Armour *et al.* 1994, p. 10). Livestock can increase nutrient-loading in water bodies due to urination and defecation in or near the water, and can cause elevated bacteria levels in areas where cattle are concentrated (Meehan and Platts 1978, p. 276; Stephenson and Street 1978, p. 156; Kauffman and Krueger 1984, p. 432). With increased grazing intensity, these adverse effects to the aquatic ecosystem increase proportionately (Meehan and Platts 1978, p. 275; Clary and Kinney 2000, p. 294).

Observational data indicate that livestock can negatively impact mountain yellow-legged frogs by altering riparian habitat (Knapp 1993a, p. 1; 1993b, p. 1; 1994, p. 3; Jennings 1996, p. 938; Carlson 2002, pers. comm.; Knapp 2002a, p. 29). Livestock tend to concentrate along streams and wet areas where there is water and herbaceous vegetation; grazing impacts are, therefore, most pronounced in these habitats (Meehan and Platts 1978, p. 274; U.S. Government Accounting Office (GAO) 1988, pp. 10–11; Fleischner 1994, p. 635; Menke *et al.* 1996, p. 17). This concentration of livestock contributes to the destabilization of streambanks, causing undercuts and bank failures (Kauffman *et al.* 1983, p. 684; Marlow and Pogacnik 1985, pp. 282–283; Knapp and Matthews 1996, p. 816; Moyle 2002, p. 55). Grazing activity can contribute to the downcutting of streambeds and lower the water table. The degree of erosion caused by livestock grazing can vary with slope gradient, aspect, soil condition, vegetation density, and accessibility to livestock, with soil disturbance greater in areas overused by livestock (Meehan and Platts 1978, pp. 275–276; Kauffman *et al.* 1983, p. 685; Kauffman and Krueger 1984, p. 432; Bohn and Buckhouse 1985, p. 378; GAO 1988, p. 11; Armour *et al.* 1994, pp. 9–11; Moyle 2002, p. 55).

Livestock grazing may impact other wetland systems, including ponds that can serve as mountain yellow-legged

frog habitat. Grazing can modify shoreline habitats by removing overhanging banks that provide shelter, and grazing contributes to the siltation of breeding ponds. Bradford (1983, p. 1179) and Pope (1999, pp. 43–44) have documented the importance of deep lakes to overwinter survival of these species. We expect that pond siltation due to grazing may reduce the depth of breeding ponds and cover underwater crevices in some circumstances where grazing is heavy and where soils are highly erodable, thereby making the ponds less suitable, or unsuitable, as overwintering habitat for tadpoles and adult mountain yellow-legged frogs.

Effects of Excessive Historical Grazing

In general, historical livestock grazing within the range of the mountain yellow-legged frog was at a high (although undocumented), unregulated and unsustainable level until the establishment of National Parks (beginning in 1890) and National Forests (beginning in 1905) (UC 1996a, p. 114; Menke *et al.* 1996, p. 14). Historical evidence indicates that heavy livestock use in the Sierra Nevada has resulted in widespread damage to rangelands and riparian systems due to sod destruction in meadows, vegetation destruction, and gully erosion (see review in Brown *et al.* 2009, pp. 56–58). Within the newly established National Parks, grazing by cattle and sheep was eliminated, although grazing by packstock, such as horses and mules, continued. Within the National Forests, the amount of livestock grazing was gradually reduced, and the types of animals shifted away from sheep and toward cattle and packstock, with cattle becoming the dominant livestock. During World Wars I and II, increased livestock use occurred on National Forests in the west, causing overuse in the periods 1914–1920 and 1939–1946. Between 1950 and 1970 livestock numbers were permanently reduced due to allotment closures and uneconomical operations, with increased emphasis on resource protection and riparian enhancement. Further reductions in livestock use began again in the 1990s, due in part to USFS reductions in permitted livestock numbers, seasons of use, implementation of rest-rotation grazing systems, and to responses to drought (Menke *et al.* 1996, pp. 7, 8). Between 1981 and 1998, livestock numbers on National Forests in the Sierra Nevada decreased from 163,000 to approximately 97,000 head, concurrent with Forest Service implementation of standards and guidelines for grazing and other resource management (USFS 2001, pp. 399–416).

Effects of Current Grazing

Yosemite, Sequoia, and Kings Canyon National Parks remain closed to livestock grazing. On USFS-administered lands that overlap the historical ranges of the mountain yellow-legged frog in the Sierra Nevada, there are currently 161 active Rangeland Management Unit Allotments for livestock grazing. However, based on frog surveys performed since 2005, only 27 of these allotments have extant mountain yellow-legged frog populations, while some allotments that were located in sensitive areas have been closed (USFS 2008, unpubl. data; CDFW (CDFG) unpubl. data). As of 2009, USFS data indicated that grazing occurs on about 65 percent of National Forest lands within the range of the mountain yellow-legged frog; that livestock numbers remain greatly reduced from historical levels; and that numerous watershed restoration projects have been implemented, although grazing may still impact many meadows above mid-elevation and restoration efforts are far from complete (Brown *et al.* 2009, pp. 56, 57). However, Brown *et al.* (2009, p. 56) report that livestock grazing is more likely to occur in certain habitat types used by mountain yellow-legged frogs than others, indicating that populations found in meadows, stream riparian zones, and lakes in meadows are more likely to encounter habitat effects of grazing than populations found in the deeper alpine lakes that the species more likely inhabit (Brown *et al.* 2009, p. 56).

USFS standards and guidelines in forest land and resource management plans have been implemented to protect water quality, sensitive species, vegetation, and stream morphology. Further, USFS standards have been implemented in remaining allotments to protect aquatic habitats (see discussion of the aquatic management strategy under Factor D for examples). USFS data from long-term meadow monitoring collected from 1999 to 2006 indicate that most meadows appear to be in an intermediate quality condition class, with seeming limited change in condition class over the first 6 years of monitoring. In addition, USFS grazing standards and guidelines are based on current science and are designed to improve or maintain range ecological conditions, and standards for managing habitat for threatened, endangered, and sensitive species have also been incorporated (Brown *et al.* 2009, pp. 56–58). The seasonal turn-out dates (dates at which livestock are permitted to move onto USFS allotments) are set yearly based on factors such as elevation, annual precipitation, soil moisture, and forage plant phenology, and meadow readiness dates are also set for montane meadows. However, animals turned out to graze on low-elevation range (until higher elevation meadows are ready) may reach upper portions of allotments before the meadows have reached range readiness (Brown *et al.* 2009, p. 58).

Menke *et al.* (1996) have reported that grazing livestock in numbers that are consistent with grazing capacity and use of sustainable methods led to better range management in the Sierra Nevada over the 20 years prior to development of the report. They also noted that moderate livestock grazing has the potential to increase native species diversity in wet and mesic meadows by allowing native plant cover to increase on site. Brown *et al.* (2009, p. 58) expect proper livestock management, such as proper timing, intensity, and duration, to result in a trend towards increased riparian species and a trend towards restored wet and mesic meadows on National Forests. To date, the scientific and commercial information available to us does not include descriptive or cause-effect research that establishes a causal link between habitat effects of livestock grazing and mountain yellow-legged frog populations; however, anecdotal information of specific habitat effects suggests that, in specific locations, the current grazing levels may have population-level effects (see Knapp 1993b, p. 1; Brown *et al.* 2009, p. 56). In addition, where low-elevation populations occur in meadows, additional conservation measures may be required for recovery (USFS 2013, p. 5).

In summary, the legacy effects to habitat from historical grazing levels, such as increased erosion, stream downcutting and headcutting, lowered water tables, and increased siltation, are a threat to mountain yellow-legged frogs in those areas where such conditions still occur and may need active restoration. In the proposed rule, we stated that grazing presented a minor prevalent threat. Based on USFS and public comments, we have reevaluated our analysis of grazing to clarify effects of past versus current grazing. We have reworded the finding to more accurately reflect the contribution of legacy effects of past grazing levels to this threat assessment, as follows: Current livestock grazing activities may present an ongoing, localized threat to individual populations in locations where the populations occur in stream

riparian zones and in small waters within meadow systems, where active grazing co-occurs with extant frog populations. Livestock grazing that complies with forest standards and guidelines is not expected to negatively affect mountain yellow-legged frog populations in most cases, although limited exceptions could occur, especially where extant habitat is limited. In addition, mountain yellow-legged frogs may be negatively affected where grazing standards are exceeded. Rangewide, current livestock grazing is not a substantial threat to the species.

Mining

Several types of mining activities have occurred, or may currently occur, on National Forests, including aggregate mining (the extraction of materials from streams or stream terraces for use in construction), hardrock mining (the extraction of minerals by drilling or digging into solid rock), hydraulic mining (a historical practice using pressurized water to erode hillsides, outlawed in 1884), placer mining (mining in sand or gravel, or on the surface, without resorting to mechanically assisted means or explosives), and suction-dredge mining (the extraction of gold from riverine materials, in which water, sediment, and rocks are vacuumed from portions of streams and rivers, sorted to obtain gold, and the spoils redeposited in the stream (see review in Brown *et al.* 2009, pp. 62–64).

Aggregate mining can alter sediment transport in streams, altering and incising stream channels, and can cause downstream deposition of sediment, altering or eliminating habitat. Aggregate mining typically occurs in large riverine channels that are downstream of much of the range of the mountain yellow-legged frog complex (see review in Brown *et al.* 2009, pp. 62–64). However, Brown *et al.* (2009, pp. 62–64) note that effects of aggregate mining may occur in some portions of the Feather River system where such operations occur within the historic range of the Sierra Nevada yellow-legged frog, and potentially in localized areas within the range of both species, where the USFS maintains small quarries for road work. They note that, although effects of aggregate mining on mountain yellow-legged frogs are unstudied, impacts are probably slight.

Hardrock mining can be a source of pollution where potentially toxic metals are solubilized by waters that are slightly acidic. Past mining activities have resulted in the existence of many shaft or tunnel mines on the forest in the Sierra Nevada, although most are thought to occur below the range of the species. Most operations that are thought to have the potential to impact the mountain yellow-legged frogs occur in the lower elevation portions of the Sierra Nevada yellow-legged frog range on the Plumas National Forest and in the ranges of both species on the Inyo National Forest (see review in Brown *et al.* 2009, pp. 62–64).

Hydraulic mining has exposed previously concealed rocks that can increase pollutants such as acid, cadmium, mercury, and asbestos, and its effect on water pollution may still be apparent on the Feather River. However, most of the area that was mined in this way is below the elevation where Sierra Nevada yellow-legged frogs are present, so effects are likely highly localized (see review in Brown *et al.* 2009, pp. 63, 64). Although placer mining was dominant historically, today it's almost exclusively recreational and is not expected to have habitat-related effects.

Brown *et al.* (2009, p. 64) report that suction-dredge mining is also primarily recreational noting that, because nozzles are currently restricted to 6 inches or smaller, CDFW (CDFG, 1994) expects disturbed areas to recover quickly (although CDFW notes that such dredging may increase suspended sediments, change stream geomorphology, and bury or suffocate larvae). Suction dredge mining occurs primarily in the foothills of the Sierra Nevada, thus presenting a risk primarily to mountain yellow-legged frog populations at the lower elevations of the species' range. Suction dredging is highly regulated by the CDFW, and in the past, many streams have been seasonally or permanently closed (see review in Brown *et al.* 2009, p. 64). Currently CDFW has imposed a moratorium on suction dredging.

The high-elevation areas where most Sierra Nevada yellow-legged frogs and mountain yellow-legged frogs occur are within designated wilderness, where mechanical uses are prohibited by the Wilderness Act. Designated wilderness was withdrawn for new mining claims on January 1, 1984, although a limited number of active mines that predated the withdrawal still occur within wilderness (see Wilderness Act under Factor D, below). Therefore, we expect that mining activities may pose local habitat-related impacts to the species at specific localities where mining occurs.

Packstock Use

Similar to cattle, horses and mules may significantly overgraze, trample, or pollute riparian and aquatic habitat if too many are concentrated in riparian areas too often or for too long. Commercial packstock trips are permitted in National Forests and National Parks within the Sierra Nevada, often providing transport services into wilderness areas through the use of horses or mules. Use of packstock in the Sierra Nevada increased after World War II as road access, leisure time, and disposable income increased (Menke *et al.* 1996, p. 919). Packstock grazing is the only grazing currently permitted in the National Parks of the Sierra Nevada. Since the mid-1970s, National Forests and National Parks have generally implemented regulations to manage visitor use and group sizes, including measures to reduce packstock impacts to vegetation and soils in order to protect wilderness resources. For example, Sequoia and Kings Canyon National Parks have the backcountry area with the longest history of research and management of packstock impacts (Hendee *et al.* 1990, p. 461). Hendee *et al.* (1990, p. 461) report that the extensive and long-term monitoring for Sequoia, Kings Canyon, and Yosemite National Parks makes it possible to quantify impacts of packstock use, showing that the vast majority of Sierra Nevada yellow-legged frog and mountain yellow-legged frog populations in the Parks show no to negligible impacts from packstock use (National Park Service 2013, p. 3). In the Sixty-Lakes Basin of Kings Canyon National Park, packstock use is regulated in wet meadows to protect mountain yellow-legged frog breeding habitat in bogs and along lake shores from trampling and associated degradation (Vredenburg 2002, p. 11; Werner 2002, p. 2; National Park Service 2013, p. 3). Packstock use is also regulated in designated wilderness in National Forests within the Sierra Nevada.

Packstock use is likely a threat of low significance to mountain yellow-legged frogs at the current time, except on a limited, site-specific basis. As California's human population increases, the impact of recreational activities, including packstock use and riding on the National Forests in the Sierra Nevada, are projected to increase (USDA 2001a, pp. 473–474). However, on the Inyo National Forest, current commercial packstock use is approximately 27 percent of the level of use in the 1980s reflecting a decline in the public's need and demand for packstock trips. From 2001 to 2005, commercial packstock outfitters within the Golden Trout and South Sierra Wilderness Areas averaged 28 percent of their current authorized use (USFS

2006, p. 3–18). Similarly, long-term permitting data for administrative, commercial, and recreational packstock use in the three National Parks indicates that packstock use is declining in the Parks, providing no evidence to suggest that packstock use will increase in the future in the Parks (National Park Service 2013, pp. 3, 4). Habitat changes due to packstock grazing may pose a risk to some remnant populations of frogs and, in certain circumstances, a hindrance to recovery of populations in heavily used areas.

Roads and Timber Harvest

Activities that alter the terrestrial environment (such as road construction and timber harvest) may impact amphibian populations in the Sierra Nevada (Jennings 1996, p. 938) at locations where these activities occur. Historically, road construction and timber harvest may have acted to reduce the species' range prior to the more recent detailed studies and systematic monitoring that have quantified and documented species losses. Prior to the formation of National Parks in 1890 and National Forests in 1905, timber harvest was widespread and unregulated, but primarily took place at elevations on the western slope of the Sierra Nevada below the range of the mountain yellow-legged frog (University of California (UC) 1996b, pp. 24–25). Between 1900 and 1950, the majority of timber harvest occurred in old-growth forests on private land (UC 1996b, p. 25). Between 1950 and the early 1990s, timber harvest on National Forests increased, and the majority of timber harvest-associated impacts on mountain yellow-legged frogs may therefore have taken place during this period in lower elevation locations where timber harvest and species occurrences overlapped. Currently, these activities are expected to occur outside National Parks or National Forest wilderness areas, with limited exceptions.

Timber harvest activities (including vegetation management and fuels management) remove vegetation and cause ground disturbance and compaction, making the ground more susceptible to erosion (Helms and Tappeiner 1996, p. 446). This erosion can increase siltation downstream and potentially damage mountain yellow-legged frog breeding habitat. Timber harvest may alter the annual hydrograph (timing and volume of surface flows) in areas where harvests occur. The majority of erosion caused by timber harvests is from logging roads (Helms and Tappeiner 1996, p. 447). A recent monitoring effort, which was conducted by the USFS in stream habitats in the northern part of the Sierra Nevada yellow-legged frog's range, attempted to assess the impact of vegetation management activities, which would include activities similar to timber harvest, on mountain yellow-legged frog populations (Foote *et al.* 2013, p. 2). However, given the timing of project implementation, the results were limited to the impacts of these management activities on mountain yellow-legged frog habitat. The results of the monitoring suggest these activities did not significantly impact perennial stream habitat for the mountain yellow-legged frog, although there were instances of habitat degradation attributed to sedimentation resulting from road decommissioning and culvert replacement (Foote *et al.* 2013, p. 32).

Roadways have the potential to affect riparian habitat by altering the physical and chemical environment, including alteration of surface-water run-off, with potential changes to hydrology in high-mountain lake and stream systems (Brown *et al.* 2009, pp. 71–72). Roads, including those associated with timber harvests, have also been found to contribute to habitat fragmentation and limit amphibian movement, thus having a negative effect on amphibian species richness. Therefore, road construction could fragment mountain yellow-legged frog habitat if a road bisects habitat consisting of water bodies in close proximity. In the prairies and forests of Minnesota, Lehtinen *et al.* (1999, pp. 8–9) found that increased road density reduced amphibian species richness. DeMaynadier and Hunter (2000, p. 56) found similar results in a study of eight amphibian species in Maine, although results varied with road type and width. Results showed that anuran (true frogs, the group of frogs that includes the mountain yellow-legged frogs) habitat use and movement were not affected even by a wide, heavily used logging road (deMaynadier and Hunter 2000, p. 56); this finding suggests that forest roads may not fragment populations where such roads occur.

Currently, most of the mountain yellow-legged frog populations occur in National Parks or designated wilderness areas where timber is not harvested (Bradford *et al.* 1994, p. 323; Drost and Fellers 1996, p. 421; Knapp and Matthews 2000, p. 430) and where motorized access (and roads) does not occur. Mountain yellow-legged frog populations outside of these areas are most often located above the timberline, so timber harvest activity is not expected to affect the majority of extant mountain yellow-legged frog populations. There is a higher potential overlap of timber harvest activities with the species in the northern and lower elevation portions of the species' ranges where the frogs occur in streams and meadows in forested environments; in these areas, populations are very small and fragmented (Brown 2013, unpaginated). Likewise, at lower elevations of the Sierra Nevada, forest roads and logging roads are more common (Brown *et al.* 2009, p. 71). Habitat effects associated with roads are most likely to occur where existing roadways occur (for example, see Knapp 1993b, unpaginated). Although additional roads may be constructed within the range of the mountain yellow-legged frogs, we are not aware of any proposals to build new roads at this time.

In riparian areas, the USFS generally maintains standards and guidelines for land management activities, such as timber harvests, that are designed to maintain the hydrologic, geomorphic, and ecologic processes that directly affect streams, stream processes, and aquatic habitats, and which can limit potential effects of such activities (Foote *et al.* 2013, pp. 4, 32). In general, we expect the standards to be effective in preventing habitat-related effects to these species. Additionally, neither timber harvests nor roads have been implicated as important contributors to the decline of this species (Jennings 1996, pp. 921–941), although habitat alterations due to these activities may, in site-specific, localized cases, have population-level effects to mountain yellow-legged frogs. We expect that such cases would be more likely at lower elevations or in the more northern portion of the species' range where limited extant populations occur in close proximity to timber harvest, or where populations occur in drainages adjacent to roadways. In the proposed rule, we stated that roads and timber harvest likely present minor prevalent threats to the mountain yellow-legged frogs factored across the range of the species. We are clarifying that language, noting that they may pose important habitat-related effects to the species in localized areas, but are not likely threats across most of the species' ranges.

Fire and Fire Management Activities

Mountain yellow-legged frogs are generally found at high elevations in wilderness areas and National Parks where vegetation is sparse and where fire may have historically played a limited role in the ecosystem. However, at lower elevations and in the northern portion of the range, mountain yellow-legged frogs occur in stream or lake environments within areas that are

forested to various extents. In some areas within the current range of the mountain yellow-legged frog, long-term fire suppression has changed the forest structure and created conditions that increase fire severity and intensity (McKelvey *et al.* 1996, pp. 1934–1935). Excessive erosion and siltation of mountain yellow-legged frog habitats following wildfire is a concern where shallow, lower elevation aquatic areas occur below forested stands. However, prescribed fire has been used by land managers to achieve various silvicultural objectives, including fuel load reduction. In some systems, fire is thought to be important in maintaining open aquatic and riparian habitats for amphibians (Russell *et al.* 1999, p. 378), although severe and intense wildfires may reduce amphibian survival, as the moist and permeable skin of amphibians increases their susceptibility to heat and desiccation (Russell *et al.* 1999, p. 374). Amphibians may avoid direct mortality from fire by retreating to wet habitats or sheltering in subterranean burrows.

The effects of past fire and fire management activities on historical populations of mountain yellow-legged frogs are not known. Neither the direct nor indirect effects of prescribed fire or wildfire on the mountain yellow-legged frog have been studied. Hossack *et al.* (2012, pp. 221, 226), in a study of the effects of six stand-replacing fires on three amphibians that breed in temporary ponds in low-elevation dense coniferous forests or in high-elevation open, subalpine forests in Glacier National Park, found that effects of wildfire on amphibians may not be evident for several years post-fire with time-lagged declines. The decline in populations was presumably due to the proximity of high-severity fires to important breeding habitats, which resulted in low recruitment of juveniles into the breeding population. They cautioned, however, that amphibian responses to fire are context specific and cannot be generalized too broadly; they found no change in occupancy after wildfire at high elevations where wetlands were in sparse forest or open meadows where there was less change in canopy cover and insolation after wildfire. Where fire has occurred in the steep canyons of southern California where the southern DPS of the mountain yellow-legged frog occurs, the character of the habitat has been significantly altered, leading to erosive scouring and flooding of creeks after surface vegetation is denuded (North 2012, pers. comm.). North (2012, pers. comm.) reported that at least one population of the federally endangered southern DPS of the mountain yellow-legged frog, which occurs in streams, declined substantially after fire on the East Fork City Creek (San Bernardino Mountains) in 2003 and, by 2012, was approaching extirpation. Although most populations of mountain yellow-legged frogs are in alpine habitat that differs from the habitat in southern California, when they occur in lower-elevation stream habitats, they could be similarly affected by large wildfires. When a large fire does occur in occupied habitat, mountain yellow-legged frogs can be susceptible to both direct mortality (leading to significantly reduced population sizes) and indirect effects (habitat alteration and reduced breeding habitat). It is possible that fire has caused localized extirpations in the past. However, because these species generally occupy high-elevation habitat, we have determined that fire is not a significant threat to the mountain yellow-legged frog complex over much of its current range, although where the species occur at lower elevations or in the most northerly portion of their ranges, fire-related changes to habitat may have population-level effects to the species.

Recreation

Recreational activities that include hiking, camping, and backpacking take place throughout the Sierra Nevada, whereas off-road vehicle (ORV) use takes place in areas outside of designated wilderness. These activities can have significant negative impacts on many plant and animal species and their habitats (U.S. Department of Agriculture (USDA) 2001a, pp. 483–493). Extant populations of the mountain yellow-legged frog complex are primarily located at high elevations in sub-alpine and alpine habitat within designated wilderness. High-elevation wilderness areas are ecosystems that are subject to intense solar exposure; extremes in temperatures, precipitation levels, and wind; short growing seasons; and shallow, nutrient-poor soil. Such habitats are typically not resilient to disturbance (Schoenherr 1992, p. 167; Cole and Landres 1996, p. 170).

In easily accessible areas, heavy foot traffic in riparian areas can trample vegetation, compact soils, and physically damage stream banks (Kondolf *et al.* 1996, pp. 1014, 1019). Human foot, horse, bicycle, or off-highway motor vehicle trails can replace riparian habitat with compacted soil (Kondolph *et al.* 1996, pp. 1014, 1017, 1019), lower the water table, and cause increased erosion where such activities occur. Bahls (1992, p. 190) reported that the recreational activity of anglers at high mountain lakes can be locally intense in western wilderness areas, with most regions reporting a level of use greater than the fragile lakeshore environments can withstand. Heavy recreation use has been associated with changes in the basic ecology of lakes. In the 1970s, Silverman and Erman (1979) found that the most heavily used back-country lakes in their study had less nitrate and more iron and aquatic plants than other lakes. These researchers suggested that erosion at trails and campsites, improper waste disposal, destruction of vegetation, and campsites might cause an increase in elements that formerly limited plant growth (Hendee *et al.* 1990, pp. 435, 436). The NPS considers hiking and backpacking to be a negligible risk for the mountain yellow-legged frogs within the Parks, noting that, while hiking and backpacking occur adjacent to many populations, evidence indicates that risk to habitat is slight to none. For example, monitoring of a high-use trail that allows thousands of hikers annually to come into close contact with several populations of mountain yellow-legged frogs, whose habitat is immediately adjacent to the trail, shows that the populations have grown substantially over the last decade (NPS 2013, p. 6). In one location where high hiking levels may be having an impact due to access via an adjacent road, Yosemite National Park personnel have restricted access (NPS 2013, p. 6). Although recreation was noted in 1998 as the fastest growing use of National Forests (USFS 2001a, p. 453), to our knowledge, no studies to date have identified a correlation between such recreation-related impacts to habitat and effects to populations of the mountain yellow-legged frog complex.

Because of demand for wilderness recreational experiences and concern about wilderness resource conditions, wilderness land management now includes standards for wilderness conditions, implementing permit systems and group-size limits for visitors and packstock, prohibitions on camping and packstock use close to water, and other visitor management techniques to reduce impacts to habitat, including riparian habitat (Cole 2001, pp. 4–5). These wilderness land management techniques are currently being used in National Forest Wilderness areas in the Sierra Nevada and in backcountry areas of Yosemite, Sequoia, and Kings Canyon National Parks. In the proposed rule, we stated that current recreation activities were considered a threat of low significance to the species' habitat overall. Based on

comments from the National Park Service, the USFS, CDFW, and the public, we have reevaluated the previous analysis and have revised our finding. Therefore, current habitat effects of recreational activities are not considered to have population-level effects to mountain yellow-legged frogs over much of their respective ranges, although there may be localized effects especially outside of backcountry areas where use levels are not limited, or where motorized use occurs in extant frog habitat.

In summary, based on the best available scientific and commercial information, we consider the modification of habitat and curtailment of the species' ranges to be a significant and ongoing threat to the Sierra Nevada yellow-legged frog and northern DPS of the mountain yellow-legged frog. Habitat fragmentation and degradation (loss of habitat through competitive exclusion) from stocking and the continued presence of introduced trout across the majority of the species' range is a threat of high prevalence. This threat is a significant limiting factor to persistence and recovery of the species rangewide. Threats of low prevalence (threats that may be important limiting factors in some areas, but not across a large part of the mountain yellow-legged frog complex's range) include dams and water diversions, grazing, packstock use, timber harvest and roads, recreation, and fire management activities.

Factor B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

No commercial market for mountain yellow-legged frogs exists, nor any documented recreational or educational uses for these species. Scientific research may cause stress to mountain yellow-legged frogs through disturbance, including disruption of the species' behavior, handling of individual frogs, and injuries associated with marking and tracking individuals. However, this is a relatively minor nuisance and not likely a negative impact to the survival and reproduction of individuals or the viability of the populations.

Based on the best available scientific and commercial information, we do not consider overutilization for commercial, recreational, scientific, or educational purposes to be a threat to the mountain yellow-legged frog complex now or in the future.

Factor C. Disease or Predation

Predation

Researchers have observed predation of mountain yellow-legged frogs by the mountain garter snake (*Thamnophis elegans elegans*), Brewer's blackbird (*Euphagus cyanocephalus*), Clark's nutcracker (*Nucifraga columbiana*), coyote (*Canis latrans*), and black bear (*Ursus americanus*) (Mullally and Cunningham 1956a, p. 193; Bradford 1991, pp. 176–177; Jennings *et al.* 1992, p. 505; Feldman and Wilkinson 2000, p. 102; Vredenburg *et al.* 2005, p. 565). However, none of these has been implicated as a driver of population dynamics, and we expect that such predation events do not generally have population-level impacts except where so few individuals remain that such predation is associated with loss of a population (Bradford 1991, pp 174–177; Jennings 1996, p. 938).

The American bullfrog (*Lithobates catesbeiana*) is native to the United States east of the Rocky Mountains, but was introduced to California about a century ago. The American bullfrog has become common in California in most permanent lakes and ponds below 1,829 m (6,000 ft) and is implicated in the declines of a number of native frog species (Jennings 1996, p. 931). Mountain yellow-legged frogs are thought to be particularly vulnerable to bullfrogs and introduced crayfish, potentially because the frogs did not evolve with a predator (Jennings 1996, p. 939). In addition, research indicates that bullfrogs may outcompete other species of amphibians where fish are present because bullfrogs are both unpalatable to fish and are naturally vulnerable to invertebrate predators such as dragonfly (Anisoptera) nymphs, which fish preferentially consume. Bullfrogs may co-occur with mountain yellow-legged frogs at lower elevations. On the Plumas National Forest, sites created as a result of restoration activities have been invaded by bullfrogs (Brown *et al.* 2009, pp. 48, 49). Bullfrogs also occur in the Lake Tahoe Basin (USFS 2000, pp. 530, G–12) in the vicinity of Fallen Leaf Lake. Bullfrog predation and competition is expected to have population-level effects where bullfrog populations occupy the same areas as extant mountain yellow-legged frog populations.

The most prominent predator of mountain yellow-legged frogs is introduced trout, whose significance is well-established because it has been repeatedly observed that the frogs rarely coexist with fish, and it is known that introduced trout can and do prey on all frog life stages except for eggs (Grinnell and Storer 1924, p. 664; Mullally and Cunningham 1956a, p. 190; Cory 1962a, p. 401; 1963, p. 172; Bradford 1989, pp. 775–778; Bradford and Gordon 1992, p. 65; Bradford *et al.* 1993, pp. 882–888; 1994a, p. 326; Drost and Fellers 1996, p. 422; Jennings 1996, p. 940; Knapp 1996, p. 14; Knapp and Matthews 2000, p. 428; Knapp *et al.* 2001, p. 401; Vredenburg 2004, p. 7649; Knapp 2013, unpaginated). Knapp (1996, pp. 1–44) estimated that 63 percent of lakes larger than 1 ha (2.5 ac) in the Sierra Nevada contain one or more nonnative trout species, and that greater than 60 percent of streams contain nonnative trout. In some areas, trout-occupied waters comprise greater than 90 percent of total water body surface area (Knapp and Matthews 2000, p. 434).

The multiple-year tadpole stage of the mountain yellow-legged frog requires submersion in the aquatic habitat year-round until metamorphosis. Moreover, all life stages are highly aquatic, increasing the frog's susceptibility to predation by trout (where they co-occur) throughout its lifespan. Overwinter mortality due to predation is especially significant because, when water bodies ice over in winter, adults and tadpoles move from shallow margins of lakes and ponds into deeper unfrozen water where they are more vulnerable to predation; fish encounters in such areas increase, while refuge is less available.

The predation of mountain yellow-legged frogs by fishes observed in the early 20th century by Grinnell and Storer and the documented population declines of the 1970s (Bradford 1991, pp. 174–177; Bradford *et al.* 1994, pp. 323–327; Stebbins and Cohen 1995, pp. 226–227) were not the beginning of the mountain yellow-legged frog's decline, but rather the continuation of a long decline that started soon after fish introductions to the Sierra Nevada began in the mid-1800s (Knapp and Matthews 2000, p. 436). Metapopulation theory (Hanski 1997, pp. 85–86) predicts this type of time lag from habitat modification to population extinction (Knapp and Matthews 2000, p. 436). In 2004, Vredenburg (2004, p. 7647) concluded that introduced trout are effective predators on mountain yellow-legged frog tadpoles and suggested that the introduction of trout is the most likely reason for the decline of the mountain yellow-legged frog complex. This threat due to predation by introduced trout is a significant, prevalent (rangewide) risk to mountain yellow-legged frogs, and it will persist into the future in those locations where fish are present. The effect of introduced bullfrogs is expected to be a substantial continuing threat in those locations

where bullfrogs are known to occur presently, but may present more of a future threat if bullfrogs expand their elevational range as a result of climate change.

Disease

Over roughly the last 2 decades, pathogens have been associated with amphibian population declines, mass die-offs, and even extinctions worldwide (Bradford 1991, pp. 174–177; Blaustein *et al.* 1994b, pp. 251–254; Alford and Richards 1999, pp. 506; Muths *et al.* 2003, p. 357; Weldon *et al.* 2004, p. 2100; Rachowicz *et al.* 2005, p. 1446; Fisher *et al.* 2009, p. 292). One pathogen strongly associated with dramatic declines on all continents that harbor amphibians (all continents except Antarctica) is the chytrid fungus, *Batrachochytrium dendrobatidis* (Bd) (Rachowicz *et al.* 2005, p. 1442). This chytrid fungus has now been reported in amphibian species worldwide (Fellers *et al.* 2001, p. 945; Rachowicz *et al.* 2005, p. 1442). Early doubt that this particular pathogen was responsible for worldwide die-offs has largely been overcome by the weight of evidence documenting the appearance, spread, and detrimental effects to affected populations (Vredenburg *et al.* 2010, p. 9689). The correlation of notable recent amphibian declines with reports of outbreaks of fatal chytridiomycosis (the disease caused by Bd) in montane areas has led to a general association between high altitude, cooler climates, and population extirpations associated with Bd (Fisher *et al.* 2009, p. 298).

Bd affects the mouth parts and epidermal (skin) tissue of tadpoles and metamorphosed frogs (Fellers *et al.* 2001, pp. 950–951). The fungus can reproduce asexually, and can generally withstand adverse conditions such as freezing or drought (Briggs *et al.* 2002, p. 38). It also may reproduce sexually, leading to thick-walled sporangia that would be capable of long-term survival (for distant transport and persistence in sites even after all susceptible host animal populations are extirpated) (Morgan *et al.* 2007, p. 13849). Adult frogs can acquire this fungus from tadpoles, and it can also be transmitted between tadpoles (Rachowicz and Vredenburg 2004, p. 80).

In California, chytridiomycosis has been detected in many amphibian species, including mountain yellow-legged frogs (Briggs *et al.* 2002, p. 38; Knapp 2002b, p. 1). The earliest documented case in the mountain yellow-legged frog complex was in 1998, at Yosemite National Park (Fellers *et al.* 2001, p. 945); however, more recent literature shows Bd occurring in mountain yellow-legged frogs as early as 1975 (Ouellet *et al.* (2005, p. 1436; Vredenberg *et al.* 2010, p. 9689). It is unclear how Bd was originally transmitted to the frogs (Briggs *et al.* 2002, p. 39). Visual examination of 43 tadpole specimens collected between 1955 and 1976 revealed no evidence of Bd infection, yet 14 of 36 specimens preserved between 1993 and 1999 did have abnormalities attributable to Bd (Fellers *et al.* 2001, p. 947). The earliest recorded case of Bd in mountain yellow-legged frogs is from 1975, and Bd was also identified on two adult Yosemite toads among over 50 dead, dying, or healthy Yosemite toads collected during a die-off in 1976 (Green and Kagarise Sherman 2001, p. 92), although it was not thought to be the cause of the die-off in the population. Given these records, it is possible that this pathogen has affected all three amphibian species covered in this final rule since at least the mid-1970s. Mountain yellow-legged frogs may be especially vulnerable to Bd infections because all life stages share the same aquatic habitat nearly year round, facilitating the transmission of this fungus among individuals at different life stages (Fellers *et al.* 2001, p. 951).

During the epidemic phase of chytrid infection into unexposed populations, rapid die-offs of adult and subadult lifestages are observed (Vredenburg *et al.* 2010, p. 9691), with metamorphs being extremely sensitive to Bd infection (Kilpatrick *et al.* 2009, p. 113; Vredenburg *et al.* 2010, p. 9691; see also Vredenburg 2013, unpaginated). Field and laboratory experiments indicate that Bd infection is generally lethal to mountain yellow-legged frogs (Knapp 2005b; Rachowicz 2005, pers. comm.), and is likely responsible for declines in sites that were occupied as recently as 2002, but where frogs were absent by 2005 (Knapp 2005b). Rachowicz *et al.* (2006, p. 1671) monitored several infected and uninfected populations in Sequoia and Kings Canyon National Parks over multiple years, documenting dramatic declines and extirpations in only the infected populations. Rapid die-offs of mountain yellow-legged frogs from chytridiomycosis have been observed in more than 50 water bodies in the southern Sierra Nevada in recent years (Briggs *et al.* 2005, p. 3151). Studies of the microscopic structure of tissue and other evidence suggests Bd caused many of the recent extinctions in the Sierra National Forest's John Muir Wilderness Area and in Kings Canyon National Park, where 41 percent of the populations went extinct between 1995 and 2002 (Knapp 2002a, p. 10).

In several areas where detailed studies of the effects of Bd on the mountain yellow-legged frog are ongoing, substantial declines have been observed following the course of the disease infection and spread. Survey results from 2000 in Yosemite and Sequoia and Kings Canyon National Parks indicated that 17 percent of frog populations in Yosemite and 27 percent of the mountain yellow-legged frog populations sampled across both Sequoia and Kings Canyon National Parks showed evidence of Bd infection, although the proportion of infected frogs at each site varied greatly and disease incidence varied within each Park (Briggs *et al.* 2002, p. 40) (In the proposed rule, these two figures were averaged across all three parks; these numbers reflect the text presented in Briggs *et al.* 2002). In both 2003 and 2004, 19 percent of the populations that were sampled in Sequoia and Kings Canyon National Parks were infected with Bd (Rachowicz 2005, pp. 2–3). By 2005, 91 percent of assayed populations in Yosemite National Park showed evidence of Bd infection (Knapp 2005b, pp. 1–2), and the number of occupied sites in Sequoia and Kings Canyon National Parks had decreased by 47 percent from those known to be occupied 3 to 8 years previously (Knapp 2005b, pers. comm). Currently, it is believed that all populations in Yosemite Park are infected with Bd (Knapp *et al.* 2011, p. 9).

The effects of Bd on host populations of the mountain yellow-legged frog are variable, ranging from extirpation to persistence with a low level of infection (Briggs *et al.* 2002, pp. 40–41). When Bd infection first occurs in a population, the most common outcome is epidemic spread of the disease and population extirpation (Briggs *et al.* 2010, p. 9699). Die-offs are characterized by rapid onset of high-level Bd infections, followed by death due to chytridiomycosis. Although most populations that are newly exposed to Bd are driven to extirpation following the arrival of Bd, some populations that experience Bd-caused population crashes are not extirpated, and some may even recover despite ongoing chytridiomycosis (Briggs *et al.* 2010, pp. 9695–9696). However, it is apparent that even at sites exhibiting population persistence with Bd, high mortality of metamorphosing frogs persists, and this phenomenon may explain the lower abundances observed in such populations (Briggs *et al.* 2010, p. 9699).

Vredenburg *et al.* (2010a, pp. 2–4) studied frog populations before, during, and after the infection and spread of Bd in three study basins constituting 13, 33,

and 42 frog populations, respectively, then comprising the most intact metapopulations remaining for these species throughout their range. The spread of Bd averaged 688 m/year (yr) (2,257 ft/yr), reaching all areas of the smaller basin in 1 year, and taking 3 to 5 years to completely infect the larger basins, progressing like a wave across the landscape. The researchers documented die-offs following the spread of Bd, with decreased population growth rates evident within the first year of infection. Basinwide, metapopulations crashed from 1,680 to 22 individuals (northern DPS of the mountain yellow-legged frog) in Milestone Basin, with 9 of 13 populations extirpated; from 2,193 to 47 individuals (northern DPS of the mountain yellow-legged frog) in Sixty Lakes Basin, with 27 of 33 populations extirpated; and from 5,588 to 436 individuals (Sierra Nevada yellow-legged frog) in Barrett Lakes Basin, with 33 of 42 populations extirpated. The evidence is clear that Bd can and does decimate newly infected frog populations. Moreover, this rangewide population threat is acting upon a landscape already impacted by habitat modification and degradation by introduced fishes (see Factor A discussion, above). As a result, remnant populations in fishless lakes are now affected by Bd.

Vredenburg *et al.* (2010a, p. 3) projected that, at current extinction rates, and given the disease dynamics of Bd (infected tadpoles succumb to chytridiomycosis at metamorphosis), most if not all, extant populations within the recently infected basins they studied would go extinct within the next 3 years. Available data (CDFW, unpubl. data; Knapp 2005b; Rachowicz 2005, pers. comm.; Rachowicz *et al.* 2006, p. 1671) indicate that Bd is now widespread throughout the Sierra Nevada and, although it has not infected all populations at this time, it is a serious and substantial threat rangewide to the mountain yellow-legged frog complex.

Other diseases have also been reported as adversely affecting amphibian species, and these may be present within the range of the mountain yellow-legged frog. Bradford (1991, pp. 174–177) reported an outbreak of red-leg disease in Kings Canyon National Park, and suggested this was a result of overcrowding within a mountain yellow-legged frog population. Red-leg disease is caused by the bacterial pathogen *Aeromonas hydrophila,* along with other pathogens. Red-leg disease is opportunistic and successfully attacks immune-suppressed individuals, and this pathogen appears to be highly contagious, affecting the epidermis and digestive tract of otherwise healthy amphibians (Shotts 1984, pp. 51–52; Carey 1993, p. 358; Carey and Bryant 1995, pp. 14–15). Although it has been correlated with decline of a frog population in at least one case, red-leg disease is not thought to be a significant contributor to observed frog population declines rangewide, based on the available literature.

Saprolegnia is a globally distributed fungus that commonly attacks all life stages of fishes (especially hatchery-reared fishes), and has recently been documented to attack and kill egg masses of western toads (*Bufo boreas*) (Blaustein *et al.* 1994b, p. 252). This pathogen may be introduced through fish stocking, or it may already be established in the aquatic ecosystem. Fishes and migrating or dispersing amphibians may be vectors for this fungus (Blaustein *et al.* 1994b, p. 253; Kiesecker *et al.* 2001, p. 1068). *Saprolegnia* has been reported in the southern DPS of the mountain yellow-legged frog (North 2012, pers. comm.); however, its occurrence within the Sierran range of the mountain yellow-legged frog complex and associated influence on population dynamics (if any) are unknown.

Other pathogens of concern for amphibian species include ranaviruses (Family Iridoviridae). Mao *et al.* (1999, pp. 49–50) isolated identical iridoviruses from co-occurring populations of the threespine stickleback (*Gasterosteus aculeatus*) and the red-legged frog (*Rana aurora*), indicating that infection by a given virus is not limited to a single species, and that iridoviruses can infect animals of different taxonomic classes. This suggests that virus-hosting trout introduced into mountain yellow-legged frog habitat may be a vector for amphibian viruses. However, definitive mechanisms for the transmission to the mountain yellow-legged frog remain unknown. No viruses were detected in the mountain yellow-legged frogs that Fellers *et al.* (2001, p. 950) analyzed for Bd. In Kings Canyon National Park, Knapp (2002a, p. 20) found mountain yellow-legged frogs showing symptoms attributed to a ranavirus (Knapp 2013, unpaginated). To date, ranaviruses remain a concern for the mountain yellow-legged frog complex, but the available information does not indicate they are negatively affecting populations.

It is unknown whether amphibian pathogens in the high Sierra Nevada have always coexisted with amphibian populations or if the presence of such pathogens is a recent phenomenon. However, it has been suggested that the susceptibility of amphibians to pathogens may have recently increased in response to anthropogenic environmental disruption (Carey 1993, pp. 355–360; Blaustein *et al.* 1994b, p. 253; Carey *et al.* 1999, p. 7). This hypothesis suggests that environmental changes may be indirectly responsible for certain amphibian die-offs due to immune system suppression of tadpoles or post-metamorphic amphibians (Carey 1993, p. 358; Blaustein *et al.* 1994b, p. 253; Carey *et al.* 1999, pp. 7–8). Pathogens such as *Aeromonas hydrophila,* which are present in fresh water and in healthy organisms, may become more of a threat, potentially causing localized amphibian population die-offs when the immune systems of individuals within the host population are suppressed (Carey 1993, p. 358; Carey and Bryant 1995, p. 14).

The contribution of Bd as an environmental stressor and limiting factor on mountain yellow-legged frog population dynamics is currently extremely high, and it poses a significant current and continuing threat to remnant uninfected populations in the southern Sierra Nevada. Its effects are most dramatic following the epidemic stage as it spreads across newly infected habitats; massive die-off events follow the spread of the fungus, and it is likely that survival of mountain yellow-legged frogs through the metamorphosis stage is substantially reduced even years after the initial epidemic (Rachowicz *et al.* 2006, pp. 1679–1680). The relative impact from other diseases and the interaction of other stressors and disease on the immune systems of mountain yellow-legged frogs remains poorly documented to date.

In summary, based on the best available scientific and commercial information, we consider the threats of predation and disease to be significant, ongoing threats to the Sierra Nevada yellow-legged frog and the northern DPS of the mountain yellow-legged frog. These threats include predation by bullfrogs and introduced fishes, and amphibian pathogens (most specifically, the chytrid fungus), two primary driving forces leading to population declines in the mountain yellow-legged frog complex. These are highly prevalent threats, and they are predominant limiting factors hindering population viability and precluding recovery across the ranges of the mountain yellow-legged frog complex.

Factor D. The Inadequacy of Existing Regulatory Mechanisms

In determining whether the inadequacy of regulatory mechanisms constitutes a threat to the mountain yellow-legged frog complex, we analyzed the existing Federal and State laws and regulations that may address the threats to these species or contain relevant protective measures. Regulatory mechanisms are typically nondiscretionary and enforceable, and may preclude the need for listing if such mechanisms are judged to adequately address the threat(s) to the species such that listing is not warranted. Conversely, threats on the landscape are not ameliorated where existing regulatory mechanisms are not adequate (or when existing mechanisms are not adequately implemented or enforced).

Federal Wilderness Act

The Wilderness Act of 1964 (16 U.S.C. 1131 *et seq.*) established a National Wilderness Preservation System made up of federally owned areas designated by Congress as ''wilderness'' for the purpose of preserving and protecting designated areas in their natural condition. The Wilderness Act states the use of these areas with limited exception are subject to the following restrictions: (1) New or temporary roads cannot be built; (2) motor vehicles, motorized equipment, or motorboats cannot be used; (3) aircraft cannot land; (4) no form of mechanical transport can occur; and (5) no structure or installation may be built. In addition, a special provision within the Wilderness Act stipulated that, except for valid existing rights, effective January 1, 1984, the minerals within designated wilderness areas would be withdrawn from all forms of appropriation under mining laws, precluding new mining claims within designated wilderness after that date (see Hendee *et al.* 1990, p. 508). A large number of mountain yellow-legged frog locations occur within wilderness areas managed by the USFS and NPS and, therefore, are afforded protection from direct loss or degradation of habitat by some human activities (such as development, commercial timber harvest, road construction, and some fire management actions). Livestock grazing and fish stocking both occur within designated wilderness areas on lands within the National Forest System.

National Forest Management Act of 1976

Under the National Forest Management Act of 1976, as amended (NFMA) (16 U.S.C. 1600 *et seq.*), the USFS is tasked with managing National Forest lands based on multiple-use, sustained-yield principles, and with implementing land and resource management plans (LRMP) on each National Forest to provide for a diversity of plant and animal communities. The purpose of an LRMP is to guide and set standards for all natural resource management activities for the life of the plan (10 to 15 years). NFMA requires the USFS to incorporate standards and guidelines into LRMPs. The 1982 planning regulations for implementing NFMA (47 FR 43026; September 30, 1982), under which all existing forest plans in the Sierra Nevada were prepared until recently, guided management of National Forests and required that fish and wildlife habitat on National Forest system lands be managed to maintain viable populations of existing native and desired nonnative vertebrate species in the planning area. A viable population is defined as a population of a species that continues to persist over the long term with sufficient distribution to be resilient and adaptable to stressors and likely future environments. In order to insure that viable populations would be maintained, the 1982 planning regulations directed that habitat must be provided to support, at least, a minimum number of reproductive individuals and that habitat must be well-distributed so that those individuals could interact with others in the planning area.

On April 9, 2012, the USFS published a final rule (77 FR 21162) amending 36 CFR 219 to adopt new National Forest System land management regulations that guide the development, amendment, and revision of LRMPs for all Forest System lands. These revised regulations, which became effective on May 9, 2012, replaced the 1982 planning rule. The 2012 planning rule requires that the USFS maintain viable populations of species of conservation concern at the discretion of regional foresters. This rule could thereby result in removal of the limited protections that are currently in place for mountain yellow-legged frogs under the Sierra Nevada Forest Plan Amendment (SNFPA), as described below.

Sierra Nevada Forest Plan Amendment

In 2001, a record of decision was signed by the USFS for the Sierra Nevada Forest Plan Amendment (SNFPA), based on the final environmental impact statement for the SNFPA effort and prepared under the 1982 NFMA planning regulations. The Record of Decision amends the USFS Pacific Southwest Regional Guide, the Intermountain Regional Guide, and the LRMPs for National Forests in the Sierra Nevada and Modoc Plateau. This document affects land management on all National Forests throughout the range of the mountain yellow-legged frog complex. The SNFPA addresses and gives management direction on issues pertaining to old forest ecosystems; aquatic, riparian, and meadow ecosystems; fire and fuels; noxious weeds; and lower west-side hardwood ecosystems of the Sierra Nevada. In January 2004, the USFS amended the SNFPA, based on the final supplemental environmental impact statement, following a review of fire and fuels treatments, compatibility with the National Fire Plan, compatibility with the Herger-Feinstein Quincy Library Group Forest Recovery Pilot Project, and effects of the SNFPA on grazing, recreation, and local communities (USDA 2004, pp. 26–30).

Relevant to the mountain yellow-legged frog complex, the Record of Decision for SNFPA aims to protect and restore aquatic, riparian, and meadow ecosystems, and to provide for the viability of associated native species through implementation of an aquatic management strategy. The aquatic management strategy is a general framework with broad policy direction. Implementation of this strategy was intended to take place at the landscape and project levels. Nine goals are associated with the aquatic management strategy:

(1) The maintenance and restoration of water quality to comply with the Clean Water Act (CWA) and the Safe Drinking Water Act;

(2) The maintenance and restoration of habitat to support viable populations of native and desired nonnative riparian-dependent species, and to reduce negative impacts of nonnative species on native populations;

(3) The maintenance and restoration of species diversity in riparian areas, wetlands, and meadows to provide desired habitats and ecological functions;

(4) The maintenance and restoration of the distribution and function of biotic communities and biological diversity in special aquatic habitats (such as springs, seeps, vernal pools, fens, bogs, and marshes);

(5) The maintenance and restoration of spatial and temporal connectivity for aquatic and riparian species within and between watersheds to provide physically, chemically, and biologically unobstructed movement for their survival, migration, and reproduction;

(6) The maintenance and restoration of hydrologic connectivity between

floodplains, channels, and water tables to distribute flood flows and to sustain diverse habitats;

(7) The maintenance and restoration of watershed conditions as measured by favorable infiltration characteristics of soils and diverse vegetation cover to absorb and filter precipitation, and to sustain favorable conditions of streamflows;

(8) The maintenance and restoration of instream flows sufficient to sustain desired conditions of riparian, aquatic, wetland, and meadow habitats, and to keep sediment regimes within the natural range of variability; and

(9) The maintenance and restoration of the physical structure and condition of streambanks and shorelines to minimize erosion and sustain desired habitat diversity.

If these goals of the aquatic management strategy are pursued and met, threats to the mountain yellow-legged frog complex resulting from habitat alterations could be reduced. However, the aquatic management strategy is a generalized approach that does not contain specific implementation timeframes or objectives, and it does not provide direct protections for the mountain yellow-legged frog. Additionally, as described above, the April 9, 2012, final rule (77 FR 21162) that amended 36 CFR 219 to adopt new National Forest System land management planning regulations could result in removal of the limited protections that are currently in place for mountain yellow-legged frogs under the SNFPA.

National Park Service Organic Act

The statute establishing the National Park Service, commonly referred to as the National Park Service Organic Act (39 Stat. 535; 16 U.S.C. 1, 2, 3, and 4), states that the NPS will administer areas under their jurisdiction ''. . . by such means and measures as conform to the fundamental purpose of said parks, monuments, and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.'' Park managers must take action to ensure that ongoing NPS activities do not cause impairment. In cases of doubt as to the impact of activities on park natural resource, the Park Service is to decide in favor of protecting the natural resources. Sequoia, Kings Canyon, and Yosemite National Parks began phasing out fish stocking by the State in 1969 and terminated this practice entirely in 1991 (Knapp 1996, p. 9).

Federal Power Act

The Federal Power Act of 1920, as amended (FPA) (16 U.S.C. 791 *et seq.*) was enacted to regulate non-federal hydroelectric projects to support the development of rivers for energy generation and other beneficial uses. The FPA provides for cooperation between the Federal Energy Regulatory Commission (Commission) and other Federal agencies in licensing and relicensing power projects. The FPA mandates that each license includes conditions to protect, mitigate, and enhance fish and wildlife and their habitat affected by the project. However, the FPA also requires that the Commission give equal consideration to competing priorities, such as power and development, energy conservation, protection of recreational opportunities, and preservation of other aspects of environmental quality. Further, the FPA does not mandate protections of habitat or enhancements for fish and wildlife species, but provides a mechanism for resource agency recommendations that are incorporated into a license at the discretion of the Commission. Additionally, the FPA provides for the issuance of a license for the duration of up to 50 years, and the FPA contains no provision for modification of the project for the benefit of species, such as mountain yellow-legged frogs, before a current license expires.

Although most reservoirs and water diversions are located at lower elevations than those at which extant mountain yellow-legged frog populations occur, numerous extant populations occur within watersheds that feed into developed and managed aquatic systems (such as reservoirs and water diversions) operated for the purpose of power generation and regulated by the FPA and may be considered during project relicensing.

State

California Endangered Species Act

This section has been updated from the information presented in the proposed rule, and discussion of CDFW's current fish-stocking practices has been moved to the Factor A discussion of Habitat Modification Due to Introduction of Trout to Historically Fishless Areas.

The California Endangered Species Act (CESA) (California Fish and Game Code, section 2080 *et seq.*) prohibits the unauthorized take of State-listed endangered or threatened species. CESA requires State agencies to consult with CDFW on activities that may affect a State-listed species, and mitigate for any adverse impacts to the species or its habitat. Pursuant to CESA, it is unlawful to import or export, take, possess, purchase, or sell any species or part or product of any species listed as endangered or threatened. The State may authorize permits for scientific, educational, or management purposes, and allow take that is incidental to otherwise lawful activities. On April 1, 2013, the Sierra Nevada yellow-legged frog was listed as a threatened species and the mountain yellow-legged frog (Statewide) was listed as an endangered species under CESA (CDFW 2013, p. 1).

While the listing of the Sierra Nevada yellow-legged frog and the mountain yellow-legged frog under CESA provide some protections to these species, as State regulation prohibits the unauthorized take of State-listed species, the definition of take under CESA does not include habitat modification or degradation. Additionally, the majority of the lands occupied by these species are federally managed lands, so there is limited jurisdiction in which to regulate land management activities that may affect these species.

Overall, existing Federal and State laws and regulatory mechanisms currently offer some level of protection for the mountain yellow-legged frog complex. While not the intent of the Wilderness Act, the mountain yellow-legged frogs receive ancillary protection from the Wilderness Act due to its prohibitions on development, road construction, and timber harvest, and associated standards and guidelines that limit visitor and packstock group sizes and use. With the exception of the National Park Service Organic Act, the existing regulatory mechanisms have not been effective in reducing threats to mountain yellow-legged frogs and their habitat from fish stocking and the continuing presence of nonnative fish. Nor have these mechanisms been effective in protecting populations from infection by diseases, although Forest Service standards and guidelines have likely reduced threats associated with grazing, timber harvest, and recreation use. Although State regulations under CESA provide some protection against take of the mountain yellow-legged frogs, the definition of take under CESA does not include habitat modification or degradation.

Factor E. Other Natural or Manmade Factors Affecting Its Continued Existence

The mountain yellow-legged frog is sensitive to environmental change or

degradation because it has an aquatic and terrestrial life history and highly permeable skin that increases exposure of individuals to substances in the water, air, and terrestrial substrates (Blaustein and Wake 1990, p. 203; Bradford and Gordon 1992. p. 9; Blaustein and Wake 1995, p. 52; Stebbins and Cohen 1995, pp. 227–228). Several natural or anthropogenically influenced changes, including contaminant deposition, acid precipitation, increases in ambient ultraviolet radiation, and climate change, have been implicated as contributing to amphibian declines (Corn 1994, pp. 62–63; Alford and Richards 1999, pp. 2–7). There are also documented incidences of direct mortality of, or the potential for direct disturbance to, individuals from some activities already discussed; in severe instances, these actions may have population-level consequences. As presented in the proposed rule (78 FR 24472, April 25, 2013), contaminants, acid precipitation, and ambient ultraviolet radiation are not known to pose a threat (current or historical) to the mountain yellow-legged frog and, therefore, are not discussed further. Please refer to the proposed listing rule for the Sierra Nevada yellow-legged frog, the northern DPS of the mountain yellow-legged frog, and the Yosemite toad (78 FR 24472, April 25, 2013) for a detailed discussion of contaminants, acid precipitation, and ambient ultraviolet radiation.

Climate Change

Our analysis under the Act includes consideration of ongoing and projected changes in climate. The terms ''climate'' and ''climate change'' are defined by the Intergovernmental Panel on Climate Change (IPCC). The term ''climate'' refers to the mean and variability of different types of weather conditions over time, with 30 years being a typical period for such measurements, although shorter or longer periods also may be used (IPCC 2007a, p. 1450; IPCC 2013a, Annex III). The term ''climate change'' thus refers to a change in the mean or variability of one or more measures of climate (for example, temperature or precipitation) that persists for an extended period, typically decades or longer, whether the change is due to natural variability, human activity, or both (IPCC 2007a, p. 1450; IPCC 2013a, Annex III). A recent compilation of climate change and its effects is available from reports of the Intergovernmental Panel on Climate Change (IPCC) (IPCC 2013b, entire).

Global climate projections are informative and, in some cases, the only or the best scientific information available for us to use. However, projected changes in climate and related impacts can vary substantially across and within different regions of the world (for example, IPCC 2007a, pp. 8–12). Therefore, we use downscaled projections when they are available and have been developed through appropriate scientific procedures, because such projections provide higher resolution information that is more relevant to the spatial scales used for analyses of a given species (see Glick *et al.* 2011, pp. 58–61, for a discussion of downscaling). With regard to our analysis for the Sierra Nevada of California (and western United States), downscaled projections are available, yet even downscaled climate models contain some uncertainty.

Variability exists in outputs from different climate models, and uncertainty regarding future GHG emissions is also a factor in modeling (PRBO 2011, p. 3). A general pattern that holds for many predictive models indicates northern areas of the United States will become wetter, and southern areas (particularly the Southwest) will become drier. These models also predict that extreme events, such as heavier storms, heat waves, and regional droughts, may become more frequent (Glick *et al.* 2011, p. 7). Moreover, it is generally expected that the duration and intensity of droughts will increase in the future (Glick *et al.* 2011, p. 45; PRBO 2011, p. 21).

The last century has included some of the most variable climate reversals documented, at both the annual and near-decadal scales, including a high frequency of El Niño (associated with more severe winters) and La Niña (associated with milder winters) events (reflecting drought periods of 5 to 8 years alternating with wet periods) (USDA 2001b, p. 33). Scientists have confirmed a longer duration climate cycle termed the Pacific Decadal Oscillation (PDO), which operates on cycles between 2 to 3 decades, and generally is characterized by warm and dry (PDO positive) followed by cool and wet cycles (PDO negative) (Mantua *et al.* 1997, pp. 1069–1079; Zhang *et al.* 1997, pp. 1004–1018). Snowpack is seen to follow this pattern—heavier in the PDO negative phase in California, and lighter in the positive phase (Mantua *et al.* 1997, p. 14; Cayan *et al.* 1998, p. 3148; McCabe and Dettinger 2002, p. 24).

For the Sierra Nevada ecoregion, climate models predict that mean annual temperatures will increase by 1.8 to 2.4 °C (3.2 to 4.3 °F) by 2070, including warmer winters with earlier spring snowmelt and higher summer temperatures. However, it is expected that temperature and climate variability will vary based on topographic diversity (for example, wind intensity will determine east versus west slope variability) (PRBO 2011, p. 18). Mean annual rainfall is projected to decrease from 9.2–33.9 cm (3.6–13.3 in) by 2070; however, projections have high uncertainty and one study predicts the opposite effect (PRBO 2011, p. 18). Given the varied outputs from differing modeling assumptions, and the influence of complex topography on microclimate patterns, it is difficult to draw general conclusions about the effects of climate change on precipitation patterns in the Sierra Nevada (PRBO 2011, p. 18). Snowpack is, by all projections, going to decrease dramatically (following the temperature rise and more precipitation falling as rain) (Kadir *et al.* 2013, pp. 76–80). Higher winter streamflows, earlier runoff, and reduced spring and summer streamflows are projected, with increasing severity in the southern Sierra Nevada (PRBO 2011, pp. 20–22); (Kadir *et al.* 2013, pp. 71–75).

Snow-dominated elevations of 2,000–2,800 m (6,560–9,190 ft) will be the most sensitive to temperature increases, and a warming of 5 °C (9 °F) is projected to shift center timing (the measure when half a stream's annual flow has passed a given point in time) to more than 45 days earlier in the year as compared to the 1961–1990 baseline (PRBO 2011, p. 23). Lakes, ponds, and other standing waters fed by snowmelt or streams are likely to dry out or be more ephemeral during the non-winter months (Lacan *et al.* 2008, pp. 216–222; PRBO 2011, p. 24). This pattern could influence ground water transport, and springs may be similarly depleted, leading to lower lake levels.

Blaustein *et al.* (2010, pp. 285–300) provide an exhaustive review of potential direct and indirect and habitat-related effects of climate change to amphibian species, with documentation of effects in a number of species where such effects have been studied. Altitudinal range shifts with changes in climate have been reported in some regions. They note that temperature can influence the concentration of dissolved oxygen in aquatic habitats, with warmer water generally having lower concentrations of dissolved oxygen, and that water balance heavily influences amphibian physiology and behavior. They predict that projected changes in temperature and precipitation are likely to increase habitat loss and alteration for those species living in sensitive habitats, such

as ephemeral ponds and alpine habitats (Blaustein *et al.* 2010, pp. 285–287).

Because environmental cues such as temperature and precipitation are clearly linked to onset of reproduction in many species, climate change will likely affect the timing of reproduction in many species, potentially with different sexes responding differently to climate change. For example, males of two newt species (*Triturus* spp.) showed a greater degree of change in arrival date at breeding ponds (Blaustein *et al.* 2010, p. 288). Lower concentrations of dissolved oxygen in aquatic habitats may negatively affect developing embryos and larvae, in part because increases in temperature increase the oxygen consumption rate in amphibians. Reduced oxygen concentrations have also been shown to result in accelerated hatching in ranid frogs, but at a smaller size, while larval development and behavior may also be affected and may be mediated by larval density and food availability (Blaustein *et al.* 2010, pp. 288–289).

Increased temperatures can reduce time to metamorphosis, which can increase chances of survival where ponds dry, but also result in metamorphosis at a smaller size, suggesting a likely trade-off between development and growth, which may be exacerbated by climate change and have fitness consequences for adults (Blaustein *et al.* 2010, pp. 289–290). Changes in terrestrial habitat, such as changed soil moisture and vegetation, can also directly affect adult and juvenile amphibians, especially those adapted to moist forest floors and cool, highly oxygenated water that characterizes montane regions. Climate change may also interact with other stressors that may be acting on a particular species, such as disease and contaminants (Blaustein *et al.* 2010, pp. 290–299).

A recent paper (Kadir *et al.* 2013, entire) provides specific information on the effects of climate change in the Sierra Nevada. The report found that glaciers in the Sierra Nevada have decreased in area over the past century, and glacier shrinkage results in earlier peak water runoff and drier summer conditions. Another result from the report is that the lower edge of the conifer-dominated forests in the Sierra Nevada has been retreating upslope over the past 60 years. Regarding wildfire, since 1950, annual acreage burned in wildfires statewide has been increasing in California, and in the western United States, large wildfires have become more frequent, increasing in tandem with rising spring and summer temperatures. Finally, the report found that today's subalpine forests in the Sierra Nevada are much denser—that is, comprise more small-diameter trees—than they were over 70 years ago. During this time period, warmer temperatures, earlier snowmelt, and more rain than snow occurred in this region. Many of these changes in the Sierra Nevada of California due to climate are likely to influence mountain yellow-legged frogs because both mountain yellow-legged frog species in the Sierra Nevada are highly vulnerable to climate change because changing hydrology and habitat in the Sierra Nevada will likely have impacts on remaining populations (Viers *et al.* 2013, pp. 55, 56).

Vulnerability of species to climate change is a function of three factors: Sensitivity of a species or its habitat to climate change, exposure of individuals to such physical changes in the environment, and their capacity to adapt to those changes (Glick *et al.* 2011, pp. 19–22). Critical sensitivity elements broadly applicable across organizational levels (from species through habitats to ecosystems) are associated with physical variables, such as hydrology (timing, magnitude, and volume of waterflows), fire regime (frequency, extent, and severity of fires), and wind (Glick *et al.* 2011, pp. 39–40). Species-level sensitivities generally include physiological factors, such as changes in temperature, moisture, or pH as they influence individuals; these also include dependence on sensitive habitats, ecological linkages to other species, and changes in phenology (timing of key life-history events) (Glick *et al.* 2011, pp. 40–41).

Exposure to environmental stressors renders species vulnerable to climate change impacts, either through direct mechanisms (for example, physical temperature extremes or changes in solar radiation), or indirectly through impacts upon habitat (hydrology; fire regime; or abundance and distribution of prey, competitors, or predator species). A species' capacity to adapt to climate change is increased by behavioral plasticity (the ability to modify behavior to mitigate the impacts of the stressor), dispersal ability (the ability to relocate to meet shifting conditions), and evolutionary potential (for example, shorter lived species with multiple generations have more capacity to adapt through evolution) (Glick *et al.* 2011, pp. 48–49).

The International Union for Conservation of Nature describes five categories of life-history traits that render species more vulnerable to climate change (Foden *et al.* 2008 in Glick *et al.* 2011, p. 33): (1) Specialized habitat or microhabitat requirements, (2) narrow environmental tolerances or thresholds that are likely to be exceeded under climate change, (3) dependence on specific triggers or cues that are likely to be disrupted (for example, rainfall or temperature cues for breeding, migration, or hibernation), (4) dependence on interactions between species that are likely to be disrupted, and (5) inability or poor ability to disperse quickly or to colonize more suitable range. We apply these criteria in this final rule to assess the vulnerability of mountain yellow-legged frogs to climate change.

At high elevations, where most extant populations occur, mountain yellow-legged frogs depend on high mountain lakes where both adult and larval frogs overwinter under ice for up to 9 months of the year. Overwintering under ice poses physiological problems for the frogs, most notably the depletion of oxygen in the water during the winter (Bradford 1983, p. 1171). Bradford (1983, pp. 1174–1182) has found, based on lab and field results, that tadpoles are more resistant to low dissolved oxygen levels than adult frogs; after two drought years that were followed by a severe winter, all frogs in 21 of 26 study lakes were lost (with the exception of one 2.1-m (6.9-ft) deep lake that contained only one individual), while tadpoles survived in all but one of the shallowest lakes. Losses were apparently due to oxygen depletion in a year when there was exceptional precipitation, ice depths that were thicker than usual, and lake thawing was 5 to 6 weeks later than the previous year. The survival of adults in substantial numbers was significantly correlated with lake depth and confined to lakes deeper than 4 m (13.1 ft).

Bradford (1983, pp. 1174–1179) found that mean oxygen concentration in lakes was directly related to maximum lake depth, with dissolved oxygen levels declining throughout the winter. He also found that a thickened ice layer on a lake causes the lake to become effectively more shallow, leading to an increased rate of oxygen depletion (Bradford 1983, p. 1178). Studies of winterkill of fish due to oxygen depletion also show that oxygen depletion is inversely related to lake depth and occurs most rapidly in shallow lakes relative to deeper lakes (See review in Bradford 1983, p. 1179). Bradford (1983, p. 1179) considered the possibility that winterkill of the frogs was due to freezing, but dismissed the potential because some of the lakes where winterkill occurred were deeper than the probable maximum ice depth in that year. Because the deeper lakes

that once supported frog populations now harbor introduced trout populations and are generally no longer available as refugia for frogs, the shallower lakes where frogs currently occur may be more vulnerable to weather extremes in a climate with increased variability, including drought years and years with exceptional severe cold winters. Such episodic stressors may have been infrequent in the past, but appear to be increasing, and they are important to long-lived species with small populations.

In summer, reduced snowpack and enhanced evapotranspiration following higher temperatures can dry out ponds that otherwise would have sustained rearing tadpoles (Lacan *et al.* 2008, p. 220), and may also reduce fecundity (egg production) (Lacan *et al.* 2008, p. 222). Lacan *et al.* (2008, p. 211) observed that most frog breeding occurred in the smaller, fishless lakes of Kings Canyon National Park that are shallow and prone to summer drying. Thus, climate change will likely reduce available breeding habitat for mountain yellow-legged frogs and lead to greater frequency of stranding and death of tadpoles as such lakes dry out earlier in the year (Corn 2005, p. 64; Lacan *et al.* 2008, p. 222).

Earlier snowmelt is expected to cue breeding earlier in the year. The advance of this primary signal for breeding phenology in montane and boreal habitats (Corn 2005, p. 61) may have both positive and negative effects. Additional time for growth and development may render larger individuals more fit to overwinter; however, earlier breeding may also expose young tadpoles (or eggs) to killing frosts in more variable conditions of early spring (Corn 2005, p. 60).

Whether mountain yellow-legged frogs depend on other species that may be affected either positively or negatively by climate change is unclear. Climate change may alter invertebrate communities (PRBO 2011 p. 24). In one study, an experimental increase in stream temperature was shown to decrease density and biomass of invertebrates (Hogg and Williams 1996, p. 401). Thus, climate change might have a negative impact on the mountain yellow-legged frog prey base.

Indirect effects from climate change may lead to greater risk to mountain yellow-legged frog population persistence. For example, fire intensity and magnitude are projected to increase (PRBO 2011, pp. 24–25), and, therefore, the contribution and influence of this stressor upon frog habitat and populations will increase. Climate change may alter lake productivity through changes in water chemistry, the extent and timing of mixing, and nutrient inputs from increased fires, all of which may influence community dynamics and composition (Melack *et al.* 1997, p. 971; Parker *et al.* 2008, p. 12927). These changes may not all be negative; for example, water chemistry and nutrient inputs, along with warmer summer temperatures, could increase net primary productivity in high mountain lakes to enhance frog food sources, although changes in net primary productivity may also negatively affect invertebrate prey species endemic to oligotrophic lakes (low nutrient, low productivity).

Carey (1993, p. 359) has suggested that, where environmental changes cause sufficient stress to cause immunological suppression, cold body temperatures that montane amphibians experience over winter could play a synergistic role in reducing further immunological responses to disease. Thus, such conditions might make mountain yellow-legged frogs more susceptible to disease. Additionally, Blaustein *et al.* (2001, p. 1808) have suggested that climate change could also affect the distribution of pathogens and their vectors, exposing amphibians to new pathogens. Climate change (warming) has been hypothesized as a driver for the range shift of Bd (Pounds *et al.* 2006, p. 161; Bosch *et al.* 2007, p. 253). However, other work has indicated that survival and transmission of Bd is more likely facilitated by cooler and wetter conditions (Corn 2005, p. 63). Fisher *et al.* (2009, p. 299) present a review of information available to date and evaluate the competing hypotheses regarding Bd dynamics, and they present some cases that suggest a changing climate can change the host–pathogen dynamic to a more virulent state.

The key risk factor for climate change impacts on mountain yellow-legged frogs is likely the combined effect of reduced water levels in high mountain lakes and ponds and the relative inability of individuals to disperse and colonize across longer distances in order to occupy more favorable habitat conditions (if they exist). Although such adaptive range shifts have been observed in some plant and animal species, they have not been reported in amphibians. The changes observed in amphibians to date have been more associated with changes in timing of breeding (phenology) (Corn 2005, p. 60). This limited adaptive capacity for mountain yellow-legged frogs is a function of high site fidelity and the extensive habitat fragmentation due to the introduction of fishes in many of the more productive and persistent high mountain lake habitats and streams that constitute critical dispersal corridors throughout much of the frogs' range (see Factor C discussion above).

An increase in the frequency, intensity, and duration of droughts caused by climate change may have compounding effects on populations of mountain yellow-legged frogs already in decline. In situations where other stressors (such as introduced fish) have resulted in the isolation of mountain yellow-legged frogs in marginal habitats, localized mountain yellow-legged frog population crashes or extirpations resulting from drought may exacerbate their isolation and preclude natural recolonization (Bradford *et al.* 1993, p. 887; Drost and Fellers 1996, p. 424; Lacan *et al.* 2008, p. 222). Viers *et al.* (2013, pp. 55, 56) have used a variety of risk metrics to determine that both mountain yellow-legged frog species in the Sierra Nevada are highly vulnerable to climate change, and that changing hydrology and habitat in the Sierra Nevada will likely have drastic impacts on remaining populations. Climate change represents a substantial future threat to the persistence of mountain yellow-legged frog populations.

Direct and Indirect Mortality

Other risk factors include direct and indirect mortality as an unintentional consequence of activities within mountain yellow-legged frog habitat. Mortality due to trampling by grazing livestock has been noted in a limited number of situations, with expected mortality risk thought to be greatest if livestock concentrate in prime breeding habitat early in the season when adults are breeding and egg masses are present (Brown *et al.* 2009, p. 59). Brown *et al.* (2009, p. 59) note that standards in the SNFPA are intended to mitigate this risk. Recreational uses also have the potential to result in direct or indirect mortality of mountain yellow-legged frog individuals at all life stages. The Forest Service has identified activities, including recreational activities that occur in the frogs' breeding sites as being risk factors for the frogs, while noting that recreation use is a risk that USFS management can change (USDA 2001a, pp. 213–214). Brown *et al.* (2009, pp. 65–66) note that tadpoles and juveniles, in particular, may be injured or killed by trampling, crushing, etc., by hikers, bikers, anglers, pets, packstock, or off-highway vehicles, although the number of documented situations appears limited. Recreational activities, such as hiking and camping, are associated primarily with physical site

alteration (changes to soil and vegetation conditions), and such effects are found to be highly localized. For example, estimates in a heavily-used portion of the Eagle Cap Wilderness in Oregon indicated that no more than 2 percent of the area had been altered by recreational use (Cole and Landres 1996, p. 170). However, where impacts of recreational use are highly localized, species impacts due to trampling have been identified, especially for rare plant species (Cole and Landres 1996, p. 170). Fire management activities (i.e. fuels reduction and prescribed fire) lead to some direct mortality and have the potential to disrupt behavior. Please refer to the proposed listing rule for the Sierra Nevada yellow-legged frog and the northern DPS of the mountain yellow-legged frog under the Act (16 U.S.C. 1531 *et seq.*) for information about effects of fire retardants on mountain yellow-legged frogs. Roads create the potential for direct mortality of amphibians by vehicle strikes (deMaynadier and Hunter 2000, p. 56) and the possible introduction of contaminants into new areas; however, most extant populations are not located near roads. Collectively, direct mortality risks to mountain yellow-legged frogs are likely of sporadic significance. They may be important on occasion on a site-specific basis, but are likely of low prevalence across the range of the species.

Small Population Size

In many localities, remaining populations for both the Sierra Nevada yellow-legged frog and the mountain yellow-legged frog are small (CDFW, unpubl. data). Brown *et al.* (2011, p. 24) reported that about 90 percent of watersheds have fewer than 10 adults and 80 percent have fewer than 10 subadults and 100 tadpoles. Remnant populations in the northern portion of the range for the Sierra Nevada yellow-legged frog (from Lake Tahoe north) and the southern portion of the populations of the northern DPS of the mountain yellow-legged frog (south of Kings Canyon National Park) currently also exhibit very low abundances (CDFW, unpubl. data).

Compared to large populations, small populations are more vulnerable to extirpation from environmental, demographic, and genetic stochasticity (random natural occurrences), and unforeseen (natural or unnatural) catastrophes (Shaffer 1981, p. 131).

Environmental stochasticity refers to annual variation in birth and death rates in response to weather, disease, competition, predation, or other factors external to the population (Shaffer 1981, p. 131). Small populations may be less able to respond to natural environmental changes (Kéry *et al.* 2000, p. 28), such as a prolonged drought or even a significant natural predation event. Periods of prolonged drought are more likely to have a significant effect on mountain yellow-legged frogs because drought conditions occur on a landscape scale and all life stages are dependent on habitat with suitable perennial water. Demographic stochasticity is random variability in survival or reproduction among individuals within a population (Shaffer 1981, p. 131) and could increase the risk of extirpation of the smaller remaining populations. Genetic stochasticity results from changes in gene frequencies due to the founder effect (loss of genetic variation that occurs when a new population is established by a small number of individuals) (Reiger 1968, p. 163); random fixation (the complete loss of one of two alleles in a population, the other allele reaching a frequency of 100 percent) (Reiger 1968, p. 371); or inbreeding depression (loss of fitness or vigor due to mating among relatives) (Soulé 1980, p. 96). Additionally, small populations generally have an increased chance of genetic drift (random changes in gene frequencies from generation to generation that can lead to a loss of variation) and inbreeding (Ellstrand and Elam 1993, p. 225).

Allee effects (Dennis 1989, pp. 481–538) occur when a population loses its positive stock-recruitment relationship (when population is in decline). In a declining population, an extinction threshold or ''Allee threshold'' (Berec *et al.* 2006, pp. 185–191) may be crossed, where adults in the population either cease to breed or the population becomes so compromised that breeding does not contribute to population growth. Allee effects typically fall into three broad categories (Courchamp *et al.* 1999, pp. 405–410): lack of facilitation (including low mate detection and loss of breeding cues), demographic stochasticity, and loss of heterozygosity (a measure of genetic variability). Environmental stochasticity amplifies Allee effects (Dennis 1989, pp. 481–538; Dennis 2002, pp, 389–401). The Allee effects of demographic stochasticity and loss of heterozygosity are likely as mountain yellow-legged frog populations continue to diminish.

The extinction risk for a species represented by few small populations is magnified when those populations are isolated from one another. This is especially true for species whose populations normally function in a metapopulation structure, whereby dispersal or migration of individuals to new or formerly occupied areas is necessary. Connectivity between these populations is essential to increase the number of reproductively active individuals in a population; mitigate the genetic, demographic, and environmental effects of small population size; and recolonize extirpated areas. Additionally, fewer populations by itself increases the risk of extinction.

The combination of low numbers with the other extant stressors of disease, fish persistence, and potential for climate extremes could have adverse consequences for the mountain yellow-legged frog complex as populations approach the Allee threshold. Small population size is currently a significant threat to most populations of mountain yellow-legged frogs across the range of the species.

Cumulative Impacts of Extant Threats

Stressors may act additively or synergistically. An additive effect would mean that an accumulation of otherwise low threat factors acting in combination may collectively result in individual losses that are meaningful at the population level. A synergistic effect is one where the interaction of one or more stressors together leads to effects greater than the sum of those individual factors combined. Further, the cumulative effect of multiple added stressors can erode population viability over successive generations and act as a chronic strain on the viability of a species, resulting in a progressive loss of populations over time. Such interactive effects from compounded stressors thereby act synergistically to curtail the viability of frog metapopulations and increase the risks of extinction.

It is difficult to predict the precise impact of the cumulative threat represented by the relatively novel Bd epidemic across a landscape already fragmented by fish stocking. The singular threat of the Bd epidemic wave in the uninfected populations of the mountain yellow-legged frog complex in the southern Sierra Nevada could extirpate those populations as the pathogen spreads. A compounding effect of disease-caused extirpation is that recolonization may never occur because streams connecting extirpated sites to extant populations now contain introduced fishes, which act as barriers to frog movement within metapopulations. This situation isolates the remaining populations of mountain yellow-legged frogs from one another (Bradford 1991, p. 176; Bradford *et al.* 1993, p. 887). It is logical to presume that the small, fragmented populations left in the recent wake of Bd spread

through the majority of the range of the Sierra Nevada yellow-legged frog may experience further extirpations as surviving adults eventually die, and recruitment into the breeding pool from the Bd-positive subadult class is significantly reduced. These impacts may be exacerbated by the present and growing threat of climate change, although this effect may take years to materialize.

In summary, based on the best available scientific and commercial information, we consider other natural and manmade factors to be substantial ongoing threats to the Sierra Nevada yellow-legged frog and the northern DPS of the mountain yellow-legged frog. These include high, prevalent risk associated with climate change and small population sizes, and the associated risk from the additive or synergistic effects of these two stressors interacting with other acknowledged threats, including habitat fragmentation and degradation (see Factor A), disease and predation (see Factor C), or other threats currently present but with low relative contribution in isolation.

Determination for the Sierra Nevada Yellow-Legged Frog

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the Sierra Nevada yellow-legged frog. The best available information for the Sierra Nevada yellow-legged frog shows that the geographic extent of the species' range has declined, with local population-level changes first noticed in the early 1900s (Grinnell and Storer 1924, p. 664) although they were still abundant at many sites in the Sierra Nevada until the 1960s (Zweifel 1955, pp. 237–238). Population losses continued between the 1960s and 1990s (Bradford *et al.* 1993, p. 883) and have continued in recent decades. Now fewer, increasingly isolated populations maintain viable recruitment (entry of post-metamorphic frogs into the breeding population). Coupled with the observation that remnant populations are also numerically smaller (in some cases consisting of few individuals), this reduction in occupancy and population density across the landscape suggests significant losses in metapopulation viability and high attendant risk to the overall population of the species. The impacts of the declines on population resilience are two-fold: (1) The geographic extent and number of populations are reduced across the landscape, resulting in fewer and more isolated populations (the species is less able to withstand population stressors and unfavorable conditions exist for genetic exchange or dispersal to unoccupied areas (habitat fragmentation)); and (2) species abundance (in any given population) is reduced, making local extirpations much more likely (decreased population viability). Knapp *et al.* (2007b, pp. 1–2) estimated a 10 percent decline per year in the number of remaining mountain yellow-legged frog populations and argued for the listing of the species as endangered based on this observed rate of population loss.

Threats that face the Sierra Nevada mountain yellow-legged frog, discussed above under Factors A, C, D, and E, increase the risk of the species' extinction, given the isolation of remaining populations. The best available science indicates that the introduction of fishes to the frog's habitat to support recreational angling is one of the primary causes of the decline of the Sierra Nevada yellow-legged frog and poses a current and continuing threat to the species (Factor A). Water bodies throughout this range have been intensively stocked with introduced fish (principally trout). It is a threat of significant influence, and although fewer lakes are stocked currently than were stocked prior to 2001, it remains prevalent today because fish persist in many high-elevation habitats even where stocking has ceased. Further, the introduction of fish has generally restricted remaining Sierra Nevada yellow-legged frog populations to more marginal habitats, thereby increasing the likelihood of localized extinctions. Recolonization in these situations is difficult for a highly aquatic species with high site fidelity and unfavorable dispersal conditions.

Historical livestock grazing activities may also have modified the habitat of the Sierra Nevada yellow-legged frog throughout much of its range (Factor A). Grazing pressure has been significantly reduced from historical levels, but is expected to have legacy effects on mountain yellow-legged frog habitat where prior downcutting and headcutting of streams have resulted in reduced water tables and would benefit from restoration. Current grazing that complies with forest standards and guidelines is not expected to cause habitat-related effects to the species in almost all cases, but in limited cases may continue to contribute to some localized degradation and loss of suitable habitat. The habitat-related effects of recreation, packstock grazing, dams and water diversions, roads, timber harvests, and fire management activities on the Sierra Nevada yellow-legged frog (Factor A) may have contributed to historical losses when protections and use limits that are currently afforded by USFS and NPS standards and guidelines did not exist. Currently, Federal land management agencies with jurisdiction within the current range of the Sierra Nevada yellow-legged frog have developed management standards and guidelines that limit habitat damage due to these activities, although in localized areas habitat-related changes may continue to affect individual populations.

Competitive exclusion and predation by fish have eliminated or reduced mountain yellow-legged frog populations in stocked habitats, and left remnant populations isolated, while bullfrogs are expected to have negative effects where they occur (Factor C). It is important to recognize that, throughout the vast majority of its range, Sierra Nevada yellow-legged frogs did not co-evolve with any species of fish, as they predominantly occur in water bodies above natural fish barriers. Consequently, the species has not evolved defenses against fish predation.

Sierra Nevada yellow-legged frogs are vulnerable to multiple pathogens (see Factor C) whose effects range from low levels of infection within persistent populations to disease-induced extirpation of entire populations. The Bd epidemic has caused extirpations of Sierra Nevada yellow-legged frog populations throughout its range and caused associated significant declines in numbers of individuals. Though Bd was only recently discovered to affect the Sierra Nevada yellow-legged frog, it appears to infect populations at much higher rates than other pathogens. The imminence of this risk to populations in currently uninfected habitats is immediate and the potential effects severe. The already-realized effects to the survival of sensitive amphibian life stages in Bd-positive areas are well-documented. Although some populations survive the initial Bd wave, survival rates of metamorphs and population viability are markedly reduced relative to historical (pre-Bd) norms.

These threats described above are likely to be exacerbated by widespread changes associated with climate change and by current small population sizes in many locations (see Factor E), while instances of direct and indirect mortality are expected to have population-level effects only in relatively uncommon, localized situations. On a rangewide basis, the existing regulatory mechanisms (Factor D) have not been effective in protecting populations from declines due to fish stocking and continuing presence of fish

and to disease, although standards and guidelines developed by the USFS and the NPS have largely limited threats due to livestock and packstock grazing, recreation, and timber use.

The main and interactive effects of these various risk factors have acted to reduce Sierra Nevada yellow-legged frog populations to small fractions of their historical habitat and reduce population abundances significantly throughout most of its current range. Remaining areas that have yet to be impacted by Bd are at immediate and severe risk.

Given the life history of this species, dispersal, recolonization, and genetic exchange are largely precluded by the fragmentation of habitat common throughout its current range as a result of fish introductions. Frogs that may disperse are susceptible to hostile conditions in many circumstances. In essence, Sierra Nevada yellow-legged frogs have been marginalized by historical fish introductions. Populations have recently been decimated by Bd, and the cumulative effect of other stressors (such as anticipated reduction of required aquatic breeding habitats with climate change and more extreme weather) upon a fragmented landscape make adaptation and recovery a highly improbable scenario without active intervention. The cumulative risk from these stressors to the persistence of the Sierra Nevada yellow-legged frog throughout its range is significant.

The Act defines an endangered species as any species that is ''in danger of extinction throughout all or a significant portion of its range'' and a threatened species as any species ''that is likely to become endangered throughout all or a significant portion of its range within the foreseeable future.'' We find that the Sierra Nevada yellow-legged frog is presently in danger of extinction throughout its entire range, based on the immediacy, severity, and scope of the threats described above. Specifically, these include habitat degradation and fragmentation under Factor A, predation and disease under Factor C, and climate change and the interaction of these various stressors cumulatively impacting small remnant populations under Factor E. There has been a rangewide reduction in abundance and geographic extent of surviving populations of the Sierra Nevada yellow-legged frog following decades of fish stocking, habitat fragmentation, and, most recently, a disease epidemic. Surviving populations are smaller and more isolated, and recruitment in Bd-positive populations is much reduced relative to historical norms. This combination of population stressors makes species persistence precarious throughout the current range in the Sierra Nevada.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the species, and have determined that the Sierra Nevada yellow-legged frog meets the definition of endangered under the Act, rather than threatened. This is because significant threats are occurring now and will occur in the future, at a high magnitude and across the species' entire range, making the species in danger of extinction at the present time. The rate of population decline remains high in the wake of Bd epidemics, and the remaining Sierra Nevada yellow-legged frog populations are at high, imminent risk. Population declines are expected to continue as maturing tadpoles succumb to Bd infection, and fragmented populations at very low abundances will face significant obstacles to recovery. Therefore, on the basis of the best available scientific and commercial information, and the threats posed to these species under the listing factors above, we are listing the Sierra Nevada yellow-legged frog as endangered in accordance with sections 3(6) and 4(a)(1) of the Act.

Under the Act and our implementing regulations, a species may warrant listing if it is endangered or threatened throughout all or a significant portion of its range. The Sierra Nevada yellow-legged frog is restricted in its range, and the threats occur throughout the remaining occupied habitat. Therefore, we assessed the status of this species throughout its entire range. The threats to the survival of the species occur throughout the species' range and are not restricted to any particular significant portion of that range. Accordingly, our assessment and final determination applies to the species throughout its entire range.

Final Determination for the Northern DPS of the Mountain Yellow-Legged Frog

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the northern DPS of the mountain yellow-legged frog. The best available information for the northern DPS of the mountain yellow-legged frog shows that the geographic extent of the species' range has declined, with local population-level changes first noticed in the early 1900s (Grinnell and Storer 1924, p. 664), although they were still abundant at many sites in the Sierra Nevada until the 1960s (Zweifel 1955, pp. 237–238). Population losses continued between the 1960s and 1990s (Bradford *et al.* 1993, p. 883) and have continued in recent decades. Now fewer, increasingly isolated populations maintain viable recruitment (entry of post-metamorphic frogs into the breeding population). Coupled with the observation that remnant populations are also numerically smaller (in some cases consisting of a few individuals), this reduction in occupancy and population density across the landscape suggests significant losses in metapopulation viability and high attendant risk to the overall population of the species. The impacts of the declines on population resilience are two-fold: (1) The geographic extent and number of populations are reduced across the landscape, resulting in fewer and more isolated populations (the species is less able to withstand population stressors and unfavorable conditions exist for genetic exchange or dispersal to unoccupied areas (habitat fragmentation)); and (2) species abundance (in any given population) is reduced, making local extirpations much more likely (decreased population viability). Knapp *et al.* (2007b, pp. 1–2) estimated a 10 percent decline per year in the number of remaining mountain yellow-legged frog populations and argued for the listing of the species as endangered based on this observed rate of population loss.

Threats that face the northern DPS of the mountain yellow-legged frog, discussed above under Factors A, C, D, and E, increase the risk of the species' extinction, given the isolation of remaining populations. The best available science indicates that the introduction of fishes to the frog's habitat to support recreational angling is one of the primary causes of the decline of the northern DPS of the mountain yellow-legged frog and poses a current and continuing threat to the species (Factor A). Water bodies throughout this range have been intensively stocked with introduced fish (principally trout). It is a threat of significant influence, and although fewer lakes are stocked currently than were stocked prior to 2001, it remains prevalent today because fish persist in many high-elevation habitats even where stocking has ceased. Recolonization in these situations is difficult for a highly aquatic species with high site fidelity and unfavorable dispersal conditions. Climate change is likely to exacerbate these other threats and further threaten population resilience.

Historical livestock grazing activities may also have modified the habitat of the northern DPS of the mountain

yellow-legged frog throughout much of its range (Factor A). Grazing pressure has been significantly reduced from historical levels, but is expected to have legacy effects to mountain yellow-legged frog habitat where prior downcutting and headcutting of streams have resulted in reduced water tables that still need restoration to correct. Current grazing that complies with forest standards and guidelines is not expected to cause habitat-related effects to the species in almost all cases, but in limited cases may continue to contribute to some localized degradation and loss of suitable habitat. The habitat-related effects of recreation, packstock grazing, dams and water diversions, roads, timber harvests, and fire management activities on the northern DPS of the mountain yellow-legged frog (Factor A) may have contributed to historical losses when protections and use limits that are currently afforded by USFS and NPS standards and guidelines did not exist. Currently, Federal agencies with jurisdiction within the current range of the northern DPS of the mountain yellow-legged frog have developed management standards and guidelines that limit habitat damage due to these activities, although in localized areas habitat-related changes may continue to affect individual populations.

Competitive exclusion and predation by fish have eliminated or reduced mountain yellow-legged frog populations in stocked habitats, and left remnant populations isolated, while bullfrogs are expected to have negative effects where they occur (Factor C). It is important to recognize that throughout the vast majority of its range, the northern DPS of the mountain yellow-legged frogs did not co-evolve with any species of fish, as this species predominantly occurs in water bodies above natural fish barriers. Consequently, the species has not evolved defenses against fish predation.

Mountain yellow-legged frogs are vulnerable to multiple pathogens (see Factor C) whose effects range from low levels of infection within persistent populations to disease-induced extirpation of entire populations. The Bd epidemic has caused rangewide extirpations of populations of the northern DPS of the mountain yellow-legged frog and associated significant declines in numbers of individuals. Though Bd was only recently discovered to affect the mountain yellow-legged frog, it appears to infect populations at much higher rates than other pathogens. The imminence of this risk to currently uninfected habitats is immediate, and the potential effects severe. The already-realized effects to the survival of sensitive amphibian life stages in Bd-positive areas are well-documented. Although some populations survive the initial Bd wave, survival rates of metamorphs and population viability are markedly reduced relative to historical (pre-Bd) norms.

These threats are likely to be exacerbated by widespread changes associated with climate change and by current small population sizes in many locations (see Factor E), while instances of direct and indirect mortality are expected to have population-level effects only in relatively uncommon, localized situations. Rangewide, the existing regulatory mechanisms (Factor D) have not been effective in protecting populations from declines due to fish stocking and continuing presence of fish and to disease, although standards and guidelines developed by the USFS and the NPS have largely limited threats due to livestock and packstock grazing, recreation, and timber use.

The main and interactive effects of these various risk factors have acted to reduce the northern DPS of the mountain yellow-legged frog to a small fraction of its historical range and reduce population abundances significantly throughout most of its current range. Populations of this species in remaining areas in the southern Sierra Nevada that have yet to be impacted by Bd are at immediate and severe risk.

Given the life history of this species, dispersal, recolonization, and genetic exchange are largely precluded by the fragmentation of habitat common throughout its current range as a result of fish introductions. Frogs that may disperse are susceptible to hostile conditions in many circumstances. In essence, mountain yellow-legged frogs have been marginalized by historical fish introductions. Populations have recently been decimated by Bd, and the accumulation of other stressors (such as anticipated reduction of required aquatic breeding habitats with climate change and more extreme weather) upon a fragmented landscape make adaptation and recovery a highly improbable scenario without active intervention. The cumulative risk from these stressors to the persistence of the mountain yellow-legged frog throughout its range is significant.

The Act defines an endangered species as any species that is ''in danger of extinction throughout all or a significant portion of its range'' and a threatened species as any species ''that is likely to become endangered throughout all or a significant portion of its range within the foreseeable future.'' We find that the northern DPS of the mountain yellow-legged frog is presently in danger of extinction throughout its entire range, based on the immediacy, severity, and scope of the threats described above. Specifically, these include habitat degradation and fragmentation under Factor A, predation and disease under Factor C, and climate change and the interaction of these various stressors cumulatively impacting small remnant populations under Factor E. There has been a rangewide reduction in abundance and geographic extent of surviving populations of the northern DPS of the mountain yellow-legged frog following decades of fish stocking, habitat fragmentation, and, most recently, a disease epidemic. Surviving populations are smaller and more isolated, and recruitment in Bd-positive populations is much reduced relative to historical norms. This combination of population stressors makes species persistence precarious throughout the current range in the Sierra Nevada.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the species, and have determined that the northern DPS of the mountain yellow-legged frog, meets the definition of endangered under the Act, rather than threatened. This is because significant threats are occurring now and will occur in the future, at a high magnitude and across the DPS' entire range, making the northern DPS of the mountain yellow-legged frog in danger of extinction at the present time. The rate of population decline remains high in the wake of Bd epidemics, and northern DPS of the mountain yellow-legged frog areas are at high, imminent risk. The recent rates of decline for these populations are even higher than declines in the populations of the Sierra Nevada yellow-legged frog, and as Bd infects remaining core areas, population viability will be significantly reduced, and extirpations or significant population declines are expected. Population declines are expected to continue as maturing tadpoles succumb to Bd infection, and fragmented populations at very low abundances will face significant obstacles to recovery. Therefore, on the basis of the best available scientific and commercial information, and the threats posed to these species discussed under the listing factors above, we are listing the northern DPS of the mountain yellow-legged frog as endangered in accordance with sections 3(6) and 4(a)(1) of the Act.

Under the Act and our implementing regulations, a species may warrant

listing if it is endangered or threatened throughout all or a significant portion of its range. The northern DPS of the mountain yellow-legged frog addressed in this final listing rule is restricted in its range, and the threats occur throughout the remaining occupied habitat. Therefore, we assessed the status of this DPS throughout its entire range in the Sierra Nevada of California. The threats to the survival of this DPS occur throughout its range in the southern Sierra Nevada and are not restricted to any particular significant portion of that range. Accordingly, our assessment and final determination applies to the DPS throughout its entire range.

Summary of Biological Status and Threats Affecting the Yosemite Toad

Background

Taxonomy and Species Description

Please refer to the proposed listing rule for the Yosemite toad under the Act (16 U.S.C. 1531 *et seq.*) for additional species information, including detailed information on taxonomy. In this section of the final rule, it is our intent to discuss only those topics directly relevant to the listing of the Yosemite toad (*Anaxyrus canorus*) as threatened.

Habitat and Life History

Breeding habitat—Yosemite toads are associated with wet meadows due to their breeding ecology. Camp (1916, pp. 59–62) found Yosemite toads in wet meadow habitats and at lake shores located among lodgepole (*Pinus contorta*) at the lower elevations to whitebark (*P. albicaulis)* pines at the higher elevations. Mullally (1953, pp. 182–183) found adult toads common on the margins of high-elevation lakes, streams, and pools wherever the meadow vegetation was thicker or more luxuriant than usual or where there were patches of low willows (*Salix* spp.). Liang (2010, p. 81) observed Yosemite toads most frequently associated with (in order of preference): wet meadows, alpine-dwarf scrub, red fir (*Abies magnifica*), water, lodgepole pine, and subalpine conifer habitats.

Yosemite toads were found as often at large as at small sites (Liang 2010, p. 19), suggesting that this species is capable of successfully utilizing small habitat patches. Liang also found that population persistence was greater at higher elevations, with an affinity for relatively flat sites with a southwesterly aspect (Liang 2010, p. 20; see also Mullally 1953, p. 182). These areas receive higher solar radiation and are capable of sustaining hydric (wet), seasonally ponded, and mesic (moist) breeding and rearing habitat. The Yosemite toad is more common in areas with less variation in mean annual temperature, or more temperate sites with less climate variation (Liang 2010, pp. 21–22).

Adults are thought to be long-lived, and this factor allows for persistence in variable conditions and more marginal habitats where only periodic good years allow high reproductive success (USFS *et al.* 2009, p. 27). Females have been documented to reach 15 years of age, and males as many as 12 years (Kagarise Sherman and Morton 1993, p. 195); however, the average longevity of the Yosemite toad in the wild is not known. Jennings and Hayes (1994, p. 52) indicated that females begin breeding at ages 4 to 6 years, while males begin breeding at ages 3 to 5 years.

Adults appear to have high site-fidelity; Liang (2010, pp. 99, 100) found that the majority of individuals identified in multiple years were located in the same meadow pools, although individuals will move between breeding areas (Liang 2010, p. 52; Liang 2013, p. 561). Breeding habitat includes shallow, warm-water areas in wet meadows, such as shallow ponds and flooded vegetation, ponds, lake edges, and slow-flowing streams (Karlstrom 1962, pp. 8–12; Brown 2013, unpaginated). Tadpoles have also been observed in shallow areas of lakes (Mullally 1953, pp. 182–183).

Adult Yosemite toads are most often observed near water, but only occasionally in water (Mullally and Cunningham 1956b, pp. 57–67). Moist upland areas such as seeps and springheads are important summer nonbreeding habitats for adult toads (Martin 2002, pp. 1–3). The majority of their life is spent in the upland habitats proximate to their breeding meadows. They use rodent burrows for overwintering and probably for temporary refuge during the summer (Jennings and Hayes 1994, pp. 50–53), and they spend most of their time in burrows (Liang 2010, p. 95). They also use spaces under surface objects, including logs and rocks, for temporary refuge (Stebbins 1951, pp. 245–248; Karlstrom 1962, pp. 9–10). Males and females also likely inhabit different areas and habitats when not breeding, and females tend to move farther from breeding ponds than males (USFS *et al.* 2009, p. 28).

Males exit burrows first, and spend more time in breeding pools than females, who do not breed every year (Kagarise Sherman and Morton, 1993, p. 196). Data suggest that higher lipid storage in females, which enhances overwinter survival, also precludes the energetic expense of breeding every year (Morton 1981, p. 237). The Yosemite toad is a prolific breeder, laying many eggs immediately at snowmelt. This is accomplished in a short period of time, coinciding with water levels in meadow habitats and ephemeral pools they use for breeding. Female toads lay approximately 700–2,000 eggs in two strings (one from each ovary) (USFS *et al.* 2009, p. 21). Females may split their egg clutches within the same pool, or even between different pools, and may lay eggs communally with other toads (USFS *et al.* 2009, p. 22).

Eggs hatch within 3–15 days, depending on ambient water temperatures (Kagarise Sherman 1980, pp. 46–47; Jennings and Hayes 1994, p. 52). Tadpoles typically metamorphose around 40–50 days after fertilization, and are not known to overwinter (Jennings and Hayes 1994. p. 52). Tadpoles are black in color, tend to congregate together (Brattstrom 1962, pp. 38–46) in warm shallow waters during the day (Cunningham 1963, pp. 60–61), and then retreat to deeper waters at night (Mullaly 1953, p. 182). Rearing through metamorphosis takes approximately 5–7 weeks after eggs are laid (USFS *et al.* 2009, p. 25). Toads need shallow, warm surface water that persists through the period during which they metamorphose; shorter hydroperiods in that habitat can reduce reproductive success (Brown 2013, unpaginated).

Reproductive success is dependent on the persistence of tadpole rearing sites and conditions for breeding, egg deposition, hatching, and rearing to metamorphosis (USFS *et al.* 2009, p. 23). Given their association with shallow, ephemeral habitats, Yosemite toads are susceptible to droughts and weather extremes. Abiotic factors leading to mortality (such as freezing or desiccation) appear to be more significant during the early life stages of toads, while biotic factors (such as predation) are probably more prominent factors during later life stages (USFS *et al.* 2009, p. 30). However, since adult toads lead a much more inconspicuous lifestyle, direct observation of adult mortality is difficult and it is usually not possible to determine causes of adult mortality.

Yosemite toads can move farther than 1 km (0.63 mi) from their breeding meadows (average movement is 275 m (902 ft)), and they utilize terrestrial environments extensively (Liang 2010, p. 85). The average distance traveled by females is twice as far as males, and home ranges for females are 1.5 times greater than those for males (Liang 2010, p. 94). Movement into the upland

terrestrial environment following breeding does not follow a predictable path, and toads tend to traverse longer distances at night, perhaps to minimize evaporative water loss (Liang 2010, p. 98). Martin (2008, p. 123) tracked adult toads during the active season and found that on average toads traveled a total linear distance of 494 m (1,620 ft) within the season, with minimum travel distance of 78 m (256 ft) and maximum of 1.76 km (1.09 mi).

Historical Range and Distribution

The known historical range of the Yosemite toad in the Sierra Nevada extended from the Blue Lakes region north of Ebbetts Pass (Alpine County) to south of the Evolution Lake area (Fresno County) (Karlstrom 1962, p. 3; Stebbins 1985, p. 72; see also Knapp 2013, unpaginated; Brown 2013, unpaginated). Yosemite toad habitat historically spanned elevations from 1,460 to 3,630 m (4,790 to 11,910 ft) (Stebbins 1985, p. 72; Stephens 2001, p. 12).

Current Range and Distribution

The current range of the Yosemite toad, at least in terms of overall geographic extent, remains largely similar to the historical range defined above (USFS *et al.* 2009, p. 41). However, within that range, toad habitats have been degraded and may be decreasing in area as a result of conifer encroachment and historical livestock grazing (see Factor A below). The vast majority of the Yosemite toad's range is within federally managed land. Figure 2, Estimated Range of Yosemite Toad, displays a range map for the species.

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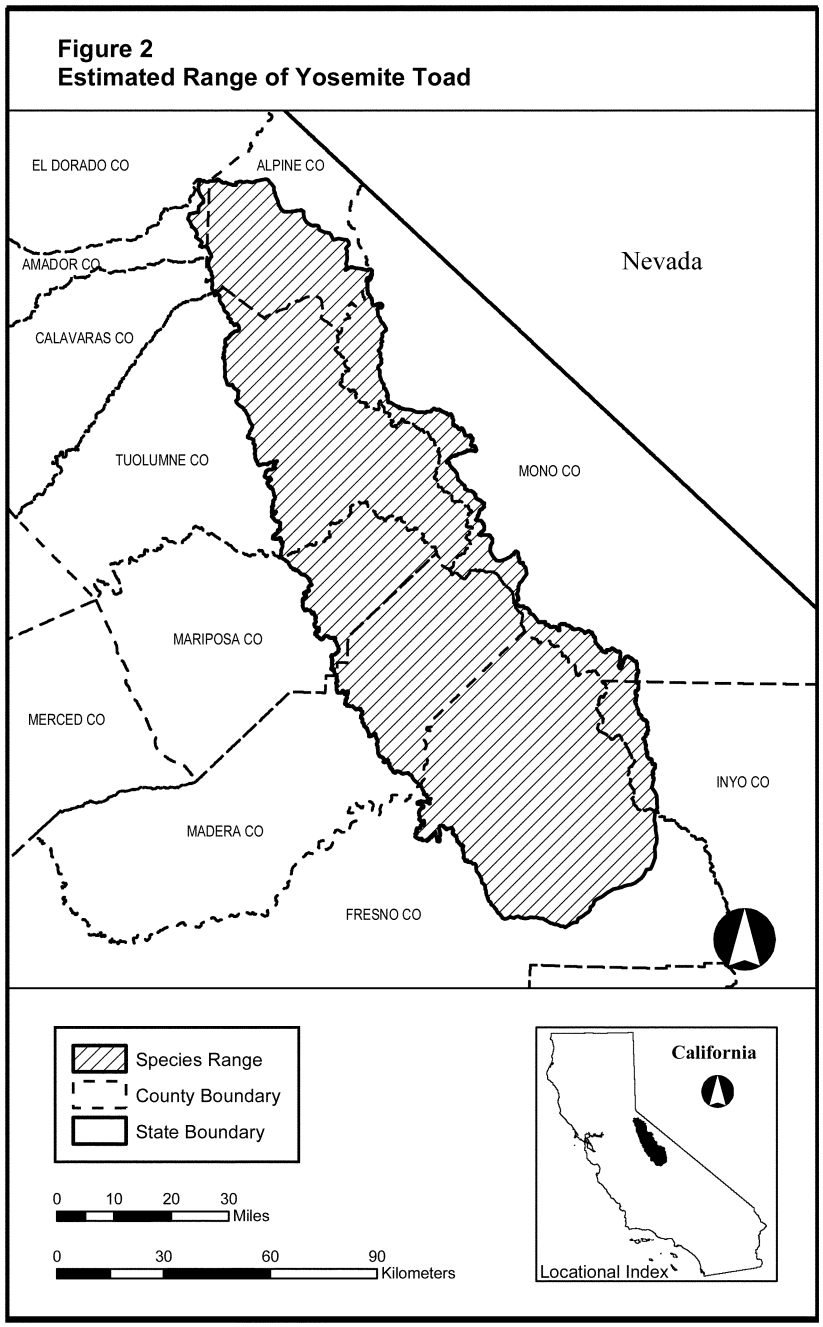

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Population Estimates and Status

Baseline data on the number and size of historical Yosemite toad populations are limited, and historic records are largely based on accounts from field notes, or pieced together through museum collections, thereby providing limited information on historical populations. Systematic survey information across the range of the species on National Forest System Lands largely follows the designation of the Yosemite toad as a candidate species under the Act. In addition, surveys for the Yosemite toad have been conducted within Yosemite, Kings Canyon, and Sequoia National Parks (Knapp 2013, unpaginated). From these recent inventories, Yosemite toads have been found at 469 localities collectively on six National Forests (USFS *et al.* 2009, p. 40; see also Brown and Olsen 2013, pp. 675–691), at 179 breeding sites that were surveyed between 1992 and 2010 in Yosemite National Park (Berlow *et al.* 2013, p. 3), and detected at 18 localities in Kings Canyon National Park (NPS 2011, geospatial data). Although we did not cite to the information from the National Parks in the proposed rule, we had the geospatial occupancy data that is currently included in Berlow *et al.* 2013, and we utilized that data in our analysis for the proposed listing (see comments 6 and 7 below, and their respective responses). The number of localities identified in these surveys reflects more occupied sites than were known before such extensive surveys were conducted, and indicates that the species is still widespread throughout its range. These inventories were typically conducted to determine toad presence or absence (they were not censuses), and do not explicitly compare historic sites to recent surveys. Moreover, single-visit surveys of toads are unreliable as indices of abundance because timing is so critical to the presence of detectable life stages and not all potential breeding habitats within the range of the species were surveyed (USFS *et al.* 2009, p. 41; Liang 2010, p. 10; Brown and Olsen 2013, p. 685). Given these considerations, conclusions about population trends, abundance, or extirpation rates are not possible from these datasets overall.

One pair of studies allows us to compare current distribution with historic distributions and indicates that large reductions have occurred. In 1915 and 1919, Grinnell and Storer (1924, pp. 657–660) surveyed for vertebrates at 40 sites along a 143-km (89-mi) west-to-east transect across the Sierra Nevada, through Yosemite National Park, and found Yosemite toads at 13 of those sites. In 1992, Drost and Fellers (1996, pp. 414–425) conducted more thorough surveys, specifically for amphibians, at 38 of the Grinnell and Storer sites plus additional nearby sites. Drost and Fellers (1996, pp. 418) found that Yosemite toads were absent from 6 of 13 sites where they had been found in the original Grinnell and Storer (1924) survey. Moreover, at the sites where they were present, Yosemite toads most often occurred in very low numbers relative to general abundance reported in the historical record (Grinnell and Storer 1924, pp. 657–660). Therefore, by the early 1990s, the species was either undetectable or had declined in numbers at 9 of 13 (69 percent) of the Grinnell and Storer sites (Drost and Fellers 1996, p. 418).

Another study comparing historic and current occurrences also found a large decline in Yosemite toad distribution. In 1990, David Martin surveyed 75 sites throughout the range of the Yosemite toad for which there were historical records of the species' presence. This study found that 47 percent of historically occupied sites showed no evidence of any life stage of the species (Stebbins and Cohen 1995, pp. 213–215). This result suggests a range-wide decline to about one half of historical sites, based on occupancy alone.

A third study comparing historic and recent surveys indicates declines in Yosemite toad distribution. Jennings and Hayes (1994, pp. 50–53) reviewed the current status of Yosemite toads using museum records of historic and recent sightings, published data, and unpublished data and field notes from biologists working with the species. They estimated a loss of over 50 percent of former Yosemite toad locations throughout the range of the species (based on 144 specific sites).

The only long-term, site-specific population study for Yosemite toads documented a dramatic decline over 2 decades of monitoring. Kagarise Sherman and Morton (1993, pp. 186–198) studied Yosemite toads at Tioga Pass Meadow (Mono County, California) from 1971 through 1991 (with the most intensive monitoring through 1982). They documented a decline in the average number of males entering the breeding pools from 258 to 28 during the mid-1970s through 1982. During the same time period, the number of females varied between 45 and 100, but there was no apparent trend in number observed. During the 1980s, it appeared that males continued to decline, females also declined, and breeding activity became sporadic. By 1991, they found only one male and two egg masses. Sadinski (2004, p. 40) revisited the survey locations annually from 1995 and 2001 and found a maximum of two males and two egg masses, suggesting the toads in Tioga Meadows had not recovered from their decline. In the study of Yosemite toads at nearby Dana Meadows, Sadinski (2004, pp. 39–42) documented few adults within the habitats surveyed, finding substantial mortality in embryos that he associated with effects of ice, water mold, and flatworms. Sadinski (2004, pp. 38–42) also found high larval mortality when breeding sites dried before larvae could reach metamorphosis. Sadinski (2004) stated that the proximity of the Kagarise Sherman and Morton (1993) study sites at Tioga Meadows and his sites in Dana Meadows practically ensured that animals from both sites were part of the same metapopulation. Sadinski surmised that perhaps much of that metapopulation experienced events at breeding sites similar to those that Kagarise Sherman and Morton (1993) observed (Sadinski 2004, pp. 39–40). He further opined that, if each of his substantial sites had previously supported hundreds of breeding adults in the 1970s, the overall population of Yosemite toads had declined dramatically throughout the area since that time.

Kagarise Sherman and Morton (1993, pp. 186–198) also conducted occasional surveys of six other populations in the eastern Sierra Nevada. Five of these populations showed long-term declines that were evident beginning between 1978 through 1981, while the sixth population held relatively steady until the final survey in 1990, at which time it dropped. In 1991, E.L. Karlstrom revisited the site where he had studied a breeding population of Yosemite toads from 1954 to 1958 (just south of Tioga Pass Meadow within Yosemite National Park), and found no evidence of toads or signs of breeding (Kagarise Sherman and Morton 1993, p. 190).

The most reliable information about Yosemite toad population status and trends is the USFS SNAMPH. This study, conducted on National Forest System Lands, is designed to provide statistical comparisons across 5-year monitoring cycles with 134 watersheds (Brown *et al.* 2011, pp. 3–4). This approach allows researchers to assess trends for the entire range of the toad, rather than at limited survey sites (C. Brown 2012, pers. comm., see also Brown and Olsen 2013). The results of this assessment indicate the species has declined from historical levels, with Yosemite toads occurring in approximately 13 percent of watersheds where they existed prior to 1990. This

study also found that breeding was occurring in approximately 84 percent of the watersheds that were occupied in the period 1990–2001, suggesting that the number of locations where breeding occurs has continued to decline. Additionally, the study found that breeding currently occurs in an estimated 22 percent of watersheds within the current estimated range of the species (Brown *et al.* 2012, p. 115).

Moreover, overall abundances in the intensively monitored watersheds were very low (fewer than 20 males per meadow per year) relative to other historically reported abundances of the species (Brown *et al.* 2011, p. 4). Brown *et al.* (2011, p. 35) suggest that populations are now very small across the range of the species. During their monitoring over the past decade, they found only 18 percent of occupied survey watersheds range-wide had ''large'' populations (more than 1,000 tadpoles or 100 of any other lifestage detected at the time of survey). While not all surveys were conducted at the peak of tadpole presence and adults are not reliably found outside of the breeding season, Brown et al. (2012) surveyed many sites at appropriate times and rarely found the large numbers of tadpoles or metamorphs that would be expected if population sizes were similar to those reported historically. The researchers interpret these data, in combination with documented local population declines from other studies (see above), to support the hypothesis that population declines have occurred range-wide (Brown *et al.* 2012, p. 11).

Summary of Changes From the Proposed Rule for the Yosemite Toad

Based on peer review and Federal, State, and public comments (see comments in the Summary of Comments and Recommendations section, below), we clarified information for the Yosemite toad to better characterize our knowledge of the species' habitat requirements. Specifically, we reorganized and clarified the habitat details (Habitat and Life History), southern extent of the species' range (Historic Range and Distribution), and species surveys (USFS and NPS). We also added information on occupancy in National Parks that was inadvertently omitted from the proposed rule (Population Estimates and Status).

In the Summary of Factors Affecting the Species section, under Factor A, we made small changes to the discussion about meadow loss and degradation in order to improve clarity. In the Livestock Use (Grazing) Effects to Meadow Habitat section, we reorganized the information and separated the effects of historic livestock grazing from the effects due to current grazing levels, and we added additional references received from the USFS. In the Roads and Timber Harvest Effects to Meadow Habitat section, we clarified the extent to which these activities overlap with the Yosemite toad's range and distinguished the effects of past activities from the effects of current activities. We added information on road locations and on USFS Forest standards and guidelines that currently limit the effects of these activities on riparian areas. In this final rule, we found that roads and timber harvest activities are not current and ongoing threats to the species. However, there may be localized effects where legacy effects of past road building or timber harvest continue to modify wet meadows or where activities occur in close proximity to extant Yosemite toad populations.

In the Fire Management section, we added information to clarify that Yosemite toads primarily occur in higher elevation areas where fire suppression activities are rarely conducted. This finding suggests that fire suppression has had little effect on forest encroachment into meadow habitats in most areas where the species occurs. In the Recreation and Packstock Effects to Meadow Habitat section, we added additional information on USFS and NPS restoration activities to protect meadows, off-highway vehicle effects, packstock use, and agency monitoring and protection activities to limit effects due to packstock use. We revised our conclusion to clarify that, in general, we do not consider habitat-related changes associated with current levels of hiking, backpacking, or packstock use to pose a risk to Yosemite toad populations. Recreation may have habitat-related effects to toads in localized areas where use adjacent to occupied meadows is exceptionally heavy, or where heavy or motorized use results in changes to meadow hydrology. Accordingly, rangewide, recreation is a threat of low prevalence. In the section on Dams and Water Diversions, we added information to clarify that almost all reservoirs are located below the range of the Yosemite toad. We include small changes in the Climate Change section to improve clarity or add information from references provided during peer review.

In Factor B, we added information provided during the comment period, which documented the sale of one Yosemite toad from a pet store in Southern California (store now closed). We also added information on protections provided by agency-required research permits. In Factor C, based on peer review comments, we added information on a Bd study on Yosemite toads. We removed the discussion of contaminants under Factor E, and we refer readers to the proposed rule affirming that the best available information indicates that contaminants do not pose a current or continuing threat to the Yosemite toad. We also added new information in the Other Sources of Direct and Indirect Mortality section as a result of information provided during peer review. Although we have not changed the determination, we have made a few small changes in the wording of the determination for the Yosemite toad to reflect the above changes.

Summary of Factors Affecting the Species

Section 4 of the Act (16 U.S.C. 1533), and its implementing regulations at 50 CFR part 424, set forth the procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. Under section 4(a)(1) of the Act, we may list a species based on any of the following five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; and (E) other natural or manmade factors affecting its continued existence. Listing actions may be warranted based on any of the above threat factors, singly or in combination. Each of these factors is discussed below, and changes from the proposed rule (78 FR 24472, April 25, 2013) are reflected in these discussions.

Factor A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The habitat comprising the current range of the Yosemite toad is generally characterized by low levels of physical disturbance (there is little to no current development pressure). However, these areas are also generally more sensitive to perturbation and take longer to recover from disturbances due to reduced growing seasons and harsher environmental conditions. Since Yosemite toads rely heavily on shallow, ephemeral water, they may be more sensitive to minor changes in their habitat. Loss or alteration of suitable breeding habitat can reduce reproductive success, which may have a profound impact when population numbers are small. Past management and development activity has played a

role in the degradation of meadow habitats within the Sierra Nevada. Human activities within these habitats include grazing, timber harvest, fuels management, recreation, and water development.

Meadow Habitat Loss and Degradation

Some of the habitat effects associated with grazing activities that were described for the mountain yellow-legged frogs (see the Summary of Factors Affecting the Species section for those species, above) also apply to Yosemite toads. However, there are differences based on the Yosemite toad's reliance on very shallow, ephemeral water in meadow and pool habitats versus the deeper lakes and streams frequented by mountain yellow-legged frogs. Because Yosemite toads rely on very shallow, ephemeral water, they may be sensitive to even minor changes in their habitat, particularly to hydrology (Brown 2013, unpaginated). Meadow habitat quality in the Western United States, and specifically the Sierra Nevada, has been degraded by past activities, such as overgrazing, tree encroachment, fire suppression, and road building, over the last century (Stillwater Sciences 2008, pp. 1–53; Halpern *et al.* 2010, pp. 717–732; Vale 1987, pp. 1–18; Ratliff 1985, pp. *i*–48). These past activities have contributed to erosion and stream incision in areas of the Sierra Nevada, leading to meadow dewatering and encroachment by invasive vegetation (Menke *et al.* 1996, pp. 25–28; Lindquist and Wilcox 2000, p. 2).

Given the reliance of the Yosemite toad on these meadow and pool habitats for breeding, rearing, and adult survival, it is logical to conclude that the various stressors have had an indirect effect on the viability of Yosemite toad populations via degradation of their habitat. Loss of connectivity of habitats leads to further isolation and population fragmentation. Because of physiological constraints, the tendency to move only short distances, and high site fidelity, amphibians may be unable to recolonize unoccupied sites following local extinctions if the distance between sites is too great, although recolonization can occur over time (Blaustein *et al.* 1994a, p. 8).

Since the existence of meadows is largely dependent on their hydrologic setting, most meadow degradation is due fundamentally to hydrologic alterations (Stillwater Sciences 2008, p. 13). There are many drivers of hydrologic alterations in meadow ecosystems. In some locations, historic water development and ongoing water management activities have physically changed the underlying hydrologic system. Diversion and irrigation ditches formed a vast network that altered local and regional stream hydrology, although these manmade systems are generally below the range of the Yosemite toad. Timber harvest and associated road construction further altered erosion and sediment delivery patterns in rivers and meadow streams. Fire suppression and an increase in the frequency of large wildfires due to excessive fuel buildup have introduced additional disturbance pressures to the meadows of the Sierra Nevada (Stillwater Sciences 2008, p. 13). Many meadows now have downcut stream courses, compacted soils, altered plant community compositions, and diminished wildlife and aquatic habitats (SNEP 1996, pp. 120–121).

Land uses causing channel erosion are a threat to Sierra Nevada meadows. These threats include erosive activities within the watershed upslope of the meadow, along with impacts from land use directly in the meadows themselves. Compaction of meadow soils by roads or intensive trampling (for example, overgrazing) can reduce infiltration, accelerate surface run-off, and thereby lead to channel incision (Menke *et al.* 1996, pp. 25–28). Mining, overgrazing, timber harvesting, and railroad and road construction and maintenance have contributed to watershed degradation, resulting in accelerated erosion, sedimentation in streams and reservoirs, meadow dewatering, and degraded terrestrial and aquatic habitats (Linquist 2000, p. 2). Deep incision has been documented in several meadows in the Sierra Nevada. One example is Halstead Meadow in Sequoia National Park, where headcutting exceeds 10 feet in many areas and is resulting in widening channels, erosion in additional meadows, and a lowered water table (Cooper and Wolf 2006, p. 1).

The hydrologic effects of stream incision on the groundwater system may significantly impact groundwater storage, affecting late summer soil moisture and facilitating vegetation change (Bergmann 2004, pp. 24–31). For example, in the northern Sierra Nevada, logging, overgrazing, and road/railroad construction have caused stream incision, resulting in dewatering of riparian meadow sediments and a succession from native wet meadow vegetation to sagebrush and dryland grasses (Loheide and Gorelick 2007, p. 2). A woody shrub (*Artemisia rothrockii*) is invading meadows as channel incision causes shallow-water-dependent herbs to die back, allowing shrub seedlings to establish in disturbed areas during wet years (Darrouzet-Nardi *et al.* 2006, p. 31).

Mountain meadows in the western United States and Sierra Nevada have also been progressively colonized by trees (Thompson 2007, p. 3; Vale 1987, p. 6), with an apparent pattern of encroachment during two distinct periods in the late 1800s and mid-1900s (Halpern *et al.* 2010, p. 717). This trend has been attributed to a number of factors, including climate, changes in fire regime, and cessation of sheep grazing (Halpern *et al.* 2010, pp. 717–718; Vale 1987, pp. 10–13), but analyses are limited to correlational comparisons and research results are mixed, so the fundamental contribution of each potential driver remains uncertain. We discuss the contribution of these factors to habitat loss and degradation for the Yosemite toad below.

Livestock Use (Grazing) Effects to Meadow Habitat

The combined effect of legacy conditions from historically excessive grazing use and current livestock grazing activities have the potential to impact habitat in the range of the Yosemite toad. The following subsections discuss the effects of excessive historical grazing, current extent of grazing, and current grazing management practices.

Overgrazing has been associated with accelerated erosion and gullying of meadows (Kattelmann and Embury 1996, pp. 13, 18), which leads to siltation and more rapid succession of meadows. Grazing can cause erosion by disturbing the ground, damaging and reducing vegetative cover, and destroying peat layers in meadows, which lowers the groundwater table and summer flows (Armour *et al.* 1994, pp. 9–12; Martin 2002, pp. 1–3; Kauffman and Krueger 1984, pp. 431–434). Downcut channels, no longer connected to the historic, wide floodplains of the meadow, instead are confined within narrow, incised channels. Downstream, formerly perennial (year-round) streams often become intermittent or dry due to loss of water storage capacity in the meadow aquifers that formerly sustained them (Lindquist *et al.* 1997, pp. 7–8).

Heavy grazing can alter vegetative species composition and contribute to lodgepole pine (*Pinus contorta*) invasion (Ratliff 1985, pp. 33–36). Lowering of the water table facilitates encroachment of conifers into meadows. Gully formation and lowering of water tables, changes in the composition of herbaceous vegetation, increases in the density of forested stands, and the expansion of trees into areas that formerly were treeless have been documented in California wilderness

areas and National Parks (Cole and Landres 1996, p. 171). This invasion has been attributed to sheep grazing, though the phenomenon has been observed on both ungrazed meadows and on meadows grazed continually since about 1900 (Ratliff 1985, p. 35), suggesting that other drivers may be involved (see ''Effects of Fire Suppression on Meadow Habitats'' and ''Climate Effects to Meadow Habitat'' below).

Effects of Historical Livestock Grazing

Grazing of livestock in Sierra Nevada meadows and riparian areas (rivers, streams, and adjacent upland areas that directly affect them) began in the mid-1700s with the European settlement of California (Menke *et al.* 1996, p. 7). Following the gold rush of the mid-1800s, grazing increased to a level exceeding the carrying capacity of the available range, causing significant impacts to meadow and riparian ecosystems (Meehan and Platts 1978, p. 275; Menke *et al.* 1996, p. 7). By the turn of the 20th century, high Sierra Nevada meadows were converted to summer rangelands for grazing cattle, sheep, horses, goats, and pigs, although the alpine areas were mainly grazed by sheep (Beesley 1996, pp. 7–8; Menke *et al.* 1996, p. 14). Stocking rates of both cattle and sheep in Sierra meadows in the late 19th and early 20th centuries were very heavy (Kosco and Bartolome 1981, pp. 248–250), and grazing severely degraded many meadows (Ratliff 1985, pp. 26–31; Menke *et al.* 1996, p. 14). Grazing impacts occurred across the entire range of the Yosemite toad, as cattle and sheep were driven virtually everywhere in the Sierra Nevada where forage was available (Kinney 1996, pp. 37–42; Menke *et al.* 1996, p. 14).

Grazing within the National Forests has continued into recent times, with reduction in activity (motivated by resource concerns, conflicts with other uses, and deteriorating range conditions) beginning in the 1920s. A brief wartime increase in the 1940s followed, before grazing continued to be scaled back beginning in the 1950s through the early 1970s. However, despite these reductions, grazing still exceeded sustainable capacity in many areas (Menke *et al.* 1996, p. 9; UC 1996a, p. 115). Historical evidence indicates that heavy livestock use in the Sierra Nevada has resulted in widespread damage to rangelands and riparian systems due to sod destruction in meadows, vegetation destruction, and gully erosion (see review in Brown *et al.* 2009, pp. 56–58 and in USFS *et al.* 2009, p. 57). (For additional information on historical grazing regimes, refer to the *Effects of Excessive Historical Grazing* section in Factor A analysis for the Sierra Nevada and mountain yellow-legged frogs, above).

Livestock grazing in the Sierra Nevada has been widespread for so long that, in most places, no ungrazed areas are available to illustrate the natural condition of the habitat (Kattelmann and Embury 1996, pp. 16–18). Dull (1999, p. 899) conducted stratigraphic pollen analysis (identification of pollen in sedimentary layers) in mountain meadows of the Kern Plateau, and found significant vegetation changes attributable to sheep and cattle grazing by 1900 (though fire regime change was also implicated; see below). This degradation is widespread across the Sierra Nevada. Cooper and Wolf 2006 (p. 1) reports that 50 to 80 percent of grazed meadows now dominated by dry meadow plants were formerly wet meadows (Cooper and Wolf 2006, p. 1).

Due to the long history (Menke *et al.* 1996, Ch. 22, pp. 1–52) of livestock and packstock grazing in the Sierra Nevada and the lack of historical Yosemite toad population size estimates, it is impossible to establish a reliable quantitative estimate for the historical significance and contribution of grazing on Yosemite toad populations. However, because of the documented negative effects of livestock on Yosemite toad habitat, and the documented direct mortality caused by livestock, the decline of some populations of Yosemite toad has been attributed to the effects of livestock grazing (Jennings and Hayes 1994, pp. 50–53; Jennings 1996, pp. 921–944). Because Yosemite toad breeding habitat is generally in very shallow waters within meadows, the breeding habitat is thought to be more vulnerable to changes in hydrology caused by grazing because the small shallow pools are more easily impacted (Knapp 2002c, p. 1; Martin 2002, pp. 1–3; USFS *et al.* 2009, pp. 22, 59–62; Brown 2013, unpaginated). U.S. Geological Survey records indicate that Yosemite, Sequoia, and Kings Canyon have no meadows within the parks that are documented to have degraded hydrology (see NPS 2013, p. 7); conditions in the parks may be related to the early elimination of most grazing on national parklands in the Sierra Nevada.

Effects of Current Livestock Grazing

Currently, approximately 33 percent of the estimated range of the Yosemite toad is within active USFS grazing allotments (USFS 2008, geospatial data). While stocking rates have been reduced or eliminated in most areas, legacy effects including eroded channels, soil erosion, and stream entrenchment that resulted in lowered water tables, drier meadows, and tree encroachment could still be observed in some Sierran meadows, especially in National Forests where grazing was more intense (Vankat and Major 1978, pp. 386–397). Meadow conditions in the Sierra Nevada have improved over time, but local problems could still be found as of 1985 (Ratliff 1985, pp. ii–iii) and numerous examples of head-cutting and stream incision are available within the range of the toad (Knapp 2013, unpaginated). (For additional information, see sections above pertaining to effects of grazing on the mountain yellow-legged frogs.)

The influence of grazing on toad populations in recent history is uncertain, despite more available data on land use and Yosemite toad occurrence. In 2005, the USFS, in collaboration with other researchers, began a 5-year study with multiple components to assess the effects of grazing on Yosemite toads (Allen-Diaz *et al.* 2010, pp. 1–45; Roche *et al.* 2012a, pp. 56–65; Roche *et al.* 2012b, pp. 1–11; McIlroy *et al.*. 2013, pp. 1–11). Specifically, the goals of the research were to assess: (1) Whether livestock grazing under SNFPA Riparian Standards and Guidelines has a measurable effect on Yosemite toad populations and (2) effects of livestock grazing on key habitat components that affect survival and recruitment of Yosemite toad populations. SNFPA standards and guidelines limit livestock utilization of grass and grass-like plants to a maximum of 40 percent (or a minimum 4-inch stubble height) (USDA 2004, p. 56). These companion studies did not detect an effect from grazing activity on young-of-year toad density or breeding pool occupancy, water quality, or cover (Allen-Diaz *et al.* 2010, p. 1; Roche *et al.* 2012a, p. 56; Roche *et al.* 2012b, p. 1–1; McIlroy *et al.*. 2013, p. 1).

It is important to note that the results of these studies did not present a direct measurement of toad survival (for example, mark—recapture analysis of population trends), and the design was limited in numbers of years and treatment replicates. It is plausible that, for longer lived species with irregular female breeding activity over the time course of this particular study, statistical power was not sufficient to discern a treatment effect. Further, a time lag could occur between effect and discernible impacts, and significant confounding variability in known drivers such as interannual variation in climate.

Additionally, the experimental design in the studies tested the hypothesis that forest management guidelines (at 40

percent use threshold) were impacting toad populations, and this limited some analyses and experimental design to sites with lower treatment intensities. Researchers reported annual utilization by cattle ranging from 10–48 percent, while individual meadow use ranged from 0–76 percent (the SNFPA allowable use is capped at 40 percent) (Allen-Diaz *et al.* 2010, p. 5). As a result of the study design, the Allen-Diaz study does not provide sufficient information on the impacts of grazing on Yosemite toads above the prescribed management guidelines. In general, it is not clear to what extent brief episodes of intense use (such as in cattle gathering areas) have as negative impacts on toads, or over what percentage of the grazed meadow landscape such heavier usage may occur.

The researchers observed significant variation in young-of-year occupancy in pools between meadows and years, and within meadows over years (Allen-Diaz *et al.* 2010, p. 7). This variability would likely mask treatment effects, unless the grazing variable was a dominant factor driving site occupancy, and the magnitude of the effect was quite severe. Further, in an addendum to the initial report, Lind *et al.* (2011b, pp. 12–14) report statistically significant negative (inverse) relationships for tadpole density and grazing intensity (tadpole densities decreased when percent use exceeded between 30 and 40 percent). This result supports the hypothesis that grazing at intensities approaching and above the 40 percent threshold can negatively affect Yosemite toad populations.

Allen-Diaz *et al.* (2010, p. 2) and Roche *et al.* (2012b, pp. 6–7) found that toad occupancy is strongly driven by meadow wetness (hydrology) and suggested attention should focus on contemporary factors directly impacting meadow wetness, such as climate, fire regime changes, and conifer encroachment (see Factor A above). The researchers also stated that meadow use by cattle during the grazing season is driven by selection of plant communities found in drier meadows (Allen-Diaz *et al.* 2010, p. 2). This suggests that the apparent differences in preference could provide for some segregation of toad and livestock use in meadow habitats, so that at least direct mortality threats may be mitigated by behavioral isolation. Based on the limitations of the study as described above, we find the initial results from Allen-Diaz *et al.* (2010, pp. 1–45) to be inconclusive to discern the impacts of grazing on Yosemite toad populations where grazing and toads co-occur in meadows.

The available grazing studies focus on breeding habitat (wet meadows) and do not consider impacts to upland habitats. The USFS grazing guidelines for protection of meadow habitats of the Yosemite toad include fencing breeding meadows, but they do not necessarily protect upland habitat. Martin (2008) surveyed 11 meadow sites located along a stream channel in or near low growing willows both before and after cattle grazed the entire meadow, and Martin found that Yosemite toads could no longer be located along the stream channel after the vegetation was grazed. However, both adults and subadults could be found in dense willow thickets or in parts of the meadow that were less heavily grazed (Martin 2008, p. 298). Grazing can also degrade or destroy moist upland areas used as nonbreeding habitat by Yosemite toads (Martin 2008, p. 159), especially when nearby meadow and riparian areas have been fenced to exclude livestock. Livestock may also collapse rodent burrows used by Yosemite toads as cover and hibernation sites (Martin 2008, p. 159) or disturb toads and disrupt their behavior. Martin (2008, pp. 305–306) observed that grazing significantly reduced vegetation height at grazed meadow foraging sites, and since these areas are not protected by current grazing guidelines, deduced that cattle grazing is having a negative effect on terrestrial life stage survivorship in Yosemite toads. This problem was exacerbated as fenced areas effectively shifted grazing activity to upland areas actively used by terrestrial life stages of the Yosemite toad (Martin 2008, p. 306).

Although we lack definitive data to assess the link between Yosemite toad population dynamics and habitat degradation by livestock grazing activity, in light of the documented impacts to meadow habitats (including effects on local hydrology) from grazing activity in general, we consider this threat prevalent with moderate impacts to the Yosemite toad and a potential limiting factor in population recovery rangewide. In addition, given the potential for negative impacts from heavy use, and the vulnerability of toad habitat should grazing management practices change with new management plans, we expect this threat to continue into the future.

Roads and Timber Harvest Effects to Meadow Habitat

Road construction and use, along with timber harvest activity, may impact Yosemite toad habitat via fragmentation, ground disturbance, and soil compaction or erosion (Helms and Tappeiner 1996, pp. 439–476). Roads may alter both the physical environment and the chemical environment; roads may present barriers to movement and may alter hydrologic and geomorphic processes that shape aquatic systems, while vehicle emissions and road-runoff are expected to contain chemicals that may be toxic (USFS *et al.* 2009, pp. 71–73). Timber harvests and past development of roads could potentially also lead to increased rates of siltation, contributing to the loss of breeding habitats for the Yosemite toad.

Prior to the formation of National Parks and National Forests, timber harvest was widespread and unregulated in the Sierra Nevada; however, most cutting occurred below the current elevation range of the Yosemite toad (University of California at Davis (UCD) UC 1996b, pp. 17–45; USFS *et al.* 2009, p. 77). Between 1900 and 1950, most timber harvest occurred in old-growth forests on private land (UC 1996b, pp. 17–45). During this period, forest plans often lacked standards to protect riparian areas and associated meadows, leading to harvest activities that included cutting to edges of riparian areas and forest road construction that often crossed streams, associated aquatic habitat, and meadows, and resulted in head-cutting, lowered water tables, and loss of riparian habitats; legacies of these past activities remain today (USFS *et al.* 2009, p. 77). Currently on National Forests, timber harvest and related vegetation management activities overlap with Yosemite toads primarily in the lower elevation portions of the species' range; the red fir and lodgepole forests that generally surround high-elevation meadows that are Yosemite toad habitat do not have commercial value (USFS *et al.* 2009, pp. 76, 77). Forest standards and guidelines currently provide protections for riparian areas, such as buffers for timber and vegetation management activities.

The majority of forest roads in National Forests of the Sierra Nevada were built between 1950 and 1990, to support major increases in timber harvest on National Forests, (USDA 2001a, p. 443), suggesting that many forest roads occur at elevations below the current range of the Yosemite toad. Relatively few public roads, including trans-Sierran State Highways 4 (Ebbetts Pass), 88 (Carson Pass), 108 (Sonora Pass), and 120 (Tioga Pass), cross the high elevations of the Sierra Nevada within the range of the Yosemite toad (USFS *et al.* 2009, p. 71), although smaller public roads are present in some high-elevation areas. One percent of

Yosemite toad populations occur on private lands where urbanization and corresponding construction of new roads may be more likely (USFS *et al.* 2009, p. 71); however, we are not aware of any proposals for new road construction at this time.

We expect that the majority of timber harvest, road development, and associated management impacts (see ''Effects of Fire Suppression on Meadow Habitats'' below) to Yosemite toad habitat took place during the expansion period in the latter half of the 20th century. Using a model, Liang *et al.* (2010, p. 16) found that Yosemite toads were more likely to occur in areas closer to timber activity, although the high correlation between elevation and the distance to harvest activity in model results definitive conclusions regarding cause and effect. However, they noted that, because timber harvest activities may maintain breeding sites by opening the forest canopy and potentially preventing encroachment of trees into sites, breeding animals might benefit from timber activity (Liang *et al.* 2010, p. 16). Limited information from timber sale areas where low-elevation populations occur indicates that such activities may negatively affect upland habitat use if burrow sites are crushed (USFS 2013, p. 6). Although ground-disturbance due to timber harvest activities has the potential to have population-level effects on Yosemite toad habitat, especially where habitat is limited, currently the best available information does not indicate that the current level of timber harvest occurring within watersheds currently inhabited by the Yosemite toad is adversely affecting habitat (USFS *et al.* 2009, p. 77). Therefore the best available scientific and commercial information does not indicate that ongoing road construction and maintenance or timber harvest are significant threats to the Yosemite toad. There may be localized effects of these activities in areas where legacy effects continue to result in modified wet meadow habitat conditions, or where current harvest and road activities occur in close proximity to extant Yosemite toad populations.

Effects of Fire Suppression on Meadow Habitats

Fire management refers to activities over the past century to combat forest fires. Historically, both lightning-caused fires and fires ignited by American Indians were regularly observed in western forests (Parsons and Botti 1996, p. 29), and in the latter 19th century, the active use of fire to eliminate tree canopy in favor of forage plants continued by sheepherders (Kilgore and Taylor 1979, p. 139). Beginning in the 20th century, land management in the Sierra Nevada shifted to focus on fire suppression as a guiding policy (UC 2007, p. 10).

Long-term fire suppression has influenced forest structure and altered ecosystem dynamics in the Sierra Nevada. In general, the time between fires is now much longer than it was historically, and live and dead fuels are more abundant and continuous (USDA 2001a, p. 35). Much of the habitat for the Yosemite toad occurs in high-elevation meadows within wilderness and backcountry areas where vegetation is sparse and fire suppression activities are rarely conducted (USFS *et al.* 2009, p. 55), suggesting that fire suppression has played a limited role in such locations. At high elevations, encroachment of lodgepole pine at meadow edges has been attributed to cessation of sheep grazing or legacy effects of high-intensity grazing that reduced water tables, as opposed to fire suppression activities (Vankat and Major 1978, pp. 392–395). At lower elevations, it is not clear how habitat changes attributed to fire suppression have affected Yosemite toad populations. However, Liang *et al.* (2010, p. 16) observed that toads were less likely to occur in areas where the fire regime was significantly altered from historical conditions, and suggested that the toads are affected by some unknown or unmeasured factors related to fire management.

Evidence indicates that fire plays a significant role in the evolution and maintenance of lower elevation forested meadows of the Sierra Nevada. Under natural conditions, conifers are excluded from meadows by fire and saturated soils. Small fires thin and/or destroy encroaching conifers, while large fires are believed to determine the meadow—forest boundary (Vankat and Major 1978, p. 394; Parsons and DeBenedetti 1979, pp. 29–31). Fire is thought to be important in maintaining open aquatic and riparian habitats for amphibians in some systems (Russel *et al.* 1999, pp. 374–384), and fire suppression may have thereby contributed to conifer encroachment on meadows (Chang 1996, pp. 1071–1099; NPS 2002, p. 1). However, fire suppression effects are thought to vary with ecosystem fire regime; variable-interval fires are characteristic of the upper montane red fir forests (Chang 1996, pp. 107, 1072) that are the setting for Yosemite toad habitat at the lower elevations of its range, while long-interval fires are characteristic of the subalpine lodgepole pine forests (Chang 1996, p. 1072) that are the setting for Yosemite toad habitats at higher elevations. The effects of fire suppression on forest structure is thought to be far less important in the longer interval forest types (Chang 1996, p. 1072).

While no studies have confirmed a link between fire suppression and rangewide population decline of the Yosemite toad, circumstantial evidence to date suggests that historic fire suppression may be a factor underlying meadow encroachment at lower elevations. The effect of fire suppression, therefore, is thought to be largely restricted to lower elevations within the Yosemite toad's range; fire suppression activities are rarely conducted where much of the habitat for the Yosemite toad occurs (USFS *et al.* 2009, pp. 51–54). Based on the best available information, we find it likely that habitat modification due to reduced fire frequency is a moderate threat to Yosemite toad in those lower-elevation areas where fire suppression has resulted in conifer encroachment into meadows.

Recreation and Packstock Effects to Meadow Habitat

Recreational activities take place throughout the Sierra Nevada, and they can have significant negative impacts on wildlife and their habitats (USDA 2001a, pp. 221, 453–500). Recreation can cause considerable impact to vegetation and soils in western U.S. Wilderness Areas and National Parks even with light use, with recovery occurring only after considerable periods of non-use (USFS *et al.* 2009, p. 66). Heavy foot traffic in riparian areas tramples vegetation, compacts soils, and can physically damage streambanks. Trails (foot, horse, bicycle, or off-highway motor vehicle) can compact the soil, displace vegetation, and increase erosion, thereby potentially lowering the water table (Kondolph *et al.* 1996, pp. 1009–1026). However, the National Park Service considers current hiking and backpacking activities to be a negligible risk factor for the Yosemite toad within the Parks. The Parks have also worked to improve impacted meadows by reconstructing poorly designed trails that have degraded meadow hydrology, also identifying additional Yosemite toad meadows to prioritize additional restoration activities (NPS 2013, p. 9). Similar activities have been implemented on National Forests; for example, the Inyo National Forest has re-routed several trails to avoid the toad's breeding habitat (USFS 2013, p. 5).

Although much Yosemite toad habitat is located in wilderness or other backcountry areas removed from motorized access, the USFS has noted locations where proximity of roads or off-highway vehicle routes to Yosemite toad breeding habitat has resulted in observed impacts to Yosemite breeding habitat. Off-highway vehicles are often the first vehicles to pass through roads blocked by winter snows, occasionally driving off the road to pass remaining obstacles (USFS *et al.* 2009, p. 63). Records of such off-highway vehicle travel in breeding meadows and ponds (USFS 2013, pp. 6, 7) suggests that such activities have the potential to negatively affect these habitats, although the population-level effects to Yosemite toads are thought to be limited.

Packstock use has similar effects to those discussed for livestock grazing (for additional information on current packstock use levels and management protections, see the Packstock Use section under the mountain yellow-legged frogs, above), although this risk factor is potentially more problematic as this land use typically takes place in more remote and higher-elevation areas occupied by Yosemite toads, and packstock tend to graze in many of the same locations that the toads prefer (USFS *et al.* 2009, p. 65). Currently, there are very few studies on the effects of packstock grazing on amphibians, especially in the Sierra Nevada. However, in Yosemite, Sequoia, and Kings Canyon National Parks, packstock use is monitored annually to prevent long-term impacts. Additionally, the NPS (2013, p. 9) has indicated that, except for a few specific areas, packstock use and Yosemite toads typically do not overlap within the Parks. Many areas are closed to packstock use entirely or limited to day use due to inadequate trail access or to protect sensitive areas. Long-term use data indicate that packstock use is declining, with no evidence to suggest that it will increase in the future (NPS 2013, pp. 6, 7). Where permitted, current guidelines in the National Parks limit trips to 20–25 animals, regulated under conditional use permits (Brooks 2012, pers. comm.). Similar standards and guidelines limit packstock group size and use within the National Forests (USFS 2013, pp. 3–5).

Habitat-related effects of recreational activities on the Yosemite toad may have population-level impacts in localized areas and under site-specific conditions, for example, where foot traffic adjacent to occupied meadows is exceptionally heavy and results in meadow damage, where legacy effects of high recreation use have resulted in continuing meadow damage, or where off-highway vehicle use results in changes in meadow hydrology. However, in general, we do not consider habitat-related changes associated with current levels of hiking or backpacking to pose a population-level risk to Yosemite toads. Therefore, at this time we consider recreational activities to be a low prevalence threat across the range of the Yosemite toad.

Dams and Water Diversions Effects to Meadow Habitat

Past construction of dams, diversion, and irrigation ditches resulted in a vast man-made network that altered local and regional stream hydrology in the Sierra Nevada (SNEP 1996, p. 120), although, with the exception of several dozen small impoundments and diversions, almost all of these are located below the range of the Yosemite toad (USFS *et al.* 2009, pp. 76, 77). However, in the past a small number of reservoirs were constructed within the historic range of the Yosemite toad, most notably Upper and Lower Blue Lakes, Edison, Florence, Huntington, Courtright, and Wishon Reservoirs. Construction of several high-elevation reservoirs (for example, Edison and Florence) is thought to have inundated shallow-water breeding habitat for the toad (USFS *et al.* 2009, pp. 76, 77). Where reservoirs are used for hydroelectric power, water-level declines caused by drawdown of reservoirs can lead to the mortality of eggs and tadpoles by stranding and desiccation, although, with the exception of Blue Lakes, Yosemite toads are currently not known from the above reservoirs (USFS *et al.* 2009, pp. 78, 79).

Past construction of these reservoirs likely contributed to the decline of the Yosemite toad in the area where they were built. Increasing effects from climate change, or new water supply development in response to such effects, may exacerbate this risk in the future if new reservoirs are constructed within areas occupied by the toad. However, we are not aware of any proposals to construct additional reservoirs within the Yosemite toads range. We expect that continuing reservoir operations may have continued habitat-related effects to toad populations in these developed areas, but less so in the current extent of the Yosemite toad's (remnant) range. Therefore, we consider this threat to be of low prevalence to the Yosemite toad across its range.

Climate Effects to Meadow Habitat

Different studies indicate that multiple drivers are behind the phenomenon of conifer encroachment into meadows. The first factor affecting the rate of conifer encroachment into meadow habitats, fire suppression, was discussed above. Climate variability is another factor affecting the rate of conifer encroachment on meadow habitats. A study by Franklin *et al.* (1971, p. 215) concluded that fire had little influence on meadow maintenance in their study area, while another study concluded that climate change is a more likely explanation for encroachment of trees into the adjacent meadow at their site, rather than fire suppression or changes in grazing intensity (Dyer and Moffett, 1999, p. 444).

Climatic variability is strongly correlated with tree encroachment into dry subalpine meadows (Jakubos and Romme 1993, p. 382). In the Sierra Nevada, most lodgepole pine seedlings become established during years of low snowpack when meadow soil moisture is reduced (Wood 1975, p. 129). The length of the snow-free period may be the most critical variable in tree invasion of subalpine meadows (Franklin *et al.* 1971, p. 222), with the establishment of a good seed crop, followed by an early snowmelt, resulting in significant tree establishment. It is apparent that periods of low snowpack and early melt may in fact be necessary for seedling establishment (Ratliff, 1985, p. 35). Millar *et al.* (2004, p. 181) reported that increased temperature, coupled with reduced moisture availability in relation to large-scale temporal shifts in climate, facilitated the invasion of 10 subalpine meadows studied in the Sierra Nevada.

Our analyses under the Act include consideration of ongoing and projected changes in climate. The terms ''climate'' and ''climate change'' are defined by the Intergovernmental Panel on Climate Change (IPCC). ''Climate'' refers to the mean and variability of different types of weather conditions over time, with 30 years being a typical period for such measurements, although shorter or longer periods also may be used (IPCC 2007, p. 1450; IPCC 2013a, Annex III). The term ''climate change'' thus refers to a change in the mean or variability of one or more measures of climate (for example, temperature or precipitation) that persists for an extended period, typically decades or longer, whether the change is due to natural variability, human activity, or both (IPCC 2007, p. 1450; IPCC 2013a, Annex III). A recent compilation of climate change and its effects is available from reports of the Intergovernmental Panel on Climate Change (IPCC) (IPCC 2013b, entire). Various types of changes in climate can have direct or indirect effects on species. These effects may be positive,

neutral, or negative, and they may change over time, depending on the species and other relevant considerations, such as the effects of interactions of climate with other variables (for example, habitat fragmentation) (IPCC 2007, pp. 8–14, 18–19). In our analyses, we use our expert judgment to weigh relevant information, including uncertainty, in our consideration of various aspects of climate change.

For the Sierra Nevada ecoregion, climate models predict that mean annual temperatures will increase by 1.8 to 2.4 °C (3.2 to 4.3 °F) by 2070, including warmer winters with earlier spring snowmelt and higher summer temperatures (PRBO 2011, p. 18). Additionally, mean annual rainfall is projected to decrease from the current average by some 9.2–33.9 cm (3.6–13.3 in) by 2070 (PRBO 2011, p. 18). However, projections have high uncertainty, and one study predicts the opposite effect (PRBO 2011, p. 18). Snowpack is, by all projections, going to decrease dramatically (following the temperature rise and increase in precipitation falling as rain) (PRBO 2011, p. 19); (Kadir *et al.* 2013, pp. 76–80). Higher winter stream flows, earlier runoff, and reduced spring and summer stream flows are projected, with increasing severity in the southern Sierra Nevada (PRBO 2011, pp. 20–22); (Kadir *et al.* 2013, pp. 71–75).

Snow-dominated elevations from 2,000–2,800 m (6,560–9,190 ft) will be the most sensitive to temperature increases (PRBO 2011, p. 23). Meadows fed by snowmelt may dry out or be more ephemeral during the non-winter months (PRBO 2011, p. 24). This pattern could influence groundwater transport, and springs may be similarly depleted, leading to lower water levels in available breeding habitat and decreased area and hydroperiod (i.e., duration of water retention) of suitable habitat for rearing tadpoles of Yosemite toads. Changes in water transport may promote channel incision and result in a shift to non-meadow conditions (Viers *et al.* 2013, p. 31).

Blaustein *et al.* (2010, pp. 285–300) provide an exhaustive review of potential direct and indirect and habitat-related effects of climate change to amphibian species, with documentation of effects in a number of species where such effects have been studied. Altitudinal range shifts with changes in climate have been reported in some regions. They note that temperature can influence the concentration of dissolved oxygen in aquatic habitats, with warmer water generally having lower concentrations of dissolved oxygen, and that water balance heavily influences amphibian physiology and behavior. They predict that projected changes in temperature and precipitation are likely to increase habitat loss and alteration for those species living in sensitive habitats, such as ephemeral ponds and alpine habitats (Blaustein *et al.* 2010, pp. 285–287).

Because environmental cues such as temperature and precipitation are clearly linked to onset of reproduction in many species, climate change will likely affect the timing of reproduction in many species, potentially with different sexes responding differently to climate change. For example, males of two newt species (*Triturus* spp.) showed a greater degree of change in arrival date at breeding ponds (Blaustein *et al.* 2010, p. 288). Lower concentrations of dissolved oxygen in aquatic habitats may negatively affect developing embryos and larvae, in part because increases in temperature increase the oxygen consumption rate in amphibians. Reduced oxygen concentrations have also been shown to result in accelerated hatching in ranid frogs, but at a smaller size, while larval development and behavior may also be affected and may be mediated by larval density and food availability (Blaustein *et al.* 2010, pp. 288–289).

Increased temperatures can reduce time to metamorphosis, which can increase chances of survival where ponds dry, but also result in metamorphosis at a smaller size, suggesting a likely trade-off between development and growth, which may be exacerbated by climate change and have fitness consequences for adults (Blaustein *et al.* 2010, pp. 289–290). Changes in terrestrial habitat, such as changed soil moisture and vegetation, can also directly affect adult and juvenile amphibians, especially those adapted to moist forest floors and cool, highly oxygenated water that characterizes montane regions. Climate change may also interact with other stressors that may be acting on a particular species, such as disease and contaminants (Blaustein *et al.* 2010, pp. 290–299).

A recent paper (Kadir *et al.* 2013, entire) provides specific information on the effects of climate change in the Sierra Nevada. The report found that glaciers in the Sierra Nevada have decreased in area over the past century, and glacier shrinkage results in earlier peak water runoff and drier summer conditions. Another result from the report is that the lower edge of the conifer-dominated forests in the Sierra Nevada has been retreating upslope over the past 60 years. Regarding wildfire, since 1950, annual acreage burned in wildfires statewide has been increasing in California, and in the western United States, large wildfires have become more frequent, increasing in tandem with rising spring and summer temperatures. Finally, the report found that today's subalpine forests in the Sierra Nevada are much denser—that is, comprise more small-diameter trees—than they were over 70 years ago. During this time period, warmer temperatures, earlier snowmelt, and more rain than snow occurred in this region. Many of these changes in the Sierra Nevada of California due to climate are likely to influence Yosemite toads because they are highly vulnerable to climate change because changing hydrology and habitat in the Sierra Nevada will likely have impacts on remaining populations (Viers *et al.* 2013, pp. 55, 56).

Historically, drought is thought to have contributed to the decline of the Yosemite toad (Kagarise Sherman and Morton 1993, p. 186; Jennings and Hayes 1994, pp. 50–53). Extended and more severe droughts pose an ongoing, rangewide risk to the species and are expected to increase with predicted climate changes (PRBO 2011, p. 18). Such changes may reduce both the amount of suitable breeding habitat and the length of time that suitable water is available in that habitat (Brown 2013, unpaginated).

Davidson *et al.* (2002, p. 1598) analyzed geographic decline patterns for the Yosemite toad. They compared known areas of extirpation against a hypothesized model for climate change that would predict greater numbers of extirpations at lower altitudes, and in more southern latitudes. The researchers did not observe a pattern in the available historic data to support the climate change hypothesis as a driver of historic population losses, although they acknowledge that climate change may be a contributor in more complex or subtle ways. Additionally, this study was limited by small sample size, and it is possible that climate change effects on the Yosemite toad (a long-lived species) may not become evident for many years (USFS *et al.* 2009, p. 48). Finally, Davidson *et al.* (2002, p. 1598) did find an increase in occupancy with elevation (greater densities of populations at altitude), and this observation is consistent with a pattern that would fit a response to climate change (USFS *et al.* 2009, p. 48). However, this observation would also be consistent if the features of these particular habitats (such as at higher elevation) were more suited to the special ecological requirements of the

toad, or if other stressors acting on populations at lower elevations were responsible for the declines. We, therefore, find these results inconclusive.

Most recently, modeled vulnerability assessments for Sierra Nevada montane meadow systems have utilized life history and habitat requirements to gauge vulnerability of amphibian species to climate change. This assessment indicates that vulnerability to hydro-climatic changes will likely be very high for the Yosemite toad, and that continued or worsening stream channelization in montane meadows from flashy storms may worsen effects by further reductions in the water table (Viers *et al.* 2013, p. 56).

The breeding ecology and life history of the Yosemite toad are that of a habitat specialist, as it utilizes pool and meadow habitats during the onset of snowmelt and carefully times its reproduction to fit available conditions within ephemeral breeding sites. The most striking documented declines in Yosemite toad populations in the historical record are correlated with extreme climate episodes (drought) (Kagarise Sherman and Morton 1993, pp. 186–198). Given these observations, it is likely that climate change (see also discussion in mountain yellow-legged frog's Summary of Factors Affecting the Species, under Factor E) poses a significant risk to the Yosemite toad now and in the future. It is quite possible that these impacts are occurring currently, and have occurred over the last few decades. However, it is difficult in short time intervals to discern the degree of effect from climate change within the variability of natural climate cycles.

In summary, based on the best available scientific and commercial information, we consider the threats of destruction, modification, and curtailment of the species' habitat and range to be significant ongoing threats to the Yosemite toad. The legacy effects of past land uses have altered meadow communities through the mechanism of stream incision by permanently reducing habitat quantity and quality unless active and costly restoration is implemented. Climate change is a current threat of high magnitude. Threats considered of moderate magnitude include livestock grazing and fire management regime. Threats considered currently low magnitude include roads and timber harvest, dams and water diversions, and recreational land uses.

Factor B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

We do not have any scientific or commercial information to indicate that overutilization for commercial, recreational, or scientific purposes poses a threat to the Yosemite toad. There is currently no known commercial market for Yosemite toads, although one pet store in Los Angeles that is no longer in business had previously sold at least one Yosemite toad (USFS *et al.* 2009, pp. 65–66); and there is also no documented recreational or educational use for Yosemite toads.

Scientific research may cause some stress to Yosemite toads through disturbance and disruption of behavior, handling, and injuries associated with marking individuals. This activity has resulted in the known death of individuals through accidental trampling (Green and Kagarise Sherman 2001, pp. 92–103), irradiation from radioactive tags (Karlstrom 1957, pp. 187–195), and collection for museum specimens (Jennings and Hayes 1994, pp. 50–53). We expect that requirements for Federal (USFS and NPS) and State (CDFW) research and special use permits, and University ethics requirements provide some protections for wildlife-research subjects and limit negative effects to individuals. Therefore, we do not currently consider ongoing and future scientific research to be a threat to the Yosemite toad. We also anticipate that further research into the genetics and life history of the Yosemite toad and broader methodological censuses will provide a net conservation benefit to this under-studied species.

Based on the best available scientific and commercial information, we do not consider overutilization for commercial, recreational, scientific, or educational purposes to be a threat to the Yosemite toad.

Factor C. Disease or Predation

Predation

Prior to the trout stocking of high Sierra Nevada lakes, which began over a century ago, fish were entirely absent from most of this region (Bradford 1989, pp. 775–778). Observations regarding the effects of introduced fishes on the Yosemite toad are mixed. However, re-surveys of historical Yosemite toad sites have shown that the species has disappeared from several lakes where they formerly bred, and these areas are now occupied by fish (Stebbins and Cohen 1995, pp. 213–215; Martin 2002, p. 1).

Drost and Fellers (1994, pp. 414–425) suggested that Yosemite toads are less vulnerable to fish predation than frogs because they breed primarily in ephemeral waters that do not support fish. Further, Jennings and Hayes (1994, pp. 50–53) stated that the palatability of Yosemite toad tadpoles to fish predators is unknown, but often assumed to be low based on the unpalatability of western toads (Drost and Fellers 1994, pp. 414–425; Kiesecker *et al.* 1996, pp. 1237–1245), to which Yosemite toads are closely related. Grasso (2005, p. 1) observed brook trout swimming near, but the trout ignored Yosemite toad tadpoles, suggesting that tadpoles are unpalatable. The study also found that subadult Yosemite toads were not consumed by brook trout (Grasso 2005, p. 1), although the sublethal effects of trout ''sampling'' (mouthing and ejecting tadpoles) and the palatability of subadults to other trout species are unknown. Martin (2002, p. 1) observed brook trout preying on Yosemite toad tadpoles, and also saw them ''pick at'' Yosemite toad eggs (which later became infected with fungus). In addition, metamorphosed western toads have been observed in golden trout stomach contents (Knapp 2002c, p. 1). Nevertheless, Grasso *et al.* (2010, p. 457) concluded that early life stages of the Yosemite toad likely possess chemical defenses that provide sufficient protection from native trout predation.

The observed predation of Yosemite toad tadpoles by trout (Martin 1992, p. 1) indicates that introduced fishes may pose a predation risk to the species in some situations, which may be accentuated during drought years. At a site where Yosemite toads normally breed in small meadow ponds, they have been observed to successfully switch breeding activities to stream habitat containing fish during years of low water (Strand 2002, p. 1). Thus, drought conditions may increase the toads' exposure to predatory fish, and place them in habitats where they compete with fish for invertebrate prey. Additionally, although the number of lake breeding sites used by Yosemite toads is small relative to the number of ephemeral sites, lake sites may be especially important because they are more likely to be habitable during years with low water (Knapp 2002c, p. 1).

Overall, the data and available literature suggest that direct mortality from fish predation is likely not an important factor driving Yosemite toad population dynamics. This does not discount other indirect impacts, such as the possibility that fish may be effective disease vectors (see below). Yosemite toad use of more ephemeral breeding habitats (which are less habitable to fish species as they cannot tolerate drying or

freezing) minimizes the interaction of fish and toad tadpoles. Further, where fish and toads co-occur, it is possible that food depletion (outcompetition) by fish negatively affects Yosemite toads (USFS *et al.* 2009, p. 58).

Other predators may also have an effect on Yosemite toad populations. Kagarise Sherman and Morton (1993, p. 194) reported evidence of toad predation by common ravens (*Corvus corax*) and concluded this activity was responsible for the elimination of toads from one site. These researchers also confirmed, as reported in other studies, predation on Yosemite toad by Clark's nutcrackers (*Nucifraga columbiana*). The significance of avian predation may increase if the abundance of common ravens within the current range of the Yosemite toad increases as it has in nearby regions (Camp *et al.* 1993, p. 138; Boarman *et al.* 1995, p. 1; Kelly *et al.* 2002, p. 202). However, the degree to which avian predation may be affecting Yosemite toad populations has not been quantified.

Disease

Although not all vectors have been confirmed in the Sierra Nevada, introduced fishes, humans, pets, livestock, packstock, vehicles, and wild animals may all act to facilitate disease transmission between amphibian populations. Infection of both fish and amphibians by a common disease has been documented with viral (Mao *et al.* 1999, pp. 45–52) and fungal pathogens in the western United States (Blaustein *et al.* 1994b, pp. 251–254). Mass die-offs of amphibians in the western United States and around the world have been attributed to Bd fungal infections of metamorphs and adults (Carey *et al.* 1999, pp. 1–14), *Saprolegnia* fungal infections of eggs (Blaustein *et al.* 1994b, pp. 251–254), ranavirus infections, and bacterial infections (Carey *et al.* 1999, pp. 1–14).

Various diseases are confirmed to be lethal to Yosemite toads (Green and Kagarise Sherman 2001, pp. 92–103), and recent research has elucidated the potential role of Bd infection as a threat to Yosemite toad populations (Dodge and Vredenburg 2012, p. 1). These various diseases and infections, in concert with other factors, have likely contributed to the decline of the Yosemite toad (Kagarise Sherman and Morton 1993, pp. 193–194) and may continue to pose a risk to the species (Dodge and Vredenburg 2012, p. 1).

Die-offs in Yosemite toad populations have been documented in the literature, and an interaction with diseases in these events has been confirmed. However, no single cause has been validated by field studies. Tissue samples from dead or dying adult Yosemite toads and healthy tadpoles were collected during a die-off at Tioga Pass Meadow and Saddlebag Lake and analyzed for disease (Green and Kagarise Sherman 2001, pp. 92–103). Six infections were found in the adults, including infection with Bd, bacillary bacterial septicemia (red-leg disease), *Dermosporidium* (a fungus), myxozoa spp. (parasitic cnidarians), *Rhabdias* spp. (parasitic roundworms), and several species of trematode (parasitic flatworms). Despite positive detections, no single infectious disease was found in more than 25 percent of individuals, and some dead toads showed no signs of infection to explain their death. Further, no evidence of infection was found in tadpoles. A meta-analysis of red-leg disease also revealed that the disease is a secondary infection that may be associated with a suite of different pathogens, and so actual causes of decline in these instances were ambiguous (Kagarise Sherman and Morton 1993, p. 194). The authors concluded that the die-off was caused by suppression of the immune system caused by an undiagnosed viral infection or chemical contamination that made the toads susceptible to the variety of diagnosed infections.

Saprolegnia ferax, a species of water mold that commonly infects fish in hatcheries, caused a massive lethal infection of eggs of western toads at a site in Oregon (Blaustein *et al.* 1994b, p. 252). It is unclear whether this event was caused by the introduction of the fungal pathogen via fish stocking, or if the fungus was already present and the eggs' ability to resist infection was inhibited by some unknown environmental factor (Blaustein *et al.* 1994b, p. 253). Subsequent laboratory experiments have shown that the fungus could be passed from hatchery fish to western toads (Kiesecker *et al.* 2001, pp. 1064–1070). Fungal growth on Yosemite toad eggs has been observed in the field, but the fungus was not identified and it was unclear whether the fungus was the source of the egg mortality (Kagarise Sherman 1980, p. 46). Field studies conducted in Yosemite National Park found that an undetermined species of water mold infected only the egg masses that contained dead embryos of Yosemite toads (Sadinski 2004, pp. 33–34). The researchers also observed that the water mold became established on egg masses only after embryo death, and subsequently spread, causing the mortality of additional embryos of Yosemite toads.

Sadinski (2004, p. 35) discovered that mortality of Yosemite toad embryos may be attributed to an unidentified species of a free-living flatworm (*Turbellaria* spp.). In Yosemite National Park, these worms were observed to penetrate Yosemite toad egg masses and feed directly on the embryos. In some locations, *Turbellaria* spp. reached such large densities that they consumed all the embryos within a Yosemite toad egg mass. Predation also facilitated the colonization and spread of water mold on egg masses, leading to further embryo mortality. Further studies would be needed to determine which species of *Turbellaria* feeds on Yosemite toad eggs, and the extent of this impact on Yosemite toad populations.

Until recently, the contribution of Bd infection to Yosemite toad population declines was relatively unknown. Although the toad is hypothetically susceptible due to co-occurrence with the mountain yellow-legged frog, the spread and growth of Bd in the warmer pool habitats, occupied for a much shorter time relative to the frog, is suspected to render individuals less prone to epidemic outbreaks (USFS *et al.* 2009, p. 50). Fellers *et al.* (2011, p. 391) documented the occurrence of Bd infection in Yosemite National Park toads over at least a couple of decades, and they note population persistence in spite of the continued presence of the pathogen. In a survey of 196 museum specimens, Dodge and Vredenburg (2012, p. 1) report the first presence of Bd infection in Yosemite toads beginning in 1961, with the pathogen becoming highly prevalent during the recorded declines of the late 1970s, before it peaked in the 1990s at 85 percent positive incidence. In live specimen sampling, Dodge and Vredenburg (2012, p. 1) collected 1,266 swabs of Yosemite toads between 2006 and 2011, and found Bd infection intensities at 17–26 percent (with juvenile toads most affected). The studies detected a pattern indicative of the historic emergence of Bd, which coincided with the documented decline in Yosemite toad (Dodge 2013, p. 1). As such, results from these studies support the hypothesis that Bd infection and chytridiomycosis have played an important role in Yosemite toad population dynamics over the period of their recent recorded decline.

Carey (1993, pp. 355–361) developed a model to explain the disappearance of boreal toads (*Bufo boreas boreas*) in the Rocky Mountains, suggesting immune system suppression from extreme winter stress (''winter stress syndrome'') could have contributed to the decline in that species. This model may also fit Yosemite toad die-offs observed by Kagarise Sherman and Morton (1993,

pp. 186–198), given the close relationship between the two toads, and their occupation of similar habitats. However, an analysis of immune system suppression and the potential role of winter stress relative to Yosemite toad population trends is not available at this time. Yet, the decline pattern observed in the Carey study is mirrored by the pattern in the Yosemite toad (heavy mortality exhibited in males first) (Knapp 2012, pers. comm.). This observation, in concert with the recent results from museum swabs (Dodge and Vredenburg 2012, p. 1), provides a correlative link to the timing of the recorded Yosemite toad declines and Bd infection intensities.

Although disease as a threat factor to the Yosemite toad is relatively less documented, Bd infection causes mass mortalities in the closely related boreal toad (Carey et al. 2006, p. 19) and there is evidence related to Bd's role in historical die-offs in Yosemite toads. Much of the historic research documenting Yosemite toad declines predated our awareness of Bd as a major amphibian pathogen. Additionally, the life history of the Yosemite toad, as a rapid breeder during early snowmelt, limits the opportunities to observe population crashes in the context of varied environmental stressors. Currently available evidence indicates that Bd was likely a significant factor contributing to the recent historical declines observed in Yosemite toad populations (Dodge and Vredenburg 2012, p. 1). Although infection intensities are currently lower than some peak historic measurements, this threat remains a potential factor that may continue to reduce survival through metamorphosis, and therefore recruitment to the breeding population (Knapp 2012, pers. comm.). Additionally, the interaction of disease and other stressors, such as climate extremes, is not well understood in the Yosemite toad. Research does suggest that the combination of these threats represents a factor in the historical decline of the species (Kagarise Sherman and Morton 1993, p. 186).

In summary, based on the best available scientific and commercial information, we do not consider predation to be a threat to the species. We consider disease to be a threat to the Yosemite toad that has a moderate, ongoing effect on populations of the species rangewide. The threat most specifically includes the amphibian pathogen, Bd. Although definitive empirical data quantifying the contribution of disease to Yosemite toad population declines are not currently available, population declines that were concurrent with the prevalence and spread of Bd across the Sierra Nevada support the assertion that disease has played a role in the observed trend. Further, Bd infection, even at lower intensities, may interact with climate extremes and continue to depress recruitment of yearling and subadult Yosemite toads to breeding Yosemite toad populations. We suspect this threat was historically significant, that it is currently having a moderate influence on toad populations, and we expect it to be a future concern.

Factor D. The Inadequacy of Existing Regulatory Mechanisms

In determining whether the inadequacy of regulatory mechanisms constitutes a threat to the Yosemite toad, we analyzed the existing Federal and State laws and regulations that may address the threats to the species or contain relevant protective measures. Regulatory mechanisms are typically nondiscretionary and enforceable, and may preclude the need for listing if such mechanisms are judged to adequately address the threat(s) to the species such that listing is not warranted. Conversely, threats on the landscape are not addressed by existing regulatory mechanisms where the existing mechanisms are not adequate (or not adequately implemented or enforced).

We discussed the applicable State and Federal laws and regulations, including the Wilderness Act, NFMA above (see Factor D discussion for mountain yellow-legged frogs). In general, the same administrative policies and statutes are in effect for the Yosemite toad. This section additionally addresses regulatory mechanisms with a specific emphasis on the Yosemite toad.

Taylor Grazing Act of 1934

In response to overgrazing of available rangelands by livestock from the 1800s to the 1930s, Congress passed the Taylor Grazing Act in 1934 (43 U.S.C. 315 *et seq.*). This action was an effort to stop the damage to the remaining public lands as a result of overgrazing and soil depletion, to provide coordination for grazing on public lands, and to attempt to stabilize the livestock industry (Meehan and Platts 1978, p. 275; *Public Lands Council et al.* v. *Babbitt Secretary of the Interior et al.* (167 F. 3d 1287)). Passage of the Taylor Grazing Act resulted in reduced grazing in some areas, including the high Sierra Nevada. However, localized use remained high, precluding regeneration of many meadow areas (Beesley 1996, p. 14; Menke *et al.* 1996, p. 14; *Public Lands Council et al.* v. *Babbitt Secretary of the Interior et al.* (167 F. 3d 1287)).

Existing Federal and State laws and regulatory mechanisms currently offer some level of protection for the Yosemite toad. Specifically, these include the Wilderness Act, the NFMA, the SNFPA, and the FPA (see Factor D discussion for mountain yellow-legged frog complex). Based on the best available scientific and commercial information, we do not consider the inadequacy of existing regulatory mechanisms to be a threat to the Yosemite toad.

Factor E. Other Natural or Manmade Factors Affecting Its Continued Existence

The Yosemite toad is sensitive to environmental change or degradation due to its life history, biology, and existence in ephemeral habitats characterized by climate extremes and low productivity. It is also sensitive to anthropogenically influenced factors. For example, contaminants, acid precipitation, ambient ultraviolet radiation, and climate change have been implicated as contributing to amphibian declines (Corn 1994, pp. 62–63; Alford and Richards 1999, pp. 2–7). However, as with the case with the mountain yellow-legged frog complex, contaminants, acid precipitation, and ambient ultraviolet radiation are not known to pose a threat (current or historical) to Yosemite toad and, therefore, are not discussed further. Please refer to the proposed listing rule for the Sierra Nevada yellow-legged frog, the northern DPS of the mountain yellow-legged frog, and the Yosemite toad (78 FR 24472, April 25, 2013) for a detailed discussion of contaminants, acid precipitation, and ambient ultraviolet radiation. The following discussion will focus on potential threat factors specifically studied in the Yosemite toad, based on the unique life history, population status, demographics, or biological factors specific to Yosemite toad populations.

Climate Change Effects on Individuals

As discussed above in Factor A, climate change can result in detrimental impacts to Yosemite toad habitat. Climate variability could also negatively impact populations through alteration of the frequency, duration, and magnitude of either droughts or severe winters (USFS *et al.* 2009, p. 47). Yosemite toads breed and their tadpoles develop in shallow meadow and ephemeral habitats, where mortality from desiccation and freezing can be very high, often causing complete loss of an annual cohort (USFS *et al.* 2009, p. 10). Kagarise Sherman and Morton (1993, pp. 192–193) documented in a long-

term population study that Yosemite toad hatching success and survival were subject to a balance between the snowpack water contribution to breeding pools and the periodicity and character of breeding season storms and post-breeding climate (whether it is cold or warm). When it is too cold, eggs and tadpoles are lost to freezing. This situation poses a risk as earlier snowmelt is expected to cue breeding earlier in the year, exposing young tadpoles (or eggs) to killing frosts in more variable conditions of early spring (Corn 2005, p. 60). When it is too dry, tadpoles are lost to pool desiccation. Alterations in the annual and seasonal hydrologic cycles that influence water volume and persistence in Yosemite toad breeding areas can thereby impact breeding success. The threat of climate change on individuals is significant, and is of high prevalence now and into the future.

Other Sources of Direct and Indirect Mortality

Direct and indirect mortality of Yosemite toads has occurred as a result of livestock grazing. Mortality risk from livestock trampling is expected to be the greatest for non-larval stages where livestock concentrate in Yosemite toad habitat when toad densities are highest; early in the season when breeding adults are aggregated and egg masses are laid; and at metamorphosis when juveniles are metamorphosing in mass along aquatic margins. However, because cattle typically are not present during the breeding season, the risk of trampling is expected to be greatest for metamorphs (USFS *et al.* 2009, p. 59). Cattle have been observed to trample Yosemite toad metamorphs and subadult toads, and these life stages can fall into deep hoofprints and die (Martin 2008, p. 158). Specifically, Martin (2008, p. 158) witnessed some 60 subadult and metamorph toad deaths during the movement of 25 cattle across a stream channel bordered by willows within a meadow complex. Adult Yosemite toads trampled to death by cattle have also been observed (Martin 2002, pp. 1–3). This risk factor is likely of sporadic significance, and is of greatest concern where active grazing allotments coincide with breeding meadows. However, it is difficult to determine the degree of this impact without quantitative data.

Trampling and collapse of rodent burrows by recreationists, pets, and vehicles could lead to direct mortality of terrestrial life stages of the Yosemite toad. Recreational activity may also disturb toads and disrupt their behavior (Karlstrom 1962, pp. 3–34). Recreational anglers may be a source of introduced pathogens and parasites, and they have been observed using toads and tadpoles as bait (USFS *et al.* 2009, p. 66). However, Kagarise Sherman and Morton (1993, p. 196) did not find a relationship between the distance from the nearest road and the declines in their study populations, suggesting that human activity was not the cause of decline in that situation. Recreational activity may be of conservation concern, and this threat may increase with greater activity in mountain meadows. However, current available information does not indicate that recreational activity is a significant stressor for Yosemite toads.

Fire management practices over the last century have created the potential for severe fires in the Sierra Nevada. Wildfires do pose a potential direct mortality threat to Yosemite toads, although amphibians in general are thought to retreat to moist or subterranean refuges and thereby suffer low mortality during natural fires (Russel *et al.* 1999, pp. 374–384). In the closely related boreal toad (*Bufo boreas*), Hossak and Corn (2007, p. 1409) documented a positive response (increase in occupied breeding sites and population size) following a wildfire, with returns to near pre-fire occupancy levels after 4 to 5 years (Hossack *et al.* 2012, p. 224), suggesting that habitat-related changes associated with wildfires may provide at least short-term benefits to Yosemite toad populations. However, data on the direct and indirect effects of fire on Yosemite toads are lacking.

USFS *et al.* (2009, p. 74) suggested that the negative effects of roads that have been documented in other amphibians, in concert with the substantial road network across a portion of the Yosemite toad's range, indicate this risk factor may be potentially significant to the species. Roads may facilitate direct mortality of amphibians through vehicle strikes (DeMaynadier and Hunter 2000, pp. 56–65), and timber harvest activities (including fuels management and vegetation restoration activities) have been documented to result in the direct mortality of Yosemite toads (USFS 2013, p. 94). Levels of timber harvest and road construction have declined substantially since implementation of the California Spotted Owl Sierran Province Interim Guidelines in 1993, and some existing roads have been decommissioned or are scheduled to be decommissioned (USDA 2001a, p. 445). Therefore, the risks posed by new roads and timber harvests have declined, but those already existing still may pose risks to the species and its habitat.

Toads could potentially be trampled or crushed by activities implemented to reduce fire danger. USFS *et al.* (2009, p. 53) report that the Forest Service has initiated a fuels reduction program in order to reduce the extent and intensity of wildfires. However, most of these projects will occur in the Wildland Urban Interface, which is below the elevational range of the Yosemite toad and generally near human developments. However, in the future some fuels projects may occur in limited areas around facilities, such as resorts, pack stations, or summer homes, within the lowest portion of the Yosemite toad range.

Collectively, direct mortality from land uses within the Yosemite toad range may have impacts to the toad. However, we are aware of no studies that have quantified or estimated the prevalence of this particular threat to be able to assess its impact to Yosemite toad populations. At the current time, direct and indirect mortality from roads are not considered to be a significant factor affecting the Yosemite toad rangewide.

Small Population Size

Although it is believed that the range of the Yosemite toad has not significantly contracted, the majority of populations across this area have been extirpated, and this loss has been significant relative to the historical condition (multitudes of populations within many watersheds across their geographic range) (see ''Population Estimates and Status'' above). Further, growing evidence suggest that the populations that remain are small, numbering fewer than 20 males in most cases (Kagrise Sherman and Morton 1993, p. 190; Sadinski 2004, p. 40; Brown *et al.* 2012, p. 125). This situation renders these remnant populations susceptible to risks inherent to small populations (see Factor E discussion, ''Small Population Size,'' for mountain yellow-legged frogs, above) including inbreeding depression and genetic drift, along with a higher probability of extirpation from unpredictable events such as severe storms or extended droughts.

Traill *et al.* (2009, p. 32) argued for a benchmark viable population size of 5,000 adult individuals (and 500 to prevent inbreeding) for a broad range of taxa, although this type of blanket figure has been disputed as an approach to conservation (Flather *et al.* 2011, pp. 307–308). Another estimate, specific to amphibians, is that populations of at least 100 individuals are less susceptible to demographic stochasticity (Schad 2007, p. 10). Amphibian species

with highly fluctuating population size, high frequencies of local extinctions, and living in changeable environments may be especially susceptible to curtailment of dispersal and restriction of habitat (Green 2003, p. 331). These conditions are all likely applicable to the Yosemite toad.

Therefore, based on the best available commercial and scientific information, we conclude that small population size is a prevalent and significant threat to the species viability of the Yosemite toad across its range, especially in concert with other extant stressors (such as climate change).

Cumulative Impacts of Extant Threats

Interactive effects or cumulative impacts from multiple additive stressors acting upon Yosemite toad populations over time are indicated by the documented declines in populations and abundance across the range of the species. Although no single causative factor linked to population declines in Yosemite toads has been confirmed in the literature (excepting perhaps extreme climate conditions such as droughts) (Kagarise Sherman and Morton 1993, p. 186; Jennings and Hayes 1994, pp. 50–53), there has been a decline in population abundance and numbers of extant populations inhabiting the landscape (Brown *et al.* 2012, pp. 115–131; Kagarise Sherman and Morton 1993, pp. 186–198). This pattern of decline suggests a factor or combination of factors common throughout the range of the toad. The available literature (Kagarise Sherman and Morton 1993, pp. 186–198; Jennings and Hayes 1994, pp. 50–53; USFS *et al.* 2009, pp. 1–133; Martin 2008, pp. *i*–393) supports the contention that a combination of factors has interacted and is responsible for the decline observed in Yosemite toad populations over the past few decades.

Disease has been documented in Yosemite toad populations, and recent data documenting historic trends in Bd infection intensity are compelling (Dodge and Vredenburg 2012, p. 1), but disease has not been definitively tied to the observed rangewide decline. There is considerable evidence that various stressors, mediated via impacts to meadow hydrology following upslope land management practices over the last century, have detrimentally affected the quantity and quality of breeding meadows. Many of these stressors, such as grazing, have been more significant in the past than under current management standards. However, legacy effects remain, and meadows tend not to recover without active intervention once excessive stream incision in their watershed is set in motion (Vankat and Major 1978, pp. 386–397). Certain stressors may be of concern, such as recreational impacts and avian predation upon terrestrial life stages of toads, although we do not have sufficient data to document the magnitude of these particular stressors.

Given the evidence supporting the role of climate in reducing populations and potentially leading to the extirpation of many of the populations studied through the 1970s and into the early 1990s (Kagarise Sherman and Morton 1993, pp. 186–198), this factor is likely either a primary driver, or at least a significant contributing factor in the declines that have been observed. Climate models predict increasing drought intensity and changes to the hydroperiod based on reduced snowpack, along with greater climate variability in the future (PRBO 2011, pp. 18–25). These changes will likely exacerbate stress to the habitat specialist Yosemite toad through a pronounced impact on its ephemeral aquatic habitat, and also through an increase in the frequency of freezing and drying events that kill Yosemite toad eggs and tadpoles. These changes and the resultant impacts likely will effectively reduce breeding success of remnant populations already at low abundance and still in decline. If an interaction such as winter stress and disease (Carey 1993, pp. 355–362) is the underlying mechanism for Yosemite toad declines, then the enhanced influence of climate change as a stressor may tip the balance further towards higher incidence and increased virulence of disease, which would also lead to greater population declines and extirpations.

Determination for Yosemite Toad

Section 4 of the Act (16 U.S.C. 1533), and its implementing regulations at 50 CFR part 424, set forth the procedures for adding species to the Federal Lists of Endangered and Threatened Wildlife and Plants. Under section 4(a)(1) of the Act, we may list a species based on (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) Overutilization for commercial, recreational, scientific, or educational purposes; (C) Disease or predation; (D) The inadequacy of existing regulatory mechanisms; or (E) Other natural or manmade factors affecting its continued existence. Listing actions may be warranted based on any of the above threat factors, singly or in combination.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the Yosemite toad. The Yosemite toad is the most narrowly distributed Sierra Nevada endemic, pond-breeding amphibian (Shaffer *et al.* 2000, p. 246). Although it apparently still persists throughout a large portion of its historical range, it has been reduced to an estimated 13 percent of historical watersheds. (The proposed rule indicated that the toad was reduced to an estimated 12 percent of its range, peer review corrected this number to 13 percent (Brown 2013, unpaginated). In addition, while the best available data do not provide information on whether populations are currently stable, or whether there is a persistent decline, remnant populations are predominantly small.

Yosemite toad populations are subject to threats from habitat degradation associated with land uses that negatively influence meadow hydrology, fostering meadow dewatering, and conifer and other invasive plant encroachment. These activities include the legacy effects of historic grazing activities, the fire management regime of the past century, historic timber management activities, and associated road construction. The impacts from these threats are cumulatively of moderate magnitude, and their legacy impacts on meadow habitats act as a constraint upon extant populations now and are expected to hinder persistence and recovery into the future. Diseases are threats of conservation concern that have likely also had an effect on populations leading to historical population decline, and these threats are operating currently and will continue to do so into the future, likely with impacts of moderate-magnitude effects on Yosemite toad populations.

The individual, interactive, and cumulative effects of these various risk factors have acted to reduce the geographic extent and abundance of this species throughout its habitat in the Sierra Nevada. The combined effect of these stressors acting upon small remnant populations of Yosemite toads is of significant conservation concern. The Yosemite toad has a life history and ecology that make it sensitive to drought and anticipated weather extremes associated with climate change. Climate change is expected to become increasingly significant to the Yosemite toad and its habitat in the future throughout its range. Therefore, climate change represents a threat that has a high magnitude of impact as an indirect stressor via habitat loss and degradation, and as a direct stressor via enhanced risk of climate extremes to all life stages of Yosemite toads.

The Act defines an endangered species as any species that is ''in danger of extinction throughout all or a significant portion of its range'' and a threatened species as any species ''that is likely to become endangered throughout all or a significant portion of its range within the foreseeable future.'' We find that the Yosemite toad is likely to become endangered throughout all or a significant portion of its range within the foreseeable future, based on the immediacy, severity, and scope of the threats described above. These include habitat loss associated with degradation of meadow hydrology following stream incision consequent to the cumulative effects of historic land management activities, notably livestock grazing, and also the anticipated hydrologic effects upon habitat from climate change under listing Factor A. Additionally, we find that disease under listing Factor C was likely a contributor to the recent historic decline of the Yosemite toad, and may remain an important factor limiting recruitment in remnant populations. We also find that the Yosemite toad is likely to become endangered through the direct effects of climate change impacting small remnant populations under Factor E, likely compounded with the cumulative effect of other threat factors (such as disease).

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the species, and have determined that the Yosemite toad meets the definition of threatened under the Act, rather than endangered. This determination is because the impacts from the threats are occurring now at high and moderate magnitudes, but are all likely to become of high magnitude in the foreseeable future across the species' entire range, making the species likely to become in danger of extinction. While population decline has been widespread, the rate of decline is not so severe to indicate extinction is imminent, but this rate could increase as stressors such as climate change impact small remnant populations. Further, the geographic extent of the species remains rather widespread throughout its historic range, conferring some measure of ecological and geographic redundancy. Therefore, on the basis of the best available scientific and commercial information, we finalize listing the Yosemite toad as threatened in accordance with sections 3(20) and 4(a)(1) of the Act.

The term ''threatened species'' means any species (or subspecies or, for vertebrates, distinct population segments) that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act does not define the term ''foreseeable future'' but it likely describes the extent to which the Service could reasonably rely on predictions about the future in making determinations about the future conservation status of the species. In considering the foreseeable future as it relates to the status of the Yosemite toad, we considered the historical data to identify any relevant existing trends that might allow for reliable prediction of the future (in the form of extrapolating the trends). We also considered how current stressors are affecting the species and whether we could reliably predict any future trends in those stressors that might affect the species recognizing that our ability to make reliable predictions for the future is limited by the quantity and quality of available data. Thus the foreseeable future includes the species' response to these stressors and any trends.

Under the Act and our implementing regulations, a species may warrant listing if it is endangered or threatened throughout all or a significant portion of its range. The Yosemite toad is highly restricted in its range, and the threats occur throughout its range. Therefore, we assessed the status of the species throughout its entire range. The threats to the survival of the species occur throughout the species' range and are not restricted to any particular significant portion of that range, nor are they concentrated in a specific portion of the range. Accordingly, our assessment and final determination applies to the species throughout its entire range.

Summary of Comments

In the proposed rule published on April 25, 2013 (78 FR 24472), we requested that all interested parties submit written comments on the proposal by June 24, 2013. Given the large number of requests that we received to extend the public comment period, we reopened the comment period on July 19, 2013 (78 FR 43122), requesting written comments on the proposal by November 18, 2013, and again reopened the comment period on January 10, 2014 (79 FR 1805), with the close of comment period on March 11, 1014. We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. Newspaper notices inviting general public comment were published in the Sacramento Bee and Bakersfield Californian. We received multiple requests for a public hearing. We held two public hearings on January 30, 2014, in Sacramento, California. We also held two public informational meetings, one in Bridgeport, California, on January 8, 2014, and the other in Fresno, California, on January 13, 2014. We also participated in several public forums, one sponsored by Congressman McClintock and two sponsored by Congressman LaMalfa. All substantive information provided during comment periods has either been incorporated directly into this final determination or addressed below.

Peer Reviewer Comments

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinion from five knowledgeable individuals with scientific expertise that included familiarity with the Sierra Nevada yellow-legged frog, the northern DPS of the mountain yellow-legged frog, the Yosemite toad, and the habitat and biological needs of, and threats to each species. We received responses from four of the peer reviewers.

We reviewed all comments received from the peer reviewers for substantive issues and new information regarding the listing of the Sierra Nevada yellow-legged frog, the northern DPS of the mountain yellow-legged frog, and the Yosemite toad. The peer reviewers generally concurred with our methods and conclusions and provided additional information, clarifications, and suggestions to improve the final rule. However, one of the four peer reviewers suggested the rationale for listing Yosemite toad was poorly supported. Peer reviewer comments are addressed in the following summary and incorporated into the final rule.

(1) *Comment:* Two peer reviewers recommended that we refer to *Rana muscosa* as the southern mountain yellow-legged frog in order to reduce reader confusion in the final rule.

Our Response: We have clarified the common names we are using in this final rule for each yellow-legged frog species (see Background and Taxonomy sections in this final rule). While Crother *et al.* (2008, p. 11) accepted the common name of southern mountain yellow-legged frog for *Rana muscosa,* the use of this common name may create additional confusion as the reader may interpret the name to imply the yellow-legged frogs in southern California that are already listed as the southern DPS, rather than the *R. muscosa* in the Sierra Nevada. Therefore, we continue to refer to the northern DPS of *Rana muscosa* as the northern DPS of the mountain yellow-legged frog, as we did in the proposed

rule, to minimize confusion for the public.

(2) *Comment:* Two peer reviewers suggested that we utilize a rangewide analysis for listing *Rana muscosa* and thereby combine the northern and southern DPSs of the mountain yellow-legged frog into one listed entity. Clarifying discussions with one peer reviewer suggested that we not complete a rangewide analysis, but rather keep the DPSs separate (Knapp, pers. comm.).

Our Response: Given the geographic isolation, different habitat requirements, differences in threats, and different management needs between *Rana muscosa* in the Sierra Nevada compared with southern California, we have decided to retain the DPS analysis in the proposed rule and to maintain the northern and southern DPSs of mountain yellow-legged frog as separate listed entities. Within the Sierra Nevada, *R. muscosa* is predominantly found within high-elevation lake habitats that freeze during the winter months, while in southern California, *Rana muscosa* populations occupy stream habitats that are not typically subject to winter freezing. The differences in the habitats utilized by the northern and southern DPSs of the mountain yellow-legged frog and the differences in the threats to each population segment indicate that management actions needed to recover the northern California and southern California populations will also be different and are most expediently addressed separately by DPS (see Distinct Vertebrate Population Segment Analysis in this final rule).

The factors that are threats to the species also differ between the two DPSs. We have identified fish stocking and presence of fish as a threat for both the northern and southern DPSs. However, the other threats we identified for the northern DPS are primarily habitat degradation, disease, and climate change, whereas the main threats for the southern DPS consist of recreational activities, roads, and wildfire. While there is some overlap in the threats identified for the two DPSs, the threats that are important to the species status vary substantially between the Sierra Nevada and southern California.

The differences between the northern and southern DPSs of the mountain yellow-legged frog in both habitat use and the factors affecting the species results in differences in the actions and activities that would be needed to conserve the species in each of the two DPSs. Conservation planning, including identifying actions and setting priorities for recovery, will be more effective and better suited to meet the species' needs if two separate DPSs are retained.

(3) *Comment:* One peer reviewer indicated that the frogs within the Spanish and Bean Creek areas of Plumas County (low-elevation areas within the northern portion of the Sierra Nevada) in which Wengert (2008) conducted telemetry studies of frog movement distances, may actually be foothill yellow-legged frog (*Rana boylii*) rather than Sierra Nevada yellow-legged frogs (*Rana sierrae*) (see Habitat and Life History section in Background for the mountain yellow-legged frogs of this final rule).

Our Response: We acknowledge and understand some of the challenges in correctly identifying the species in areas where the ranges of Sierra Nevada and foothill yellow-legged frogs overlap. Recent genetic analysis of samples collected from frogs in Spanish and Bean Creeks has identified the frogs occurring in Bean Creek as both Sierra Nevada and foothill yellow-legged frogs (Lind *et al.* 2011a, pp. 281–282), while Spanish Creek frogs were identified as foothill yellow-legged frog (Poorten *et al.* 2013, p. 4). However, given the small sample size, Poorten *et al.* (2013, p. 4) suggested that followup investigation was needed to determine whether Sierra Nevada yellow-legged frogs also occur in Spanish Creek.

While it is not clear whether Wengert (2008) studied Sierra Nevada or foothill yellow-legged frogs, given the stream-based ecological setting of the study, we expect that the movement distances recorded are applicable to the Sierra Nevada yellow-legged frog within a stream-based system, as the ecology is comparable between the two sister taxa in regard to stream systems. Additionally, a study conducted by Fellers *et al.* (2013, p. 159) documented Sierra Nevada yellow-legged frog movement distances up to 1,032 m in a 29-day period, suggesting the season-long movement distance documented by Wengert (2008, p. 20) is applicable.

(4) *Comment:* One peer reviewer provided comment that our proposed rule did not include more-recent literature on the effects of airborne contaminants on the mountain yellow legged frog, including Bradford *et al.* 2011, which measured contaminant concentrations at multiple sites in the southern Sierra Nevada and compared their distribution with population declines of mountain yellow-legged frogs, finding no association between the two. The peer reviewer further recommended that we state that frogs are sensitive to contaminants, but measured contaminant concentrations in multiple media indicate very low exposures to contaminants from upwind sources.

Our Response: In our proposed rule, we included a discussion of environmental factors that affect the mountain yellow-legged frog complex, including contaminants. Based on our analysis in the proposed rule, we did not identify this environmental factor as a threat to the species. Upon our review of additional literature, including a study focused specifically on the mountain yellow-legged frog complex, our initial discussion remains valid, which indicated that the potential threat posed by contaminants is not a factor in the listing of this species. We refer to the proposed rule for the discussion of the effects of contaminants on the mountain yellow-legged frog.

(5) *Comment:* One peer reviewer suggested that recent genetic studies (Shaffer *et al.* 2000, Stevens 2001, and Goebel *et al.* 2009) do not support our conclusion that Yosemite toad is a valid species.

Our Response: When conducting our review of the Yosemite toad as a listable entity under the Act, we incorporated the results of the studies mentioned by the peer reviewer. In addition to the previously included literature on the genetics of Yosemite toad, we have included in this final rule results from Switzer *et al.* (2009), which provide genetic data supporting the Yosemite toad as a valid species. While we acknowledge that the evolutionary history of the Yosemite toad is complicated and not fully understood, given our conclusions after reviewing the taxonomy of the species, and given that the scientific community as a whole continues to recognize the Yosemite toad as a valid species, we continue to recognize Yosemite toad as a valid species (for further discussion, see Taxonomy section above).

(6) *Comment:* One peer reviewer provided information regarding the number of localities of Yosemite toad within two National Parks, and suggested that, had we included these locations, the analysis may have had a different outcome.

Our Response: When we conducted our analysis for the proposed rule to determine whether the Yosemite toad warrants listing under the Act, we utilized the best available scientific and commercial information. Part of that information included the geospatial data for Yosemite toad locations within both Yosemite and Sequoia National Parks. These data were subsequently used for the proposed critical habitat designation. While we did have (and used) the information on Yosemite toad locations within the National Parks in

our analysis, we did not cite to this information into the text of the proposed rule. This was updated with the data included in Berlow *et al.* (2013), as well as information received from Sequoia National Park staff. Regardless, we utilized the geospatial data in the proposed rule, determining that the information suggests that the Yosemite toad has disappeared from approximately 47–69 percent of formerly occupied sites (Berlow *et al.* 2013, p. 2). In addition, at many of the remaining sites, Yosemite toads exist in very low numbers, indicating that many remaining populations are vulnerable to extirpation. Our use of the data from both National Forests and National Parks led us to our proposed status determination, which is affirmed here.

(7) *Comment:* One peer reviewer stated that there is scant evidence available to argue that there has been a decline in abundance of the Yosemite toad and that the difficulty in accurately quantifying toad abundance, coupled with the fact that the proposed rule did not include locality data from the National Parks, has weakened the argument for our determination.

Our Response: While we agree that no studies have documented a rangewide decline in population abundances in Yosemite toads, and we do not have sufficient data to conduct a robust trend analysis or detect negative population growth rates, we relied on published literature for our determination. At a minimum, the published literature provides anecdotally documented declines in numbers of individual Yosemite toads at the respective study sites. The best available information shows that the Yosemite toad populations have declined, and that the remnant populations comprise low numbers of individual adult toads. For our analysis, we did utilize the data on toad locations in the National Parks (see our response to comment 6) and included it as part of our analysis on the estimated loss of historically occupied sites (47–69 percent of formerly occupied sites (Berlow *et al.* 2013, p. 2)). We mainly focused our analysis on the potential drivers of population stability and identified the predominate threats to the species as the continuing effects of degradation of meadow hydrology associated with historical land management practices and the effects of climate change and anthropogenic stressors acting on the small remnant populations. (For complete discussion see Summary of Factors Affecting the Species section above.)

(8) *Comment:* One peer reviewer stated that there are scientific uncertainties regarding the long-term population trends and threats to Yosemite toad and that these uncertainties should be explicitly described.

Our response: As required by the Act, we based our proposed rule and this final rule on the best available scientific and commercial data. While there are some uncertainties in the information, we clearly articulated these uncertainties when conducting our analysis for the rule. (See Population Estimate and Status and Meadow Habitat Loss and Degradation sections for examples.)

Federal Agency Comments

(9) *Comment:* The Forest Service suggested that the rule does not represent the best available scientific and commercial information in proposing a determination.

Our Response: In conducting our analysis, we rely on the best available scientific and commercial information, as required by the Act. On occasion, we are not aware of certain information that is available at the time we issue a proposed rule or new information becomes available around the time of publication, which is part of the reason we request public comment, as well as peer review. That portion of the process helps to inform our final decision by soliciting input and seeking additional available information. As a result of this process, we have received new scientific and commercial information that we have reviewed and incorporated into this final rule.

(10) *Comment:* The USFS noted that the proposed rule did not identify mining activities as a threat to the mountain yellow-legged frog.

Our Response: We acknowledge that there is some overlap between current mining activities and areas occupied by the mountain yellow-legged frogs, particularly in the northern part of the range; however, we do not have information to assess the impact that mining has on the species in those areas where mining occurs, and how it acts as either an historical or current threat to the species. Within designated wilderness, new mining claims have been prohibited since January 1, 1984. Additionally, while suction dredge mining may have the potential to alter microhabitat uses by the species, the current moratorium on this practice removes this potential threat. However, we acknowledge that this situation may change in the future.

(11) *Comment:* The USFS suggested that the uncertainties we presented under Factor D as it relates to their Forest Plan revision process and protections for mountain yellow-legged frog are not applicable and that the protections under the SNFPA will continue as a result of consultation with the Service.

Our Response: We did not identify Factor D as a threat to the mountain yellow-legged frog, and we incorporated an analysis of the protection that the current Forest Plans offer the species. While there is some uncertainty as to whether these protections will remain in the revised Forest Plans, the USFS is not required to consult with the Service on the Sierra Nevada yellow-legged frog and northern DPS of the mountain yellow-legged frog in the absence of the protections afforded under the Act. As such, we must evaluate the adequacy of existing regulatory mechanisms from the baseline of the species not being federally listed under the Act.

(12) *Comment:* The USFS suggested the final rule include a discussion of the impacts of bullfrog predation on the mountain yellow-legged frog.

Our Response: We have limited information on the presence of bullfrogs in the Sierra Nevada, but we have included a section on the potential threat of American bullfrogs where they are known to occur in the Lake Tahoe Basin (see discussion under Factor C for mountain yellow-legged frogs).

(13) *Comment:* The USFS and several other commenters suggested that the information presented as it relates to the impacts of grazing on Yosemite toad was inaccurate. Specifically, they suggested that we did not include the results of peer-reviewed journal articles in our analysis of the impacts posed by livestock grazing.

Our Response: At the time of the proposed rule, we were aware of the peer-reviewed literature related to the impacts of livestock grazing on Yosemite toad, and inadvertently omitted the literature from the rule. We have reviewed and included the relevant articles in this final rule. Additionally, while we did not incorporate all of the specifics of the journal articles, we did incorporate the results of a 5-year study that investigated the impacts of cattle grazing on Yosemite toad in our analysis, as they were presented in Allen Diaz *et al.* 2010, and subsequently in the Lind *et al.* (2011b, addendum).

(14) *Comment:* The USFS and several other commenters suggested that our reliance on a single non-peer-reviewed study to assess the impacts of cattle grazing on Yosemite toads, through direct mortality or the modification of their habitat, was inappropriate. Additionally, they suggested we discounted the peer-reviewed published

journal articles related to the impacts of cattle grazing on Yosemite toad.

Our Response: In conducting our analysis, we rely on the best available scientific and commercial information, as required by the Act. This information does not need to be specifically published in a scientific journal. The Martin (2008) study that is being referred to by the commenters is a doctoral dissertation that was, in fact, reviewed prior to release. We relied on the information presented by Martin in assessing the potential for direct mortality of Yosemite toad that is attributed to livestock. We also relied on Martin for the potential impacts of livestock grazing on overwintering and upland areas utilized by Yosemite toad, as the peer-reviewed publications that the commenters referred to were based on a study that only assessed grazing effects on breeding. As such, the best available scientific and commercial information includes Martin (2008). In our proposed rule, we evaluated the information that ran contrary to Martin (2008), and we have subsequently incorporated the information presented in the peer-reviewed journal articles in this final rule. Please also see response to comment #13.

(15) *Comment:* The USFS commented that chytrid fungus, fish stocking, and climate change pose the greatest threats to the mountain yellow-legged frogs, and that threats from authorized management activities are insignificant threats to the species.

Our Response: We have concluded in this final rule that, in general, authorized activities on public lands managed by the USFS and the NPS are not significant threats to the mountain yellow-legged frogs, but we also recognize that there may be limited site-specific conditions where authorized activities could have population-level effects, especially where populations are small or habitat areas are limited (see Summary of Factors Affecting the Species in this final rule).

(16) *Comment:* The USFS noted that recent publications indicate that livestock grazing that meets current USFS standards and guidelines is less of a threat to the Yosemite toad than was described in the proposed rule.

Our Response: We have revised our discussion of grazing in this final rule to clarify the conditions under which we consider current grazing activities to pose habitat-related threats to the Yosemite toad (see Summary of Changes and Factor A discussion for the Yosemite toad).

Comments From States

(17) *Comment:* The California Department of Fish and Wildlife (CDFW) originally commented that the threats presented in the proposed rule suggested that a determination of threatened status would be more appropriate than endangered for the Sierra Nevada yellow-legged frog. However, CDFW reconsidered this suggestion after discussions with Service staff and submitted a followup comment letter that agrees with the Service determination and supports listing the Sierra Nevada yellow-legged frog as endangered.

Our Response: We find that an endangered status for the Sierra Nevada yellow-legged frog is an appropriate determination and appreciate CDFW's reconsideration of their initial comments.

(18) *Comment:* CDFW commented that they remain concerned that listing the species as endangered could hinder timely implementation of the Department's recovery and restoration efforts for the species pursuant to its State-listing under CESA. CDFW notes that they have a responsibility to continue activities and expand efforts that will contribute to the recovery of the Sierra Nevada yellow-legged frog and hope that such efforts can be fostered through the 1991 *Cooperative Agreement between the California Department of Fish and Game and the U.S. Fish and Wildlife Service.* They also comment that, in his June 13, 2012, memo to the Service's Regional Directors, the Director of the Fish and Wildlife Service acknowledged the Federal-State collaborative nature of conservation activities for listed species.

Our Response: We note that, for research activities that aid in the recovery of the species, and that may result in take, a permit issued under section 10a(1)A of the Act is the appropriate mechanism. However, our regulations at 50 CFR 17.21 state that any qualified employee or agent who is designated by CDFW for such purposes, may, when acting in the course of his official duties, take endangered wildlife species covered by a Cooperative Agreement (developed pursuant to Section 6 of the Act) between the Service and the State provided such take is not reasonably anticipated to result in: (1) The death or permanent disabling of the specimen; (2) the removal of the specimen from the State of California; (3) the introduction of the specimen or any of its progeny into an area beyond the historical range of the species; or (4) the holding of the specimen in captivity for a period of more than 45 days. Take that does not meet these four conditions would require a section 10(a)(1)(A) permit. We acknowledge and appreciate the important role that CDFW will play in the recovery of the Sierra Nevada yellow-legged frog, and look forward to continuing collaborative conservation actions with CDFW for this and other listed species in California.

(19) *Comment:* CDFW agreed that we should retain the northern DPS and the southern DPS designations for the mountain yellow-legged frog (*Rana muscosa*). They provided updates to our discussion of take related to State-listing of the mountain yellow-legged frog complex.

Our Response: We appreciate the support, and we have retained the two DPSs in the final determination (see Distinct Vertebrate Population Segment Analysis). We have also revised our discussion of CESA to provide the updated information on take related to State-listing of the mountain yellow-legged frog complex (see Factor D for mountain yellow-legged frog).

(20) *Comment:* CDFW provided comments on our discussion of the following threats to the mountain yellow-legged frog complex: Recreational activities, past trout stocking versus continued trout stocking, and pesticide detection in the Sierra Nevada. They commented that the evidence presented in the Recreation section did not support the conclusion, urging us to readdress the section and remove claims unsupported by appropriate citations, and noted that recreation effects to the environment were supported, but no evidence indicates that such activities affect the frog populations. In the Recreation section, they also noted several errors and inaccuracies in citing other authors. CDFW provided extensive comments on our discussion of dams and water diversions, commenting that they were of the opinion that dams and diversion posed a threat of low significance to the continued existence of the mountain yellow-legged frogs and suggesting that the section required significant amendments to accurately capture the degree of potential impacts. They noted that most dams were constructed below the range of extant frog populations, and that some information was misapplied from research on lower-elevation amphibian species, such as the foothill yellow-legged frog, which resulted in overstatement of the potential impact of dams and water diversions on the mountain yellow-legged frog complex. They provided numerous smaller specific comments on text within the section.

Our Response: We thank the CDFW for the additional information provided to strengthen our analysis. We have addressed these comments through changes to the Fish Stocking, Recreation, and Dams and Water Diversions sections for the Sierra Nevada and mountain yellow-legged frogs in this final rule. We re-checked references and revised the sections noted to state more clearly the potential effects of these activities, to rely on appropriate citations, and to refine our conclusions in agreement with CDFW's comments. Please see Factor A in Summary of Factors Affecting the Species for updated information.

Public Comments

(21) *Comment:* Several commenters suggested that the Service does not have the authority or jurisdiction to designate the Sierra Nevada yellow-legged frog and the northern DPS of the mountain yellow-legged frog as endangered nor the Yosemite toad as threatened.

Our Response: The authority for the Service to issue this rulemaking comes from the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), as amended, through the 108th Congress. The Service is designated as the lead Federal agency for implementing the Act for terrestrial and freshwater species. Authority to implement the Act does not require Federal jurisdiction or land ownership

(22) *Comment:* Multiple commenters indicated that existing Federal and State legislation and regulations, such as the Wilderness Act, CESA, and CDFW regulations, provide sufficient protection for these amphibians, and thereby eliminate the need for listing the species.

Our Response: We agree that existing Federal and State legislation and regulations, such as the Wilderness Act, CESA, and CDFW regulations provide some protection for the Sierra Nevada yellow-legged frog, the northern DPS of the mountain yellow-legged frog, and the Yosemite toad. However, while existing legislation and regulations provide some level of protection for the Sierra Nevada yellow-legged frog, the northern DPS of the mountain yellow-legged frog, and the Yosemite toad, they do not require that Federal agencies ensure that actions that they fund, authorize, or carry out will not likely jeopardize the species' continued existence (for further information see discussions under Factor D). Therefore, we have determined that the Sierra Nevada yellow-legged frog and the northern DPS of the mountain yellow-legged frog are endangered and that the Yosemite toad is threatened under the Act.

(23) *Comment:* Several commenters suggest that it is necessary for the Service to conduct an analysis of the impacts that listing a species may have on local economies prior to issuance of a final rule.

Our Response: Under the Act, the Service is not required to conduct an analysis regarding the economic impact of listing endangered or threatened species. However, the Act does require that the Service consider the economic impacts of a designation of critical habitat. A draft of this analysis is available to the public on *http://www.regulations.gov* (79 FR 1805).

(24) *Comment:* Several commenters suggested that the decline of the Sierra Nevada yellow-legged frog, northern DPS of the mountain yellow-legged frog, and the Yosemite toad is a natural evolutionary process, and that the presence of environmental stressors is a normal driver of evolution and/or extinction.

Our Response: Under the Act, we are required to use the best available scientific and commercial information to assess the factors affecting a species in order to make a status determination. The Act requires the Service to consider all threats and impacts that may be responsible for declines as potential listing factors. The evidence presented suggests that the threats to the species are both natural and manmade (see Factor E—Other Natural or Manmade Factors Affecting the Species), but that they are primarily the result of anthropogenic influences (see Summary of Factors Affecting the Species in this final rule). Thus, the threats associated with the declines of these species are not part of a natural evolutionary process.

(25) *Comment:* Several commenters were concerned about the effects of listing on mining and associated activities conducted under the General Mining Law of 1872. They suggested that the listing of these species will remove 5 million acres from mining and other productive uses of the land. One commenter was concerned that there would be no assurances that development of a mining claim will result in the ability to mine it.

Our Response: In the proposed rule, we identified unauthorized discharge of chemicals or fill material into any water upon which the Sierra Nevada yellow-legged frog, the northern DPS of the mountain yellow-legged frog, and the Yosemite toad are known to occur as a potential threat to these species. On National Forests outside of designated wilderness, new mining may occur pursuant to the Mining Law of 1872 (30 U.S.C. 21 *et seq.*), which was enacted to promote exploration and development of domestic mineral resources, as well as the settlement of the western United States. It permits U.S. citizens and businesses to prospect hardrock (locatable) minerals and, if a valuable deposit is found, file a claim giving them the right to use the land for mining activities and sell the minerals extracted, without having to pay the Federal Government any holding fees or royalties (GAO 1989, p. 2). Gold and other minerals are frequently mined as locatable minerals, and, as such, mining is subject to the Mining Law of 1872. However, Federal wilderness areas were closed to new mining claims at the beginning of 1984 (see Factor D under mountain yellow-legged frogs above), thereby precluding the filing of new mining claims in those areas designated as Federal wilderness (a large part of the area in which the species occur). Authorization of mining under the Mining Law of 1872 is a discretionary agency action pursuant to section 7 of the Act. Therefore, Federal agencies with jurisdiction over land where mining occurs will review mining and other actions that they fund, authorize, or carry out to determine if listed species may be affected in accordance with section 7 of the Act.

(26) *Comment:* Numerous commenters suggested that the listing of the Sierra Nevada yellow-legged frog, the northern DPS of the mountain yellow-legged frog, and the Yosemite toad are being misused to restrict or prohibit access for fishing, hiking, camping, and other recreational uses, and implement land use restrictions, management requirements, and personal liabilities on the public that are not prudent, clearly defined, or necessary.

Our Response: The listing of the Sierra Nevada yellow-legged frog, the northern DPS of the mountain yellow-legged frog, and the Yosemite toad does not prevent access to any land, whether private, tribal, State, or Federal. The listing of a species does not affect land ownership or establish a refuge, wilderness, reserve, or other conservation area. A listing does not allow the government or public to access private lands without the permission of the landowner. It does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Federal agencies will review actions that they fund, authorize, or carry out to determine if any of these three amphibians, and other listed species as appropriate, may be affected by the Federal action. The Federal agency will

consult with the Service, in accordance with Section 7 of the Act (see also response to comment 25).

(27) *Comment:* Several commenters suggested that listing the Sierra Nevada yellow-legged frog and the northern DPS of the mountain yellow-legged frog under the Act is not necessary given that a majority of the range of these species is within wilderness areas afforded protection under the Wilderness Act and by the protections afforded under CESA.

Our Response: We agree that existing Federal and State legislation and regulations, such as the Wilderness Act and CESA, provide some protection for the Sierra Nevada mountain yellow-legged frog, the northern DPS of the mountain yellow-legged frog, and the Yosemite toad. However, we identified the main threats to the two frog species as habitat degradation and fragmentation, predation and disease, climate change, and the interactions of these stressors on small populations. Neither the Wilderness Act nor the State's listing status under CESA ameliorates these threats to levels that would preclude the need to list the species under the Act. (See discussion under Factor D).

(28) *Comment:* One commenter suggested that habitat and range of the mountain yellow-legged frog is not threatened with destruction or modification based on a large portion being located in wilderness, and the proposed rule stating ''physical habitat destruction does not appear to be the primary factor associated with the decline of the mountain yellow-legged frogs.''

Our Response: While we agree that the loss, destruction, or conversion of physical habitat is not a primary factor in the decline of the mountain yellow-legged frogs, we discuss both the biological modification of habitat due to changes in predator communities, prey communities, and in nutrient levels, and due to the habitat fragmentation associated with the presence of introduced fish. Although the presence of introduced fish does not result in conversion or loss of the physical attributes of habitat (for example, removal or filling of lakes, ponds, etc.), fish presence does effectively preclude the use of the habitat by the mountain yellow-legged frog (see our discussion under Factor A). While a large portion of the range of the mountain yellow-legged frog is within federally designated wilderness, or on National Parks, we identified the main threats to the species as habitat degradation and fragmentation, predation and disease, climate change, and the interactions of these stressors on small populations. Neither the Wilderness Act nor the protections afforded within National Parks ameliorates these threats to levels that would preclude the need to list the species under the Act (see discussion under Factor D).

(29) *Comment:* One commenter stated that we failed to consider the effectiveness of restoration activities being conducted by CDFW as part of their High Mountain Lakes Project and plans for Yosemite and Sequoia and Kings National Parks that are intended to implement restoration actions.

Our Response: We are aware of the activities, including the High Mountain Lakes Project (see Factor A discussions above in this final rule), being conducted by CDFW, USFS, NPS, and researchers aimed at restoring habitat for the mountain yellow-legged frog. While efforts of interested parties have resulted in the restoration of habitat for these species, the restored habitat represents a small portion of the range of the species, and has occurred only in localized areas. As such, these activities, while beneficial and important for the recovery of the species, do not significantly counter the threats of introduced predators, disease, or climate change. Additionally, we are aware of planning efforts by Yosemite and Sequoia and Kings National Parks, partially implemented, and we are aware that these restoration plans have not been finalized.

(30) *Comment:* One commenter provided information suggesting livestock are responsible for the transportation of Bd in the environment.

Our Response: While livestock may provide a vector for the transmission of amphibian disease within the Sierra Nevada, there are numerous other mechanisms of transport, including wildlife, as well as anthropogenic vectors. Since the importance of differing disease vectors related to Bd is poorly understood, we did not include a discussion of disease transport associated with livestock grazing in this rule (see Factor C for discussion of disease).

(31) *Comment:* One commenter provided information to suggest that activities associated with illicit cultivation of marijuana on National Forest System lands should be identified as a potential threat to the mountain yellow-legged frog.

Our Response: We agree that aspects associated with illegal cultivation of marijuana on National Forest System lands may pose a risk to the mountain yellow-legged frogs, such as dewatering of habitats and contamination from pesticides and fertilizers. There is potential overlap with this illegal activity and areas occupied by mountain yellow-legged frogs; however, not enough information is available at this point to assess the impact that illegal cultivation of marijuana has on the species.

(32) *Comment:* Several commenters suggest that there is insufficient evidence to make a listing determination for the mountain yellow-legged frog in accordance with the Act.

Our Response: As we have presented in both the proposed rule and this final rule, a substantial compilation of scientific and commercial information is available to support listing both the Sierra Nevada yellow-legged frog and the northern DPS of the mountain yellow-legged frog under the Act. We have presented evidence that there has been a curtailment in range and numbers attributed to habitat degradation and fragmentation under Factor A, predation and disease under Factor C, and climate change and the interaction of these various stressors cumulatively impacting small remnant populations under Factor E (see Determination for the Sierra Nevada Yellow-legged Frog and Determination for the Northern DPS of the Mountain Yellow-legged Frog sections above for a synopsis and see the Summary of Factors Affecting the Species for a detailed analysis).

(33) *Comment:* Numerous commenters purported that the greatest threat to the mountain yellow-legged frog is Bd, and since listing the species will not alleviate the threat, the species should not be listed. Additionally, it was suggested that these species should be reared in captivity until the threat of Bd is resolved.

Our Response: We agree that Bd is one of the primary contributing factors in the current decline of these species; however, it is not the only factor responsible for their decline or the only one forming the basis of our determination. All Factors are considered when making a listing determination (see the Summary of Factors Affecting the Species for a detailed discussion). We have also identified habitat fragmentation and predation attributed to the introduction of fish and climate change as threats to the species. We are required to evaluate all the threats affecting a species, including disease under Factor C.

With respect to the prospect of captive breeding, we acknowledge that this activity is one of the suite of tools that can be utilized for the conservation of the species. Captive breeding is currently being conducted for the southern DPS of the mountain yellow-

legged frog, and we are currently working with various facilities to explore this option. Additionally, when a species is listed as either endangered or threatened, the Act provides many tools to advance the conservation of listed species; available tools including recovery planning under section 4 of the Act, interagency cooperation and consultation under section 7 of the Act, and grants to the States under section 6 of the Act. All of these mechanisms assist in the conservation of the species.

(34) *Comment:* Several commenters provided information to suggest that livestock grazing is not detrimental to amphibian species and that the proposed rule did not adequately capture the neutral or beneficial effects of livestock grazing on amphibian species.

Our Response: We have revised our discussion of grazing in this final rule to clarify the conditions under which we consider current grazing activities to pose habitat-related threats (see Factor A above). In addition, research with a related ranid frog of western montane environments, (the Columbia spotted frog, *Rana luteiventris*) has indicated that livestock grazing may reduce vegetation levels in riparian and wet meadow habitat, but does not have short-term effects on the frog populations, although they caution that the length of the study may not capture potential long-term effects (Adams *et al.* 2009, pp. 132, 137). However, George *et al.* (2011, pp. 216, 232) in a review of the effectiveness of management actions on riparian areas, noted that continuous grazing often results in heavy grazing use of riparian areas, even if an area is lightly stocked, because livestock are attracted to the areas from adjacent uplands. They note substantial literature that documents that livestock grazing could damage riparian areas, and the resulting move, beginning in the 1980s, in Federal and State resource agencies to apply conservation practices to protecting and improving riparian habitats (George *et al.* 2011, p. 217). They note that studies provide sufficient evidence that riparian grazing management that maintains or enhances key vegetation attributes will enhance stream channel and riparian soil stability, although variable biotic and abiotic conditions can have site-specific effects on results (George *et al.* 2011, pp. 217–227).

In our proposed rule, we focused on livestock grazing as a potential listing factor, and while there are potentially some current, localized effects to the Sierra Nevada yellow-legged frog, the northern DPS of the mountain yellow-legged frog, and the Yosemite toad, we consider the majority of the impacts associated with livestock grazing are the legacy effects of historically high grazing intensities.

(35) *Comment:* One commenter stated that the discussion of the effects of global climate change in the proposed rule for the Sierra Nevada yellow-legged frog, northern DPS of the mountain yellow-legged frog, and Yosemite toad was not appropriate. The commenter believed that the Service ''pushes'' the climate models, both spatially and temporally, beyond what the commenter considered to be reliable, and ignores their uncertainty. In addition, the commenter claims that no credible models can project potential climate change in the Sierra Nevada. The commenter stated the Act is not an appropriate mechanism to regulate global climate change and greenhouse gases. Finally, the commenter suggested if the Service does list the three amphibians, that they be designated as threatened species with a section 4(d) rule that excludes lawful greenhouse gases from the prohibitions of the Act.

Our Response: We used the best available scientific and commercial information available as it pertains to climate change. In addition to the peer-reviewed scientific journal articles and reports that were utilized in our analysis and cited in the proposed rule, recently published studies have presented data and conclusions that increase the level of confidence that global climate change is the result of anthropogenic actions (summarized in Blaustein *et al.* 2010 and discussed above). A recent paper (Kadir *et al.* 2013) provides specific information on the effects of climate change in the Sierra Nevada and is discussed above. While the Service is concerned about the effects of global climate change on listed species, wildlife, and their habitats, to date, we have not used the Act to regulate greenhouse gases. We evaluated the suggestion that the three amphibians be listed as threatened species with a section 4(d) rule excluding prohibitions or restrictions on greenhouse gases. However, our determination is that the Sierra Nevada yellow-legged frog and the northern DPS of the mountain yellow-legged frog meet the definition of endangered, the Yosemite toad meets the definition of threatened, and a section 4(d) rule for greenhouse gases is not appropriate.

(36) *Comment:* One commenter suggested that the discussion of genetics for the mountain yellow-legged frog does not support the taxonomy of the Sierra Nevada yellow-legged frog and the northern DPS of the mountain yellow-legged frog as separate species. The commenter further suggested the text of the rule specifying two major genetic lineages and four groups does not support listing of the frogs as separate genetic groups.

Our Response: Vredenburg *et al.* (2007, p. 317) did not rely solely on DNA evidence in the recognition of two distinct species of mountain yellow-legged frog in the Sierra Nevada, but instead used a combination of DNA evidence, morphological information, and acoustic studies. The taxonomy of the mountain yellow-legged frogs as two distinct species in the Sierras has been widely accepted in the scientific community and by species experts. We are not listing a subspecies but rather two separate, recognized species, the Sierra Nevada yellow-legged frog and the northern DPS of the mountain yellow-legged frog.

(37) *Comment:* Several commenters suggested that activities such as timber harvest, road construction, recreation, and livestock grazing are in decline in the Sierras compared with historical levels and should not be included as potential threats to the Sierra Nevada yellow-legged frog, the northern DPS of the mountain yellow-legged frog, or the Yosemite toad.

Our Response: In conducting our analysis of the factors affecting the species, we did include timber harvest, road construction, recreation, and livestock grazing, as potential threats to the species, but acknowledge that the major impact on the species was the result of the legacy effects of historical practices, and that these activities currently pose a lower intensity, localized threat. We have attempted to clarify the distinction in this final rule (see Factor A discussions above).

(38) *Comment:* Numerous commenters stated that listing the mountain yellow-legged frogs and the Yosemite toad would prevent fuels-reduction activities, leading to fires and loss of habitat.

Our Response: In this final rule under Factor A for the mountain yellow-legged frogs and Yosemite toad, we address potential habitat changes that may be related to timber harvest activities, including harvests for fuels reduction purposes. We found that most populations of the three species occur at high elevations above areas where timber harvests are likely. At lower elevations, forest standards and guidelines would be expected to limit potential threats to the species in most cases, although limited site-specific situations might result in habitat effects with population consequences. We also found that changed fire regimes have, in some of the same lower elevation areas,

led to an increased potential for high-intensity fires, which could alter habitat and, therefore, pose relatively localized population-level effects to the species. For the Yosemite toad, we found that although ground-disturbance due to timber harvest activities has the potential to have population-level effects at lower elevations, especially where habitat is limited, currently the best available information indicates toads might achieve long-term benefits from activities that reduce encroachment of trees into breeding sites. Therefore, we expect that fuels-reduction activities in lower elevation areas will be generally beneficial to these species.

(39) *Comment:* A number of commenters suggested that, given the results of more-recent studies that were not included in the proposed rule, livestock grazing should be removed as a threat to the Yosemite toad (See also comment 13 from the USFS).

Our Response: In our proposed rule, we addressed the potential impacts of grazing on Yosemite toad based on Allen-Diaz *et al.* (2010). The more-recent studies referenced (such as Roche *et al.* 2012a and 2012b, and McIlroy *et al.* 2013) are different publications but are based on the results of the companion studies whose initial report, and subsequent addendum, we referenced as Allen-Diaz *et al.* (2010) and Lind *et al.* (2011b). The study conducted determined that livestock grazing in accordance with the USFS's standards and guidelines does not affect Yosemite toad breeding success. While appropriately managed levels of grazing do not impact breeding success, these grazing standards are not always met. Additionally, the main impact of grazing on Yosemite toad is due to the legacy effects of historical grazing intensities on Yosemite toad habitat. Given the limitations of the study (see discussion under Factor A) and the documentation that these standards are not always met, livestock grazing may continue to pose a localized threat to the species.

(40) *Comment:* One commenter provided several comments suggesting that livestock grazing is not a threat to Yosemite toad in light of the results of a current study, the documentation of Yosemite toads existing in areas that have been subject to grazing for centuries, and because the population declines cited in our proposed rule occurred in an area not subject to grazing.

Our Response: See response to comments 13, 14, and 39. In our proposed rule, we identified the impacts of livestock grazing primarily from an historical context as a potential contributor to meadow degradation. There is a great deal of information, while not specific to Yosemite toad, on the negative impacts of high-intensity grazing regimes on ecosystem dynamics. Grazing under current Forest Service standards does not appear to impact Yosemite toad breeding, however when inappropriate levels of grazing do occur, grazing may still present a localized impact on Yosemite toads via direct mortality or through practices that prevent the hydrologic recovery of historically wet meadow systems. While the documented declines of Yosemite toad have occurred in areas that are not currently subject to livestock grazing, historical grazing occurred throughout the Sierra Nevada. We did not implicate livestock grazing in the decline in population sizes, rather as a potential historical driver in meadow degradation rangewide. We have clarified this distinction in the final rule (see Factor A discussion and Summary of Factors Affecting the Species for the Yosemite toad).

(41) *Comment:* One commenter suggested that livestock grazing continues to provide a threat to the Sierra Nevada yellow-legged frog and Yosemite toad and provided information documenting habitat degradation attributed to current livestock grazing and utilization above the standards of the SNFPA.

Our Response: As we have presented in the proposed and final rules, the impact of livestock grazing on these species is primarily one of historical significance, with the potential for future localized impacts to the species and/or their habitat. Based on the information provided regarding habitat conditions and potential impacts to habitat, we have maintained our position that current livestock grazing poses a localized impact to the mountain yellow-legged frogs and a prevalent threat with moderate impacts to the Yosemite toad.

(42) *Comment:* One party commented that we have not demonstrated that the Sierra Nevada population of the mountain yellow-legged frog is a DPS. They indicate that we have not shown that the population is significant to the taxon as a whole because we have not shown whether other populations of the species could persist in the high-elevation Sierra Nevada portion of the species' range or discussed how the Sierra Nevada populations are adapted to the area. In addition, they indicate that we failed to show that extirpation of the northern population would result in a significant gap in the range of the species, and we did not show that the populations had markedly different genetics characteristics.

Our Response: The commenters correctly noted that, to recognize a population of a species as a DPS, we must establish that the population is (1) discrete from the remainder of the populations to which the species belongs, and (2) if determined to be discrete, it is also found to be significant to the species to which it belongs. However, the commenters incorrectly conclude that the population must meet all three criteria for significance. We find the northern population of the mountain yellow-legged frog to be discrete from the southern population because it is separated from the southern frogs by a 225-km (140-mi) barrier of unsuitable habitat. The primary basis for our finding that the northern population is significant to the species as a whole is that loss of the northern population would mean the loss of the species from a large portion of its range and reduce the species to small isolated occurrences in southern California. The population also meets two additional criteria for significance: (1) Evidence of the persistence of the discrete population segment in an ecological setting unusual or unique for the taxon, and (2) evidence that the discrete population segment differs markedly from the remainder of the species in its genetic characteristics. We have revised the language in our DPS analysis to clarify the basis for the determination (see Distinct Vertebrate Population Segment Analysis).

(43) *Comment:* Numerous commenters commented that we were required to complete a NEPA analysis of the proposed listing.

Our Response: We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), need not be prepared in connection with listing a species as an endangered or threatened species under the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244) (see Required Determinations section of this rule).

(44) *Comment:* One commenter asked that, if we determine that the three amphibian species under consideration are endangered or threatened under the Act, then we enter into a cooperative agreement with the State of California under section 6 of the Act.

Our Response: We have been operating under such a cooperative agreement with the California

Department of Fish and Game (now Department of Fish and Wildlife (CDFW)) since 1991. *http://www.dfg.ca.gov/wildlife/nongame/publications/docs/CDFGCooperativeAgreementWithUSFWS.pdf*

(45) *Comment:* One commenter stated that if the three amphibians considered are listed as threatened or endangered, then research should continue into the causes of population decline.

Our Response: We expect research on these issues to continue into the future. Once the three amphibians are listed as threatened or endangered species under the Act, additional funding for research and other conservation programs for those species will become available through grants established under section 6 of the Act. Such grants are provided to State agencies with which we have established cooperative agreements.

(46) *Comment:* One commenter indicated that because of a County resolution, we must coordinate with the board of supervisors of that County prior to publishing a final rule.

Our Response: We provide all interested parties an equal opportunity to submit comments or information prior to publication of a final rule, and we give equal consideration to all such information and comments, regardless of source. Our requirements for ''coordination,'' however, are established by the Act, by other Federal statutes such as the Administrative Procedure Act, and by executive order.

(47) *Comment:* Several commenters asked for additional time to provide comments. One commenter added that we provided little public outreach.

Our Response: As discussed in the first paragraph of the Summary of Comments and Recommendations section (above), we provided two additional public comment periods for a total of 240 days (approximately 8 months) of public comment. We also hosted two public hearings and two public informational meetings at various locations within the range of the species under consideration. We also attended two additional public meetings hosted by Congressmen representing districts within the range of the species. We contacted and sought input from appropriate Federal and State agencies, scientific experts and organizations, and other interested parties. We also published notices in the newspapers with the largest readerships within both the northern and southern portions of the ranges of the species. Additional public comment periods or outreach were not feasible given limitations imposed by available funds and requirements imposed by the Act regarding available time in which to publish a final rule.

(48) *Comment:* One commenter noted that the Act authorizes the Secretary to extend the time available for publication of a final rule by up to 6 months if ''there is substantial disagreement regarding the sufficiency or accuracy of the available data.'' The commenter stated that such substantial disagreement does exist and so requested that the available time be extended by 6 months. Specifically, the commenter indicated that the available data are not sufficient to support listing after taking into account various Federal and State statutes and programs currently benefiting the three species. Such statutes and programs include the Wilderness Act, the Sierra Nevada Forest Plan, the Clean Water Act, the California Endangered Species Act, and the discontinuation of fish stocking by CDFW in much of the range of the two frogs.

Our Response: While we agree that these efforts aid in the conservation of the three amphibians, we do not consider substantial disagreement to exist regarding our conclusion that the Sierra Nevada yellow-legged frog and the northern DPS of the mountain yellow-legged frog meet the definition of ''endangered species'' under the Act. We considered the existing Federal and State statutes and programs in our determination. The data documenting population declines and extirpations associated with Bd and the presence of introduced fish are sufficient for the Service to determine that the two species are ''in danger of extinction throughout all or a significant portion of [their] range[s].'' Data also show that the Yosemite toad is vulnerable to habitat changes and climate change, and thus merits listing as a threatened species, which is defined as ''likely to become an endangered species within the foreseeable future within all or a significant portion of its range.''

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness, and conservation by Federal, State, Tribal, and local agencies, private organizations, and individuals. The Act encourages cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required by Federal agencies and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Subsection 4(f) of the Act requires the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning includes the development of a recovery outline shortly after a species is listed and preparation of a draft and final recovery plan. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery plan identifies site-specific management actions that set a trigger for review of the five factors that control whether a species remains endangered or may be downlisted or delisted, and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) are often established to develop recovery plans. When completed, the recovery outline, draft recovery plan, and the final recovery plan will be available on our Web site (*http://www.fws.gov/endangered*), or from our Sacramento Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribal, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (e.g., restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be

accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands.

Following publication of this final listing rule, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the States of California and Nevada would be eligible for Federal funds to implement management actions that promote the protection or recovery of the Sierra Nevada mountain yellow-legged frog, Northern Distinct Population Segment of the mountain yellow-legged frog, and the Yosemite toad. Information on our grant programs that are available to aid species recovery can be found at: *http://www.fws.gov/grants.*

Please let us know if you are interested in participating in recovery efforts for the Sierra Nevada yellow-legged frog, the northern DPS of the mountain yellow-legged frog, or the Yosemite toad. Additionally, we invite you to submit any new information on these species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is listed as an endangered or threatened species and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) of the Act requires Federal agencies to ensure that any action authorized, funded or carried out by such agency is not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

Federal agency actions within the species' habitat that may require consultation, as described in the preceding paragraph, include management and any other landscape-altering activities on Federal lands administered by the USFS, NPS, and other Federal agencies as appropriate.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered and threatened wildlife. The prohibitions of section 9(a)(2) of the Act, codified at 50 CFR 17.21 for endangered wildlife, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these), import, export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. Under the Lacey Act (18 U.S.C. 42–43; 16 U.S.C. 3371–3378), it is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

We may issue permits to carry out otherwise prohibited activities involving endangered and threatened wildlife species under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22 for endangered species, and at 17.32 for threatened species. With regard to endangered wildlife, a permit must be issued for the following purposes: for scientific purposes, to enhance the propagation or survival of the species, and for incidental take in connection with otherwise lawful activities.

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a listing on proposed and ongoing activities within the range of listed species. The following activities could potentially result in a violation of section 9 of the Act; this list is not comprehensive:

(1) Unauthorized collecting, handling, possessing, selling, delivering, carrying, or transporting of the species, including import or export across State lines and international boundaries, except for properly documented antique specimens of these taxa at least 100 years old, as defined by section 10(h)(1) of the Act;

(2) Introduction of species that compete with or prey upon the Sierra Nevada yellow-legged frog, the northern DPS of the mountain yellow-legged frog, or the Yosemite toad;

(3) The unauthorized release of biological control agents that attack any life stage of these species;

(4) Unauthorized modification of the mountain meadow habitats or associated upland areas important for the breeding, rearing, and survival of these species; and

(5) Unauthorized discharge of chemicals or fill material into any waters in which the Sierra Nevada yellow-legged frog, the northern DPS of the mountain yellow-legged frog, or the Yosemite toad are known to occur.

Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to the Sacramento Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Under section 4(d) of the ESA, the Secretary has discretion to issue such regulations as he deems necessary and advisable to provide for the conservation of threatened species. Our implementing regulations (50 CFR 17.31) for threatened wildlife generally incorporate the prohibitions of section 9 of the Act for endangered wildlife, except when a ''special rule'' promulgated pursuant to section 4(d) of the Act has been issued with respect to a particular threatened species. In such a case, the general prohibitions in 50 CFR 17.31 would not apply to that species, and instead, the special rule would define the specific take prohibitions and exceptions that would apply for that particular threatened species, which we consider necessary and advisable to conserve the species. The Secretary also has the discretion to prohibit by regulation with respect to a threatened species any act prohibited by section 9(a)(1) of the ESA. Exercising this discretion, which has been delegated to the Service by the Secretary, the Service has developed general prohibitions that are appropriate for most threatened species in 50 CFR 17.31 and exceptions to those prohibitions in 50 CFR 17.32. Since we are not promulgating a special section 4(d) rule, all of the section 9 prohibitions, including the ''take'' prohibitions, will apply to the Yosemite toad.

Required Determinations

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), need not be prepared in connection with listing a species as an endangered or threatened species under the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes.

References Cited

A complete list of references cited in this rulemaking is available on the Internet at *http://www.regulations.gov* and upon request from the Sacramento Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this final rule are the staff members of the Sacramento Fish and Wildlife Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

PART 17—[AMENDED]

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; 4201–4245; unless otherwise noted.

■ 2. Amend § 17.11(h), the List of Endangered and Threatened Wildlife, by revising the entry for ''Frog, mountain yellow-legged (southern California DPS)'' and adding entries for ''Frog, mountain yellow-legged (northern California DPS)'', ''Frog, Sierra Nevada yellow-legged'', and ''Toad, Yosemite'' to the List of Endangered and Threatened Wildlife in alphabetical order under Amphibians to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*
AMPHIBIANS							
*	*	*	*	*	*		*
Frog, mountain yellow-legged (northern California DPS).	*Rana muscosa*	U.S.A. (CA)	U.S.A., northern California.	E	834	NA	NA
Frog, mountain yellow-legged (southern California DPS).	*Rana muscosa*	U.S.A. (CA)	U.S.A., southern California.	E	728	17.95(d)	NA
*	*	*	*	*	*		*
Frog, Sierra Nevada yellow-legged.	*Rana sierrae*	U.S.A. (CA, NV)	Entire	E	834	NA	NA
*	*	*	*	*	*		*
Toad, Yosemite	*Anaxyrus canorus*	U.S.A. (CA)	Entire	T	834	NA	NA
*	*	*	*	*	*		*

* * * * *

Dated: April 21, 2014.

Daniel M. Ashe,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2014–09488 Filed 4–25–14; 1:30 pm]

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