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Presidential Documents

Title 3—

The President

Proclamation 9132 of May 23, 2014

National Hurricane Preparedness Week, 2014

By the President of the United States of America

A Proclamation

Hurricanes can demolish towns, obliterate coastlines, and devastate families. We cannot eliminate the threats they pose, but with careful planning, we can better protect ourselves, our loved ones, and our communities. During National Hurricane Preparedness Week, America fortifies our homes and businesses so that we are ready long before these powerful storms make landfall.

My Administration works closely with State, local, and tribal governments up and down our coastlines, helping prepare for and respond to storms. We are building partnerships with nonprofits and in the private sector, including leading technology companies, which are identifying innovative ways their platforms could strengthen relief efforts and bolster communication during emergencies. As the climate continues to warm, hurricane intensity and rainfall are projected to increase, and we expect sea level rise to make storm surges more costly. That is why, last year, I issued an Executive Order directing the Federal Government to take coordinated action to prepare our Nation for the impacts of climate change. In the years ahead we will remain committed to increasing resilience, investing in scientific research, and cutting red tape so we can quickly send assistance where it is needed most.

It is also critical for individuals, families, and businesses to prepare well in advance. As this year's hurricane season approaches, Americans who live in at-risk areas should assemble emergency supply kits and create action plans—including where to go and routes to follow if State and local officials issue an evacuation order. Keep in mind that hurricanes and tropical storms are not just coastal events; they can produce damaging winds, catastrophic floods, and tornadoes hundreds of miles inland from the center of the storm.

Whether you live along a coastline, inland, or on one of America's many islands, it is essential to know if you are vulnerable to hurricanes and tropical storms. Contact your local emergency management officials for detailed information, and visit www.Ready.gov or www.Hurricanes.gov/Prepare to learn what to do before, during, and after a storm.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 25 through May 31, 2014, as National Hurricane Preparedness Week. I call upon government agencies, private organizations, schools, media, and residents in the coastal areas of our Nation to share information about hurricane preparedness and response to help save lives and protect communities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of May, in the year of our Lord two thousand fourteen, and of the Independence of the United States of America the two hundred and thirty-eighth.

[FR Doc. 2014–12570
Filed 5–28–14; 8:45 am]
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Presidential Documents

Proclamation 9133 of May 23, 2014

Prayer for Peace, Memorial Day, 2014

By the President of the United States of America

A Proclamation

Constant in the American narrative is the story of men and women who loved our country so deeply they were willing to give their all to keep it safe and free. When a revolution needed to be won and our Union needed to be preserved, brave patriots stepped forward. When our harbor was bombed and our country was attacked on a clear September morning, courageous warriors raised their hands and said, ''send me.'' On the last Monday of each May, our Nation comes together to honor the selfless heroes who have defended the land we love and in so doing gave their last full measure of devotion.

Today, we pause to remember our fallen troops, to mourn their loss, and to pray for their loved ones. Though our hearts ache, we find a measure of solace in knowing their legacy lives on in the families our heroes left behind—the proud parents who instilled in their sons and daughters the values that led them to serve; the remarkable spouses who gave our Nation the person they cherished most in the world; and the beautiful children who will grow up with the knowledge that their mother or father embodied the true meaning of patriotism. To those we lost, we owe a profound debt that can never be fully repaid. But we can honor the fallen by caring for their loved ones and keeping faith with our veterans and their fellow brothers and sisters in arms.

The security that lets us live in peace, the prosperity that allows us to pursue our dreams, the freedom that we cherish—these were earned by the blood and the sacrifices of patriots who went before. This Memorial Day, as we near the end of more than a decade of war, let us never forget their service and always be worthy of the sacrifices made in our name. And today and every day, let us pray for and hold close the families of the fallen.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim Memorial Day, May 26, 2014, as a day of prayer for permanent peace, and I designate the hour beginning in each locality at 11:00 a.m. of that day as a time to unite in prayer. I also ask all Americans to observe the National Moment of Remembrance beginning at 3:00 p.m. local time on Memorial Day.

I request the Governors of the United States and the Commonwealth of Puerto Rico, officials of the other territories subject to the jurisdiction of the United States, and appropriate officials of all units of government, to direct that the flag be flown at half-staff until noon on this Memorial Day on all buildings, grounds, and naval vessels throughout the United States and in all areas under its jurisdiction and control. I also request the people of the United States to display the flag at half-staff from their homes for the customary forenoon period.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of May, in the year of our Lord two thousand fourteen, and of the Independence of the United States of America the two hundred and thirty-eighth.

[FR Doc. 2014–12573
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Rules and Regulations

Federal Register

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

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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 457

[Docket No. FCIC–13–0001]

RIN 0563–AC24

Common Crop Insurance Regulations; Forage Seed Crop Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) finalizes the addition of a new regulation that provides forage seed insurance. The provisions will be used in conjunction with the Common Crop Insurance Policy Basic Provisions (Basic Provisions), which contain standard terms and conditions common to most crop insurance programs. The intended effect of this action is to convert the Forage Seed pilot crop insurance program to a permanent insurance program for the 2015 and succeeding crop years.

DATES: This rule is effective June 30, 2014.

FOR FURTHER INFORMATION CONTACT: Tim Hoffmann, Director, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, Beacon Facility, Stop 0812, Room 421, PO Box 419205, Kansas City, MO 64141–6205, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this rule is not significant for the purpose of Executive Order 12866 and, therefore, it has not been reviewed by OMB.

Paperwork Reduction Act of 1995

Pursuant to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information in this rule have been approved by OMB under control number 0563–0053.

E-Government Act Compliance

FCIC is committed to complying with the E-Government Act of 2002, 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.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 13132

It has been determined under section 1(a) of Executive Order 13132, Federalism, that this rule does not have sufficient implications to warrant consultation with the States. The provisions contained in this rule will not have a substantial direct effect on States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation will not have substantial and direct effects on Tribal governments and will not have significant Tribal implications.

Regulatory Flexibility Act

FCIC certifies that this regulation will not have a significant economic impact on a substantial number of small entities. Program requirements for the Federal crop insurance program are the same for all producers regardless of the size of their farming operation. For instance, all producers are required to submit an application and acreage report to establish their insurance guarantees, and compute premium amounts, and all producers are required to submit a notice of loss and production information to determine the amount of an indemnity payment in the event of an insured cause of crop loss. Whether a producer has 10 acres or 1000 acres, there is no difference in the kind of information collected. To ensure crop insurance is available to small entities, the Federal Crop Insurance Act authorizes FCIC to waive collection of administrative fees from limited resource farmers. FCIC believes this waiver helps to ensure small entities are given the same opportunities as large entities to manage their risks through the use of crop insurance. A Regulatory Flexibility Analysis has not been prepared since this regulation does not have an impact on small entities, and, therefore, this regulation is exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605).

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. With respect to any direct action taken by FCIC or to require the insurance provider to take specific action under the terms of the crop insurance policy, the administrative appeal provisions published at 7 CFR part 11 and 7 CFR part 400, subpart J, for the informal review process of good farming

practices, as applicable, must be exhausted before any action against FCIC may be brought.

Environmental Evaluation

This action is not expected to have a significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

This rule finalizes the addition to 7 CFR part 457 of a new § 457.174 Forage Seed Crop Provisions (7 CFR 457.174) that was published by FCIC on August 29, 2013 as notice of proposed rulemaking in the **Federal Register** 78 FR 53370. The public was afforded 30 days to submit comments after the regulation was published in the **Federal Register**.

A total of 27 comments were received from 4 commenters. The commenters were a Risk Management Agency Regional Office, a seed company, an approved insurance provider, and a non-profit crop insurance trade organization.

The public comments received and FCIC's responses to the comments are as follows:

General

Comment: A commenter discussed the dormancy limitation in Montana and Wyoming where dormancy ratings greater than 4 are not insured unless under written agreement causing producers not to contract production of seed with higher dormancy ratings. The commenter wanted the Crop Provisions to be modified to allow dormancy ratings of greater than 4 without limitation.

Response: FCIC notes that this is an underwriting issue that is not part of the rule. The appropriate regional office is reviewing this issue. This rule does not limit insuring the higher dormancy ratings if the regional office determines that such ratings can be appropriately rated and insured. No changes have been made.

Comment: Two commenters stated ''The major concern is with the fall planted seed-to-seed practice in which the insured certifies the adequacy of the stand in the fall after it has been planted. The crop will normally have an adequate stand at this time but it is susceptible to winterkill damage the initial year after it is seeded. The current method and timing for certifying an adequate stand is acceptable for established stands as they are less susceptible to winterkill than when the crop is planted the initial year. We would recommend that the practice of fall planted seed-to-seed acreage be treated similar to winter wheat in a spring only county in that an inspection be done in the spring to ensure that an adequate stand exists. If an adequate stand does not exist, the insured would be required to either replant or sweeten the stand in order for insurance coverage to attach to such acreage. We feel that this is a potential vulnerability in the crop provisions that should be addressed prior to them being published as a final rule.'' One commenter added the related comment ''The biggest concern with the policy is that it should be a spring policy, not a fall policy. At a minimum, all acreage should pass an insurability inspection (by the AIP or insured) in the spring, not fall. Winterkill is by far the biggest peril on fall-seeded acreage of alfalfa seed. The current policy does not have a replant provision. A farmer is expected to replant to continue coverage when practical, whether there is a replant payment or not. The alfalfa seed farmers have been replanting (or sweetening the stand) of winterkilled or damaged acreage in the spring, long before the pilot MPCI policy was developed. We would propose that fall-seeded alfalfa seed would pass an insurability inspection in the spring, same as winter wheat in a spring wheat-only county. Currently, the fall-seeded acreage has a plant count for insurability in the fall and typically passes. This new acreage is very susceptible to winterkill. We insist that the insured then replants the damaged acreage (as he has always done before) in the spring to continue insurance. Insureds cannot collect a production loss when they have the opportunity to replant. We have talked to the seed companies and they have stated the same seed can be used for fall or spring planting or to sweeten the stand (unlike wheat). Whether fall-seeded, spring-seeded or established stand, the acreage should pass a stand count insurability inspection in the spring.

Response: FCIC disagrees with these comments. When the pilot program was initially developed the industry wanted protection against perils such as adverse weather, including events that may occur during the winter months. Therefore, insurance attaches in the fall if the crop has an adequate stand and any loss due to winterkill is intended to be an insurable loss. To require an adequate stand in the spring before insurance attaches will effectively render the coverage for causes of loss occurring during the winter meaningless. To the extent that winterkill is a significant peril, it will be appropriately rated so that premium will cover all expected losses and a reasonable reserve. Insured may elect to sweeten the stand in the spring and that may be in their best interest to produce the crop rather than just collect the insurance. However, in case a program vulnerability is discovered in the future, FCIC will add the phrase '' unless otherwise specified in the Special Provisions '' after the words ''insurance period'' in section 7(c)(3) of this final rule to address this issue.

Section 1—Definitions

Comment: Two commenters commented about hybrid seed production not being insurable except by written agreement and one of the commenters proposed changing the definition of Forage Seed Crop by adding the words ''including those grown for the production of hybrid seed, as'' between ''(e.g., alfalfa, clovers, etc.)'' and ''shown in the actuarial documents.,'' to allow production of hybrid seed to be insurable without doing a written agreement.

Response: FCIC agrees with the proposed change to the definition of Forage Seed Crop and has made the change accordingly in this Final Rule.

Comment: Two commenters suggested that a hyphen be added between the words ''small'' and ''seeded'' in the definition of Forage seed crop.

Response: FCIC agrees with the proposed change and has made the change accordingly in this Final Rule.

Comment: Two commenters questioned the use of the word ''and'' between the words ''price'' and ''used'' in the definition of ''price election.''

Response: FCIC placed the word ''and'' between the words ''price'' and ''used'' in this definition to distinguish between how the price is determined from how such price will be used in the policy. FCIC has revised the phrase to read ''and will be used'' for clarity.

Comment: Two commenters questioned the elimination of the definition of ''type'' in the Crop Provisions.

Response: FCIC is not defining ''type'' in the Crop Provisions because ''type'' is defined in the Basic Provisions.

Section 3—Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities

Comment: Two commenters asked that consideration be given to deleting the phrase ''. . . grown in the county and designated in the actuarial documents . . .'' and adding ''you elect to insure'' after the words ''forage crop''.

Response: The phrase ''grown in the county and designated in the actuarial documents'' is necessary because the forage seed policy may not be available in all counties and to determine where it is available, program participants must look to the actuarial documents for the county to see if premium rates have been provided. This is consistent with the language in section 7. To be consistent, FCIC agrees to add ''you elect to ensure'' after forage crop. No other changes will be made.

Section 6—Report of Acreage

Comment: Two commenters asked that consideration be given to revising and rewriting this section to read:

''In addition to the requirements of section 6 of the Basic Provisions, you must submit to us, on or before the acreage reporting date or as otherwise specified in the special provisions:

''(a) A copy of your forage seed contract for your forage seed acreage; or,

''(b) A copy of your accepted certification application for your certified seed acreage.

''Failure to do so will result in denial of liability and no indemnity due.''

Response: FCIC agrees with the proposed change and has made the change, with a few technical modifications, in this final rule.

Comment: Two commenters asked if consideration had been given to the possibility of revising this section to require that a copy of the contract be obtained at time of claim.

Response: FCIC has not considered this. In light of discussions with the Forage seed industry through the National Alfalfa and Forage Alliance, this was not an issue. This will not be changed.

Section 7—Insured Crop

Comment: One commenter commented about the potential for insuring forage seed legume crops other than alfalfa and proposed that the words ''unless otherwise specified in the Special Provisions.'', be inserted after ''seed production'' in section 7(c)(5) and to remove the word ''solely'' from section 7(a)(2) to allow insuring forage seed legume crops other than alfalfa.

Response: FCIC agrees that other forage seed legume crops could be insured under the Forage Seed Crop Provisions and has made the change accordingly in this Final Rule. FCIC also recognizes that certain legume crops, such as red clover that utilizes the practice of taking a hay crop to remove excess vegetation prior to taking the seed harvest, would not have been able to be insured under the proposed rule. Thus, the change will allow for certain other legume crops to be added to the Special Provisions as determined agronomically and actuarially appropriate by FCIC.

Section 8—Insurance Period

Comment: Two commenters commented to have the following editorial changes made to this section:

(a)(1)(i)–(ii): Instead of listing the states with the earlier date first, suggest switching (i) & (ii) so the group that includes ''. . . and other states'' is last. [Otherwise, (i) appears to be all-inclusive unless you read on to (ii) to see that California and Nevada have a different date.] This would match the order of the groupings in 8(a)(2)(i)–(ii) and (b)(1)–(2). Also [ed.], add a comma or semicolon before ''. . . and other states'' [and likewise in 8(a)(2)(ii)], and consider if the phrase should be ''. . . and all other states'' as in (b)(2).

Response: FCIC agrees with these proposed changes and has made the changes in this final rule accordingly.

Section 9—Causes of Loss

Comment: Two commenters recommended that the cause of loss ''Fire'' be clarified as ''Fire, due to natural causes''.

Response: FCIC disagrees that this change is necessary. The Act and the Basic Provisions make it very clear that only loss due to natural causes are covered and to add this phrase here and not all the other causes of loss could create an ambiguity. No change has been made.

Comment: Two commenters asked if section 9(b)(2) is the only one that refers to the sole/direct cause of loss from section 9(a)(1)–(7), while the others only allow for the causes in section 9(a)(1)–(6). Is it intended that the other 3 are not affected by ''Failure of the irrigation water supply . . .''?

Response: That is correct. Failure of the irrigation water supply does not apply to any provision in subsection (b) except paragraph (2).

Section 10—Settlement of Claim

Comment: Two commenters commented that terminology for settling the claim was inconsistent.

Response: FCIC is unclear of the claimed inconsistencies. The language used is standard to most Crop Provisions. No change has been made.

Comment: Two commenters stated that a hyphen should be added to ''45,000 pound guarantee'' and ''7,500 pound guarantee'' in the example so that it reads ''45,000-pound guarantee'' and ''7,500-pound guarantee''.

Response: FCIC agrees with this proposed change and has made the change in this final rule accordingly.

In addition to the review of the proposed rule regulation and comments received, FCIC is also adjusting the state alignment in section 5 and Section 8 to better align with the climatic and agronomic growing conditions.

List of Subjects in 7 CFR Part 457

Crop insurance, Forage seed, Reporting and recordkeeping requirements.

Final Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation amends 7 CFR part 457 effective for the 2015 and succeeding crop years as follows:

PART 457—COMMON CROP INSURANCE REGULATIONS

■ 1. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(o).

■ 2. Section 457.174 is added to read as follows:

§ 457.174 Forage Seed crop insurance provisions.

The forage seed crop provisions for the 2015 and succeeding crop years are as follows:

FCIC policies: United States Department of Agriculture, Federal Crop Insurance Corporation

Forage Seed Crop Provisions

1. Definitions.

Actual value. The dollar value received, or that could be received, for the forage seed if the forage seed production is properly handled in accordance with the requirements in the forage seed contract or the applicable certifying agency's requirements.

Adequate stand. A population of live plants that equals or exceeds the minimum required number of plants per square foot as shown in the actuarial documents.

Amount of insurance. The amount obtained by multiplying the production guarantee per acre for each type and practice in the unit by the insured acreage of that type and practice, by the applicable base price, and by the percentage of base price you elected. The total of these results will be the amount of insurance for the unit.

Base price. For seed under a forage seed contract, the price per pound (excluding any discounts or incentives that may apply) stated in the forage seed contract. For certified forage seed not under a forage seed contract, and for

forage seed producers who are also forage seed companies, the price contained in the actuarial documents.

Certification application. The form used to request certification of forage seed by the certifying agency.

Certification standards. The standards and procedures of the certification agency to assure genetic purity and identity of the seed certified.

Certified forage seed. Forage seed that meets the certification standards administered by a certifying agency at the time of harvest and that has been grown under a certification application accepted by the certifying agency on or before the acreage reporting date or as otherwise specified in the Special Provisions.

Certifying agency. An agency authorized under the laws of a State, Territory, or possession, to officially certify seed, which has standards and procedures to assure the genetic purity and identity of the seed certified, and approves certification applications for the certified forage seed that meets the certification standards at time of harvest.

Established stand. An adequate stand of live plants for crop years after the seed-to-seed year.

Fall planted. Forage seed crop planted after May 31 of the previous crop year.

Forage seed company. A business enterprise that possesses all licenses for marketing forage seed required by the state in which it is domiciled or operates, and which possesses facilities with enough storage and capacity to accept and process the insured crop timely.

Forage seed contract. A written contract executed between the forage seed crop producer and a forage seed company containing, at a minimum:

(a) The producer's commitment to plant, grow, and deliver the forage seed produced from such plants to the seed company;

(b) The seed company's commitment to purchase all the production from a specified number of acres or the specified quantity of production stated in the contract; and

(c) Either a fixed price per unit of the forage seed or a formula to determine the price per unit value of such seed. Any formula for establishing value must be specified in the written contract. If the formula uses a future price that is settled after the applicable acreage reporting date, then the base price contained in the actuarial documents will apply.

Forage seed crop. Small-seeded legume plants grown for seed (e.g., alfalfa, clovers, etc.), including those grown for the production of hybrid seed, as shown in the actuarial documents.

Harvest. Removal of seed from the windrow or field.

Pound. Sixteen (16) ounces avoirdupois.

Price election. In lieu of the definition in section 1 of the Basic Provisions, the price election will be the base price and will be used for the purposes of determining premium and indemnity under the policy.

Qualified seed testing laboratory. Laboratory qualified by the State to test the forage seed to determine whether it qualifies as certified forage seed.

Seed-to-seed year. The calendar year in which planting occurs for spring planted forage seed and the subsequent calendar year for fall planted forage seed.

Spring planted. Forage seed crop planted before June 1 of the current crop year.

2. Unit Division.

In lieu of the optional unit provisions in section 34 of the Basic Provisions, you may select optional units by forage seed contract or variety if permitted by the Special Provisions.

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities.

In addition to the requirements of section 3 of the Basic Provisions:

(a) You may elect only one percentage of base price and one coverage level for each forage seed crop you elect to ensure, grown in the county, and designated in the actuarial documents. If separate base prices are available by forage seed crop type, the percentage election of base price and coverage level you choose for each forage seed crop type must be the same. For example, if you choose 100 percent of the base price and 65 percent coverage level for a specific forage seed crop type, you must choose 100 percent of the base price and 65 percent coverage level for all the forage seed crop types.

(b) For each unit, separate guarantees will be determined by forage seed crop type and practice.

4. Contract Changes.

In accordance with section 4 of the Basic Provisions, the contract change date is June 30 preceding the cancellation date.

5. Cancellation and Termination Dates.

In accordance with section 2 of the Basic Provisions, the cancellation and termination dates are:

California, Nevada and Utah. October 31;

All Other States. September 30.

6. Report of Acreage.

(a) In addition to the requirements of section 6 of the Basic Provisions, you must submit to us, on or before the acreage reporting date or as otherwise specified in the Special Provisions:

(1) A copy of your forage seed contract for your contracted forage seed acreage; or,

(2) A copy of the accepted certification application for your certified seed acreage.

(b) Failure to provide a copy of the forage seed contract or the certification application accepted by the certifying agency by the acreage reporting date or the date otherwise specified in the Special Provisions will result in denial of liability and no indemnity due.

7. Insured Crop.

(a) In accordance with section 8 of the Basic Provisions, the crop insured will be all types and practices of each forage seed crop you elect to insure, that is grown in the county and for which a premium rate is provided by the actuarial documents:

(1) In which you have a share; and

(2) That is grown for harvest as:

(i) Certified forage seed; or

(ii) Seed grown under a forage seed contract executed on or before the acreage reporting date or the date otherwise specified in the Special Provisions.

(b) For contracted acreage of forage seed crops only, you will not be considered to have a share in the insured crop unless, under the terms of the forage seed contract, you are at risk of a financial loss at least equal to the amount of insurance on such acreage.

(c) In addition to the crop and acreage listed as not insured in sections 8 and 9 of the Basic Provisions, we will not insure any forage seed crop that:

(1) Is interplanted with another crop, unless otherwise specified in the Special Provisions;

(2) Is planted into an established grass or legume;

(3) Does not have an adequate stand at the beginning of the insurance period unless otherwise specified in the Special Provisions;

(4) Exceeds the age limitations for the forage seed crop or type contained in the Special Provisions; or

(5) Is utilized for any purpose during the crop year other than for seed production, unless otherwise specified in the Special Provisions.

(d) A forage seed producer who is also a forage seed company may establish an insurable interest if the following requirements are met:

(1) The producer must comply with these Crop Provisions; and

(2) All the forage seed grown by the forage seed company is enrolled with the appropriate certifying agency.

8. Insurance Period.

(a) Insurance attaches on acreage with an adequate stand on the later of the date we accept your application or the applicable date as follows, unless provided otherwise in the Special Provisions:

(1) For fall planted seed-to-seed year and established stands of forage seed crops, coverage begins for each crop year on:

(i) November 1 for counties in California, Utah and Nevada; and

(ii) October 1 for counties in Idaho, Montana, Oregon, Washington, Wyoming and all other states.

(2) For spring planted seed-to-seed year stands of forage seed crops coverage begins:

(i) May 1 for counties in California and Washington; and

(ii) May 15 for counties in Idaho, Montana, Nevada, Oregon, Utah, Wyoming and all other states.

(b) The calendar dates for the end of the insurance period for counties in the following states are as follows unless otherwise provided in the Special Provisions:

(1) California, Nevada and Utah. October 31.

(2) Idaho, Oregon, Montana, Washington, Wyoming and all other states. September 30.

9. Causes of Loss.

(a) In accordance with the provisions of section 12 of the Basic Provisions, insurance is provided only against the following causes of loss that occur during the insurance period:

(1) Adverse weather conditions;

(2) Fire;

(3) Insects and plant disease, but not damage due to insufficient or improper application of control measures;

(4) Wildlife;

(5) Earthquake;

(6) Volcanic eruption; or

(7) Failure of the irrigation water supply, if caused by a peril specified in sections 9(a)(1) through (6) that occurs during the insurance period.

(b) In addition to the causes of loss excluded in section 12 of the Basic Provisions, we will not insure against damage or loss of production due to:

(1) The crop not being timely harvested, unless such delay in harvesting is solely and directly caused by a cause of loss specified in sections 9(a)(1) through (6);

(2) Insufficient supply of pollinators, as determined by us, unless lack of pollinators or pollination is solely and directly caused by a cause of loss specified in sections 9(a)(1) through (7);

(3) Failure of the certification standard or forage seed company contract acceptance caused by failure to follow proper isolation requirements or inadequate weed control, as determined by us, unless such failure is solely and directly due to a cause of loss specified in sections 9(a)(1) through (6); or

(4) Failure of the certification standard or forage seed contract acceptance due to failure to follow all other certification or contract requirements, as determined by us, unless such failure is solely and directly caused by a cause of loss specified in sections 9(a)(1) through (6).

10. Settlement of Claim.

(a) We will determine your loss on a unit basis. In the event you are unable to provide separate acceptable production records:

(1) For any optional unit, we will combine all optional units for which such production records were not provided; or

(2) For any basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.

(b) In the event of loss or damage to your forage seed crop covered by this policy, we will settle your claim by:

(1) Multiplying the insured acreage for each type and practice by the production guarantee;

(2) Multiplying each result in section 10(b)(1) by the price election;

(3) Totaling the results in section 10(b)(2);

(4) Multiplying the total production to count for each type and practice by the price election;

(5) Totaling the results of each crop type in section 10(b)(4);

(6) Subtracting the result in section 10(b)(5) from the result in section 10(b)(3); and

(7) Multiplying the result in section 10(b)(6) by your share.

(c) The total forage seed production to count (in pounds) from all insurable acreage on the unit will include:

(1) All appraised production as follows:

(i) Not less than the production guarantee per acre for acreage:

(A) That is abandoned;

(B) That is put to another use without our consent;

(C) That is damaged solely by uninsured causes; or

(D) For which you fail to provide production records that are acceptable to us.

(ii) Production lost due to uninsured causes;

(iii) Unharvested production; and

(iv) Potential production on insured acreage that you intend to put to another use or abandon, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end when you put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached and if:

(A) You do not elect to continue to care for the crop, we may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us (The amount of production to count for such acreage will be based on harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or fail to provide sufficient care for the samples, our appraisals made prior to giving consent to put the acreage to another use will be used to determine the amount of production to count);

(B) You elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested production or our reappraisal if additional damage occurs and the crop is not harvested; and

(2) All harvested production from the insurable acreage in accordance with section 10 (e).

(d) In addition to the provisions of section 15 of the Basic Provisions, we may determine the amount of production of any unharvested forage seed on the basis of our field appraisals conducted after the normal time of harvest for the area. If the acreage is later harvested, production records must be provided and if the harvested production exceeds the appraised production, the claim will be adjusted.

(e) Production not meeting the minimum quality requirements contained in the forage seed contract or certifying agency's standards based on tests conducted by a qualified seed testing laboratory due to insurable causes will be reduced as follows:

(1) Divide the actual value by the base price for the insured type; and

(2) Multiply the result (not to exceed 1.0) by the number of pounds of such production.

Example:

You have a 100 percent share and 100 acres of forage seed in the unit, with a guarantee of 600 pounds per acre on 75 acres of an established stand of forage seed and a guarantee of 300 pounds per acre on 25 acres of a spring planted seed-to-seed year stand. All acreage is contracted with a base price of $1.20 per pound and you have selected 100 percent of the base price. Losses due to insured causes of loss have reduced production and quality and you only harvested 37,000 pounds of seed. A

portion of the total production was of poor quality; 10,000 pounds of seed failed to achieve the contract minimum germination requirement; and the salvaged production was valued at $0.80 per pound. Your indemnity would be calculated as follows:

(1) 75 acres × 600 pounds = 45,000-pound guarantee

25 acres × 300 pounds = 7,500-pound guarantee;

(2) 45,000 pounds × $1.20 per pound price election = $54,000 value guarantee

7,500 pounds × $1.20 per pound price election = $9,000 value guarantee;

(3) $54,000 + $9,000 = $63,000 total value of the guarantee;

(4) 27,000 pounds met the contract quality requirements = 27,000 pounds production to count

27,000 pounds × $1.20 per pound = $32,400 10,000 pounds × ($0.80 per pound/$1.20 per pound) = 6,667 pounds production to count

6,667 pounds × $1.20 per pound = $8,000;

(5) $32,400 + $8,000 = $40,400 total value of production to count;

(6) $63,000 − $40,400 = $22,600 loss; and

(7) $22,600 × 100% share = $22,600 indemnity payment.

11. Late and Prevented Planting.

The late and prevented planting provisions of the Basic Provisions are not applicable for forage seed.

Signed in Washington, DC, on May 22, 2014.

Brandon Willis,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 2014–12429 Filed 5–28–14; 8:45 am]

BILLING CODE 3410–08–P

FEDERAL RESERVE SYSTEM

12 CFR Part 216

[Docket No. R–1483]

RIN 7100 AE13

Privacy of Consumer Information (Regulation P)

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is repealing its Regulation P, 12 CFR part 216, which was issued to implement the privacy provisions of the Gramm-Leach-Bliley Act (GLB Act). Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) transferred rulemaking authority for a number of consumer financial protection laws from the Board, and six other Federal agencies, to the Bureau of Consumer Financial Protection (Bureau), including rulemaking authority for the provisions in Subtitle A of Title V of the GLB Act that were implemented in the Board's Regulation P. In December 2011, the Bureau published an interim final rule establishing its own Regulation P to implement these provisions of the GLB Act. The Bureau's Regulation P covers those entities previously subject to the Board's Regulation P. Accordingly, the Board is repealing its Regulation P.

DATES: The final rule is effective June 30, 2014.

FOR FURTHER INFORMATION CONTACT: Vivian W. Wong, Counsel, Division of Consumer and Community Affairs, at (202) 452–3667, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551. For users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263–4869.

SUPPLEMENTARY INFORMATION:

I. Discussion

Subtitle A of Title V of the Gramm-Leach-Bliley Act (GLB Act), 15 U.S.C. 6801–6809, titled ''Disclosure of Nonpublic Personal Information,'' limits the circumstances in which a financial institution can disclose nonpublic personal information about a consumer to nonaffiliated third parties and requires financial institutions to provide certain privacy notices to their customers who are consumers. Prior to July 21, 2011, rulemaking authority for the subtitle was shared by eight Federal agencies, including the Board of Governors of the Federal Reserve System (Board).[1] Each of the agencies issued consistent and comparable rules to implement the GLB Act's privacy provisions; the Board implemented its rule as Regulation P, 12 CFR part 216.

Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act)[2] transferred rulemaking authority for a number of consumer financial protection laws, including the authority to prescribe regulations under the privacy provisions of the GLB Act, to the Bureau of Consumer Financial Protection (Bureau).[3] This transfer of rulemaking authority from the Board and other Federal agencies to the Bureau became effective on July 21, 2011. In connection with the transfer, the Bureau published an interim final rule to establish its own Regulation P, 12 CFR part 1016, to implement the privacy provisions of the GLB Act (Bureau Interim Final Rule).[4] The Bureau Interim Final Rule substantially duplicates the Board's Regulation P and covers financial institutions and other persons for which the Bureau has rulemaking authority pursuant to section 504(a)(1)(A) of the GLB Act, as amended by the Dodd-Frank Act. The Bureau Interim Final Rule does not impose any new substantive obligations on regulated entities.

The scope of the Board's Regulation P is set forth in § 216.1(b)(1) and states that the part applies to state member banks, bank holding companies and certain of their nonbank subsidiaries or affiliates, state uninsured branches and agencies of foreign banks, commercial lending companies owned or controlled by foreign banks, and Edge and agreement corporations. As a result, all of the entities formerly subject to the Board's rule are covered by the Bureau Interim Final Rule.[5] Consequently, the Board published a proposal in February 2014 to repeal its Regulation P, 12 CFR part 216 (Proposed Rule).[6] The Board received four comments on the Proposed Rule.

Almost all commenters supported the Board's proposal to repeal its Regulation P in order to avoid confusion and duplication. One commenter, however, suggested that the regulation be retained in case the law changes. Based on the comments the Board received and because the Bureau Interim Final Rule covers all of the entities formerly subject to the Board's rule, the Board is repealing its Regulation P.

[1] The other Federal agencies included the Federal Deposit Insurance Corporation, the Federal Trade Commission, the National Credit Union Administration, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Securities and Exchange Commission, and the Commodity Futures Trading Commission.

[2] The Dodd-Frank Act, Public Law 111–203, 124 Stat. 1376, was signed into law on July 21, 2010.

[3] The Dodd-Frank Act did not transfer the Board's authority under section 501(b) of the GLB Act to establish information security standards for financial institutions subject to its jurisdiction. 15 U.S.C. 6801(b). Therefore, the Bureau does not have authority to prescribe regulations for GLB Act section 505 as it applies to section 501(b).

[4] 76 FR 79025 (Dec. 21, 2011).

[5] Furthermore, the Board notes that section 1093 of the Dodd-Frank Act revises the GLB Act to provide that notwithstanding the authority of the Bureau to prescribe regulations to implement the privacy provisions with respect to financial institutions and other persons subject to its jurisdiction, the Federal Trade Commission shall have authority to prescribe such regulations with respect to any financial institution that is a motor vehicle dealer described in section 1029(a) of the Dodd-Frank Act. *See* 15 U.S.C. 6804(a)(1)(C).

[6] 79 FR 8904 (Feb. 20, 2014).

II. Final Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) (RFA) generally requires an agency to perform an assessment of the impact a rule is expected to have on small entities. Based on its analysis, and for the reasons stated below, the Board believes that this final rule will not have a significant economic impact on a substantial number of small entities.

1. *Statement of the need for, and objectives of, the final rule.* Title X of the Dodd-Frank Act transferred rulemaking authority for a number of consumer financial protection laws from the Board to the Bureau, effective July 21, 2011, including the Board's rulemaking authority over the privacy provisions of the GLB Act. The Bureau issued the Bureau Interim Final Rule to implement the privacy provisions of the GLB Act in connection with the transfer of this rulemaking authority to the Bureau. All of the entities formerly subject to the Board's Regulation P are covered by the Bureau Interim Final Rule. Consequently, the Board's repeal of the Board's Regulation P, 12 CFR part 216, will not have any effect on entities that were formerly subject to the Board's rule.

2. *Summary of issues raised by comments in response to the initial regulatory flexibility analysis.* The Board did not receive any comments on the initial regulatory flexibility analysis.

3. *Small entities affected by the final rule.* The final rule repeals the Board's Regulation P, 12 CFR part 216, because the Board no longer has rulewriting authority for the provisions of the GLB Act that were implemented in this regulation. All of the entities previously subject to the Board's Regulation P are now subject to the Bureau Interim Final Rule. Consequently, the repeal would not affect any entity, including any small entity.

4. *Recordkeeping, reporting, and compliance requirements.* The final rule repeals the Board's Regulation P, 12 CFR part 216, and would therefore not impose any recordkeeping, reporting, or compliance requirements on any entities. Existing requirements remain the same under the Bureau Interim Final Rule.

5. *Significant alternatives to the final revisions.* Because the repeal of the Board's Regulation P (12 CFR part 216) will have no impact, there are no significant alternatives that would further minimize the economic impact of the final rule on small entities.

III. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3506; 5 CFR part 1320 Appendix A.1), the Board reviewed the rule under the authority delegated to the Federal Reserve by the Office of Management and Budget. The final rule contains no requirements subject to the PRA.

List of Subjects in 12 CFR Part 216

Banks, banking, Consumer protection, Foreign banking, Holding companies, Privacy, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, based on the transfer of authority under 12 U.S.C. 5581, the Board removes and reserves Regulation P, 12 CFR part 216 as follows:

PART 216—[REMOVED AND RESERVED]

By order of the Board of Governors of the Federal Reserve System, May 22, 2014.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2014–12357 Filed 5–28–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 222

[Docket No. R–1484]

RIN 7100 AE14

Identity Theft Red Flags (Regulation V)

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System is amending its rule on identity theft ''red flags'' (''Red Flags rule''), which implements section 615(e) of the Fair Credit Reporting Act (FCRA). The Red Flag Program Clarification Act of 2010 (the Clarification Act) added a definition of ''creditor'' in FCRA section 615(e) that is specific to section 615(e). Accordingly, the final rule amends the definition of ''creditor'' in the Red Flags rule to reflect the definition of that term as added by the Clarification Act. The final rule also updates a cross-reference in the Red Flags rule to reflect a statutory change in rulemaking authority.

DATES: The final rule is effective June 30, 2014.

FOR FURTHER INFORMATION CONTACT: Mandie K. Aubrey, Counsel, Division of Consumer and Community Affairs, at (202) 452–3667, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551. For users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263–4869.

SUPPLEMENTARY INFORMATION:

I. Background

On November 9, 2007, the Board of Governors of the Federal Reserve System (Board), along with the other banking agencies,[1] National Credit Union Administration (NCUA), and the Federal Trade Commission (FTC) (collectively, the ''Agencies''), published final rules and guidelines on identity theft ''red flags'' (''Red Flags rule'') to implement section 615(e) of the Fair Credit Reporting Act (FCRA) (15 U.S.C. 1681m(e)).[2] The Red Flags rule requires each financial institution and creditor that holds any consumer account, or other account for which there is a reasonably foreseeable risk of identity theft, to develop and implement an identity theft prevention program in connection with new and existing accounts. The program must include reasonable policies and procedures for detecting, preventing, and mitigating identity theft. The Agencies also issued guidelines to assist financial institutions and creditors in developing and implementing a program, including a supplement that provides examples of red flags.

The Red Flags rule, implemented in the Board's Regulation V, Subpart J, defines the terms ''credit'' and ''creditor'' by cross-reference to FCRA section 603(r)(5). 15 U.S.C. 1681a(r)(5). Section 603(r)(5) defines the terms ''credit'' and ''creditor'' by cross-reference to section 702 of the Equal Credit Opportunity Act (ECOA). ECOA section 702 defines ''creditor'' as ''any person who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit.'' 15 U.S.C. 1691a(e). The ECOA defines ''credit'' as ''the right granted by a creditor to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and defer

[1] The other banking agencies included the Office of the Comptroller of the Currency; Federal Deposit Insurance Corporation; and Office of Thrift Supervision. The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) added the Commodity Futures Trading Commission (CFTC) and the Securities and Exchange Commission (SEC) to the list of agencies with rulemaking and enforcement authority under the Fair Credit Reporting Act with respect to the Red Flags rule. Public Law 111–203, 124 Stat. 1376 (2010).

[2] 72 FR 63718 (Nov. 9, 2007).

payment therefor.'' 15 U.S.C. 1691a(d). Thus, the FCRA's red flags provisions have been broadly applied to banks, finance companies, automobile dealers, mortgage brokers, utility companies, and telecommunications companies. 12 CFR 222.90(b)(5).

The scope of the Board's Red Flags rule is set forth in 12 CFR 222.90(a), which states that the Board's rule applies to financial institutions and creditors that are state member banks (other than national banks) and their respective operating subsidiaries, branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act. Financial institutions and creditors that are not covered by the Board's rule are covered by substantially identical rules issued by other federal agencies.

II. The Red Flag Program Clarification Act of 2010

On December 18, 2010, Congress enacted the Red Flag Program Clarification Act of 2010 (the Clarification Act).[3] The Clarification Act amended section 615(e) of the FCRA (15 U.S.C. 1681m(e)) by adding a definition of the term ''creditor'' that is specific to section 615(e). The Clarification Act continues to define creditor by cross-reference to the ECOA's definition of creditor, but limits the application of the red flags provisions of the FCRA to only those creditors that regularly and in the ordinary course of business: (a) Obtain or use consumer reports, directly or indirectly, in connection with a credit transaction; (b) furnish information to consumer reporting agencies, as described in FCRA section 623, in connection with a credit transaction; or (c) advance funds to or on behalf of a person, based on an obligation of the person to repay the funds or repayable from specific property pledged by or on behalf of the person. 15 U.S.C. 1681m(e)(4)(A).

The Clarification Act's revised definition excludes, however, those creditors that advance funds on behalf of a person for expenses incidental to a service provided by the creditor to that person. 15 U.S.C. 1681m(e)(4)(B). The legislative intent of narrowing the definition of ''creditor'' in the Red Flags rule was to exclude from coverage those persons that sell a product or service for which the consumer can pay later, such as lawyers and doctors.[4]

The Clarification Act also grants authority to the Board and the other agencies to determine, through a rulemaking, whether there are other creditors that offer or maintain accounts that are subject to a reasonably foreseeable risk of identity theft that should be subject to the Red Flags rule. 15 U.S.C. 1681m(e)(4)(C). The Board is not using its discretionary rulemaking authority at this time to extend the application of its Red Flags rule to additional creditors.

III. The Board's Proposed Revisions to Regulation V

In February 2014, the Board proposed to amend the definition of ''creditor'' in Regulation V (12 CFR 222.90) to conform the rule to the definition of ''creditor'' in the FCRA as amended by the Clarification Act (Proposed Rule).[5] The Board also proposed to update a citation in Supplement A to Appendix J of Regulation V in light of the transfer of rulemaking authority to the Consumer Financial Protection Bureau (CFPB). The Board received five comments on the Proposed Rule.

IV. The Final Rule

As discussed above, the Board proposed to amend the definition of ''creditor'' in § 222.90(b)(5) to cross-reference the limited definition of creditor in section 615(e) of the FCRA, which is specific to the statute's red flags provisions. Accordingly, proposed § 222.90(b)(5) provided that ''creditor has the same meaning as in 15 U.S.C. 1681m(e)(4).'' Commenters unanimously supported the Board's proposal to amend the definition, and the Board is adopting the proposed changes in the final rule.

Under the Clarification Act and the final rule, creditors that do not regularly and in the ordinary course of business: (a) Obtain or use consumer reports in connection with a credit transaction; (b) furnish information to consumer reporting agencies in connection with a credit transaction; or (c) advance funds to or on behalf of a person, are no longer subject to the identity theft red flags requirements. However, the Red Flags rule still covers all financial institutions, regardless of whether they meet the revised definition of creditor.[6] As a result, the revised definition does not affect the scope of the Board's rules, which only apply to state member banks and other financial institutions.

Commenters also supported the proposal to revise Supplement A to Appendix J of Regulation V, which included a cross-reference to the Board's definition of a ''notice of address discrepancy'' in Regulation V (12 CFR 222.82(b)). Because the Board's rulemaking authority for the notice of address discrepancy provisions of the FCRA (15 U.S.C. 1681c(h)) transferred to the CFPB under the Dodd-Frank Act, the Board proposed to revise the citation in Appendix J so that it cross-references the CFPB's definition of a ''notice of address discrepancy'' in the CFPB's Regulation V (12 CFR 1022.82(b)).[7] The Board is updating the citation as proposed.

One commenter suggested that the Board make further amendments to Regulation V to repeal provisions for which the rulemaking authority was not retained by the Board after the transfer of authority to the CFPB under the Dodd-Frank Act. The Board intends to make further revisions to Regulation V to reflect changes in its rulemaking authority at a later date.

V. Final Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) (RFA) generally requires an agency to perform an assessment of the impact a rule is expected to have on small entities. Based on its analysis, and for the reasons stated below, the Board believes that this final rule will not have a significant economic impact on a substantial number of small entities.

1. *Statement of the need for, and objectives of, the final rule.* As noted above, the Clarification Act amended the definition of ''creditor'' in the FCRA for purposes of the red flags provisions. The Board is amending the definition of ''creditor'' in its Red Flags rule to reflect the revised definition of that term in the Clarification Act. As also noted above, the Board is updating a cross-reference in the Red Flags rule to reflect the CFPB's rulemaking authority for the

[3] Public Law 111–319, 124 Stat. 3457 (Dec. 18, 2010).

[4] 156 Cong. Rec. S8289 (daily ed. Nov. 30, 2010) (statement of Sen. Dodd).

[5] 79 FR 9645 (Feb. 20, 2014).

[6] The Board consulted and coordinated with the other banking agencies, the FTC, the NCUA, the CFTC, and the SEC with respect to the final rule. The FTC issued an interim final rule and the OCC issued a final rule amending the definition of ''creditor'' in their respective Red Flags rules, consistent with the revised definition in the Clarification Act. 77 FR 72712 (Dec. 6, 2012) (FTC) and 79 FR 28393 (May 16, 2014) (OCC). The CFTC and SEC jointly issued final Red Flags rules and guidelines reflecting the FCRA definition of ''creditor'' as amended by the Clarification Act. 78 FR 23637 (Apr. 19, 2013). The Board understands that the FDIC and the NCUA will act separately with respect to any necessary updates to each agency's Red Flags rule.

[7] The Board notes that there is no substantive difference between the Board's definition of a ''notice of address discrepancy'' and the CFPB's definition.

notice of address discrepancy provisions in the FCRA.

2. *Summary of issues raised by comments in response to the initial regulatory flexibility analysis.* The Board did not receive any comments on the initial regulatory flexibility analysis.

3. *Small entities affected by the final rule.* The final rule amends the definition of ''creditor'' in the Board's Regulation V to conform to the revised definition of that term in the Clarification Act. The definition continues to refer to the FCRA definition of ''creditor,'' which references the ECOA definition of ''creditor,'' but limits the application of the red flags provisions to only those creditors that regularly and in the ordinary course of business: (a) Obtain or use consumer reports in connection with a credit transaction; (b) furnish information to consumer reporting agencies in connection with a credit transaction; or (c) advance funds to or on behalf of a person, based on an obligation of the person to repay the funds or repayable from specific property pledged by or on behalf of the person. 15 U.S.C. 1681m(e)(4)(A). However, small entities that are financial institutions are still subject to the requirements, regardless of whether they meet the revised definition of creditor. Consequently, the revisions do not affect the scope of the Board's rules, which only apply to state member banks and other financial institutions, so no small entities are affected.

The final rule also updates a cross-reference in the Red Flags rule to reflect the CFPB's rulemaking authority for the notice of address discrepancy provisions in the FCRA. This revision has no effect on small entities because there is no substantive difference between the Board's definition of a ''notice of address discrepancy'' and the CFPB's definition.

4. *Recordkeeping, reporting, and compliance requirements.* The final rule does not impose any new recordkeeping, reporting, or compliance requirements on small entities. Small entities that no longer meet the narrower definition of ''creditor'' would not have to comply with the requirements of the Red Flags rule. However, small entity financial institutions would still be required to comply with the Red Flags rule, regardless of whether they meet the revised definition of creditor. Thus, the revisions do not affect the scope of the Board's rules, which only apply to state member banks and other financial institutions. In addition, the updated cross-reference in the final rule that reflects the CFPB's rulemaking authority for the notice of address discrepancy provisions in the FCRA is not a substantive change.

5. *Significant alternatives to the final revisions.* Because the amendments in the final rule will have no impact, there are no significant alternatives that would further minimize the economic impact of the final rule on small entities.

VI. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3506; 5 CFR Part 1320, Appendix A.1), the Board reviewed the rule under the authority delegated to the Federal Reserve by the Office of Management and Budget (OMB). The final rule contains no requirements subject to the PRA.

List of Subjects in 12 CFR Part 222

Banks, banking, Consumer protection, Safety and soundness, and State member banks.

Authority and Issuance

For the reasons set forth in the preamble, the Board amends Regulation V, 12 CFR part 222, as set forth below:

PART 222—FAIR CREDIT REPORTING (REGULATION V)

■ 1. The authority citation for part 222 continues to read as follows:

Authority: 15 U.S.C. 1681b, 1681c, 1681m and 1681s; Secs. 3, 214, and 216, Pub. L. 108–159, 117 Stat. 1952.

■ 2. Amend § 222.90 by revising paragraph (b)(5) to read as follows:

§ 222.90 Duties regarding the detection, prevention, and mitigation of identity theft.

* * * * *

(b) * * *

(5) *Creditor* has the same meaning as in 15 U.S.C. 1681m(e)(4).

* * * * *

■ 3. Amend Supplement A to Appendix J by revising example 3. to read as follows:

Appendix J to Part 222—Interagency Guidelines on Identity Theft Detection, Prevention, and Mitigation

* * * * *

Supplement A to Appendix J

* * * * *

3. A consumer reporting agency provides a notice of address discrepancy, as defined in 12 CFR 1022.82(b).

* * * * *

By order of the Board of Governors of the Federal Reserve System, May 22, 2014.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2014–12358 Filed 5–28–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 230

[Docket No. R–1482]

RIN 7100 AE12

Truth in Savings (Regulation DD)

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is repealing its Regulation DD, 12 CFR part 230, which was issued to implement the Truth in Saving Act (TISA). Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) transferred rulemaking authority for a number of consumer financial protection laws, including TISA, from the Board to the Bureau of Consumer Financial Protection (Bureau). In December 2011, the Bureau published an interim final rule establishing its own Regulation DD to implement TISA (Bureau Interim Final Rule). The Bureau Interim Final Rule substantially duplicates the Board's Regulation DD.

Under section 1029 of the Dodd-Frank Act, the Board retains authority to issue rules for certain motor vehicle dealers that offer consumer financial services and are not subject to the Bureau's regulatory authority. The Board is not aware of any entities that are motor vehicle dealers engaging in activities subject to TISA that would be subject to the Board's rulemaking authority under section 1029 of the Dodd-Frank Act. Accordingly, the Board is repealing its Regulation DD.

DATES: The final rule is effective June 30, 2014.

FOR FURTHER INFORMATION CONTACT: Vivian W. Wong, Counsel, Division of Consumer and Community Affairs, at (202) 452–3667, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551. For users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263–4869.

SUPPLEMENTARY INFORMATION:

I. Background

The Board of Governors of the Federal Reserve System (Board) historically implemented the Truth in Savings Act

(TISA), 12 U.S.C. 4301 *et seq.,* in Regulation DD, published at 12 CFR part 230. The purpose of the act and regulation is to assist consumers in comparing deposit accounts offered by depository institutions, principally through the disclosure of fees, the annual percentage yield, the interest rate, and other account terms. An official staff commentary interprets the requirements of the Board's Regulation DD (12 CFR part 230 (Supp. I)). Credit unions are governed by a substantially similar regulation issued by the National Credit Union Administration (NCUA) at 12 CFR part 707.

Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) [1] transferred rulemaking authority for a number of consumer financial protection laws from the Board to the Bureau of Consumer Financial Protection (Bureau), effective July 21, 2011. In connection with the transfer of the Board's rulemaking authority for TISA, the Bureau published an interim final rule to establish its own Regulation DD, 12 CFR part 1030, to implement TISA (Bureau Interim Final Rule).[2] The Bureau Interim Final Rule substantially duplicated the Board's Regulation DD and made only certain non-substantive, technical, formatting, and stylistic changes. The Bureau Interim Final Rule did not impose any new substantive obligations on regulated entities.

Under section 1029(a) of the Dodd-Frank Act, the Bureau may not exercise any rulemaking, supervisory, enforcement or any other authority over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both, subject to certain exceptions.[3] However, that provision does not apply to any motor vehicle dealer to the extent the dealer offers or provides a consumer financial product or service not involving or related to the sale, financing, leasing, rental, repair, refurbishment, maintenance, or other servicing of motor vehicles, motor vehicle parts, or any related or ancillary product or service.[4] Section 1029(c) of the Dodd-Frank Act further provides that nothing in the Dodd-Frank Act should be construed to modify, limit, or supersede the authority of the Board with respect to a motor vehicle dealer described in section 1029(a) of the Dodd-Frank Act.[5]

Accordingly, to the extent that a motor vehicle dealer described in section 1029(a) of the Dodd-Frank Act was subject to one of the Board's consumer financial service regulations, the Board's regulation would continue to apply, provided that the consumer financial product or service is one that involves or is related to the sale, financing, leasing, rental, repair, refurbishment, maintenance, or other servicing of motor vehicles, motor vehicle parts, or any related or ancillary product or service.

In February 2014, the Board published a proposal to repeal its Regulation DD, 12 CFR part 230 (Proposed Rule) based on the Board's belief that there are no motor vehicle dealers engaging in activities subject to TISA that would be subject to the Board's authority under section 1029 of the Dodd-Frank Act.[6] The Board received five comments on the Proposed Rule.

II. Legal Authority

Title X of the Dodd-Frank Act transferred rulemaking authority for TISA from the Board to the Bureau, effective July 21, 2011. Pursuant to Section 1029 of the Dodd-Frank Act, however, the Board retains rulemaking authority for consumer financial protection laws to the extent that such laws could cover motor vehicle dealers identified in section 1029(a) of the Dodd-Frank Act, subject to the limitations in section 1029(b) of the Dodd-Frank Act.

III. Discussion

As the Board discussed in the Proposed Rule, TISA and the Board's Regulation DD apply only to depository institutions. *See* 12 U.S.C. 4301; 12 CFR 230.1(c). For this purpose, the term ''depository institution'' includes ''an institution defined in Section 19(b)(1)(A)(i) through (vi) of the Federal Reserve Act (12 U.S.C. 461), except credit unions defined in Section 19(b)(1)(A)(iv).'' 12 U.S.C. 4313(6); 12 CFR 230.2(j). Depository institutions are generally subject to restrictions on the types of activities in which they may engage as principal. *See e.g.,* 12 U.S.C. 24(Seventh) and 12 U.S.C. 1831a. These activities are restricted to those that are necessary to carry on the business of banking and other limited financial activities. Based on these restrictions, the Board believes that motor vehicle dealers, as defined in section 1029(a) of the Dodd-Frank Act, that are predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both, could not also be depository institutions subject to TISA.

The Board requested comment in the Proposed Rule on whether any motor vehicle dealers identified in section 1029(a) of the Dodd-Frank Act are or could become depository institutions for purposes of TISA. The commenters did not address that issue. Four commenters supported the Board's proposal to repeal its Regulation DD in order to avoid confusion and duplication. One commenter, however, suggested that the regulation should be retained in case there is new legislation and the law changes.

Based on the lack of evidence that there are any motor vehicle dealers identified in section 1029(a) of the Dodd-Frank Act that are or could become depository institutions subject to the Board's rulemaking authority for purposes of TISA, the Board is repealing its Regulation DD, 12 CFR part 230.

IV. Final Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) (RFA) generally requires an agency to perform an assessment of the impact a rule is expected to have on small entities. Based on its analysis, and for the reasons stated below, the Board believes that this final rule will not have a significant economic impact on a substantial number of small entities.

1. *Statement of the need for, and objectives of, the final rule.* Title X of the Dodd-Frank Act transferred rulemaking authority for a number of

[1] Public Law 111–203, 124 Stat. 1376.

[2] 76 FR 79276 (Dec. 21, 2011). Section 1100B of the Dodd-Frank Act did not grant the Bureau TISA rulemaking authority over credit unions or repeal the NCUA's TISA rulemaking authority over credit unions under 12 U.S.C. 4311.

[3] Section 1029(a) of the Dodd-Frank Act states: ''Except as permitted in subsection (b), the Bureau may not exercise any rulemaking, supervisory, enforcement, or any other authority * * * over a motor vehicle dealer that is predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.'' 12 U.S.C. 5519(a).

[4] Section 1029(b) of the Dodd-Frank Act states: ''Subsection (a) shall not apply to any person, to the extent such person (1) provides consumers with any services related to residential or commercial mortgages or self-financing transaction involving real property; (2) operates a line of business (A) that involves the extension of retail credit or retail leases involving motor vehicles; and (B) in which (i) the extension of retail credit or retail leases are provided directly to consumers and (ii) the contract governing such extension of retail credit or retail leases is not routinely assigned to an unaffiliated third party finance or leasing source; or (3) offers or provides a consumer financial product or service not involving or related to the sale, financing, leasing, rental, repair, refurbishment, maintenance, or other servicing of motor vehicles, motor vehicle parts, or any related or ancillary product or service.'' 12 U.S.C. 5519(b).

[5] 12 U.S.C. 5519(c).

[6] 79 FR 9647 (Feb. 20, 2014).

consumer financial protection laws from the Board to the Bureau, effective July 21, 2011, including TISA. The Bureau issued the Bureau Interim Final Rule to implement TISA in connection with the transfer of TISA rulemaking authority to the Bureau. Pursuant to section 1029 of the Dodd-Frank Act, however, the Board retains rulemaking authority for consumer financial protection laws to the extent that such laws could cover motor vehicle dealers identified in section 1029(a) of the Dodd-Frank Act. The Board does not believe that any motor vehicle dealers identified in section 1029(a) of the Dodd-Frank Act are or could become depository institutions engaged in activities that would be subject to the Board's rulemaking authority under TISA. Consequently, the Board is repealing the Board's Regulation DD, 12 CFR part 230.

2. *Summary of issues raised by comments in response to the initial regulatory flexibility analysis.* The Board did not receive any comments on the initial regulatory flexibility analysis.

3. *Small entities affected by the final rule.* The Board does not believe that any motor vehicle dealers identified in section 1029(a) of the Dodd-Frank Act are or could become depository institutions engaged in activities that would be subject to the Board's rulemaking authority under TISA. Therefore, the Board believes the final rule would not affect any entity, including any small entity.

4. *Recordkeeping, reporting, and compliance requirements.* The final rule repeals the Board's Regulation DD, 12 CFR part 230, and would therefore not impose any recordkeeping, reporting, or compliance requirements on any entities.

5. *Significant alternatives to the final revisions.* Because the repeal of the Board's Regulation DD (12 CFR part 230) will have no impact, there are no significant alternatives that would further minimize the economic impact of the final rule on small entities.

V. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3506; 5 CFR Part 1320, Appendix A.1), the Board reviewed the rule under the authority delegated to the Federal Reserve by the Office of Management and Budget. The final rule contains no collections of information under the PRA. *See* 44 U.S.C. 3502(3). Accordingly, there is no paperwork burden associated with the final rule.

List of Subjects in 12 CFR Part 230

Advertising, Banks, Banking, Consumer protection, Reporting and recordkeeping requirements, Truth in savings.

Authority and Issuance

For the reasons set forth in the preamble, based on the transfer of authority under 12 U.S.C. 5581, the Board removes and reserves Regulation DD, 12 CFR part 230.

PART 230—[REMOVED AND RESERVED]

By order of the Board of Governors of the Federal Reserve System, May 22, 2014.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2014–12356 Filed 5–28–14; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 748

[Docket No. 140506409–4409–01]

RIN 0694–AG15

Amendments to Existing Validated End-User Authorizations in the People's Republic of China: Samsung China Semiconductor Co. Ltd and Semiconductor Manufacturing International Corporation

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: In this rule, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) to revise existing authorizations for Validated End-Users (VEUs) Samsung China Semiconductor Co. Ltd. (Samsung China) and Semiconductor Manufacturing International Corporation (SMIC) in the People's Republic of China (PRC). Specifically, BIS amends Supplement No. 7 to part 748 of the EAR to change the address of the facility used by Samsung China. In addition, BIS adds a facility to the list of eligible destinations and an item to the list of eligible items for SMIC.

DATES: This rule is effective May 29, 2014.

FOR FURTHER INFORMATION CONTACT: Karen Nies-Vogel, Chair, End-User Review Committee, Bureau of Industry and Security, U.S. Department of Commerce, 14th Street & Pennsylvania Avenue NW., Washington, DC 20230; by telephone: (202) 482–5991, fax: (202) 482–3991, or email: *ERC@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

Authorization Validated End-User

Validated End-Users (VEUs) are designated entities located in eligible destinations to which eligible items may be exported, reexported, or transferred (in-country) under a general authorization instead of a license. The names of the VEUs, as well as the dates they were so designated, and their respective eligible destinations and items are identified in Supplement No. 7 to part 748 of the Export Administration Regulations (EAR). Under the terms described in that supplement, VEUs may obtain eligible items without an export license from the Bureau of Industry and Security (BIS), in conformity with Section 748.15 of the EAR. Eligible items vary between VEUs, but may include commodities, software, and technology, except those controlled for missile technology or crime control reasons on the Commerce Control List (CCL) (part 774 of the EAR).

VEUs are reviewed and approved by the U.S. Government in accordance with the provisions of Section 748.15 and Supplement Nos. 8 and 9 to part 748 of the EAR. The End-User Review Committee (ERC), composed of representatives from the Departments of State, Defense, Energy, and Commerce, and other agencies, as appropriate, is responsible for administering the VEU program. BIS amended the EAR in a final rule published on June 19, 2007 (72 FR 33646) to create Authorization VEU.

Amendments to Existing Validated End-User Authorizations in the People's Republic of China (PRC)

Revision to the List of "Eligible Items (By ECCN)" for Validated End-User Samsung China Semiconductor Co. Ltd (Samsung China)

This final rule amends Supplement No. 7 to part 748 of the EAR to change the address of the Samsung China facility to which eligible items may be exported, reexported or transferred (in-country) using Authorization VEU. BIS makes this change pursuant to a request from Samsung China advising BIS that Samsung China received verification of the final address of its facility from the Chinese government. Samsung China's VEU-eligible facility, which is located in an area being newly developed for corporate use, has not moved. The list of eligible items for Samsung China remains the same. BIS added Samsung China as a VEU in Supplement No. 7 to part 748 in a rule published in the **Federal Register** on July 10, 2013 (78 FR 41291).

Prior Address of Samsung China Destination:

Samsung China Semiconductor Co. Ltd., Xinglong Street, Chang'an District, Xi'an, People's Republic of China 710065.

New Address for Samsung China:

Samsung China Semiconductor Co. Ltd., No. 1999, North Xiaohe Road, Xi'an, China 710119.

Revisions to the List of ''Eligible Destinations'' and ''Eligible Items (By ECCN)'' for Validated End-User Semiconductor Manufacturing International Corporation (SMIC)

This final rule also amends Supplement No. 7 to part 748 of the EAR to add a facility to the list of SMIC facilities to which eligible items may be exported, reexported or transferred (in-country) using Authorization VEU, bringing the number of SMIC's VEU-authorized facilities in the PRC to a total of five. BIS also adds an ECCN to SMIC's list of eligible items that may be sent to the five facilities. The ECCN added in this rule to SMIC's VEU authorization is ECCN 3A233 (certain types of mass spectrometers). BIS makes these changes pursuant to requests from SMIC. SMIC requested the addition of the new VEU-eligible destination in order to facilitate shipments to its new business venture.

Additional SMIC Destination:

Semiconductor Manufacturing North China (Beijing) Corporation, No. 18 Wen Chang Road, Building 9, Beijing Economic-Technological Development Area, Beijing, China 100176.

Eligible Items (by ECCN) That May Be Exported, Reexported or Transferred (In-Country) to the Eligible Destination Identified Under Semiconductor Manufacturing International Corporation Validated End-User Authorization

ECCNs 1C350.c.3, 1C350.d.7, 2B006.b.1, 2B230, 2B350.d.2, 2B350.d.3, 2B350.g.3, 2B350.i.3, 3A233, 3B001.a, 3B001.b, 3B001.c, 3B001.e, 3B001.f, 3C001, 3C002, 3C003, 3C004, 5B002, and 5E002 (limited to ''technology'' according to the General Technology Note for the ''production'' of integrated circuits controlled by ECCN 5A002 that have been classified by BIS as eligible for License Exception ENC under paragraph (b)(2) or (b)(3) of Section 740.17 of the EAR, or classified by BIS as a mass market item under paragraph (b)(3) of Section 748.15 of the EAR).

Authorization VEU eliminates the burden on exporters and reexporters of preparing individual license applications because the export, reexport and transfer (in-country) of the eligible items specified for each VEU may be made under general authorization instead of under individual licenses.

Export Administration Act

Since August 21, 2001, the Export Administration Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp., p. 783 (2002)), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013), and as extended most recently by the Notice of August 8, 2013, 78 FR 49107 (August 12, 2013), has continued the EAR in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222, as amended by Executive Order 13637.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This rule has been determined to be not significant for purposes of Executive Order 12866.

2. This rule involves collections previously approved by the Office of Management and Budget (OMB) under Control Number 0694–0088, ''Multi-Purpose Application,'' which carries a burden hour estimate of 43.8 minutes to prepare and submit form BIS–748; and for recordkeeping, reporting and review requirements in connection with Authorization VEU, which carries an estimated burden of 30 minutes per submission. This rule is expected to result in a decrease in license applications submitted to BIS. Total burden hours associated with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA) and OMB Control Number 0694–0088 are not expected to increase significantly as a result of this rule.

Notwithstanding any other provisions of law, no person is required to respond to, nor be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

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

4. Pursuant to the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), BIS finds good cause to waive requirements that this rule be subject to notice and the opportunity for public comment because they are unnecessary. In determining whether to grant VEU designations, a committee of U.S. Government agencies evaluates information about and commitments made by candidate companies, the nature and terms of which are set forth in 15 CFR part 748, Supplement No. 8. The criteria for evaluation by the committee are set forth in 15 CFR 748.15(a)(2).

The information, commitments, and criteria for this extensive review were all established through the notice of proposed rulemaking and public comment process (71 FR 38313 (July 6, 2006) (proposed rule), and 72 FR 33646 (June 19, 2007) (final rule)). Given the similarities between the authorizations provided under the VEU program and export licenses (as discussed further below), the publication of this information does not establish new policy. In publishing this final rule, BIS updates the address of an existing VEU and adds an eligible destination and an item to a second existing VEU. These changes have been made within the established regulatory framework of the Authorization VEU program. Further, this rule does not abridge the rights of the public or eliminate the public's option to export under any of the forms of authorization set forth in the EAR.

Publication of this rule in other than final form is unnecessary because the authorizations granted in the rule are consistent with the authorizations granted to exporters for individual licenses (and amendments or revisions thereof), which do not undergo public review. In addition, as with license applications, VEU authorization applications contain confidential business information, which is necessary for the extensive review conducted by the U.S. Government in assessing such applications. This information is extensively reviewed according to the criteria for VEU authorizations, as set out in 15 CFR 748.15(a)(2). Additionally, just as the interagency reviews license applications, the authorizations granted under the VEU program involve interagency deliberation and result from review of public and non-public sources, including licensing data, and

the measurement of such information against the VEU authorization criteria. Given the nature of the review, and in light of the parallels between the VEU application review process and the review of license applications, public comment on this authorization and subsequent amendments prior to publication is unnecessary. Moreover, because, as noted above, the criteria and process for authorizing and administering VEUs were developed with public comments, allowing additional public comment on this amendment to individual VEU authorizations, which was determined according to those criteria, is unnecessary.

Section 553(d) of the APA generally provides that rules may not take effect earlier than thirty (30) days after they are published in the **Federal Register**. BIS finds good cause to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(3) because the delay would be contrary to the public interest. BIS is simply amending the list of VEU authorizations by adding a new end user, consistent with established objectives and parameters administered and enforced by the responsible designated departmental representatives to the End-User Review Committee. Delaying this action's effectiveness could cause confusion regarding which facilitates and items are authorized by the U.S. Government and in turn stifle the purpose of the VEU Program. Accordingly, it is contrary to the public interest to delay this rule's effectiveness.

No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required under the APA or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. As a result, no final regulatory flexibility analysis is required and none has been prepared.

List of Subjects in 15 CFR Part 748

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

Dated: May 21, 2014.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

Accordingly, part 748 of the EAR (15 CFR parts 730–774) is amended as follows:

PART 748—[AMENDED]

■ 1. The authority citation for 15 CFR part 748 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 8, 2013, 78 FR 49107 (August 12, 2013).

■ 2. Amend Supplement No. 7 to part 748 by:

■ a. Revising the the entry for ''Samsung China Semiconductor Co. Ltd.'' in ''China (People's Republic of)''; and

■ b. Revising the entry for ''Semiconductor Manufacturing International Corporation'' in ''China (People's Republic of)'' to read as follows:

SUPPLEMENT NO. 7 TO PART 748—AUTHORIZATION VALIDATED END-USER (VEU): LIST OF VALIDATED END-USERS, RESPECTIVE ITEMS ELIGIBLE FOR EXPORT, REEXPORT AND TRANSFER, AND ELIGIBLE DESTINATIONS

Country	Validated end-user	Eligible items (By ECCN)	Eligible destination	**Federal Register** citation
Nothing in this Supplement shall be deemed to supersede other provisions in the EAR, including but not limited to § 748.15(c).				
*	*	*	*	*
	Samsung China Semiconductor Co. Ltd	1C350.c.3, 1C350.d.7, 2B230, 2B350.d.2, 2B350.g.3, 2B350.i.3, 3A233, 3B001.a.1, 3B001.b, 3B001.c, 3B001.e, 3B001.f, 3B001.h, 3C002, 3C004, 3D002, and 3E001 (limited to ''technology'' for items classified under 3C002 and 3C004 and ''technology'' for use consistent with the International Technology Roadmap for Semiconductors process for items classified under ECCNs 3B001 and 3B002).	Samsung China Semiconductor Co. Ltd., No. 1999, North Xiaohe Road, Xi'an, China 710119.	78 FR 41291, 7/10/13. 78 FR 69535, 11/20/13. 79 FR [INSERT PAGE NUMBER], 5/29/14.
	Semiconductor Manufacturing International Corporation.	1C350.c.3, 1C350.d.7, 2B006.b.1, 2B230, 2B350.d.2, 2B350.d.3, 2B350.g.3, 2B350.i.3, 3A233, 3B001.a, 3B001.b, 3B001.c, 3B001.e, 3B001.f, 3C001, 3C002, 3C003, 3C004, 5B002, and 5E002 (limited to ''technology'' according to the General Technology Note for the ''production'' of integrated circuits controlled by ECCN 5A002 that have been classified by BIS as eligible for License Exception ENC under paragraph (b)(2) or (b)(3) of Section 740.17 of the EAR, or classified by BIS as a mass market item under paragraph (b)(3) of Section 748.15 of the EAR).	Semiconductor Manufacturing International (Shanghai) Corporation, 18 Zhang Jiang Rd., Pudong New Area, Shanghai, China 201203. Semiconductor Manufacturing International (Tianjin) Corporation, 19 Xing Hua Avenue, Xi Qing Economic Development Area, Tianjin, China 300385. Semiconductor Manufacturing International (Beijing) Corporation, No. 18 Wen Chang Road, Beijing Economic-Technological Development Area, Beijing, China 100176. Semiconductor Manufacturing International (Shenzhen) Corporation, Qier Road, Export Processing Zone, Pingshan New Area, Shenzhen, China 518118.	72 FR 59164, 10/19/07. 75 FR 67029, 11/1/10. 77 FR 10953, 2/24/12. 78 FR 69535, 11/20/13. 79 FR [INSERT PAGE NUMBER], 5/29/14.
			Semiconductor Manufacturing North China (Beijing) Corporation, No. 18 Wen Chang Road, Building 9, Beijing Economic-Technological Development Area, Beijing, China 100176.	
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[FR Doc. 2014–12158 Filed 5–28–14; 8:45 am]
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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 1 and 16

[Docket No. FDA–2013–N–0365]

Administrative Detention of Drugs Intended for Human or Animal Use

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is implementing administrative detention authority with respect to drugs intended for human or animal use as authorized by amendments made to the Federal Food, Drug, and Cosmetic Act (the FD&C Act) by the Food and Drug Administration Safety and Innovation Act (FDASIA). FDA's administrative detention authority with respect to drugs allows FDA to better protect the integrity of the drug supply chain. Specifically, FDA is able to administratively detain drugs encountered during an inspection that an authorized FDA representative conducting an inspection has reason to believe are adulterated or misbranded. This authority is intended to protect the public by preventing distribution or subsequent use of drugs encountered during inspections that are believed to be adulterated or misbranded, until FDA has had time to consider what action it should take concerning the drugs, and to initiate legal action, if appropriate.

DATES: This rule is effective June 30, 2014.

FOR FURTHER INFORMATION CONTACT: Charlotte Hinkle, Office of Regulatory Affairs, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 4343, Silver Spring, MD 20993–0002, 301–796–5300, *FDASIAImplementationORA@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Executive Summary

Purpose of the Regulatory Action

FDA's administrative detention authority with respect to drugs intended for human or animal use allows FDA to better protect the integrity of the drug supply chain. Specifically, administrative detention is intended to protect the public by preventing distribution or subsequent use of drugs encountered during inspections that may be adulterated or misbranded, until FDA has had time to consider what action it should take concerning the drugs, and to initiate legal action, if appropriate. FDA already has the authority to administratively detain devices, tobacco, and foods that FDA has reason to believe are adulterated or misbranded.

FDA is issuing this final rule under section 304(g) of the FD&C Act (21 U.S.C. 334(g)), as amended by section 709 of FDASIA, and section 701 of the FD&C Act (21 U.S.C. 371). Section 304(g) of the FD&C Act also authorizes FDA to administratively detain devices and tobacco products.

Summary of the Major Provisions

This final rule implements a regulation for the administrative detention of drugs. FDA is amending parts 1 and 16 (21 CFR parts 1 and 16) to create an implementing rule for this authority. The changes set forth the procedures for detention of drugs believed to be adulterated or misbranded and amend the scope of FDA's part 16 regulatory hearing procedures to include the administrative detention of drugs.

Costs and Benefits

The primary public health benefits from adoption of the final rule would be the value of the illnesses or deaths prevented because the Agency administratively detained a drug it has reason to believe is adulterated or misbranded; this benefit occurs only if the drug would not have been prevented from entering the market using one of the Agency's other enforcement tools. The estimated primary costs to FDA include marking or labeling the detained product and costs associated with appeals of detention orders. The Agency estimates the net annual social costs to be between $0 and $602,602.

I. Background

In the **Federal Register** of July 15, 2013 (78 FR 42381), FDA proposed regulations to implement its new authority to administratively detain drugs that an authorized FDA representative conducting an inspection under section 704 of the FD&C Act (21 U.S.C. 374) has reason to believe are adulterated or misbranded. As discussed in the preamble to the proposed rule, on July 9, 2012, President Obama signed into law FDASIA (Public Law 112–144). Title VII of FDASIA provides FDA with important new authorities to help it better protect the integrity of the drug supply chain. One of those new authorities is section 709, which amends section 304(g) of the FD&C Act to provide FDA with administrative detention authority with respect to drugs. Section 304(g) of the FD&C Act, as amended by FDASIA, provides FDA the same authority to detain drugs that section 304(g) already provides FDA with respect to devices and tobacco products. Once these implementing regulations with respect to drugs take effect, the amendments to section 304(g) of the FD&C Act will allow FDA to administratively detain drugs that an authorized FDA representative conducting an inspection under section 704 of the FD&C Act has reason to believe are adulterated or misbranded, until FDA has had time to consider what action it should take concerning the drugs, and to initiate legal action, if appropriate.

II. Overview of the Final Rule Including Changes to the Proposed Rule

A. Revisions to Part 1

FDA is amending title 21 of the Code of Federal Regulations, part 1 to create an implementing regulation for the administrative detention of drugs. The amendment to part 1 consists of one section, § 1.980, under a new subpart, which is titled ''Subpart Q—Administrative Detention of Drugs Intended for Human or Animal Use.'' Section 1.980 sets forth the procedures for the administrative detention of drugs encountered during an inspection that are believed to be adulterated or misbranded. The new regulation is closely modeled on the current regulation for the administrative detention of devices (21 CFR 800.55). There are minor differences from the device regulation, including updates to statutory references to refer to drugs instead of devices and changes to language to conform to current **Federal Register** requirements. Since FDA issued the proposed rule on administrative detention of drugs, FDA has issued other regulations in part 1, requiring reassignment of the section number within part 1. No other changes have been made to the substance of the proposed regulation. Other than renumbering the section, FDA is finalizing the implementing regulations as proposed.

B. Revisions to Part 16

The amendment to part 16 is a technical change. This change amends a statement in § 16.1 so that the scope of part 16 regulatory hearing procedures also will include administrative

detention authority with respect to drugs.

III. Comments on the Proposed Rule

FDA received six comments in the docket for the July 15, 2013, proposed rule on administrative detention of drugs, three of which were responsive. However, after considering these comments, the Agency is not making any changes to the regulatory language included in the proposed rule. Relevant portions of the responsive comments are summarized and responded to in this document. The Agency did not consider nonresponsive comments in developing this final rule. To make it easier to identify comments and our responses, the word ''Comment,'' in parentheses, appears before the comment's description, and the word ''Response,'' in parentheses, appears before our response. We have numbered each comment and response to help distinguish between different comments. Similar comments are grouped together under the same number. The number assigned to each comment is purely for organization purposes and does not signify the comment's value or importance or the order in which it was received. Comments addressing the proposed implementing regulation for the administrative detention of drugs and FDA's responses follow.

A. Standard for Administrative Detention Order

In the proposed rule, FDA proposed that an administrative detention of drugs may be ordered when an authorized FDA representative, during an inspection under section 704 of the FD&C Act, has reason to believe that a drug is adulterated or misbranded. Two comments suggested the Agency modify the proposed standard for issuing an administrative detention order.

(Comment 1) One commenter stated that the term ''adulteration'' is very broad and suggested that, to ensure that patients continue to have access to safe medications, the Agency should add an element of potential risk of public harm to the detention standard.

(Response 1) The Agency does not have the authority to change the administrative detention standard, which is specified by statute. Section 304(g) of the FD&C Act provides, in relevant part: ''If during an inspection conducted under section 704 of a facility or vehicle, a drug which the officer or employee making the inspection has reason to believe is adulterated or misbranded is found in such facility or vehicle, such officer may order the drug detained (in accordance with regulations prescribed by the Secretary).'' Furthermore, we note that the terms ''adulterated'' and ''misbranded'' are well characterized by both the adulteration and misbranding provisions of the FD&C Act, its implementing regulations, and a substantial body of case law. For example, sections 501 and 502 of the FD&C Act (21 U.S.C. 351 and 352) provide criteria for determining whether a drug will be considered to be adulterated or misbranded, respectively. Because these terms are already well characterized, we do not believe it necessary or appropriate to further define or modify the meaning of these terms for the purposes of this rule.

(Comment 2) One commenter suggested that the Agency should administratively detain shipments based on a pre-determined, justified level of suspicion, with an example that the Agency may wish to scrutinize more closely shipments that are not from a known shipper or known consignor.

(Response 2) The commenter's reference to ''shipper and ''consignor'' indicate that the commenter is confusing administrative detention of a drug during an inspection under section 304(g) of the FD&C Act with the process of reviewing imported products under section 801(a) of the FD&C Act (21 U.S.C. 381). Under § 1.94, when it appears to FDA that an imported article may be subject to refusal of admission under section 801(a) of the FD&C Act, FDA provides a notice of that fact to the owner or consignee and provides them with an opportunity to introduce testimony. This notice is commonly called a ''Notice of Detention and Hearing'' (see, e.g., *FDA Regulatory Procedures Manual,* chapter 9, pp. 9–29) (Ref. 1) and is not related to administrative detention under section 304(g) of the FD&C Act.

B. Notification of Detention Order

In the proposed rule, FDA proposed that the detention order be issued in writing, in the form of a detention notice, signed by the authorized FDA representative who has reason to believe that the drugs are adulterated or misbranded, and issued to the owner, operator, or agent in charge of the place where the drugs are located. If the owner or the user of the drugs is different from the owner, operator, or agent in charge of the place where the drugs are detained, a copy of the detention order must be provided to the owner or user of the drugs if the owner's or user's identity can be readily determined. If detention of drugs in a vehicle or other carrier is ordered, a copy of the detention order must be provided to the shipper of record and the owner of the vehicle or other carrier, if their identities can be readily determined. An FDA representative issuing a detention order must label or mark the drugs with official FDA tags that include certain information.

(Comment 3) One commenter requested that FDA immediately notify the party responsible (e.g., manufacturer or wholesaler) for the detained drug to enable drug owners to inform customers that their orders may be delayed as well as opened and checked by FDA.

(Response 3) We believe that the notice requirements set forth in the proposed rule, which we are adopting, together with the requirement that FDA label or mark the drugs subject to the detention order, address the commenter's concerns regarding FDA notification of detention orders to the owner, operator, or agent in charge of the place where the drugs are located. Furthermore, if the owner or the user of the drugs is different from the owner, operator, or agent in charge of the place where the drugs are located, FDA also will provide a copy of the detention order to the owner or user of the drugs, if their identity can be readily determined. FDA expects such notification to be as timely as possible. The procedures FDA puts into place to implement this rule will address the notice requirements and help ensure that our investigators are appropriately educated and trained on the procedural requirements.

C. Appeals of Detention Orders

In the proposed rule, FDA proposed that the person who would be entitled to claim the drugs, if seized, may appeal a detention order.

(Comment 4) Two commenters suggested the Agency clarify that it is not the intent of the Agency to limit the manufacturer's ability to appeal a detention order.

(Response 4) Who may appeal a detention order is determined by Federal statute. Section 304(g) of the FD&C Act specifies who may appeal a detention order: ''Any person who would be entitled to claim a device, drug, or tobacco product if it were seized under [304(a)] may appeal . . . a detention of such device, drug, or tobacco product. . .''.

(Comment 5) One commenter expressed concern that a drug product subject to a detention order would be withheld from patients without due process, potentially creating a drug shortage.

(Response 5) We believe that the detailed notice and appeals procedures set forth in the proposed rule, which

includes the opportunity for an informal hearing within 5 working days after the appeal is filed, satisfy the elements of due process. We appreciate the commenter's concern that an administrative detention could lead to a drug shortage and note that the Agency has an active drug shortages program. Preventing drug shortages has been, and continues to be, a top priority for FDA, and we take great efforts to address, prevent, and mitigate drug shortages. Yet in making regulatory and enforcement decisions, FDA not only is concerned with the potential for drug shortages, but also with the potential for harm to patients caused by an adulterated or misbranded drug entering into commerce.

D. Movement of Detained Drugs

In the proposed rule, FDA proposed that, except as provided, no person may move a detained drug within or from the place where they were ordered detained until FDA terminates the detention or the detention period expires, whichever occurs first.

(Comment 6) Two commenters noted that administrative detention regulations should provide sufficient flexibility for movement in order to preserve product integrity during the detention process.

(Response 6) FDA believes that § 1.980(h)(3)(i) provides the flexibility sufficient to preserve product quality and integrity during an administrative detention. Paragraph (h)(3) states that an authorized FDA representative ''may approve, in writing, the movement of detained drugs for any of the following purposes: (i) To prevent interference with an establishment's operation or harm to the drugs.''

E. Notification of Detention Termination

In the proposed rule, FDA proposed that, if FDA decides to terminate a detention or when the determination period expires, whichever occurs first, an FDA representative authorized to terminate a detention will issue a detention termination notice releasing the drugs to any person who received the original detention order or that person's representative and will remove, or authorize in writing the removal of, the required labels or tags.

(Comment 7) One commenter suggested adding language that FDA will notify, by telephone or other means of rapid communication, the person who received the original detention order or that person's representative of the detention notification.

(Response 7) We understand the concern raised by the commenter but do not believe that the notification of detention requirements should be revised to require notification by telephone or other means of rapid communication. As a general matter, current Agency practice with regard to administrative detentions is to concurrently notify the person who received the original detention order, or that person's representative, of the detention termination when a detention termination notice is sent by mail. We will consider incorporating such notification processes into Agency procedures to implement administrative detentions for drugs.

F. Enforcement Concerns

(Comment 8) One commenter expressed concern regarding the potential for variability of enforcement among FDA's investigators, particularly regarding potential adulteration charges under section 501(j) of the FD&C Act.

(Response 8) The authorities granted to FDA in Title VII of FDASIA, including the authority to enforce the prohibition against delaying, denying, limiting, or refusing an inspection under section 707 of FDASIA, are a comprehensive package, intended to enhance FDA's oversight of the global drug supply chain. Implementation of these new authorities will include measures to help ensure that our investigators are appropriately educated and trained on the new legal authorities and implementing procedures.

G. Foreign Inspections

(Comment 9) One commenter suggested that FDA highlight the intent and manner in which the Agency intends to collaborate with foreign governments to apply administrative detention authority abroad.

(Response 9) We appreciate this comment; however, the focus of this rule is not on our enforcement implementation, but on the process by which administrative detention of drugs occurs. If, in the future, we determine that administrative detention authority with respect to drugs has a unique application, we will evaluate what guidance or other information we will need to issue to help ensure transparency.

H. Harmonization With European Union Legislation

(Comment 10) One commenter suggested that to support global harmonization, FDA harmonize the administrative detention of drugs to the highest possible degree with the European Union Falsified Medicines Directive (EU Directive 2011/62).

(Response 10) FDA appreciates the comment. We do harmonize with legislation of our foreign regulatory counterparts to the extent possible and practicable. In 2011, the European Union (EU) Council issued the Falsified Medicines Directive in an effort to strengthen the EU's ability to detect falsified medicines and prevent their entry into the legitimate supply chain by adding new requirements in four main areas: Safety features, supply chain and good distribution practices, active pharmaceutical ingredients, and Internet sales (Ref. 2). This EU legislation, however, does not address administrative detention of drugs.

IV. Legal Authority

FDA is issuing this final rule under sections 304(g) and 701 of the FD&C Act and section 709 of FDASIA. Section 709 of FDASIA provides FDA authority to issue regulations regarding administrative detention authority with respect to drugs. Section 304(g) of the FD&C Act includes FDA's administrative detention authority with respect to drugs. The final rule is necessary for efficient enforcement of the FD&C Act.

V. Analysis of Impacts (Summary of the Regulatory Impact Analysis)

FDA has examined the impacts of the final rule under Executive Order 12866, Executive Order 13563, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Orders 12866 and 13563 direct Agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Agency believes that this final rule would not be an economically significant regulatory action as defined by Executive Order 12866.

If a rule has a significant economic impact on a substantial number of small businesses, the Regulatory Flexibility Act requires Agencies to analyze regulatory alternatives that would minimize any significant impact of a rule on small entities. FDA has determined that this final rule would not have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that Agencies prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may

result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $141 million, using the most current (2013) Implicit Price Deflator for the Gross Domestic Product. FDA does not expect this final rule to result in any 1-year expenditure that would meet or exceed this amount.

The primary public health benefits from adoption of the final rule would be the value of the illnesses or deaths prevented because the Agency administratively detained a drug it has reason to believe is adulterated or misbranded; this benefit occurs only if the drug would not have been prevented from entering the market using one of the Agency's other enforcement tools. There may also be benefits from deterrence if administrative detention increases the likelihood that misbranded or adulterated products will not be marketed in the future.

The estimated primary costs to FDA include marking or labeling the detained product and costs associated with appeals of detention orders. However, other costs, such as loss in market value of a detained drug, may be incurred if FDA revokes the detention order on appeal. Given the history of administrative detention use with medical devices and foods, the likelihood is low of FDA issuing a detention order that is later revoked on appeal.

We estimate the annual costs using a range of 0 to 20 administrative detentions performed each year. The Agency estimates the net annual social costs to be between $0 and $602,602. The present discounted value over 20 years would be in the range of $0 to $8,965,196 at a 3 percent discount rate and in the range of $0 to $6,383,974 at a 7 percent discount rate.

FDA has examined the economic implications of the final rule as required by the Regulatory Flexibility Act. If a rule will have a significant economic impact on a substantial number of small entities, the Regulatory Flexibility Act requires Agencies to analyze regulatory options that would lessen the economic effect of the rule on small entities. We find that this final rule would not have a significant economic impact on a substantial number of small entities. This analysis, together with other relevant sections of this document, serves as the Final Regulatory Flexibility Analysis, as required under the Regulatory Flexibility Act.

The full discussion of economic impacts is available in docket FDA–2013–N–0365 and at *http://www.fda.gov/AboutFDA/ReportsManualsForms/Reports/EconomicAnalyses/default.htm* (Ref. 3).

VI. Paperwork Reduction Act of 1995

This final rule contains no collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3518(c)(1)(B)(ii)). Therefore, clearance by the Office of Management and Budget is not required under the Paperwork Reduction Act of 1995.

VII. Federalism

FDA has analyzed this final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies that have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the Agency has concluded that the rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

VIII. Environmental Impact

The Agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IX. References

The following references have been placed on display in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday, and are available electronically at *http://www.regulations.gov.* (FDA has verified the Web site address, but FDA is not responsible for any subsequent changes to the Web site after this document publishes in the **Federal Register**.)

1. *FDA Regulatory Procedures Manual,* chapter 9, pp. 9–29.

2. ''Directive 2011/62/EU of the European Parliament and of the Council of 8 June 2011 amending Directive 2011/83/EC on the Community code relating to medicinal products for human use, as regards the prevention of the entry into the legal supply chain of falsified medicinal products,'' *Official Journal of the European Union,* January 7, 2011, available at *http://ec.europa.eu/health/files/eudralex/vol-1/dir_2011_62/dir_2011_62_en.pdf.*

3. Final Regulatory Impact Analysis, Final Regulatory Flexibility Analysis, and Unfunded Mandates Reform Act Analysis for Administrative Detention of Drugs Intended for Human or Animal Use, available at *http://www.fda.gov/AboutFDA/ReportsManualsForms/Reports/EconomicAnalyses/default.htm.*

List of Subjects

21 CFR Part 1

Cosmetics, Drugs, Exports, Food labeling, Imports, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 16

Administrative practice and procedure.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 1 and 16 are amended as follows:

PART 1—GENERAL ENFORCEMENT REGULATIONS

■ 1. The authority citation for 21 CFR part 1 is revised to read as follows:

Authority: 15 U.S.C. 1333, 1453, 1454, 1455, 4402; 19 U.S.C. 1490, 1491; 21 U.S.C. 321, 331, 332, 333, 334, 335a, 343, 350c, 350d, 352, 355, 360b, 360ccc, 360ccc–1, 360ccc–2, 362, 371, 374, 381, 382, 387, 387a, 387c, 393; 42 U.S.C. 216, 241, 243, 262, 264.

Subparts L–P—[Added and Reserved]

■ 2. Add and reserve subparts L through P.

■ 3. Add subpart Q, consisting of § 1.980, to read as follows:

Subpart Q—Administrative Detention of Drugs Intended for Human or Animal Use

§ 1.980 Administrative detention of drugs.

(a) *General.* This section sets forth the procedures for detention of drugs believed to be adulterated or misbranded. Administrative detention is intended to protect the public by preventing distribution or use of drugs encountered during inspections that may be adulterated or misbranded, until the Food and Drug Administration (FDA) has had time to consider what action it should take concerning the drugs, and to initiate legal action, if appropriate. Drugs that FDA orders detained may not be used, moved, altered, or tampered with in any manner by any person during the detention period, except as authorized under paragraph (h) of this section, until FDA

terminates the detention order under paragraph (j) of this section, or the detention period expires, whichever occurs first.

(b) *Criteria for ordering detention.* Administrative detention of drugs may be ordered in accordance with this section when an authorized FDA representative, during an inspection under section 704 of the Federal Food, Drug, and Cosmetic Act, has reason to believe that a drug, as defined in section 201(g) of the Federal Food, Drug, and Cosmetic Act, is adulterated or misbranded.

(c) *Detention period.* The detention is to be for a reasonable period that may not exceed 20 calendar days after the detention order is issued, unless the FDA District Director in whose district the drugs are located determines that a greater period is required to seize the drugs, to institute injunction proceedings, or to evaluate the need for legal action, in which case the District Director may authorize detention for 10 additional calendar days. The additional 10-calendar-day detention period may be ordered at the time the detention order is issued or at any time thereafter. The entire detention period may not exceed 30 calendar days, except when the detention period is extended under paragraph (g)(6) of this section. An authorized FDA representative may, in accordance with paragraph (j) of this section, terminate a detention before the expiration of the detention period.

(d) *Issuance of detention order.* (1) The detention order must be issued in writing, in the form of a detention notice, signed by the authorized FDA representative who has reason to believe that the drugs are adulterated or misbranded, and issued to the owner, operator, or agent in charge of the place where the drugs are located. If the owner or the user of the drugs is different from the owner, operator, or agent in charge of the place where the drugs are detained, a copy of the detention order must be provided to the owner or user of the drugs if the owner's or user's identity can be readily determined.

(2) If detention of drugs in a vehicle or other carrier is ordered, a copy of the detention order must be provided to the shipper of record and the owner of the vehicle or other carrier, if their identities can be readily determined.

(3) The detention order must include the following information:

(i) A statement that the drugs identified in the order are detained for the period shown;

(ii) A brief, general statement of the reasons for the detention;

(iii) The location of the drugs;

(iv) A statement that these drugs are not to be used, moved, altered, or tampered with in any manner during that period, except as permitted under paragraph (h) of this section, without the written permission of an authorized FDA representative;

(v) Identification of the detained drugs;

(vi) The detention order number;

(vii) The date and hour of the detention order;

(viii) The period of the detention;

(ix) The text of section 304(g) of the Federal Food, Drug, and Cosmetic Act and paragraphs (g)(1) and (g)(2) of this section;

(x) A statement that any informal hearing on an appeal of a detention order must be conducted as a regulatory hearing under part 16 of this chapter, with certain exceptions described in paragraph (g)(3) of this section; and

(xi) The location and telephone number of the FDA district office and the name of the FDA District Director.

(e) *Approval of detention order.* A detention order, before issuance, must be approved by the FDA District Director in whose district the drugs are located. If prior written approval is not feasible, prior oral approval must be obtained and confirmed by written memorandum within FDA as soon as possible.

(f) *Labeling or marking a detained drug.* An FDA representative issuing a detention order under paragraph (d) of this section must label or mark the drugs with official FDA tags that include the following information:

(1) A statement that the drugs are detained by the U.S. Government in accordance with section 304(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 334(g)).

(2) A statement that the drugs must not be used, moved, altered, or tampered with in any manner for the period shown, without the written permission of an authorized FDA representative, except as authorized in paragraph (h) of this section.

(3) A statement that the violation of a detention order or the removal or alteration of the tag is punishable by fine or imprisonment or both (section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333)).

(4) The detention order number, the date and hour of the detention order, the detention period, and the name of the FDA representative who issued the detention order.

(g) *Appeal of a detention order.* (1) A person who would be entitled to claim the drugs, if seized, may appeal a detention order. Any appeal must be submitted in writing to the FDA District Director in whose district the drugs are located within 5 working days of receipt of a detention order. If the appeal includes a request for an informal hearing, as defined in section 201(x) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(x)), the appellant must request either that a hearing be held within 5 working days after the appeal is filed or that the hearing be held at a later date, which must not be later than 20 calendar days after receipt of a detention order.

(2) The appellant of a detention order must state the ownership or proprietary interest the appellant has in the detained drugs. If the detained drugs are located at a place other than an establishment owned or operated by the appellant, the appellant must include documents showing that the appellant would have legitimate authority to claim the drugs if seized.

(3) Any informal hearing on an appeal of a detention order must be conducted as a regulatory hearing under regulation in accordance with part 16 of this chapter, except that:

(i) The detention order under paragraph (d) of this section, rather than the notice under § 16.22(a) of this chapter, provides notice of opportunity for a hearing under this section and is part of the administrative record of the regulatory hearing under § 16.80(a) of this chapter;

(ii) A request for a hearing under this section should be addressed to the FDA District Director;

(iii) The last sentence of § 16.24(e) of this chapter, stating that a hearing may not be required to be held at a time less than 2 working days after receipt of the request for a hearing, does not apply to a hearing under this section;

(iv) Paragraph (g)(4) of this section, rather than § 16.42(a) of this chapter, describes the FDA employees, i.e., regional food and drug directors, who preside at hearings under this section.

(4) The presiding officer of a regulatory hearing on an appeal of a detention order, who also must decide the appeal, must be a regional food and drug director (i.e., a director of an FDA regional office listed in part 5, subpart M of this chapter) who is permitted by § 16.42(a) of this chapter to preside over the hearing.

(5) If the appellant requests a regulatory hearing and requests that the hearing be held within 5 working days after the appeal is filed, the presiding officer must, within 5 working days, hold the hearing and render a decision affirming or revoking the detention.

(6) If the appellant requests a regulatory hearing and requests that the hearing be held at a date later than

within 5 working days after the appeal is filed, but not later than 20 calendar days after receipt of a detention order, the presiding officer must hold the hearing at a date agreed upon by FDA and the appellant. The presiding officer must decide whether to affirm or revoke the detention within 5 working days after the conclusion of the hearing. The detention period extends to the date of the decision even if the 5-working-day period for making the decision extends beyond the otherwise applicable 20-calendar-day or 30-calendar-day detention period.

(7) If the appellant appeals the detention order but does not request a regulatory hearing, the presiding officer must render a decision on the appeal, affirming or revoking the detention within 5 working days after the filing of the appeal.

(8) If the presiding officer affirms a detention order, the drugs continue to be detained until FDA terminates the detention under paragraph (j) of this section or the detention period expires, whichever occurs first.

(9) If the presiding officer revokes a detention order, FDA must terminate the detention under paragraph (j) of this section.

(h) *Movement of detained drugs.* (1) Except as provided in this paragraph, no person may move detained drugs within or from the place where they have been ordered detained until FDA terminates the detention under paragraph (j) of this section or the detention period expires, whichever occurs first.

(2) If detained drugs are not in final form for shipment, the manufacturer may move them within the establishment where they are detained to complete the work needed to put them in final form. As soon as the drugs are moved for this purpose, the individual responsible for their movement must orally notify the FDA representative who issued the detention order, or another responsible district office official, of the movement of the drugs. As soon as the drugs are put in final form, they must be segregated from other drugs, and the individual responsible for their movement must orally notify the FDA representative who issued the detention order, or another responsible district office official, of their new location. The drugs put in final form must not be moved further without FDA approval.

(3) The FDA representative who issued the detention order, or another responsible district office official, may approve, in writing, the movement of detained drugs for any of the following purposes:

(i) To prevent interference with an establishment's operations or harm to the drugs;

(ii) To destroy the drugs;

(iii) To bring the drugs into compliance;

(iv) For any other purpose that the FDA representative who issued the detention order, or other responsible district office official, believes is appropriate in the case.

(4) If an FDA representative approves the movement of detained drugs under paragraph (h)(3) of this section, the detained drugs must remain segregated from other drugs and the person responsible for their movement must immediately orally notify the official who approved the movement of the drugs, or another responsible FDA district office official, of the new location of the detained drugs.

(5) Unless otherwise permitted by the FDA representative who is notified of, or who approves, the movement of drugs under this paragraph, the required tags must accompany the drugs during and after movement and must remain with the drugs until FDA terminates the detention or the detention period expires, whichever occurs first.

(i) *Actions involving adulterated or misbranded drugs.* If FDA determines that the detained drugs, including any that have been put in final form, are adulterated or misbranded, or both, it may initiate legal action against the drugs or the responsible individuals, or both, or request that the drugs be destroyed or otherwise brought into compliance with the Federal Food, Drug, and Cosmetic Act under FDA's supervision.

(j) *Detention termination.* If FDA decides to terminate a detention or when the detention period expires, whichever occurs first, an FDA representative authorized to terminate a detention will issue a detention termination notice releasing the drugs to any person who received the original detention order or that person's representative and will remove, or authorize in writing the removal of, the required labels or tags.

(k) *Recordkeeping requirements.* (1) After issuance of a detention order under paragraph (d) of this section, the owner, operator, or agent in charge of any factory, warehouse, other establishment, or consulting laboratory where detained drugs are manufactured, processed, packed, or held, must have, or establish, and maintain adequate records relating to how the detained drugs may have become adulterated or misbranded, records on any distribution of the drugs before and after the detention period, records on the correlation of any in-process detained drugs that are put in final form under paragraph (h) of this section to the completed drugs, records of any changes in, or processing of, the drugs permitted under the detention order, and records of any other movement under paragraph (h) of this section. Records required under this paragraph must be provided to FDA on request for review and copying. Any FDA request for access to records required under this paragraph must be made at a reasonable time, must state the reason or purpose for the request, and must identify to the fullest extent practicable the information or type of information sought in the records to which access is requested.

(2) Records required under this paragraph must be maintained for a maximum period of 2 years after the issuance of the detention order or for such other shorter period as FDA directs. When FDA terminates the detention or when the detention period expires, whichever occurs first, FDA will advise all persons required under this paragraph to keep records concerning that detention whether further recordkeeping is required for the remainder of the 2-year, or shorter, period. FDA ordinarily will not require further recordkeeping if the Agency determines that the drugs are not adulterated or misbranded or that recordkeeping is not necessary to protect the public health, unless the records are required under other regulations in this chapter (e.g., the good manufacturing practice regulation in part 211 of this chapter).

PART 16—REGULATORY HEARING BEFORE THE FOOD AND DRUG ADMINISTRATION

■ 4. The authority citation for 21 CFR part 16 is revised to read as follows:

Authority: 15 U.S.C. 1451–1461; 21 U.S.C. 141–149, 321–394, 467F, 679, 821, 1034; 42 U.S.C. 201–262, 263b, 364.

■ 5. Revise the first sentence of § 16.1 paragraph (b)(1) to read as follows:

§ 16.1 Scope.

* * * * *

(b) * * *

(1) Statutory provisions: Section 304(g) of the act relating to the administrative detention of devices and drugs (see §§ 800.55(g) and 1.980(g) of this chapter).

* * * * *

Dated: May 23, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–12458 Filed 5–28–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 876

[Docket No. FDA–2014–N–0430]

Medical Devices; Gastroenterology-Urology Devices; Classification of Pancreatic Drainage Stent and Delivery System

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

SUMMARY: The Food and Drug Administration (FDA) is classifying the pancreatic drainage stent and delivery system into class II (special controls). The special controls that will apply to the device are identified in this order, and will be part of the codified language for the pancreatic drainage stent and delivery system classification. The Agency is classifying the device into class II (special controls) in order to provide a reasonable assurance of safety and effectiveness of the device.

DATES: This order is effective June 30, 2014. The classification was applicable beginning December 18, 2013.

FOR FURTHER INFORMATION CONTACT: Jeffrey Cooper, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G228, Silver Spring, MD 20993–0002, 301–796–6517.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with section 513(f)(1) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360c(f)(1)), devices that were not in commercial distribution before May 28, 1976 (the date of enactment of the Medical Device Amendments of 1976), generally referred to as postamendments devices, are classified automatically by statute into class III without any FDA rulemaking process. These devices remain in class III and require premarket approval, unless and until the device is classified or reclassified into class I or II, or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the FD&C Act, to a predicate device that does not require premarket approval. The Agency determines whether new devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807) of the regulations.

Section 513(f)(2) of the FD&C Act, as amended by section 607 of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144, July 9, 2012, 126 Stat. 1054), provides two procedures by which a person may request FDA to classify a device under the criteria set forth in section 513(a)(1). Under the first procedure, the person submits a premarket notification under section 510(k) of the FD&C Act for a device that has not previously been classified and, within 30 days of receiving an order classifying the device into class III under section 513(f)(1) of the FD&C Act, the person requests a classification under section 513(f)(2). Under the second procedure, rather than first submitting a premarket notification under section 510(k) of the FD&C Act and then a request for classification under the first procedure, the person determines that there is no legally marketed device upon which to base a determination of substantial equivalence and requests a classification under section 513(f)(2) of the FD&C Act. If the person submits a request to classify the device under this second procedure, FDA may decline to undertake the classification request if FDA identifies a legally marketed device that could provide a reasonable basis for review of substantial equivalence with the device or if FDA determines that the device submitted is not of ''low-moderate risk'' or that general controls would be inadequate to control the risks and special controls to mitigate the risks cannot be developed.

In response to a request to classify a device under either procedure provided by section 513(f)(2) of the FD&C Act, FDA will classify the device by written order within 120 days. This classification will be the initial classification of the device.

On February 15, 2013, Xlumena, Inc., submitted a request for classification of the AXIOS Stent and Delivery System under section 513(f)(2) of the FD&C Act. The manufacturer recommended that the device be classified into class II (Ref. 1).

In accordance with section 513(f)(2) of the FD&C Act, FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act. FDA classifies devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls to provide reasonable assurance of the safety and effectiveness of the device for its intended use. After review of the information submitted in the de novo request, FDA determined that the device can be classified into class II with the establishment of special controls. FDA believes these special controls, in addition to general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on December 18, 2013, FDA issued an order to the requestor classifying the device into class II. FDA is codifying the classification of the device by adding § 876.5015.

Following the effective date of this final classification administrative order, any firm submitting a premarket notification (510(k)) for a pancreatic drainage stent and delivery system will need to comply with the special controls named in the final administrative order.

The device is assigned the generic name pancreatic drainage stent and delivery system, and it is identified as a prescription device that consists of a self-expanding, covered, metallic stent, intended for placement to facilitate transmural endoscopic drainage of pancreatic pseudocysts. This stent is intended to be removed upon confirmation of pseudocyst resolution. This device may also include a delivery system.

FDA has identified the following risks to health associated with this type of device and the measures required to mitigate these risks in table 1:

TABLE 1—PANCREATIC DRAINAGE STENT AND DELIVERY SYSTEM RISKS AND MITIGATION MEASURES

Identified risk	Mitigation measure
Adverse tissue reaction or infection	Biocompatibility testing. Sterility testing. Labeling.
Partial expansion of stent	Clinical experience. In-vitro (bench) testing. Labeling.

TABLE 1—PANCREATIC DRAINAGE STENT AND DELIVERY SYSTEM RISKS AND MITIGATION MEASURES—Continued

Identified risk	Mitigation measure
Failure to deliver stent	Clinical experience. In-vitro (bench) testing. Labeling.
Stent occlusion	Clinical experience. Labeling.
Stent ingrowth/failure to remove stent	Clinical experience. Labeling.
Stent migration (passive dislocation)	Clinical experience. In-vitro (bench) testing. Labeling.
Stent dislodgement (active dislocation)	Clinical experience. In-vitro (bench) testing. Labeling.
Tissue ulceration	Clinical experience. In-vitro (bench) testing. Labeling.
Procedural complications	Clinical experience. Labeling.

FDA believes that the following special controls, in addition to the general controls, address these risks to health and provide reasonable assurance of safety and effectiveness:

1. The device and elements of the delivery device that may contact the patient must be demonstrated to be biocompatible.

2. Performance data must demonstrate the sterility of patient-contacting components of the device.

3. Performance data must support the shelf life of the device by demonstrating continued sterility, package integrity, and device functionality over the requested shelf life.

4. Non-clinical testing data must demonstrate that the stent and delivery system perform as intended under anticipated conditions of use. The following performance characteristics must be tested:

- Deployment testing of the stent and delivery system must be conducted under simulated use conditions.
- Removal force testing must be conducted. The removal force testing must demonstrate that the stent can be safely removed, and that the stent will remain in place when subjected to forces encountered during use.
- Expansion force testing must be conducted. The expansion force must demonstrate that the forces exerted by the stent will not damage the tissue surrounding the stent.
- Compression force testing must be conducted. The compression force must demonstrate that the stent will withstand the forces encountered during use.
- Dimensional verification testing must be conducted.
- Tensile testing of joints and materials must be conducted. The minimum acceptance criteria must be adequate for its intended use.
- Fatigue testing must be conducted. Material strength must demonstrate that the stent will withstand forces encountered during use.
- Corrosion testing must be conducted. Corrosion resistance must demonstrate that the stent will withstand conditions encountered during use.

5. Non-clinical testing must evaluate the compatibility of the stent in a magnetic resonance environment.

6. Well-documented clinical experience must demonstrate safe and effective use, and capture any adverse events observed during clinical use.

7. Labeling must include the following:

- Appropriate instructions, warnings, cautions, limitations, and information related to the safe use of the device, including deployment of the device, maintenance of the drainage lumen, and removal of the device.
- A warning that the safety and patency of the stent has not been established beyond the duration of the documented clinical experience.
- Specific instructions and the qualifications and clinical training needed for the safe use of the device, including deployment of the device, maintenance of the drainage lumen, and removal of the device.
- Information on the patient population for which the device has been demonstrated to be effective.
- A detailed summary of the clinical experience pertinent to use of the device.
- A detailed summary of the device technical parameters.
- A detailed summary of the device- and procedure-related complications pertinent to use of the device.
- An expiration date/shelf life.

Pancreatic drainage stents and delivery systems are prescription devices restricted to patient use only upon the authorization of a practitioner licensed by law to administer or use the device. (Proposed § 876.5015(a); see section 520(e) of the FD&C Act (21 U.S.C. 360j(e)) and 21 CFR 801.109 (Prescription devices).) Prescription-use restrictions are a type of general controls as defined in section 513(a)(1)(A)(i) of the FD&C Act.

Section 510(m) of the FD&C Act provides that FDA may exempt a class II device from the premarket notification requirements under section 510(k) of the FD&C Act if FDA determines that premarket notification is not necessary to provide reasonable assurance of the safety and effectiveness of the device. For this type of device, FDA has determined that premarket notification is necessary to provide reasonable assurance of the safety and effectiveness of the device. Therefore, this device type is not exempt from premarket notification requirements. Persons who intend to market this type of device must submit to FDA a premarket notification prior to marketing the device, which contains information about the pancreatic drainage stent and delivery system they intend to market.

II. Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

III. Paperwork Reduction Act of 1995

This final administrative order establishes special controls that refer to previously approved collections of information found in other FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in part 807, subpart E, regarding premarket notification submissions have been approved under OMB control number 0910–0120, and the collections of information in 21 CFR part 801, regarding labeling, have been approved under OMB control number 0910–0485.

IV. Reference

The following reference has been placed on display in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday, and is available electronically at *http://www.regulations.gov.*

1. K123250: De Novo Request per section 513(f)(2) of the Federal Food, Drug, and Cosmetic Act From Xlumena, Inc., dated February 15, 2013.

List of Subjects in 21 CFR Part 876

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 876 is amended as follows:

PART 876—GASTROENTEROLOGY-UROLOGY DEVICES

■ 1. The authority citation for 21 CFR part 876 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

■ 2. Add § 876.5015 to subpart F to read as follows:

§ 876.5015 Pancreatic drainage stent and delivery system.

(a) Identification. A pancreatic drainage stent is a prescription device that consists of a self-expanding, covered, metallic stent, intended for placement to facilitate transmural endoscopic drainage of pancreatic pseudocysts. This stent is intended to be removed upon confirmation of pseudocyst resolution. This device may also include a delivery system.

(b) Classification. Class II (special controls). The special controls for this device are:

(1) The device and elements of the delivery device that may contact the patient must be demonstrated to be biocompatible.

(2) Performance data must demonstrate the sterility of patient-contacting components of the device.

(3) Performance data must support the shelf life of the device by demonstrating continued sterility, package integrity, and device functionality over the requested shelf life.

(4) Non-clinical testing data must demonstrate that the stent and delivery system perform as intended under anticipated conditions of use. The following performance characteristics must be tested:

(i) Deployment testing of the stent and delivery system must be conducted under simulated use conditions.

(ii) Removal force testing must be conducted. The removal force testing must demonstrate that the stent can be safely removed, and that the stent will remain in place when subjected to forces encountered during use.

(iii) Expansion force testing must be conducted. The expansion force must demonstrate that the forces exerted by the stent will not damage the tissue surrounding the stent.

(iv) Compression force testing must be conducted. The compression force must demonstrate that the stent will withstand the forces encountered during use.

(v) Dimensional verification testing must be conducted.

(vi) Tensile testing of joints and materials must be conducted. The minimum acceptance criteria must be adequate for its intended use.

(vii) Fatigue testing must be conducted. Material strength must demonstrate that the stent will withstand forces encountered during use.

(viii) Corrosion testing must be conducted. Corrosion resistance must demonstrate that the stent will withstand conditions encountered during use.

(5) Non-clinical testing must evaluate the compatibility of the stent in a magnetic resonance (MR) environment.

(6) Well-documented clinical experience must demonstrate safe and effective use, and capture any adverse events observed during clinical use.

(7) Labeling must include the following:

(i) Appropriate instructions, warnings, cautions, limitations, and information related to the safe use of the device, including deployment of the device, maintenance of the drainage lumen, and removal of the device.

(ii) A warning that the safety and patency of the stent has not been established beyond the duration of the documented clinical experience.

(iii) Specific instructions and the qualifications and clinical training needed for the safe use of the device, including deployment of the device, maintenance of the drainage lumen, and removal of the device.

(iv) Information on the patient population for which the device has been demonstrated to be effective.

(v) A detailed summary of the clinical experience pertinent to use of the device.

(vi) A detailed summary of the device technical parameters.

(vii) A detailed summary of the device- and procedure-related complications pertinent to use of the device.

(viii) An expiration date/shelf life.

Dated: May 21, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–12297 Filed 5–28–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF THE TREASURY

Bureau of Engraving and Printing

31 CFR Part 100

Exchange of Mutilated Paper Currency

AGENCY: Bureau of Engraving and Printing, Treasury.

ACTION: Interim rule.

SUMMARY: The Department of the Treasury, Bureau of Engraving and Printing is amending its regulations on exchange of mutilated paper currency in order to update mutilated currency procedures and eliminate references to obsolete practices and terms. The amendments will serve to deter fraud and abuse in the mutilated currency redemption process.

DATES: Comments must be received no later than July 28, 2014. *Effective date:* May 29, 2014.

ADDRESSES: The Bureau of Engraving and Printing invites comments on all aspects of this interim rule. Comments may be submitted through one of these methods:

Electronic Submission of Comments: Interested persons are encouraged to submit comments electronically through the Federal eRulemaking Portal at *http://www.regulations.gov.* Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt, and enables the Department to make them available to the public.

Comments submitted electronically through the *http://www.regulations.gov* Web site can be viewed by other commenters and interested members of the public.

Mail: Comments may be sent to the Office of the Chief Counsel, United States Department of the Treasury, Bureau of Engraving and Printing, 14th and C Streets SW., Washington, DC 20228, Room 419–A, Attention: Amendments to 31 CFR Part 100, Subpart B. Comments will be made available for public inspection upon written request. The Bureau of Engraving Printing will make such comments available for public inspection and copying at the above listed location, on official business days between the hours of 9 a.m. and 5 p.m. Eastern time. Persons wishing to inspect the comments submitted must request an appointment by telephoning (202) 874–2500. All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Nichole Jenkins Washington, Senior Attorney, Department of the Treasury, Bureau of Engraving and Printing, 14th and C Streets SW., Washington, DC 20228, by phone at (202) 874–2500, or by email at *Nichole.Washington@bep.gov*.

SUPPLEMENTARY INFORMATION:

Background

The Bureau of Engraving and Printing, a bureau within the Department of the Treasury, last made minor revisions to its regulations pertaining to the redemption of mutilated currency on March 11, 1991. The Bureau of Engraving and Printing is proposing to amend the regulations in order to update mutilated currency procedures and eliminate references to obsolete practices and terms and to provide the public with more specific information on the process for submitting mutilated currency for possible redemption.

This Interim Rule

This rule establishes the process by which members of the public may request redemption of mutilated currency. It also sets forth the steps taken by the Bureau of Engraving and Printing following submission of different categories of mutilated currency.

The first category of amendments relates to general notification to the public concerning redemption of mutilated paper currency and the characteristics that the mutilated paper currency submissions should possess for possible redemption. (31 CFR 100.5) The revisions also capture formatting changes as the current regulations predate many of the current regulatory format standards.

The second category of amendments serves to notify the public of the present practices in the Bureau of Engraving and Printing's Mutilated Currency Division, and to deter fraud in mutilated currency submissions. (31 CFR 100.7) The Bureau of Engraving and Printing has encountered some schemes where currency is intentionally mutilated in an apparent attempt to defraud the government. The intentionally mutilated currency is often intermingled with other bills in an apparent effort to thwart detection. The interim rule will allow the Mutilated Currency Division examiners to cease processing submissions that appear to be part of an illegal scheme, and instead alert law enforcement officials. The amendments will also inform submitters under what circumstances to provide banking information for purposes of electronic funds transfers.

The third category of amendments would further clarify the requirements for packaging and shipping mutilated currency submissions and update the delivery methods and the appropriate address for shipping purposes. (31 CFR 100.8) Additional amendments were proposed in order to discourage submitters from tampering with or altering their mutilated currency submission in an attempt to preserve it. For example, bills laminated with tape or glued together in previous submissions made it more difficult for mutilated currency examiners to determine if the bills were fraudulent.

The fourth category of amendments serves to put the public on notice that the Director may provide information pertaining to any mutilated currency submission to law enforcement officials or other third parties for purposes of investigation of related criminal activity or for purposes of seeking civil judgment. (31 CFR 100.9) In a further attempt to deter fraud, the amendments also serve to notify potential submitters that they may be held criminally and/or civilly liable, fined, and/or imprisoned for fraudulent submissions.

Procedural Matters

Executive Order 12866

This rule is not a significant regulatory action, as defined in Executive Order 12866.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) generally requires agencies to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute. Because this rule is being issued without prior notice and comment procedures, the provisions of the Regulatory Flexibility Act do not apply.

Inapplicability of Notice and Comment Procedures

This rule is being issued without prior public notice and comment because under 5 U.S.C. 553(b) and (d)(3) good cause exists to determine that prior notice and comment rulemaking is unnecessary and contrary to the public interest. The regulations implemented through this rule update obsolete language and redemption of mutilated currency procedures and provide the public with more specific information on the voluntary process for submitting mutilated currency for possible redemption. The regulations do not adversely affect the rights of the public. Additionally, delay in the effective date of this rule is contrary to the public interest because there are indicators of current fraud schemes aimed at the newly designed next generation $100 bill which the revisions are specifically designed to deter.

List of Subjects in 31 CFR Part 100

Currency.

For the reasons stated in the preamble, the Bureau of Engraving and Printing amends subpart B of 31 CFR Part 100 as follows:

PART 100—EXCHANGE OF PAPER CURRENCY AND COIN

■ 1. The authority citation for 31 CFR part 100 continues to read as follows:

Authority: 31 U.S.C. 321.

■ 2. Revise subpart B to read as follows:

Subpart B—Request for Examination of Mutilated Currency for Possible Redemption

Sec.
100.5 Mutilated paper currency.
100.6 Destroyed paper currency.
100.7 Treasury's redemption process.
100.8 Packaging and shipping of mutilated currency.
100.9 Notices.

§ 100.5 Mutilated paper currency.

(a) *General.* Lawfully held mutilated paper currency of the United States may be submitted for examination in accord

with the provisions in this subpart. Such currency may be redeemed at face amount if sufficient remnants of any relevant security feature and clearly more than one-half of the original note remains. Fragments of such mutilated currency which are not clearly more than one-half of the original whole note or are lacking sufficient remnants of any relevant security feature will be redeemed at face value only if the Director, Bureau of Engraving and Printing, Department of the Treasury, is satisfied that the missing portions have been totally destroyed. The Director's judgment shall be based on such evidence of total destruction as is necessary and shall be final. Any submission under this subpart shall be deemed an acceptance of all provisions contained herein.

(b) *Definitions.* The following definitions are used in this subpart:

Mutilated currency is currency which has been damaged to the extent that: (i) One-half or less of the original note remains; or

(ii) Its condition is such that its value is questionable and the currency must be forwarded to the Department of the Treasury for the examination by trained experts before any redemption is made.

Unfit currency is currency which is unfit for further circulation because of its physical condition such as torn, dirty, limp, worn or defaced. Unfit currency should not be forwarded to the Department of the Treasury, but may be exchanged at commercial banks.

§ 100.6 Destroyed paper currency.

No relief will be granted on account of lawfully held paper currency which has been totally destroyed.

§ 100.7 Treasury's redemption process.

(a) Lawful holders of mutilated currency may receive a redemption at full value when:

(1) Clearly more than 50% of a note identifiable as United States currency is present along with sufficient remnants of any relevant security feature; or

(2) Fifty percent or less of a note identifiable as United States currency is present and the method of mutilation and supporting evidence demonstrate to the satisfaction of the Treasury that the missing portions have been totally destroyed.

(b) No redemption will be made when:

(1) A submission, or any portion thereof, demonstrates a pattern of intentional mutilation or an attempt to defraud the United States. In such instances, the entire submission will be destroyed or retained as evidence.

(2) A submission appears to be part of, or intended to further, any criminal scheme. In such instances, the entire submission will be destroyed or retained as evidence.

(3) A submission contains a material misrepresentation of facts.

(4) Fragments and remnants presented are not identifiable as United States currency; or

(5) Fragments and remnants presented which represent 50% or less of a note are identifiable as United States currency but the method of destruction and supporting evidence do not satisfy the Treasury that the missing portion has been totally destroyed.

(c) Lawfully held mutilated currency in a submission that also contains counterfeit currency may be destroyed or retained as evidence, at the discretion of the Director of the Bureau of Engraving and Printing.

(d) All cases will be handled under proper procedures to safeguard the funds and interests of the submitter of lawfully held mutilated currency. In some cases, the amount redeemed will be less than the amount estimated by the submitter. In other cases, the amount redeemed may be greater. The amount redeemed will be determined by an examination made by trained mutilated currency examiners and governed by the above criteria.

(e) The Director of the Bureau of Engraving and Printing shall have final authority with respect to redemptions of mutilated currency submissions.

(f) All submissions for review shall include an estimate of the value of the currency and an explanation of how it came to be mutilated. The submission should also contain the bank account number and routing number for an account of a United States bank since all redemptions of $500 or more shall be made through Electronic Funds Transfer (EFT).

§ 100.8 Packaging and shipping of mutilated currency.

Mutilated currency examiners are best able to determine the value of the currency when it has been carefully packed and boxed as described below. As a result, failure to follow the directions in this section may result in a denial of redemption:

(a) Regardless of the condition of the currency, do not disturb the fragments more than is absolutely necessary.

(b) If the currency is brittle or inclined to fall apart, pack it carefully in cotton and box it as found, without disturbing the fragments, if possible.

(c) If the currency was in a purse, box, or other container when mutilated, it should be left therein, if possible, in order to prevent further deterioration of the fragments or from their being lost.

(d) If it is absolutely necessary to remove the fragments from the container, send the container with the currency and any other contents found, except as noted in paragraph (g) of this section.

(e) If the currency was flat when mutilated, do not roll, fold, laminate, tape, glue or in any other way alter the currency in an attempt to preserve it.

(f) If the currency was in a roll when mutilated, do not attempt to unroll or straighten.

(g) If coin or any other metal is mixed with the currency, remove carefully. Do not send coin or other metal in the same package with mutilated paper currency, as the metal will break up the currency. Coin should be exchanged in accordance with subpart C of this part.

(h) Mutilated currency shipments must be addressed as follows:

(1) USPS Delivery—Department of the Treasury, Bureau of Engraving and Printing, MCD/OFM, Room 344A, Post Office Box 37048, Washington, DC 20013.

(2) Non Postal Courier (FEDEX/UPS)—Department of the Treasury, Bureau of Engraving and Printing, MCD/OFM, Room 344–A, 14th & C Streets SW., Washington, DC 20228.

§ 100.9 Notices.

(a) The Director may provide information pertaining to any mutilated currency submission to law enforcement officials or other third parties for purposes of investigation of related criminal activity or for purposes of seeking a civil judgment.

(b) Whoever mutilates currency with the intent to render it unfit to be reissued may be fined and/or imprisoned. 18 U.S.C. 333.

(c) Whoever intentionally files a false claim seeking reimbursement for mutilated currency may be held criminally liable under a number of statutes including 18 U.S.C. 287 and 18 U.S.C. 1341 and may be held civilly liable under 31 U.S.C. 3729, *et seq.*

Dated: May 19, 2014.

Larry R. Felix,

Director.

[FR Doc. 2014–12435 Filed 5–28–14; 8:45 am]

BILLING CODE 4840–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0972]

RIN 1625–AA09

Drawbridge Operation Regulation; Bush River, Perryman, MD

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is modifying the operating schedule that governs the Amtrak Bridge, at mile 6.8 over Bush River, at Perryman, MD. The rule updates the language of the regulation to reflect the intent of the original schedule and change the interim rule as final.

DATES: This rule is effective June 30, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2013–0972. 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 final rule, call or email Mr. Jim Rousseau, Bridge Management Specialist, Coast Guard, telephone (757) 398–6557, email *James.L.Rousseau2@uscg.mil.* If you have questions on reviewing the docket, call Cheryl Collins, Program Manager, Docket Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking
§ Section Symbol
U.S.C. United States Code

A. Regulatory History and Information

On May 1, 1985, an interim rule was published (50 FR 18480) that changed the operating schedule of the Amtrak Bridge, at mile 6.8 over Bush River, at Perryman, MD. The comment period for this interim rule ended on June 14, 1985 and records indicate that no comments were received. The interim rule was never finalized and the proposed modification to the rule has remained in effect. Because the length of time the interim rule has been in effect, the Coast Guard opened a new comment period.

On February 14, 2014, the Coast Guard published a NPRM titled Drawbridge Operation Regulation; Bush River, Perryman, MD in the FR (79 FR 8911). The Coast Guard received no comments on the proposed rule. No public meeting was requested, and none was held.

The interim operating regulation, in 33 CFR 117.547, required the bridge to open twice a day on the weekends during the summer boating season and on one weekend in October. However, it failed to clarify that the bridge would remain closed to navigation at all other times, which was the intent of the bridge owner and how the bridge has operated since 1985. As the interim regulation was written, the bridge was actually required to open on demand at all other times; which was impractical given that the bridge is part of a high speed rail line and requires a maintenance crew of ten to physically open to navigation.

B. Basis and Purpose

The Amtrak Bridge is a single-leaf bascule bridge with a vertical clearance of approximately 12 feet above mean high water in the closed position. Due to the overhead power lines, the bridge has a vertical clearance of approximately 34 feet above mean high water in the open position.

The Amtrak Bridge had operated under the interim rule for over 28 years with little to no disagreements between the bridge owner, the waterway users, and local marinas. However, in 2011 Amtrak approached the Coast Guard with an issue on how they were receiving requests to open the bridge from the waterway users. As the Coast Guard reviewed the regulation in 33 CFR 117.547 the difference between the actual language and the intent of the regulation, identified in paragraph A, was brought to light. The Coast Guard proposed to modify the existing regulations for the Amtrak Bridge to clarify the original language and intent of the regulation.

The Coast Guard has reviewed and discussed the original and perceived intent of the current regulation with Amtrak and local waterway users. Based on the information provided, the final rule will correct the current language discrepancy in the regulation but have no impacts on current vessel or train traffic.

C. Discussion of Comments, Changes and the Final Rule

The Coast Guard received no comments in response to the notice of proposed rulemaking. As a result, no changes have been made to this final rule.

D. Regulatory Analyses

The Coast Guard developed this rule after considering numerous statutes and executive orders related to rulemaking. Below Coast Gaurd summarize our analyses based on these statutes or 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 Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. This change is expected to have no impact on mariners and no anticipated change to vessel and train traffic.

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. The Coast Guard received no comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This action will not have a significant economic impact on a substantial number of small entities for the following reasons. Vessel requests requiring openings for the past years have been based on the final regulation intent of only opening during May through October after coordination with Amtrak. Vessels that can safely transit under the bridge may do so at any time.

3. Collection of Information

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

4. 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. The Coast Guard have analyzed this rule under that Order and have determined that it does not have implications for federalism.

5. 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.

6. 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 expenditure, Coast Guard do discuss the effects of this rule elsewhere in this preamble.

7. 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.

8. 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.

9. Protection of Children

The Coast Guard 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 might disproportionately affect children.

10. 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.

11. 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.

12. Technical Standards

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

13. Environment

Coast Guard have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule involves the change to the operating schedule for the S37 Barnegat Bay Bridge in order to accommodate necessary repair. This rule is categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction.

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

List of Subjects in 33 CFR Part 117

Bridges.

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

■ 2. Revise § 117.547, to read as follows:

§ 117.547 Bush River.

The draw of the Amtrak Bridge, mile 6.8 at Perryman, shall operate as follows:

(a) Shall open twice a day from May 1 through October 31, on Saturdays, Sundays, and Federal holidays that fall on a Friday or a Monday, when a proper request has been received.

(b) Request for an opening is given to the Amtrak Assistant Division Engineer at 410–642–1588 and or email at *BridgeOpeningRequest@Amtrak.com* by an authorized representative of the Bush River Yacht Club no later than noon on the Friday just preceding the day of opening or, if that Friday is a Federal holiday, no later than noon on the preceding Thursday.

(c) Amtrak determines the times for openings and shall schedule the times:

(1) During daylight hours, six to ten hours apart; and

(2) One opening before noon and one after noon.

(3) In emergent situations after notification is given to the numbers indicated in paragraph (b) of this section it can take up to six hours for the bridge to open.

(d) Amtrak shall notify a representative of the Bush River Yacht Club of the times of all openings for the weekend (or extended weekend) in question no later than 6 p.m., on the Friday just preceding the weekend or, if that Friday is a Federal holiday, no later than 6 p.m., on the preceding Thursday.

(e) Each opening shall be of sufficient duration to pass waiting vessels.

(f) At all other times the draw need not open for the passage of vessels.

Dated: May 16, 2014.

Stephen P. Metruck,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 2014–12374 Filed 5–28–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0388]

Drawbridge Operation Regulation; Willamette River, Portland, OR

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the upper deck of the Steel Bridge across the Willamette River, mile 12.1, at Portland, OR. This deviation is necessary to accommodate the safe and efficient movement of light rail and roadway traffic associated with

the Rose Parade in Portland, Oregon. This deviation allows the upper deck of the Steel Bridge to remain in the closed position to facilitate efficient movement of event patrons.

DATES: This deviation is effective from 7 a.m. on June 7, 2014 to 1:30 p.m. on June 7, 2014.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2014–0388 and are available online by going to *http://www.regulations.gov,* inserting USCG–2014–0388 in the ''Keyword'' box and then clicking ''Search''. They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Steven Fischer, Bridge Administrator, Thirteenth Coast Guard District; telephone 206–220–7282, email *Steven.M.Fischer3@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: Trimet of Portland has requested that the upper deck of the Steel Bridge remain closed to vessel traffic to accommodate the safe and efficient movement of light rail and roadway traffic associated with the Rose Parade. The Steel Bridge crosses the Willamette River at mile 12.1 and is a double-deck lift bridge with a lower lift deck and an upper lift deck which operate independent of each other. When both decks are in the down position the bridge provides 26 feet of vertical clearance above Columbia River Datum 0.0. When the lower deck is in the up position the bridge provides 71 feet of vertical clearance above Columbia River Datum 0.0. This deviation does not affect the operating schedule of the lower deck which opens on signal. Vessels which do not require an opening of the upper deck of the bridge may continue to transit beneath the bridge and, if needed, may obtaining an opening of the lower deck of the bridge for passage during this closure period of the upper deck. Under normal conditions the upper deck of the Steel Bridge operates in accordance with 33 CFR 117.897(c)(3)(ii) which states that from 8 a.m. to 5 p.m. Monday through Friday one hour advance notice shall be given for draw openings and at all other times two hours advance notice shall be given to obtain an opening. This deviation period is from 7 a.m. on June 7, 2014 to 1:30 p.m. June 7, 2014. The deviation allows the upper deck of the Steel Bridge across the Willamette River, mile 12.1, to remain in the closed position and need not open for maritime traffic from 7 a.m. on June 7, 2014 to 1:30 p.m. June 7, 2014. The bridge shall operate in accordance to 33 CFR 117.897 at all other times. Waterway usage on this stretch of the Willamette River includes vessels ranging from commercial tug and barge to small pleasure craft. Mariners will be notified and kept informed of the bridge's operational status via the Coast Guard Notice to Mariners publication and Broadcast Notice to Mariners as appropriate. The lift span will be required to open, if needed, for public vessels of the United States and Canada and for vessels engaged in emergency response operations during this closure period.

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

Dated: May 16, 2014.

Steven M. Fischer,

Bridge Administrator, Thirteenth Coast Guard District.

[FR Doc. 2014–12377 Filed 5–28–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0389]

Drawbridge Operation Regulation; Willamette River, Portland, OR

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the upper deck of the Steel Bridge across the Willamette River, mile 12.1, at Portland, OR. This deviation is necessary to accommodate the safe and efficient movement of light rail and roadway traffic associated with the Starlight Parade in Portland, Oregon. This deviation allows the upper deck of the Steel Bridge to remain in the closed position to facilitate efficient movement of event patrons.

DATES: This deviation is effective from 7 p.m. on May 31, 2014 to 11:30 p.m. on May 31, 2014.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of docket USCG–2014–0389 and are available online by going to *http://www.regulations.gov,* inserting USCG–2014–0389 in the ''Keyword'' box and then clicking ''Search''. They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Steven Fischer, Bridge Administrator, Thirteenth Coast Guard District; telephone 206–220–7282, email *Steven.M.Fischer3@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: Trimet of Portland and the Oregon Department of Transportation have requested that the upper deck of the Steel Bridge remain closed to vessel traffic to facilitate the safe and efficient movement of light rail and roadway traffic associated with the Starlight Parade. The Steel Bridge crosses the Willamette River at mile 12.1 and is a double-deck lift bridge with a lower lift deck and an upper lift deck which operate independent of each other. When both decks are in the down position the bridge provides 26 feet of vertical clearance above Columbia River Datum 0.0. When the lower deck is in the up position the bridge provides 71 feet of vertical clearance above Columbia River Datum 0.0. This deviation does not affect the operating schedule of the lower deck which opens on signal. Vessels which do not require an opening of the upper deck of the bridge may continue to transit beneath the bridge and, if needed, may obtaining an opening of the lower deck of the bridge for passage during this closure period of the upper deck. Under normal conditions the upper deck of the Steel Bridge operates in accordance with 33 CFR 117.897(c)(3)(ii) which states that from 8 a.m. to 5 p.m. Monday through Friday one hour advance notice shall be given for draw openings and at all other times two hours advance notice shall be given to obtain an opening. This deviation period is from 7 p.m. on May 31, 2014 to 11:30 p.m. May 31, 2014. The deviation allows the upper deck of

the Steel Bridge across the Willamette River, mile 12.1, to remain in the closed position and need not open for maritime traffic from 7 p.m. on May 31, 2014 to 11:30 p.m. May 31, 2014. The bridge shall operate in accordance to 33 CFR 117.897 at all other times. Waterway usage on this stretch of the Willamette River includes vessels ranging from commercial tug and barge to small pleasure craft. Mariners will be notified and kept informed of the bridge's operational status via the Coast Guard Notice to Mariners publication and Broadcast Notice to Mariners as appropriate. The lift span will be required to open, if needed, for public vessels of the United States and Canada and for vessels engaged in emergency response operations during this closure period.

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

Dated: May 15, 2014.

Steven M. Fischer,

Bridge Administrator, Thirteenth Coast Guard District.

[FR Doc. 2014–12382 Filed 5–28–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0357]

Drawbridge Operation Regulation; Berwick Bay-Atchafalaya River, Morgan City, LA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District, has issued a temporary deviation from the regulation governing the operation of the Morgan City Railroad Bridge across Berwick Bay—Atchafalaya River, mile 17.5 and the Gulf Intracoastal Waterway (Morgan City-Port Allen Alternate Route, mile 0.3) in Morgan City, St. Mary's Parish, Louisiana. This deviation provides for the bridge to remain closed to navigation for four consecutive hours with an opening to pass vessels in the middle for the purpose of conducting scheduled maintenance to the drawbridge.

DATES: This deviation is effective from 1 p.m. through 5 p.m. on June 12, 2014.

ADDRESSES: The docket for this deviation, [USCG–2014–0357] 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 BNSF Railway Company requested a temporary deviation from the normal operation of the drawbridge in order to perform the installation of a new signaling system. These repairs are necessary for the continued operation of the bridge. This deviation allows the draw of the Morgan City Railroad Bridge across Berwick Bay—Atchafalaya River, mile 17.5 and the Gulf Intracoastal Waterway (Morgan City-Port Allen Alternate Route, mile 0.3), to remain closed to navigation for four consecutive hours between 1 p.m. and 5 p.m. on June 12, 2014 with an opening at 3 p.m. to pass any traffic stopped by the closure.

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

The bridge has a vertical clearance of 4 feet above high water in the closed-to-navigation position and 73 feet above high water in the open-to-navigation position. Navigation on the waterway consists of tugs with tows, oil industry related work boats and crew boats, commercial fishing vessels and some recreational craft. In accordance with 33 CFR 117.5, the draw of the bridge shall open on signal. The Morgan City-Port Allen Landside route through Amelia, LA is the alternate route.

BNSF and the Coast Guard have coordinated the closure with waterway users, industry, and other Coast Guard units. This date 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: May 16, 2014.

David M. Frank,

Bridge Administrator.

[FR Doc. 2014–12385 Filed 5–28–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2014–0007]

RIN 1625–AA00

Safety Zone, Atlantic Ocean; Virginia Beach, VA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the navigable waters of the Atlantic Ocean in Virginia Beach, VA. This safety zone will restrict vessel movement in the specified area during the Patriotic Festival III. This action is necessary to provide for the safety of life and property on the surrounding navigable waters during the air show.

DATES: This rule is effective from May 30, 2014 until June 1, 2014 between the hours of 12 p.m. and 3:30 p.m. each day.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2014–0007]. 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 LCDR Hector Cintron, Waterways Management Division Chief, Sector Hampton Roads, Coast Guard; telephone (757) 668–5581, email *Hector.L.Cintron@uscg.mil.* If you have questions on viewing or submitting

material to the docket, call Cheryl Collins, 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 Patriotic Festival has taken place annually at the Virginia Beach Oceanfront since 2012. On April 7, 2014, we published a notice of proposed rulemaking (NPRM) entitled ''Safety Zone, Atlantic Ocean; Virginia Beach, VA'' in the **Federal Register** (79 FR 19034). We received no comments on the proposed rule. No public meeting was requested, and none was held.

B. Basis and Purpose

Whisper Concerts Entertainment, Inc. will host an air show event over the Atlantic Ocean in Virginia Beach, VA. In recent years, there have been unfortunate instances of jets and planes crashing during performances at air shows. In addition, there is typically a wide area of scattered debris that also damages property and could cause significant injury or death to mariners observing the air show. In an effort to protect mariners and the public transiting the Atlantic Ocean immediately below the air show from hazards associated with the air show, the Coast Guard is establishing a safety zone.

C. Discussion of the Final Rule

The Coast Guard is establishing a safety zone on specified waters of the Atlantic Ocean bounded by the following coordinates: 36°-49′-50″ N/075°-58′-02″ W, 36°-51′-46″ N/075°-58′-33″ W, 36°-51′-53″ N/075°-57′-57″ W, 36°-49′-57″ N/075°-57′-26″ W (NAD 1983), in the vicinity of Virginia Beach, Virginia. This safety zone will be enforced from May 30, 2014 until June 1, 2014 between the hours of 12 p.m. and 3:30 p.m. each day. Access to the safety zone will be restricted during the specified date and times.

Except for vessels authorized by the Captain of the Port or his Representative, no person or vessel may enter or remain in the safety zone during the time frame listed. The Captain of the Port will give notice of the enforcement of the safety zone by all appropriate means to provide the widest dissemination of notice among the affected segments of the public. This will include publication in the Local Notice to Mariners and Marine Information Broadcasts.

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. The primary impact of these regulations will be on vessels wishing to transit the affected waterways during the safety zone on the Atlantic Ocean in the vicinity of Virginia Beach, VA from 12 p.m. until 3:30 p.m. on May 30, 2014 through June 1, 2014. Although these regulations prevent traffic from transiting a portion of the Atlantic Ocean during these events, that restriction is limited in duration, affects only a limited area, and will be well publicized to allow mariners to make alternative plans for transiting the affected area.

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

This rule will affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in waters of the Atlantic Ocean during the outlined timeframe.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) The safety zone will only be in place for a limited duration, and (ii) before the enforcement period, maritime advisories will be issued allowing mariners to adjust their plans accordingly.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 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 the establishment of a safety zone. 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, 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, 3703; 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 § 165.T05–0007 to read as follows:

§ 165.T05–0007 Safety Zone, Atlantic Ocean; Virginia Beach, VA.

(a) *Definitions.* For the purposes of this section, *Captain of the Port* means the Commander, Sector Hampton Roads. *Representative* means any Coast Guard commissioned, warrant or petty officer who has been authorized to act on the behalf of the Captain of the Port.

(b) *Location.* The following area is a safety zone: Specified waters of the Captain of the Port Sector Hampton Roads zone, as defined in 33 CFR 3.25–10, in the vicinity of the Atlantic Ocean in Virginia Beach, VA bound by the following coordinates: 36°–49′–50″ N/075°–58′–02″ W, 36°–51′46″ N/075°–58′–33″ W, 36°–51′–53″ N/075°–57′–57″ W, 36°–49′–57″ N/075°–57′–26″ W (NAD 1983).

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into this zone is prohibited unless authorized by the Captain of the Port, Hampton Roads or his designated representatives.

(2) The operator of any vessel in the immediate vicinity of this safety zone shall:

(i) Contact on scene contracting vessels via VHF channel 13 and 16 for passage instructions.

(ii) If on scene proceed as directed by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port, Hampton Roads can be reached through the Sector Duty Officer at Sector Hampton Roads in Portsmouth, Virginia at telephone number (757) 668–5555.

(4) The Coast Guard Representatives enforcing the safety zone can be contacted on VHF–FM marine band radio channel 13 (165.65 Mhz) and channel 16 (156.8 Mhz).

(d) *Enforcement Period.* This section will be enforced from 12 p.m. until 3:30 p.m. each day from May 30, 2014 to June 1, 2014.

Dated: May 13, 2014.

John K. Little,

Captain, U.S. Coast Guard, Captain of the Port Hampton Roads.

[FR Doc. 2014–12381 Filed 5–28–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2014–0148]

RIN 1625–AA00

Safety Zone, Fifth Coast Guard District Fireworks Display Cape Fear River; Wilmington, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily changing the enforcement location of a safety zone for one specific recurring fireworks display in the Fifth Coast Guard District. This regulation applies to only one recurring fireworks event, held adjacent to the Cape Fear River, Wilmington, North Carolina. The fireworks display formerly originated from a location on land but this year will originate from a barge. The safety zone is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in a portion of the Cape Fear River, Wilmington, North Carolina, during the event.

DATES: This safety zone is effective from 5:30 p.m. on July 4, 2014 to 1 a.m. on July 5, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2014–0148]. 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 LCDR Evelynn B. Samms, Coast Guard Sector North Carolina, Coast Guard; telephone: (910)772–2207, email: *Evelynn.B.Samms@uscg.mil.* If you have questions on viewing or submitting material to the docket, Cheryl Collins, 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

This fireworks display event is regulated at 33 CFR 165.506, Table to § 165.506, section (d.), entry number ''2''. On June 25, 2013, a Temporary Final Rule (TFR) was published amending 33 CFR 165.506, Table to § 165.506, section (d.), entry number ''2'' entitled ''Safety Zone, Fifth Coast Guard District Fireworks Display Cape Fear River; Wilmington, NC'' in the **Federal Register** (78 FR 37963). The Coast Guard plans to permanently amend the regulation at 33 CFR 165.506 at a later date to reflect this change. A Notice to Proposed Rule Making was published on March 27, 2014 in the **Federal Register** (79 FR 17085). We received no comments on the proposed rule. No public meeting was requested, and none was held.

B. Basis and Purpose

Recurring fireworks displays are frequently held on or adjacent to the navigable waters within the boundary of the Fifth Coast Guard District. For a description of the geographical area of each Coast Guard Sector—Captain of the Port Zone, please see 33 CFR 3.25.

The regulation listing annual fireworks displays within the Fifth Coast Guard District and safety zones locations is 33 CFR 165.506. The Table in § 165.506 identifies fireworks displays by COTP zone, with the COTP North Carolina zone listed in section (d.) of the Table.

The Battleship NORTH CAROLINA Commission has relinquished sponsorship to the City of Wilmington for the annual fireworks display held on July 4th over the waters of the Cape Fear River in Wilmington, North Carolina. The Table in § 165.506, at section (d.), entry number ''2'', describes the enforcement date and regulated location for this fireworks event.

The location listed in the Table has the fireworks display originating from a location, on land, on the north bank of the Cape Fear River at Wilmington, North Carolina. However, the coordinator for this event changed the fireworks launch location for July 4, 2014, to a position on the Cape Fear River at latitude 34°14′17″ N longitude 077°57′11″ W.

A fleet of spectator vessels is anticipated to gather nearby to view the fireworks display. Due to the need for vessel control during the fireworks display, vessel traffic will be temporarily restricted to provide for the safety of participants, spectators, and transiting vessels. Under the provisions of 33 CFR 165.506, during the enforcement period, vessels may not enter the regulated area unless they receive permission from the Coast Guard Patrol Commander.

C. Discussion of the Final Rule

The Coast Guard will temporarily suspend the current regulation listed in the Table at § 165.506, section (d.), entry number ''2'', and insert this temporary regulation in the Table at § 165.506, section (d.), as entry number ''15'', in order to reflect that the fireworks display will originate from a barge in the Cape Fear River and therefore the regulated area is changed. This change is needed to accommodate the sponsor's event plan. No other portion of the Table at § 165.506 or other provisions in the Table at § 165.506 shall be affected by this regulation.

The regulated area of this safety zone includes all water of the Cape Fear River within a 300 yards radius of latitude 34°14′17″ N longitude 077°57′11″ W.

This safety zone will restrict general navigation in the regulated area during the fireworks event. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area during the effective period. The regulated area is needed to control vessel traffic during the event for the safety of participants and transiting vessels.

The enforcement period for this safety zone does not change from the enforcement period currently listed in the Table at § 165.506, section (d.), entry number ''2''. Therefore, this safety zone will be enforced from 5:30 p.m. on July 4, 2014 through 1 a.m. on July 5, 2014.

In addition to notice in the **Federal Register**, the maritime community will be provided extensive advance notification via the Local Notice to Mariners, and marine information broadcasts so mariners can adjust their plans accordingly.

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. Although this regulation restricts access to a small segment of the Cape Fear River, the effect of this rule will not be significant because: (i) The safety zone will be in effect for a limited duration; (ii) the zone is of limited size; and (iii) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly. Additionally, this rulemaking changes the regulated area for the Cape Fear River fireworks demonstration for July 4, 2014 only and does not change the permanent regulated area that has been published in 33 CFR 165.506, Table § 165.506 at section (d.), entry number ''2''. In some cases vessel traffic may be able to transit the regulated area when the Coast Guard Patrol Commander deems it is safe to do so.

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

substantial number of small entities. This rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in the Cape Fear River where fireworks events are being held. This regulation will not have a significant impact on a substantial number of small entities because it will be enforced only during the fireworks display event that has been permitted by the Coast Guard Captain of the Port. The Captain of the Port will ensure that small entities are able to operate in the regulated area when it is safe to do so. In some cases, vessels will be able to safely transit around the regulated area at various times, and, with the permission of the Patrol Commander, vessels may transit through the regulated area. Before the enforcement period, the Coast Guard will issue maritime advisories so mariners can adjust their plans accordingly.

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 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 establishing a safety zone for a fireworks display launch site and fallout area and is expected to have no impact on the water or environment. This zone is designed to protect mariners and spectators from the hazards associated with aerial fireworks displays. 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, 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, 3703; 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. In § 165.506, amend Table to § 165.506 as follows:

■ a. Under ''(d.) Coast Guard Sector North Carolina—COTP Zone,'' suspend entry number ''2'', from 5:30 p.m. on July 4, 2014 to 1 a.m. on July 5, 2015.

■ b. Under, ''(d.) Coast Guard Sector North Carolina—COTP Zone,'' add entry number ''15'', which will be enforced from 5:30 p.m. on July 4, 2014 to 1 a.m. on July 5, 2014, to read as follows:

§ 165.506 Safety Zones; Fireworks Displays in the Fifth Coast Guard District.

* * * * *

TABLE TO § 165.506

No.	Date	Location	Regulated area
*	*	*	*
(d.) Coast Guard Sector North Carolina—COTP Zone			
*	*	*	*
15	July 4–5, 2014	Cape Fear River, Wilmington, NC, Safety Zone.	All waters of the Cape Fear River within a 300 yard radius of the fireworks launch barge in approximate position latitude 34°14′17″ N longitude 077°57′11″.

Dated: May 14, 2014.

S.R. Murtagh,

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

[FR Doc. 2014–12376 Filed 5–28–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2013–0509; A–1–FRL–9909–99–Region 1]

Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Decommissioning of Stage II Vapor Recovery Systems

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of New Hampshire Department of Environmental Services. This revision includes regulatory amendments that require the decommissioning of Stage II vapor recovery systems at gasoline dispensing facilities by December 22, 2015, and a demonstration that such removal is consistent with the Clean Air Act and EPA guidance. The intended effect of this action is to approve New Hampshire's revised vapor recovery regulation. This action is being taken in accordance with the Clean Air Act.

DATES: This rule is effective on June 30, 2014.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2013–0509. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, 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 through *www.regulations.gov* or in hard copy at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

Copies of the documents relevant to this action are also available for public inspection during normal business hours, by appointment at State Air Agency, Department of Environmental Services, 6 Hazen Drive, P.O. Box 95, Concord, NH 03302–0095.

FOR FURTHER INFORMATION CONTACT: Ariel Garcia, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 (mail code: OEP05–2), Boston, MA 02109–3912, telephone number (617) 918–1660, fax number (617) 918–0660, email *garcia.ariel@epa.gov.*

SUPPLEMENTARY INFORMATION:

Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Organization of this document. The following outline is provided to aid in locating information in this preamble.

I. Background and Purpose
II. Final Action
III. Statutory and Executive Order Reviews

I. Background and Purpose

On March 10, 2014 (79 FR 13268), EPA published a Notice of Proposed Rulemaking (NPRM) for the State of New Hampshire. The NPRM proposed approval of New Hampshire's revised vapor recovery regulation. The formal SIP revision was submitted by New Hampshire on June 18, 2013 and included a demonstration that the decommissioning of Stage II vapor recovery systems at gasoline dispensing facilities is consistent with the Clean Air Act and EPA guidance. A detailed discussion of New Hampshire's June 18, 2013 SIP revision and EPA's rationale for proposing approval of the SIP revision were provided in the NPRM and will not be restated here. No public comments were received on the NPRM.

II. Final Action

EPA is approving New Hampshire's June 18, 2013 SIP revision. Specifically, EPA is approving the amended New Hampshire rule Env–Or 500, *Recovery of Gasoline Vapors,* and incorporating it into the New Hampshire SIP. EPA is approving this SIP revision because it meets all applicable requirements of the Clean Air Act and EPA guidance, and it will not interfere with attainment or maintenance of the ozone National Ambient Air Quality Standards.

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet

the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 28, 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. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: May 22, 2014.

H. Curtis Spalding,

Regional Administrator, EPA New England.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart EE—New Hampshire

■ 2. Section 52.1520 is amended by adding ''Env-Or 500'' in table (c) after ''Env-A 3600'' to read as follows:

§ 52.1520 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED NEW HAMPSHIRE REGULATIONS

State citation	Title/subject	State effective date	EPA approval date [1]	Explanations
*	*	*	*	*
Env-Or 500	Recovery of Gasoline Vapors	11/17/2012	5/29/2014 [Insert **Federal Register** page number where the document begins].	Includes decommissioning of Stage II vapor recovery systems.
*	*	*	*	*

[1] In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

* * * * *

[FR Doc. 2014–12338 Filed 5–28–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2008–0446; A–1–FRL–9901–93–Region 1]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Regulations Limiting Emissions of Volatile Organic Compounds and Nitrogen Oxides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the Commonwealth of Massachusetts. These revisions consist of updates and amendments to existing air pollution control requirements for stationary sources of volatile organic compounds (VOCs) and nitrogen oxides (NO_X). This action is being taken in accordance with the Clean Air Act.

DATES: This rule is effective on June 30, 2014.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2008–0446. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information may not be 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 through *www.regulations.gov* or in hard copy at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays. Copies of the documents relevant to this action are also available for public inspection during normal business hours, by appointment at the Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Bob McConnell, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 (mail code: OEP05–2), Boston, MA 02109–3912, telephone number (617) 918–1046, fax number (617) 918–0046, email *mcconnell.robert@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. Additionally, the phrase ''the Commonwealth'' refers to the Commonwealth (or state) of Massachusetts. Organization of this document. The following outline is provided to aid in locating information in this preamble.

I. Background and Purpose
II. Response to Comments
III. Final Action
IV. Statutory and Executive Order Reviews

I. Background and Purpose

On August 1, 2013 (78 FR 46552), EPA published a Notice of Proposed Rulemaking (NPR) proposing to approve updates and amendments to existing air pollution control requirements for stationary sources of volatile organic compounds (VOCs) and nitrogen oxides (NO_X) contained in the Massachusetts State Implementation Plan (SIP). The proposed revisions were submitted by the Massachusetts Department of Environmental Protection to EPA on July 11, 2001, and September 14, 2006. The July 11, 2001 submittal was supplemented with two additional submittals, one on August 9, 2001, and a second on January 18, 2002 (collectively referred to herein as the July 11, 2001 submittal).

The July 11, 2001 submittal includes revisions to Title 310 of the Code of Massachusetts Regulations (CMR), section 7.19, Reasonably Available Control Technology (RACT) for Sources of Nitrogen Oxides (NO_X). The September 14, 2006 submittal includes revisions to 310 CMR 7.00, Definitions; 7.05, Fuels All Districts; 7.18, Volatile and Halogenated Organic Compounds; 7.19, RACT for Sources of NO_X; and 7.24, Organic Material Storage and Distribution.

In addition, we note that our August 1, 2013 NPR indicated we intended to take action on 310 CMR 7.18(8), Solvent Metal Degreasing, as submitted on September 14, 2006. However, in light of a June 1, 2010 submittal by Massachusetts to EPA of an updated version of 310 CMR 7.18(8), Massachusetts withdrew its SIP revision request relating to the September 14, 2006 version of section 7.18(8) by letter dated January 18, 2013. Furthermore, we approved the updated version of section 7.18(8) that Massachusetts submitted on June 1, 2010 within a final rule published in the **Federal Register** on September 9, 2013. See 78 FR 54960.

Our August 1, 2013 proposal indicated that the Commonwealth's SIP revision request included a request that the definitions of 81 different terms be approved into the SIP. By letter dated August 8, 2013, Massachusetts informed EPA that nine of the 81 definitions had been unintentionally included in the SIP revision request. Therefore, by the August 8, 2013 letter, Massachusetts withdrew its request that those nine definitions be approved into the SIP. The nine terms are as follows: ''Alter or alteration,'' ''Alternative fuel,'' ''Alternative fuel vehicle,'' ''Asbestos,'' ''Asbestos-containing material,'' ''Construct or construction,'' ''Cooling tower,'' ''Friable asbestos containing material,'' and ''Non-road vehicle.'' Our final rule, therefore, will not incorporate these terms into the Massachusetts SIP. The other specific SIP revisions that were included in Massachusetts' submittals are explained in the NPR and are detailed in the description of amendments made to 40 CFR Part 52 described at the end of this final rule.

II. Response to Comments

We received one comment letter on our proposal. The comments were submitted by Robert Ukeiley on behalf of the Sierra Club, by letter dated September 3, 2013. A summary of Sierra Club's comments and our response to each is provided below.

Comment 1: Sierra Club notes that our proposed action was overdue, given that Massachusetts' submittals to EPA occurred as far back as 2001. Sierra Club also commented that our delay should not be used as justification for approving emission limits that are no longer protective of public health. Additionally, Sierra Club commented that there was very little analysis provided by EPA in the NPR as to why EPA was proposing approval of Massachusetts' submittals.

Response 1: We acknowledge that our action on these updates to regulations previously approved into the Commonwealth's SIP was delayed. However, we note that, with the exception of the updates we are taking final action on today, the majority of the provisions of the regulations in question (including the pollutant emissions rate limits contained within those regulations) have been part of the Massachusetts SIP for many years, with

most being approved in the 1990's. Our action today involves incorporating into the Massachusetts SIP minor amendments to previously approved NO_X and VOC control requirements. Our original approval documents associated with these previously approved regulations contained a thorough analysis justifying our action for them. Consequently, we did not repeat our analysis in the NPR of the already-approved portions of the regulations in question. Rather, we provided in the NPR a brief summary of the changes being made commensurate with the nature of those relatively minor changes to the SIP as requested by Massachusetts. Our rationale for our previous approvals of the more substantive provisions of the Massachusetts SIP's NO_X and VOC requirements can be found in the individual rulemaking actions for them, which are chronicled within 40 CFR 52.1167.

In addition, Massachusetts' NO_X and VOC regulations were recently certified by Massachusetts, and approved by EPA, as representing RACT for the 1997 ozone standard. See final approval at 78 FR 54960 (September 9, 2013) and the analysis included in our proposed approval at 78 FR 10583 (February 14, 2013). EPA did not receive any comments on the analysis presented in the proposed approval.

Sierra Club's comments on our proposed action primarily concerned Massachusetts' NO_X RACT regulation, 310 CMR 7.19. Table 1 below provides a summary of the specific provisions of Massachusetts' NO_X RACT regulation that were included in the July 11, 2001 and September 14, 2006 SIP submittals and which we are taking action on today. Additionally, our response below to Sierra Club's second comment addresses Sierra Club's assertion that EPA should disapprove 310 CMR 7.19(1)(c)(9) because it allows sources to comply with outdated emissions limits.

TABLE 1—CHANGES TO 310 CMR 7.19, NO_X RACT

Citation within 310 CMR 7.19:	Description of change
7.19(4)(b)(3)(d)	Existing cross reference to 310 CMR 7.02(2) updated to reference 7.02(1), which contains the authority for Massachusetts to issue approvals establishing emission limits and/or restrictions.
7.19(4)(c)(2)	Added the phrase "or NO_X ERCs" to this provision to clarify that the use of NO_X emission reduction credits (ERCs) is an option for sources seeking to comply via the alternative NO_X RACT provision of 7.19(4)(c). The use of NO_X ERCs as one alternative compliance option had already been approved into the SIP at 7.19(2)(g). See 61 FR 41338 (August 8, 1996).
7.19(4)(c)(f) and 7.19(5)(d).	The following sentence was added to both sections: "Notwithstanding this CO emission standard, the Department may approve a higher CO emission standard for a medium-size boiler as part of the emission control plan if the facility demonstrates that combustion conditions will not significantly deteriorate with the higher CO emission standard." Explanation: Measurement of CO (carbon monoxide) is often used to monitor combustion efficiency, as higher CO levels can indicate a degradation of performance. Both 7.19(4)(c)(f) and 7.19(5)(d) contain CO exhaust concentration limits of 200 parts per million. In certain circumstances, adding NO_X air pollution control equipment can lead to an increase in CO emissions.[1] Given that Massachusetts has no CO nonattainment areas, allowing the state the discretion to exceed the CO limit is acceptable in instances where a source demonstrates that it is necessary to properly control NO_X.
7.19(13)(a)(6)	Existing incorrect cross reference to stack testing provisions is corrected from 310 CMR 7.19(13)(d) to properly reference 310 CMR 7.19(13)(c).
7.19(13)(c)(1)	Removed the word "written" from before the phrase "Department approval," allowing the state to authorize pretest stack testing protocols without needing to do so in writing. Pursuant to 7.19(13)(c)(6), the Department must still approve, in writing, emission test reports.
Numerous locations	Throughout 7.19, the word "million" is replaced with numeric 1,000,000.

Comment 2: Sierra Club comments that EPA should disapprove the provision codified at 310 CMR 7.19(1)(c)(9), which provides for an exemption from the NO_X RACT requirements of section 7.19 for stationary sources that obtain a plan approval (or permit) that imposes a requirement to meet a level of control constituting best available control technology (BACT) or lowest achievable emission rate (LAER). Sierra Club contends that because reasonably available control technology (RACT) advances over time as technology advances, the provision in question denies the public the benefit of such advances in technology by allowing sources to rely on outdated control technology, e.g., by allowing sources to rely on technology that may have constituted LAER or BACT decades ago and is not as stringent as NO_X RACT today.

Sierra Club also commented that EPA must disapprove the provisions codified at section 310 CMR 7.19(2)(b)14 and 7.19(2)(g) pertaining to the use of emission reduction credits and interstate emission trading programs to meet RACT requirements. Sierra Club asserts that RACT is a source specific emission limit and therefore cannot be met by buying emission reduction credits from another facility. Sierra Club further asserts that "EPA's attempt to allow interstate trading programs to qualify as RACT has been rejected by the DC Circuit."

Response 2: EPA disagrees with Sierra Club's interpretation of 310 CMR 7.19(1)(c)(9). Sierra Club asserts that this requirement, "appears to exempt pollution emission sources from RACT if they obtained a plan approval that includes BACT and LAER which was as stringent as RACT at the time BACT or LAER was approved." The provision in question does not, as Sierra Club's comment suggests, relieve a source from meeting an emission rate that is equivalent to RACT, and, in fact, provides that a source must meet an emission rate *at least as stringent* as RACT pursuant to the source's obligation to meet BACT or LAER emissions rates under a plan approval (or permit) issued by the Commonwealth. The provision only provides that the source would not be subject to the specific detailed requirements of 310 CMR 7.19, and does so because a qualifying source would

[1] "AP–42, Compilation of Air Pollutant Emission Factors, Volume I: Stationary Point and Area Sources, Section 1.4 (EPA, January 1995).

necessarily be subject to a requirement to meet an emission rate that is at least as stringent. That is accomplished by the language of 7.19(1)(c)(9) requiring that the BACT or LAER emission rate in the relevant plan approval ''be no less stringent than RACT.'' When implementing this provision, Massachusetts must first determine what its NO_X RACT regulation requires of the source being evaluated, and then confirm that the BACT or LAER requirement contained in the source's plan approval (or permit) is ''no less stringent than RACT.'' In practice, sources to which this provision would apply are typically subject to more stringent (as opposed to equivalent) emissions rates pursuant to a BACT or LAER requirement; both BACT and LAER require, in almost all cases, a more stringent (as opposed to equivalent) level of emissions control than RACT. With respect to BACT, this fact is noted within EPA's May 18, 2006 guidance memorandum from William T. Harnett to EPA's Regional Air Division Directors, entitled ''RACT Qs and As—Reasonably Available Control Technology (RACT): Questions and Answers,'' which contains the following:

BACT requires that new or modified sources adopt the best available controls and, as such, the analysis is a ''top-down'' analysis that first looks at the most stringent level of control available for a source. Industries applying for a construction permit list in their application what are the currently most stringent levels of control. The State verifies this by checking the application against other data sources including EPA's RACT/BACT Clearinghouse. RACT requires that sources adopt controls that are reasonably available and thus they may not be the most stringent controls that have been adopted for other similar sources.''

Similarly, 40 CFR 51.165(a)(1)(xiii) provides that a LAER level of control also inherently is more stringent than RACT.

Additionally, EPA's implementation rule for the 1997 8-hour ozone standard (70 FR 71653, November 29, 2005) notes that states may use information from prior BACT or LAER analyses for purposes of showing that a source is meeting RACT requirements.

With respect to Sierra Club's assertion that the provision in question would allow a source to meet a level of control that is outdated, potentially by decades, we do not believe that could happen for the following reason. The most current NO_X RACT obligation that applies to Massachusetts under the Clean Air Act (CAA) relates to the 1997 ozone standard. EPA has approved the Commonwealth's NO_X RACT certification for the 1997 ozone standard. See proposed rule at 78 FR 10583 (February 14, 2013) and final rule at 78 FR 54960 (September 9, 2013). This means that Massachusetts has demonstrated that its current NO_X RACT regulations meet the CAA's requirements for implementation of NO_X RACT under the 1997 ozone standard. The certification approved by EPA required Massachusetts to demonstrate that all sources subject to NO_X RACT in Massachusetts are meeting NO_X RACT under the 1997 ozone standard. EPA has not yet promulgated in final form its implementation rule for the 2008 ozone standard and states are not yet required to submit SIP amendments in relation to NO_X RACT for the 2008 standard.

Furthermore, we note that EPA has previously approved provisions similar to Massachusetts 310 CMR 7.19(1)(c)(9) in other states' RACT regulations, e.g., Maine's VOC RACT regulations and Rhode Island's NO_X RACT regulations.[2]

Finally, as noted above, Sierra Club comments that EPA must disapprove the provisions at 310 CMR 7.19(2)(b)(14) and 310 CMR 7.19(2)(g), which address emission reduction credits and interstate trading of emissions credits to comply with NO_X RACT. These provisions are not at issue in this action. EPA approved both 310 CMR 7.19(2)(b)(14) and 310 CMR 7.19(2)(g) into the Massachusetts SIP in 1999 and 1996, respectively. See 64 FR 48095 (September 2, 1999) and 61 FR 41335 (August 8, 1996). EPA's August 1, 2013 NPR did not propose to take any further action on these two provisions, nor is EPA taking action on these provisions through its action today. Consequently, Sierra Club's comment is not germane to this action and no further response is necessary.[3]

Comment 3: Sierra Club commented extensively on 310 CMR 7.19(4), NO_X RACT for large boilers. Sierra Club's comments include an extensive review of the permitted emission limits for a number of coal fired power plants in Massachusetts. Sierra Club contends that EPA must disapprove the NO_X RACT emission limits at 310 CMR 7.19(4) for a number of reasons, including: (1) The Commonwealth's failure to provide an explanation or basis for how these emission limits were developed; (2) because the emissions limits are significantly too high and thus not effective at moving Massachusetts towards attainment of the ozone NAAQS; (3) the Commonwealth did not consider using selective catalytic reduction as a control technology; (4) the units of measure and averaging times associated with the NO_X RACT limits are flawed; and (5) the Commonwealth did not consider the use of cleaner burning fuels.

Response 3: The final action we are taking today, which was also described in our notice of proposed rulemaking (78 FR 46552; August 1, 2013), involves revisions to a limited portion of the Massachusetts SIP, and consists of: (1) Various relatively minor amendments to regulations that EPA had already approved into the Massachusetts SIP in the past; and (2) the addition of certain definitions that help clarify the meaning of terms used in previously approved Massachusetts SIP provisions. None of the changes for which EPA proposed to take action, and on which EPA is taking final action today, includes the NO_X RACT provisions for large boilers that Sierra Club objects to in its third comment. The NO_X RACT requirements referenced by Sierra Club had earlier been approved by EPA into the Massachusetts SIP, 64 FR 48095 (September 2, 1999), and they were more recently certified by Massachusetts, and approved by EPA, as representing NO_X RACT for the 1997 ozone standard. 78 FR 54960 (September 9, 2013). The proposed rule approving Massachusetts' NO_X RACT certification contains the relevant analysis. 78 FR 10583 (February 14, 2013).

Comment 4: Sierra Club commented on two of the definitions that Massachusetts seeks to incorporate into its SIP. Specifically, Sierra Club commented that the definition for ''federally enforceable'' should include ''enforceable by the Administrator and any person, as person is defined under the Clean Air Act.'' Additionally, Sierra Club commented that the definition of ''federal potential to emit'' should include ''actual emissions or maximum capacity to emit.''

Response 4: The definitions for ''federal potential to emit'' and ''federally enforceable'' that Massachusetts has adopted and submitted to EPA for approval into the Commonwealth's SIP are consistent with EPA's definitions for these terms found at 40 CFR 51.166(b)(4) and (17), respectively. We therefore intend to

[2] See the Maine Department of Environmental Protection's Chapter 134 at section (1)(C)(2), and the Rhode Island Department of Environmental Management's Air Pollution Control Regulation Number 27, at section 27.4.5, approved by EPA on April 18, 2000 (65 FR 20749) and September 2, 1997 (62 FR 46202), respectively.

[3] Sierra Club's comment included the statement ''EPA's attempt to allow interstate trading programs to qualify as RACT has been rejected by the D.C. Circuit.'' The comment does not cite a D.C. Circuit opinion that would support Sierra Club's broad assertion.

approve these two definitions into the Massachusetts SIP.

With regard to the Massachusetts definition of ''federal potential to emit,'' we note that the definition we are approving already contains the words ''means the maximum capacity of a stationary source to emit.'' If Sierra Club's comment is intended to suggest that EPA require Massachusetts to add the words ''actual emissions,'' EPA responds as follows. First, the federal definition of that term does not include the words ''actual emissions.'' Second, a stationary source's ''maximum capacity'' to emit would, by definition, always be equal to or greater than its ''actual emissions.'' So, adding the words ''actual emissions'' as requested by Sierra Club would not add anything substantive to that definition.

With regard to the definition of ''federally enforceable,'' EPA notes that Massachusetts' definition of the term already contains the term ''Administrator.'' However, EPA's definition of ''federally enforceable'' does not contain the words ''and any person, as person is defined under the Clean Air Act.'' The definition in question on its face relates to those provisions of regulations, permits, etc. that are ''federally'' enforceable. As such, a reference to the EPA Administrator's authority to enforce is appropriate. Further, the absence in the definition of the words ''and any person, as person is defined under the Clean Air Act'' has no adverse effect upon any person's right, pursuant to the CAA itself, to bring actions to enforce any provisions of regulations, permits, etc.

Comment 5: The Sierra Club notes that Massachusetts withdrew a number of items contained within its July 11, 2001 and September 14, 2006 submittals by letter dated January 18, 2013, and commented that EPA must clarify whether it is acting on the more current provisions noted within the withdrawal letter.

Response 5: By this final rule we are approving the portions of Massachusetts' July 11, 2001 and September 14, 2006 submittals that were not withdrawn through the Commonwealth's January 18, 2013 correspondence to EPA. As to NO_X RACT, specifically, the provisions of 310 CMR 7.19 we are taking action on today are set forth clearly in Table I above. In addition, the information included within the docket for our proposed action contains detailed information regarding the specific provisions that Massachusetts withdrew pursuant to the January 18, 2013 letter. As to the July 11, 2001 and September 14, 2006 submittals, EPA is not approving by today's action anything other than the provisions contained in those two submittals and which were not withdrawn by Massachusetts' January 18, 2013 letter. As noted in our notice of proposed rulemaking, our action includes certain additions and clarifications to sections of the Massachusetts SIP that had been previously approved into the Commonwealth's SIP.

III. Final Action

EPA is taking final action to approve SIP revisions submitted by the Commonwealth of Massachusetts, which included revisions to the following sections of 310 CMR: 7.00, Definitions; 7.05, Fuels All Districts; 7.18, Volatile and Halogenated Organic Compounds; 7.19, RACT for Sources of Oxides of Nitrogen (NO_X); and 7.24, Organic Material Storage and Distribution.

IV. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 28, 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. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone,

Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 26, 2013.

H. Curtis Spalding,

Regional Administrator, EPA New England.

Editorial Note: This document was received for publication by the Office of Federal Register on May 15, 2014.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart W—Massachusetts

■ 2. Section 52.1120 is amended by adding paragraph (c)(141) to read as follows:

§ 52.1120 Identification of plan.

* * * * *

(c) * * *

(141) Revisions to the State Implementation Plan submitted to EPA by the Massachusetts Department of Environmental Protection.

(i) Incorporation by reference.

(A) Massachusetts Regulation 310 CMR 7.00, ''Statutory Authority; Legend; Preamble; Definitions,'' effective on August 3, 2001, the definition for compliance certification.

(B) Massachusetts Regulation 310 CMR 7.00, ''Statutory Authority; Legend; Preamble; Definitions,'' effective on September 23, 2005, the definitions for adhesion promoter, Administrator, anti-glare safety coating, aqueous cleaner, automotive refinishing facility, bakery, capture efficiency, CEMS, CFR, combined cycle combustion turbine, dry bottom, duct burner, elastomeric coating, emergency or standby engine, emission statement, energy input capacity, EPA, existing facility, face firing, facility, federally enforceable, federal potential to emit or federal potential emissions, ferrous cupola foundry, four-stage coating system, fuel cell, fugitive emissions, glass, glass melting furnace, halogenated organic compound, hardener, hazardous air pollutant (HAP), heat release rate, impact-resistant coating, lean burn engine, lowest achievable emission rate (LAER), malfunction, maximum achievable control technology, maximum design capacity, mobile equipment, MW, natural draft opening, nonattainment area, nonattainment review, non-criteria pollutant, potential emissions or potential to emit, pretreatment wash primer, primer sealer, primer surfacer, reducer, simple cycle combustion turbine, single-stage topcoat, soap, specialty coating, stationary combustion turbine, stationary reciprocating internal combustion engine, stencil coating, stoker, surface preparation product, tangential firing, three-stage coating system, touch-up coating, two-stage topcoat, underbody coating, uniform finish blender.

(C) Massachusetts Regulation 310 CMR 7.00, ''Statutory Authority; Legend; Preamble; Definitions,'' effective on June 2, 2006, the definitions for water hold-out coating, weld-through primer, VOC composite partial pressure.

(D) Massachusetts Regulation 310 CMR 7.05, ''U Fuels All Districts,'' paragraph (2), ''U Use of Residual Fuel Oil or Hazardous Waste Fuel,'' effective on September 23, 2005.

(E) Massachusetts Regulation 310 CMR 7.18, ''U Volatile and Halogenated Organic Compounds,'' effective on September 23, 2005, paragraph (1), ''U Applicability and Handling Requirements,'' subparagraphs (a) and (c) through (f); paragraph (2), ''U Compliance with Emission Limitations'' (as corrected in Massachusetts Register 1037, October 21, 2005); paragraph (3), U Metal Furniture Coating, subparagraph (a); paragraph (4), U Metal Can Surface Coating, subparagraph (a); paragraph (11), ''U Surface Coating of Miscellaneous Metal Parts and Products,'' subparagraphs (a) through (d)(4.); paragraph (19), ''Synthetic Organic Chemical Manufacture,'' subparagraphs (h) and (i); paragraph (20), ''Emission Control Plans for Implementation of Reasonably Available Control Technology;'' paragraph (21), ''Surface Coating of Plastic Parts,'' subparagraphs (a) through (d) and (f) through (i); paragraph (22), ''Leather Surface Coating,'' subparagraphs (a) through (c); paragraph (23), ''Wood Products Surface Coating,'' subparagraphs (b) through (i); paragraph (24), ''Flat Wood Paneling Surface Coating,'' subparagraphs (a) through (c) and subparagraphs (h) and (i); paragraph (25), ''Offset Lithographic Printing,'' subparagraphs (a) through (c); paragraph (26), ''Textile Finishing,'' subparagraphs (c) through (i); paragraph (27), ''Coating Mixing Tanks;'' paragraph (28), ''Automotive Refinishing,'' and paragraph (29), ''Bakeries,'' subparagraph (c) 2.

(F) Massachusetts Regulation 310 CMR 7.19, ''U Reasonably Available Control Technology (RACT) for Sources of Oxides of Nitrogen (NO_X),'' effective on August 3, 2001; paragraph (1), ''Applicability,'' subparagraph (c) 9. (as corrected in Massachusetts Register 938, January 4, 2002); paragraph (4), ''Large Boilers,'' subparagraphs (b)3.d. (as corrected in Massachusetts Register 938, January 4, 2002), (c) 2., and (f); paragraph (5), ''Medium-size Boilers,'' subparagraph (d).

(G) Massachusetts Regulation 310 CMR 7.19, ''U Reasonably Available Control Technology (RACT) for Sources of Oxides of Nitrogen (NO_X),'' paragraph (13), ''Testing, Monitoring, Recordkeeping, and Reporting Requirements,'' subparagraphs (a), ''Applicability,'' and (c), ''Stack Testing'', effective September 23, 2005.

(H) Massachusetts Regulation 310 CMR 7.24, ''U Organic Material Storage and Distribution,'' subparagraph (1), ''Organic Material Storage Tanks,'' effective September 23, 2005.

(I) Massachusetts Regulation 310 CMR 7.24, ''U Organic Material Storage and Distribution,'' subparagraph (4), ''Motor Vehicle Fuel Tank Trucks,'' effective June 2, 2006.

■ 3. In § 52.1167, Table 52.1167 is amended by:

■ a. Adding 3 new entries to existing state citations for 310 CMR 7.00 in order of ''Date submitted by state''.

■ b. Adding a new entry for 310 CMR 7.05(2) in alphanumeric order.

■ c. Adding a new entry for 310 CMR 7.18(1)(a), (c)–(f) in alphanumeric order.

■ d. Adding a new entry to the existing state citations for 310 CMR 7.18(2) in order of ''Date submitted by state''.

■ e. Adding new entries for 310 CMR 7.18(3)(a), 7.18(4)(a), 7.18(11)(a)–(d)4., and 7.18(19)(h), (i) in alphanumeric order.

■ f. Adding a new entry to the existing state citations for 310 CMR 7.18(20) in order of ''Date submitted by state''.

■ g. Adding new entries for 310 CMR 7.18(21)(a) –(d), (f)–(i), 7.18(22)(a)–(c), 7.18(23)(b)–(i), 7.18(24)(a)–(c), (h), (i), 7.18(25)(a)–(c), and 7.18(26)(c)–(i) in alphanumeric order.

■ h. Adding new entries to the existing state citations for 310 CMR 7.18(27) and 7.18(28) in order of ''Date submitted by state''.

■ i. Adding new entries for 310 CMR 7.18(29)(c)(2), 7.19(1)(c)(9), (4)(b)(3)d, (f), (5)d, 7.19(13)(a), (c), 7.24(1), and 7.24(4) in alphanumeric order.

The additions read as follows:

§ 52.1167 EPA-approved Massachusetts State regulations.

* * * * *

TABLE 52.1167—EPA-APPROVED RULES AND REGULATIONS

[See Notes at end of Table]

State citation	Title/subject	Date submitted by State	Date approved by EPA	**Federal Register** citation	52.1120(c)	Comments/unapproved sections
*	*	*	*	*	*	*
310 CMR 7.00	Definitions	8/9/01	5/29/14	[Insert **Federal Register** page number where the document begins].	141	Approved the definition for compliance certification.
310 CMR 7.00	Definitions	9/14/06	5/29/14	[Insert **Federal Register** page number where the document begins].	141	Approving the following definitions, effective 9/23/05: adhesion promoter, Administrator, anti-glare safety coating, aqueous cleaner, automotive refinishing facility, bakery, capture efficiency, CEMS, CFR, combined cycle combustion turbine, dry bottom, duct burner, elastomeric coating, emergency or standby engine , emission statement, energy input capacity, EPA, existing facility, face firing, facility, federally enforceable, federal potential to emit or federal potential emissions, ferrous cupola foundry, four-stage coating system, fuel cell, fugitive emissions, glass, glass melting furnace, halogenated organic compound, hardener, hazardous air pollutant (HAP), heat release rate, impact resistant coating, lean burn engine, lowest achievable emission rate (LAER), malfunction, maximum achievable control technology, maximum design capacity, mobile equipment, MW, natural draft opening, nonattainment area, nonattainment review, non-criteria pollutant, potential emissions or potential to emit, pretreatment wash primer, primer sealer, primer surfacer, reducer, simple cycle combustion turbine, single-stage topcoat, soap, specialty coating, stationary combustion turbine, stationary reciprocating internal combustion engine, stencil coating, stoker, surface preparation product, tangential firing, three-stage coating system, touch-up coating, two-stage topcoat, underbody coating, uniform finish blender.
310 CMR 7.00	Definitions	9/14/06	5/29/14	[Insert **Federal Register** page number where the document begins].	141	Approving the following amended or added definitions, effective 6/2/06: water hold-out coating, weld-through primer, VOC composite partial pressure.
*	*	*	*	*	*	*
310 CMR 7.05(2)	U Fuels All Districts; U Use of Residual Fuel Oil or Hazardous Waste Fuel.	9/14/06	5/29/14	[Insert **Federal Register** page number where the document begins].	141	Removed landfill gas from requirements of section.
*	*	*	*	*	*	*
310 CMR 7.18(1)(a), (c)–(f).	U Applicability and Handling Requirements.	9/14/06	5/29/14	[Insert **Federal Register** page number where the document begins].	141	Added requirements for proper storage of volatile organic compounds.
*	*	*	*	*	*	*
310 CMR 7.18(2)	U Compliance with Emission Limitations.	9/14/06	5/29/14	[Insert **Federal Register** page number where the document begins].	141	Addition of daily weighted averaging provision.

TABLE 52.1167—EPA-APPROVED RULES AND REGULATIONS—Continued

[See Notes at end of Table]

State citation	Title/subject	Date submitted by State	Date approved by EPA	Federal Register citation	52.1120(c)	Comments/unapproved sections
*	*	*	*	*	*	*
310 CMR 7.18(3)(a)	U Metal Furniture Coating.	9/14/06	5/29/14	[Insert **Federal Register** page number where the document begins].	141	Minor wording change.
*	*	*	*	*	*	*
310 CMR 7.18(4)(a)	U Metal Can Surface Coating.	9/14/06	5/29/14	[Insert **Federal Register** page number where the document begins].	141	Minor wording change.
*	*	*	*	*	*	*
310 CMR 7.18(11)(a)–(d)4.	U Surface Coating of Miscellaneous Metal Parts and Products.	9/14/06	5/29/14	[Insert **Federal Register** page number where the document begins].	141	Wording revision to clarify exemption requirements.
*	*	*	*	*	*	*
310 CMR 7.18(19)(h), (i)	Synthetic Organic Chemical Manufacture.	9/14/06	5/29/14	[Insert **Federal Register** page number where the document begins].	141	Clarification of quarterly reporting submittal date.
*	*	*	*	*	*	*
310 CMR 7.18(20)	Emission Control Plans for Implementation Reasonably Available Control Technology.	9/14/06	5/29/14	[Insert **Federal Register** page number where the document begins].	141	Clarification of exemption requirements, and inclusion of provision allowing for additional requirements such as stack testing or emissions monitoring.
*	*	*	*	*	*	*
310 CMR 7.18(21)(a)–(d), (f)–(i)	Surface Coating of Plastic Parts.	9/14/06	5/29/14	[Insert **Federal Register** page number where the document begins].	141	Added language strengthening compliance obligations.
*	*	*	*	*	*	*
310 CMR 7.18(22)(a)–(c)	Leather Surface Coating.	9/14/06	5/29/14	[Insert **Federal Register** page number where the document begins].	141	Added language strengthening compliance obligations.
*	*	*	*	*	*	*
310 CMR 7.18(23)(b)–(i)	Wood Products Surface Coating.	9/14/06	5/29/14	[Insert **Federal Register** page number where the document begins].	141	Added language strengthening compliance obligations.
*	*	*	*	*	*	*
310 CMR 7.18(24)(a)–(c), (h), (i)	Flat Wood Paneling Surface Coating.	9/14/06	5/29/14	[Insert **Federal Register** page number where the document begins].	141	Added language strengthening compliance obligations.
*	*	*	*	*	*	*
310 CMR 7.18(25)(a)–(c)	Offset Lithographic Printing.	9/14/06	5/29/14	[Insert **Federal Register** page number where the document begins].	141	Added language strengthening compliance obligations.
*	*	*	*	*	*	*
310 CMR 7.18(26)(c)–(i)	Textile Finishing	9/14/06	5/29/14	[Insert **Federal Register** page number where the document begins].	141	Added language strengthening compliance obligations.

TABLE 52.1167—EPA-APPROVED RULES AND REGULATIONS—Continued

[See Notes at end of Table]

State citation	Title/subject	Date submitted by State	Date approved by EPA	**Federal Register** citation	52.1120(c)	Comments/unapproved sections
310 CMR 7.18(27)	Coating Mixing Tanks.	9/14/06	5/29/14	[Insert **Federal Register** page number where the document begins].	141	Minor wording changes to improve clarity of regulation.
*	*	*	*	*	*	*
310 CMR 7.18(28)	Automotive Refinishing.	9/14/06	5/29/14	[Insert **Federal Register** page number where the document begins].	141	New emission limits, labeling, recordkeeping requirements, and exemptions added.
*	*	*	*	*	*	*
310 CMR 7.18(29)(c)(2)	Bakeries	9/14/06	5/29/14	[Insert **Federal Register** page number where the document begins].	141	Updated cross reference.
*	*	*	*	*	*	*
310 CMR 7.19(1)(c)(9), (4)(b)(3)d, (f), (5)d.	NO_X RACT	8/9/01; 1/18/02	5/29/14	[Insert **Federal Register** page number where the document begins].	141	Updates to sections pertaining to applicability, large boilers, and medium size boilers.
*	*	*	*	*	*	*
310 CMR 7.19(13)(a), (c)	NO_X RACT	9/14/06	5/29/14	[Insert **Federal Register** page number where the document begins].	141	Updates to applicability and stack testing requirements.
*	*	*	*	*	*	*
310 CMR 7.24(1)	U Organic Material Storage and Distribution.	9/14/06	5/29/14	[Insert **Federal Register** page number where the document begins].	141	Updates to requirements for organic material storage tanks, effective 9/23/05.
*	*	*	*	*	*	*
310 CMR 7.24(4)	U Organic Material Storage and Distribution.	9/14/06	5/29/14	[Insert **Federal Register** page number where the document begins].	141	Updates to requirements for motor vehicle fuel tank trucks, effective 6/2/06.
*	*	*	*	*	*	*

Notes:

[1] This table lists regulations adopted as of 1972. It does not depict regulatory requirements which may have been part of the Federal SIP before this date.

[2] The regulations are effective statewide unless otherwise stated in comments or title section.

[FR Doc. 2014–11687 Filed 5–28–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[WT Docket Nos: 02–381, 01–14, and 03–202; FCC 04–166]

Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies To Provide Spectrum-Based Services

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection requirements associated with Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies To Provide Spectrum-Based Services, FCC 04–166. With this document the Commission is announcing OMB approval and the effective date of the revised requirements.

DATES: The FCC Form 602 was approved by OMB on September 11, 2013 and is effective May 29, 2014.

FOR FURTHER INFORMATION CONTACT: For additional information contact Cathy Williams, *Cathy.Williams@fcc.gov,* (202) 418–2918.

SUPPLEMENTARY INFORMATION: This document announces that, on September 11, 2013, OMB approved the revised information collection requirements for Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies To Provide Spectrum-Based Services, FCC 04–166, published at, 69 FR 75144, December 15, 2004, the OMB

Control Number is 3060–0799. The Commission publishes this document as an announcement of the effective date of the revised information collection requirements, revised FCC Form 602. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street SW., Washington, DC 20554. Please include the OMB Control Number, 3060–0799, in your correspondence. The Commission will also accept your comments via the Internet if you send them to *PRA@fcc.gov.*

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on September 11, 2013 for the revised information collection requirements contained in the information collection 3060–0799.

Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, 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 that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–0799.

The foregoing document is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–0799.

OMB Approval Date: September 11, 2013.

OMB Expiration Date: September 30, 2016.

Title: FCC Ownership Disclosure Information for the Wireless Telecommunications Services.

Form No.: FCC Form 602.

Respondents: Business or Other For-Profit Entities; Not-For-Profit Institutions; State, Local or Tribal Governments.

Number of Respondents and Responses: 5,215 respondents; 5,215 responses.

Estimated Time per Response: 0.5–1.5 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority is contained in 47 U.S.C. 4(i), 303(g) and 303(r).

Total Annual Burden: 5,215 hours.

Total Annual Cost: $508,200.

Nature and Extent of Confidentiality: Respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

Privacy Impact Assessment: No impact(s).

Needs and Uses: There is no change in the Commission's previous burden estimates. The Commission revised FCC Form 602 by removing question 1b the reporting of Cellular cross Ownership Interests, which was sunset per 47 CFR 1.919(I)(3). The revised form is available via the Commission's Web site and the Universal Licensing System electronic form has been updated. The purpose of the FCC Form 602 is to obtain the identity of the filer and to elicit information required by 47 CFR 1.2112 of the Commission's rules regarding: (1) Persons or entities holding a 10 percent or greater direct or indirect ownership interest or any general partners in a general partnership holding a direct or indirect ownership interest in the applicant (''Disclosable Interest Holders''); and (2) All FCC-regulated entities in which the filer or any of its Disclosable Interest Holders owns a 10 percent or greater interest. The data collected on the FCC Form 602 includes the FCC Registration Number (FRN), which serves as a ''common link'' for all filings an entity has with the FCC. The Debt Collection Improvement Act of 1996 requires that entities filing with the Commission use a FRN. The FCC Form 602 was designed for, and must be filed electronically by, all licensees that hold licenses in auctionable services. The information collected on the form is used by the FCC to determine whether the filer is legally, technically and financially qualified to be a licensee. Without such information, the Commission could not determine whether to issue licenses to applicants that provide telecommunications services to the public and fulfill its statutory responsibilities in accordance with the Communications Act of 1934, as amended.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2014–12353 Filed 5–28–14; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 130214139–3542–02]

RIN 0648–XD277

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

ACTION: Temporary rule; inseason General category retention limit adjustment.

SUMMARY: NMFS is adjusting the Atlantic bluefin tuna (BFT) General category daily retention limit from the default limit of one large medium or giant BFT to four large medium or giant BFT for June 1 through August 31, 2014. This action is based on consideration of the regulatory determination criteria regarding inseason adjustments, and applies to Atlantic tunas General category (commercial) permitted vessels and Highly Migratory Species (HMS) Charter/Headboat category permitted vessels when fishing commercially for BFT.

DATES: Effective June 1, 2014, through August 31, 2014.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin or Brad McHale, 978–281–9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Highly Migratory Species Fishery Management Plan (2006 Consolidated

HMS FMP) (71 FR 58058, October 2, 2006) and in accordance with implementing regulations. NMFS is required under ATCA and the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest the ICCAT–recommended quota.

The 2010 ICCAT recommendation regarding western BFT management resulted in baseline U.S. quotas for 2011 and for 2012 of 923.7 mt (not including the 25 mt ICCAT allocated to the United States to account for bycatch of BFT in pelagic longline fisheries in the Northeast Distant Gear Restricted Area). The 2011 BFT quota rule (76 FR 39019, July 5, 2011) implemented the base quota of 435.1 mt for the General category fishery (a commercial tunas fishery in which handgear is used). Each of the General category time periods (January, June through August, September, October through November, and December) is allocated a portion of the annual General category quota. Although NMFS has published proposed quota specifications for 2014 (79 FR 18870, April 4, 2014), the baseline General category subquotas as codified in 2011 would not be changed, including the 217.6-mt June through August General category subquota.

The 2014 BFT fishing year, which is managed on a calendar-year basis and subject to an annual calendar-year quota, began January 1, 2014. The General category season, which was open January 1 through March 21, 2014, resumes on June 1, 2014, and continues through December 31, 2014. Unless changed, the General category daily retention limit would be the default retention limit of one large medium or giant BFT (measuring 73 inches (185 cm) curved fork length (CFL) or greater) per vessel per day/trip (§ 635.23(a)(2)). This default retention limit applies to General category permitted vessels and to HMS Charter/Headboat category permitted vessels when fishing commercially for BFT.

For the 2013 fishing year, NMFS adjusted the General category limit from the default level of one large medium or giant BFT as follows: Two large medium or giant BFT for January (77 FR 74612, December 17, 2012), and three large medium or giant BFT for June through August (78 FR 26708, May 8, 2013), three large medium or giant BFT for September 1 through November 26 (78 FR 50346, August 19, 2013), and five large medium or giant BFT for November 27 through December 31 (78 FR 72584, December 3, 2013). NMFS adjusted the daily retention limit for the 2014 January subquota period from the default level of one large medium or giant BFT to two large medium or giant BFT (78 FR 77362, December 23, 2013). That retention limit was effective from January 1, 2014, until March 21, 2014, when NMFS closed the fishery because the January subquota had been met (79 FR 15924, March 24, 2014).

Adjustment of General Category Daily Retention Limit

Under § 635.23(a)(4), NMFS may increase or decrease the daily retention limit of large medium and giant BFT over a range of zero to a maximum of five per vessel based on consideration of the relevant criteria provided under § 635.27(a)(8), which include: The usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock; effects of the adjustment on BFT rebuilding and overfishing; effects of the adjustment on accomplishing the objectives of the fishery management plan; variations in seasonal BFT distribution, abundance, or migration patterns; effects of catch rates in one area precluding vessels in another area from having a reasonable opportunity to harvest a portion of the category's quota; and review of dealer reports, daily landing trends, and the availability of BFT on the fishing grounds.

• NMFS has considered these criteria and their applicability to the General category BFT retention limit for the June–August 2014 General category fishery. These considerations include, but are not limited to, the following. Biological samples collected from BFT landed by General category fishermen and provided by BFT dealers continue to provide NMFS with valuable parts and data for ongoing scientific studies of BFT age and growth, migration, and reproductive status. As this action would be taken consistent with the quotas previously established and analyzed in the 2011 BFT quota final rule (76 FR 39019, July 5, 2011), and consistent with objectives of the 2006 Consolidated HMS FMP, it is not expected to negatively impact stock health. A principal consideration is the objective of providing opportunities to harvest the full June–August subquota without exceeding it based upon the 2006 Consolidated HMS FMP goal: ''Consistent with other objectives of this FMP, to manage Atlantic HMS fisheries for continuing optimum yield so as to provide the greatest overall benefit to the Nation, particularly with respect to food production, providing recreational opportunities, preserving traditional fisheries, and taking into account the protection of marine ecosystems.'' Migration of commercial-size BFT to the fishing grounds off the northeast U.S. coast is anticipated by early June. Lastly, based on General category landings rates during the June through August time period over the last several years, it is highly unlikely that the June through August subquota will be filled with the default daily retention limit of one BFT per vessel, and it may not be filled at a three-BFT limit if recent patterns of BFT availability and landings rates hold. During the June–August periods in 2012 and 2013, under a three-fish limit, BFT landings were approximately 155 mt and 108 mt, respectively (71 percent and 50 percent, respectively, of the available quota for that period).

A limit lower than four fish could result in unused quota being added to the later portion of the General category season (i.e., rolling forward to the subsequent subquota time period). Increasing the daily retention limit from the default may mitigate rolling an excessive amount of unused quota from one time-period subquota to the next. However, increasing the daily limit to five fish may risk exceeding the available June–August subquota. NMFS has also received comment over recent years from General category fishery participants and BFT dealers that a five-fish limit at this time of year may negatively affect market prices as the fish quality tends to be lower earlier in the year. Increasing the daily retention limit to four fish will increase the likelihood that the General category BFT landings will approach, but not exceed, the annual quota, as well as increase the opportunity for catching BFT harvest during the June through August subquota period. Increasing (and sometimes maximizing) opportunity within each subquota period is also important because of the migratory nature and seasonal distribution of BFT. In a particular geographic region, or waters accessible from a particular port, the amount of fishing opportunity for BFT may be constrained by the short amount of time the BFT are present.

Based on all of these considerations, NMFS has determined that a four-fish General category retention limit is warranted. It would provide a reasonable opportunity to harvest the U.S. quota of BFT, without exceeding it, while maintaining an equitable distribution of fishing opportunities; help achieve optimum yield in the General category BFT fishery; allow the collection of a broad range of data for stock monitoring purposes; and be consistent with the objectives of the 2006 Consolidated HMS FMP. Therefore, NMFS increases the General category retention limit from the default

limit to four large medium or giant BFT per vessel per day/trip, effective June 1, 2014, through August 31, 2014.

Regardless of the duration of a fishing trip, the daily retention limit applies upon landing. For example, whether a vessel fishing under the General category limit takes a two-day trip or makes two trips in one day, the daily limit of four fish may not be exceeded upon landing. This General category retention limit is effective in all areas, except for the Gulf of Mexico, and applies to those vessels permitted in the General category, as well as to those HMS Charter/Headboat permitted vessels fishing commercially for BFT.

Monitoring and Reporting

NMFS will continue to monitor the BFT fishery closely through the mandatory dealer landing reports, which NMFS requires to be submitted within 24 hours of a dealer receiving BFT. Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional retention limit adjustment or closure is necessary to ensure available quota is not exceeded or to enhance scientific data collection from, and fishing opportunities in, all geographic areas.

Closures or subsequent adjustments to the daily retention limits, if any, will be published in the **Federal Register**. In addition, fishermen may call the Atlantic Tunas Information Line at (888) 872–8862 or (978) 281–9260, or access *hmspermits.noaa.gov,* for updates on quota monitoring and retention limit adjustments.

Classification

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

The regulations implementing the 2006 Consolidated HMS FMP provide for inseason retention limit adjustments to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. Affording prior notice and opportunity for public comment to implement these retention limits is impracticable as NMFS needs to wait until it has necessary data and information about the fishery before it can select the appropriate retention limit for a time period prescribed by regulation. By the time NMFS has the necessary data, implementing the retention limit following a public comment period would preclude fishermen from harvesting BFT that are legally available consistent with all of the regulatory criteria. Analysis of available data shows that the General category BFT retention limits may be increased with minimal risks of exceeding the ICCAT-allocated quota.

Delays in increasing these retention limits would adversely affect those General and Charter/Headboat category vessels that would otherwise have an opportunity to harvest more than the default retention limit of one BFT per day/trip and may exacerbate the problem of low catch rates and quota rollovers. Limited opportunities to harvest the respective quotas may have negative social and economic impacts for U.S. fishermen that depend upon catching the available quota within the time periods designated in the 2006 Consolidated HMS FMP. Adjustment of the retention limit needs to be effective June 1, 2014, or as soon as possible thereafter, to minimize any unnecessary disruption in fishing patterns, to allow the impacted sectors to benefit from the adjustment, and to not preclude fishing opportunities for fishermen who have access to the fishery only during this time period. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For these reasons, there is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under 50 CFR 635.23(a)(4) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: May 22, 2014.

Alan D. Risenhoover,

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

[FR Doc. 2014–12396 Filed 5–23–14; 11:15 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 79, No. 103

Thursday, May 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0290; Directorate Identifier 2012–NM–210–AD]

RIN 2120–AA64

Airworthiness Directives; Lockheed Martin Corporation/Lockheed Martin Aeronautics Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Lockheed Martin Corporation/Lockheed Martin Aeronautics Company Model L–1011 series airplanes. This proposed AD was prompted by reports of cracked rib cap castellations. This proposed AD would require repetitive inspections for castellation and skin clips cracked or damaged between stringers and cracked stringer clips of the wing box pylon back-up structure, and front spar to rear spar, repetitive inspections for cracking, damage, or failure of the pylon back-up torque box structure; repetitive inspections for cracking or damage of the wing box external areas at the drag brace aft wing fitting; and repetitive inspections of the outer surface of the wing upper and lower skins for cracks or damage along the rib attachment at the fastener holes and between the two rows of attachment; and corrective actions if necessary. We are proposing this AD to detect and correct cracked or damaged rib cap castellations, which could degrade the structural capabilities of the airplane.

DATES: We must receive comments on this proposed AD by July 14, 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:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Lockheed Martin Corporation/Lockheed Martin Aeronautics Company, L1011 Technical Support Center, Dept. 6A4M, Zone 0579, 86 South Cobb Drive, Marietta, GA 30063–0579; telephone 770–494–5444; fax 770–494–5445; email *L1011.support@lmco.com;* Internet *http://www.lockheedmartin.com/ams/tools/TechPubs.html*. 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–2014–0290; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Carl Gray, Aerospace Engineer, Airframe Branch, ACE–117A, FAA, Atlanta Aircraft Certification Office (ACO), 1701 Columbia Avenue, College Park, Georgia 30337; phone: 404–474–5554; fax: 404–474–5605; email: *carl.w.gray@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0290; Directorate Identifier 2012–NM–210–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We have received multiple reports of cracked rib cap castellations on Model L–1011–385–1 airplanes. The predominance of cracked castellations have been found on the upper cap at inboard wing station (IWS) 555.0. Cracked castellations were also found on the lower cap at IWS 555.0, and at a few locations on the upper caps at IWS 529.4 and 503.76. Castellation cracks may propagate into the rib cap proper, and with several castellations cracked and the rib cap severed, fail safe capability cannot be analytically proven. Continued operation in this condition can result in severe additional damage and loss of stiffness in the pylon back-up structure creating a potential flutter hazard. This condition, if not corrected, could result in degraded structural capabilities of the airplane.

Relevant Service Information

We reviewed Lockheed Service Bulletin 093–57–207, Revision 5, dated November 14, 2008. This service bulletin describes procedures for:

- A repetitive detailed inspection of the wing box pylon back-up structure, front spar to rear spar, for castellation and/or skin clips cracked or damaged between stringers and cracked stringer clips.
- A repetitive general visual inspection for cracking or damage of the pylon back-up torque box structure.
- A repetitive general visual inspection for cracking, damage, or failure of the wing box external areas at the drag brace aft wing fitting.
- A repetitive general visual inspection for cracking or damage of the outer surface of the wing upper and

lower skins for cracks or damage along the rib attachment at the fastener holes and between the two rows of attachments.

Lockheed Service Bulletin 093–57–207, Revision 5, dated November 14, 2008, describes corrective actions as replacing cracked clips with a new clip, and stop drilling a single cracked castellation with a crack that is no longer than three quarters of an inch, provided the two adjacent castellations on either side are crack free (i.e., every third castellation may be cracked and stop drilled). Additionally, this service bulletin specifies that if more than two consecutive castellations are cracked, the airplane should be modified by installing new rib caps or the cracked castellations repaired by replacing a segment of the rib cap using cap splices. This service bulletin states that all other damaged structural items should be repaired in accordance with the best shop practices, following procedures in Structural Repair Manual 57–12–00 and to advise Lockheed of all such repairs.

Lockheed Service Bulletin 093–57–207, Revision 5, dated November 14, 2008, describes a compliance time of before the accumulation of 15,000 total flight cycles or 27,000 total flight hours, whichever occurs first. The repetitive inspection interval is described as not to exceed 3,600 flight cycles or 7,200 flight hours, whichever occurs first.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between the Proposed AD and the Service Information.'' This proposed AD also requires sending a report of crack findings during any inspection required by this AD to the Manager, Atlanta Aircraft Certification Office.

Differences Between the Proposed AD and the Service Information

Although Lockheed Service Bulletin 093–57–207, Revision 5, dated November 14, 2008, specifies that operators may contact the manufacturer for disposition of certain repair conditions, this proposed AD would require operators to repair those conditions in accordance with a method approved by the FAA.

Related AD

This proposed AD is related to AD 94–05–01, Amendment 39–8839 (59 FR 10275, March 4, 1994). For Model L–1011–385 series airplanes, serial numbers 1002 through 1188, paragraph (c) of AD 94–05–01 specifies that doing the modification specified in Lockheed Service Bulletin 093–57–207, Revision 3, dated November 22, 1991, constitutes terminating action for the repetitive inspection requirements of that service bulletin. We have determined that the modification no longer constitutes terminating action for the repetitive inspections, and this proposed AD would require repetitive inspections.

Costs of Compliance

We estimate that this proposed AD affects 26 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections	41 work-hours × $85 per hour = $3,485 per inspection cycle.	$0	$3,485 per inspection cycle.	$90,610 per inspection cycle.

We estimate the following costs to do any necessary repairs that would be required based on the results of the proposed inspection. We have no way of determining the number of aircraft that might need these repairs:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Modification (Up to 12 rib caps per airplane).	96 work-hours × $85 per hour = $8,160 per rib cap	$15,000 per rib cap	$23,160 per rib cap.

Other than the modification stated above, we have received no definitive data that would enable us to provide cost estimates for the crack repair actions specified in this proposed AD.

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. Therefore, all reporting associated with this AD is 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.

Authority for This Rulemaking

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

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

that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Lockheed Martin Corporation/Lockheed Martin Aeronautics Company: Docket No. FAA–2014–0290; Directorate Identifier 2012–NM–210–AD.

(a) Comments Due Date

We must receive comments by July 14, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Lockheed Martin Corporation/Lockheed Martin Aeronautics Company Model L–1011–385–1, L–1011–385–1–14, L–1011–385–1–15, and L–1011–385–3 airplanes, certificated in any category, as identified in Lockheed Service Bulletin 093–57–207, Revision 5, dated November 14, 2008.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 57, Wings.

(e) Unsafe Condition

This AD was prompted by reports of cracked rib cap castellations. We are issuing this AD to detect and correct cracked or damaged rib cap castellations, which could degrade the structural capabilities of the airplane.

(f) Compliance

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

(g) Repetitive Wing Inspections

For Model L–1011–385–1, L–1011–385–1–14, L–1011–385–1–15, and L–1011–385–3 airplanes, serial numbers 1189 and subsequent: At the applicable compliance time specified in paragraphs (h)(1), (h)(2), and (h)(3) of this AD, do the inspections specified in paragraphs (g)(1) through (g)(4) of this AD. Repeat the inspections thereafter at intervals not to exceed 3,600 flight cycles or 7,200 flight hours, whichever occurs first.

(1) Do a detailed inspection for castellation and skin clips cracked or damaged (including cracks, loose or missing fasteners, oversized and missed drilled fastener holes, corrosion, dents, scratches and other signs of distress) between stringers and cracked stringer clips of the wing box pylon back-up structure, and front spar to rear spar, in accordance with the Accomplishment Instructions of Lockheed Service Bulletin 093–57–207, Revision 5, dated November 14, 2008.

(2) Do a general visual inspection for cracking or damage (including cracks, loose or missing fasteners, oversized and missed drilled fastener holes, corrosion, dents, scratches and other signs of distress) of the pylon back-up torque box structure, in accordance with the Accomplishment Instructions of Lockheed Service Bulletin 093–57–207, Revision 5, dated November 14, 2008.

(3) Do a general visual inspection for cracking, damage (including cracks, loose or missing fasteners, oversized and missed drilled fastener holes, corrosion, dents, scratches and other signs of distress), or failure of the wing box external areas at the drag brace aft wing fitting, in accordance with the Accomplishment Instructions of Lockheed Service Bulletin 093–57–207, Revision 5, dated November 14, 2008.

(4) Do a general visual inspection for cracking or damage (including cracks, loose or missing fasteners, oversized and missed drilled fastener holes, corrosion, dents, scratches and other signs of distress) of the outer surface of the wing upper and lower skins for cracks along the rib attachment at the fastener holes and between the two rows of attachments, in accordance with the Accomplishment Instructions of Lockheed Service Bulletin 093–57–207, Revision 5, dated November 14, 2008.

(h) Compliance Times for Paragraph (g) of This AD

(1) For airplanes that have not accomplished the inspections described in Lockheed Service Bulletin 093–57–207 prior to the effective date of this AD: at the later of the compliance times specified in paragraphs (h)(1)(i) and (h)(1)(ii) of this AD.

(i) Before the accumulation of 15,000 total flight cycles or 27,000 total flight hours, whichever occurs first.

(ii) Within 1,800 flight cycles or 3,600 flight hours, whichever occurs first, after the effective date of this AD.

(2) For airplanes that have accomplished the inspections described in Lockheed Service Bulletin 093–57–207 prior to the effective date of this AD: Within 3,600 flight cycles or 7,200 flight hours, whichever occurs first, after the competition of the most recent inspections, except as specified in paragraph (h)(3) of this AD.

(3) For rib caps that have been modified as described in Lockheed Service Bulletin 093–57–207: Before the accumulation of 15,000 total flight cycles or 27,000 total flight hours, whichever occurs first, for that rib cap only.

(i) Corrective Action

If any cracking, damage, or failure is found during any inspection required by paragraph (g) of this AD: Before further flight, do all applicable corrective actions, in accordance with the Accomplishment Instructions of Lockheed Service Bulletin 093–57–207, Revision 5, dated November 14, 2008, except where this service bulletin specifies that all other damaged structural items should be repaired in accordance with the best shop practices, following procedures in Structural Repair Manual 57–12–00, this AD requires repairing the damage before further flight, in accordance with a method approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA. For a repair method to be approved by the Manager, Atlanta ACO, as required by this paragraph, the Manager's approval letter must specifically refer to this AD.

(j) Reporting

Submit a report of positive findings of the inspection for cracking required by this AD to the Manager, Atlanta ACO, at the applicable time specified in paragraph (j)(1) or (j)(2) of this AD. The report must include the inspection results, a description of the discrepancies found, the airplane serial number, and the number of landings and flight hours on the airplane.

(1) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(k) Paperwork Reduction Act Burden Statement

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.

(l) Credit for Previous Actions

This paragraph provides credit for actions required by paragraphs (g) and (i) of this AD, if those actions were performed before the effective date of this AD using Lockheed Service Bulletin 093–57–207, Revision 3, dated November 22, 1991.

(m) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Atlanta 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 (n)(1) of this AD.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/ certificate holding district office.

(n) Related Information

(1) For more information about this AD, contact Carl Gray, Aerospace Engineer, Airframe Branch, ACE–117A, FAA, Atlanta Aircraft Certification Office (ACO), 1701 Columbia Avenue, College Park, Georgia 30337; phone: 404–474–5554; fax: 404–474–5605; email: *carl.w.gray@faa.gov.*

(2) For service information identified in this AD, contact Lockheed Martin Corporation/Lockheed Martin Aeronautics Company, L1011 Technical Support Center, Dept. 6A4M, Zone 0579, 86 South Cobb Drive, Marietta, GA 30063–0579; telephone 770–494–5444; fax 770–494–5445; email *L1011.support@lmco.com;* Internet *http://www.lockheedmartin.com/ams/tools/TechPubs.html.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on May 15, 2014.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–12448 Filed 5–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0287; Directorate Identifier 2013–NM–247–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes, Model CL–600–2D24 (Regional Jet Series 900) airplanes, and Model CL–600–2E25 (Regional Jet Series 1000) airplanes. This proposed AD was prompted by a report that certain parts of the aft baggage door did not conform to the design specifications and were of degraded strength. This proposed AD would require repetitive inspections for cracking and deformations of certain stop fittings and striker plates of the aft baggage bay door; and replacement, which would terminate the repetitive inspections. We are proposing this AD to prevent cracking and deformations of certain stop fittings and striker plates, which may result in the opening of the aft baggage bay door and rapid decompression or reduced controllability of the airplane.

DATES: We must receive comments on this proposed AD by July 14, 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:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.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–2014–0287; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Ricardo Garcia, Aerospace Engineer, Airframe and Mechanical Systems, ANE–171, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone (516) 228–7331; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0287; Directorate Identifier 2013–NM–247–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2013–37, dated November 28, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc. Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes, Model CL–600–2D24 (Regional Jet Series 900) airplanes, and Model CL–600–2E25 (Regional Jet Series 1000) airplanes. The MCAI states:

During the manufacturing process, it was found that certain aft baggage bay door stop fittings and striker plates did not conform to the design specifications due to a quality control problem. This quality escape could degrade the strength of the affected aft baggage bay door stop fittings and striker plates. Failure of the aft baggage bay door stop fittings or striker plates may result in the opening of the aft baggage bay door and consequent rapid decompression of the aeroplane during flight.

This [Canadian] AD mandates the initial and repetitive inspections of each aft baggage bay door stop fitting and striker plate until the terminating action [stop fitting/striker plate replacement] is accomplished.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0287.

Relevant Service Information

Bombardier, Inc. has issued Service Bulletin 670BA–52–037, Revision B, dated September 16, 2013. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

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

Costs of Compliance

We estimate that this proposed AD affects 73 airplanes of U.S. registry.

We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $0 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $6,205, or $85 per product.

In addition, we estimate that any necessary follow-on action would take about 22 work-hours and require parts costing $0, for a cost of $1,870 per product. We have no way of determining the number of aircraft that might need this action.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc.: Docket No. FAA–2014–0287; Directorate Identifier 2013–NM–247–AD.

(a) Comments Due Date

We must receive comments by July 14, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Bombardier, Inc. airplanes specified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD; certificated in any category.

(1) Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes, serial numbers 10303 through 10333 inclusive.

(2) Model CL–600–2D24 (Regional Jet Series 900) airplanes, serial numbers 15257 through 15284 inclusive.

(3) Model CL–600–2E25 (Regional Jet Series 1000) airplanes, serial numbers 19011 through 19024 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 52, Doors.

(e) Reason

This AD was prompted by a report that certain stop fittings and striker plates of the aft baggage bay door did not conform to the design specifications; this quality escape could degrade the strength of the affected stop fittings and striker plates of the aft baggage bay door. We are issuing this AD to prevent cracking and deformations of stop fittings and striker plates, which may result in the opening of the aft baggage bay door and rapid decompression or reduced controllability of the airplane.

(f) Compliance

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

(g) Inspections of the Aft Baggage Bay Door Stop Fittings and Striker Plates

Within 600 flight hours or 6 months after the effective date of this AD, whichever occurs first, do a detailed visual inspection for cracking and deformations of the stop fittings and striker plates of the aft baggage bay door, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 670BA–52–037, Revision B, dated September 16, 2013. Repeat the inspection thereafter at intervals not to exceed 2,000 flight hours or 12 months, whichever occurs first, until the terminating action specified in paragraph (h) of this AD has been accomplished. If a crack or deformation is found on a stop fitting or striker plate, before further flight, replace the affected fittings and striker plates, in accordance with the Accomplishment Instructions in Bombardier Service Bulletin 670BA–52–037, Revision B, dated September 16, 2013.

(h) Terminating Action—Replacement of the Aft Baggage Bay Door Stop Fittings and Striker Plates

Within 6,000 flight hours or 36 months, whichever occurs first, after the effective date of this AD, replace the affected stop fittings and striker plates, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 670BA–52–037, Revision B, dated September 16, 2013. Replacement of the affected stop fittings and striker plates of the aft baggage bay door constitutes terminating action for the repetitive inspections required by paragraph (g) of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, New York Aircraft Certification Office (ACO), ANE–170, 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 ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. 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 Design Approval Holder 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.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2013–37, dated November 28, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0287.

(2) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

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

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–12473 Filed 5–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0288; Directorate Identifier 2013–NM–101–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model DC–9–10, DC–9–20, and DC–9–30 series airplanes. This proposed AD was prompted by an evaluation by the design approval holder (DAH) indicating that the improved (shot-peened) aft fuselage non-ventral pressure bulkhead tee is subject to widespread fatigue damage (WFD). This proposed AD would require repetitive inspections for cracking of the improved (shot-peened) non-ventral aft pressure bulkhead tees, and replacement if necessary. We are proposing this AD to detect and correct fatigue cracking of the improved (shot-peened) non-ventral aft pressure bulkhead dome tees connecting the bulkhead web to the fuselage, which could result in reduced structural integrity and rapid decompression of the airplane.

DATES: We must receive comments on this proposed AD by July 14, 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:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800–0019, Long Beach, CA 90846–0001; telephone 206–544–5000, extension 2; fax 206–766–5683; 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–2014–0288; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Eric Schrieber, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5348; fax: 562–627–5210; email: *eric.schrieber@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0288; Directorate Identifier 2013–NM–101–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

Structural fatigue damage is progressive. It begins as minute cracks, and those cracks grow under the action of repeated stresses. This can happen because of normal operational conditions and design attributes, or because of isolated situations or incidents such as material defects, poor fabrication quality, or corrosion pits, dings, or scratches. Fatigue damage can occur locally, in small areas or structural design details, or globally. Global fatigue damage is general degradation of large areas of structure with similar structural details and stress levels. Multiple-site damage is global damage that occurs in a large structural element such as a single rivet line of a lap splice joining two large skin panels. Global damage can also occur in multiple elements such as adjacent frames or stringers. Multiple-site-damage and multiple-element-damage cracks are typically too small initially to be reliably detected with normal inspection methods. Without intervention, these cracks will grow, and eventually compromise the structural integrity of the airplane, in a condition known as WFD. As an airplane ages, WFD will likely occur, and will certainly occur if the airplane is operated long enough without any intervention.

The FAA's WFD final rule (75 FR 69746, November 15, 2010) became effective on January 14, 2011. The WFD rule requires certain actions to prevent structural failure due to WFD throughout the operational life of certain existing transport category airplanes and all of these airplanes that will be certificated in the future. For existing and future airplanes subject to the WFD rule, the rule requires that DAHs establish a limit of validity (LOV) of the engineering data that support the structural maintenance program. Operators affected by the WFD rule may not fly an airplane beyond its LOV, unless an extended LOV is approved.

The WFD rule (75 FR 69746, November 15, 2010) does not require identifying and developing maintenance actions if the DAHs can show that such actions are not necessary to prevent WFD before the airplane reaches the LOV. Many LOVs, however, do depend on accomplishment of future maintenance actions. As stated in the WFD rule, any maintenance actions necessary to reach the LOV will be mandated by airworthiness directives through separate rulemaking actions.

In the context of WFD, this action is necessary to enable DAHs to propose LOVs that allow operators the longest operational lives for their airplanes, and still ensure that WFD will not occur. This approach allows for an implementation strategy that provides flexibility to DAHs in determining the timing of service information development (with FAA approval), while providing operators with certainty regarding the LOV applicable to their airplanes.

We received reports indicating that the improved tee sections are subject to widespread fatigue damage (WFD). This condition, if not corrected, could result in reduced structural integrity and rapid decompression of the airplane.

Relevant Service Information

We reviewed McDonnell Douglas DC–9 Alert Service Bulletin A53–231, Revision 2, dated June 25, 1993. For information on the procedures and repetitive compliance times, see this service information at *http://www.regulations.gov* by searching for Docket No. FAA–2014–0288.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require accomplishing repetitive inspections of the improved (shot-peened) non-ventral aft pressure bulkhead tees as specified in the service information described previously, except as discussed under ''Differences Between this Proposed AD and the Service Information.''

Differences Between This Proposed AD and the Service Information

Although McDonnell Douglas DC–9 Alert Service Bulletin A53–231, Revision 2, dated June 25, 1993, recommends accomplishing the inspections between 300 and 1,500 flight cycles ''from issue date of Revision 1 of this Service Bulletin,'' this proposed AD specifies variable compliance times depending on when the tee was installed. The compliance times for this proposed AD differ from those specified in McDonnell Douglas DC–9 Alert Service Bulletin A53–231, Revision 2, dated June 25, 1993, because it has been determined that the new improved tees could crack before the part's LOV is reached.

Although McDonnell Douglas DC–9 Alert Service Bulletin A53–231, Revision 2, dated June 25, 1993, describes inspection procedures for the original design tees, the inspection procedures also apply to the improved (shot-peened) tees specified in this proposed AD.

Although McDonnell Douglas DC–9 Alert Service Bulletin A53–231, Revision 2, dated June 25, 1993, notes that replacing an original tee section with a new improved tee section eliminates the need for the repetitive inspections for that tee section, this proposed AD would not allow that terminating action. We have determined that the inspections must be repetitively performed because the new improved tee could crack before the airplane's LOV is reached.

Although McDonnell Douglas Alert DC–9 Service Bulletin A53–231, Revision 2, dated June 25, 1993, notes that replacing all six original tee sections with new improved tee sections eliminates the need for the repetitive inspections, this proposed AD would not allow that terminating action because the new improved tee could crack before the airplane's LOV is reached.

Although Table 1 of Figure 4, and paragraph 3, ''Material Information,'' of McDonnell Douglas DC–9 Alert Service Bulletin A53–231, Revision 2, dated June 25, 1993, specifies doubler configuration part numbers (P/Ns) SR09530056–3, SR09530056–5, SR09530056–6, SR09530056–7, SR09530056–8, SR09530056–9, 5910163–387, 5910163–389, 5910163–391, 5910163–392, 5910163–393, and 5910163–394, the correct part numbers are identified in paragraphs (h) and (k) of this proposed AD.

These differences have been coordinated with The Boeing Company.

Related Rulemaking

AD 89–06–04, Amendment 39–6152 (54 FR 11167, March 17, 1989), requires repetitive inspections of the original tee section having P/Ns 5910163–89, 5910163–91, 5910163–92, 5910163–93, 5910163–94, and 5910163–95, in accordance with McDonnell Douglas DC–9 Alert Service Bulletin A53–231, Revision 2, dated June 25, 1993, for McDonnell Douglas Model DC–9–10 through –30 series and C–9 (Military) series airplanes equipped with a non-ventral aft pressure bulkhead. AD 89–06–04 requires that the inspections be repeated whether or not the tee is replaced.

Explanation of Compliance Time

The compliance time for the replacement specified in this proposed AD for addressing WFD was established to ensure that discrepant structure is replaced before WFD develops in airplanes. Standard inspection

techniques cannot be relied on to detect WFD before it becomes a hazard to flight. We will not grant any extensions of the compliance time to complete any AD-mandated service bulletin related to WFD without extensive new data that would substantiate and clearly warrant such an extension.

Costs of Compliance

We estimate that this proposed AD affects 48 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	Up to 148 work-hours × $85 per hour = $12,580 per inspection cycle.	$0	$12,580 per inspection cycle	Up to $603,840 per inspection cycle.

We estimate the following costs to do any necessary replacements that would be required based on the results of the proposed inspection. We have no way of determining the number of aircraft that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement (per tee)	4,000 work-hours × $85 per hour = $340,000	$26,000	$366,000

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2014–0288; Directorate Identifier 2013–NM–101–AD.

(a) Comments Due Date

We must receive comments by July 14, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model DC–9–11, DC–9–12, DC–9–13, DC–9–14, DC–9–15, and DC–9–15F airplanes; Model DC–9–21 airplanes; and Model DC–9–31, DC–9–32, DC–9–32 (VC–9C), DC–9–32F, DC–9–33F, DC–9–34, DC–9–34F, and DC–9–32F (C–9A, C–9B) airplanes; certificated in any category; equipped with a non-ventral aft pressure bulkhead.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the improved (shot-peened) non-ventral aft pressure bulkhead tee is subject to widespread fatigue damage (WFD). We are issuing this AD to detect and correct fatigue cracking of the improved (shot-peened) non-ventral aft pressure bulkhead tees connecting the bulkhead web to the fuselage, which could result in reduced structural integrity and rapid decompression of the airplane.

(f) Compliance

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

(g) Definitions

(1) For the purposes of this AD, the term ''original tee section'' refers to the original (non-peened) non-ventral aft pressure bulkhead web to fuselage skin attach tee sections.

(2) For the purposes of this AD, the term ''improved tee section'' refers to improved (shot peened) non-ventral aft pressure bulkhead web to fuselage skin attach tee sections.

(h) Inspection

For airplanes on which an improved tee section having P/N 5910163–257, 5910163–

259, 5910163–260, 5910163–261, 5910163–262, 5910163–263, SR09530001–3, SR09530001–5, SR09530001–6, SR09530001–7, SR09530001–8, SR09530001–9, SR09530001–29, SR09530001–30, SR09530001–31, SR09530001–32, SR09530001–33, SR09530001–35, SR09530056–3, SR09530056–5, SR09530056–6, SR09530056–7, SR09530056–8, SR09530056–9, SR09530056–11, SR09530056–13, SR09530056–14, SR09530056–15, SR09530056–16, SR09530056–17, SR09530056–19, SR09530056–21, SR09530056–22, SR09530056–23, SR09530056–24, or SR09530056–25, is installed: At the applicable time specified in paragraph (i)(1) or (i)(2) of this AD, do a general visual and low frequency eddy current (LFEC) inspection (Option I), or a high and low frequency eddy current inspection (Option II), for cracking of the improved tee sections, in accordance with the Accomplishment Instructions of McDonnell Douglas DC–9 Alert Service Bulletin A53–231, Revision 2, dated June 25, 1993, including Service Sketch 3683D, Revision C, dated July 19, 1989.

(i) Compliance Times

(1) For Option I and Option II inspections specified in paragraph (h) of this AD: If the time of installation of an improved tee section having a part number listed in paragraph (h) of this AD is known, do the initial inspection required by paragraph (h) of this AD within 50,000 flight cycles after installation of the improved tee section, or within 1,500 flight cycles after the effective date of this AD, whichever occurs later.

(2) For Option I and Option II inspections specified in paragraph (h) of this AD: If the time of installation of an improved tee section having a part number identified in paragraph (h) of this AD is not known, do the initial inspection required by paragraph (h) of this AD before the accumulation of 75,000 total flight cycles, or within 1,500 flight cycles after the effective date of this AD, whichever occurs later.

(j) Repetitive Inspections

If no cracking is found during the inspection required by paragraph (h) of this AD: Do the actions specified in paragraph (j)(1) or (j)(2) of this AD, as applicable, in accordance with the Accomplishment Instructions of McDonnell Douglas DC–9 Alert Service Bulletin A53–231, Revision 2, dated June 25, 1993, including Service Sketch 3683D, Revision C, dated July 19, 1989.

(1) For Option I: If Option I was used for the inspection required by paragraph (h) of this AD, do the actions at the applicable intervals, as specified in paragraphs (j)(1)(i), (j)(1)(ii), and (j)(1)(iii) of this AD.

(i) Repeat the LFEC inspection for cracking of the side areas above the floor between longerons L7 and L17 on the fuselage left and right sides, at intervals not to exceed 2,000 flight cycles.

(ii) Repeat the general visual inspection for cracking of the top and lower areas from longeron L7 left side to L7 right side, and lower fuselage longeron L17 to L20 on the fuselage left and right sides, at intervals not to exceed 1,500 flight cycles.

(iii) Repeat the general visual inspection for cracking of the bottom areas from longeron L20 left side to L20 right side, at intervals not to exceed 3,500 flight cycles.

(2) For Option II: If Option II was used for the inspection required by paragraph (h) of this AD, repeat the high and low eddy frequency eddy current inspections for cracking around the entire periphery of the fuselage from the forward side of the bulkhead at intervals not to exceed 2,500 flight cycles.

(k) Corrective Action and Post-Replacement Inspections

If any cracking is found during any inspection required by paragraph (h) or (j) of this AD: Before further pressurized flight, replace each cracked tee section with an airworthy tee section having a part number identified in paragraph (h) of this AD, or with an original tee section having P/N 5910163–89, 5910163–91, 5910163–92, 5910163–93, 5910163–94, or 5910163–95, in accordance with the Accomplishment Instructions of McDonnell Douglas DC–9 Alert Service Bulletin A53–231, Revision 2, dated June 25, 1993, including Service Sketch 3683D, Revision C, dated July 19, 1989.

(1) If the tee section is replaced with an improved tee section listed in paragraph (h) of this AD, prior to the accumulation of 50,000 flight cycles after installation, inspect the tee section in accordance with paragraph (h) of this AD and do all applicable corrective actions and repetitive inspections in accordance with and at the times specified in paragraphs (j) and (k) of this AD.

(2) If the tee section is replaced with an original tee section listed in paragraph (k) of this AD, prior to the accumulation of 25,000 flight cycles after installation, inspect the tee section in accordance with paragraph (h) of this AD and do all applicable corrective actions and repetitive inspections in accordance with and at the times specified in paragraphs (j) and (k) of this AD.

(l) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles 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 (m)(1) of this AD. Information may be emailed to: *9-ANM-LAACO-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, Los Angeles ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane and 14 CFR 25.571, Amendment 45, and the approval must specifically refer to this AD.

(m) Related Information

(1) For more information about this AD, contact Eric Schrieber, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5348; fax: 562–627–5210; email: *eric.schrieber@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, 3855 Lakewood Boulevard, MC D800–0019, Long Beach, CA 90846–0001; telephone 206–544–5000, extension 2; fax 206–766–5683; 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.

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

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–12475 Filed 5–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0289; Directorate Identifier 2013–NM–146–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2012–13–08, which applies to certain The Boeing Company Model 747–100, 747–100B, 747–200B, 747–200C, 747–200F, 747–400F, 747SR, and 747SP series airplanes, without a stretched upper deck or stretched upper deck modification. AD 2012–13–08 currently requires repetitive inspections of tension ties and surrounding structure for cracking, additional inspections for certain airplanes, and related investigative and corrective actions if necessary. AD 2012–13–08 also currently requires modification of tension tie structure or tension tie and

frame structure at specified stations, a post-modification inspection of any modified area for cracking, repetitive inspections for cracking in the unmodified areas of the tension tie structure and frame structure at certain stations, and repair if necessary. Since we issued AD 2012–13–08, the manufacturer conducted a widespread fatigue damage analysis and determined that additional inspections are necessary. This proposed AD would add, for certain airplanes, surface high frequency eddy current (HFEC) inspections for cracking in unmodified center section tension ties, and repair if necessary; repetitive post-modification eddy current inspections for cracking of modified and unmodified areas, and repair if necessary; a new modification (replacement) of tension tie and frame structures; and repetitive inspections of tension ties and surrounding structure for cracking, and related investigative and corrective actions if necessary. This proposed AD also reduces an inspection interval. We are proposing this AD to prevent tension ties from becoming severed or disconnected from the frames, which could lead to reduced structural integrity and sudden decompression of the airplane in flight.

DATES: We must receive comments on this proposed AD by July 14, 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:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact 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–2014–0289; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0289; Directorate Identifier 2013–NM–146–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

On June 19, 2012, we issued AD 2012–13–08, Amendment 39–17110 (77 FR 40481, July 10, 2012), for certain The Boeing Company Model 747–100, 747–100B, 747–200B, 747–200C, 747–200F, 747–400F, 747SR, and 747SP series airplanes, without a stretched upper deck or stretched upper deck modification. AD 2012–13–08 supersedes AD 2006–01–07, Amendment 39–14446 (71 FR 1947, January 12, 2006), and requires repetitive inspections for cracking in the tension ties and the surrounding structure, and related investigative and corrective actions if necessary. AD 2012–13–08 also requires, for certain airplanes, modifying the tension tie structure or tension tie and frame structure at certain stations; a post-modification inspection of the modified area; and post-modification repetitive inspections of the unmodified area and repair if necessary. AD 2012–13–08 also requires, for certain airplanes, additional inspections. AD 2012–13–08 resulted from reports that certain airplanes have tension ties that are susceptible to widespread fatigue damage, reports of cracks on the forward and aft tension tie channels at station (STA) 740 and STA 760, and a determination that initial inspection intervals required by AD 2006–01–07 needed to be reduced. We issued AD 2012–13–08 to prevent tension ties from becoming severed or disconnected from the frames, which could lead to rapid in-flight decompression.

Widespread Fatigue Damage

Structural fatigue damage is progressive. It begins as minute cracks, and those cracks grow under the action of repeated stresses. This can happen because of normal operational conditions and design attributes, or because of isolated situations or incidents such as material defects, poor fabrication quality, or corrosion pits, dings, or scratches. Fatigue damage can occur locally, in small areas or structural design details, or globally. Global fatigue damage is general degradation of large areas of structure with similar structural details and stress levels. Multiple-site damage is global damage that occurs in a large structural element such as a single rivet line of a lap splice joining two large skin panels. Global damage can also occur in multiple elements such as adjacent frames or stringers. Multiple-site-damage and multiple-element-damage cracks are typically too small initially to be reliably detected with normal inspection methods. Without intervention, these cracks will grow, and eventually compromise the structural integrity of the airplane, in a condition known as widespread fatigue damage (WFD). As an airplane ages, WFD will likely occur, and will certainly occur if the airplane is operated long enough without any intervention.

The FAA's WFD final rule (75 FR 69746, November 15, 2010) became effective on January 14, 2011. The WFD rule requires certain actions to prevent structural failure due to WFD throughout the operational life of certain existing transport category airplanes and all of these airplanes that will be certificated in the future. For existing and future airplanes subject to the WFD rule, the rule requires that design approval holders (DAHs)

establish a limit of validity (LOV) of the engineering data that support the structural maintenance program. Operators affected by the WFD rule may not fly an airplane beyond its LOV, unless an extended LOV is approved.

The WFD final rule (75 FR 69746, November 15, 2010) does not require identifying and developing maintenance actions if the DAHs can show that such actions are not necessary to prevent WFD before the airplane reaches the LOV. Many LOVs, however, do depend on accomplishment of future maintenance actions. As stated in the WFD rule, any maintenance actions necessary to reach the LOV will be mandated by airworthiness directives through separate rulemaking actions.

In the context of WFD, this action is necessary to enable DAHs to propose LOVs that allow operators the longest operational lives for their airplanes, and still ensure that WFD will not occur. This approach allows for an implementation strategy that provides flexibility to DAHs in determining the timing of service information development (with FAA approval), while providing operators with certainty regarding the LOV applicable to their airplanes.

Tension ties have been determined to be structure that is susceptible to WFD. WFD can cause tension ties to become severed or disconnected from the frames. Severed or disconnected tension ties or frames at multiple locations could result in reduced structural integrity and sudden decompression of the airplane in flight.

Actions Since AD 2012–13–08, Amendment 39–17110 (77 FR 40481, July 10, 2012) Was Issued

Since we issued AD 2012–13–08, Amendment 39–17110 (77 FR 40481, July 10, 2012), Boeing conducted the WFD analysis and determined that additional inspections are needed, the interval for the repetitive inspections for cracking in the unmodified areas of the tension tie structure and frame structure should be reduced, and, for certain airplanes, a new modification of tension tie and frame structures is necessary. The additional inspections include surface HFEC inspections for cracking in unmodified center section tension ties, and repetitive post-modification eddy current inspections for cracking in modified and unmodified areas.

Relevant Service Information

We reviewed Boeing Alert Service Bulletin 747–53A2605, Revision 3, dated July 10, 2013. For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for Docket No. FAA–2014–0289.

FAA's Determination

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

Proposed AD Requirements

Although this proposed AD does not completely restate the requirements of AD 2012–13–08, Amendment 39–17110 (77 FR 40481, July 10, 2012), this proposed AD would retain certain requirements of AD 2012–13–08 in paragraphs (g), (h), and (i) of this proposed AD. Actions specified in Boeing Alert Service Bulletin 747–53A2605, Revision 1, dated May 27, 2010, that are required by AD 2012–13–08 are not restated but are retained in paragraphs (j) and (k) of this proposed AD.

This proposed AD would also require, for certain airplanes, surface HFEC inspections for cracking in unmodified center section tension ties, and repair if necessary. In addition, this proposed AD would require, for certain airplanes, repetitive post-modification eddy current inspections for cracking of modified and unmodified areas and repair if necessary. Furthermore, this proposed AD would also require, for certain airplanes, a new modification of tension tie and frame structures, and repetitive inspections of tension ties and surrounding structure for cracking, and related investigative and corrective actions if necessary. This proposed AD would also reduce the interval for the repetitive inspections for cracking in the unmodified areas of the tension tie structure and frame structure.

The phrase ''related investigative actions'' is used in this proposed AD. ''Related investigative actions'' are follow-on actions that (1) are related to the primary action, and (2) further investigate the nature of any condition found. Related investigative actions in an AD could include, for example, inspections.

The phrase ''corrective actions'' is used in this proposed AD. ''Corrective actions'' are actions that correct or address any condition found. Corrective actions in an AD could include, for example, repairs.

Explanation of Compliance Time

The compliance time for the modification specified in this proposed AD for addressing WFD was established to ensure that discrepant structure is modified before WFD develops in airplanes. Standard inspection techniques cannot be relied on to detect WFD before it becomes a hazard to flight. We will not grant any extensions of the compliance time to complete any AD-mandated service bulletin related to WFD without extensive new data that would substantiate and clearly warrant such an extension.

Differences Between This Proposed AD and the Service Information

The service information specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

- In accordance with a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) whom we have authorized to make those findings.

Concurrent Actions

This proposed AD would require that certain actions be done concurrently. Table 1 in Paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2605, Revision 3, dated July 10, 2013, specifies to concurrently do the tension tie and frame modification and surface HFEC inspection for cracks in the tension tie center sections: Therefore, paragraph (j) of this proposed AD would require that the HFEC inspections be done concurrently with the tension tie and frame modification.

Costs of Compliance

We estimate that this proposed AD affects 86 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection (retained from AD 2012–13–08, Amendment 39–17110 (77 FR 40481, July 10, 2012)).	8 work-hours per tension tie location, between 8 and 12 tension tie locations per airplane, depending on airplane configuration × $85 per hour = between $5,440 and $8,160.	$0	Between $5,440 and $8,160 per inspection cycle.	Between $467,840 and $701,760 per inspection cycle.
One-time inspection for Group 2 airplanes, (retained from AD 2012–13–08, Amendment 39–17110 (77 FR 40481, July 10, 2012)).	6 work-hours × $85 per hour = $510	None	$510	$43,860.
Modification (retained from AD 2012–13–08, Amendment 39–17110 (77 FR 40481, July 10, 2012)).	Between 24 and 130 work-hours, depending on station location × $85 per hour = between $2,040 and 11,050.	Between $18,657 and $658,423.	Between $20,697 and $669,473.	Between $1,779,942 and $57,574,678.
Inspection for unmodified area (retained from AD 2012–13–08, Amendment 39–17110 (77 FR 40481, July 10, 2012)).	2 per tension tie location, between 8 and 12 tension tie locations per airplane, depending on airplane configuration × $85 per hour = between $1,360 and $2,040.	None	Between $1,360 and $2,040, per inspection cycle.	Between $116,960 and $175,440.
Inspection for modified area (retained from AD 2012–13–08, Amendment 39–17110 (77 FR 40481, July 10, 2012)).	2 per tension tie location, between 8 and 12 tension tie locations per airplane, depending on airplane configuration × $85 per hour = between $1,360 and $2,040.	None	Between $1,360 and $2,040.	Between $116,960 and $175,440.
Modification [new proposed action] (1 U.S.-registered airplane).	Up to 387 work-hours, depending on station location × $85 per hour = up to $32,895.	Up to $658,423	Up to $691,318	Up to $691,318.
Post-modification eddy current inspection of all areas [new proposed action].	18 work-hours × $85 per hour = $1,530 for each tension tie.	None	$1,530 for each tension tie, per inspection cycle.	$131,580 for each tension tie, per inspection cycle.
Surface high frequency eddy current inspection of unmodified tension tie center sections [new proposed action].	Up to120 work-hours, depending on airplane configuration × $85 per hour = Up to $10,200.	None	Up to $10,200	Up to $877,200.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed 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 proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Amend § 39.13 by removing Airworthiness Directive (AD) 2012–13–08, Amendment 39–17110 (77 FR 40484), and adding the following new AD:

The Boeing Company: Docket No. FAA–2014–0289; Directorate Identifier 2013–NM–146–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by July 14, 2014.

(b) Affected ADs

This AD supersedes AD 2012–13–08, Amendment 39–17110 (77 FR 40481, July 10, 2012).

(c) Applicability

This AD applies to The Boeing Company Model 747–100, 747–100B, 747–200B, 747–200C, 747–200F, 747–400F, 747SR, and 747SP series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 747–53A2502, Revision 1, dated June 17, 2010.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by an analysis by the manufacturer indicating that tension ties are susceptible to widespread fatigue damage. The actions were developed to support the airplane's limit of validity of the engineering data that support the established structural maintenance program. We are issuing this AD to prevent tension ties from becoming severed or disconnected from the frames, which could lead to reduced structural integrity and sudden decompression of the airplane in flight.

(f) Compliance

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

(g) Retained Actions for Certain Airplanes

This paragraph restates the requirements of paragraph (g) of AD 2012–13–08, Amendment 39–17110 (77 FR 40481, July 10, 2012). For Group 1, and Groups 3 through 6 airplanes identified in Boeing Special Attention Service Bulletin 747–53–2502, dated April 21, 2005: At the applicable time in paragraph (g)(1) or (g)(2) of this AD, do detailed and high-frequency eddy current (HFEC) inspections for cracking of each affected tension tie and of the surrounding structure. If any cracking is found: Before further flight, do all applicable corrective and related investigative actions. Do all actions in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 747–53–2502, dated April 21, 2005; or Boeing Alert Service Bulletin 747–53A2502, Revision 1, dated June 17, 2010. Where Boeing Special Attention Service Bulletin 747–53–2502, dated April 21, 2005; or Boeing Alert Service Bulletin 747–53A2502, Revision 1, dated June 17, 2010; specifies to contact Boeing for repair instructions: Before further flight, repair the area using a method approved in accordance with the procedures specified in paragraph (n) of this AD. As of August 14, 2012 (the effective date of AD 2012–13–08), only Boeing Alert Service Bulletin 747–53A2502, Revision 1, dated June 17, 2010, may be used to accomplish the actions required in this paragraph.

(1) For airplanes identified in Boeing Special Attention Service Bulletin 747–53–2502, dated April 21, 2005, as Groups 1, 3, and 6 airplanes: Do the first inspections before the accumulation of 20,000 total flight cycles, or within 1,000 flight cycles after February 16, 2006 (the effective date of AD 2006–01–07, Amendment 39–14446 (71 FR 1947, January 12, 2006)), whichever occurs later; and repeat the inspections thereafter at intervals not to exceed 4,000 flight cycles until the modification required by paragraph (j) of this AD is accomplished.

(2) For airplanes identified in Boeing Special Attention Service Bulletin 747–53–2502, dated April 21, 2005, as Groups 4 and 5 airplanes: Do the first inspections before the accumulation of 17,000 total flight cycles, or within 1,000 flight cycles after February 16, 2006 (the effective date of AD 2006–01–07, Amendment 39–14446 (71 FR 1947, January 12, 2006)), whichever occurs later; and repeat the inspections thereafter at intervals not to exceed 3,000 flight cycles until the modification required by paragraph (j) of this AD is accomplished.

(h) Retained Inspections for Group 2 Airplanes

This paragraph restates the requirements of paragraph (h) of 2012–13–08, Amendment 39–117110 (77 FR 40481, July 10, 2012). For Group 2 airplanes identified in Boeing Alert Service Bulletin 747–53A2502, Revision 1, dated June 17, 2010: At the applicable times specified in paragraphs (h)(1) and (h)(2) of this AD, do detailed and HFEC inspections for cracking of each affected tension tie and of the surrounding structure, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 747–53–2502, dated April 21, 2005; or Boeing Alert Service Bulletin 747–53A2502, Revision 1, dated June 17, 2010. If any cracking is found: Before further flight, do all applicable corrective and related investigative actions. Do all actions in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 747–53–2502, dated April 21, 2005; or Boeing Alert Service Bulletin 747–53A2502, Revision 1, dated June 17, 2010. Where Boeing Special Attention Service Bulletin 747–53–2502, dated April 21, 2005; or Boeing Alert Service Bulletin 747–53A2502, Revision 1, dated June 17, 2010; specify to contact Boeing for repair instructions: Before further flight, repair the area using a method approved in accordance with the procedures specified in paragraph (n) of this AD. As of August 14, 2012 (the effective date of AD 2012–13–08, Amendment 39–17110 (77 FR 40481, July 10, 2012)), only Boeing Alert Service Bulletin 747–53A2502, Revision 1, dated June 17, 2010, may be used to accomplish the actions required by this paragraph. Repeat the inspections thereafter at intervals not to exceed 3,000 flight cycles until the modification required by paragraph (j) of this AD is accomplished.

(1) For stations (STA) 780 through 940: Before the accumulation of 17,000 total flight cycles, or within 1,000 flight cycles after February 16, 2006 (the effective date of AD 2006–01–07, Amendment 39–14446 (71 FR 1947, January 12, 2006)), whichever occurs later.

(2) For STA 720, 740, and 760: At the earlier of the times specified in paragraph (h)(2)(i) or (h)(2)(ii) of this AD.

(i) Before the accumulation of 17,000 total flight cycles, or within 1,000 flight cycles after February 16, 2006 (the effective date of AD 2006–01–07, Amendment 39–14446 (71 FR 1947, January 12, 2006)), whichever occurs later.

(ii) Before the accumulation of 8,000 total flight cycles, or within 1,000 flight cycles after August 14, 2012 (the effective date of this AD 2012–13–08, Amendment 39–17110 (77 FR 40481, July 10, 2012)), whichever occurs later.

(i) Retained One-Time Inspection for Group 2 Airplanes

This paragraph restates the requirements of paragraph (i) of AD 2012–13–08, Amendment 39–17110 (77 FR 40481, July 10, 2012). For airplanes identified in Boeing Alert Service Bulletin 747–53A2502, Revision 1, dated June 17, 2010, as Group 2 airplanes: Before the accumulation of 8,000 total flight cycles, or within 1,000 flight cycles after August 14, 2012 (the effective date of AD 2012–13–08), whichever occurs later, do a general visual inspection for correct configuration, as identified in Boeing Alert Service Bulletin 747–53A2502, Revision 1, dated June 17, 2010, of each affected tension tie and of the surrounding structure, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2502, Revision 1, dated June 17, 2010.

(1) If all tension ties match the correct configurations specified in the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2502, Revision 1, dated June 17, 2010, no further work is required by this paragraph.

(2) If any incorrect configuration is found, before further flight, do detailed and open fastener-hole HFEC inspections for cracking in the tension tie and frame, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2502, Revision 1, dated June 17, 2010.

(i) If no crack is found during the inspections required by paragraph (i)(2) of this AD: Before further flight, install the correct configuration for the tension ties at locations where the incorrect configuration was found, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2502, Revision 1, dated June 17, 2010; except where Boeing Alert Service Bulletin 747–53A2502, Revision 1, dated June 17, 2010, specifies to contact Boeing for installation instructions, use a method approved in accordance with the procedures specified in paragraph (n) of this AD.

(ii) If any crack is found during the inspections required by paragraph (i)(2) of this AD, before further flight, do the actions specified in paragraphs (i)(2)(ii)(A) and (i)(2)(ii)(B) of this AD.

(A) Repair the crack in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2502, Revision 1, dated June 17, 2010; except where Boeing Alert Service Bulletin 747–53A2502, Revision 1, dated June 17, 2010, 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 (n) of this AD.

(B) Install the correct configuration for the tension ties at locations where the incorrect configuration was found, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2502, Revision 1, dated June 17, 2010; except

where Boeing Alert Service Bulletin 747–53A2502, Revision 1, dated June 17, 2010, specifies to contact Boeing for installation instructions, use a method approved in accordance with the procedures specified in paragraph (n) of this AD.

(j) New Tension Tie and Frame Modification and Inspections

(1) For Groups 1 through 16, Configuration 1, airplanes identified in Boeing Alert Service Bulletin 747–53A2605, Revision 3, dated July 10, 2013: At the applicable compliance time specified in table 1 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2605, Revision 3, dated July 10, 2013, except as required by paragraph (l)(1) of this AD, do tension tie and frame modifications, in accordance with Part 1, and surface HFEC inspections for cracks, in accordance with Part 4 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2605, Revision 3, dated July 10, 2013. Accomplishment of these modifications terminates the repetitive inspections required by paragraphs (g) and (h) of this AD. If any crack is found, before further flight, repair the crack using a method approved in accordance with the procedures specified in paragraph (n) of this AD.

(2) For Groups 17 and 18 airplanes identified in Boeing Alert Service Bulletin 747–53A2605, Revision 3, dated July 10, 2013: At the applicable time specified in table 6 or table 7, as applicable, of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2605, Revision 3, dated July 10, 2013, do a tension tie and frame modification (replacement of tension ties and frame structure), in accordance with Part 5 or Part 6, as applicable, of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2605, Revision 3, dated July 10, 2013. Accomplishment of these modifications terminates the repetitive inspections required by paragraph (g) of this AD.

(k) New Repetitive Post-Modification Detailed Inspections of Unmodified Areas, Repetitive Post-Modification HFEC Inspections of Modified and Unmodified Areas

(1) For Groups 1 through 16 airplanes identified in Boeing Alert Service Bulletin 747–53A2605, Revision 3, dated July 10, 2013: At the applicable time specified in table 2 or 3 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2605, Revision 3, dated July 10, 2013, do a detailed inspection for cracking in the unmodified areas of the tension ties, in accordance with Part 2 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2605, Revision 3, dated July 10, 2013. If any cracking is found, before further flight, repair using a method approved in accordance with the procedures specified in paragraph (n) of this AD. Repeat the detailed inspection thereafter at the applicable time specified in table 2 or 3 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2605, Revision 3, dated July 10, 2013.

(2) For Groups 1 through 16 airplanes identified in Boeing Alert Service Bulletin 747–53A2605, Revision 3, dated July 10, 2013: At the applicable time specified in table 4 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2605, Revision 3, dated July 10, 2013, do eddy current inspections for cracking in all areas of the tension ties (modified and unmodified), in accordance with Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2605, Revision 3, dated July 10, 2013. If any cracking is found, before further flight, repair using a method approved in accordance with the procedures specified in paragraph (n) of this AD. Repeat the eddy current inspections thereafter at the time specified in table 4 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2605, Revision 3, dated July 10, 2013.

(3) For Groups 1 through 16, Configuration 2, airplanes identified in Boeing Alert Service Bulletin 747–53A2605, Revision 3, dated July 10, 2013: At the applicable time specified in table 5 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2605, Revision 3, dated July 10, 2013, except as provided by paragraph (l)(1) of this AD, do surface HFEC inspections for cracking in the unmodified tension tie center sections, in accordance with Part 4 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2605, Revision 3, dated July 10, 2013. If any cracking is found, before further flight, repair using a method approved in accordance with the procedures specified in paragraph (n) of this AD. If no cracking is found, no further action is required until the repetitive inspections required by paragraphs (k)(1) and (k)(2) begin.

(4) For Groups 17 and 18 airplanes identified in Boeing Alert Service Bulletin 747–53A2605, Revision 3, dated July 10, 2013: At the applicable time specified in table 6 or 7 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2605, Revision 3, dated July 10, 2013, do detailed and HFEC inspections of the modified tension tie and frame structure for cracking, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2502, Revision 1, dated June 17, 2010. Except as required by paragraph (l)(4) of this AD, if any cracking is found, before further flight, repair using a method approved in accordance with the procedures specified in paragraph (n) of this AD. Repeat the detailed and HFEC inspections thereafter at the times specified in table 6 or table 7, as applicable, of Boeing Alert Service Bulletin 747–53A2605, Revision 3, dated July 10, 2013.

(l) Service Information Clarifications and Exceptions

(1) Where paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2605, Revision 3, dated July 10, 2013, specifies a compliance time ''after the revision 3 date of this service bulletin,'' this AD requires compliance within the specified time after the effective date of this AD.

(2) Where Boeing Alert Service Bulletin 747–53A2605, Revision 3, dated July 10, 2013, specifies to contact Boeing for repair instructions, this AD requires repair before further flight using a method approved in accordance with the procedures specified in paragraph (n) of this AD.

(3) Boeing Alert Service Bulletin 747–53A2605, Revision 3, dated July 10, 2013, refers to Section 51–10–02 of the Boeing 747–400F Structural Repair Manual (SRM) and Section 51–10–01 of the Boeing 747–100/200/300 SRM as additional sources of guidance for removing small cracks and fatigue damage material from the existing holes in the unmodified center section of the tension tie channels. Where those SRM sections state that ''zero-timing must only be used where specifically permitted in an SRM chapter-section-repair,'' this AD allows the zero-timing procedures specified in those SRM sections.

(4) Where Boeing Alert Service Bulletin 747–53A2605, Revision 3, dated July 10, 2013, specifies to contact Boeing for repair instructions, this AD requires repair before further flight using a method approved in accordance with the procedures specified in paragraph (n) of this AD.

(m) Credit for Previous Actions

(1) This paragraph restates the credit provided in paragraph (m) of AD 2012–13–08, Amendment 39–17110 (77 FR 40481, July 10, 2012). This paragraph provides credit for the actions required by paragraphs (j)(1) and (k)(1) of this AD, if those actions were performed before August 14, 2012 (the effective date of AD 2012–13–08) using Boeing Alert Service Bulletin 747–53A2605, dated December 8, 2009, which was incorporated by reference in AD 2012–13–08.

(2) For Groups 1 through 16 airplanes identified in Boeing Alert Service Bulletin 747–53A2605, Revision 3, dated July 10, 2013: This paragraph provides credit for the actions required by paragraphs (j)(1) and (k)(1) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 747–53A2605, Revision 2, dated December 9, 2011, which is not incorporated by reference in this AD.

(n) 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 (o)(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.

(4) AMOCs approved for inspections required by AD 2012–13–08 (77 FR 40481, July 10, 2012) are approved as AMOCs for the corresponding inspection provisions of paragraphs (g), (h), and (i) of this AD.

(5) AMOCs approved for AD 2012–13–08 (77 FR 40481, July 10, 2012) that granted modification deviations are approved as AMOCs for the corresponding modification required by paragraph (j)(1) of this AD.

(o) Related Information

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

(2) 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.

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

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–12479 Filed 5–28–14; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 15, 17, 19, 32, 37, 38, 140, and 150

RIN 3038–AD99; 3038–AD82

Position Limits for Derivatives and Aggregation of Positions

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking; reopening of comment periods.

SUMMARY: On December 12, 2013, the Commodity Futures Trading Commission (''Commission'') published in the **Federal Register** a notice of proposed rulemaking (the ''Position Limits Proposal'') to establish speculative position limits for 28 exempt and agricultural commodity futures and options contracts and the physical commodity swaps that are economically equivalent to such contracts. On November 15, 2013, the Commission published in the **Federal Register** a notice of proposed rulemaking (the ''Aggregation Proposal'') to amend existing regulations setting out the Commission's policy for aggregation under its position limits regime. The Commission has directed staff to hold a public roundtable on June 19, 2014, to consider certain issues regarding position limits for physical commodity derivatives. In order to provide interested parties with an opportunity to comment on the issues to be discussed at the roundtable, the Commission will reopen the comment periods for the Position Limits Proposal and the Aggregation Proposal for a three-week period starting June 12, 2014 (one week before the roundtable) and ending July 3, 2014 (two weeks following the roundtable).

Comments should be limited to the issues of hedges of a physical commodity by a commercial enterprise, including gross hedging, cross-commodity hedging, anticipatory hedging, and the process for obtaining a non-enumerated exemption; the setting of spot month limits in physical-delivery and cash-settled contracts and a conditional spot-month limit exemption; the setting of non-spot limits for wheat contracts; the aggregation exemption for certain ownership interests of greater than 50 percent in an owned entity; and aggregation based on substantially identical trading strategies.

DATES: The comment periods for the Aggregation Proposal published November 15, 2013, at 78 FR 68946, and for the Position Limits Proposal published December 12, 2013, at 78 FR 75680, will reopen on June 12, 2014, and close on July 3, 2014.

ADDRESSES: You may submit comments, identified by RIN 3038–AD99 for the Position Limits Proposal or RIN 3038–AD82 for the Aggregation Proposal, by any of the following methods:

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

Please submit your comments using only one method. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that may be exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted under § 145.9 of the Commission's regulations (17 CFR 145.9).

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

FOR FURTHER INFORMATION CONTACT: Stephen Sherrod, Senior Economist, Division of Market Oversight, (202) 418–5452, *ssherrod@cftc.gov;* or Riva Spear Adriance, Senior Special Counsel, Division of Market Oversight, (202) 418–5494, *radriance@cftc.gov;* Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission has long established and enforced speculative position limits for futures and options contracts on various agricultural commodities as authorized by the Commodity Exchange Act (''CEA'').[1] The part 150 position limits regime [2] generally includes three components: (1) the level of the limits, which set a threshold that restricts the number of speculative positions that a person may hold in the spot-month, individual month, and all months combined,[3] (2) exemptions for positions that constitute bona fide hedging transactions and certain other types of transactions,[4] and (3) rules to determine which accounts and positions a person must aggregate for the purpose of determining compliance with the position limit levels.[5] The Position Limits Proposal generally sets out proposed changes to the first and second component of the position limits regime and would establish speculative

[1] 7 U.S.C. 1 *et seq.*

[2] *See* 17 CFR part 150. Part 150 of the Commission's regulations establishes federal position limits on futures and option contracts in nine enumerated agricultural commodities.

[3] *See* 17 CFR 150.2.

[4] *See* 17 CFR 150.3.

[5] *See* 17 CFR 150.4.

position limits for 28 exempt and agricultural commodity futures and option contracts, and physical commodity swaps that are ''economically equivalent'' to such contracts (as such term is used in CEA section 4a(a)(5)).[6] The Aggregation Proposal generally sets out proposed changes to the third component of the position limits regime.[7]

In order to provide interested parties with an opportunity to comment on the Aggregation Proposal during the comment period on the Position Limits Proposal, the Commission extended the comment period for the Aggregation Proposal to February 10, 2014, the same end date as the comment period for the Position Limits Proposal.[8]

Comment letters received on the Position Limits Proposal are available at *http://comments.cftc.gov/PublicComments/CommentList.aspx?id=1436.* Comment letters received on the Aggregation Proposal are available at *http://comments.cftc.gov/PublicComments/CommentList.aspx?id=1427.*

II. Reopening of Comment Period

Subsequent to publication of the Position Limits Proposal and the Aggregation Proposal, the Commission directed staff to schedule a June 19, 2014, public roundtable to consider certain issues regarding position limits for physical commodity derivatives. The roundtable will focus on hedges of a physical commodity by a commercial enterprise, including gross hedging, cross-commodity hedging, anticipatory hedging, and the process for obtaining a non-enumerated exemption. Discussion will include the setting of spot month limits in physical-delivery and cash-settled contracts and a conditional spot-month limit exemption. Further, the roundtable will include discussion of: the aggregation exemption for certain ownership interests of greater than 50 percent in an owned entity; and aggregation based on substantially identical trading strategies. As well, the Commission invites comment on whether to provide parity for wheat contracts in non-spot month limits.

In light of the roundtable, the Commission is reopening the comment periods for the Position Limit Proposal and the Aggregation Proposal. Thus, both comment periods will reopen on June 12, 2014, and end on July 3, 2014.

[6] *See* Position Limits for Derivatives, 78 FR 75680 (Dec. 12, 2013).

[7] *See* Aggregation of Positions, 78 FR 68946 (Nov. 15, 2013).

[8] *See* 79 FR 2394 (Jan. 14, 2014).

Issued in Washington, DC, on May 22, 2014, by the Commission.

Christopher J. Kirkpatrick,

Deputy Secretary of the Commission.

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix to Position Limits for Derivatives and Aggregation of Positions Reopening of Comment Periods—Commission Voting Summary

On this matter, Acting Chairman Wetjen and Commissioner O'Malia voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2014–12427 Filed 5–28–14; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket Nos. FDA–2012–N–1210 and FDA–2004–N–0258]

Proposed Rules on Food Labeling: Revision of the Nutrition and Supplement Facts Labels and Serving Sizes of Foods That Can Reasonably Be Consumed at One-Eating Occasion; Dual-Column Labeling; Updating, Modifying, and Establishing Certain Reference Amounts Customarily Consumed; Serving Size for Breath Mints; and Technical Amendments; Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of public meeting.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing a public meeting to discuss two proposed rules aimed at updating nutrition information and serving size requirements on the nutrition facts labels to provide consumers with information that could be used to maintain healthy dietary practices. The purpose of the public meeting is to inform the public of the provisions of the proposed rules and the rulemaking process (including how to submit comments, data, and other information to both dockets) as well as solicit oral stakeholder and public comments on the proposed rules and to respond to questions about the proposed rules.

DATES: See ''How to Participate in the Public Meeting'' in the **SUPPLEMENTARY INFORMATION** section of this document for dates and times of the public meeting, closing dates for advance registration, requesting special accommodations due to disability, and information on deadlines for submitting either electronic or written comments to FDA's Division of Dockets Management.

ADDRESSES: See ''How to Participate in the Public Meeting'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT:

For questions about registering for this meeting, registering to make oral comments, to register by phone, or to submit a notice of participation by mail, fax, or email: Cindy de Sales, The Event Planning Group, LLC, 7910 Woodmont Ave., Suite 310, Bethesda, MD 20814, 240–316–3207, FAX: 240–316–3201, email: *cindy@tepgevents.com.*

For general questions about this meeting or for special accommodations due to disability, contact: Juanita Yates, Center for Food Safety and Applied Nutrition (HFS–005), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–1731, email: *Juanita.yates@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A. Nutrition Facts Label Proposed Rule

After the passage of the Nutrition Labeling and Education Act of 1990 (NLEA) (Pub. L. 101–535), which added section 403(q) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 343(q), we issued various regulations related to nutrition information on food labels, including regulations requiring the declaration of certain nutrients, regulations specifying the format for nutrition labeling, regulations setting reference values for use in declaring nutrient content for certain nutrients, and regulations exempting certain products from nutrition labeling (see 21 CFR 101.9). In addition, after the passage of the Dietary Supplement Health and Education Act of 1994 (Pub. L. 103–417), we amended our food labeling regulations to establish requirements for the nutrition labeling of dietary supplements (§ 101.9(j)(6) and 21 CFR 101.36). Section 403(q) of the FD&C Act specifies certain nutrients to be declared in nutrition labeling, and authorizes the Secretary of Health and Human Services to require other nutrients to be declared if the Secretary determines that a nutrient will provide information regarding the nutritional value of such food that will assist consumers in maintaining healthy dietary practices. The Secretary also has discretion under section 403(q) of the FD&C Act to remove, by regulation and under certain

circumstances, nutrient information that is otherwise explicitly required in food labeling under this section.

In the **Federal Register** of March 3, 2014 (79 FR 11879), we published a proposed rule entitled ''Food Labeling: Revision of the Nutrition and Supplement Facts Labels'' (the Nutrition Facts label proposed rule). In the Nutrition Facts label proposed rule, we proposed to revise our regulations to update, among other things, the nutrients that are required and/or permitted to be declared and the daily values, as applicable, for required and permitted nutrients; amend requirements for foods represented or purported to be specifically for children under the age of 4 years and pregnant and lactating women and establish nutrient reference values specifically for these population subgroups; and update the format of the Nutrition Facts label. We based the proposed rule on the latest science and public health information, dietary recommendations of the most recent consensus reports, and public comments received in response to advance notices of proposed rulemaking.

B. Serving Size Proposed Rule

After the passage of the NLEA, we issued various regulations related to serving size requirements (see § 101.9 and 21 CFR 101.12). Since we established those regulations, developments have compelled us to re-evaluate our regulations on serving sizes and determine whether and what, if any, revisions are needed to ensure that the Nutrition Facts label meets its intended goal of helping consumers maintain healthy dietary practices. Specifically, such developments include the availability of newer consumption data, research showing that amounts of food consumed by the American public have changed, and recent consumer research on the use and understanding of the Nutrition Facts label.

Therefore, in the **Federal Register** of March 3, 2014 (79 FR 11989), we published a proposed rule entitled ''Food Labeling: Serving Sizes of Foods That Can Reasonably Be Consumed at One-Eating Occasion; Dual-Column Labeling; Updating, Modifying, and Establishing Certain Reference Amounts Customarily Consumed; Serving Size for Breath Mints; and Technical Amendments'' (the serving size proposed rule). In the serving size proposed rule, we proposed to amend the definition of a single-serving container; require dual-column labeling for certain packages; update and modify certain reference amounts customarily consumed (RACCs); add several food products and food product categories to the RACCs for the general food supply; amend the label serving size for breath mints; and make technical amendments to various aspects of the serving size regulations.

II. Purpose and Format of the Public Meeting

FDA is holding the public meeting on the Nutrition Facts label and serving size proposed rules to inform the public of the provisions of the proposed rules and the rulemaking process (including how to submit comments, data, and other information to both dockets) as well as solicit oral stakeholder and public comments on the proposed rules and to respond to questions about the proposed rules. In general, the meeting format will include introductory presentations by FDA with time to hear stakeholder perspectives, questions and public comments.

III. How To Participate in the Public Meeting

The meeting will be held on June 26, 2014, from 8:30 a.m. to 5 p.m. Eastern Standard Time (EST) at the Jefferson Auditorium, U.S. Department of Agriculture (USDA), Wing 5 Entrance, 14th and Independence Ave. SW., Washington, DC 20024. FDA encourages all persons who wish to attend the meeting to register in advance of the meeting. There is no fee to register for the public meeting, and registration will be on a first-come, first-served basis. Early registration is recommended because seating is limited.

If you preregister and would like to make an oral presentation at the meeting, please submit a request when you preregister. Due to the anticipated high level of interest in presenting public comment and limited time available, FDA will allocate time (typically 3 to 4 minutes) to each speaker to make an oral presentation. Speakers will be limited to making oral remarks; there will not be an opportunity to display materials such as slide shows, videos, or other media during the meeting. We would like to maximize the number of individuals who make a presentation at the meeting and will do our best to accommodate all persons who wish to make a presentation or express their opinions at the meeting.

FDA encourages persons and groups who have similar interests to consolidate their information for presentation by a single representative. After reviewing the oral presentation requests, FDA will notify each participant before the meeting if their presentation request is granted, and, if so, the approximate time their presentation is scheduled to begin and remind them of the presentation format (e.g., 3-minute oral presentation without visual media).

While oral presentations from specific individuals and organizations will be limited to a certain length of time due to time constraints during the public meeting, stakeholders may submit electronic or written comments discussing any issues of concern to the dockets for the proposed rules. All relevant data and documentation should be submitted with the comments to the relevant docket, i.e., Nutrition Facts label proposed rule, Docket No. FDA–2012–N–1210 *http://www.regulations.gov/#!documentDetail;D=FDA-2012-N-1210-0002*, or serving size proposed rule, Docket No. FDA–2004–N–0258 *http://www.regulations.gov/#!documentDetail;D=FDA-2004-N-0258-0006*.

Table 1 of this document provides information on participation in the public meeting.

TABLE 1—INFORMATION ON PARTICIPATION IN THE MEETING AND ON SUBMITTING COMMENTS TO DOCKETS FOR THE PROPOSED RULES

	Date	Electronic address	Address	Other information
Attend public meeting	June 26, 2014, from 8:30 a.m. to 5 p.m. EST.	Please preregister at *http://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/default.htm*.	Jefferson Auditorium, U.S. Department of Agriculture (USDA), Wing 5 Entrance, 14th and Independence Ave. SW., Washington, DC 20024. *Photo ID Required*.	Registration check-in begins at 8 a.m.

TABLE 1—INFORMATION ON PARTICIPATION IN THE MEETING AND ON SUBMITTING COMMENTS TO DOCKETS FOR THE PROPOSED RULES—Continued

	Date	Electronic address	Address	Other information
View Web cast	June 26, 2014, from 8:30 a.m. to 5 p.m. EST.	Please preregister at *http://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/default.htm*.		The Web cast will have closed captioning.
Preregister	Register by June 20, 2014.	Individuals who wish to participate in person or via Web Cast are asked to preregister at *http://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/default.htm*.	We encourage the use of electronic registration, if possible.[1]	There is no registration fee for the public meeting.
Request special accommodations due to disability.	Request by June 12, 2014.	Juanita Yates, email: *Juanita.yates@fda.hhs.gov*.	See **For Further Information Contact**.	
Request to make oral presentation.	Register by June 12, 2014.	*http://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/default.htm*.[2]		We will grant requests made on the day of the meeting to make an oral presentation as time permits. Information on requests to make an oral presentation may be posted without change to *http://www.regulations.gov*, including any personal information.
Submit electronic or written comments.	Submit comments by August 1, 2014.	Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.	Mail/Hand delivery/Courier (for paper submissions): Division of Dockets Management (HFA–305), Food and Drug Administration, 5360 Fishers Lane, rm. 1061, Rockville, MD 20852.	Identify your comments with the appropriate docket number (Docket No. FDA–012–N–1210 *http://www.regulations.gov/#!documentDetail;D=FDA-2012-N-1210-0002* for Nutrition Facts label proposed rule or Docket No. FDA–2004–N–0258 *http://www.regulations.gov/#!documentDetail;D=FDA-2004-N-0258-0006* for serving size proposed rule). We encourage you to submit electronic comments by using the Federal eRulemaking Portal.

[1] You may also register via email, mail, or fax. Please include your name, title, firm name, address, and phone and fax numbers in your registration information and send to: Cindy de Sales, The Event Planning Group, LLC, 7910 Woodmont Avenue, suite 310, Bethesda, MD 20814, 240–316–3207, FAX: 240–316–3201, email: *cindy@tepgevents.com.*

[2] You may also request to make an oral presentation at the public meeting via email. Please include your name, title, firm name, address, and phone and fax numbers, and send to Cindy de Sales (see **FOR FURTHER INFORMATION CONTACT**).

IV. Comments, Transcripts, and Recorded Video

Information and data, including any personal information, submitted to FDA during the public meeting and the comment period for the proposed rules will become part of the administrative record for the relevant rulemaking. This information and data will be accessible to the public at *http://www.regulations.gov* and between 9 a.m. and 4 p.m., Monday through Friday, at the Division of Dockets Management (see Addresses in table 1).

Regardless of attendance at the public meeting, interested persons may submit to FDA's Division of Dockets Management (see Addresses in table 1) either electronic or written comments. You only need to send one set of comments. Identify the comments with the appropriate docket number (Docket No. FDA–2012–N–1210 for the Nutrition Facts label proposed rule or Docket No. FDA–2004–N–0258 for the serving size proposed rule). If you have comments pertaining to both proposed rules, submit them separately for each rule to ensure consideration.

The transcript of the proceedings from the public meeting will become part of the administrative record for each of the rulemakings. As soon as the transcript is ready, we will make it available at *http://www.regulations.gov* and at *http://www.fda.gov/Food/*. It may also be viewed between 9 a.m. and 4 p.m., Monday through Friday, at the Division of Dockets Management (see Addresses in table 1). The transcript will also be available in either hardcopy or on CD–ROM after submission of a Freedom of Information request. Send written requests to the Division of Freedom of Information (ELEM–1029), Food and Drug Administration, 12420 Parklawn Dr., Element Bldg., Rockville, MD 20857.

Additionally, FDA will be video recording the public meeting. Once the

recorded video is available, you can access it at *http://www.fda.gov/Food/*.

Dated: May 22, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–12362 Filed 5–28–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 83

[K00103 12/13 A3A10; 134D0102DR–DS5A300000–DR.5A311.IA000113; Docket ID: BIA–2013–0007]

RIN 1076–AF18

Federal Acknowledgment of American Indian Tribes

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise regulations governing the process and criteria by which the Secretary acknowledges an Indian tribe. The revisions seek to make the process and criteria more transparent, promote consistent implementation, and increase timeliness and efficiency, while maintaining the integrity of the process. The current process has been criticized as ''broken'' or in need of reform. Specifically, the process has been criticized as too slow (a petition can take decades to be decided), expensive, burdensome, inefficient, intrusive, less than transparent and unpredictable. The proposed rule would reform the process by, among other things, institutionalizing a phased review that allows for faster decisions; reducing the documentary burden; allowing for a hearing on the proposed finding to promote transparency and process integrity; establishing the Assistant Secretary's final determination as final for the Department to promote efficiency; and establishing objective standards, where appropriate, to ensure transparency and predictability. This publication also announces the dates and locations for tribal consultation sessions and public meetings on this proposed rule.

DATES: Comments on this rule must be received by August 1, 2014. *Comments on the information collections contained in this proposed regulation are separate from those on the substance of the rule.* Comments on the information collection burden should be received by June 30, 2014 to ensure consideration, but must be received no later than August 1, 2014. Please see the **SUPPLEMENTARY INFORMATION** section of this notice for dates of tribal consultation sessions and public meetings.

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

—*Federal rulemaking portal: http://www.regulations.gov.* The rule is listed under the agency name ''Bureau of Indian Affairs.'' The rule has been assigned Docket ID: BIA–2013–0007.

—*Email: consultation@bia.gov.* Include the number 1076–AF18 in the subject line.

—*Mail* or *hand delivery:* Elizabeth Appel, Office of Regulatory Affairs & Collaborative Action, U.S. Department of the Interior, 1849 C Street NW., MS 4141, Washington, DC 20240. Include the number 1076–AF18 on the envelope.

Please note that none of the following will be considered or included in the docket for this rulemaking: comments received after the close of the comment period (see **DATES**); comments sent to an address other than those listed above; or anonymous comments.

Comments on the information collections contained in this proposed regulation are separate from those on the substance of the rule. Send comments on the information collection burden to OMB by facsimile to (202) 395–5806 or email to the OMB Desk Officer for the Department of the Interior at *OIRA_Submission@omb.eop.gov.* Please send a copy of your comments to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Please see the **SUPPLEMENTARY INFORMATION** section of this notice for locations of tribal consultation sessions and public meetings.

FOR FURTHER INFORMATION CONTACT: Elizabeth Appel, Director, Office of Regulatory Affairs & Collaborative Action, (202) 273–4680; *elizabeth.appel@bia.gov.* You may review the information collection request online at *http://www.reginfo.gov.* Follow the instructions to review Department of the Interior collections under review by OMB.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

This proposed rule would comprehensively revise part 83 to comply with plain language standards, using a question-and-answer format. The proposed rule would update the Part 83 criteria to include objective standards and improve the processing of petitions for Federal acknowledgment of Indian tribes. The proposed rule is limited to Part 83 and does not affect federal acknowledgment under any other statutory or administrative authorities. Primary revisions to the process would:

- Provide for a series of reviews that may result in the issuance of proposed findings and final determinations earlier in the process;
- Separate the Departmental review into three main steps whereby:
  - The Office of Federal Acknowledgment (OFA) first reviews the petition and issues a proposed finding;
  - If the proposed finding is negative and the petitioner elects to have a hearing before a judge with the Office of Hearings and Appeals (OHA), the OHA judge issues a recommended decision to the Assistant Secretary-Indian Affairs;
  - The Assistant Secretary reviews the record, including (if applicable) an OHA judge's recommended decision, and issues a final determination. The final determination is final for the Department and any challenges to the final determination would be pursued in United States District Court.
- Remove the Interior Board of Indian Appeals (IBIA) process by which a final determination can be reconsidered on certain grounds.
- Allow, in limited circumstances, a petitioner previously denied under the regulations to re-petition under the revised rules.

Revisions to the criteria for acknowledgement would eliminate the need for a petitioner to demonstrate that third parties identified the petitioner as a tribe (although this evidence may be submitted in support of other criteria, including (b) (Community) and (c) (Political authority)). The proposed rule would require petitioners to provide a brief narrative with evidence of the group's existence at some point during historical times. The revisions would also define ''historical'' to be prior to, but as late as, 1900, and require evidence of criteria (b) (Community) and (c) (Political Authority) from 1934 to the present.

The Department is defining historical as 1900 or earlier based in part on the Department's experience over its nearly 40 years in implementing the regulations that any group that has proven its existence in 1900 has proven its existence prior to that time. Accordingly, the Department seeks comment on easing the documentary and administrative burdens and providing flexibility by defining historical as 1900 or earlier rather than

requiring the documentation from as early as 1789 to the present.

Updating the review period for criteria (b) and (c) to 1934 reflects the United States' enactment of the Indian Reorganization Act (IRA), which reversed the Federal Indian policy of allotment and assimilation that was aimed at destroying tribal governments and their communities. The IRA expressly repudiated the failed allotment and assimilation policy and provided a statutory framework to promote and foster tribal governments. Consistent with the existing policies of the IRA, utilizing 1934 as the starting year to satisfy the community and political authority criteria will reduce the documentary burden on petitioners and the administrative burden on the Department, and avoid potential problems with locating historical records while maintaining the integrity of the process. This is more fully explained below in section II, Explanation of Rule, under the heading ''Criteria.''

Other revisions would clarify ''substantial interruption'' and clarify the existing burden of proof to reflect case law; provide that the Department will strive to abide by page limits for the proposed finding and final determination; and require the Department to post on the Internet those parts of the petition, proposed finding, recommended decision, and final determination that the Department is publically releasing in accordance with Federal law.

II. Explanation of Rule

The following summarizes revisions this proposed rule would make to part 83.

Definitions

The proposed rule consolidates definitions, where possible, deletes unnecessary definitions, and adds appropriate definitions.

Scope and Applicability

The proposed rule would refer to petitioners as such, rather than as ''Indian groups''—a term that some have objected to as offensive and that presumes Indian ancestry. The proposed rule would allow, in very limited circumstances, a petitioner previously denied under the regulations to re-petition under the revised rules. If a third party individual or entity has participated in an IBIA or Secretarial reconsideration or an Administrative Procedure Act appeal in Federal court and ultimately prevailed, the denied petitioner may seek to re-petition only with the consent of the individual or organization. If the individual or organization consents, or a third party did not participate in a reconsideration or appeal, an OHA judge will determine whether the changes to the regulations warrant a reconsideration of that particular final determination or whether the wrong standard of proof was applied to the final determination. This determination will be made based on whether the petitioner proves, by a preponderance of the evidence, that re-petitioning is appropriate. Because the changes to the regulations are generally intended to provide uniformity based on previous decisions, re-petitioning would be appropriate only in those limited circumstances where changes to the regulations would likely change the previous final determination. Having an OHA judge review re-petitioning requests promotes consistency, integrity, and transparency in resolving re-petition requests. Requiring third-party consent recognizes the equitable interests of third parties that expended sometimes significant resources to participate in the adjudication and have since developed reliance interests in the outcome of such adjudication. Having weighed these equity considerations, the Department has determined that the proposed rule must acknowledge these third-party interests in adjudicated decisions.

Process

The proposed rule would eliminate the requirement to file a letter of intent. The letter of intent is merely a statement of intent to petition and does not trigger any review by the Department; as such, it is unnecessary as a separate step. Under the proposed rule, the filing of a documented petition would begin the review process.

For transparency, the proposed rule would require that the Department post to the Internet those portions of the petition and the proposed finding and reports throughout the process that the Department is publically releasing in accordance with Federal law. (''Federal law'' in this context refers to the Freedom of Information Act, Privacy Act, and any other Federal laws that may limit information the Department publicly releases). The proposed rule would also add a provision to provide the petitioner with the opportunity to respond to comments received during preparation of the proposed finding, before the proposed finding is issued.

The proposed rule would delineate the roles of OFA and the Assistant Secretary in furtherance of transparency, and would revise the process to promote more timely decisions. Specifically, the proposed rule would allow for a Phase I review of criteria (e) (Descent), then (a) (Tribal Existence), (d) (Governing Document), (f) (Membership), and (g) (Congressional Termination) to allow for issuance of a negative proposed finding if any of these criteria are not met. A petitioner who satisfies these criteria, may obtain a review of whether the petitioner satisfies criteria (b) (Community) and (c) (Political Authority). A petitioner may satisfy criteria (b) and (c) through a number of ways, including if it has maintained a State reservation since 1934 or if the United States has held land at any point in time since 1934 for the petitioner. These criteria are appropriate for favorable determinations based on the Department's particular reliance on collective rights in tribal lands to conclude that an entity constitutes a tribe as explained in Felix Cohen's 1945 Handbook of Federal Indian Law. This is more fully explained under the heading ''Criteria.''

If the proposed finding is negative, the proposed rule changes the process by providing the petitioner the right to a hearing before an OHA judge (who may be an administrative law judge with OHA, administrative judge with OHA, or an attorney designated by the OHA Director to serve as the OHA judge). If a hearing is held, individuals and organizations that can make a proper showing of interest or other factors for intervention may participate in the hearing, OFA staff shall be made available for testimony and the OHA judge shall issue a recommended decision to the Assistant Secretary. The rule does not require deference to OFA during the hearing process, but the Department's final determination would continue to be entitled to *Chevron* deference given that the Assistant Secretary would continue to issue the final determination. The goals of the hearing process are to promote transparency and efficiency and to focus the potential issues for the Assistant Secretary's consideration. Following the comment and response periods, and (if applicable) receipt of an OHA judge's recommended decision, the Assistant Secretary would then consider the evidence and publish a final determination. The final determination would be final for the Department.

The proposed rule would delete the IBIA reconsideration process because this process is the only instance in which the Assistant Secretary's decision is subject to IBIA review, the IBIA's jurisdiction for ordering reconsideration is limited, it has been exceedingly rare that IBIA has granted petitions for reconsideration, and the IBIA's heavy caseload has resulted in even further

delays in the acknowledgment process. The finality of the Assistant Secretary's decision will allow parties to challenge the decision in United States District Court where all appropriate grounds may be considered.

The Department specifically requests comments on the proposed hearing process and the following questions: (1) Who is an appropriate OHA judge to preside over the hearing and issue a recommended decision—an administrative law judge appointed under 5 U.S.C. 3105, an administrative judge with OHA, or an attorney designated by the OHA Director to serve as the OHA judge (the proposed rule defines ''OHA judge'' broadly to include all three); (2) whether the factual basis for the OHA judge's decision should be limited to the hearing record; and (3) whether the hearing record should include all evidence in OFA's administrative record for the petition or be limited to testimony and exhibits specifically identified by the petitioner and OFA. Indian Affairs is working with the Office of Hearings and Appeals (OHA) on a new rule at 43 CFR 4, subpart K, that would establish procedures for such hearings including procedures and limitations on expert testimony.

To promote efficiency, the proposed rule would allow the Assistant Secretary to automatically issue final determinations in those instances in which a positive proposed finding is issued and no timely comments or evidence challenging the proposed finding are received from the State or local government where the petitioner's headquarters is located or any federally recognized tribe within 25 miles of the petitioner's headquarters. This 25-mile radius is intended to include federally recognized tribes that may be across State lines but still be close enough to have evidence about the petitioner.

Other process changes the proposed rule would make are: Allowing petitioners to withdraw their petitions after active consideration, to provide the petitioner with flexibility if time and resources are not available at that time; limiting the comment periods for proposed findings to 90 days and any potential extensions to 60 days; providing that the Department will strive to abide by page limits in proposed findings and final determinations; and lengthening the Assistant Secretary's review time from 60 to 90 days because the Assistant Secretary is not involved in the decision-making until the final determination stage. If the Department does not meet its deadlines, parties may file a motion to compel action, as appropriate.

Burden of Proof

The proposed rule would not change the burden of proof set forth in the existing regulations. In the acknowledgment context, courts have examined whether the Department correctly applied the ''reasonable likelihood'' standard but have not articulated what the standard actually requires. *Muwekma Ohlone Tribe* v. *Salazar,* 708 F.3d 209, 220–21 (D.C. Cir. 2013). Instead, they have only stated that ''conclusive proof'' or ''conclusive evidence'' is not required. *Muwekma Ohlone Tribe* v. *Salazar,* 708 F.3d 209, 212 (D.C. Cir. 2013). The proposed rule would incorporate the Supreme Court's clarification—arising from criminal cases in which jury instructions are challenged—that the ''reasonable likelihood'' burden of proof standard does not require ''more likely than not.'' *Boyde* v. *California,* 494 U.S. 370, 380 (1990) (explaining that the ''reasonable likelihood'' standard does not require something to be ''more likely than not'').

Criteria

Prior to the enactment of the Federal recognition regulations in 1978, the Department utilized an ad hoc approach to recognize tribes. The Department's longstanding ad hoc approach recognized tribes utilizing criteria developed by Felix Cohen. Cohen has since been recognized as the most important Federal Indian law scholar in American history, sometimes known as the ''Blackstone of Federal Indian law.'' As explained in his 1945 Handbook of Federal Indian Law, the passage of the IRA in 1934 prompted ''extensive'' analysis by the Commissioner of Indian Affairs or the Solicitor's Office of what groups or bands constituted Indian tribes for purposes of federal law. Cohen then summarized that analysis as follows.

> The considerations which, *singly or jointly,* have been particularly relied upon in reaching the conclusion that a group constitutes a ''tribe'' or ''band'' have been:
>
> (1) That the group has had treaty relations with the United States.
>
> (2) That the group has been denominated a tribe by act of Congress or Executive order.
>
> (3) That the group has been treated as having collective rights in tribal lands or funds, even though not expressly designated a tribe.
>
> (4) That the group has been treated as a tribe or band by other Indian tribes.
>
> (5) That the group has exercised political authority over its members, through a tribal council or other governmental forms.
>
> Other factors considered, though not conclusive, are the existence of special appropriation items for the group and social solidarity of the group. Ethnological and historical considerations, although not conclusive, are entitled to great weight[.]

Handbook of Federal Indian Law at 271 (1945) (emphasis added). The proposed rule would adhere to these foundational legal principles while substantially reducing the documentary burden on petitioners and the public and review time by the Department.

The changes proposed in the proposed rule remain true to these fundamental standards and depart only in very modest ways from our existing Part 83 criteria. Consistent with the Federal policy of the IRA, the proposed rule would evaluate the community and political authority criteria from 1934 to the present. The starting year coincides with the 1934 passage of the IRA, which was a turning point in the Federal government's relationship with Indian tribes, recognizing and promoting tribal sovereignty. When Congress enacted the IRA, it also provided an avenue for tribes to reorganize as political entities with a political structure that facilitated the government-to-government relationship with the Federal Government. In other words, the IRA represented a sea change in Federal policy that promoted tribal governments by providing a framework that would make it easier for the Federal Government to interact with the tribe as an independent sovereign nation. The passage of the IRA in 1934 was a communication to tribes that the Federal Government would no longer pursue destruction of tribal governments and communities. Prior to this date, tribes had little to gain, and much to lose, by making themselves known to the Federal Government. To the contrary, Federal governmental policies prior to the IRA were aimed at dissolving tribes. While tribes existed as communities governed by political structures prior to 1934, the IRA encouraged tribes to document this framework through a constitution or otherwise. Further, the Department recognizes the limitations inherent in documenting community and political authority prior to 1934 and maintains that it is logical to deduce that a tribe in existence when the IRA was passed was in existence historically. Tribes that survived decades of harsh government policies and treatment leading up to the passage of the IRA should not be required to show documentation of their continuous existence, in spite of such harsh policies and treatment, up to that point.

Criteria (b) and (c) examine the internal community and the political authority of the petitioner. Consistent

with the current regulations, the primary focus is on the petitioner and not the nature of the petitioner's relationship, if any, with the Federal Government. By utilizing 1934 as a starting point of evaluation, this proposed rule does not intend to change current practice regarding the types of evidence that may be submitted to establish criteria (b) and (c). Consistent with previous decisions, petitioner's may continue to submit evidence of interactions with Federal and other officials to the extent it illustrates community or political authority. While the Department previously considered utilizing the 1934 date but did not adopt it in the 1994 rulemaking, the Department's 20 years of experience since then suggests that the heavy administrative burden both on the petitioner and the Department of submitting and reviewing documentation back to 1789 is not justified.

The proposed rule would replace the existing criterion (a), currently at Section 83.7(a). Currently, criterion (a) requires parties external to the petitioner to identify the petitioner as an Indian entity from 1900 to the present. This requirement is being eliminated because the absence of such external identifications does not mean a tribe did not exist. Tribes may have insulated themselves from the outside world for protection, for example. While external identifications may provide evidence of the other criteria, the absence of external identifications alone is not appropriate for determining a tribe does not exist. The proposed rule would require the petitioner to provide a brief narrative, and evidence supporting the narrative, of its existence as an Indian tribe, band, nation, pueblo, village or community generally identified at some point in time during the historical period (prior to and including 1900). The proposed rule would continue to allow the submittal of evidence that would have been provided under the existing criterion (a) in support of criteria (a) (tribal existence), (b) (distinct community), and/or (c) (political influence or authority).

The proposed rule would modify criterion (b) (distinct community) to include objective standards for clarity to petitioners and the public. For example, the proposed rule would clarify that the existing ''predominant portion'' standard in (b) is satisfied if 30 percent of the petitioner's members constitute a distinct community. This 30 percent standard follows the percentage of a tribe's eligible voters that Congress, in the IRA, required to vote on the tribe's governing document. With this percentage requirement, Congress signaled that this is a sufficient percentage of a tribe's membership to convene as a community to represent, and fulfill an official act on behalf of, the entire community. While the term ''predominant portion'' may be understood in common usage to be a majority, here it can mean as low as 30 percent in accordance with this standard established by Congress.

Consistent with earlier decisions, the proposed rule would clarify that the Department may utilize statistically significant sampling, rather than examining every individual relationship for petitioners with large memberships. This sampling promotes efficiency in review of petitions.

The proposed rule would add an example of evidence that may be submitted in support of criteria (b), particularly, placement of petitioners' children at an Indian boarding school or other Indian educational institution. In the past, the Department may have accepted such evidence only when the child was identified as a member of a specific tribe in school enrollment records. Allowing for this evidence even where a specific tribe may not be identified reflects that the Federal Government identified those children as Indian, and where there are children from one area placed at an Indian boarding school, this is indicative of an Indian community in that area.

The proposed rule would also add that a petitioner may satisfy criteria (b) and (c) if it has maintained a State reservation since 1934 or if the United States has held land at any point in time since 1934 for the petitioner. Regardless of what a State's process or criteria are for acknowledging a tribe, if a State recognizes land as a reservation for a petitioner for nearly the past 80 years continuously, it indicates the existence of a community possessing the requisite political cohesiveness to maintain the tribal land base. Maintenance of a State reservation since 1934 until present indicates a high likelihood that the community actually interacted throughout this time period by providing a physical location for such interactions. Likewise, maintenance of a State reservation since 1934 also indicates the petitioner had political authority/influence during this time period because some governing structure was necessary to address activities on the land and interact with the State regarding the reservation. In short, a State reservation is a formalization of ''collective rights in Indian land'' that the Department identified as a dispositive indicator of an Indian tribe. Nevertheless, the proposed rule would require that the petitioner still meet the other criteria (e.g., criteria (a), (d), (e), (f) and (g)).

The proposed rule would retain the current rule's provisions that allow certain evidence of criterion (b) to serve as evidence of criterion (c) and vice versa (§ 83.7(b)(2)(v) and (c)(3) of the current rule). These cross-over provisions reflect that evidence of criteria (b) and (c) may combine to show the existence of a tribe.

The proposed rule would define ''substantial interruption'' in criteria (b) and (c) to mean generally more than 20 years. This definition is intended to provide some clarity and uniformity with past practice in early Departmental acknowledgment decisions. Additionally, the proposed rule would allow petitioners to submit evidence for pre-1934 periods as relevant to (b) and (c), but would not require it. This is meant to provide flexibility in those instances where documentary evidence around 1934 may be lacking but pre-1934 evidence is relevant to the criteria.

We received several comments on the Discussion Draft that a bilateral political relationship should not be required for criterion (c) (Political Authority). The existing text of criterion (c) does not include such a requirement, and therefore the proposed rule makes no revision on this point. Political influence or authority does not mean that petitioner's members must have actively participated in the political process or mechanism. Just as there are various levels of engagement in Federal and State government by Federal and State citizens, engagement by tribal members will vary throughout the tribe and active reciprocating political action is not required.

The proposed rule would establish that 80 percent of the petitioner's members must descend from a tribe that existed in historical times (prior to 1900, as discussed above) to meet criterion (e). This quantification would make the standard more objective and is consistent with earlier decisions. Additionally, the proposed rule would clarify that criterion (e) may be satisfied by a roll prepared by the Department or at the direction of Congress, and the Department will rely on that roll as an accurate roll of descendants of the tribe that existed in historical times; otherwise, the petitioner may satisfy criterion (e) through the most recent evidence available for the historical time period (prior to 1900). The Department will not require evidence from years prior to that most recent evidence. The submission of a current membership list in support of this criterion has been moved to the section

on what a documented petition must include.

In criterion (f), requiring the petitioner to be composed principally of persons who are not members of already acknowledged tribes, the proposed rule would add that members of petitioners who filed a petition by a certain date (2010) and then joined a federally recognized tribe would not be counted against the petitioner. The reason for this addition is to ensure that petitioners are not penalized if their members choose to affiliate with a federally recognized tribe in order to obtain needed services because of the time the petitioning process takes. The reason 2010 was chosen as the date is because four years have passed since then, and ideally, a final decision would be issued within at least four years. For all other purposes, criterion (f) remains unchanged.

The proposed rule would shift the burden of proof for criterion (g) to the Department to show that Congress has terminated or forbidden a relationship with the petitioner.

Previous Federal Acknowledgment

To align with current practice, the proposed rule would clarify the criteria a petitioner must meet after it has established that it was previously federally acknowledged. It would also delete the provision regarding petitions that seek to show previous Federal acknowledgment but are awaiting active consideration as of the date the regulations are adopted because this provision applied only at the adoption of the last version of the regulations in 1994 when consideration of previous Federal acknowledgment was codified.

III. Tribal Consultation Sessions and Public Meetings

We will be hosting several tribal consultation sessions and public meetings throughout the country to discuss this proposed rule. Tribal consultations are for representatives of currently federally recognized tribes only, to discuss the rule on a government-to-government basis with us. These sessions may be closed to the public. The dates and locations for the tribal consultations are as follows:

Date	Time	Location
Tuesday 7/1/2014	1:00 p.m.—4:30 p.m.	Paragon Casino & Resort, 711 Paragon Pl, Marksville, LA 71351.
Tuesday 7/15/2014	1:00 p.m.—4:30 p.m.	BIA Regional Office, 911 NE 11th Ave, Portland, OR 97232.*
Thursday 7/17/2014	1:00 p.m.—4:30 p.m.	Menominee Casino Resort, N277 Hwy. 47/55, P.O. Box 760, Keshena, WI 54135.
Tuesday 7/22/2014	1:00 p.m.—4:30 p.m.	Cache Creek Casino Resort, 14455 California 16, Brooks, CA 95606.
Thursday 7/24/2014	8:30 a.m.—12:00 p.m.	Crowne Plaza Billings, 27 N 27th St, Billings, MT 59101.
Tuesday 7/29/14	1:00 p.m.—4:30 p.m.	Mashpee Wampanoag Tribe Community & Government Center Gymnasium, 483 Great Neck Road—South, Mashpee, MA 02649.

* Please RSVP for the Portland consultation to *consultation@bia.gov*, bring photo identification, and arrive early to allow for time to get through security, as this is a Federal building. No RSVP is necessary for the other consultation locations.

Public meetings will be held on the following dates and locations:

Date	Time	Location
Tuesday 7/1/2014	8:30 a.m.—12:00 p.m.	Paragon Casino & Resort, 711 Paragon Pl, Marksville, LA 71351.
Tuesday 7/15/2014	8:30 a.m.—12:00 p.m.	BIA Regional Office, 911 NE 11th Ave, Portland, OR 97232.*
Thursday 7/17/2014	8:30 a.m.—12:00 p.m.	Menominee Casino Resort, N277 Hwy. 47/55, P.O. Box 760, Keshena, WI 54135.
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* Please RSVP for the Portland meeting to *consultation@bia.gov*, bring photo identification, and arrive early to allow for time to get through security, as this is a Federal building. No RSVP is necessary for the other meeting locations.

IV. Procedural Requirements

A. Regulatory Planning and Review (E.O. 12866 and 13563)

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB) will review all significant rules. OIRA has determined that this rule is significant.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The E.O. directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

B. Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

C. Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. It will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year. The rule's requirements will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Nor will this rule have significant adverse effects on competition, employment,

investment, productivity, innovation, or the ability of the U.S.-based enterprises to compete with foreign-based enterprises because the rule is limited to Federal acknowledgment of Indian tribes.

D. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

E. Takings (E.O. 12630)

Under the criteria in Executive Order 12630, this rule does not affect individual property rights protected by the Fifth Amendment nor does it involves a compensable ''taking.'' A takings implication assessment is therefore not required.

F. Federalism (E.O. 13132)

Under the criteria in Executive Order 13132, this rule has no 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.

G. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule has been reviewed to eliminate errors and ambiguity and written to minimize litigation; and is written in clear language and contains clear legal standards.

H. Consultation with Indian Tribes (E.O. 13175)

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments,'' Executive Order 13175 (59 FR 22951, November 6, 2000), and 512 DM 2, we have evaluated the potential effects on federally recognized Indian tribes and Indian trust assets. The Department distributed a ''Discussion Draft'' of this rule to federally recognized Indian tribes in June 2013, and hosted five consultation sessions with federally recognized Indian tribes throughout the country in July and August 2013. Several federally recognized Indian tribes submitted written comments; some strongly supportive of revising the regulations and others strongly opposed to revisions. We considered each tribe's comments and concerns and have addressed them, where possible, in the proposed rule.

I. Paperwork Reduction Act

OMB Control Number: 1076–0104.

Title: Federal Acknowledgment as an Indian Tribe, 25 CFR 83.

Brief Description of Collection: This information collection requires entities seeking Federal recognition as an Indian tribe to collect and provide information in a documented petition evidencing that the entities meet the criteria set out in the rule.

Type of Review: Revision of currently approved collection.

Respondents: Entities petitioning for Federal acknowledgment.

Number of Respondents: 10 on average (each year).

Number of Responses: 10 on average (each year).

Frequency of Response: On occasion.

Estimated Time per Response: (See table below).

Estimated Total Annual Hour Burden: 12,240 hours.

Estimated Total Annual Non-Hour Cost: $21,000,000

OMB Control No. 1076–0104 currently authorizes the collections of information contained in 25 CFR part 83. If this proposed rule is finalized, DOI estimates that the annual burden hours for respondents (entities petitioning for Federal acknowledgment) will decrease by a minimum of 8,510 hours, for a total of 12,240 hours. Because the proposed rule would change sections where the information collections occur, we are including a table showing the section changes.

Current sec.	New sec.	Description of requirement	Burden hours on respondents per response	Annual burden hours (10 respondents)
83.7 (b)–(d)	83.21 (referring to 83.11 (b)–(d).	Conduct the anthropological and historical research relating to the criteria (b)–(d) and (f)–(g).	869	8,690
83.7 (f)–(g)	83.11 (f)–(g));	Conduct the genealogical work to demonstrate tribal descent.		
83.7 (e)	83.21 (referring to 83.11 (e)).			
83.7 (e)	83.21	Provide past membership rolls and complete a membership roll of about 333** members (BIA Form 8306).	38	380
83.7 (e)	83.21 (referring to 83.11 (e)).	Complete Individual History Chart (BIA Form 8304). On average, it takes 2 minutes per chart X 333** charts.	11	110
83.7 (e)	83.21 (referring to 83.11 (e)).	Complete the Ancestry Chart (BIA Form 8305). On average, it takes about 30 minutes per chart X 333** charts.	166	1,660
83.10(b)	83.27	Respond to the technical assistance letters which may require revising or adding to the above existing forms and overall petition.	140	1,400

We invite comments on the information collection requirements in the proposed rule. You may submit comments to OMB by facsimile to (202) 395–5806 or you may send an email to the attention of the OMB Desk Officer for the Department of the Interior: *OIRA_Submission@omb.eop.gov.* Please send a copy of your comments to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice. *Note that the request for comments on the rule and the request for comments on the information collection are separate.* To best ensure

consideration of your comments on the information collection, we encourage you to submit them by June 30, 2014; while OMB has 60 days from the date of publication to act on the information collection request, OMB may choose to act on or after 30 days. Comments on the information collection should address: (a) The necessity of this information collection for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways we could enhance the quality, utility and clarity of the information to be collected; and (d) ways we could minimize the burden of the collection of the information on the respondents, such as through the use of automated collection techniques or other forms of information technology. Please note that an agency may not sponsor or request, and an individual need not respond to, a collection of information unless it displays a valid OMB Control Number.

J. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment because it is of an administrative, technical, and procedural nature. *See,* 43 CFR 46.210(i). No extraordinary circumstances exist that would require greater review under the National Environmental Policy Act.

K. Effects on the Energy Supply (E.O. 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

L. Clarity of This Regulation

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the ''COMMENTS'' section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you believe lists or tables would be useful, etc.

M. Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

List of Subjects in 25 CFR Part 83

Administrative practice and procedure, Indians-tribal government.

■ For the reasons stated in the preamble, the Department of the Interior, Bureau of Indian Affairs, proposes to amend chapter I in Title 25 of the Code of Federal Regulations by revising part 83 to read as follows:

PART 83—PROCEDURES FOR ACKNOWLEDGMENT OF FEDERALLY RECOGNIZED INDIAN TRIBES

Subpart A—General Provisions

Sec.
83.1 What terms are used in this part?
83.2 What is the purpose of these regulations?
83.3 Who does this part apply to?
83.4 Who cannot be acknowledged under this part?
83.5 How does a petitioner obtain Federal acknowledgment under this part?
83.6 What are the Department's duties?
83.7 How does this part apply to documented petitions submitted before [INSERT EFFECTIVE DATE OF FINAL RULE]?
83.8 How does the Paperwork Reduction Act affect the information collections in this part?

Subpart B—Criteria for Federal Acknowledgment

83.10 How will the Department evaluate each of the criteria?
83.11 What are the criteria for acknowledgment as a federally recognized Indian tribe?
83.12 What are the criteria for previously federally acknowledged petitioners?

Subpart C—Process for Federal Acknowledgment

Documented Petition Submission

83.20 How does an entity request Federal acknowledgment?
83.21 What must a documented petition include?
83.22 What notice will OFA provide upon receipt of a documented petition?

Review of Documented Petition

83.23 How will OFA determine which documented petition to consider first?
83.24 What opportunity will the petitioner have to respond to comments before OFA reviews the petition?
83.25 Who will OFA notify when it begins review of a documented petition?
83.26 How will OFA review a documented petition?
83.27 What are technical assistance reviews?
83.28 When does OFA review for previous Federal acknowledgment?
83.29 What will OFA consider in its review?
83.30 Can a petitioner withdraw its documented petition once review has begun?
83.31 Can OFA suspend review of a documented petition?

Proposed Finding

83.32 When will OFA issue a proposed finding?
83.33 What will the proposed finding include?
83.34 What notice of the proposed finding will OFA provide?

Comment and Response Periods, Hearing

83.35 What opportunity will there be to comment after OFA issues the proposed finding?
83.36 Can the Assistant Secretary extend the proposed finding comment period?
83.37 What procedure follows the end of the comment period for a favorable proposed finding?
83.38 What options are available to the petitioner at the end of the comment period for a negative proposed finding?
83.39 What are the procedures if the petitioner elects to have a hearing before an OHA judge?

Final Determination

83.40 When will the Assistant Secretary begin review?
83.41 What will the Assistant Secretary consider in his/her review?
83.42 When will the Assistant Secretary issue a final determination?
83.43 How will the Assistant Secretary make the final determination decision?
83.44 Is the Assistant Secretary's final determination final for the Department?
83.45 When will the final determination be effective?
83.46 How is a petitioner with a positive final determination integrated into Federal programs as a federally recognized Indian tribe?

Authority: 5 U.S.C. 301; 25 U.S.C. 2, 9, 479a–1; and 43 U.S.C. 1457.

Subpart A—General Provisions

§ 83.1 What terms are used in this part?

As used in this part:

Assistant Secretary or *AS–IA* means the Assistant Secretary—Indian Affairs

within the Department of the Interior, or that officer's authorized representative, but does not include representatives of the Office of Federal Acknowledgment.

Bureau means the Bureau of Indian Affairs within the Department of the Interior.

Continental United States means the contiguous 48 states and Alaska.

Department means the Department of the Interior, including the Assistant Secretary and OFA.

Documented Petition means the detailed arguments and supporting documentary evidence submitted by a petitioner to substantiate its claim that it meets the Tribal Existence (§ 83.11(a)), Governing Document (§ 83.11(d)), Descent (§ 83.11(e)), Membership (§ 83.11(f)), and Congressional Termination (§ 83.11(g)) Criteria and:

(1) Demonstrates previous Federal acknowledgment under § 83.12(a) and meets the criteria in § 83.12(b); or

(2) Meets the Community (§ 83.11(b)) and Political Authority (§ 83.11(c) Criteria.

Federally recognized Indian tribe means an entity listed on the Secretary's list of federally recognized tribes, which the Secretary currently acknowledges as an Indian tribe for purposes of Federal law and with which he/she maintains a government-to-government relationship.

OHA judge means an administrative law judge appointed under 5 U.S.C. 3105, an administrative judge with the Office of Hearings and Appeals, or an attorney with the Office of Hearings and Appeals assigned to preside over the hearing process by the Office of Hearings Appeals.

Historical means 1900 or earlier.

Informed party means any person or organization who submits comments or evidence or requests to be kept informed of general actions regarding a specific petitioner.

Member of a petitioner means an individual who is recognized by the petitioner as meeting its membership criteria and who consents to being listed as a member of the petitioner.

Office of Federal Acknowledgment or *OFA* means the Office of Federal Acknowledgment within the Office of the Assistant Secretary—Indian Affairs, Department of the Interior.

Pages means pages containing 1-inch margins and type that is double-spaced and 12-point Times New Roman font.

Petitioner means any entity that has submitted a documented petition to OFA requesting Federal acknowledgment as a federally recognized Indian tribe.

Previous Federal acknowledgment means action by the Federal government clearly premised on identification of an entity that qualified as an Indian tribe for purposes of Federal law and indicating clearly the recognition of a government-to-government relationship between that entity and the United States.

Secretary means the Secretary of the Interior within the Department of the Interior or that officer's authorized representative.

Tribal roll means a list exclusively of those individuals who have been determined by the tribe to meet the tribe's membership requirements as set forth in its governing document. In the absence of such a document, a tribal roll means a list of those recognized as members by the tribe's governing body. In either case, those individuals on a tribal roll must have affirmatively demonstrated consent to being listed as members.

Tribe means any Indian tribe, band, nation, pueblo, village or community.

§ 83.2 What is the purpose of these regulations?

These regulations implement Federal statutes for the benefit of Indian tribes by establishing procedures and criteria for the Department to use to determine whether a petitioner is an Indian tribe for purposes of Federal law and is therefore entitled to a government-to-government relationship with the United States. A positive determination will result in Federal recognition status and the petitioner's addition to the Department's list of federally recognized Indian tribes. An entity may consider itself an Indian tribe and be considered an Indian tribe by other entities, but it does not possess federally recognized status and a government-to-government relationship with the United States unless it is placed on the Department's list of federally recognized Indian tribes. Failure to be included on the list does not deny that the entity is an Indian tribe for purposes other than Federal law. It means only that the entity is not a federally recognized Indian tribe. Federal recognition:

(a) Is a prerequisite to the protection, services, and benefits of the Federal Government available to those that qualify as Indian tribes for purposes of Federal law and possess a government-to-government relationship with the United States;

(b) Means the tribe is entitled to the immunities and privileges available to other federally recognized Indian tribes;

(c) Means the tribe has the responsibilities, powers, limitations, and obligations of other federally recognized Indian tribes; and

(d) Subjects the Indian tribe to the same authority of Congress and the United States as other federally recognized Indian tribes.

§ 83.3 Who does this part apply to?

This part applies only to entities that self-identify as Indian tribes, are located in the continental United States, and believe they meet the criteria for Federal acknowledgment in this part. This part does not apply to Indian or Alaska Native tribes, bands, pueblos, villages, or communities that are federally recognized.

§ 83.4 Who cannot be acknowledged under this part?

(a) The entities listed in the following table cannot be acknowledged under this part unless they meet the requirement in the second column.

The Department will not acknowledge . . .	*Unless . . .*
(1) An association, organization, corporation, or entity of any character formed in recent times.	the entity has only changed form by recently incorporating or otherwise formalizing its existing politically autonomous community.
(2) A splinter group, political faction, community, or entity of any character that separates from the main body of a currently federally recognized Indian tribe, petitioner, or previous petitioner.	the entity can clearly demonstrate it has functioned from 1934 until the present as a politically autonomous community under this part, even though some have regarded them as part of or associated in some manner with a federally recognized Indian tribe.
(3) An entity that is, or an entity whose members are, subject to congressional legislation terminating or forbidding the government-to-government relationship.	N/A.

The Department will not acknowledge . . .	*Unless . . .*
(4) An entity that previously petitioned and was denied Federal acknowledgment under these regulations or under previous regulations in part 83 of this title (including reconstituted, splinter, spin-off, or component groups that were once part of previously denied petitioners).	the entity meets the requirements of paragraph (b) of this section.

(b) A petitioner that has been denied Federal acknowledgment after petitioning under a previous version of the acknowledgment regulations at part 54 or part 83 of this title may re-petition if it meets the requirements of this paragraph.

(1) A petitioner may re-petition only if:

(i) Any third parties that participated as a party in an administrative reconsideration or Federal Court appeal concerning the petitioner has consented in writing to the re-petitioning; and

(ii) The petitioner proves, by a preponderance of the evidence, that either:

(A) A change from the previous version of the regulations to the current version of the regulations warrants reconsideration of the final determination; or

(B) The ''reasonable likelihood'' standard was misapplied in the final determination.

(2) To initiate the re-petitioning process, the petitioner must submit to the Office of Hearings and Appeals a certification, signed and dated by the petitioner's governing body, stating that it is the petitioner's official request for re-petitioning and explaining how it meets the conditions of paragraph (b)(1) of this section.

(i) The petitioner need not re-submit materials previously submitted to the Department but may supplement the petition.

(ii) The OHA judge may receive pleadings, hold hearings, and request evidence from OFA and the petitioner, and will issue a decision regarding whether the petitioner may re-petition.

(3) The OHA judge's decision whether to allow re-petitioning is final for the Department and is a final agency action under the Administrative Procedure Act, 5 U.S.C. 704.

§ 83.5 How does a petitioner obtain Federal acknowledgment under this part?

To be acknowledged as a federally recognized Indian tribe under this part, a petitioner must meet the Tribal Existence (§ 83.11(a)), Governing Document (§ 83.11(d)), Descent (§ 83.11(e)), Membership (§ 83.11(f)), and Congressional Termination (§ 83.11(g)) Criteria and must:

(a) Demonstrate previous Federal acknowledgment under § 83.12(a) and meet the criteria in § 83.12(b); or

(b) Meet the Community (§ 83.11(b)) and Political Authority (§ 83.11(c)) Criteria.

§ 83.6 What are the Department's duties?

(a) The Department will publish in the **Federal Register**, by January 30 each year, a list of all Indian tribes which the Secretary recognizes to be eligible for the special programs and services provided by the United States to Indians because of their status as Indians. The list may be published more frequently, if the Assistant Secretary deems it necessary.

(b) OFA will maintain guidelines limited to general suggestions on how and where to conduct research. The guidelines may be supplemented or updated as necessary. OFA will also make available an example of a documented petition in the preferred format, though other formats are acceptable.

(c) OFA will, upon request, give prospective petitioners suggestions and advice on how to prepare the documented petition. OFA will not be responsible for the actual research on behalf of the petitioner.

§ 83.7 How does this part apply to documented petitions submitted before [INSERT EFFECTIVE DATE OF FINAL RULE]?

(a) Petitioners whose have not submitted complete documented petitions as of [INSERT EFFECTIVE DATE OF FINAL RULE] must proceed under these revised regulations. We will notify these petitioners and provide them with a copy of the revised regulations by [INSERT EFFECTIVE DATE OF FINAL RULE].

(b) By [INSERT EFFECTIVE DATE OF FINAL RULE + 30 DAYS], OFA will notify the following petitioners that they must choose by [INSERT DATE 60 DAYS AFTER PUBLICATION OF FINAL RULE] to complete the petitioning process under these regulations. Otherwise, the following petitioners will proceed under the previous version of the acknowledgment regulations as published on February 25, 1994, 59 FR 19293.

(1) Petitioners who have submitted complete petitions or those petitioners that are under active consideration, including those that have received a proposed finding, as of [INSERT EFFECTIVE DATE OF FINAL RULE]; and

(2) Petitioners who have not received a final agency decision as of [INSERT EFFECTIVE DATE OF FINAL RULE].

(c) Petitioners who have submitted a documented petition under the previous version of the acknowledgment regulations and who choose to proceed under these revised regulations do not need to submit a new documented petition.

§ 83.8 How does the Paperwork Reduction Act affect the information collections in this part?

The collections of information contained in this part have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned OMB Control Number 1076–0104. Response is required to obtain a benefit. A Federal agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless the form or regulation requesting the information displays a currently valid OMB Control Number. Send comments regarding this collection of information, including suggestions for reducing the burden, to the Information Collection Clearance Officer—Indian Affairs, 1849 C Street NW., Washington, DC 20240.

Subpart B—Criteria for Federal Acknowledgment

§ 83.10 How will the Department evaluate each of the criteria?

(a) The Department will consider a criterion to be met if the available evidence establishes a reasonable likelihood that the facts claimed by the petitioner are valid and that the facts demonstrate that the petitioner meets the criterion.

(1) ''Reasonable likelihood'' means there must be more than a mere possibility, but does not require ''more likely than not.''

(2) The Department will not require conclusive proof of the facts relating to a criterion in order to consider the criterion met.

(3) The petitioner may use the same evidence to establish more than one criterion.

(b) The Department will evaluate petitions:

(1) Allowing criteria to be met by any suitable evidence, rather than requiring the specific forms of evidence stated in the criteria;

(2) Taking into account situations and time periods for which evidence is limited or not available;

(3) Taking into account the limitations inherent in demonstrating historical existence;

(4) Requiring demonstration that these criteria are met on a substantially continuous basis, meaning without substantial interruption;

(5) Interpreting ''substantial interruption'' to mean a gap, either as a fluctuation in tribal activity or a gap in evidence, of 20 years or less, unless a 20-year or longer gap is reasonable given the history and the petitioner's circumstances;

(6) Applying these criteria consistently with threshold standards utilized to recognize other tribes under this Part; and

(7) Applying these criteria in context with the history, geography, culture, and social organization of the petitioner.

§ 83.11 What are the criteria for acknowledgment as a federally recognized Indian tribe?

(a) *Tribal Existence.* The petitioner must describe its existence as an Indian tribe, band, nation, pueblo, village, or community at a point in time during the historical period. The petitioner must provide a brief narrative, and evidence supporting the narrative, of its existence as an Indian tribe, band, nation, pueblo, village or community generally identified at a point in time during the historical period. Such evidence can include, but is not limited to, types of evidence used to satisfy the remaining criteria in this section or types of evidence relied on by the Department prior to the promulgation of the Federal acknowledgment regulations.

(b) *Community.* The petitioner must now constitute a distinct community and must demonstrate that it existed as a distinct community from 1934 until the present without substantial interruption. Distinct community means an entity with consistent interactions and significant social relationships within its membership and whose members are differentiated from and distinct from nonmembers. The petitioner may demonstrate that it meets this criterion by providing evidence for known adult members or by providing evidence of relationships of a random, statistically significant sample of known adult members.

(1) The petitioner may demonstrate that it meets this criterion by some combination of two or more of the following forms of evidence or by other evidence to show that at least 30 percent of the petitioner's members constituted a distinct community at a given point in time.

(i) Rates of known marriages within the entity, or, as may be culturally required, known patterned out-marriages;

(ii) Social relationships connecting individual members;

(iii) Rates or patterns of informal social interaction that exist broadly among the members of the entity;

(iv) Shared or cooperative labor or other economic activity among members;

(v) Strong patterns of discrimination or other social distinctions by non-members;

(vi) Shared sacred or secular ritual activity;

(vii) Cultural patterns shared among a portion of the entity that are different from those of the non-Indian populations with whom it interacts. These patterns must function as more than a symbolic identification of the entity. They may include, but are not limited to, language, kinship organization or system, religious beliefs or practices, and ceremonies;

(viii) The persistence of a collective identity continuously over a period of more than 50 years, notwithstanding any absence of or changes in name;

(ix) Children of members from a geographic area were placed in Indian boarding schools or other Indian educational institutions;

(x) A demonstration of political influence under the criterion in § 83.11(c)(1), which is a form of evidence for demonstrating distinct community for that same time period; or

(xi) Evidence that it has been identified as a community by individuals and entities external to the petitioner.

(2) The petitioner will be considered to have provided sufficient evidence to demonstrate distinct community and political authority at a given point in time if the evidence demonstrates any one of the following:

(i) More than 50 percent of the members reside in a geographical area exclusively or almost exclusively composed of members of the entity, and the balance of the entity maintains consistent interaction with some members residing in that area;

(ii) At least 50 percent of the known marriages in the entity are between members of the entity;

(iii) At least 50 percent of the entity members maintain distinct cultural patterns such as, but not limited to, language, kinship system, religious beliefs and practices, or ceremonies;

(iv) There are distinct community social institutions encompassing at least 50 percent of the members, such as kinship organizations, formal or informal economic cooperation, or religious organizations; or

(v) The petitioner has met the criterion in § 83.11(c) using evidence described in § 83.11(c)(2).

(3) The petitioner will be considered to have provided sufficient evidence to demonstrate distinct community if it demonstrates either of the following factors:

(i) The petitioner has maintained since 1934 to the present a State reservation; or

(ii) The United States has held land for the petitioner or collective ancestors of the petitioner at any point in time from 1934 to the present.

(c) *Political Influence or Authority.* The petitioner must have maintained political influence or authority from 1934 until the present without substantial interruption. Political influence or authority means a council, leadership, internal process, or other mechanism which the entity has used as a means of influencing or controlling the behavior of its members in significant respects, making decisions for the entity which substantially affect its members, and/or representing the entity in dealing with outsiders in matters of consequence. This process is to be understood in the context of the history, culture, and social organization of the entity.

(1) The petitioner may demonstrate that it meets this criterion by some combination of two or more of the following evidence or by other evidence that the petitioner meets the definition of political influence or authority in § 83.1:

(i) The entity is able to mobilize significant numbers of members and significant resources from its members for entity purposes.

(ii) Most of the membership considers issues acted upon or actions taken by entity leaders or governing bodies to be of importance.

(iii) There is widespread knowledge, communication, or involvement in political processes by most of the entity's members.

(iv) The entity meets the criterion in § 83.11(b) at greater than or equal to the percentages set forth under § 83.11(b)(2).

(v) There are internal conflicts that show controversy over valued entity

goals, properties, policies, processes, or decisions.

(vi) A federally recognized Indian tribe has a government-to-government relationship with the petitioner.

(vii) Evidence that it has been identified as politically autonomous by individuals and entities external to the petitioner.

(viii) Show a continuous line of entity leaders and a means of selection or acquiescence by a majority of the entity's members.

(2) The petitioner will be considered to have provided sufficient evidence of political influence or authority at a given point in time if the evidence demonstrates any one of the following.

(i) Entity leaders or other internal mechanisms exist or existed that:

(A) Allocate entity resources such as land, residence rights, and the like on a consistent basis;

(B) Settle disputes between members or subgroups by mediation or other means on a regular basis;

(C) Exert strong influence on the behavior of individual members, such as the establishment or maintenance of norms or the enforcement of sanctions to direct or control behavior; or

(D) Organize or influence economic subsistence activities among the members, including shared or cooperative labor.

(ii) The petitioner has met the requirements in § 83.11(b)(2) at a given time.

(3) The petitioner will be considered to have provided sufficient evidence to demonstrate political influence and authority if it demonstrates either of the following factors:

(i) The petitioner has maintained since 1934 to the present a State reservation; or

(ii) The United States has held land for the petitioner or the collective ancestors of the petitioner at any point in time from 1934 to the present.

(d) *Governing Document.* The petitioner must submit a copy of the entity's present governing document, including its membership criteria. In the absence of a governing document, the petitioner must provide a written statement describing in full its membership criteria and current governing procedures.

(e) *Descent.* At least 80 percent of the petitioner's membership must consist of individuals who can demonstrate that they descend from a tribe that existed in historical times or tribes that combined and functioned in historical times.

(1) The petitioner satisfies this criterion by demonstrating descent from a roll directed by Congress or prepared by the Secretary on a descendancy basis for purposes of distributing claims money, providing allotments, providing a tribal census, or other purposes.

(2) If no roll was directed by Congress or prepared by the Secretary, the petitioner satisfies this criterion with the most recent evidence available for the historical time period, including, but not limited to:

(i) Federal, State, or other official records or evidence identifying present members or ancestors of present members as being descendants of a tribe or tribes that existed in historical times;

(ii) Church, school, or other similar enrollment records identifying the petitioner's present members or ancestors of present members as being descendants of a tribe or tribes that existed in historical times;

(iii) Historical records created by historians and anthropologists identifying the tribe in historical times or historians and anthropologists' conclusions drawn from historical records identifying the petitioner's present members or ancestors of present members as being descendants of a tribe or tribes existing in historical times;

(iv) Affidavits of recognition by tribal elders, leaders, or the tribal governing body identifying present members or ancestors of present members as being descendants of a tribe or tribes existing in historical times; and

(v) Other records or evidence identifying present members or ancestors of present members as descendants of a tribe or tribes existing in historical times.

(f) *Membership.* The petitioner's membership must be composed principally of persons who are not members of any federally recognized Indian tribe.

(1) However, a petitioner may be acknowledged even if its membership is composed principally of persons whose names have appeared on rolls of, or who have been otherwise associated with, a federally recognized Indian tribe, if the petitioner demonstrates that:

(i) It has functioned as a separate politically autonomous community by satisfying criteria (b) and (c); and

(ii) Its members have provided written confirmation of their membership in the petitioner.

(2) If a petitioner filed a letter of intent (under a previous version of the regulations) or filed a documented petition prior to 2010, the petitioner's members who were not members of a federally recognized Indian tribe at the time the petitioner filed the documented petition, but who subsequently became members of a federally recognized Indian tribe, will not be considered as members of the federally recognized Indian tribe for purposes of this criterion.

(g) *Congressional Termination.* Neither the petitioner nor its members are the subject of congressional legislation that has expressly terminated or forbidden the government-to-government relationship. The Department must determine whether the petitioner meets this criterion, and the petitioner is not required to submit evidence to meet it.

§ 83.12 What are the criteria for previously federally acknowledged petitioners?

(a) If the petitioner meets the criteria in § 83.11(a) and (d) through (g), the petitioner may prove it was previously acknowledged as a federally recognized Indian tribe by providing unambiguous evidence that the United States Government recognized the petitioner as an Indian tribe for purposes of Federal law with which it carried on a government-to-government relationship at some prior date, including, but not limited to evidence that the petitioner had:

(1) Treaty relations with the United States;

(2) Been denominated a tribe by act of Congress or Executive Order; or

(3) Been treated by the Federal Government as having collective rights in tribal lands or funds.

(b) Once the petitioner establishes that it was previously acknowledged, it must:

(1) Demonstrate that it meets the Community Criterion at present and Political Authority Criterion since the time of previous Federal acknowledgment to the present by demonstration of substantially continuous historical identification by authoritative, knowledgeable external sources of leaders and/or a governing body that exercises political influence or authority, together with demonstration of one form of evidence listed in § 83.11(c), or

(2) Demonstrate that it meets the Community and Political Authority Criteria since the time of previous Federal acknowledgment.

Subpart C—Process for Federal Acknowledgment

Documented Petition Submission and Review

§ 83.20 How does an entity request Federal acknowledgment?

Any entity that believes it can satisfy the criteria in this part may submit a documented petition under this part to: Office of Federal Acknowledgement, Assistant Secretary—Indian Affairs,

Department of the Interior, 1849 C Street NW., Washington, DC 20240.

§ 83.21 What must a documented petition include?

(a) The documented petition may be in any readable form and must include the following:

(1) A certification, signed and dated by the petitioner's governing body, stating that it is the petitioner's official documented petition;

(2) A concise written narrative, with thorough explanations of, and citations to supporting documentation for how the petitioner meets each of the applicable criteria, except the Congressional Termination Criterion (§ 83.11 (g))—

(i) If the petitioner chooses to provide explanations of and supporting documentation for the Congressional Termination Criterion (§ 83.11 (g)), the Department will accept it; but

(ii) The Department will conduct the research necessary to determine whether the petitioner meets the Congressional Termination Criterion (§ 83.11 (g)).

(3) Supporting documentation cited in the written narrative and containing specific, detailed evidence that the petitioner meets each of the criteria at § 83.11;

(4) Membership lists and explanations, including:

(i) An official current membership list, separately certified by the petitioner's governing body, of all known current members of the petitioner, including each member's full name (including maiden name), date of birth, and current residential address;

(ii) A statement describing the circumstances surrounding the preparation of the current membership list;

(iii) A copy of each available former list of members based on the petitioner's own defined criteria; and

(iv) A statement describing the circumstances surrounding the preparation of the former membership lists, insofar as possible.

(b) Petitioners should exclude from the narrative portion of the documented petition any information that is protectable under Federal law such as the Privacy Act and Freedom of Information Act, as it will be published on the OFA Web site. If it is necessary to include this information, the petitioner must clearly identify, in writing, the specific information that should be redacted prior to publication on the OFA Web site and the basis for redacting. The Department will determine whether the redaction is appropriate under Federal law.

§ 83.22 What notice will OFA provide upon receipt of a documented petition?

When OFA receives a documented petition, it will do all of the following:

(a) Within 30 days of receipt, acknowledge receipt in writing to the petitioner.

(b) Within 60 days of receipt:

(1) Publish notice of receipt of the documented petition in the **Federal Register** and publish the following on the OFA Web site:

(i) The narrative portion of the documented petition, as submitted by the petitioner (with any redactions appropriate under § 83.21(b));

(ii) The name, location, and mailing address of the petitioner and other information to identify the entity;

(iii) The date of receipt;

(iv) The opportunity for individuals and organizations to submit comments supporting or opposing the petitioner's request for acknowledgment within 90 days of the date of the Web site posting; and

(v) The opportunity for individuals and organizations to request to become informed parties.

(2) Notify, in writing, the governor and attorney general of the State in which the petitioner is located and any federally recognized tribe within the State or within a 25-mile radius.

(3) Notify any other recognized tribe and any petitioner that appears to have a historical or present relationship with the petitioner or that may otherwise be considered to have a potential interest in the acknowledgment determination.

(c) Publish other portions of the documented petition to the OFA Web site, to the extent allowable under Federal law.

Review of Documented Petition

§ 83.23 How will OFA determine which documented petition to consider first?

(a) OFA will begin reviews of documented petitions in the order of receipt of documented petitions. Petitioners whose documented petitions OFA has not yet begun to review may request that OFA estimate when review will begin.

(1) At each successive review stage, there may be points at which OFA is waiting on additional information or clarification from the petitioner. Upon receipt of the additional information or clarification, OFA will return to its review of the documented petition as soon as possible.

(2) To the extent possible, OFA will make completing reviews of documented petitions it has already begun to review the highest priority.

(b) OFA will maintain a numbered register of documented petitions that have been received.

(c) OFA will maintain a numbered register of any letters of intent, which were allowable prior to [INSERT EFFECTIVE DATE OF RULE], or incomplete petitions and the original dates of their filing with the Department. If two or more documented petitions are ready for review on the same date, this register will determine the order of consideration.

§ 83.24 What opportunity will the petitioner have to respond to comments before OFA reviews the petition?

Before beginning review of a documented petition, OFA will provide the petitioner with any comments on the petition received from individuals or organizations under § 83.22(b) and provide the petitioner with at least 60 days to respond to such comments. OFA will not begin review until it receives the petitioner's response to the comments or the petitioner requests that OFA proceed without its response.

§ 83.25 Who will OFA notify when it begins review of a documented petition?

OFA will notify the petitioner and informed parties when it begins review of a documented petition and will provide the petitioner and informed parties with:

(a) The name, office address, and telephone number of the staff member with primary administrative responsibility for the petition;

(b) The names of the researchers conducting the evaluation of the petition; and

(c) The name of their supervisor.

§ 83.26 How will OFA review a documented petition?

(a) Phase I.

(1) OFA will first determine if the petitioner meets the Descent Criterion (§ 83.11(e)).

(i) OFA will conduct a technical assistance review and notify the petitioner by technical assistance letter of any deficiencies that would prevent the petitioner from meeting the Descent Criterion. Upon receipt of the letter, the petitioner may:

(A) Withdraw the documented petition to further prepare the petition;

(B) Submit additional information and/or clarification within an agreed-upon timeframe; or

(C) Ask OFA in writing to proceed with the review.

(ii) OFA will publish a negative proposed finding if it issues a deficiency letter under paragraph (a)(1)(i) of this section and the petitioner:

(A) Does not withdraw the documented petition or does not respond with information or clarification sufficient to address the deficiencies within the agreed-upon timeframe; or

(B) Asks OFA in writing to proceed with the review.

(2) If the petitioner meets the Descent Criterion, OFA will next review whether the petitioner meets the Tribal Existence Criterion (§ 83.11(a)), Governing Document Criterion (§ 83.11(d)), the Membership Criterion (§ 83.11(f)), and the Congressional Termination Criterion (§ 83.11(g)).

(i) OFA will conduct a technical assistance review and notify the petitioner by technical assistance letter of any deficiencies that would prevent the petitioner from meeting these criteria. Upon receipt of the letter, the petitioner may:

(A) Withdraw the documented petition to further prepare the petition;

(B) Submit additional information and/or clarification within an agreed-upon timeframe; or

(C) Ask OFA in writing to proceed with the review.

(ii) OFA will publish a negative proposed finding if it issues a deficiency letter under paragraph (a)(2)(i) of this section and the petitioner:

(A) Does not withdraw the documented petition;

(B) Does not respond with information or clarification sufficient to address the deficiencies within the agreed-upon timeframe; or

(C) Asks OFA in writing to proceed with the review.

(iii) If the petitioner meets the Descent (§ 83.11(e)), Tribal Existence (§ 83.11(a)), Governing Document (§ 83.11(g)), Membership (§ 83.11(f)), and Congressional Termination (§ 83.11(g)) Criteria, OFA will either:

(A) Proceed to Phase II–A, if the petitioner asserts that it meets either of the factors in § 83.11(b)(3) and (c)(3); or

(B) Proceed to Phase II–B, if the petitioner does not assert that it meets the factors in § 83.11(b)(3) and (c)(3).

(b) Phase II–A.

(1) OFA will review whether the petitioner meets either of the factors in § 83.11(b)(3) and (c)(3), if the petitioner asserts that it does.

(2) If the petitioner meets either of the factors in § 83.11(b)(3) and (c)(3), OFA will publish a favorable proposed finding in the **Federal Register**.

(3) If the petitioner does not meet either of the factors in § 83.11(b)(3) and (c)(3), OFA will proceed to Phase II–B.

(c) Phase II–B.

(1) If the petitioner does not meet either of the factors in § 83.11(b)(3) and (c)(3), or the petitioner does not assert that it meets those factors, OFA will conduct the technical assistance review for the Community (§ 83.11(b)) and Political Authority (§ 83.11(c)) Criteria (and for previous Federal acknowledgment, if asserted).

(i) OFA will notify the petitioner by technical assistance letter of any obvious deficiencies or significant omissions apparent in the documented petition and provide the petitioner with an opportunity to withdraw the documented petition for further work or to submit additional information and/or clarification.

(A) Petitioners can either respond in part or in full to the technical assistance review letter or ask OFA in writing to proceed with review of the documented petition using the materials already submitted.

(B) If the petitioner requests that materials submitted in response to the technical assistance review letter be again reviewed for adequacy, OFA will provide the additional review. However, this additional review will occur only at the request of the petitioner and is available only once.

(ii) If the documented petition claims previous Federal acknowledgment and/or includes evidence of previous Federal acknowledgment, the technical assistance review will include a review to determine whether that evidence is sufficient to meet the requirements of previous Federal acknowledgment (§ 83.12).

(2) Following the technical assistance review, OFA will provide the petitioner with:

(i) Any comments and evidence OFA may consider in preparing the proposed finding that the petitioner does not already hold, to the extent allowable by Federal law; and

(ii) The opportunity to respond in writing to the comments and evidence petitioner did not already hold.

(3) OFA will then review the record to determine:

(i) For petitioners with previous Federal acknowledgment, whether the criteria at § 83.12(b) are met; or

(ii) For petitioners without previous Federal acknowledgment, whether the Community (§ 83.11(b)) and Political Authority (§ 83.11(c)) Criteria are met.

(4) OFA will then proceed with publication of a proposed finding.

§ 83.27 What are technical assistance reviews?

Technical assistance reviews are preliminary reviews for OFA to tell the petitioner where there appear to be documentary gaps for the criteria that will be under review in that phase and to provide the petitioner with an opportunity to supplement or revise the documented petition.

§ 83.28 When does OFA review for previous Federal acknowledgment?

(a) OFA reviews the documented petition for previous Federal acknowledgment during the technical assistance review of the documented petition for the Community (§ 83.11(b)) and Political Authority (§ 83.11(c)) Criteria.

(b) If OFA cannot verify previous Federal acknowledgment during this technical assistance review, the petitioner must provide additional evidence. If a petitioner claiming previous Federal acknowledgment does not respond or does not demonstrate the claim of previous Federal acknowledgment, OFA will consider its documented petition on the same basis as documented petitions submitted by petitioners not claiming previous Federal acknowledgment.

(c) OFA will notify petitioners that fail to demonstrate previous Federal acknowledgment after a review of any materials submitted in response to the technical assistance review.

§ 83.29 What will OFA consider in its reviews?

(a) In any review, OFA will consider the documented petition and evidence submitted by the petitioner, any comments received on the petition, and petitioners' responses to comments.

(b) OFA may also:

(1) Initiate and consider other research for any purpose relative to analyzing the documented petition and obtaining additional information about the petitioner's status; and

(2) Request and consider additional explanations and information from commenting parties to support or supplement their comments on the proposed finding and from the petitioner to support or supplement their responses to comments.

(c) OFA must provide the petitioner with the additional material obtained in paragraph (b) of this section, and provide the petitioner with the opportunity to respond to the additional material. The additional material and any response by the petitioner will become part of the record.

§ 83.30 Can a petitioner withdraw its documented petition?

A petitioner can withdraw its documented petition at any point in the process but the petition will be placed at the bottom of the numbered register of documented petitions upon re-submission and may not regain its initial priority number.

§ 83.31 Can OFA suspend review of a documented petition?

(a) OFA can suspend review of a documented petition, either conditionally or for a stated period, upon:

(1) A showing to the petitioner that there are technical or administrative problems with the documented petition that temporarily preclude continuing review; and

(2) Approval by the Assistant Secretary of the suspension.

(b) Upon resolving the technical or administrative problems that led to the suspension, the documented petition will have the same priority on the numbered register of documented petitions to the extent possible.

(1) OFA will notify the petitioner and informed parties when it resumes review of the documented petition.

(2) Upon the resumption of review, the time period for OFA to issue a proposed finding will begin anew.

Proposed Finding

§ 83.32 When will OFA issue a proposed finding?

(a) OFA will issue a proposed finding as shown in the following table:

OFA must	within . . .
(1) Complete its review under Phase I and either issue a negative proposed finding and publish a notice of availability in the **Federal Register,** or proceed to review under Phase II–A, if applicable, or Phase II–B.	six months after notifying the petitioner under § 83.25 that OFA has begun review of the petition.
(2) Complete its review under Phase II–A and either issue a favorable proposed finding and publish a notice of availability in the **Federal Register,** or proceed to Phase II–B.	two months after the deadline in paragraph (a)(1) of this section.
(3) Complete its review under Phase II–B and issue a proposed finding and publish a notice of availability in the **Federal Register**.	six months after the deadline in paragraph (a)(1) of this section.

(b) AS–IA may extend these deadlines only if it has approved a suspension under § 83.31(a).

(c) OFA will strive to limit the proposed finding and any reports to no more than 100 pages, cumulatively, excluding source documents.

§ 83.33 What will the proposed finding include?

The proposed finding will summarize the evidence, reasoning, and analyses that are the basis for OFA's proposed finding regarding whether the petitioner meets the applicable criteria.

(a) A Phase I negative proposed finding will address that the petitioner fails to meet any one or more of the following criteria: Descent (§ 83.11(e)), Tribal Existence (§ 83.11(a)), Governing Document (§ 83.11(d)), Membership (§ 83.11(f)), or Congressional Termination (§ 83.11(g)).

(b) A Phase II–A favorable proposed finding will address that the petitioner meets one of the factors in § 83.11(b)(3) and (c)(3) and that the petitioner meets all of the following criteria: the Descent (§ 83.11(e)), Tribal Existence (§ 83.11(a)), Governing Document (§ 83.11(d)), Membership (§ 83.11(f)), and Congressional Termination (§ 83.11(g)) Criteria.

(c) A Phase II–B proposed finding will address whether the petitioner meets either the Community (§ 83.11(b)) and Political Authority (§ 83.11(c)) Criteria or the previous Federal acknowledgment criteria (§ 83.12(b)) and whether the petitioner meets all of the following criteria: Descent (§ 83.11(e)), Tribal Existence (§ 83.11(a)), Governing Document (§ 83.11(d)), Membership (§ 83.11(f)), and Congressional Termination (§ 83.11(g)) Criteria.

§ 83.34 What notice of the proposed finding will OFA provide?

In addition to publishing notice of the proposed finding in the **Federal Register,** OFA will:

(a) Provide copies of the proposed finding and any supporting reports to the petitioner and informed parties; and

(b) Publish the proposed finding and reports available on the OFA Web site.

Proposed Finding—Comment and Response Periods, Hearing

§ 83.35 What opportunity to comment will there be after OFA issues the proposed finding?

(a) Publication of notice of the proposed finding will be followed by a 90-day comment period. During this comment period, the petitioner or any individual or organization may submit the following to AS–IA to rebut or support the proposed finding:

(1) Comments, with citations to and explanations of supporting evidence; and

(2) Evidence cited and explained in the comments.

(b) Any parties that submit comments and evidence must provide the petitioner with a copy of their submission.

§ 83.36 Can the Assistant Secretary extend the comment period on the proposed finding?

(a) AS–IA can extend the comment period for a proposed finding for up to an additional 60 days upon a finding of good cause.

(b) If AS–IA grants a time extension, it will notify the petitioner and informed parties.

§ 83.37 What procedure follows the end of the comment period on a favorable proposed finding?

(a) At the end of the comment period for a favorable proposed finding, AS–IA will automatically issue a final determination acknowledging the petitioner as a federally recognized Indian tribe if AS–IA does not receive timely comments or evidence challenging the proposed finding from either:

(1) The State or local government where the petitioner's office is located; or

(2) Any federally recognized Indian tribe within the State or within a 25-mile radius of the petitioner's headquarters.

(b) If AS–IA has received timely comments and evidence challenging the proposed finding from any of the parties listed in paragraph (a) of this section, then the petitioner will have 60 days to respond with responses, with citations to and explanations of supporting evidence, and supporting evidence cited and explained in the responses. AS–IA can extend the comment response period if warranted by the extent and nature of the submitted comments and evidence and will notify the petitioner and informed parties by letter of any extension. AS–IA will not consider further comments or evidence on the proposed finding submitted by individuals or organizations during this period.

§ 83.38 What options does the petitioner have at the end of the comment period on a negative proposed finding?

(a) At the end of the comment period for a negative proposed finding, the petitioner will have 60 days to:

(1) Elect to challenge the proposed finding in a hearing before an OHA

judge by sending a written election of hearing to OFA that lists:

(i) The issues of material fact; and

(ii) The witnesses and exhibits the petitioner intends to present at the hearing, other than solely for impeachment purposes, including:

(A) For each witness listed, his or her name, address, telephone number, and qualifications and a brief narrative summary of his or her expected testimony; and

(B) For each exhibit listed, a statement specifying whether the exhibit is in the administrative record reviewed by OFA; and/or

(2) Respond to any comments and evidence made during the comment period with responses, with citations to and explanations of supporting evidence, and evidence cited and explained in the responses.

(b) AS–IA can extend the comment response period if warranted by the extent and nature of the comments and will notify the petitioner and informed parties by letter of any extension. AS–IA will not consider further comments or evidence on the proposed finding submitted by individuals or organizations during this period.

§ 83.39 What is the procedure if the petitioner elects to have a hearing before an OHA judge?

(a) *Case referral.*

(1) If the petitioner elects to challenge the proposed finding in a hearing before an OHA judge, OFA will refer the case to the Office of Hearings and Appeals.

(2) The case referral will consist of the entire record, including any comments and evidence and responses sent to AS–IA, and a notice of referral containing:

(i) The name, address, telephone number, and facsimile number of the Office of Hearings and Appeals;

(ii) The name, address, and other contact information for the representatives of the petitioner and OFA; and

(iii) The date on which OFA is referring the case.

(3) Within 5 business days after receipt of the petitioner's hearing election, OFA will send the case referral to the Office of Hearings and Appeals and the notice of referral to the petitioner and each informed party by express mail or courier service for delivery on the next business day.

(b) *Hearing Process.* The Office of Hearings and Appeals will conduct the hearing process in accordance with 43 CFR part 4, subpart K.

(c) *Hearing record.* The hearing will be on the record before an OHA judge. The hearing record will become part of the record considered by AS–IA in reaching a final determination.

(d) *Recommended decision.* The OHA judge will issue a recommended decision and forward it along with the rest of the record to the AS–IA in accordance with the timeline and procedures in 43 CFR part 4, subpart K.

AS–IA Evaluation and Preparation of Final Determination

§ 83.40 When will the Assistant Secretary begin review?

(a) AS–IA will begin his/her review:

(1) Upon expiration of the period for the petitioner to respond to comments or upon expiration of the comment period for a positive proposed finding if no comments were submitted; or

(2) If a hearing is held, upon receipt of the OHA judge's recommended decision.

(b) AS–IA will notify the petitioner and informed parties of the date he/she begins consideration.

§ 83.41 What will the Assistant Secretary consider in his/her review?

(a) AS–IA will consider all the evidence in the administrative record.

(b) AS–IA will not consider comments submitted after the close of the response period established in § 83.35 and § 83.38.

§ 83.42 When will the Assistant Secretary issue a final determination?

(a) AS–IA will issue a final determination and publish a notice of availability in the **Federal Register** within 90 days from the date on which he/she begins its review. AS–IA will also

(1) Provide copies of the final determination to the petitioner and informed parties; and

(2) Make copies of the final determination available to others upon written request.

(b) If the proposed finding was positive, AS–IA may not issue a negative final determination unless and until AS–IA remands the matter to OFA for the petitioner to receive technical assistance addressing new evidence that would be the basis for the negative final determination.

(1) If OFA concludes that the technical assistance does not resolve the issue presented by the new evidence, OFA will issue a negative proposed finding and individuals and organizations will have the opportunity to comment, and the petitioner will have the opportunity to respond to comments and elect to have a hearing, under the procedures in §§ 83.35 to 83.38;

(2) If the technical assistance resolves the issue presented by the new evidence, then the Assistant Secretary will proceed with § 83.41, and incorporate resolution of the new evidence in the final determination.

(c) AS–IA will strive to limit the final determination and any reports to no more than 100 pages, cumulatively, excluding source documents.

§ 83.43 How will the Assistant Secretary make the determination decision?

(a) AS–IA will issue a final determination granting acknowledgment as a federally recognized Indian tribe when AS–IA finds that the petitioner meets the Tribal Existence (§ 83.11(a)), Governing Document (§ 83.11(d)), Descent (§ 83.11(e)), Membership (§ 83.11(f)), and Congressional Termination (§ 83.11(g)) Criteria and:

(1) Demonstrates previous Federal acknowledgment under § 83.12(a) and meets the criteria in § 83.12(b); or

(2) Meets the Community (§ 83.11(b)) and Political Authority (§ 83.11(c)) Criteria.

(b) AS–IA will issue a final determination declining acknowledgement as a federally recognized Indian tribe when he/she finds that the petitioner does not meet the criteria in paragraph (a) of this section.

§ 83.44 Is the Assistant Secretary's final determination final for the Department?

Yes. The final determination is final for the Department and is a final agency action under the Administrative Procedure Act (5 U.S.C. 704).

§ 83.45 When will the final determination be effective?

The final determination will become immediately effective. Within 10 business days of the decision, the Assistant Secretary shall submit to the **Federal Register** a notice of the final determination to be published in the **Federal Register**.

§ 83.46 How is a petitioner with a positive final determination integrated into Federal programs as a federally recognized Indian tribe?

(a) Upon acknowledgment, the petitioner will be a federally recognized Indian tribe entitled to the privileges and immunities available to federally recognized Indian tribes. It will be included on the list of federally recognized Indian tribes in the next scheduled publication.

(b) Within six months after acknowledgment, the appropriate Bureau of Indian Affairs Regional Office will consult with the newly federally recognized Indian tribe and develop, in cooperation with the federally recognized Indian tribe, a determination of needs and a recommended budget.

These will be forwarded to the Assistant Secretary. The recommended budget will then be considered with other recommendations by the Assistant Secretary in the usual budget request process.

(c) While the newly federally recognized Indian tribe is eligible for benefits and services available to federally recognized Indian tribes, acknowledgment as a federally recognized Indian tribe does not create immediate access to existing programs. The federally recognized Indian tribe may participate in existing programs after it meets the specific program requirements, if any, and upon appropriation of funds by Congress. Requests for appropriations will follow a determination of the needs of the newly federally recognized Indian tribe.

Dated: May 22, 2014.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2014–12342 Filed 5–28–14; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0711]

RIN 1625–AA09

Drawbridge Operation Regulation; Raccoon Creek, Bridgeport, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice reopening comment period; Correction.

SUMMARY: The Coast Guard is reopening the comment period to solicit additional comments concerning its notice of proposed rulemaking to change the regulation governing the U.S. Route 130 lift bridge across Raccoon Creek at mile 1.8 at Bridgeport, New Jersey. This notice corrects a misstatement in the notice of proposed rulemaking regarding the bridge data and responds to the initial comments received.

DATES: Comments and related material must be received by June 30, 2014.

ADDRESSES: You may submit comments identified by docket number USCG–2013–0711 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail or Delivery:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329.

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments. To avoid duplication, please use only one of these methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mrs. Jessica Shea, Fifth Coast Guard District Bridge Administration Division, Coast Guard; telephone 757–398–6422, email *jessica.c.shea2@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

A. Public Participation and Request for Comments

The Coast Guard encourages you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change to *http://www.regulations.gov* and will include any personal information you have provided.

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2013–0711), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (*http://www.regulations.gov*), or by fax, mail or hand delivery, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov*, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, type the docket number [USCG–2013–0711] in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number (USCG–2013–0711) 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. We have an agreement with the Department of Transportation to use the Docket Management Facility.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

4. Public Meeting

The Coast Guard does not plan to hold a public meeting. But you may submit a request for one to the docket using one of the four methods specified under **ADDRESSES**. Please explain why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

B. Background and Purpose

On October 28, 2013, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled, Drawbridge Operation Regulation; Raccoon Creek, Bridgeport, NJ in the **Federal Register** (78 FR 64189). The original comment period, in which the

Coast Guard received two comments, closed on December 27, 2013. The NPRM proposed the initial changes to the regulation governing the U.S. Route 130 lift bridge across Raccoon Creek, mile 1.8, and contains useful background and analysis related to the initial proposed change. The public is encouraged to review the NPRM.

The original request from the bridge owner, NJDOT, included logs from the 2007–2013 timeframe. The logs indicated an impact on average of up to 30 vessels annually and an average of 10 vessels in the months of March, April, and November. However, on page 64190 under ''D. Discussion of Proposed Rule'' heading of the NPRM, the Coast Guard stated ''fewer than 5 vessels annually will be required to provide 4 hours advance notice under the proposed change.'' The Coast Guard would like to correct that statement here and give the public the opportunity to comment on the revised bridge data. Table A shows the monthly logs for 2007–2013 during the 7 a.m. to 11 p.m. time period provided by NJDOT.

TABLE A—BRIDGE OPENINGS FOR JANUARY 2007–JUNE 2013

Month	2013	2012	2011	2010	2009	2008	2007
January	8	0	0	2	0	2	0
February	8	0	0	1	0	0	0
March	7	0	0	5	0	0	0
April	22	5	0	10	15	13	2
May	39	12	13	33	14	20	17
June	52	27	33	42	33	38	40
July	.....	36	19	30	81	49	65
August	.....	27	14	21	59	38	57
September	.....	34	8	31	59	45	56
October	.....	12	12	4	26	17	10
November	.....	8	14	1	2	10	1
December	.....	1	4	0	6	0	2
Total	.....	162	117	180	295	232	250

Additionally, the Coast Guard received two comments on the NPRM that are addressed below. The first commenter stated that the change to the existing regulation is not in the public interest and would inconvenience captains that transit the waterway in those three months. The commenter further stated that this change is a cost savings to the bridge owner and that this cost savings is the true reason behind the change. The commenter requested a revision to the background and purpose and to reopen the comment period. Under the Coast Guard's policy for bridge administration, regulations are not promulgated to relieve the owner or operator of the duty to properly operate the bridge solely because of financial hardship. The Coast Guard did not seek further information from NJDOT. NJDOT provided the Coast Guard with bridge tender logs indicating the actual number of openings for the bridge for the preceding five years. The well-documented data, provided above, of an average of less than 10 bridge openings per month in March, April and November since 2006 justifies this regulatory change. The Coast Guard considers maintaining efficiency and reduction of waste in the operation of bridges as within the public interest. Based on this information, the Coast Guard proposes this change to the drawbridge operation schedule.

Based on the second comment from the marina owner, NJDOT provided additional information to the Coast Guard specific to the month of April. This includes data dating back to 1995. (See Table B)

TABLE B—BRIDGE OPENINGS DURING APRIL 1995–2006

Month	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
April	4	9	6	20	6	17	3	10	1	7	6	2

With 19 years of documented openings for the month of April, the average number of transits is less than 10 vessels per month during the month of April. The commenter requested April be eliminated from the final rule. The Coast Guard does not plan to eliminate the month of April from the modification of the operating schedule that governs the Route 130 bridge over Raccoon Creek. The relatively few vessels that require an opening in the month of April may do so by providing four hours advanced notice.

This notice, re-opening the comment period, ensures the public has an opportunity to comment on the revised bridge opening data before the Coast Guard makes the proposed changes final.

This notice is issued under authority of 33 U.S.C. 1223 and 5 U.S.C. 552.

Dated: May 16, 2014.

Stephen P. Metruck,

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

[FR Doc. 2014–12373 Filed 5–28–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 147

[Docket No. USCG–2014–0242]

RIN 1625–AA00

Safety Zone; Gulfstar 1 SPAR, Mississippi Canyon Block 724, Outer Continental Shelf on the Gulf of Mexico

Correction

Proposed Rule document 2014–11567, appearing on pages 29095 through

29098 in the issue of Wednesday, May 21, 2014, should have appeared in the Proposed Rules section of the **Federal Register**.

[FR Doc. C1–2014–11567 Filed 5–28–14; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2014–0329]

RIN 1625–AA00

Safety Zones; Marine Events in Captain of the Port Long Island Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard proposes to establish four temporary safety zones for three fireworks events and one swim event within the Captain of the Port Long Island Sound Zone. This action is necessary to provide for the safety of life on navigable waters during these events. The safety zones will facilitate public notification of these events and provide protective measures for the maritime public and event participants from the hazards associated with these events. Entering into, transiting through, remaining, anchoring or mooring within these regulated areas would be prohibited unless authorized by the Captain of the Port Sector Long Island Sound.

DATES: Comments and related material must be received by the Coast Guard on or before June 30, 2014.

Requests for public meetings must be received by the Coast Guard on or before June 5, 2014.

ADDRESSES: You may submit comments identified by docket number using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail or Delivery:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329.

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Scott Baumgartner, Prevention Department, Coast Guard Sector Long Island Sound, (203) 468–4559, *Scott.A.Baumgartner@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

COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at *http://www.regulations.gov,* or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* type the docket number [USCG–2014–0329] in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number (USCG–2014–0329) 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.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

4. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under **ADDRESSES** on or before June 5, 2014. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

B. Regulatory History and Information

There are four separate marine events addressed by this temporary regulation. The Brookhaven Memorial Hospital fireworks display and the Baker Family Celebration fireworks display are first time events with no regulatory history. The Village of Saltaire fireworks display and the Riverhead Rocks Triathlon were both held the previous year and had separate safety zones established by a temporary final rule entitled ''Special Local Regulations and Safety Zones; Marine Events in Captain of the Port Long Island Sound Zone.'' This rulemaking was published on July 10,

2013 in the **Federal Register** (78 FR 41300).

C. Basis and Purpose

The legal basis for this temporary 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, and 160.5; Public Law 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1 which collectively authorize the Coast Guard to define regulatory safety zones.

This temporary rule is necessary to promote the safety of life on navigable waterways within the COTP Long Island Sound Zone during these events.

D. Discussion of Proposed Rule

This temporary rule proposes to establish four safety zones for three fireworks displays and one swim event. This rule will be effective from 8:30 p.m. on August 2, 2014 to 10:30 p.m. on August 30, 2014.

The events covered by this regulation will be enforced on the respective dates and times listed in the table below. If any of the events are cancelled due to inclement weather, then this regulation will be enforced on rain dates listed in the table below.

Fireworks Displays		
1	Village of Saltaire Fireworks	• Date: August 2, 2014. • Rain Date: August 30, 2014. • Time: 8:30 p.m. to 10:30 p.m. • Location: All waters of Saltaire Bay near Saltaire, NY within 600 feet of the fireworks barge located in approximate position 40°38′37.72″ N, 073°11′58.52″ W (NAD 83).
2	Brookhaven Memorial Hospital Fireworks	• Date: August 9, 2014. • Rain Date: August 10, 2014. • Time: 8:45 p.m. to 10:45 p.m. • Location: All waters of Bellport Bay near Bellport, NY within 600 feet of the fireworks barge located in approximate position 40°45′09.22″ N, 072°55′44.78″ W (NAD 83).
3	Baker Family Celebration Fireworks	• Date: August 16, 2014. • Rain Date: August 17, 2014. • Location: All waters of Flanders Bay near Jamesport, NY within 600 feet of the fireworks barge located in approximate position 40°55′51.84″ N, 072°35′07.92″ W (NAD 83).
Swim Event		
4	Riverhead Rocks Triathlon	• Date: August 3, 2014 • Time: 6:20 a.m. to 8:30 p.m. • Location: All waters of the Peconic River, Riverhead, NY within the area bounded to the west by a line connecting points at 40°54′58.09″ N, 072°39′37.56″ W on the northern bank and 40°54′56.74″ N, 072°39′37.56″ W on the southern bank and bounded to the east by a line connecting points at 40°55′01.92″ N, 072°38′51.08″ W on the northern bank and 40°54′59.15″ N, 072°38′51.08″ W on the southern bank (NAD 83). All positions are approximate.

The fireworks displays listed above are expected to attract large numbers of spectator vessels that will congregate around the location of these events. A regulated area, specifically a safety zone, is required for each of these fireworks displays to protect both spectators and participants from the safety hazards created by them, including unexpected pyrotechnics detonation and burning debris. The Riverhead Rocks Triathlon incorporates swim legs that will place many swimmers in the navigable waters of the Peconic River. A regulated area is required to minimize the hazards posed by spectators and other waterway users operating their vessels in close proximity to the event participants. The safety zone established for this swim event will minimize the risks to the event participants from this type of boat traffic and improve visibility and maneuverability for the safety vessels supporting the swim event.

This rule would prevent vessels from entering, transiting, mooring or anchoring within areas specifically designated as regulated areas during the periods of enforcement unless authorized by the COTP or designated representative.

Public notifications will be made to the local maritime community prior to the event through the Local Notice to Mariners and Broadcast Notice to Mariners.

E. Regulatory Analyses

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

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, 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.

The Coast Guard determined that this rule is not a significant regulatory action for the following reasons: The regulated

areas will be of limited duration and cover only a small portion of the navigable waterways. Furthermore, vessels may transit the navigable waterways outside of the regulated areas. Vessels requiring entry into the regulated areas may be authorized to do so by the COTP or designated representative.

Advanced public notifications will also be made to the local maritime community by the Local Notice to Mariners as well as Broadcast Notice to Mariners.

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

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to enter, transit, anchor or moor within the regulated areas during the periods of enforcement from August 2, 2014, 2014 to August 30, 2014.

This temporary special local regulation will not have a significant economic impact on a substantial number of small entities for the following reasons: The regulated areas are of short duration, vessels that can safely do so may navigate in all other portions of the waterways except for the areas designated as regulated areas, and vessels requiring entry into the regulated areas may be authorized to do so by the COTP Sector Long Island Sound or designated representative. Additionally, before the effective period, public notifications will be made to local mariners through appropriate means, which may include but are not limited to the Local Notice to Mariners as well as Broadcast Notice to Mariners

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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 proposed 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. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This proposed 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 proposed 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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children From Environmental Health Risks

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

11. Indian Tribal Governments

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

12. Energy Effects

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

14. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination 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 proposed rule involves the establishment of four safety zones. This rule may be categorically excluded from further

review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A preliminary environmental analysis checklist supporting this determination is 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 proposed rule.

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 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, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; and Department of Homeland Security Delegation No. 0170.1

■ 2. Add § 165.T01–0329 to read as follows:

§ 165.T01–0329 Safety Zones; Marine Events in Captain of the Port Long Island Sound Zone.

(a) *Regulations.* The general regulations contained in 33 CFR 165.23 as well as the following regulations apply to the events listed in the TABLE 1 of § 165.T01–0329. These regulations will be enforced for the duration of each event.

(b) *Enforcement Period.* This rule will be enforced on the dates and times listed for each event in TABLE 1 of § 165.T01–0329. If the event is delayed by inclement weather, the regulations will be enforced on the rain date indicated in TABLE 1 of § 165.T01–0329.

(c) *Definitions.* The following definitions apply to this section:

(1) Designated Representative. A ''designated representative'' is any Coast Guard commissioned, warrant or petty officer of the U.S. Coast Guard who has been designated by the Captain of the Port (COTP), Sector Long Island Sound, to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(2) Official Patrol Vessels. Official patrol vessels may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP.

(3) Spectators. All persons and vessels not registered with the event sponsor as participants or official patrol vessels.

(d) *Spectators.* Spectators desiring to enter or operate within the regulated areas should contact the COTP or the designated representative via VHF channel 16 or by telephone at (203) 468–4401 to obtain permission to do so. Spectators given permission to enter or operate in the regulated area must comply with all directions given to them by the COTP Sector Long Island Sound or the designated on-scene representative.

(e) *Enforcement.* Upon being hailed by an official patrol vessel or the designated representative, by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed. Failure to comply with a lawful direction may result in expulsion from the area, citation for failure to comply, or both.

(f) *Locations.* The regulated area for all fireworks displays listed in the TABLE 1 of § 165.T01–0329 is that area of navigable waters within a 600 foot radius of the launch platform for each fireworks display. Fireworks barges used in these locations will also have a sign on their port and starboard side labeled ''FIREWORKS—STAY AWAY.'' This sign will consist of 10 inch high by 1.5 inch wide red lettering on a white background.

(g) *Separation.* For the swim event listed in TABLE 1 to § 165.T01–0329, vessels not associated with the event shall maintain a separation of at least 100 yards from the participants.

TABLE 1 TO § 165—T01–0329

Fireworks Displays	
1 Village of Saltaire Fireworks.	• Date: August 2, 2014. • Rain Date: August 30, 2014. • Time: 8:30 p.m. to 10:30 p.m. • Location: All waters of Saltaire Bay near Saltaire, NY within 600 feet of the fireworks barge located in approximate position 40°38′37.72″ N, 073°11′58.52″ W (NAD 83).

TABLE 1 TO § 165—T01–0329—Continued

2 Brookhaven Memorial Hospital Fireworks.	• Date: August 9, 2014. • Rain Date: August 10, 2014. • Time: 8:45 p.m. to 10:45 p.m. • Location: All waters of Bellport Bay near Bellport, NY within 600 feet of the fireworks barge located in approximate position 40°45′09.22″ N, 072°55′44.78″ W (NAD 83).
3 Baker Family Celebration Fireworks.	• Date: August 16, 2014. • Rain Date: August 17, 2014. • Location: All waters of Flanders Bay near Jamesport, NY within 600 feet of the fireworks barge located in approximate position 40°55′51.84″ N, 072°35′07.92″ W (NAD 83).
Swim Event	
4 Riverhead Rocks Triathlon.	• Date: August 3, 2014 • Time: 6:20 a.m. to 8:30 a.m. • Location: All waters of the Peconic River, Riverhead, NY within the area bounded to the west by a line connecting points at 40°54′58.09″ N 072°39′37.56″ W on the northern bank and 40°54′56.74″ N 072°39′37.56″ W on the southern bank and bounded to the east by a line connecting points at 40°55′01.92″ N 072°38′51.08″ W on the northern bank and 40°54′59.15″ N 072°38′51.08″ W on the southern bank (NAD 83). All positions are approximate.

Dated: May 13, 2014.

E.J. Cubanski, III,

Captain, U.S. Coast Guard, Captain of the Port Sector Long Island Sound.

[FR Doc. 2014–12379 Filed 5–28–14; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 110, 112, 116, 117, 122, 230, 232, 300, 302, and 401

[FRL–9911–61–OA]

Definition of ''Waters of the United States'' Under the Clean Water Act; Meeting of the Local Government Advisory Committee

AGENCY: Environmental Protection Agency.

ACTION: Announcement of meeting.

SUMMARY: The Local Government Advisory Committee's Protecting America's Waters Workgroup is seeking input on its Charge from the Environmental Protection Agency (EPA) to give advice and recommendations on a proposed rule to clarify protection under the Clean Water Act for streams and wetlands that form the foundation of the nation's water resources. The LGAC Protecting America's Waters Workgroup will have a series of meetings to hear from local elected and appointed officials at several geographic field locations.

The focus of the workgroup meeting is to hear from local officials on local issues of concern related to Waters of the United States proposed rule published on April 21, 2014 (79 FR 22188). This is an open meeting and state, local and tribal officials are invited to attend. Individuals or organizations wishing to address the workgroup meeting will be allowed a maximum of five minutes to present their point of view.

DATES: The first of the meetings will be held on Wednesday, May 28, 2014, in St. Paul, MN. The Workgroup will hear comments from state, local and tribal officials and the public between 11:20 a.m.–12:25 p.m. on Wednesday, May 28, 2014.

ADDRESSES: The LGAC Protecting America's Waters Workgroup meeting will be held at the City Hall, 15 Kellogg Boulevard West, Room 40 A & B, St. Paul, Minnesota 55102. The Workgroup's meeting summary will be available after the meeting online at *www.epa.gov/ocir/scas* and can be obtained by written request to the DFO. Written comments may be submitted electronically to *Zinsmeister.Emma@epa.gov* or provided to the designated EPA staff on comment cards. Please contact the Designated Federal Officer (DFO) at the number listed below to schedule comment time. Time will be allotted on a first-come, first-served basis. If you are interested in attending subsequent meetings of the workgroup, details will be posted when they are available at: *http://www.epa.gov/ocirpage/scas_lgac/lgac_index.htm.*

You should be aware that comments submitted to the workgroup are solely for the workgroup's consideration. If you want to submit comments directly to the EPA on the proposed rule you should go to: *http://www.regulations.gov* Docket ID No. EPA–HQ–OW–2011–0880. Follow the instructions for submitting comments or email *ow-docket@epa.gov.* Include EPA–HQ–OW–2011–0880 in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Emma Zinsmeister, Protecting America's Waters Workgroup at (202) 343–9043 or Fran Eargle, the Designated Federal Officer for the Local Government Advisory Committee (LGAC) at (202) 564–3115 or email at *Eargle.frances@epa.gov.*

SUPPLEMENTARY INFORMATION: For Information on access or services for individuals with disabilities, please contact Frances Eargle at (202) 564–3115 or *eargle.frances@epa.gov.* To request accommodation of a disability, please request 2 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: May 19, 2014.

Frances Eargle,

Designated Federal Officer, Local Government Advisory Committee.

[FR Doc. 2014–12463 Filed 5–27–14; 11:15 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[FRL9911–60–OW]

Notice of Public Meeting and Webinar: Revisions to the Unregulated Contaminant Monitoring Rule (UCMR 4) for Public Water Systems

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: The U.S. Environmental Protection Agency (EPA) Office of Ground Water and Drinking Water, Standards and Risk Management Division's Technical Support Center (TSC) announces a public meeting and webinar to discuss the approach to the fourth Unregulated Contaminant Monitoring Rule (UCMR 4) for public drinking water systems. EPA will present information concerning the status of the agency's efforts in the areas of analyte selection, analytical methods, sampling design, determination of minimum reporting levels and other possible revisions relative to the current rule.

DATES: The public meeting and webinar will be held on Wednesday, June 25, 2014, from 9:00 a.m. to 4:30 p.m., Eastern Time. Persons wishing to attend the meeting in-person or on-line via the webinar must register by June 18, 2014, as described in the **SUPPLEMENTARY INFORMATION** section.

ADDRESSES: The public meeting will be held at The Cadmus Group, Inc., third floor conference room located at 1555 Wilson Blvd. Suite 300, Arlington, VA 22209. All attendees must show government-issued photo identification (e.g., a driver's license) when signing in. This meeting will also be simultaneously broadcast as a webinar, available through the Internet.

FOR FURTHER INFORMATION CONTACT: Members of the public who wish to receive further information about the meeting and webinar or have questions about this notice should contact Brenda Parris or Melissa Simic, Technical Support Center, Standards and Risk Management Division, Office of Ground Water and Drinking Water (MS 140), Environmental Protection Agency, 26 West Martin Luther King Drive, Cincinnati, OH 45268; telephone number: (513) 569–7961 or (513) 569–7864; email address: *parris.brenda@epa.gov* or *simic.melissa@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. How may I participate in this meeting?

Persons wishing to attend the meeting in-person or online via the webinar must register in advance no later than 5:00 p.m., Eastern Time on June 18, 2014, by sending an email to: *UCMRWebinar@cadmusgroup.com*. The agenda for the public meeting and webinar will include time for public involvement. To ensure adequate time for public involvement, individuals or organizations interested in making a statement should mention their interest when they register. All presentation materials should be emailed to *UCMRWebinar@cadmusgroup.com* by June 18, 2014, so that the information can be incorporated into the webinar. We ask that only one person present the statement on behalf of a group or organization, and that the statement be limited to ten minutes. Any additional comments or written statements from attendees will be taken if time permits or can be sent to *UCMRWebinar@*

cadmusgroup.com after the public meeting and webinar. The number of seats and webinar connections available for the meeting is limited and will be available on a first-come, first-served basis.

B. How can I get a copy of the meeting and webinar materials?

The meeting materials will be sent by email to the registered attendees prior to the public meeting and webinar; copies will also be provided for attendees at the meeting. Information about registration and participation in the meeting and webinar can be found on the EPA's Unregulated Contaminant Monitoring Program Meetings and Materials Web page: *http://water.epa.gov/lawsregs/rulesregs/sdwa/ucmr/calendar.cfm*.

Special Accommodations: Individuals with disabilities who wish to attend the meeting in person can request special accommodations by contacting *UCMRWebinar@cadmusgroup.com* no later than June 18, 2014.

II. Background

The Safe Drinking Water Act (SDWA) requires the EPA to promulgate rules establishing criteria for a monitoring program for unregulated contaminants in drinking water. Monitoring varies based on system size, source water, and contaminants likely to be found. SDWA also specifies that for systems serving 10,000 persons or fewer, only a representative sample of systems must monitor. Per SDWA, EPA is required to issue, every five years, a list of not more than 30 unregulated contaminants to be monitored by public water systems. The third and most recent rule (UCMR 3) was published on May 2, 2012. The fourth (UCMR 4) is scheduled to be published by December 2016.

Dated: May 20, 2014.

Peter Grevatt,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 2014–12467 Filed 5–28–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PS Docket No. 09–19; DA 14–508]

Audio Filtering Requirement for Travelers' Information Stations

AGENCY: Federal Communications Commission.

ACTION: Request for Comments.

SUMMARY: In this document, the Commission seeks comment on a proposal filed by the National Association of Broadcasters (NAB) that would relax but not eliminate certain of the Commission's rules which require the filtering of Travelers' Information Stations (TIS) audio frequencies between 3 and 20 kHz.

DATES: Comments are due on or before June 30, 2014 and reply comments are due on or before July 14, 2014.

ADDRESSES: You may submit comments, identified by PS Docket No. 09–19 by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *Mail:* Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- *People with Disabilities:* Contact the Commission to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432. For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street SW., Washington DC 20554.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

FOR FURTHER INFORMATION CONTACT: Eric Ehrenreich, Policy and Licensing Division, Public Safety and Homeland Security Bureau, at (202) 418–1726 or *Eric.Ehrenreich@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the document in PS Docket No. 09–19, DA 14–508, released on April 16, 2014. This document is available to the public at *http://hraunfoss.fcc.gov/edocs_public/Query.do?numberFld=14–508&numberFld2=&docket=&dateFld=&docTitleDesc=.*

Synopsis

1. By this document we seek comment on a proposal filed by the National Association of Broadcasters (NAB) that would relax but not eliminate § 90.242(b)(8) of the Commission's rules, 47 CFR. 90.242(b)(8). This rule section requires the filtering of Travelers' Information Stations (TIS) audio frequencies between 3 and 20 kHz. NAB filed its proposal by way of reply comments to a Further Notice of Proposed Rulemaking (FNPRM), which proposed elimination of § 90.242(b)(8).

I. Background

2. Following the Commission's adoption of a 2010 Notice of Proposed Rulemaking (NPRM) that sought comment on various TIS issues, numerous commenters asserted that the TIS filtering requirement decreases the audibility of TIS broadcasts, especially at night and over difficult terrain. Because the filtering issue was not raised in the NPRM but rather was introduced for the first time by commenters in the record, the Commission sought further comment on the issue in the FNPRM, asking whether this requirement should be eliminated. The Commission received nine comments and four reply comments in response to the FNPRM. All commenters, save two, support elimination of the filtering requirement. In addition, many commenters, while supporting this elimination, oppose any mandates to require filter removal or to recertify TIS transmitters as a result of the filter removal.

3. The Society of Broadcast Engineers (SBE) and NAB submitted comments opposing removal of the TIS filtering restriction. SBE states that ''[w]hile it is correct that removal of the filtering . . . would improve the audio quality of a TIS transmission, this would be accomplished by a secondary spectrum user at the cost of harmful interference to adjacent channel AM Broadcast station reception.''

4. Although NAB submitted comments opposing removal of the filtering requirement, it also noted that ''a compromise approach may be workable.'' Specifically, NAB states that ''a filter capable of filtering audio frequencies above 5 kHz should allow for a TIS signal of sufficiently higher quality, without impeding neighboring AM services.'' NAB notes that ''full-power AM radio stations routinely use 5 kHz filters to address and prevent interference among AM stations, with few significant problems.'' NAB tempers

its proposal by noting that SBE states that ''broadcast engineers have observed that some TIS broadcasts contain musical content in the form of segues and other enhancements.'' NAB states that ''[m]usical content requires wider bandwidth that may not be successfully dealt with by a 5 kHz filter.'' Thus, NAB argues that ''a 5 kHz filter may not be adequate if TIS stations continue broadcasting musical content contrary to Commission rules.'' Accordingly, NAB ''offers a proposal to allow TIS operators to use a 5 kHz filter, presuming TIS stations broadcast only voice content, as required under the Commission's rules.''

5. AAIRO responds that it ''can . . . support the compromise proposed by the National Association of Broadcasters, . . .'' because ''[t]he wider filter bandpass would markedly improve TIS voice transmissions and would also protect adjacent broadcasters should a TIS operator transmit non-voice material without authorization.'' AAIRO further submits that if: a wider bandwidth filter may be substituted in place of the present 3-kHz filter . . . the filter [should] be outboard to the TIS transmitter and immediately ahead of its audio input. The FCC should prescribe the exact formula for the audio filter and require its use by all TIS operations—new or existing—whose 3-kHz filters have been deactivated. AAIRO suggests the use of the same roll-off curve presently used in the 3-kHz filter, as it has proven to be adequate during the 30+ years of the TIS service's existence. The use of an outboard filter will streamline the timeline to improve the service and dramatically lower costs for existing operators who would otherwise be required to purchase new transmitters or have their present transmitters modified and recertified.''

II. Discussion

6. We now seek comment on NAB's proposal and related comments. Specifically, we seek more detailed comments with respect to the following issues:

7. *Elimination Versus Relaxation of TIS Filtering Requirement.* Rather than eliminate the TIS filtering requirement, as proposed in the FNPRM, is the public interest better served by NAB's proposal, as endorsed by AAIRO, which would relax the filter requirement from 3 kHz to 5 kHz? Is NAB correct that ''a filter capable of filtering audio frequencies above 5 kHz should allow for a TIS signal of sufficiently higher quality, without impeding neighboring AM services''? Or, would improved audio quality of a TIS transmission come at the cost of harmful interference to adjacent channel AM Broadcast station reception? On what basis should the Commission make this determination? Are there any compelling reasons why the Commission should not adopt the NAB proposal?

8. We also invite comment on any other measures that could both improve the intelligibility of TIS and provide adequate measures to protect adjacent channel stations from harmful interference. SBE contends that many TIS stations fail to adhere to generally accepted modulation standards employed by AM broadcasters, which could result in poor audio quality. In this regard, we seek comment on the state of licensee compliance with TIS modulation rules, and if compliance is lacking, how it could be improved. We also seek comment on whether and how the Commission could revise its TIS modulation rules as part of a solution to improve audio intelligibility and protect adjacent channel stations.

9. *Revision of Operational Requirements.* The current rule requires that at audio frequencies between 3 kHz and 20 kHz, the filter ''shall have an attenuation greater than the attenuation at 1 kHz by at least: 60 $\log_{10}(f/3)$ decibels, where 'f' is the audio frequency in kHz.'' At audio frequencies above 20 kHz, the attenuation shall be at least 50 decibels greater than the attenuation at 1 kHz. This produces a roll-off curve that starts at 0 dB attenuation for 3 kHz, then increases attenuation to approximately 50 dB at 20 kHz. AAIRO suggests that the Commission should use ''the same roll-off curve presently used in the 3-kHz filter'' for a 5-kHz filter. However, if we slide this curve up in frequency to have 0 dB attenuation at 5 kHz but maintain the same slope, then the curve would attenuate signals only by 36 dB at 20 kHz. We seek comment on whether 36 dB attenuation at 20 kHz would be sufficient or whether the roll-off curve for a 5 kHz audio filter in a TIS system should have 50 dB attenuation at 20 kHz, consistent with the existing rule.

10. Staff determined that a roll-off curve of 83 $\log_{10}(f/5)$ decibels for frequencies between 5 kHz and 20 kHz would have 0 dB attenuation at the 5-kHz starting point, and would achieve 50 dB attenuation at 20 kHz. However, this is a steeper roll-off curve than the formula prescribed in the current rule. We seek comment on whether the Commission should impose this attenuation if the Commission decides to relax the filtering requirement from 3 kHz to 5 kHz. We also seek comment on whether affordable audio filters exist in the marketplace that satisfy this roll-off curve, or whether equipment manufacturers could retrofit existing filters or economically design, manufacture, and market such filters in the near term. We also seek comment on the general availability of 5 kHz audio filters in the marketplace, the roll-off curves of specific models, and whether, alternatively, we should impose one of those roll-off curves in our rules.

11. *Revision of Filter Placement Requirements.* The current rule requires that ''[e]ach transmitter in a Travelers Information Station shall be equipped with an audio low-pass filter [that] shall be installed between the modulation limiter and the modulated stage.'' However, as noted above, AAIRO suggests that ''the [replacement] filter [should] be outboard to the TIS transmitter and immediately ahead of its audio input.'' Given this difference in the placement of the filter, we seek comment on the feasibility of AAIRO's suggestion and whether to require such configuration in our rules in the event that the Commission relaxes the filter requirement.

12. *Certification.* As indicated above, many commenters who support elimination of the filtering requirement also request that no recertification requirement accompany such change. Accordingly, we seek comment on whether audio filter elimination/replacement and AAIRO's foregoing suggestion regarding filter placement would either: (1) constitute a change to TIS transmitters that requires recertification; (2) constitute a permissive change in certificated equipment that does not require recertification; or (3) be exempt from the Commission's equipment authorization rules. Commenters should provide evidence to support their arguments.

13. *Should Any Change in the Filtering Requirement be Mandatory?* Finally, whether the Commission either relaxes or eliminates the TIS filtering requirement, should it also require filter replacement or removal, respectively, for existing licensees? Many commenters who support elimination of the filtering requirement also request that such elimination be made optional, at the discretion of individual licensees. To what extent, if any, would such a requirement present an undue financial burden? Is AAIRO correct that a mandatory replacement or removal requirement would likely cause most TIS Services to cease operation due to expense and logistics? On the other hand, are there compelling counter-reasons, to require filter removal or replacement rather than leave it to the discretion of TIS licensees?

III. Procedural Matters

A. Ex Parte Presentations

14. This proceeding has been designated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. 47 CFR 1.1200 *et seq.* Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with § 1.1206(b). In proceedings governed by § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

B. Comment Filing Procedures

15. Interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Interested parties may file comments using: (1) The Commission's Electronic Comment Filing System (ECFS), or (2) by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998). Commenters should refer to docket number 09–19 when filing comments.

16. Electronic Filers: Interested parties may file comments electronically using the Internet by accessing the ECFS: *http://apps.fcc.gov/ecfs2.*

17. Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

18. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

19. All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

20. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

21. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington DC 20554.

22. People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

23. Interested parties may view documents filed in this proceeding on the Commission's Electronic Comment Filing System (ECFS) using the following steps: (1) Access ECFS at *http://apps.fcc.gov/ecfs.* (2) In the introductory screen, click on ''Search for Filings.'' (3) In the ''Proceeding Number'' box, enter the numerals in the docket number. (4) Click on the box marked ''Search for Comments.'' A link to each document is provided in the document list. The public may inspect and copy filings and comments during regular business hours at the FCC Reference Information Center, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The public may also purchase filings and comments from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160, or via email to *fcc@bcpiweb.com.* The public may also download this Public Notice from the Commission's Web site at *http://www.fcc.gov/.*

Federal Communications Commission.

Zenji Nakazawa,

Deputy Division Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau.

[FR Doc. 2014–12511 Filed 5–28–14; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Chapter X

[Docket No. EP 661 (Sub-No. 2)]

Rail Fuel Surcharges (Safe Harbor)

AGENCY: Surface Transportation Board (Board or STB), DOT.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The Board is instituting this advance notice of proposed rulemaking proceeding to give shippers, rail carriers, and other interested persons the opportunity to comment on whether the safe harbor provision of the Board's current fuel surcharge rules should be modified or removed.

DATES: Comments are due by July 14, 2014. Reply comments are due by August 12, 2014.

ADDRESSES: Comments and replies may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the E–FILING link on the Board's Web site, at *http://www.stb.dot.gov.* Any person submitting a filing in the traditional paper format should send an original and 10 copies to: Surface Transportation Board, Attn: EP 661 (Sub-No. 2), 395 E Street SW., Washington, DC 20423–0001. Copies of written comments and replies will be available for viewing and self-copying at the Board's Public Docket Room, Room 131, and will be posted to the Board's Web site.

FOR FURTHER INFORMATION CONTACT: Marc Lerner at 202–245–0390. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: In *Rail Fuel Surcharges* (*Fuel Surcharges*), EP

661 (STB served Jan. 26, 2007), the Board inquired into and made findings regarding rail carrier practices related to fuel surcharges, i.e., a separately identified component of the total rate that is charged for the transportation involved and is designed to recoup increases in the carrier's fuel costs. The Board prohibited rate-based fuel surcharges as an unreasonable practice and, as to the matter at issue here, established as a ''safe harbor'' an index upon which carriers could rely to measure changes in fuel costs for purposes of a fuel surcharge program. *Id.,* slip op. at 11. That index was the Energy Information Administration's (EIA) [1] U.S. No. 2 Diesel Retail Sales by All Sellers (Cents per Gallon), which was and continues to be referred to as the Highway Diesel Fuel Index (HDF Index).[2] *Id.* Although the HDF Index tracks retail fuel prices, which include taxes not paid by wholesale buyers like the Class I railroads, the Board was persuaded that the HDF Index ''accurately reflects *changes* in fuel costs in the rail industry.'' *Id.* (emphasis added). The Board noted that alternative indexes could be used but that they could be challenged as unreasonable on a case-by-case basis.[3]

The changes in a rail carrier's fuel costs are reflected in its ''incremental fuel costs'' by which we mean those fuel costs, not embedded in the base rate, that the rail carrier seeks to recover through a fuel surcharge mechanism. A critical issue that arose in a complaint brought against BNSF Railway Company (BNSF) by Cargill, Incorporated (Cargill), a major shipper of agricultural products, was ''how to measure BNSF's incremental fuel costs.'' *Cargill, Inc.* v. *BNSF Ry.* (*Cargill*), NOR 42120, slip op. at 7 (STB served Aug. 12, 2013.) Cargill argued that BNSF's mileage-based fuel surcharge program constituted an unreasonable practice, asserting that it extracted substantial profits on the traffic to which it applied. Cargill sought to show that BNSF's fuel surcharge revenues exceeded BNSF's incremental fuel costs by comparing BNSF's fuel surcharge revenue to its internal fuel costs.

To address Cargill's ''Profit Center'' claim, the Board had to decide how to calculate BNSF's incremental fuel costs. The Board determined that the ''safe harbor'' language in *Fuel Surcharges* dictated the answer. Specifically, the Board found, in part, that if rail carriers use the HDF Index to measure changes in their fuel costs for purposes of a fuel surcharge program then, under the safe harbor provision adopted in *Fuel Surcharges,* they ''are entitled to rely on the HDF Index as a proxy to measure changes in their internal fuel costs.'' *Id.* at 14. Having created the safe harbor ''to encourage use of the HDF Index'' to measure changes in rail carrier fuel costs, *id.* at 9, the Board concluded that because BNSF had used the HDF Index in the fuel surcharge program at issue, the Board had to use that index as well to calculate BNSF's incremental fuel costs *Id.* (''what the safe harbor means is that if a rail carrier uses the HDF Index [in its fuel surcharge program] to measure changes in its fuel costs, then that is how the Board will measure these changes as well, rather than by looking at evidence of changes in the rail carrier's internal fuel costs'').[4]

Performing its own examination of BNSF's month-to-month incremental fuel costs over a five-year period, the Board determined that, as measured by the HDF Index, BNSF's total incremental fuel costs for the traffic subject to the challenged fuel surcharge program only narrowly exceeded the fuel surcharge revenues BNSF collected on that traffic. The Board observed, however, that if BNSF's incremental fuel costs were instead measured by the rail carrier's internal fuel costs, BNSF's fuel surcharge revenues would have exceeded its incremental fuel costs by $181 million. *Id.* at 14. This occurred because changes in the HDF Index did not precisely reflect changes in BNSF's internal fuel costs. In particular, the ''spread''—i.e., the difference between the average retail price per gallon as reflected in the HDF Index and the lower wholesale price per gallon actually paid by BNSF—increased overall significantly more than it decreased over the five-year analysis period.

This result concerned the Board. Pointing out that it had not rejected Cargill's Profit Center claim lightly, the Board noted that in *Fuel Surcharges* neither it nor any commenting party had foreseen a situation where the spread between a rail carrier's internal fuel costs and the HDF Index would diverge as it had in *Cargill* and that it was unclear if this recovery was a unique situation affecting BNSF during a period of high fuel price volatility or if it was, or was likely to have been, a more widespread phenomenon that could undermine the usefulness of the safe harbor provision. The Board expressed concern that the safe harbor provision could give rail carriers an unintended advantage: if a rail carrier's internal fuel costs rise relative to HDF Index prices, the rail carrier could revise its fuel surcharge level upward to ensure that it fully recovers its incremental fuel costs; on the other hand, if a rail carrier's internal fuel costs declined relative to HDF Index prices (as happened to BNSF), the rail carrier could leave its fuel surcharge level in place, creating a spread and excessive revenues. *Id.* at 17. This could allow a rail carrier to recover substantially more than its incremental internal fuel costs yet still be permissible under the safe harbor.

The Board found no evidence to suggest that BNSF had intentionally taken advantage of this aspect of the safe harbor. Nevertheless, because of the possibility of future abuse, the Board stated that it would give shippers, rail carriers, and other interested persons the opportunity to file comments on the issue.

We are seeking comments from the public on whether the safe harbor provision of *Fuel Surcharges* should be modified or removed. In particular, we seek comments on: whether or not the phenomenon that we observed in *Cargill* (a growing spread between a rail carrier's internal fuel costs and the HDF Index) was likely an aberration; whether there are problems associated with the Board's use of the HDF Index as a safe harbor in judging the reasonableness of fuel surcharge programs; whether any problems with the safe harbor could be addressed through a modification of it; and whether any problems with the safe harbor are outweighed by its benefits. Parties are also encouraged to comment on any other matter that they believe bears on whether the safe harbor should be modified or removed.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Authority: 49 U.S.C. 721(a) and 10702.

Decided: May 22, 2014.

By the Board, Chairman Elliott, Vice Chairman Begeman, and Commissioner Miller.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2014–12434 Filed 5–28–14; 8:45 am]

BILLING CODE 4915–01–P

[1] The EIA is an independent arm of the U.S. Department of Energy.

[2] In the notice of proposed rulemaking issued in *Fuel Surcharges,* the Board had proposed to mandate use of the HDF Index to measure incremental fuel costs.

[3] In a separate proceeding, the Board amended its regulations at 49 CFR 1243.3 to require Class I rail carriers to report on a quarterly basis certain data concerning fuel costs and fuel surcharges billed. *See Rail Fuel Surcharges,* EP 661 (Sub-No. 1) (STB served Aug. 14, 2007).

[4] The Board also rejected Cargill's claim that the general formula used to calculate the fuel surcharges bore no reasonable nexus to, and overstated, fuel consumption for the BNSF system traffic to which the surcharge was applied.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2013–0086; 4500030113]

RIN 1018–AZ60

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Physaria globosa (Short's Bladderpod), Helianthus verticillatus (Whorled Sunflower), and Leavenworthia crassa (Fleshy-Fruit Gladecress)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; revision and reopening of the comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period on the August 2, 2013, proposed designation of critical habitat for the *Physaria globosa* (Short's bladderpod), *Helianthus verticillatus* (whorled sunflower), and *Leavenworthia crassa* (fleshy-fruit gladecress) under the Endangered Species Act of 1973, as amended (Act). We also announce the availability of a draft economic analysis (DEA) of the proposed designation for these species as well as an amended required determinations section of the proposal. We also propose to increase the proposed designation of critical habitat for *Leavenworthia crassa* by approximately 0.04 hectare (0.1 acre) by adding one unit in Lawrence County, Alabama. We are reopening the comment period to allow all interested parties an opportunity to comment simultaneously on the revised proposed rule, the associated DEA, and the amended required determinations section. Comments previously submitted need not be resubmitted, as they will be fully considered in preparation of the final rule.

DATES: We will consider comments received or postmarked on or before June 30, 2014. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** section, below) must be received by 11:59 p.m. Eastern Time on the closing date.

ADDRESSES:

Document availability: You may obtain copies of the proposed rule and the associated documents of the draft economic analysis (DEA) on the internet at *http://www.regulations.gov* at Docket No. FWS–R4–ES–2013–0086 or by mail from the Tennessee Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Written Comments: You may submit written comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* Submit comments on the critical habitat proposal and associated DEA by searching for FWS–R4–ES–2013–0086, which is the docket number for this rulemaking.

(2) *By hard copy:* Submit comments on the critical habitat proposal and associated DEA by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R4–ES–2013–0086; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

FOR FURTHER INFORMATION CONTACT: Mary E. Jennings, Field Supervisor, U.S. Fish and Wildlife Service, Tennessee Ecological Services Office, 446 Neal Street, Cookeville, TN 38501; telephone 931–528–6481, or by facsimile (931–528–7075). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Public Comments

We will accept written comments and information during this reopened comment period on our proposed designation of critical habitat for Short's bladderpod, whorled sunflower, and fleshy-fruit gladecress that was published in the **Federal Register** on August 2, 2013 (78 FR 47060), our DEA of the proposed designation, and the amended required determinations provided in this document. We will consider information and recommendations from all interested parties. We are particularly interested in comments concerning:

(1) The reasons why we should or should not designate habitat as ''critical habitat'' under section 4 of the Act (16 U.S.C. 1531 *et seq.*), including whether there are threats to the species from human activity, the degree of which can be expected to increase due to the designation, and whether that increase in threat outweighs the benefit of designation such that the designation of critical habitat is not prudent.

(2) Specific information on:

(a) The distribution of Short's bladderpod, whorled sunflower, and fleshy-fruit gladecress;

(b) The amount and distribution of habitat for Short's bladderpod, whorled sunflower, and fleshy-fruit gladecress; and

(c) What areas occupied by the species at the time of listing that contain features essential for the conservation of the species we should include in the designation and why, and

(d) What areas not occupied at the time of listing are essential to the conservation of the species and why.

(3) Land use designations and current or planned activities in the subject areas and their probable impacts on proposed critical habitat.

(4) The new area that we are proposing for critical habitat designation for the fleshy-fruit gladecress in this revised proposed rule.

(5) Information on the projected and reasonably likely impacts of climate change on Short's bladderpod, whorled sunflower, and fleshy-fruit gladecress and proposed critical habitat.

(6) Any probable economic, national security, or other relevant impacts of designating any area that may be included in the final designation; in particular, the benefits of including or excluding areas that exhibit these impacts.

(7) Information on the extent to which the description of economic impacts in the draft economic analysis is a reasonable estimate of the likely economic impacts.

(8) The likelihood of adverse social reactions to the designation of critical habitat, as discussed in the associated documents of the draft economic analysis, and how the consequences of such reactions, if likely to occur, would relate to the conservation and regulatory benefits of the proposed critical habitat designation.

(9) Whether any areas we are proposing for critical habitat designation should be considered for exclusion under section 4(b)(2) of the Act, and whether the benefits of potentially excluding any specific area outweigh the benefits of including that area under section 4(b)(2) of the Act.

(10) Whether we could improve or modify our approach to designating critical habitat in any way to provide for greater public participation and understanding, or to better accommodate public concerns and comments.

If you submitted comments or information on the proposed rule (78 FR 47060) during the initial comment period from August 2 to October 1,

2013, please do not resubmit them. We have incorporated them into the public record, and we will fully consider them in the preparation of our final determination. Our final determination concerning proposed critical habitat will take into consideration all written comments and any additional information we receive during both comment periods. On the basis of public comments, we may, during the development of our final determination, find that areas proposed are not essential, are appropriate for exclusion under section 4(b)(2) of the Act, or are not appropriate for exclusion.

You may submit your comments and materials concerning the proposed rule or DEA by one of the methods listed in the **ADDRESSES** section. We request that you send comments only by the methods described in the **ADDRESSES** section.

If you submit a comment via *http://www.regulations.gov,* your entire comment—including any personal identifying information—will be posted on the Web site. We will post all hardcopy comments on *http://www.regulations.gov* as well. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed rule and DEA, will be available for public inspection on *http://www.regulations.gov* at Docket No. FWS–R4–ES–2013–0086, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Tennessee Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**). You may obtain copies of the proposed rule and the DEA on the Internet at *http://www.regulations.gov* at Docket Number FWS–R4–ES–2013–0086, or by mail from the Tennessee Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT** section).

Background

It is our intent to discuss only those topics directly relevant to the designation of critical habitat for Short's bladderpod, whorled sunflower, and fleshy-fruit gladecress in this document. For more information on these species and their habitats or previous Federal actions concerning these species, refer to the proposed listing and critical habitat rule published in the **Federal Register** on August 2, 2013 (78 FR 47109), which is available online at *http://www.regulations.gov* (at Docket Number FWS–R4–ES–2013–0087) or from the Tennessee Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Previous Federal Actions

On August 2, 2013, we published a proposed rule to designate critical habitat for Short's bladderpod, whorled sunflower, and fleshy-fruit gladecress (78 FR 47060). We proposed to designate approximately:

- 373 hectares (ha) (925.5 acres (ac)) of critical habitat in 20 units for Short's bladderpod in Posey County, Indiana; Clark, Franklin, and Woodford Counties, Kentucky; and Cheatham, Davidson, Dickson, Jackson, Montgomery, Smith, and Trousdale Counties, Tennessee.
- 624 ha (1,542 ac) of critical habitat for whorled sunflower in 4 units in Cherokee County, Alabama; Floyd County, Georgia; and Madison and McNairy Counties, Tennessee.
- 8.4 ha (20.5 ac) of critical habitat for fleshy-fruit gladecress in 6 units in Lawrence and Morgan Counties, Alabama.

That proposal had a 60-day comment period, ending October 1, 2013.

Critical Habitat

Section 3 of the Act defines critical habitat as the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features essential to the conservation of the species and that may require special management considerations or protection, and specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. If the proposed rule is made final, section 7 of the Act will prohibit destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency. Federal agencies proposing actions affecting critical habitat must consult with us on the effects of their proposed actions, under section 7(a)(2) of the Act.

Proposed Changes to Critical Habitat

In this document, we are proposing to increase the designation of critical habitat for the fleshy-fruit gladecress by approximately 0.04 ha (0.1 ac), for a total of approximately 8.4 ha (20.6 ac) in 7 critical habitat units in Lawrence and Morgan Counties, Alabama.

We are proposing to modify our proposed critical habitat designation by adding Unit 7 for the fleshy-fruit gladecress based on information received from the Tennessee Valley Authority about a previously unknown population and based on our field visits made on March 27, 2014. The change is described in Table 1 and the unit description below. Maps illustrating the changes from previously proposed unit boundaries are included in the rule portion of this document and are also available on the Internet at *http://www.regulations.gov* at docket number FWS–R4–ES–2013–0086.

TABLE 1—ADDITION TO LEAVENWORTHIA CRASSA PROPOSED CRITICAL HABITAT DESIGNATION IN ALABAMA

Proposed critical habitat unit	County	Land ownership	Size of proposed unit
Unit 7. Hillsboro Glade	Lawrence	Private	0.04 ha (0.1 ac).

Unit 7. Hillsboro Glade

Unit 7 consists of 0.04 ha (0.1 ac) of privately owned land in Lawrence County, Alabama. This unit is currently occupied and is located within a powerline right-of-way approximately 400 feet south of the intersection of County Roads 217 and 222, near Hillsboro. Habitat in this unit consists of a relatively small limestone glade outcrop within a powerline right-of-way that is bordered by a forested area. Well-illuminated, open areas (Primary Constituent Element (PCE) 2), with shallow soils and exposed limestone bedrock that are dominated by characteristic glade vegetation (PCE 1), are present within the unit. The features essential to the conservation of the species in this unit may require special management considerations or protection to address threats of the invasion of exotic species into open glades and possible changes in land use, including agriculture or development.

Consideration of Impacts Under Section 4(b)(2) of the Act

Section 4(b)(2) of the Act requires that we designate or revise critical habitat based upon the best scientific data available, after taking into consideration the economic impact, impact on national security, or any other relevant impact of specifying any particular area as critical habitat. We may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area as critical habitat, provided such exclusion will not result in the extinction of the species.

When considering the benefits of inclusion for an area, we consider among other factors, the additional regulatory benefits that an area would receive through the analysis under section 7 of the Act addressing the destruction or adverse modification of critical habitat as a result of actions with a Federal nexus (activities conducted, funded, permitted, or authorized by Federal agencies), the educational benefits of identifying areas containing essential features that aid in the recovery of the listed species, and any ancillary benefits triggered by existing local, State, or Federal laws as a result of the critical habitat designation.

When considering the benefits of exclusion, we consider, among other things, whether exclusion of a specific area is likely to incentivize or result in conservation; the continuation, strengthening, or encouragement of partnerships; or implementation of a management plan. In the case of Short's bladderpod, whorled sunflower, and fleshy-fruit gladecress, the benefits of critical habitat include public awareness of the presence of these species and the importance of habitat protection, and, where a Federal nexus exists, increased habitat protection for these species due to protection from adverse modification or destruction of critical habitat. In practice, situations with a Federal nexus exist primarily on Federal lands or for projects undertaken by Federal agencies.

We have not proposed to exclude any areas from critical habitat. However, the final decision on whether to exclude any areas will be based on the best scientific data available at the time of the final designation, including information obtained during the comment period and information about the economic impact of designation. To consider information related to economic impact, we have prepared a draft economic analysis concerning the proposed critical habitat designation, which is available for review and comment (see **ADDRESSES**).

Consideration of Economic Impacts

Section 4(b)(2) of the Act and its implementing regulations require that we consider the economic impact that may result from a designation of critical habitat. To assess the probable economic impacts of a designation, we must first evaluate specific land uses or activities and projects that may occur in the area of the critical habitat. We then must evaluate the impacts that a specific critical habitat designation may have on restricting or modifying specific land uses or activities for the benefit of the species and its habitat within the areas proposed. We then identify which conservation efforts may be the result of the species being listed under the Act versus those attributed solely to the designation of critical habitat for this particular species. The probable economic impact of a proposed critical habitat designation is analyzed by comparing scenarios ''with critical habitat'' and ''without critical habitat.'' The ''without critical habitat'' scenario represents the baseline for the analysis, which includes the existing regulatory and socio-economic burden imposed on landowners, managers, or other resource users potentially affected by the designation of critical habitat (e.g., under the Federal listing as well as other Federal, State, and local regulations). The baseline, therefore, represents the costs of all efforts attributable to the listing of the species under the Act (i.e., conservation of the species and its habitat incurred regardless of whether critical habitat is designated). The ''with critical habitat'' scenario describes the incremental impacts associated specifically with the designation of critical habitat for the species. The incremental conservation efforts and associated impacts would not be expected without the designation of critical habitat for the species. In other words, the incremental costs are those attributable solely to the designation of critical habitat, above and beyond the baseline costs. These are the costs we use when evaluating the benefits of inclusion and exclusion of particular areas from the final designation of critical habitat should we choose to conduct an optional 4(b)(2) exclusion analysis.

For this designation, we developed an Incremental Effects Memorandum (IEM) considering the probable incremental economic impacts that may result from this proposed designation of critical habitat. The information contained in our IEM was then used to develop a screening analysis of the probable effects of the designation of critical habitat for Short's bladderpod, whorled sunflower, and fleshy-fruit gladecress (IEc 2014, entire). We began by conducting a screening analysis of the proposed designation of critical habitat in order to focus our analysis on the key factors that are likely to result in incremental economic impacts. The purpose of the screening analysis is to filter out the geographic areas in which the critical habitat designation is unlikely to result in probable incremental economic impacts. In particular, the screening analysis considers baseline costs (i.e., absent critical habitat designation) and includes probable economic impacts where land and water use may be subject to conservation plans, land management plans, best management practices, or regulations that protect the habitat area as a result of the Federal listing status of the species. The screening analysis filters out particular areas of critical habitat that are already subject to such protections and are, therefore, unlikely to incur incremental economic impacts. Ultimately, the screening analysis allows us to focus our analysis on evaluating the specific areas or sectors that may incur probable incremental economic impacts as a result of the designation. The screening analysis also assesses whether units are unoccupied by the species and may require additional management or conservation efforts as a result of the critical habitat designation and may incur incremental economic impacts. This screening analysis combined with the information contained in our IEM were used to develop our draft economic analysis of the proposed critical habitat designation for Short's bladderpod, whorled sunflower, and fleshy-fruit gladecress, and this information is summarized in the narrative below.

Executive Orders 12866 and 13563 direct Federal agencies to assess the costs and benefits of available regulatory alternatives in quantitative (to the extent feasible) and qualitative terms. Consistent with the E.O. regulatory analysis requirements, our effects analysis under the Act may take into consideration impacts to both directly and indirectly impacted entities, where practicable and reasonable. We assess, to the extent practicable, and if sufficient data are available, the probable impacts to both directly and indirectly impacted entities. As part of our screening analysis, we considered the types of economic activities that are likely to occur within the areas likely affected by the critical habitat designation. In our IEM dated December 2, 2013, and modified on April 17, 2014

to include the additional critical habitat unit for the fleshy-fruit gladecress, probable incremental economic impacts associated with the following categories of activities: (1) Utility projects, including work on electricity transmission lines, gas pipelines, sewer pipelines, water pipelines, and telecommunications equipment; (2) recreation; (3) conservation projects; (4) transportation activities including bridge construction; (5) agriculture; and (6) residential and commercial development. We considered each industry or category individually. Additionally, we considered whether their activities have any Federal involvement. Critical habitat designation will not affect activities that do not have any Federal involvement but only activities conducted, funded, permitted, or authorized by Federal agencies. In areas where Short's bladderpod, whorled sunflower, or fleshy-fruit gladecress are present, Federal agencies already are required to consult with the Service under section 7 of the Act on activities they fund, permit, or implement that may affect the species. If we finalize this proposed critical habitat designation, consultations to avoid the destruction or adverse modification of critical habitat would be incorporated into the existing consultation process.

In our IEM, we attempted to distinguish between the effects that will result from the species being listed and those attributable to the critical habitat designation (i.e., difference between the jeopardy and adverse modification standards) for the three plant species. Because the designation of critical habitat for Short's bladderpod, whorled sunflower, and fleshy-fruit gladecress was proposed concurrently with their listing, it has been our experience that it is more difficult to discern which conservation efforts are attributable to the species being listed and those which will result solely from the designation of critical habitat. However, the following specific circumstances in this case help to inform our evaluation: (1) The essential physical and biological features identified for critical habitat are the same features essential for the life requisites of the species and (2) any actions that would result in sufficient harm or harassment to constitute jeopardy to Short's bladderpod, whorled sunflower, or fleshy-fruit gladecress would also likely adversely affect the essential physical and biological features of critical habitat. The IEM outlines our rationale concerning this limited distinction between baseline conservation efforts and incremental impacts of the designation of critical habitat for these species.

The proposed critical habitat designation for Short's bladderpod totals approximately 373 ha (925.5 ac) in 20 units, all of which are currently occupied by the species, and includes lands under Federal (30 percent), State or local government (6 percent), and private (64 percent) land ownership. All of the Federal lands are administered by the Army Corps of Engineers, which also holds leases on approximately four percent of the privately owned lands included in this proposed critical habitat designation. The proposed critical habitat designation for whorled sunflower totals approximately 624.2 ha (1,542.3 ac) in four units, all of which are currently occupied by the species and are located entirely within privately owned lands. The proposed critical habitat designation for fleshy-fruit gladecress totals 8.4 ha (20.6 ac) in seven units, all of which are currently occupied by the species, and includes Federal (6 percent) and privately owned (94 percent) lands.

In these areas any actions that may affect the species or their habitat would also affect designated critical habitat and it is unlikely that any additional conservation efforts would be recommended to address the adverse modification standard over and above those recommended as necessary to avoid jeopardizing the continued existence of Short's bladderpod, whorled sunflower, or fleshy-fruit gladecress. Therefore, only administrative costs are expected to result from the proposed critical habitat designation. While this additional analysis will require time and resources by both the Federal action agency and the Service, it is believed that, in most circumstances, these costs would predominantly be administrative in nature and would not be significant.

The entities most likely to incur incremental costs are parties to section 7 consultations, including Federal action agencies and, in some cases, third parties, most frequently State agencies or municipalities. Activities we expect will be subject to consultations that may involve private entities as third parties are residential and commercial development that may occur on private lands. However, based on coordination efforts with State and local agencies, the cost to private entities within these sectors is expected to be relatively minor (administrative costs of less than $5,000 per consultation effort).

The probable incremental economic impacts of the critical habitat designations for Short's bladderpod, whorled sunflower, and fleshy-fruit gladecress are expected to be limited to additional administrative effort as well as minor costs of conservation efforts resulting from a small number of future section 7 consultations. This is due to the fact that all of the proposed critical habitat units are considered to be occupied by the species, and incremental economic impacts of critical habitat designation, other than administrative costs, are unlikely. The administrative costs are expected to range from $410 to $5,000 per consultation. At maximum, the incremental cost per year is not expected to exceed $16,000.00 annually. Therefore, future probable incremental economic impacts are not likely to exceed $100 million in any single year.

Required Determinations—Amended

In our August 2, 2013, proposed rule (78 FR 47060), we indicated that we would defer our determination of compliance with several statutes and executive orders until we had evaluated the probable effects on landowners and stakeholders and the resulting probable economic impacts of the designation. Following our evaluation of the probable incremental economic impacts resulting from the designation of critical habitat for Short's bladderpod, whorled sunflower, and fleshy-fruit gladecress, we have amended or affirmed our determinations below. Specifically, we affirm the information in our proposed rule concerning Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 12630 (Takings), E.O. 13132 (Federalism), E.O. 12988 (Civil Justice Reform), E.O. 13211 (Energy, Supply, Distribution, and Use), the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), and the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951). However, based on our evaluation of the probable incremental economic impacts of the proposed designation of critical habitat for Short's bladderpod, whorled sunflower, and fleshy-fruit gladecress, we are amending our required determination concerning the Regulatory Flexibility Act and E.O. 12630 (Takings).

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA; 5 U.S.C. 801 *et seq.*),

whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

According to the Small Business Administration, small entities include small organizations such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term ''significant economic impact'' is meant to apply to a typical small business firm's business operations.

The Service's current understanding of the requirements under the RFA, as amended, and following recent court decisions, is that Federal agencies are required to evaluate the potential incremental impacts of rulemaking only on those entities directly regulated by the rulemaking itself and, therefore, are not required to evaluate the potential impacts to indirectly regulated entities. The regulatory mechanism through which critical habitat protections are realized is section 7 of the Act, which requires Federal agencies, in consultation with the Service, to ensure that any action authorized, funded, or carried out by the Agency is not likely to adversely modify critical habitat. Therefore, under these circumstances only Federal action agencies are directly subject to the specific regulatory requirement (avoiding destruction and adverse modification) imposed by critical habitat designation. Under these circumstances, it is our position that only Federal action agencies will be directly regulated by this designation. Federal agencies are not small entities and, to this end, there is no requirement under the RFA to evaluate the potential impacts to entities not directly regulated. Therefore, because no small entities are directly regulated by this rulemaking, the Service certifies that, if promulgated, the proposed critical habitat designation will not have a significant economic impact on a substantial number of small entities.

In summary, we have considered whether the proposed designation would result in a significant economic impact on a substantial number of small entities. For the above reasons and based on currently available information, we certify that, if promulgated, the proposed critical habitat designation would not have a significant economic impact on a substantial number of small business entities. Therefore, an initial regulatory flexibility analysis is not required.

E.O. 12630 (Takings)

In accordance with E.O. 12630 (Government Actions and Interference with Constitutionally Protected Private Property Rights), we have analyzed the potential takings implications of designating critical habitat for Short's bladderpod, whorled sunflower, and fleshy-fruit gladecress in a takings implications assessment. As discussed above, the designation of critical habitat affects only Federal actions. Although private parties that receive Federal funding or assistance, or require approval or authorization from a Federal agency, for an action may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. The economic analysis found that no significant economic impacts are likely to result from the designation of critical habitat for Short's bladderpod, whorled sunflower, or fleshy-fruit gladecress. Because the Act's critical habitat protection requirements apply only to Federal agency actions, few conflicts between critical habitat and private property rights should result from this designation. Based on information contained in the economic analysis and described within this document, it is not likely that economic impacts to a property owner would be of a sufficient magnitude to support a takings action. Therefore, the takings implications assessment concludes that this designation of critical habitat for Short's bladderpod, whorled sunflower, and fleshy-fruit gladecress does not pose significant takings implications for lands within or affected by the designation.

Authors

The primary authors of this notice are the staff members of the Tennessee Ecological Services Field Office, Southeast Region, U.S. Fish and Wildlife Service.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to further amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as proposed to be amended on August 2, 2013, at 78 FR 47060, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 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 § 17.96(a) by revising paragraph (5) and adding paragraph (12) to the entry proposed at 78 FR 47060 for ''Family Brassicaceae: *Leavenworthia crassa* (fleshy-fruit gladecress)'', to read as follows:

§ 17.96 Critical habitat—plants.

* * * * *

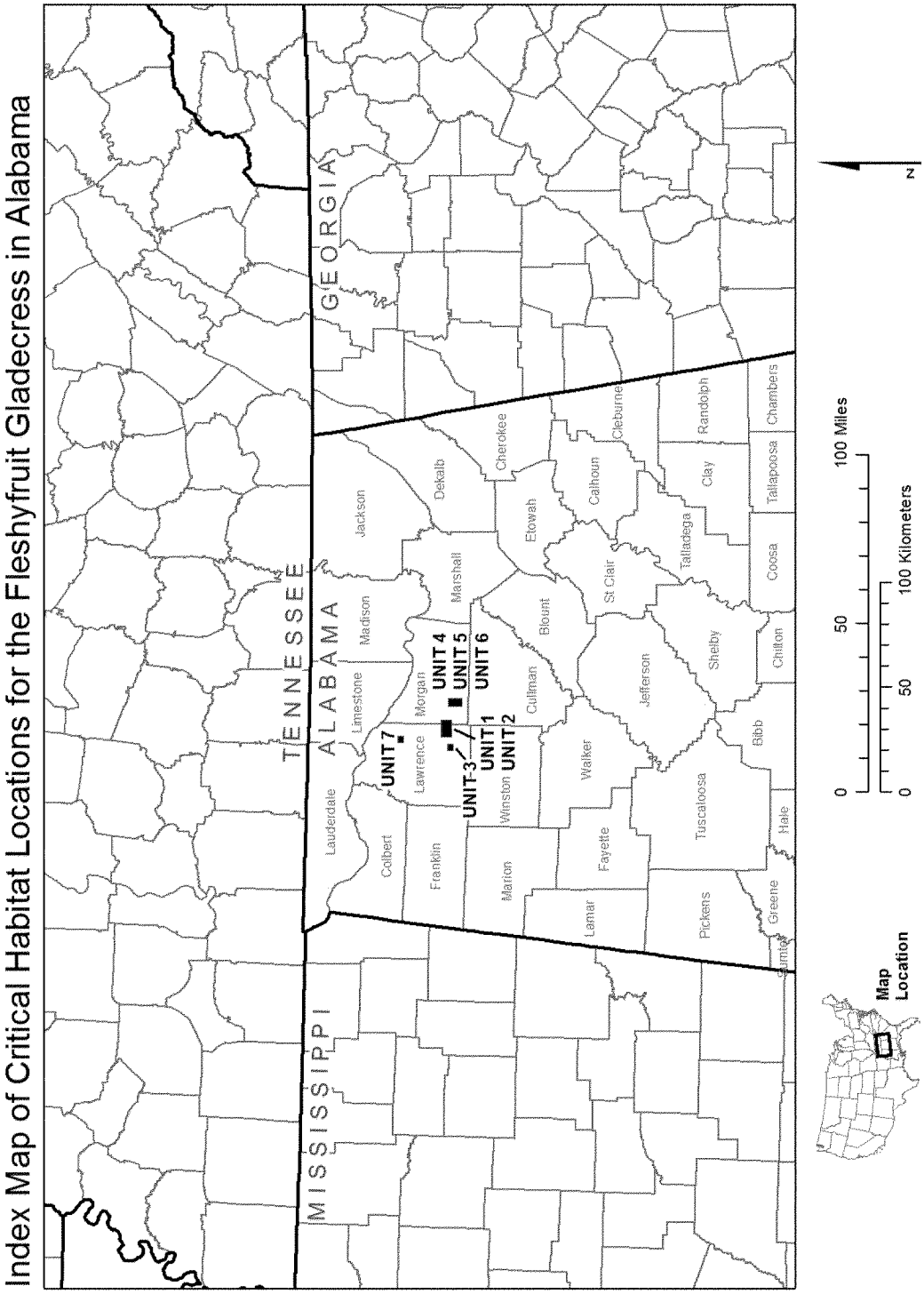
(a) * * *

Family Brassicaceae: *Leavenworthia crassa* (fleshy-fruit gladecress)

* * * * *

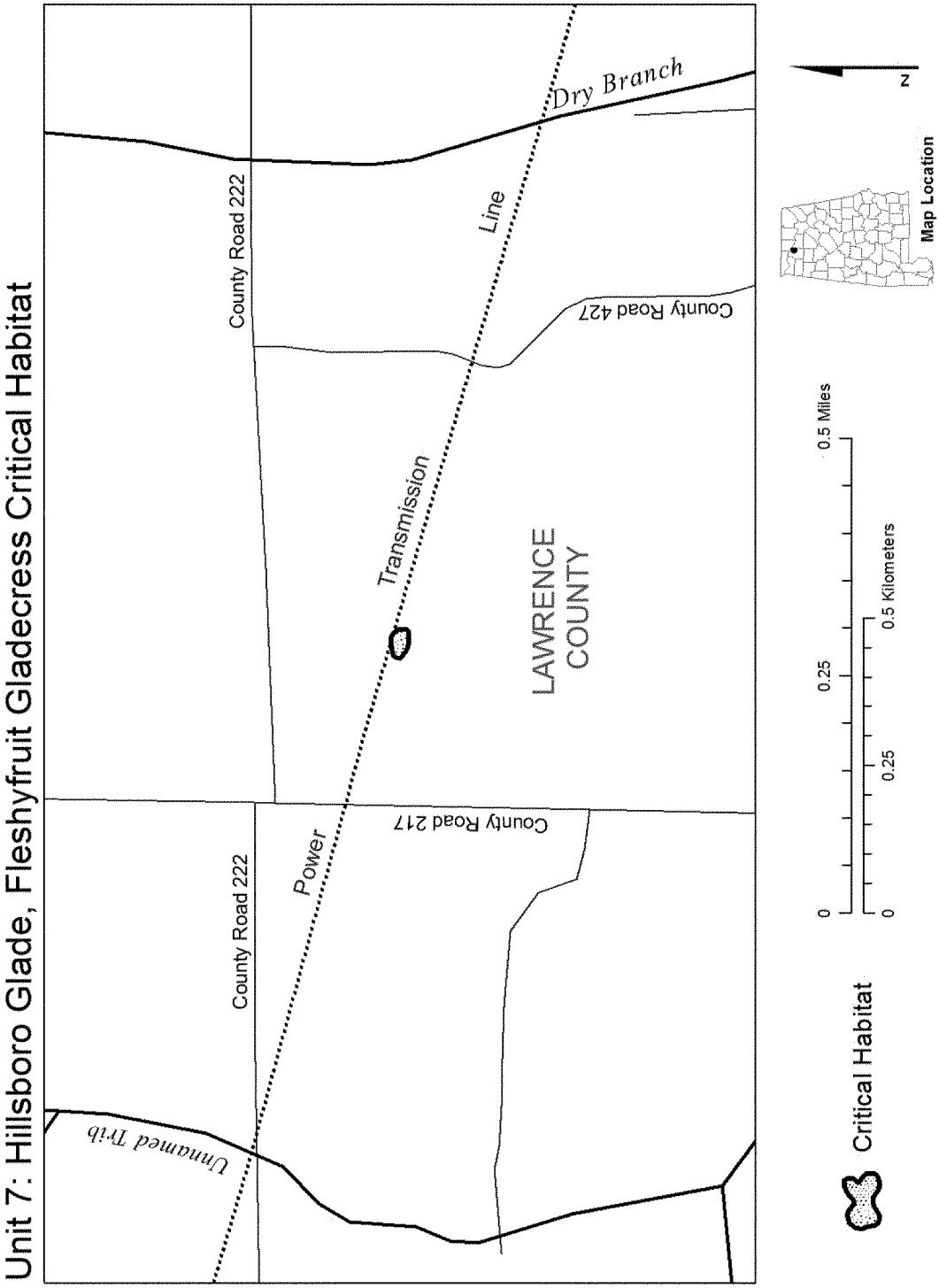
(5) Index map follows:

BILLING CODE 4310–55–P



* * * * *

(12) Unit 7: Hillsboro Glade, Lawrence County, Alabama. Map of Unit 7 follows:


Unit 7: Hillsboro Glade, Fleshyfruit Gladecress Critical Habitat
Unnamed Trib
County Road 222
Power
Transmission
Line
County Road 217
County Road 222
Dry Branch
County Road 427
LAWRENCE COUNTY
N
Map Location
0
0.25
0.5 Miles
0
0.25
0.5 Kilometers
Critical Habitat

* * * * *

Dated: May 21, 2014.

Rachel Jacobson,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2014–12501 Filed 5–28–14; 8:45 am]

BILLING CODE 4310–55–C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 140128077–4375–01]

RIN 0648–BD93

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States

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

ACTION: Proposed rule; request for comments.

SUMMARY: At the request of the New England Fishery Management Council, this action would add a new method for on-reel trawl gear stowage when fishing vessels are transiting closed areas or fishing in areas with mesh size restrictions. Specifically, this action proposes to allow the use of a highly visible orange mesh material, in addition to the current requirement to use a tarp or similar canvas material. In addition, this action would remove the requirement to detach the towing wires from the doors for all on-reel gear stowage. Finally, to help streamline the gear stowage requirements, this action also proposes to reorganize the current gear stowage regulations. This action would be implemented under authority delegated to the NMFS Regional Administrator, at the request of the Council. This action is intended to improve safety of fishing operations while at sea.

DATES: Comments must be received on this action by June 30, 2014.

ADDRESSES: You may submit comments, identified by NOAA–NMFS–2014–0018, by any of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0018*, click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* John K. Bullard, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope: ''Comments on Gear Stowage.''

Instructions: All comments received are part of the public record and will generally be posted to *www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted via Microsoft Word, Microsoft Excel, WordPerfect, or Adobe PDF file formats only.

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

SUPPLEMENTARY INFORMATION:

Background

The current trawl gear stowage regulations, at 50 CFR 648.23(b), require that trawl gear being stowed on the net reel be covered with a ''canvas or similar opaque material'' when transiting closed areas and areas with mesh size restrictions. The industry typically uses a commonly available opaque plastic tarp to meet this requirement, which is intended to help facilitate enforcement. However, industry has raised two safety concerns with this requirement. First, the tarps most frequently used have very few places where a rope or similar material can be attached to assist in pulling the tarp over the net reel. As a result, crew members at sea often have to climb or stand on the net reel or surrounding parts of the vessel to successfully cover the reel. This creates a safety concern for crew members who may slip or fall and injure themselves or others. In addition, because the tarps are non-porous, they catch wind, similar to a sail, adding to the difficulty of covering the net reel and increasing the safety risks.

As a result of these safety concerns, the New England Fishery Management Council's Enforcement Committee has been working with the fishing industry and the United States Coast Guard (USCG) to develop an alternative to the tarp requirement for stowing trawl nets on the reel. Through public workshops and at-sea trials, the industry, USCG, and NOAA's National Marine Fisheries Service (NMFS) developed an orange mesh material as a safer alternative to the current tarp requirement. At its September 2013 meeting, the Council approved a motion requesting that the Regional Administrator implement two new trawl gear stowage methods and modify one provision of the existing methods. This action proposes to add a provision to allow the use of a highly visible orange mesh material, as an alternative to the current requirement to use a tarp or similar canvas material. This action would be implemented under authority delegated to the NMFS Regional Administrator at § 648.23(b)(5), at the request of the Council.

In addition, when considering this revision to the gear stowage regulations, the Committee examined whether the current requirement that the ''towing wires are detached from the doors'' also presents safety concerns. When trawl gear is being stowed, detaching the wires leaves the doors unsecured and swinging freely, which can result in damage to the vessel. This is particularly problematic for smaller fiberglass vessels. If the wires were allowed to remain attached to the doors, the doors could be held securely in place, preventing them from moving and causing damage to the vessel or injuring crew. The Committee, with concurrence from the USCG and NMFS Office of Law Enforcement, concluded that this measure is no longer needed to conduct enforcement and, as such, recommends this measure be removed from the regulations pertaining to all on-reel gear stowage requirements.

As a result, the new stowage method would not include the requirement to remove the towing wires from the doors for all on-reel trawl gear stowage methods where it currently applies.

NMFS is also taking this opportunity under its authority at section 305(d) of the Magnuson-Stevens Fishery Conservation and Management Act to reorganize the current gear stowage regulations. Currently, all Northeast region gear stowage regulations reside under the Atlantic mackerel, squid, and butterfish (MSB) regulations at subpart B of 50 CFR part 648. The gear stowage regulations were originally implemented in Amendment 1 to the Northeast Multispecies Fishery Management Plan as part of the exempted fishing programs. These regulations were subsequently expanded and modified a number of times. In 1996, NMFS undertook a comprehensive reorganization of fishery regulations in response to a Presidential directive. As a result, the gear stowage regulations that had previously been part of the Northeast multispecies regulations were moved to the MSB

regulations. While there is not information available as to exactly why this move occurred, it is likely because the MSB fisheries constitute a large majority of the small-mesh fisheries, which were the original reason for implementing the gear stowage regulations.

Consequently, when considering updating or revising the gear stowage regulations for fisheries other than MSB, the rulemaking process is unnecessarily complex and challenging, since these regulations are in the MSB regulations, but in fact are referenced by several other fisheries. To help streamline the regulations and to assist in making future adjustments to these regulations, NMFS is proposing to move the entirety of the gear stowage regulations at § 648.23(b) to the definitions section of subpart A at § 648.2. The way the regulations are currently organized can be interpreted that gear stowage regulations are specific to MSB, when in fact they apply to several fisheries. This change would clarify that these regulations apply to numerous fisheries and not just MSB. The current organization of these regulations also causes confusion with the Council process, since the regulations are within a section of the regulations managed by the Mid-Atlantic Council, but they actually apply to several fisheries, including fisheries managed by the New England Council. This change would make it clear that the gear stowage regulations apply to numerous fisheries, thus affecting fisheries managed by both Councils. Although this is outside of the request of the Council, this restructuring would not directly affect fisheries operations and would better organize the regulations. As such, this change would be beneficial to fisheries, future policy development, and Council proceedings.

Classification

Pursuant to section 304(b)(1)(A) and 305(d) of the Magnuson-Stevens Act, the Assistant Administrator for Fisheries, NOAA, has determined that this proposed rule is consistent with the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification is as follows.

The proposed measures would affect Federal permit holders that use trawl gear. In 2013, there were 468 Federal permit holders that reported using trawl gear. All of these permit holders fall within the SBA's definition of a small business because each permit holder has annual receipts that do not exceed $19.0 million. The primary fisheries affected would be the Northeast multispecies, including small-mesh multispecies, herring, squid, mackerel, butterfish, summer flounder, scup, and black sea bass fisheries.

This action would allow for additional methods of stowing trawl gear on the net reel to provide the industry with more flexibility and to help increase safety at sea. This action would not directly impact fisheries operations or the marine environment. This action would provide the opportunity to use a new gear stowage method: a mesh type material that could be used in lieu of the current requirement to use an opaque canvas type material. Based on industry input, testing, and at sea trials, a mesh type material would be easier and safer to work with than the current opaque canvas requirement. As a result, this action could increase safety at sea and vessel efficiency, thus potentially reducing vessel operating costs. Initially, converting from the current opaque canvas material to a mesh-like material could require an investment by the vessel operator; however, the mesh type materials that were tested are readily available with relatively low cost, commonly available for less than $100. In addition, this new storage method would not be required, but would merely provide a new gear stowage option as an alternative to the current method. As such, vessels could continue to use the current opaque canvas method and would not be required to purchase a new material or other equipment. As such, vessels that continued to use the current opaque material would incur no additional expenses. Therefore, because this action only proposes a new gear stowage option, and because no net change in fishing effort, participation in the fishery, or fishery expenses is expected, this action will not have a significant economic effect on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: May 19, 2014.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 648 as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

■ 2. In § 648.2, add definition for ''not available for immediate use'' to read as follows:

§ 648.2 Definitions.

* * * * *

Not available for immediate use means that the gear is not being used for fishing and is stowed in conformance with one of the following methods:

(1) *Nets*—(i) *Below-deck stowage.* (A) The net is stored below the main working deck from which it is deployed and retrieved;

(B) The towing wires, including the leg wires, are detached from the net; and

(C) The net is fan-folded (flaked) and bound around its circumference.

(ii) *On-deck stowage.* (A) The net is fan-folded (flaked) and bound around its circumference;

(B) The net is securely fastened to the deck or rail of the vessel; and

(C) The towing wires, including the leg wires, are detached from the net.

(iii) *On-reel stowage.* (A) The net is on the net reel;

(B) The towing wires are detached from the net;

(C) The codend of the net is removed from the net and stored below deck; and

(D) The entire surface of the net is covered and securely bound by:

(*1*) Canvas of other similar opaque material; or

(*2*) A highly visible orange mesh material that is not capable of catching fish or being utilized as fishing gear. Highly visible orange mesh includes but is not limited to the orange fence material commonly used to enclose construction sites.

(iv) *On-reel stowage for vessels transiting the Gulf of Maine Rolling Closure Areas and the Georges Bank Seasonal Closure Area.*

(A) If a vessel is transiting the *Gulf of Maine Rolling Closure Areas and the Georges Bank Seasonal Closure Area,* not available for immediate use also means, the net is on the net reel;

(B) No containment rope, codend tripping device, or other mechanism to

close off the codend is attached to the codend;

(C) The entire surface of the net is covered and securely bound by:

(*1*) Canvas of other similar opaque material; or

(*2*) A highly visible orange mesh material that is not capable of catching fish or being utilized as fishing gear. Highly visible orange mesh includes but is not limited to the orange fence material commonly used to enclose construction sites.

(2) *Scallop dredges.* (i) The towing wire is detached from the scallop dredge, the towing wire is completely reeled up onto the winch, the dredge is secured, and the dredge or the winch is covered so that it is rendered unusable for fishing; or

(ii) The towing wire is detached from the dredge and attached to a bright-colored poly ball no less than 24 inches (60.9 cm) in diameter, with the towing wire left in its normal operating position (through the various blocks) and either is wound back to the first block (in the gallows) or is suspended at the end of the lifting block where its retrieval does not present a hazard to the crew and where it is readily visible from above.

(3) *Hook gear* (*other than pelagic*). All anchors and buoys are secured and all hook gear, including jigging machines, is covered.

(4) *Sink gillnet gear.* All nets are covered with canvas or other similar material and lashed or otherwise securely fastened to the deck or rail, and all buoys larger than 6 inches (15.24 cm) in diameter, high flyers, and anchors are disconnected.

(5) *Other methods of stowage.* Any other method of stowage authorized in writing by the Regional Administrator and subsequently published in the **Federal Register.**

* * * * *

§§ 648.13, 648.14, 648.17, 648.23, 648.51, 648.58, 648.59, 648.60, 648.61, 648.62, 648.80, 648.81, 648.82, 648.85, 648.86, 648.88, 648.89, 648.90, 648.91, 648.94, 648.95, 648.108, 648.124, 648.125, 648.144, 648.201 and 648.202 [Amended]

■ 3. In the table below, for each section indicated in the left column, remove the reference in the middle column from wherever it appears in the section and add the text indicated in the right column.

Section	Remove	Add
§ 648.13(i)(2)(ix)	in accordance with § 648.23(b)(1);	and not available for immediate use as defined in § 648.2;
§ 648.14(g)(2)(iii)(A)	in accordance with § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.14(i)(1)(vi)(B)	unavailable for immediate use as defined in § 648.23(b),.	not available for immediate use as defined in § 648.2,
§ 648.14(i)(2)(v)(C)	unavailable for immediate use as defined in § 648.23(b),.	not available for immediate use as defined in § 648.2,
§ 648.14(i)(3)(iv)(C)	unavailable for immediate use as defined in § 648.23(b),.	not available for immediate use as defined in § 648.2,
§ 648.14(k)(5)(ii)	in accordance with § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.14(k)(5)(vi)(B)	stowage requirements of § 648.23(b),	definition of not available for immediate use as defined in § 648.2,
§ 648.14(k)(5)(vii)(B)	stowage requirements of § 648.23(b),	definition of not available for immediate use as defined in § 648.2,
§ 648.14(k)(6)(i)(E)	in accordance with § 648.23(b),	and not available for immediate use as defined in § 648.2,
§ 648.14(k)(13)(ii)(G)	in accordance with § 648.23(b)	with gear stowed and not available for immediate use as defined in § 648.2
§ 648.14(r)(1)(vi)(C)	as required by § 648.23(b)	as defined in § 648.2
§ 648.14(r)(1)(vi)(F)	as required by § 648.23(b)	as defined in § 648.2
§ 648.14(r)(1)(vii)(A)	is stowed as specified by § 648.23(b)	is not available for immediate use as defined in § 648.2
§ 648.14(r)(1)(vii)(D)	as required by § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.17(b)(3)	one of the applicable methods specified in § 648.23(b);.	the definition of not available for immediate use as defined in § 648.2;
§ 648.23(a)(2)	they are fishing consistent with exceptions specified in paragraph (b) of this section.	their gear is stowed and not available for immediate use as defined in § 648.2
§ 648.23(a)(2)(ii)	as specified in paragraph (b) of this section.	and not available for immediate use as defined in § 648.2
§ 648.23(a)(3)	paragraph (b) of this section	§ 648.2
§ 648.51(a)(1)	specified in § 648.23,	defined in § 648.2,
§ 648.51(b)(5)(ii)(C)	in accordance with § 648.23(b) and not available for immediate use.	and not available for immediate use as defined in § 648.2
§ 648.58(c)	unavailable for immediate use as defined in § 648.23(b),.	stowed and not available for immediate use as defined in § 648.2,
§ 648.59(f)	in accordance with § 648.23(b).	and not available for immediate use as defined in § 648.2.
§ 648.60(a)(4)	in accordance with § 648.23(b).	and not available for immediate use as defined in § 648.2.
§ 648.60(a)(7)	in accordance with § 648.23(b),	and not available for immediate use as defined in § 648.2,
§ 648.61(b)	in accordance with the provisions of § 648.23(b).	and not available for immediate use as defined in § 648.2.
§ 648.62(b)(2)	in accordance with § 648.23(b),	and not available for immediate use as defined in § 648.2,

Section	Remove	Add
§ 648.80(a)(3)(vi)	as specified in § 648.23(b).	and not available for immediate use as defined in § 648.2.
§ 648.80(a)(4)(i)	in accordance with § 648.23(b),	as defined in § 648.2,
§ 648.80(a)(4)(ii)	in accordance with § 648.23(b),	as defined in § 648.2,
§ 648.80(a)(4)(iii)	in accordance with § 648.23(b),	as defined in § 648.2
§ 648.80(a)(4)(iv)	in accordance with § 648.23(b),	as defined in § 648.2
§ 648.80(a)(4)(iv)(B)(*2*) introductory text.	Such vessels, in accordance with § 648.23(b), may stow additional nets not to exceed 150, counting the deployed net.	Such vessels may stow additional nets in accordance with the definition of not available for immediate use as defined in § 648.2 not to exceed 150 nets, counting the deployed net.
§ 648.80(a)(6)(i)(E)	in accordance with one of the methods specified in § 648.23(b).	and not available for immediate use as defined in § 648.2,
§ 648.80(a)(7)(i)	in accordance with one of the methods specified in § 648.23(b).	as defined in § 648.2.
§ 648.80(a)(7)(ii)	in accordance with one of the methods specified in § 648.23(b).	and not available for immediate use as defined in § 648.2,
§ 648.80(a)(7)(iii)(A)	in accordance with one of the methods specified in § 648.23(b).	and not available for immediate use as defined in § 648.2.
§ 648.80(a)(10)(i)(C)	unavailable for immediate use in accordance with § 648.23(b).	not available for immediate use as defined in § 648.2.
§ 648.80(b)(2)(i)	in accordance with § 648.23(b),	as defined in § 648.2,
§ 648.80(b)(2)(ii)	in accordance with § 648.23(b),	as defined in § 648.2,
§ 648.80(b)(2)(iii)	in accordance with § 648.23(b)	as defined in § 648.2
§ 648.80(b)(2)(iv)	in accordance with § 648.23(b),	as defined in § 648.2,
§ 648.80(b)(2)(iv)(B)(*1*) introductory text.	Such vessels, in accordance with § 648.23(b), may stow additional nets not to exceed 160, counting deployed nets.	Such vessels may stow additional nets in accordance with the definition of not available for immediate use as defined in § 648.2 not to exceed 150 nets, counting the deployed net.
§ 648.80(b)(2)(vi)	as specified in § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.80(b)(3)(ii)	in accordance with § 648.23(b)	as defined in § 648.2
§ 648.80(b)(6)	as specified in § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.80(b)(9)(i)(E)	in accordance with one of the methods described under § 648.23(b).	and not available for immediate use as defined in § 648.2
§ 648.80(c)(2)(i)	in accordance with § 648.23(b)	as defined in § 648.2
§ 648.80(c)(2)(ii)	in accordance with § 648.23(b)	as defined in § 648.2
§ 648.80(c)(2)(iii)	in accordance with § 648.23(b)	as defined in § 648.2
§ 648.80(c)(2)(v)	in accordance with § 648.23(b)	as defined in § 648.2
§ 648.80(c)(2)(v)(B)(*1*) introductory text	Such vessels, in accordance with § 648.23(b), may stow additional nets not to exceed 160, counting deployed nets.	Such vessels may stow additional nets in accordance with the definition of not available for immediate use as defined in § 648.2 not to exceed 150 nets, counting the deployed net.
§ 648.80(c)(3)	in accordance with § 648.23(b)	as defined in § 648.2
§ 648.81(b)(2)(iv)	in accordance with the provisions of § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.81(h)(2)(i)	in accordance with the provisions of § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.81(j)(2)(i)	in accordance with the provisions of § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.81(k)(2)(i)	in accordance with the provisions of § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.81(l)(2)(i)	in accordance with the provisions of § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.81(m)(2)(i)	in accordance with the provisions of § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.81(n)(3)(iii)	pursuant to § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.82(b)(6)(iv)	in accordance with the provisions at § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.82(j)(1)(ii)	in accordance with § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.85(a)(3)(iii)	according to the regulations in § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.85(a)(3)(iv)(E)	in accordance with the regulations in § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.85(a)(3)(vii)	in accordance with the regulations in § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.85(b)(3)(x)(A)	according to the regulations at § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.85(b)(6)(iv)(J)	Other gear may be on board the vessel, provided it is stowed when the vessel is fishing under the Regular B DAS Program pursuant to § 648.23(b.	When the vessel is fishing under the Regular B DAS Program other gear may be on board provided it is stowed and not available for immediate use as defined in § 648.2

Section	Remove	Add
§ 648.85(b)(8)(v)(E)(*1*) introductory text	in accordance with § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.86(a)(3)(ii)	vessel complies with the gear stowage provisions specified in § 648.23(b).	vessel's gear is stowed and not available for immediate use as defined in § 648.2
§ 648.86(b)(4)(ii)	in accordance with the provisions of § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.88(a)(2)(iv)	in accordance with the provisions at § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.89(a)	must stow all other fishing gear on board the vessel as specified in § 648.23(b).	all other gear on board must be stowed and not available for immediate use as defined in § 648.2
§ 648.90(a)(5)(i)(D)(*2*) introductory text	in accordance with § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.90(a)(5)(i)(D)(*3*) introductory text	in accordance with § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.91(c)(2)(ii)	as specified in § 648.23(b)	and not available for immediate use as defined in § 648.2
§ 648.94(e)	in accordance with the regulations specified under § 648.23(b).	as defined in § 648.2
§ 648.95(f)	in accordance with the gear stowage provisions specified under § 648.23(b).	as defined in § 648.2
§ 648.108(e)	A net that is stowed in conformance with one of the methods specified in § 648.23(b) and that can be shown not to have been in recent use is considered to be not "available for immediate use.".	Nets must be stowed and not available for immediate use as defined in § 648.2.
§ 648.124(c)	not available for immediate use and are stowed in accordance with the provisions of § 648.23(b).	Stowed and not available for immediate use as defined in § 648.2
§ 648.125(a)(1) introductory text	in accordance with § 648.23(b)(1)	and not available for immediate use as defined in § 648.2
§ 648.125(a)(5) introductory text	in conformance with one of the methods specified in § 648.23(b).	and not available for immediate use as defined in § 648.2
§ 648.144(a)(4) introductory text	A net that is stowed in conformance with one of the methods specified in § 648.23(b) and that can be shown not to have been in recent use, is considered to be not "available for immediate use.".	Nets must be stowed and not available for immediate use as defined in § 648.2.
§ 648.201(a)(2) introductory text	vessel complies with the gear stowage provisions specified in § 648.23(b).	Vessel's gear is stowed and not available for immediate use as defined in § 648.2
§ 648.201(b)	required by § 648.23(b)	defined in § 648.2
§ 648.201(c)	required by § 648.23(b)	defined in § 648.2
§ 648.202(a)	pursuant to § 648.23(b)	and not available for immediate use as defined in § 648.2

§ 648.23 [Amended]

■ 4. In § 648.23, remove and reserve paragraph (b).

[FR Doc. 2014–11901 Filed 5–28–14; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 79, No. 103

Thursday, May 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

May 22, 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 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. Comments regarding these information collections are best assured of having their full effect if received by June 30, 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.

Rural Housing Service

Title: Rural Rental Housing Program, 7 CFR part 3560.

OMB Control Number: 0575–0189.

Summary of Collection: The programs covered by 7 CFR Part 3560 are authorized by title V of the Housing Act of 1949 to provide financing to support the development of adequate, affordable housing and rental units for very low-, low-, and moderate-income households, and farm workers. Rural Housing Service (RHS) is authorized to collect the information needed to administer these various programs under Title V of the Housing Act of 1949, Section 515 Rural Rental Housing, Sections 514 and 516 Farm Labor Housing loans and grants, and Section 521 Rental Assistance.

Need and Use of the Information: The information collected by RHS is used to plan, manage, evaluate and account for Government resources. The reports are required to ensure the proper and judicious use of public funds. The purpose of the Multi-Family Housing programs is to provide adequate, affordable, decent, safe, and sanitary rental units for very low-, low-, and moderate-income households and farm workers in rural areas.

Description of Respondents: Business or other for profit: Individual or households; Farms; Not-for-profit institutions; State, Local, or Tribal Government.

Number of Respondents: 500,000.

Frequency of Responses: Recordkeeping; Reporting: Quarterly; Monthly, Annually.

Total Burden Hours: 1,104,790.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2014–12452 Filed 5–28–14; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF AGRICULTURE

Forest Service

Black Hills National Forest Advisory Board

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Black Hills National Forest Advisory Board (Board) will meet in Rapid City, South Dakota. The Board is established consistent with the Federal Advisory Committee Act of 1972 (5 U.S.C. App. II), the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et. seq.), the National Forest Management Act of 1976 (16 U.S.C. 1612), and the Federal Public Lands Recreation Enhancement Act (Pub. L. 108–447). Additional information concerning the Board, including the meeting summary/minutes, can be found by visiting the Board's Web site at: *http://www.fs.usda.gov/main/blackhills/workingtogether/advisorycommittees.*

DATES: The meeting will be held on Wednesday, June 18, 2014, at 1:00 p.m.

All meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the Mystic Ranger District, 8221 South Highway 16, Rapid City, South Dakota. Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses, when provided, are placed in the record and available for public inspection and copying. The public may inspect comments received at the Black Hills National Forest Supervisor's Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Scott Jacobson, Committee Coordinator, by phone at 605–673–9216, or by email at *sjjacobson@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to provide:

(1) Northern Long Eared Bat and Black Backed Woodpecker Presentation;

(2) Grazing on Black Hills National Forest—Program Overview/Coordination;

(3) 50th Anniversary Wilderness Celebration—Significance and Plans;

(4) Sheridan Lake Valve Update;

(5) Plan August Field Trip; and

(6) Prepare for September Elections

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should submit a request in writing by June 9, 2014 to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the Board may file written statements with the Board's staff before or after the meeting. Written comments and time requests for oral comments must be sent to Scott Jacobson, Black Hills National Forest Supervisor's Office, 1019 North Fifth Street, Custer, South Dakota 57730; by email to *sjjacobson@fs.fed.us,* or via facsimile to 605–673–9208. A summary/minutes of the meeting will be posted on the Web site listed above within 45 days after the meeting.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT.** All reasonable accommodation requests are managed on a case by case basis.

Dated: May 19, 2014.

Craig Bobzien,

Forest Supervisor.

[FR Doc. 2014–12413 Filed 5–28–14; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Central Electric Power Cooperative, Inc.: Notice of Availability of a Draft Environmental Impact Statement and Notice of a Public Meeting

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of Availability of a Draft Environmental Impact Statement.

SUMMARY: The Rural Utilities Service (RUS), an agency within the U.S. Department of Agriculture (USDA), has issued a draft environmental impact statement (DEIS) for Central Electric Power Cooperative's (Central Electric) proposed McClellanville 115-kV Transmission Project (Project) in South Carolina. RUS is issuing the DEIS to inform the public and interested parties about the proposed Project and to invite the public to comment on the scope, proposed action, and other issues addressed in the DEIS.

The DEIS addresses the construction, operation, and maintenance of Central Electric's proposed Project. The Project includes construction, operation, and maintenance of approximately 15–20 miles of new 115-kV transmission line, 1 new substation, temporary construction roads, river crossings, temporary construction staging sites, and other facilities described in the DEIS. The overall project area encompasses parts of Georgetown and Charleston counties in coastal South Carolina.

Portions of Central Electric's proposed routes may affect floodplains, wetlands, cultural, historical and paleontological resources. Once a final right-of-way (ROW) is selected within the preferred route, coordination with the federal and state agencies and other interested parties would occur to identify, evaluate and if needed mitigate any adverse effects. RUS will hold a public hearing meeting to share information and receive comments on the DEIS.

DATES: The public comment period on the DEIS starts with the publication of the U.S. Environmental Protection Agency's environmental impact statement (EIS) receipt notice in the **Federal Register** and will continue for 45 days. RUS will consider all substantive written comments on the DEIS received or postmarked by that date. Agencies, interested parties, and the public are invited to submit comments on the DEIS at any time during the public comment period. An open house public hearing is scheduled for June 3, 2014. The time and location of the meeting will be well-advertised in local media outlets a minimum of 15 days prior to the time of the meeting.

FOR FURTHER INFORMATION CONTACT: For information on the proposed Project, the DEIS process, and RUS financing, contact Ms. Lauren McGee Rayburn, Environmental Scientist, Rural Utilities Service, 84 Coxe Ave., Suite 1E, Ashville, North Carolina 28801, Telephone: (202) 695–2540, Facsimile: (202) 690–0649, or email: *Lauren.McGee@wdc.usda.gov*. Parties wishing to be placed on the Project mailing list for future information and to receive copies of the DEIS and the Final EIS when available should also contact Ms. McGee Rayburn.

SUPPLEMENTARY INFORMATION: RUS is authorized to make loans and loan guarantees that finance the construction of electric distribution, transmission, and generation facilities, including system improvements and replacements required to furnish and improve electric service in rural areas, as well as demand side management, energy conservation programs, and on-grid and off-grid renewable energy systems. Central Electric is an electric transmission cooperative that provides transmission service from the bulk transmission system to South Carolina's 20 retail electric cooperatives. Berkeley Electric, a member distribution electric cooperative of Central Electric, was formed in 1940 to bring electric service to rural areas of coastal South Carolina. Berkeley Electric owns and operates more than 5,000 miles of distribution line serving more than 80,000 accounts in Berkeley, Charleston, and Dorchester counties.

Project Description: Central Electric has identified the need for additional electric transmission capacity in coastal South Carolina to meet reliability and system stability requirements for the region. Investigations and analyses conducted for the overall power delivery systems found that without improvements, the flow of power along existing lines may result in local line overloads and power outages.

To resolve these issues, Central Electric is proposing to construct, own and operate a new 115-kV transmission line and associated supporting infrastructure. The entire Project will consist of constructing approximately 15–20 miles of new single circuit 115-kV, the construction of 1 new substation, improvements to temporary off-ROW construction roads, river crossings, and a single, temporary, 5-to 10-acre construction staging site. The proposed Project would connect from either the Belle Isle Substation or at a tap point on the Winyah-Belle Isle 115 kV transmission line to McClellanville. The proposed Project would be located in portions of Georgetown and Charleston counties in coastal South Carolina and considers six possible Alternative Routes for the transmission line.

Central Electric has requested financial assistance for the proposed Project from RUS. Completing the EIS is one of RUS's requirements in processing Central Electric's application, along with other technical and financial considerations. In accordance with 40 CFR 1501.5(b) of the Council on Environmental Quality's (CEQ) Regulation for Implementing the Procedural Provisions of the National Environmental Policy Act, RUS will serve as the lead agency in the preparation of the EIS.

RUS has prepared a DEIS and intends to issue a Final EIS to analyze the impacts of its respective federal actions and the proposed Project in accordance with the National Environmental Policy Act (NEPA), as amended, Council on Environmental Quality Regulation for Implementing the Procedural Provisions of the NEPA (40 CFR parts 1500–1508) and RUS Environmental Policies and Procedures (7 CFR part 1794).

Because the proposed Project may involve action in floodplains or wetlands, this Notice also serves as a notice of proposed floodplain or wetland action. The DEIS will include a floodplain/wetland assessment and, if required, a floodplain/wetland statement of findings will be issued with the Final EIS.

RUS has determined that its action regarding the proposed Project would be an undertaking subject to review under Section 106 of the National Historic Preservation Act, 16 U.S.C. 470 and its implementing regulations, ''Protection of Historic Properties'' (36 CFR Part 800). As part of its broad environmental review process, RUS must take into account the effect of the proposed Project on historic properties in accordance with Section 106. Pursuant to 36 CFR 800.2(d)(3), RUS is using its procedures for public involvement under NEPA to meet its responsibilities to solicit and consider the views of the public during Section 106 review. Accordingly, comments submitted in response to this Notice will inform RUS decision-making in its Section 106 review process. Any party wishing to participate more directly with RUS as a ''consulting party'' in Section 106 review may submit a written request to the RUS contact provided in this Notice.

Agency Responsibilities: RUS is serving as the lead Federal agency, as defined at 40 CFR 1501.5, for preparation of the DEIS. The U.S. Army Corps of Engineers and the U.S. Forest Service are participating as cooperating agencies and will be issuing decisions relevant to the project under separate authorities. RUS is also serving as the lead Federal agency for the Section 106 and Section 7 review processes.

Public Participation: Public participation and full disclosure are planned for the entire EIS process. The EIS process has included a scoping comment period to solicit comments from interested parties; consultation and involvement with appropriate Federal, State, local, and tribal governments. In addition, a 45-day review/comment period of the DEIS, with an open house public hearing is scheduled on June 3, 2014. The time and location of the meeting will be well-advertised in local media outlets a minimum of 15 days prior to the time of the meeting. Attendees will be welcome to come and go at their convenience and provide written or oral comments on the Project. In addition, attendees may provide written comments by letter, fax, or email. The process will be followed by publication of a Final EIS and publication of a Record of Decision. The expected environmental project review completion date is expected to be spring 2015.

Dated: May 6, 2014.

James F. Elliot,

Acting Assistant Administrator—Electric Programs, Rural Utilities Service.

[FR Doc. 2014–12454 Filed 5–28–14; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

U.S. Census Bureau

Proposed Information Collection; Comment Request; Annual Wholesale Trade Survey

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before July 28, 2014.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *jjessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Bill Abriatis, U.S. Census Bureau, Room 8K081, Washington, DC 20233–6500, (301) 763–3686, (or via the Internet at *william.m.abriatis@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Annual Wholesale Trade Survey (AWTS) covers employer firms with establishments located in the United States and classified in the wholesale trade and/or Manufacturers' Sales Branches and Offices and Agents, Brokers, Representatives, and Electronic Markets sectors as defined by the North American Industry Classification System (NAICS).

Firms are selected for this survey using a stratified random sample where strata are defined by industry and annual sales size. The sample, consisting of wholesale businesses classified in the Wholesale Trade and/or Manufacturers Sales Branches and Offices and Agents, Brokers, Representatives and Markets sector as defined by the 2007 North American Industry Classification Systems (NAICS), is drawn from the Business Register (BR). The BR is the Census Bureau's master business list and contains basic economic information for over 7.4 million employers businesses and over 22.5 million nonemployer businesses. The BR obtains information through direct data collections and administrative record information from federal agencies. The sample is updated quarterly to reflect employer business ''births'' and ''deaths'' by adding new employer businesses identified in the Business and Professional Classification Survey and deleting firms and EINs when it is determined they are no longer active.

The survey request firms to provide annual sales, annual e-commerce sales, year-end inventories held inside and outside the United States, total operating expenses, purchases, and, for selected industries, commissions, and sales on their own account. These data are used to satisfy a variety of public and business needs such as economic market analysis, company performance, and forecasting future demands. Results will be available, at the United States summary level, for selected wholesale trade, and/or manufacturers' sales branches and offices and agents, brokers, representatives and electronic markets, industries approximately fifteen months after the end of the reference year.

Every 5 years, AWTS requests data on detailed operating expenses. During the next three years, detailed operating expenses will not be collected. The last time AWTS collected detailed operating expenses was in 2013 for the 2012 survey year. The plan is to reinstate these questions in 2018 as part of the 2017 AWTS data collection.

II. Method of Collection

We collect this information by Internet, fax, mail, and telephone.

III. Data

OMB Control Number: 0607–0195.

Form Number(s): SA–42, SA–42A, SA–42(MSBO), SA–42A(MSBO), SA–42(AGBR), SA–42A(AGBR).

Type of Review: Regular submission.

Affected Public: Wholesale firms located in the United States.

Estimated Number of Respondents: 7,200.

Estimated Time per Response: Varies by form. Average of 30 minutes.

Estimated Total Annual Burden Hours: 3,600.

Estimated Total Annual Cost to Respondents: The total cost to respondents is estimated to be $114,609.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13, United States Code, Sections 182, 224, and 225.

IV. Request for Comments

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

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

Dated: May 22, 2014.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–12372 Filed 5–28–14; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Annual Retail Trade Survey

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: To ensure consideration, written comments must be submitted on or before July 28, 2014.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at jjessup@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Aneta Erdie, U.S. Census Bureau, Service Sector Statistics Division, Room 8K041, 4600 Silver Hill Road, Washington, DC 20233–6500, (301) 763–4841, (or via the Internet at *aneta.erdie@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Annual Retail Trade Survey (ARTS) covers employer firms with establishments located in the United States and classified in the Retail Trade and/or Accommodation and Food Services sectors as defined by the North American Industry Classification System (NAICS).

Firms are selected for this survey using a stratified random sample where strata are defined by industry and annual sales size. The sample consisting of businesses classified in the Retail Trade and/or Accommodation and Food Services sector as defined by the 2007 NAICS, is drawn from the Business Register (BR). The BR is the Census Bureau's master business list and contains basic economic information for approximately 7.4 million employer businesses and 22.5 million nonemployer businesses. The BR obtains information through direct data collections and administrative record information from other federal agencies. The sample is updated quarterly to reflect employer business ''births'' and ''deaths''; adding new employer businesses identified in the Business and Professional Classification Survey and deleting firms and Employer Identification Numbers (EINs) when it is determined they are no longer active.

The survey requests firms to provide annual sales, annual e-commerce sales, year-end inventories held inside and outside the United States, total operating expenses, purchases, accounts receivables, and, for selected industries, sales by merchandise line. These data are used to satisfy a variety of public and business needs such as economic market analysis, company performance, and forecasting future demands. Results will be available, at the United States summary level, for selected retail trade, and accommodation and food services, industries approximately fifteen months after the end of the reference year.

Every five years, ARTS requests data on detailed operating expenses. During the next three years, detailed operating expenses will not be collected. The last time ARTS collected detailed operating expenses was in 2013 for the 2012 survey year. The plan is to reinstate these questions in 2018 as part of the 2017 ARTS data collection.

II. Method of Collection

We collect this information by mail, fax, telephone, and Internet.

III. Data

OMB Control Number: 0607–0013.

Form Number(s): SA–44, SA–44A, SA–44C, SA–44E, SA–44N, SA–44S, SA–45, SA–45C, SA–721A, SA–721B, SA–721E, SA–721F, SA–722A, and SA–722E.

Type of Review: Regular submission.

Affected Public: Retail and/or accommodation and food services firms located in the United States.

Estimated Number of Respondents: 20,560.

Estimated Time per Response: 34 minutes.

Estimated Total Annual Burden Hours: 11,533 hours.

Estimated Total Annual Cost to Respondents: $360,868.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13, United States Code, Sections 182, 224, and 225.

IV. Request for Comments

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

Comments submitted in response to this notice will be summarized and/or included in the request for OMB

approval of this information collection; they also will become a matter of public record.

Dated: May 23, 2014.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–12476 Filed 5–28–14; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Order Denying Export Privileges

In the Matter of: Manuel Homero Garces, Inmate #—17865–379, FCI Bastrop, Federal Correctional Institution, P.O. Box 1010, Bastrop, TX 78602.

On February 6, 2013, in the U.S. District Court, Southern District of Texas, Manuel Homero Garces (''Garces''), was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2006 & Supp. IV 2010)) (''AECA''). Specifically, Garces knowingly and willfully exported and caused to be exported and attempted to export and attempted to cause to be exported into the United Mexican States from the United States of America a defense article, that is, to wit: one Serbian AK–47, Model PAP M70, 7.62mm rifle, serial number ZAPAP003196, which were designated as a defense article on the United States Munitions List, without having first obtained from the Department of State a license for such export or written authorization for such export. Garces was sentenced to 46 months of imprisonment and two years of supervised release, and penalized $100 as an assessment. Garces is also listed on the U.S. Department of State Debarred List.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'')[1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the Export Administration Act (''EAA''), the EAR, or any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. app. § 2410(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. app. § 2410(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued in which the person had an interest in at the time of his conviction.

I have received notice of Garces's conviction for violating the AECA, and have provided notice and an opportunity for Garces to make a written submission to BIS, as provided in Section 766.25 of the Regulations. I have not received a submission from Garces.

Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Garces's export privileges under the Regulations for a period of six years from the date of Garces's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Garces had an interest at the time of his conviction.

Accordingly, it is hereby

Ordered

I. Until February 6, 2019, Manuel Homero Garces, with a last known address at: Inmate # –17865–379, FFCI Bastrop, Federal Correctional Institution, P.O. Box 1010, Bastrop, TX 78602, and when acting for or on behalf of Garces, his representatives, assigns, agents or employees (the ''Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Garces by affiliation, ownership, control or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order if necessary to prevent evasion of the Order.

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR Parts 730–774 (2013). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. app. §§ 2401–2420 (2000)) (''EAA''). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 8, 2013 (78 FR 49107 (August 12, 2013)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)).

IV. This Order is effective immediately and shall remain in effect until February 6, 2019.

V. In accordance with Part 756 of the Regulations, Garces may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VI. A copy of this Order shall be delivered to the Garces. This Order shall be published in the **Federal Register.**

Issued this 20th day of May, 2014.

Eileen M. Albanese,

Acting Director, Office of Exporter Services.

[FR Doc. 2014–12495 Filed 5–28–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

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

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

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

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

SUPPLEMENTARY INFORMATION:

Background

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

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

Notice of No Sales

If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (''POR''), it must notify the Department within 60 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at *http://iaaccess.trade.gov* in accordance with 19 CFR 351.303.[1] Such submissions are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended (''Act''). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on the Department's service list.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews, the Department intends to select respondents based on U.S. Customs and Border Protection (''CBP'') data for U.S. imports during the POR. We intend to release the CBP data under Administrative Protective Order (''APO'') to all parties having an APO within seven days of publication of this initiation notice and to make our decision regarding respondent selection within 21 days of publication of this **Federal Register** notice. The Department invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the applicable review. Rebuttal comments will be due five days after submission of initial comments.

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

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

Deadline for Withdrawal of Request for Administrative Review

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

Separate Rates

In proceedings involving non-market economy (''NME'') countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an administrative review in an NME

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

country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

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

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, the Department requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on the Department's Web site at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the ''Instructions for Filing the Certification'' in the Separate Rate Certification. Separate Rate Certifications are due to the Department no later than 60 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding [2] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,[3] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Status Application will be available on the Department's Web site at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Status Application, refer to the instructions contained in the application. Separate Rate Status Applications are due to the Department no later than 60 calendar days of publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Status Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

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

Initiation of Reviews:

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than April 30, 2015.

	Period to be reviewed
Antidumping Duty Proceedings	
Russia:.	
Solid Fertilizer-Grade Ammonium Nitrate A–821–811	4/1/13–3/31/14
JSC Acron/JSC Dorogobuzh.	
OJSC MCC EuroChem/Nevinnomyssky Azot, OJSC.	
Novomoskovskiy Azot, OJSC.	
The People's Republic of China: Certain Activated Carbon A–570–904	4/1/13–3/31/14
AmeriAsia Advanced Activated Carbon Products Co., Ltd.	
Anhui Handfull International Trading (Group) Co., Ltd.	
Anhui Hengyuan Trade Co. Ltd.	
Anyang Sino-Shon International Trading Co., Ltd.	
Baoding Activated Carbon Factory.	
Beijing Broad Activated Carbon Co., Ltd.	
Beijing Haijian Jiechang Environmental Protection Chemicals.	
Beijing Hibridge Trading Co., Ltd.	
Beijing Pacific Activated Carbon Products Co., Ltd.	
Bengbu Jiutong Trade Co. Ltd.	
Calgon Carbon (Tianjin) Co., Ltd.	
Carbon Activated Tianjin Co., Ltd.	
Changji Hongke Activated Carbon Co., Ltd.	
Chengde Jiayu Activated Carbon Factory.	
Cherishmet Incorporated.	
China National Building Materials and Equipment Import and Export Corp.	

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

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

	Period to be reviewed
China National Nuclear General Company Ningxia Activated Carbon Factory.	
China Nuclear Ningxia Activated Carbon Plant.	
Da Neng Zheng Da Activated Carbon Co., Ltd.	
Datong Carbon Corporation.	
Datong Changtai Activated Carbon Co., Ltd.	
Datong City Zuoyun County Activated Carbon Co., Ltd.	
Datong Fenghua Activated Carbon.	
Datong Forward Activated Carbon Co., Ltd.	
Datong Fuping Activated Carbon Co. Ltd.	
Datong Guanghua Activated Co., Ltd.	
Datong Hongtai Activated Carbon Co., Ltd.	
Datong Huanqing Activated Carbon Co., Ltd.	
Datong Huaxin Activated Carbon.	
Datong Huibao Active Carbon Co., Ltd.	
Datong Huibao Activated Carbon Co., Ltd.	
Datong Huiyuan Cooperative Activated Carbon Plant.	
Datong Juqiang Activated Carbon Co., Ltd.	
Datong Kaneng Carbon Co. Ltd.	
Datong Locomotive Coal & Chemicals Co., Ltd.	
Datong Municipal Yunguang Activated Carbon Co., Ltd.	
Datong Tianzhao Activated Carbon Co., Ltd.	
DaTong Tri-Star & Power Carbon Plant.	
Datong Weidu Activated Carbon Co., Ltd.	
Datong Xuanyang Activated Carbon Co., Ltd.	
Datong Zuoyun Biyun Activated Carbon Co., Ltd.	
Datong Zuoyun Fu Ping Activated Carbon Co., Ltd.	
Dezhou Jiayu Activated Carbon Factory.	
Dongguan Baofu Activated Carbon.	
Dongguan SYS Hitek Co., Ltd.	
Dushanzi Chemical Factory.	
Fu Yuan Activated Carbon Co., Ltd.	
Fujian Jianyang Carbon Plant.	
Fujian Nanping Yuanli Activated Carbon Co., Ltd.	
Fujian Yuanli Active Carbon Co., Ltd.	
Fuzhou Taking Chemical.	
Fuzhou Yihuan Carbon.	
Great Bright Industrial.	
Hangzhou Hengxing Activated Carbon.	
Hangzhou Hengxing Activated Carbon Co., Ltd.	
Hangzhou Linan Tianbo Material (HSLATB).	
Hangzhou Nature Technology.	
Hebei Foreign Trade and Advertising Corporation.	
Hebei Shenglun Import & Export Group Company.	
Hegongye Ninxia Activated Carbon Factory.	
Heilongjiang Provincial Hechang Import & Export Co., Ltd.	
Hongke Activated Carbon Co., Ltd.	
Huaibei Environment Protection Material Plant.	
Huairen Huanyu Purification Material Co., Ltd.	
Huairen Jinbei Chemical Co., Ltd.	
Huaiyushan Activated Carbon Group.	
Huatai Activated Carbon.	
Huzhou Zhonglin Activated Carbon.	
Inner Mongolia Taixi Coal Chemical Industry Limited Company.	
Itigi Corp. Ltd.	
J&D Activated Carbon Filter Co. Ltd.	
Jacobi Carbons AB.	
Jiangle County Xinhua Activated Carbon Co., Ltd.	
Jiangsu Taixing Yixin Activated Carbon Technology Co., Ltd.	
Jiangxi Hanson Import Export Co.	
Jiangxi Huaiyushan Activated Carbon.	
Jiangxi Huaiyushan Activated Carbon Group Co.	
Jiangxi Huaiyushan Suntar Active Carbon Co., Ltd.	
Jiangxi Jinma Carbon.	
Jianou Zhixing Activated Carbon.	
Jiaocheng Xinxin Purification Material Co., Ltd.	
Jilin Bright Future Chemical Company, Ltd.	
Jilin Province Bright Future Industry and Commerce Co., Ltd.	
Jing Mao (Dongguan) Activated Carbon Co., Ltd.	
Kaihua Xingda Chemical Co., Ltd.	
Kemflo (Nanjing) Environmental Tech.	
Keyun Shipping (Tianjin) Agency Co., Ltd.	
Kunshan Actview Carbon Technology Co., Ltd.	
Langfang Winfield Filtration Co.	

	Period to be reviewed
Link Shipping Limited.	
Longyan Wanan Activated Carbon.	
Mindong Lianyi Group.	
Nanjing Mulinsen Charcoal.	
Nantong Ameriasia Advanced Activated Carbon Product Co., Ltd.	
Ningxia Baota Activated Carbon Co., Ltd.	
Ningxia Baota Active Carbon Plant.	
Ningxia Blue-White-Black Activated Carbon (BWB).	
Ningxia Fengyuan Activated Carbon Co., Ltd.	
Ningxia Guanghua A/C Co., Ltd.	
Ningxia Guanghua Activated Carbon Co., Ltd.	
Ningxia Guanghua Chemical Activated Carbon Co., Ltd.	
Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd.	
Ningxia Haoqing Activated Carbon Co., Ltd.	
Ningxia Henghui Activated Carbon.	
Ningxia Honghua Carbon Industrial Corporation.	
Ningxia Huahui Activated Carbon Co., Ltd.	
Ningxia Huinong Xingsheng Activated Carbon Co., Ltd.	
Ningxia Jirui Activated Carbon.	
Ningxia Lingzhou Foreign Trade Co., Ltd.	
Ningxia Luyuangheng Activated Carbon Co., Ltd.	
Ningxia Mineral & Chemical Limited.	
Ningxia Pingluo County Yaofu Activated Carbon Plant.	
Ningxia Pingluo Xuanzhong Activated Carbon Co., Ltd.	
Ningxia Pingluo Yaofu Activated Carbon Factory.	
Ningxia Taixi Activated Carbon.	
Ningxia Tianfu Activated Carbon Co., Ltd.	
Ninxia Tongfu Coking Co., Ltd.	
Ningxia Weining Active Carbon Co., Ltd.	
Ningxia Xingsheng Coal and Active Carbon Co., Ltd.	
Ningxia Xingsheng Coke & Activated Carbon Co., Ltd.	
Ningxia Yinchuan Lanqiya Activated Carbon Co., Ltd.	
Ningxia Yirong Alloy Iron Co., Ltd.	
Ningxia Zhengyuan Activated.	
Nuclear Ningxia Activated Carbon Co., Ltd.	
OEC Logistic Qingdao Co., Ltd.	
Panshan Import and Export Corporation.	
Pingluo Xuanzhong Activated Carbon Co., Ltd.	
Pingluo Yu Yang Activated Carbon Co., Ltd.	
Shanghai Activated Carbon Co., Ltd.	
Shanghai Astronautical Science Technology Development Corporation.	
Shanghai Coking and Chemical Corporation.	
Shanghai Goldenbridge International.	
Shanghai Jiayu International Trading (Dezhou Jiayu and Chengde Jiayu).	
Shanghai Jinhu Activated Carbon (Xingan Shenxin and Jiangle Xinhua).	
Shanghai Light Industry and Textile Import & Export Co., Ltd.	
Shanghai Mebao Activated Carbon.	
Shanghai Xingchang Activated Carbon.	
Shanxi Blue Sky Purification Material Co., Ltd.	
Shanxi Carbon Industry Co., Ltd.	
Shanxi Dapu International Trade Co., Ltd.	
Shanxi DMD Corporation.	
Shanxi Industry Technology Trading Co., Ltd.	
Shanxi Newtime Co., Ltd.	
Shanxi Qixian Foreign Trade Corporation.	
Shanxi Qixian Hongkai Active Carbon Goods.	
Shanxi Sincere Industrial Co., Ltd.	
Shanxi Supply and Marketing Cooperative.	
Shanxi Tianli Ruihai Enterprise Co.	
Shanxi Xiaoyi Huanyu Chemicals Co., Ltd.	
Shanxi Xinhua Activated Carbon Co., Ltd.	
Shanxi Xinhua Chemical Co., Ltd. (formerly Shanxi Xinhua Chemical Factory).	
Shanxi Xinhua Protective Equipment.	
Shanxi Xinshidai Import Export Co., Ltd.	
Shanxi Xuanzhong Chemical Industry Co., Ltd.	
Shanxi Zuoyun Yunpeng Coal Chemistry.	
Shenzhen Sihaiweilong Technology Co.	
Sincere Carbon Industrial Co. Ltd.	
Sinoacarbon International Trading Co, Ltd.	
Taining Jinhu Carbon.	
Tancarb Activated Carbon Co., Ltd.	
Tangshan Solid Carbon Co., Ltd.	
Tianchang (Tianjin) Activated Carbon.	

	Period to be reviewed
Tianjin Century Promote International Trade Co., Ltd.	
Tianjin Channel Filters Co., Ltd.	
Tianjin Jacobi International Trading Co. Ltd.	
Tianjin Maijin Industries Co., Ltd.	
Taiyuan Hengxinda Trade Co., Ltd.	
Tonghua Bright Future Activated Carbon Plant.	
Tonghua Xinpeng Activated Carbon Factory.	
Triple Eagle Container Line.	
Uniclear New-Material Co., Ltd.	
United Manufacturing International (Beijing) Ltd.	
Valqua Seal Products (Shanghai) Co.	
VitaPac (HK) Industrial Ltd.	
Wellink Chemical Industry.	
Xi Li Activated Carbon Co., Ltd.	
Xi'an Shuntong International Trade & Industrials Co., Ltd.	
Xiamen All Carbon Corporation.	
Xingan County Shenxin Activated Carbon Factory.	
Xinhua Chemical Company Ltd.	
Xuanzhong Chemical Industry.	
Yangyuan Hengchang Active Carbon.	
Yicheng Logistics.	
Yinchuan Lanqiya Activated Carbon Co., Ltd.	
Zhejiang Quizhou Zhongsen Carbon.	
Zhejiang Xingda Activated Carbon Co., Ltd.	
Zhejiang Yun He Tang Co., Ltd.	
Zhuxi Activated Carbon.	
Zuoyun Bright Future Activated Carbon Plant.	
The People's Republic of China: Certain Steel Threaded Rod A–570–932	4/1/13–3/31/14
Aihua Holding Group Co. Ltd.	
Autocraft Industry Ltd.	
Autocraft Industry (Shanghai) Ltd.	
Billion Land Ltd.	
Bolt MFG. Trade Ltd.	
C and H International Corporation.	
Certified Products International Inc.	
Changshu City Standard Parts Factory.	
China Brother Holding Group Co. Ltd.	
China Friendly Nation Hardware Technology Limited.	
EC International (Nantong) Co., Ltd.	
Fastco (Shanghai) Trading Co., Ltd.	
Fastwell Industry Co. Ltd.	
Fuda Xiongzhen Macyinery Co., Ltd.	
Fuller Shanghai Co Ltd.	
Gem-Year Industrial Co. Ltd.	
Haiyan Dayu Fasteners Co., Ltd.	
Haiyan Evergreen Standard Parts Co. Ltd.	
Haiyan Hurras Import & Export Co. Ltd.	
Haiyan Hurras Import Export Co. Ltd.	
Haiyan Jianhe Hardward Co. Ltd.	
Haiyan Julong Standard Part Co. Ltd.	
Hangzhou Everbright Imp. & Exp. Co. Ltd.	
Hangzhou Grand Imp & Exp. Co., Ltd.	
Hangzhou Great Imp & Exp. Co. Ltd.	
Hangzhou Lizhan Hardware Co. Ltd.	
Hangzhou Tongwang Machinery Co., Ltd.	
Jiabao Trade Development Co. Ltd.	
Jiangsu Zhongweiyu Communication Equipment Co. Ltd.	
Jiangsu Ronry Nico Co., Ltd.	
Jiangsu Yanfei Industrial Co., Ltd.	
Jiashan Steelfit Trading Co. Ltd.	
Jiashan Zhongsheng Metal Products Co., Ltd.	
Jiaxing Brother Fastener Co., Ltd., IFI & Morgan Ltd. and RMB Fasteners Ltd.	
Jiaxing Brother Standard Part.	
Jiaxing Xinyue Standard Part Co. Ltd.	
Jiaxing Yaoliang Import & Export Co., Ltd.	
Jinan Banghe Industry & Trade Co., Ltd.	
Macropower Industrial Inc.	
Midas Union Co., Ltd.	
Nanjing Prosper Import & Export Corporation Ltd.	
New Pole Power System Co. Ltd.	
Ningbiao Bolts & Nuts Manufacturing Co.	
Ningbo Beilun Milfast Metalworks Co. Ltd.	
Ningbo Beilun Pingxin Hardware Co., Ltd.	

	Period to be reviewed
Ningbo Dexin Fastener Co. Ltd.	
Ningbo Dongxin High-Strength Nut Co., Ltd.	
Ningbo Fastener Factory.	
Ningbo Fengya Imp. And Exp. Co. Ltd.	
Ningbo Fourway Co., Ltd.	
Ningbo Haishu Holy Hardware Import and Export Co. Ltd.	
Ningbo Haishu Wit Import & Export Co. Ltd.	
Ningbo Haishu Yixie Import & Export Co. Ltd.	
Ningbo Jinding Fastening Pieces Co., Ltd.	
Ningbo MPF Manufacturing Co. Ltd.	
Ningbo Panxiang Imp. & Exp., Co. Ltd.	
Ningbo Yinzhou Foreign Trade Co., Ltd.	
Ningbo Zhongjiang High Strength Bolts Co. Ltd.	
Ningbo Zhongjiang Petroleum Pipes & Machinery Co., Ltd.	
Orient International Holding Shanghai Rongheng Intl Trading Co. Ltd.	
Prosper Business and Industry Co., Ltd.	
Qingdao Free Trade Zone Health Intl.	
Qingdao Top Steel Industrial Co. Ltd.	
Shaanxi Succeed Trading Co., Ltd.	
Shanghai East Best Foreign Trade Co.	
Shanghai East Best International Business Development Co., Ltd.	
Shanghai Fortune International Co. Ltd.	
Shanghai Furen International Trading.	
Shanghai Hunan Foreign Economic Co., Ltd.	
Shanghai Nanshi Foreign Economic Co.	
Shanghai Overseas International Trading Co. Ltd.	
Shanghai P&J International Trading Co., Ltd.	
Shanghai Prime Machinery Co. Ltd.	
Shanghai Printing & Dyeing and Knitting Mill.	
Shanghai Printing & Packaging Machinery Corp.	
Shanghai Recky International Trading Co., Ltd.	
Shanghai Sinotex United Corp. Ltd.	
Suntec Industries Co., Ltd.	
Suzhou Henry International Trading Co., Ltd.	
T and C Fastener Co. Ltd.	
T and L Industry Co. Ltd.	
Wuxi Metec Metal Co. Ltd.	
Zhejiang Heiter Industries Co., Ltd.	
Zhejiang Heiter MFG & Trade Co. Ltd.	
Zhejiang Jin Zeen Fasteners Co. Ltd.	
Zhejiang Junyue Standard Part Co., Ltd.	
Zhejiang Morgan Brother Technology Co. Ltd.	
Zhejiang New Oriental Fastener Co., Ltd.	
Zhejiang Yanfei Industrial Co., Ltd.	
Zhejiang Zhenglian Corp.	
Zhejiang Zhenglian Industry Development Co., Ltd.	
Zhoushan Zhengyuan Standard Parts Co., Ltd.	
The People's Republic of China: Drawn Stainless Steel Sinks A–570–983	10/4/12–3/31/14
Feidong Import & Export Co., Ltd.	
Foshan Success Imp. & Exp. Co. Ltd.	
Foshan Zhaoshun Trade Co., Ltd.	
Guangdong Dongyuan Kitchenware Industrial Co., Ltd.	
Guangdong New Shichu Import and Export Corporation Limited.	
Guangdong Yingao Kitchen Utensils Co., Ltd.	
Shunde Native Produce Import and Export Co., Ltd. of Guangdong.	
Yuyao Afa Kitchenware Co., Ltd.	
Zhongshan Newecan Enterprise Development Corporation Limited.	
Zhongshan Silk Imp. & Exp. Group Co., Ltd. of Guangdong.	
Zhongshan Superte Kitchenware Co., Ltd.	
The People's Republic of China: Frontseating Service Valves A–570–933	4/1/13–3/31/14
Zhejiang Sanhua Co., Ltd.	
The People's Republic of China: Magnesium Metal A–570–896	4/1/13–3/31/14
Tianjin Magnesium International Co., Ltd.	
Tianjin Magnesium Metal Co., Ltd.	
The People's Republic of China: Non-Malleable Cast Iron Pipe Fittings A–570–875	4/1/13–3/31/14
Overseas Industrial Corporation.	
Countervailing Duty Proceedings	
The People Republic of China: Drawn Stainless Sinks C–570–984	8/6/12–12/31/13
Foshan Zhaoshun Trade Co., Ltd.	
Guangdong Dongyuan Kitchenware Industrial Co., Ltd.	
Shunde Native Produce Import and Export Co., Ltd. of Guangdong.	

	Period to be reviewed
Zhongshan Newecan Enterprise Development Corporation Limited. Zhongshan Silk Imp. & Exp. Group Co., Ltd. of Guangdong. Zhongshan Superte Kitchenware Co., Ltd..	
Suspension Agreements	
None.	

Duty Absorption Reviews

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

Gap Period Liquidation

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

Administrative Protective Orders and Letters of Appearance

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

Revised Factual Information Requirements

On April 10, 2013, the Department published *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule,* 78 FR 21246 (April 10, 2013), which modified two regulations related to antidumping and countervailing duty proceedings: The definition of factual information (19 CFR 351.102(b)(21)), and the time limits for the submission of factual information (19 CFR 351.301). The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The final rule requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being submitted. These modifications are effective for all segments initiated on or after May 10, 2013. Please review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt*, prior to submitting factual information in this segment.

Any party submitting factual information in an antidumping duty or countervailing duty proceeding must certify to the accuracy and completeness of that information.[4] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives. Ongoing segments of any antidumping duty or countervailing duty proceedings initiated on or after March 14, 2011 should use the formats for the revised certifications provided at the end of the *Interim Final Rule.*[5] All segments of any antidumping duty or countervailing duty proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule.*[6] The Department intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable revised certification requirements.

Revised Extension of Time Limits Regulation

On September 20, 2013, the Department modified its regulation concerning the extension of time limits for submissions in antidumping and countervailing duty proceedings: *Final Rule,* 78 FR 57790 (September 20, 2013). The modification clarifies that parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are

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

[5] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule,* 76 FR 7491 (February 10, 2011) (''*Interim Final Rule*''), amending 19 CFR 351.303(g)(1) and (2); *Certification of Factual Information to Import Administration during Antidumping and Countervailing Duty Proceedings: Supplemental Interim Final Rule,* 76 FR 54697 (September 2, 2011).

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

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

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

Dated: May 22, 2014.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–12504 Filed 5–28–14; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–869]

Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products From Japan: Antidumping Duty Order

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

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

SUMMARY: Based on affirmative final determinations by the Department of Commerce (the Department) and the International Trade Commission (ITC), the Department is issuing an antidumping duty order on diffusion-annealed, nickel-plated flat-rolled steel products (certain nickel-plated, flat-rolled steel) from Japan.

FOR FURTHER INFORMATION CONTACT: Dena Crossland or David Cordell, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3362 or (202) 482–0408, respectively.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 735(d) and 777(i)(1) of the Tariff Act of 1930, as amended (the Act), on April 10, 2014, the Department published the final determination of sales at less than fair value in the antidumping duty investigation of certain nickel-plated, flat-rolled steel from Japan.[1] On May 21, 2014, the ITC notified the Department of its affirmative determination, pursuant to section 735(b) of the Act, that an industry in the United States is materially injured by reason of less-than-fair-value imports from Japan of certain nickel-plated, flat-rolled steel.[2] Pursuant to section 736(a) of the Act, the Department is publishing an antidumping duty order on the subject merchandise.

Scope of the Order

The diffusion-annealed, nickel-plated flat-rolled steel products included in this order are flat-rolled, cold-reduced steel products, regardless of chemistry; whether or not in coils; either plated or coated with nickel or nickel-based alloys and subsequently annealed (*i.e.,* ''diffusion-annealed''); whether or not painted, varnished or coated with plastics or other metallic or nonmetallic substances; and less than or equal to 2.0 mm in nominal thickness. For purposes of this order, ''nickel-based alloys'' include all nickel alloys with other metals in which nickel accounts for at least 80 percent of the alloy by volume.

Imports of merchandise included in the scope of this order are classified primarily under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7212.50.0000 and 7210.90.6000, but may also be classified under HTSUS subheadings 7210.70.6090, 7212.40.1000, 7212.40.5000, 7219.90.0020, 7219.90.0025, 7219.90.0060, 7219.90.0080, 7220.90.0010, 7220.90.0015, 7225.99.0090, or 7226.99.0180. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Antidumping Duty Order

As stated above, on May 21, 2014, in accordance with section 735(d) of the Act, the ITC notified the Department of its final determination in this investigation, in which it found material injury with respect to certain nickel-plated, flat-rolled steel from Japan. Because the ITC determined that imports of certain nickel-plated, flat-rolled steel from Japan are materially injuring a U.S. industry, all unliquidated entries of such merchandise from Japan, entered or withdrawn from warehouse, are subject to the assessment of antidumping duties.

Therefore, in accordance with section 736(a)(1) of the Act, the Department will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by the Department, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise, for all relevant entries of certain nickel-plated, flat-rolled steel from Japan. These antidumping duties will be assessed on unliquidated entries of certain nickel-plated, flat-rolled steel from Japan entered, or withdrawn from warehouse, for consumption on or after November 19, 2013, the date on which the Department published its *Preliminary Determination,*[3] but will not include entries occurring after the expiration of the provisional measures period and before publication of the ITC's final injury determination as further described below.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we will instruct CBP to continue to suspend liquidation on all entries of certain nickel-plated, flat-rolled steel from Japan. We will also instruct CBP to require cash deposits equal to the amounts by which the normal value exceeds the U.S. price as indicated below. These instructions

[1] *See Notice of Affirmative Final Determination of Sales at Less Than Fair Value: Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products from Japan,* 79 FR 19868 (April 10, 2014).

[2] *See Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products from Japan* (Inv. No. 731–TA–1206 (Final), USITC Publication 4466, May 2014).

[3] *See Diffusion-Annealed, Nickel-Plated Flat-Rolled Steel Products From Japan: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 78 FR 69371 (November 19, 2013) (*Preliminary Determination*).

suspending liquidation will remain in effect until further notice.

Accordingly, effective on the date of publication of the ITC's final affirmative injury determination, CBP will require, at the same time as importers would normally deposit estimated duties on this subject merchandise, a cash deposit equal to the weighted-average dumping margins listed below. *See* section 736(a)(3) of the Act.

Provisional Measures

Section 733(d) of the Act states that instructions issued pursuant to an affirmative preliminary determination may not remain in effect for more than four months except where exporters representing a significant proportion of exports of the subject merchandise request the Department to extend that four-month period to no more than six months. At the request of an exporter that accounts for a significant proportion of certain nickel-plated, flat-rolled steel from Japan, we extended the four-month period to no more than six months.[4] In the underlying investigation, the Department published the *Preliminary Determination* on November 19, 2013.[5] Therefore, the six-month period beginning on the date of the publication of the *Preliminary Determination* will end on May 17, 2014. Furthermore, section 737(b) of the Act states that definitive duties are to begin on the date of publication of the ITC's final injury determination.

Therefore, in accordance with section 733(d) of the Act and our practice, we will instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of certain nickel-plated, flat-rolled steel from Japan entered, or withdrawn from warehouse, for consumption after May 17, 2014, the date provisional measures expired, until and through the day preceding the date of publication of the ITC's final injury determination in the **Federal Register**. Suspension of liquidation will resume on the date of publication of the ITC's final injury determination in the **Federal Register**.

The weighted-average dumping margins are as follows:

Manufacturer/exporter	Weighted-average margin (percent)
Toyo Kohan Co., Ltd.	45.42
Nippon Steel & Sumitomo Metal Corporation	77.70
All Others	45.42

[4] *See* Letter from Toyo Kohan Co., Ltd. to the Department, dated October 28, 2013. *See also* Letter from Thomas Steel Strip Corporation (Petitioner) to the Department, dated October 29, 2013.

[5] *See Preliminary Determination.*

This notice constitutes the antidumping duty order with respect to certain nickel-plated, flat-rolled steel from Japan pursuant to section 736(a) of the Act. Interested parties can find an updated list of antidumping duty orders currently in effect at *http://ia.ita.doc.gov/stats/iastats1.html*.

This order is published in accordance with section 736(a) of the Act and 19 CFR 351.211.

Dated: May 22, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–12509 Filed 5–28–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–998]

1,1,1,2-Tetrafluroethane From the People's Republic of China: Antidumping Duty Investigation, Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances, in Part, and Postponement of Final Determination

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

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

SUMMARY: The Department of Commerce (''Department'') preliminarily determines that 1,1,1,2-Tetrafluoroethane (''tetrafluoroethane'') from the People's Republic of China (''PRC'') is being, or is likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733 of the Tariff Act of 1930, as amended (''the Act''). The period of investigation (''POI'') is April 1, 2013, through September 30, 2013. The estimated margins of sales at LTFV are shown in the ''Preliminary Determination'' section of this notice. The final determination will be issued 135 days after publication of this preliminary determination in the **Federal Register**. Interested parties are invited to comment on this preliminary determination.

FOR FURTHER INFORMATION CONTACT: Frances Veith or Bob Palmer, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4295 or (202) 482–9068, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Investigation

The product subject to this investigation is 1,1,1,2-Tetrafluoroethane, R-134a, or its chemical equivalent, regardless of form, type, or purity level. The chemical formula for 1,1,1,2-tetrafluoroethane is CF_3-CH_2F, and the Chemical Abstracts Service (''CAS'') registry number is CAS 811–97–2.

1,1,1,2-Tetrafluoroethane is sold under a number of trade names including Klea 134a and Zephex 134a (Mexichem Fluor); Genetron 134a (Honeywell); Suva 134a, Dymel 134a, and Dymel P134a (DuPont); Solkane 134a (Solvay); and Forane 134a (Arkema). Generically, 1,1,1,2-tetrafluoroethane has been sold as Fluorocarbon 134a, R-134a, HFC-134a, HF A-134a, Refrigerant 134a, and UN3159.

Merchandise covered by the scope of this investigation is currently classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') at subheading 2903.39.2020. Although the HTSUS subheading and CAS registry number are provided for convenience and customs purposes, the written description of the scope is dispositive.

Methodology

The Department conducted this investigation in accordance with section 731 of the Act. We calculated export prices and constructed export prices in accordance with section 772 of the Act. Because the PRC is a non-market economy within the meaning of section 771(18) of the Act, normal value (''NV'') was calculated in accordance with section 773(c) of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum hereby adopted by this notice.[1] The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's

[1] *See* ''Decision Memorandum for Preliminary Determination for the Antidumping Duty Investigation of 1,1,1,2-Tetrafluoroethane from the People's Republic of China,'' from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, dated concurrently with this notice (''Preliminary Decision Memorandum'').

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 on the Internet at *http://trade.gov/enforcement//.* The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Preliminary Affirmative Determination of Critical Circumstances, in Part

On February 19, 2014, Petitioner timely filed an amendment to the petition, pursuant to section 733(e)(1) of the Act and 19 CFR 351.206(c)(2)(i), alleging that critical circumstances exist with respect to imports of the merchandise under consideration.[2] We preliminarily determine that critical circumstances do not exist for Bluestar but do exist with respect to Weitron, non-individually examined companies, and the PRC-wide entity. For a full description of the methodology and results of our analysis, *see* the Preliminary Decision Memorandum.

Combination Rates

In the *Initiation Notice,*[3] the Department stated that it would calculate combination rates for the respondents that are eligible for a separate rate in this investigation. Policy Bulletin 05.1 describes this practice.[4]

Preliminary Determination

The preliminary weighted-average antidumping duty (''AD'') margin percentages are as follows:

Exporter	Producer	Weighted-average margin (%)
Weitron International Refrigeration Equipment (Kunshan) Co., Ltd.	Zhejiang Quhua Fluor-Chemistry Co., Ltd	133.47
Weitron International Refrigeration Equipment (Kunshan) Co., Ltd.	Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd	133.47
Jiangsu Bluestar Green Technology Co., Ltd.	Jiangsu Bluestar Green Technology Co., Ltd	237.33
Shandong Dongyue Chemical Co., Ltd	Shandong Dongyue Chemical Co., Ltd	187.48
T.T. International Co., Ltd	Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd	187.48
T.T. International Co., Ltd	Zhejiang Quhua Fluor-Chemistry Co., Ltd	187.48
T.T. International Co., Ltd	Jiangsu Bluestar Green Technology Co., Ltd	187.48
T.T. International Co., Ltd	Zhejiang Sanmei Chemical Ind, Co., Ltd	187.48
T.T. International Co., Ltd	Zhejiang Pujiang Bailian Chemical Co., Ltd	187.48
T.T. International Co., Ltd	Jiangsu Jinxue Group Co., Ltd	187.48
T.T. International Co., Ltd	Zhejiang Quzhou Lianzhou Refrigerants Co., Ltd	187.48
Zhejiang Sanmei Chemical Industry Co., Ltd.	Zhejiang Sanmei Chemical Industry Co., Ltd	187.48
Zhejiang Sanmei Chemical Industry Co., Ltd.	Jiangsu Sanmei Chemicals Co., Ltd	187.48
PRC-Wide Entity[5]		237.33

Disclosure and Public Comment

We will disclose the calculations performed to parties in this proceeding within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[6] A table of contents, list of authorities used, and an executive summary of issues should accompany any briefs submitted to the Department.

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, U.S. Department of Commerce, filed electronically at Enforcement and Compliance's electronic records system, 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.[7] Hearing requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues you intend to present at the hearing. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Pursuant to section 735(a)(1) of the Act, we will make our final determination no later than 135 days after the date of publication of this preliminary determination.

[2] *See* Letter from Petitioner to the Department, Re: ''1,1,1,2 Tetrafluoroethane from The People's Republic of China: Critical Circumstances Allegation,'' February 19, 2014.

[3] *See 1,1,1,2-Tetrafluoroethane from the People's Republic of China: Initiation of Antidumping Duty Investigation,* 77 FR 73832, 73836 (December 9, 2013) (''*Initiation Notice*'').

[4] *See* Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, ''Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries,'' (April 5, 2005) (''Policy Bulletin 05.1''), available on the Department's Web site at *http://enforcement.trade.gov/policy/bull05-1.pdf.*

[5] This also includes Zhejiang Bailian Industry and Trade, Jiangsu Jin Xue Group Co., Ltd., SC Ningbo International Ltd, Sinochem Environmental Protection Chemicals (Taichang) Co., Ltd., Sinochem Ningbo Ltd., Zhejiang Quhua Fluor-Chemistry Co., Ltd., Zhejiang Quzhou Lianzhou Refrigerants Co., Ltd. and Aerospace Communications Holdings, Co. Ltd.

[6] *See* 19 CFR 351.309.

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

Suspension of Liquidation

In accordance with section 733(d) of the Act the Department will instruct U.S. Customs and Border Protection (''CBP'') to suspend liquidation of all entries of tetrafluoroethane from the PRC, as described in the ''Scope of the Investigation'' section, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

Pursuant to 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit [8] equal to the weighted-average amount by which NV exceeds U.S. price, adjusted where appropriate for export subsidies and estimated domestic subsidy pass-through,[9] as follows: (1) The cash deposit rate for the exporter/producer combinations listed in the table above will be the rate the Department determines in this preliminary determination; (2) for all combinations of PRC exporters/producers of merchandise under consideration that have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate established for the PRC-wide entity; and (3) for all non-PRC exporters of merchandise under consideration which have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate applicable to the PRC exporter/producer combination that supplied that non-PRC exporter.

We did not adjust the preliminary determination AD margins for export subsidies because the Department found no evidence of export subsidies in the companion countervailing duty (''CVD'') proceeding. Additionally, the Department did not adjust the preliminary determination AD margins for estimated domestic subsidy pass-through because respondents provided no information to support an adjustment pursuant to section 777A(f) of the Act.[10]

[8] *See* Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations, 76 FR 61042 (October 3, 2011).

[9] *See* sections 772(c)(1)(C) and 777A(f) of the Act, respectively. Unlike in administrative reviews, the Department calculates the adjustment for export subsidies in investigations not in the margin calculation program, but in the cash deposit instructions issued to CBP. *See Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India,* 71 FR 45012 (August 8, 2006), and accompanying Issues and Decision Memorandum at Comment 1.

[10] *See* Preliminary Decision Memorandum.

Postponement of Final Determination and Extension of Provisional Measures

Pursuant to a request from Weitron, we are postponing the final determination and extending the provisional measures from a four-month period to no more than six months. Accordingly, we will make our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.[11]

International Trade Commission (''ITC'') Notification

In accordance with section 733(f) of the Act, we notified the ITC of our preliminary affirmative determination of sales at LTFV. Section 735(b)(2) of the Act requires the ITC to make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of tetrafluoroethane, or sales (or the likelihood of sales) for importation, of the merchandise under consideration within 45 days of our final determination.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: May 21, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

List of Topics Discussed in the Preliminary Decision Memorandum

1. Initiation
2. Period of Investigation
3. Postponement of Preliminary Determination
4. Scope of the Investigation
5. Scope Comments
6. Selection of Respondents
7. Critical Circumstances
8. Discussion of the Methodology
   a. Non-Market Economy Country
   b. Surrogate Country
   c. Surrogate Value Comments
   d. Separate Rates
   e. Margin for the Separate Rate Companies
   f. Combination Rates
   g. The PRC-Wide Entity
   h. Application of Facts Available and Adverse Facts Available
   i. Affiliation
   j. Date of Sale
   k. Fair Value Comparisons
   l. Export Price
   m. Constructed Export Price
   n. Normal Value
   o. Factor Valuations Methodology
   p. Comparison to Normal Value
   q. Currency Conversion
9. Verification
10. Section 777A(f) of the Act
11. International Trade Commission Notification
12. Conclusion

[11] *See also* 19 CFR 351.210(e).

[FR Doc. 2014–12484 Filed 5–28–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic From the People's Republic of China: Partial Rescission of the 19th Antidumping Duty Administrative Review; 2012–2013

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

SUMMARY: The Department of Commerce (the Department) is conducting the 19th administrative review of the antidumping duty order on fresh garlic from the People's Republic of China (PRC) covering the period of review November 1, 2012, through October 31, 2013. The Department is rescinding the review for 94 companies for which Petitioners and/or the companies withdrew their request(s) in a timely manner.

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

FOR FURTHER INFORMATION CONTACT: Jacqueline Arrowsmith, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20120; telephone (202) 482–5255.

SUPPLEMENTARY INFORMATION:

Background

On November 1, 2013, the Department of Commerce published in the **Federal Register** a notice of the opportunity to request administrative review of, *inter alia,* the antidumping duty order on fresh garlic from the PRC covering the period November 1, 2012, through October 31, 2013.[1] In November 2013, the Department received review requests from PRC producers/exporters of fresh garlic and the Fresh Garlic Producers Association (FGPA) and its individual members (collectively, the Petitioners).[2] On December 30, 2013, the Department initiated this review for 147

[1] *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 78 FR 65612 (November 1, 2013).

[2] Shenzhen Xinboda Industrial Co., Ltd. and Zhenghou Harmoni Spice Co., Ltd. (Harmoni) are the PRC producer/exporters. The individual members of the FGPA are Christopher Ranch L.L.C.; the Garlic Company; Valley Garlic; and Vessey Company, Inc.

producers/exporters.[3] On March 31, 2014, Petitioners timely withdrew their review requests for 94 of the 147 companies, listed as an attachment to this notice. Harmoni also filed a timely request for withdrawal on the same date.

Rescission in Part

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if a party who requested the review withdraws its request within 90 days of the day of publication of notice of initiation of the requested review. The aforementioned requests for review were timely withdrawn and because no other party requested a review of the aforementioned producers/exporters, in accordance with 19 CFR 351.213(d)(1), with respect to these producers/exporters.

Assessment Rates

The Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. For those producers/exporters for which this review has been rescinded and which have a separate rate from a prior segment of this proceeding, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from the warehouse, for consumption, in accordance with 19 CFR 351.212(c)(2). For those producers/exporters for which this review has been rescinded and which have not been assigned a separate rate from a prior segment of the proceeding, the Department stated that they belong to the PRC-wide entity and that the administrative review will continue for these companies.[4]

Notification to Importers

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

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 78 FR 79392 (December 30, 2013) (*Initiation Notice*).

[4] *See Initiation Notice.*

Notification Regarding Administrative Protective Order

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

This notice is issued and published in accordance with section 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: May 21, 2014.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Attachment

1. American Pioneer Shipping
2. Anhui Dongqian Foods Ltd.
3. Anqiu Friend Food Co., Ltd.
4. Anqiu Haoshun Trade Co., Ltd.
5. APM Global Logistics (Shanghai) Co., Ltd.
6. APS Qingdao
7. Chiping Shengkang Foodstuff Co., Ltd.
8. CMEC Engineering Machinery Import & Export Co., Ltd.
9. Dongying Shunyifa Chemical Co., Ltd.
10. Dynalink Systems Logistics (Qingdao) Inc.
11. Eimskip Logistics Inc.
12. Feicheng Acid Chemicals Co., Ltd.
13. Frog World Co., Ltd.
14. Golden Bridge International, Inc.
15. Hangzhou Guayu Foods Co., Ltd.
16. Hongqiao International Logistics Co.
17. Intects Logistics Service Co., Ltd.
18. IT Logistics Qingdao Branch
19. Jinan Solar Summit International Co., Ltd.
20. Jinan Yinpin Coporation Ltd.
21. Jining De-Rain Trading Co., Ltd.
22. Jining Highton Trading Co., Ltd.
23. Jining Jiulong International Trading Co., Ltd.
24. Jining Tiankuang Trade Co., Ltd.
25. Jining Trans-High Trading Co., Ltd.
26. Jinxiang County Huanguang Food Import & Export Co., Ltd.
27. Jinxiang Dacheng Food Co., Ltd.
28. Jinxiang Fengsheng Import & Export Co., Ltd.
29. Jinxiang Jinma Fruits and Vegetables Products Co., Ltd.
30. Jinxiang Meihua Garlic Produce Co., Ltd.
31. Jinxiang Shanyang Freezing Storage Co., Ltd.
32. Jinxiang Shenglong Trade Co., Ltd.
33. Jinxiang Tianheng Trade Co., Ltd.
34. Jinxiang Tianma Freezing Storage Co., Ltd.
35. Juye Homestead Fruits and Vegetables Co., Ltd.
36. Kingwin Industrial Co., Ltd.
37. Laiwu Fukai Foodstuff Co., Ltd.
38. Laizhou Xubin Fruits and Vegetables
39. Linshu Dading Private Agricultural Products Co., Ltd.
40. Linyi City Hedong District Jiuli Foodstuff Co., Ltd.
41. Linyi City Kangfa Drinkable Co., Ltd.
42. Linyi Katayama Foodstuffs Co., Ltd.
43. Linyi Tianqin Foodstuff Co., Ltd.
44. Ningjin Ruifeng Foodstuff Co., Ltd.
45. Qingdao Apex Shipping Co., Ltd.
46. Qingdao BNP Co., Ltd.
47. Qingdao Cherry Leather Garment Co., Ltd.
48. Qingdao Chongzhi International Transportation Co., Ltd.
49. Qingdao Saturn International Trade Co., Ltd.
50. Qingdao Sino-World International Trading Co., Ltd.
51. Qingdao Winner Foods Co., Ltd.
52. Qingdao Yuankuang International
53. Qufu Dongbao Import & Export Trade Co., Ltd.
54. Rizhao Huasai Foodstuff Co., Ltd.
55. Samyoung America (Shanghai) Inc.
56. Shandong Chengshun Farm Produce Trading Co., Ltd.
57. Shandong China Bridge Imports
58. Shandong Dongsheng Eastsun Foods Co., Ltd.
59. Shandong Garlic Company
60. Shandong Longtai Fruits and Vegetable Co., Ltd.
61. Shandong Sanxing Foods Co., Ltd.
62. Shandong Wonderland Organic Food Co., Ltd.
63. Shandong Xingda Foodstuffs Group Co., Ltd.
64. Shandong Yipin Agro (Group) Co., Ltd.
65. Shanghai Ever Rich Trade Company
66. Shanghai Goldenbridge International Co., Ltd.
67. Shanghai Great Harvest International Co., Ltd.
68. Shanghai Medicines & Health Products Import/Export Co., Ltd.
69. Shanghai Yija International Transportation Co., Ltd.
70. Shenzhen Fanhui Import & Export Co., Ltd.
71. Shenzhen Greening Trading Co., Ltd.
72. Sunny Import & Export Limited
73. T&S International, LLC
74. Tainan Eastsun Foods Co., Ltd.
75. Taian Fook Huat Tong Kee Pte. Ltd.
76. Taian Solar Summit Food Co., Ltd.
77. Taiyan Ziyang Food Co., Ltd.
78. Tianjin Spiceshi Co., Ltd.
79. U.S. United Logistics (Ningbo) Inc.
80. V.T. Impex (Shandong) Limited
81. Weifang Chenglong Import & Export Co., Ltd.
82. Weifang Jinbao Agricultural Equipment Co., Ltd.
83. Weifang Shennong Foodstuff Co., Ltd.
84. Weihai Textile Group Import & Export Co., Ltd.
85. WSSF Corporation (Weifang)
86. Xiamen Huamin Import Export Company
87. Xiamen Keep Top Imp. And Exp. Co., Ltd.
88. Xinjiang Top Agricultural Products Co., Ltd.
89. Yishui Hengshun Foodstuff Co., Ltd.

90. You Shi Li International Trading Co., Ltd.
91. Zhangzhou Xiangcheng Rainbow Greenland Food Co., Ltd.
92. Zhengzhou Dadi Garlic Industry Co., Ltd.
93. Zhengzhou Harmoni Spice Co., Ltd.
94. Zhengzhou Xiwannian Food Co., Ltd.

[FR Doc. 2014–12506 Filed 5–28–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Scope Rulings

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

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

SUMMARY: The Department of Commerce (''Department'') hereby publishes a list of scope rulings and anticircumvention determinations made between January 1, 2014, and March 31, 2014. We intend to publish future lists after the close of the next calendar quarter.

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

SUPPLEMENTARY INFORMATION:

Background

The Department's regulations provide that the Secretary will publish in the **Federal Register** a list of scope rulings on a quarterly basis.[1] Our most recent notification of scope rulings was published on April 7, 2014.[2] This current notice covers all scope rulings and anticircumvention determinations made by Enforcement and Compliance between January 1, 2014, and March 31, 2014, inclusive. Subsequent lists will follow after the close of each calendar quarter.

Scope Rulings Made Between January 1, 2014 and March 31, 2014

Japan

A–588–857: Welded Large Diameter Line Pipe From Japan

Requestor: TransCanada Pipelines Limited; certain welded large diameter line pipe that is processed to meet CSA grade 550 pipe having an outside diameter of 48 inches up to and including 52 inches and a wall thickness of 0.90 inches or more, is not subject to the scope of the antidumping duty order because record evidence indicates that these products are comparable to API grade X80, which is expressly excluded from the scope of the antidumping duty order; March 24, 2014.

People's Republic of China

A–570–967 and C–570–968: Aluminum Extrusions From the People's Republic of China

Requestor: Aluwind Inc.; Aluwind Inc.'s gallery assemblies for wind turbines are finished goods and are not covered by the orders; March 27, 2014.

A–570–967 and C–570–968: Aluminum Extrusions From the People's Republic of China

Requestor: Shenyang Yuanda Aluminum Industry Engineering Co., Ltd., (Yuanda); Yuanda's curtain wall units that are produced and imported pursuant to a contract to supply a curtain wall are within the scope of the orders because the language of the scope specifically provides that subject aluminum extrusions may be described at the time of importation as parts for final products (including curtain walls) that are assembled after importation, and curtain wall units that are produced and imported pursuant to a contract to supply a curtain wall fall short of the final finished curtain wall that envelops an entire building; March 27, 2014.

A–570–912 and C–570–913: Certain New Pneumatic Off-the-Road Tires From the People's Republic of China

Requestor: China Manufacturers Alliance (''CMA''); CMA's on-road high-speed tires for mobile cranes with the REM–8 pattern are outside the scope of the order because the scope is not intended to include tires designed for high-speed mobile cranes designed for on-highway use, and thus excludes CMA's on-road mobile crane tires designed for high-speed use; March 19, 2014.

A–570–943 and C–570–944: Certain Oil Country Tubular Goods From the People's Republic of China

Requestors: United States Steel Corporation, TMK IPSCO, Wheatland Tube Company, Boomerang Tube LLC, and V&M Star L.P.; seamless unfinished oil country tubular goods manufactured in the People's Republic of China (''PRC'') and finished in countries other than the United States and the PRC (*i.e.,* third countries) is within the scope of the order where the finishing consists of heat treatment by quenching and tempering, upsetting and threading (with integral joint), or threading and coupling; and the products are made to the following specifications and grades: API specification 5CT, grades P–110, T–95 and Q–125; February 7, 2014.

A–570–910 and C–570–911: Circular Welded Carbon Quality Steel Pipe From the People's Republic of China

Requestor: Cintube Ltd. (''Cintube''); Cintube's 45° and 90° bend pipes, which are Chinese-origin pipes further processed and heat treated in Canada to create bends at various angles, are not covered by the scopes of the AD and CVD orders because they are pipe fittings, which consist of additional distinguishing physical characteristics not contemplated by the scope of the orders; February 20, 2014.

A–570–891: Hand Trucks and Certain Parts Thereof From the People's Republic of China

Requestor: The Harp Shoppe; the Harp Trolley is not subject to the scope of the antidumping duty order because it lacks a required vertical frame; February 18, 2014.

A–570–891: Hand Trucks and Certain Parts Thereof From the People's Republic of China

Requestor: Gaither Tool Company, Inc.; the Winntec HD Y471147 tire and wheel cart is not subject to the antidumping duty order because it lacks a required horizontal projecting edge or edges or toe plate at or near the lower section of the frame; March 25, 2014.

A–570–891: Hand Trucks and Certain Parts Thereof From the People's Republic of China

Requestor: Sperian Eye and Face Protection, Inc., a subsidiary of Honeywell International, Inc.; carts for mobile eyewash stations are not subject to the antidumping duty order because they lack a required horizontal projecting edge or edges or toe plate at or near the lower section of the frame; March 31, 2014.

A–570–504: Petroleum Wax Candles From the People's Republic of China

Requestor: HSE USA, Inc.; HSE's set of 10 candles are not within the scope of the antidumping duty order because they meet the definition for utility candles using the criteria set forth in 19 CFR 351.225(k)(2); January 29, 2014.

A–570–979 and C–570–980: Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China

Requestor: NVT LLC (d/b/a SunEdison); Modules assembled in Malaysia from solar cells manufactured in Taiwan, where all manufacturing of

[1] *See* 19 CFR 351.225(o).

[2] *See Notice of Scope Rulings,* 79 FR 19057 (April 7, 2014).

the modules/cells took place in Malaysia and Taiwan, are not subject to the scope of the AD and CVD orders because neither the solar modules nor the solar cells therein were manufactured in the PRC; January 10, 2014.

A–570–918: Steel Wire Garment Hangers From the People's Republic of China

Requestor: Dollar General Corporation, LLC (''Dollar General''); The Vinyl-Coated Hanger is within the scope of the antidumping duty order (''Order'') because the physical description of this hanger does not meet any of the exclusions in the scope, while the Five-Tier Swing Arm Slack Rack Hanger, Chrome Tie/Belt Hanger, Slacker Hanger, and Four-Tier Skirt/Slack Hanger are outside the scope because they are distinct in production process, as well as form and shape (and use) from hangers covered by the scope of the antidumping duty order as determined by the Department of Commerce; January 16, 2014.

A–570–890: Wooden Bedroom Furniture From the People's Republic of China

Requestor: Stork Craft Manufacturing Inc. (''Stork Craft''); Stork Craft's bench/toy box is excluded from the scope of the order because it shares sufficient characteristics with excluded toy boxes, in addition to having elements consistent with excluded seating furniture; February 25, 2014.

Anticircumvention Determinations Made Between January 1, 2014, and March 31, 2014

A–570–866: Polyethylene Retail Carrier Bags From the People's Republic of China

Requestor: Hilex Poly Co., LLC and Superbag Corp.; exports of unfinished polyethylene retail carrier bags which are sealed on all four sides, cut to length, and which appear ready to undergo the final step in the production process (*i.e.,* to use a die press to stamp out the opening and create the handles of a finished polyethylene retail carrier bag) are circumventing the antidumping duty order; March 19, 2014.

A–570–928: Uncovered Innerspring Units From the People's Republic of China

Requestor: Leggett & Platt Incorporated; exports to the United States of uncovered innerspring units completed and assembled in Malaysia by Reztec Industries Sdn Bhd from PRC-origin innerspring components are circumventing the antidumping duty order; January 21, 2014.

Interested parties are invited to comment on the completeness of this list of completed scope and anticircumvention inquiries. Any comments should be submitted to the Deputy Assistant Secretary for AD/CVD Operations, Enforcement and Compliance, International Trade Administration, 14th Street and Constitution Avenue, NW., APO/Dockets Unit, Room 1870, Washington, DC 20230.

This notice is published in accordance with 19 CFR 351.225(o).

Dated: May 22, 2014.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–12487 Filed 5–28–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD313

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Applications for two new scientific research permits.

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

DATES: Comments or requests for a public hearing on the applications must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific standard time on June 30, 2014.

ADDRESSES: Written comments on the application should be sent to the Protected Resources Division, NMFS, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232–1274. Comments may also be sent via fax to 503–230–5441 or by email to *nmfs.nwr.apps@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Rob Clapp, Portland, OR (ph.: 503–231–2314), Fax: 503–230–5441, email: *Robert.Clapp@noaa.gov*). Permit application instructions are available from the address above, or online at *https://apps.nmfs.noaa.gov.*

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

The following listed species are covered in this notice:

Chinook salmon (*Oncorhynchus tshawytscha*): threatened Puget Sound (PS).
Steelhead (*O. mykiss*): threatened PS.
Chum salmon (*O.* Keta): threatened PS.
Eulachon (*Thaleichthys pacificus*): threatened Southern.

Authority

Scientific research permits are issued in accordance with section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et. seq*) and regulations governing listed fish and wildlife permits (50 CFR parts 222–226). NMFS issues permits based on findings that such permits: (1) Are applied for in good faith; (2) if granted and exercised, would not operate to the disadvantage of the listed species that are the subject of the permit; and (3) are consistent with the purposes and policy of section 2 of the ESA. The authority to take listed species is subject to conditions set forth in the permits.

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

Applications Received

Permit 18792

The Wild Fish Conservancy (WFC) is seeking a five-year permit to annually take juvenile PS Chinook salmon and subadult PS steelhead. The WFC research may also cause them to take Southern eulachon, a species for which there are currently no ESA take prohibitions. The purpose of the study is to test native salmonids for pathogens transmitted from salmon in net pens in the Puget Sound. The research would benefit the affected species by (1) determining the direction and distance potential pathogen plumes could move and thereby help managers place net pens where they would do the least amount of harm to native fishes, and (2) identifying areas where such plumes may affect salmonids. Sampling would take place in two locations in Puget Sound: Clam Bay (South Puget Sound) and Deepwater Bay (Whidbey Basin). The WFC proposes to use beach seines to capture fish twice each month at multiple sites near both locations. The

first ten juvenile coho, chum, pink, and hatchery Chinook captured during each sampling event would be killed and tissue samples (gill, kidney, heart) would be taken. Any remaining fish from each sample would be anesthetized, identified by species, measured, checked for sea lice, and released.

Permit 18819

The WFC is seeking a five-year permit to annually take juvenile and adult PS Chinook salmon, HCS chum salmon, and PS steelhead. The WFC research may also cause them to take Southern eulachon, a species for which there are currently no ESA take prohibitions. The purpose of the study is to determine the relative abundance, distribution, and emigration timing of juvenile chum salmon in the Hood Canal and tidally-influenced portions of its major tributaries. The research would benefit the affected species by determining juvenile salmonid out-migrant timing, use of nearshore rearing habitats, and key habitat associations (i.e. eelgrass and kelp beds, gravel beaches, mudflats, and modified vs. unmodified shorelines). Sampling would take place in 30 locations throughout Hood Canal. The WFC proposes to use fyke nets and beach seines to capture fish twice each month from December through May. The salmonids and steelhead would be identified by species and enumerated. A subset of all fish would also be measured, and tissue samples would be taken from the chum and wild Chinook salmon. Juvenile coded-wire tagged (CWT) coho and Chinook salmon would be sacrificed to determine their hatcheries of origin and to provide stock-specific information about how and where they use nearshore habitats. All other fish would be released after handling. The researchers do not propose to kill any other listed species being captured, but a small number may die as an unintended result of the activities.

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

Dated: May 23, 2014.

Angela Somma,

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

[FR Doc. 2014–12459 Filed 5–28–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD317

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Highly Migratory Species Management Team (HMSMT) will hold a webinar, which is open to the public.

DATES: The HMSMT will hold the webinar on Monday, June 16, 2014, from 1 p.m. to 5 p.m., Pacific Time, or when business for the day is complete.

ADDRESSES: To attend the webinar, visit *http://www.joinwebinar.com*. Enter the Webinar ID: 749–475–639, and your name and email address (required). Once you have joined the webinar, choose either your computer's audio or select ''Use Telephone.'' If you do not select ''Use Telephone'' you will be connected to audio using your computer's microphone and speakers (VolP). It is recommended that you use a computer headset as GoToMeeting allows you to listen to the meeting using your computer headset and speakers. If you do not have a headset and speakers, you may use your telephone for the audio portion of the meeting by dialing this TOLL number 1–702–489–0008 (not a toll-free number); phone audio access code 749–475–639; audio phone pin shown after joining the webinar. System requirements for PC-based attendees: Required: Windows® 7, Vista, or XP; for Mac®-based attendees: Required: Mac OS® X 10.5 or newer; and for mobile attendees: Required: iPhone®, iPad®, Android™ phone or Android tablet (See the GoToMeeting Webinar Apps). You may also send an email to Mr. Kris Kleinschmidt or contact him at (503) 820–2280 for technical assistance. A listening station will also be provided at the Pacific Council office.

Council address: Pacific Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Dr. Kit Dahl, Pacific Council; telephone: (503) 820–2422.

SUPPLEMENTARY INFORMATION: The HMSMT will discuss items on the Council's June meeting agenda. These are: Update on Regulations and International Activities, Drift Gillnet Transition Issues, Exempted Fishing Permit (EFP) Process Confirmation, Initial Scoping of Biennial Specifications and Management Measures.

Public comments during the webinar will be received from attendees at the discretion of the HMSMT Chair.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt at (503) 820–2280 at least 5 days prior to the meeting date.

Dated: May 23, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–12483 Filed 5–28–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD316

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council (Council) and its advisory entities will hold public meetings.

DATES: The meetings will be held June 18–25, 2014. The Council meeting will begin on Friday, June 20, 2014 at 8 a.m.,

reconvening each day through Wednesday, June 25, 2014. All meetings are open to the public, except a closed session will be held at 8 a.m. on Friday, June 20 to address litigation and personnel matters. The Council will meet as late as necessary each day to complete its scheduled business.

ADDRESSES: The meetings will be held at the Hyatt Regency Orange County, 11999 Harbor Boulevard, Garden Grove, CA 92840; telephone: (714) 750–1234.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220. Instructions for attending the meeting via live stream broadcast are given under **SUPPLEMENTARY INFORMATION**, below.

FOR FURTHER INFORMATION CONTACT: Dr. Donald O. McIsaac, Executive Director; telephone: (503) 820–2280 or (866) 806–7204 toll free; or access the Council Web site, *http://www.pcouncil.org* for the current meeting location, proposed agenda, and meeting briefing materials.

SUPPLEMENTARY INFORMATION: The June 20–25, 2014 meeting of the Pacific Fishery Management Council will be streamed live on the internet. The live meeting will be broadcast daily starting at 9 a.m. Pacific Time (PT) beginning on Friday, June 20, 2014 through Wednesday, June 25, 2014. The broadcast will end daily at 6 p.m. PT *or when business for the day is complete.* Only the audio portion, and portions of the presentations displayed on the screen at the Council meeting, will be broadcast. The audio portion is listen-only; you will be unable to speak to the Council via the broadcast. Join the meeting by visiting this link *http://www.joinwebinar.com*, enter the Webinar ID for this meeting, which is 675–991–863 and enter your email address as required. It is recommended that you use a computer headset as GoToMeeting allows you to listen to the meeting using your computer headset and speakers. If you do not have a headset and speakers, you may use your telephone for the audio portion of the meeting by dialing this TOLL number 1–646–307–1708 (not a toll free number); entering the phone audio access code 839–465–317; and then entering your Audio Pin which will be shown to you after joining the webinar. The webinar is broadcast in listen only mode.

The following items are on the Pacific Council agenda, but not necessarily in this order.

A. Call to Order

1. Opening Remarks
2. Roll Call
3. Executive Director's Report
4. Agenda

B. Open Comment Period

1. Comments on Non-Agenda Items

C. Administrative Matters

1. Approval of Council Meeting Minutes
2. Gulf of the Farallones and Cordell Bank National Marine Sanctuary Boundary Expansion
3. Legislative Matters
4. Fiscal Matters
5. Membership Appointments and Council Operating Procedures
6. Future Council Meeting Agenda and Workload Planning

D. Salmon Management

1. Lower Columbia River Natural Coho Harvest Matrix Update
2. Columbia River Cormorant Management Plan

E. Highly Migratory Species Management

1. Update on Regulatory Matters and International Activities
2. Drift Gillnet Fishery Transition Issues
3. Exempted Fishing Permit Process
4. Initial Scoping of Biennial Specifications and Management Measures

F. Groundfish Management

1. National Marine Fisheries Service Report
2. Electronic Monitoring Regulatory Process
3. Omnibus Regulation Changes Part I
4. Consideration of Inseason Adjustments
5. Final Exempted Fishing Permit Approval for 2015–16
6. Fixed Gear Sablefish Catch Share Program Review, Including Federal Electronic Fish Tickets for Open Access Sablefish Deliveries
7. Fisheries in 2015–16 and Beyond: Harvest Specifications, Management Measures, and Amendment 24
8. Initial Stock Assessment Plans and Terms of Reference for Groundfish and Coastal Pelagic Species
9. Omnibus Regulation Changes Part II

G. Coastal Pelagic Species Management

1. National Marine Fisheries Service Report
2. Pacific Mackerel Harvest Specifications and Management Measures for 2014–15

H. Habitat

1. Current Habitat Issues

Schedule of Ancillary Meetings

Day 1—Wednesday, June 18, 2014

Groundfish Management Team 1 p.m.

Day 2—Thursday, June 19, 2014

Groundfish Advisory Subpanel 8 a.m.
Groundfish Management Team 8 a.m.
Highly Migratory Species Advisory Subpanel 8 a.m.
Highly Migratory Species Management Team 8 a.m.
Scientific and Statistical Committee Groundfish Subcommittee 8 a.m.
Legislative Committee 9 a.m.
Budget Committee 2:30 p.m.

Day 3—Friday, June 20, 2014

California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Groundfish Advisory Subpanel 8 a.m.
Groundfish Management Team 8 a.m.
Highly Migratory Species Advisory Subpanel 8 a.m.
Highly Migratory Species Management Team 8 a.m.
Scientific and Statistical Committee 8 a.m.
Enforcement Consultants 1 p.m.
Chair's Reception 6 p.m.

Day 4—Saturday, June 21, 2014

California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Groundfish Advisory Subpanel 8 a.m.
Groundfish Management Team 8 a.m.
Highly Migratory Species Advisory Subpanel 8 a.m.
Highly Migratory Species Management Team 8 a.m.
Enforcement Consultants Ad hoc

Day 5—Sunday, June 22, 2014

California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Coastal Pelagic Species Advisory Subpanel 8 a.m.
Coastal Pelagic Species Management Team 8 a.m.
Groundfish Advisory Subpanel 8 a.m.
Groundfish Management Team 8 a.m.
Enforcement Consultants Ad hoc

Day 6—Monday, June 23, 2014

California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Groundfish Advisory Subpanel 8 a.m.
Groundfish Management Team 8 a.m.
Habitat Committee 10 a.m.
Enforcement Consultants Ad hoc
National Marine Fisheries Service Recreational Policy Meeting 7 p.m.

Day 7—Tuesday, June 24, 2014

California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Groundfish Advisory Subpanel 8 a.m.
Groundfish Management Team 8 a.m.

Habitat Committee 8 a.m.
Enforcement Consultants Ad hoc

Day 8—Wednesday, June 25, 2014

California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.

Additional detail on agenda items, Council action, and meeting rooms, is described in Agenda Item A.4, Proposed Council Meeting Agenda, and will be in the advance June 2014 briefing materials and posted on the Council Web site (*www.pcouncil.org*).

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Carolyn Porter at (503) 820–2280 at least 5 days prior to the meeting date.

Dated: May 23, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–12482 Filed 5–28–14; 8:45 am]

BILLING CODE 3510–22–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB–2014–0011]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Consumer Financial Protection Bureau (Bureau) is proposing a new information collection titled: ''Telephone Survey Exploring Consumer Awareness of and Perceptions Regarding Dispute Resolution Provisions in Credit card Agreements.''

DATES: Written comments are encouraged and must be received on or before June 30, 2014 to be assured of consideration.

ADDRESSES: You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

- *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Consumer Financial Protection Bureau (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552.
- *Hand Delivery/Courier:* Consumer Financial Protection Bureau (Attention: PRA Office), 1275 First Street NE., Washington, DC 20002.

Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted. In general, all comments received will be posted without change to regulations.gov, including any personal information provided. Sensitive personal information, such as account numbers or social security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Documentation prepared in support of this information collection request is available at *www.reginfo.gov* (this link is active on the day following publication of this notice). Requests for additional information should be directed to the Consumer Financial Protection Bureau, (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552, (202) 435–9575, or email: *PRA@cfpb.gov. Please do not submit comments to this email box.*

SUPPLEMENTARY INFORMATION:

Title of Collection: Telephone Survey Exploring Consumer Awareness of and Perceptions Regarding Dispute Resolution Provisions in Credit card Agreements.

OMB Control Number: 3170–XXXX.

Type of Review: New Collection (Request for a new OMB Control Number).

Affected Public: Individuals or Households.

Estimated Number of Respondents: 1,000.

Estimated Total Annual Burden Hours: 170.

Abstract: The Bureau seeks approval from the Office of Management and Budget (''OMB'') to conduct a national telephone survey of 1,000 credit card holders as part of its study of mandatory pre-dispute arbitration agreements, which is required under Section 1028(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, Title XIV (''Dodd Frank Act''). The survey will explore (a) the role of dispute resolution provisions in consumer card acquisition decisions and (b) consumers' default assumptions (meaning consumers' awareness, understanding, or knowledge without supplementation from external sources) regarding their dispute resolution rights vis-à-vis their credit card issuers, including their awareness of their ability, where applicable, to opt-out of mandatory pre-dispute arbitration agreements. The survey will not gather data regarding respondents' post-fact satisfaction with arbitration or litigation proceedings, given the difficulty in finding consumers that have had personal experience with both forums.

Request for Comments: The Bureau issued a 60-day **Federal Register** notice on June 7, 2013, 78 FR 34352. Comments were solicited and continue to be invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record.

Dated: May 21, 2014.

Ashwin Vasan,

Chief Information Officer, Bureau of Consumer Financial Protection.

[FR Doc. 2014–12412 Filed 5–28–14; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2014–OS–0081]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness), DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense (Personnel

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

DATES: Consideration will be given to all comments received by July 28, 2014.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

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.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Department of Defense Education Activity, ATTN: Dr. Sandra D. Embler, 4040 North Fairfax Drive, Arlington, VA 22203–1635, or call at (703) 588–3175.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Department of Defense Education Activity (DODEA) Evaluation and Program Surveys—Generic; OMB Control Number 0704–0437.

Needs and Uses: The Department of Defense Education Activity (DODEA) has a need to conduct a variety of one-time surveys, interviews, and focus groups on an as-needed basis. The population for these data collections will be limited to students and parents of students attending DODEA schools. These information collections are necessary to measure DODEA's progress on the goals set forth in the community Strategic Plan, and to assess parent and student input on school policies and procedures. These data collections will include, but are not limited to, school operations and procedures (such as school uniforms, transportation, school calendar), school facilities, curricular and instructional needs and effectiveness, programmatic needs and effectiveness, and extra-curricular and co-curricular activities. The information sought by these data collections will allow DODEA to quickly have access to the information necessary to determine overall effectiveness, increase efficiency, and obtain valuable input from parents and students on new and existing policies and procedures. Data collection instruments to include burden hours and supporting documentation will be submitted to the DoD Clearance Officer and OMB for final approval as they become available.

Affected Public: Individuals or Households.

Annual Burden Hours: 1,041 hours.

Number of Respondents: 2,500.

Responses per Respondent: 1.

Total Annual Responses: 2,500.

Average Burden per Response: 25 minutes.

Frequency: On Occasion.

The following categories will be included in this data collection.

School Procedures and Policies: These data collections will gather information from DODEA students and parents on issues related to the everyday operational processes and policies of the school. These data collections will include, but will not be limited to, information on the school calendar, school uniforms, school transportation, school lunch, school facilities (i.e., gymnasiums, cafeterias, and playgrounds). These data collections will allow DODEA to immediately identify or determine the extent of student and parent concerns and to quickly gather suggestions for improvement from parents and students.

School Curriculum: These data collections will gather information from students and parents on the curricular availability and instructional practices in DODEA schools. These data collections will include, but will not be limited to, course offerings, availability and use of curricular materials, instructional practices, and availability and use of educational technology. These data collections will also gather information on the perceived effectiveness of the school curriculum.

Program Effectiveness and Operations: These data collections will gather opinions from students and parents on the provision, needs, and effectiveness of non-curricular programs and support services, such as counseling, special education services, gifted education, English as a Second Language Services, Physical and Occupational Therapy, and in-school medical services. These data collections will help assess the extent to which support services are available and accessible, as well as help determine the effectiveness and additional needs of support programs.

Extra-curricular and co-curricular Activities: These data collections will provide information from students and parents on the availability, effectiveness, and perceived needs of school extra-curricular and co-curricular activities. These data collections will help determine the extent to which the athletic interests of DODEA students are bing met by the current offerings, and assess the effectiveness of such activities. These data collections will also help determine the extent to which the dramatic, artistic, musical, and academic interests of DODEA students are being met, and determine the future needs of such programs.

Dated: May 22, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–12394 Filed 5–28–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2014–OS–0080]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness), DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense (Personnel and Readiness) announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a)

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

DATES: Consideration will be given to all comments received by July 28, 2014.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

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.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Office of the Under Secretary of Defense (Personnel and Readiness) (Military Community and Family Policy), ATTN: Mr. Christopher P. Wright, 4000 Defense Pentagon, Washington, DC 20301–4000 or call at (703) 588–0172.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Application for Discharge of Member or Survivor of Member of Group Certified to Have Performed Active Duty with the Armed Forces of the United States; DD Form 2168; OMB Control Number 0704–0100.

Needs and Uses: This information collection requirement is necessary to implement section 401 of Public Law 95–202 (codified at 38 U.S.C. 106 Note), which directs the Secretary of Defense: (1) To determine if civilian employment or contractual service rendered to the Armed Forces of the United States by certain groups shall be considered Active Duty service, and (2) to award members of approved groups an appropriate certificate where the nature and duration of service so merits. This information is collected on DD Form 2168, ''Application for Discharge of Member of Group Certified to have Performed Active Duty with the Armed Forces of the United States,'' which provides the necessary data to assist each of the Military Departments in determining if an applicant was a member of a group which has performed active military service. Those individuals who have been recognized as members of an approved group shall be eligible for benefits administered by the Veterans' Administration.

Affected Public: Individuals or Households.

Annual Burden Hours: 250 hours.

Number of Respondents: 500.

Responses per Respondent: 1.

Total Annual Responses: 500.

Average Burden per Response: 30 minutes.

Frequency: On Occasion.

Section 401 of Public Law 95–202 (codified at 38 U.S.C. 106 Note) authorized the Secretary of Defense: (1) To determine if civilian employment or contractual service rendered to the Armed Forces of the United States by certain groups shall be considered active duty service, and (2) to issue members of approved groups an appropriate certificate of service where the nature and duration of service so warrants. Such persons shall be eligible for benefits administered by the Department of Veterans Affairs. The information collected on DD Form 2168, ''Application for Discharge of Member or Survivor of Member Group Certified To Have Performed Duty with the Armed Forces of the United States,'' is necessary to assist the Secretaries of the Military Departments in: (1) Determining if an applicant was a member of an approved group that performed civilian employment or contractual service for the U.S. Armed Forces and (2) to assist in issuing an appropriate certificate of service to the applicant. Information provided by the applicant will include: The name of the group served with; dates and place of service; highest grade/rank/rating held during service; highest pay grade; military installation where ordered to report; specialty/job title(s). If the information requested on a DD Form 2168 is compatible with that of a corresponding approved group, and the applicant can provide supporting evidence, he or she will receive veteran's status in accordance with the provisions of DoD Directive 1000.20. Information from the DD form 2168 will be extracted and used to complete the DD Form 214, ''Certificate for Release of Discharge from Active Duty.''

Dated: May 22, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–12392 Filed 5–28–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2014–OS–0082]

Proposed Collection; Comment Request

AGENCY: Defense Finance and Accounting Service, DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Defense Finance and Accounting Service announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 28, 2014.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

• *Federal eRulemaking Portal:http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

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.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Disbursing Management Policy Division, Defense Finance and Accounting Service Kansas City, DFAS–NPD/KC, 1500 E. 95th Street, Kansas City, MO 64197–0030, or call at (816) 926–3600.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Application Form for Department of Defense (DoD) Stored Value Card (SVC) Programs; OMB Control Number 0730–0016.

Needs and Uses: The information collection requirement is necessary to Department of Defense (DoD) Financial Management Regulation 7000.14–R, Volume 5, requires that eligible individuals desiring to enroll in the Navy/Marine Corps Cash and the EagleCash program, complete the DD Form 2887. Also need to authorize the transfer of funds from their personal bank accounts to the SVC for the Navy/Marine Cash Program and to provide a means to effect immediate checkage of the individual's pay if a debt occurs.

Affected Public: Individuals or Households; Business or Other For-Profit; Not-for-profit Institutions; State, Local, or Tribal Government.

Annual Burden Hours: 7,416 hours.

Number of Respondents: 44,500.

Responses per Respondent: 1.

Total Annual Responses: 44,500.

Average Burden per Response: 10 minutes.

Frequency: On occasion.

The Application Form for DoD SVC Programs is used to ascertain pertinent information needed by DoD in order to have the authorization for the transfer of funds from a financial institution to the SVC and to obtain an agreement from the individual for the immediate checkage of their pay in the event of a debt to the United States Government occurs.

Dated: May 23, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–12470 Filed 5–28–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2014–OS–0079]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness), DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense (Personnel and Readiness) announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the propsed 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 proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 28, 2014.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Mail: Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

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.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of the Under Secretary of Defense (Personnel and Readiness) (MPP) (Compensation), ATTN: Pat Mulcahy, 4000 Defense Pentagon, Washington, DC 20301–4000 or call at (703) 693–1059.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Survivor Benefit Plan (SBP)/Reserve Component (RC) SBP Request for Deemed Election; DD Form 2656–10, OMB Number 0704–0448.

Needs and Uses: This information collection requirement is necessary to properly identify and record the eligibility of a former spouse for an SBP election to be deemed on behalf of a retired military member. A former spouse must file for a deemed election within one year from the date of a court order or filing of a written agreement specifying former spouse or former spouse and child SBP coverage.

Affected Public: Individuals or Households.

Annual Burden Hours: 95.

Number of Respondents: 285.

Responses per Respondent: 1.

Average Burden per Response: 20 minutes.

Frequency: One-time.

A former spouse who has been awarded coverage under the Survivor Benefit Plan either by court order or written agreement, may, within one year of such court order or written agreement submit a request to have an election for such coverage deemed on behalf of the member. Such request will be made by submitting the renewal form and a copy of the court order, regular on its face, which requires such election or incorporates, ratifies, or approves the written agreement of such person; or a statement from the clerk of the court (or other appropriate official) that such agreement has been filed with the court in accordance with applicable state law.

A former spouse is not required to submit a request for a deemed election. However, if a request for deemed

election is not submitted within the one year period described in the previous paragraph and the member fails to elect former spouse SBP coverage, no former spouse coverage will be provided.

The DD Form 2656–10, ''Survivor Benefit Plan (SBP)/Reserve Component (RC) SBP Request for Deemed Election,'' is currently the prescribed form required for submitting such request.

Dated: May 22, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–12391 Filed 5–28–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2014–OS–0078]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (Military Personnel Policy), DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense (Personnel and Readiness) (Military Personnel Policy), announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 28, 2014.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Mail: Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

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.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Office of the Under Secretary of Defense (Personnel and Readiness) (Military Personnel Policy), ATTN: MAJ Justin DeVantier, 4000 Defense Pentagon, Washington, DC 20301–4000 or call at 703–695–5527.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Request for Reference; DD Form 370; OMB Control Number 0704–0167.

Needs and Uses: This information collection requirement is necessary to obtain personal reference data, in order to request a waiver, on a military applicant who has committed a civil or criminal offense and would otherwise be disqualified for entry into the Armed Forces of the United States. The DD Form 370 is used to obtain references information evaluating the character, work habits, and attitudes of an applicant from a person of authority or standing within the community.

Affected Public: Individuals or Households; Business or other For-Profit; Not-for-Profit institutions; State, Local, or Tribal government. Normally, this form would be completed by responsible community leaders such as school officials, ministers and law enforcement officials.

Annual Burden Hours: 1,083 hours.

Number of Respondents: 6,500.

Responses per Respondent: 1.

Total Annual Responses: 6,500.

Average Burden per Response: 10 minutes.

Frequency: On Occasion.

This information is collected to provide Armed Services with specific background information on an applicant. History of criminal activity, arrests, or confinement is disqualifying for military service. An applicant, with such a disqualifier, is required to submit references from community leaders who will attest to his or her character, attitudes or work habits. The DD Form 370 is the method of information collection which requests an evaluation and reference from a specific individual, within the community, who has the knowledge of the applicant's habits, behavior, personality, and character. The information will be used to determine suitability of the applicant for military service and the issuance of a waiver for acceptance.

Dated: May 22, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–12389 Filed 5–28–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2013–OS–0223]

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 June 30, 2014.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: Assessing Options for CONUS Domestic Dependents Elementary and Secondary Schools (DDESS); OMB Control Number 0704–TBD.

Type of Request: New.

Number of Respondents: 28.

Responses per Respondent: 1.

Annual Responses: 28.

Average Burden per Response: 120 minutes.

Annual Burden Hours: 56.

Needs and Uses: The objective of this project is to recommend options that most effectively balance cost and quality considerations for primary and secondary schooling of military dependents on each of the 15 continental United States (CONUS) installations where the Department of Defense currently operates Domestic Dependents Elementary and Secondary Schools (DDESS) or contracts with local educational agencies (LEAs) to operate

schools on the installation. As part of the study, we will interview superintendents of LEAs that are in close proximity to installations that have DDESS schools (excluding those installations that only have special arrangement schools). The interviews will capture information on the approach the LEAs will adopt if they were given the responsibility to educate DDESS students, as well as identify factors that might facilitate or hinder LEAs taking the responsibility of educating DDESS students. This information is critical as it will identify whether transferring DDESS schools to LEAs is even a feasible option that could be plausibly considered for the governance of the current CONUS DDESS schools.

Affected Public: Individuals or households.

Frequency: Once.

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: May 23, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–12453 Filed 5–28–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of Department of Defense Federal Advisory Committees

AGENCY: DoD.

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: The Department of Defense is publishing this notice to announce that it is renewing the charter for the Threat Reduction Advisory Committee (''the Committee'').

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: This committee's charter is being renewed under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b) (''the Sunshine Act''), and 41 CFR 102–3.50(d).

The Committee is a discretionary Federal advisory committee that shall provide the Secretary of Defense, through the Under Secretary of Defense for Acquisition, Technology and Logistics (USD(AT&L)) and the Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs (ASD(NCB)), independent advice and recommendations on:

a. Reducing the threat to the United States, its military forces, and its allies and partners posed by nuclear, biological, chemical, conventional, and special weapons.

b. Combating WMD to include non-proliferation, counterproliferation, and consequence management.

c. Nuclear deterrence transformation, nuclear material lockdown and accountability.

d. Nuclear weapons effects;

e. The nexus of counterproliferation and counter WMD terrorism.

f. Other AT&L; NCB; and Defense Threat Reduction Agency mission-related matters, as requested by the USD(AT&L).

The Committee shall report to the Secretary of Defense through the USD(AT&L).

The Department of Defense (DoD), through the Office of the USD(AT&L), the Office of the ASD(NCB) Defense Programs, and the Defense Threat Reduction Agency, shall provide support, as deemed necessary, for the Committee's performance, and shall ensure compliance with the requirements of the FACA, the Sunshine Act, governing Federal statutes and regulations, and established DoD policies and procedures.

The Committee shall be composed of no more than 20 members who are eminent authorities in the fields of national defense, geopolitical and national security affairs, WMD, nuclear physics, chemistry, and biology.

The Committee members are appointed by the Secretary of Defense or the Deputy Secretary of Defense and their appointments will be renewed on an annual basis in accordance with DoD policies and procedures. Those members, who are not full-time or permanent part-time federal officers or employees, shall be appointed as experts and consultants under the authority of 5 U.S.C. 3109 to serve as special government employee (SGE) members, with annual renewals. Committee members who are full-time or permanent part-time Federal employees will serve as regular government employee (RGE) members.

Committee members shall, with the exception of travel and per diem for official travel, serve without compensation, unless otherwise authorized by the Secretary of Defense.

The Secretary of Defense, in consultation with USD(AT&L) and the ASD(NCB), shall select the Committee's Chair and Vice Chair from among the membership approved by the Secretary of Defense or Deputy Secretary of Defense.

The Secretary of Defense or Deputy Secretary of Defense may approve the appointment of Committee members for one-to-four year terms of service; however, no member, unless authorized by the Secretary of Defense or Deputy Secretary of Defense, may serve more than two consecutive terms of service, to include its subcommittees, or serve on more than two DoD Federal advisory committees at one time.

Each Committee member is appointed to provide advice on behalf of the government on the basis of his or her best judgment without representing any particular point of view and in a manner that is free from conflict of interest.

The DoD, when necessary and consistent with the Committee's mission and DoD policies, may establish subcommittees, task forces, or working groups to support the Committee. Establishment of subcommittees will be based upon written determination, to include terms of reference, by the Secretary of Defense, the Deputy Secretary of Defense, or the USD(AT&L), as the Committee's sponsor.

Such subcommittees shall not work independently of the chartered Committee, and shall report their

findings and advice solely to the Committee for full deliberation and discussion. Subcommittees have no authority to make decisions and recommendations verbally or in writing on behalf of the chartered Committee; nor can any subcommittee or its members update or report directly to the DoD or to any Federal officers or employees.

All subcommittee members shall be appointed in the same manner as the Committee members; that is, the Secretary of Defense or the Deputy Secretary of Defense shall appoint subcommittee members to a term of service of one-to-four years with annual renewals, even if the member in question is already a Committee member. Subcommittee members shall not serve more than two consecutive terms of service, without approval by the Secretary of Defense or Deputy Secretary of Defense. Subcommittee members are appointed to provide advice on the basis of their best judgment without representing a particular point of view and in a manner that is free from conflict of interest.

Subcommittee members, if not full-time or part-time government employees, shall be appointed to serve as experts and consultants pursuant to 5 U.S.C. 3109 to serve as SGE members. Those individuals who are full-time or permanent part-time Federal officers or employees shall serve as RGE members, subject to annual renewals. With the exception of reimbursement for official Committee-related travel and per diem, subcommittee members shall serve without compensation.

All subcommittees operate under the provisions of FACA, the Sunshine Act, governing Federal statutes and regulations, and established DoD policies and procedures.

The Designated Federal Officer (DFO), pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies and procedures.

In addition, the DFO is required to be in attendance at all committee and subcommittee meetings for the entire duration of each and every meeting. However, in the absence of the Committee's DFO, an Alternate DFO, duly appointed to the Committee according to the DoD policies and procedures, shall attend the entire duration of the Committee or subcommittee meeting.

The DFO, or the Alternate DFO, shall call all of the Committee's and subcommittee's meetings; prepare and approve all meeting agendas; adjourn any meeting when the DFO, or the Alternate DFO, determines adjournment to be in the public interest or required by governing regulations or DoD policies and procedures; and chair meetings when directed to do so by the official to whom the Committee reports.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to Threat Reduction Advisory Committee membership about the Committee's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of Threat Reduction Advisory Committee.

All written statements shall be submitted to the DFO for the Threat Reduction Advisory Committee, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Threat Reduction Advisory Committee DFO can be obtained from the GSA's FACA Database—*http://www.facadatabase.gov/.*

The DFO, pursuant to 41 CFR 102–3.150, will announce planned meetings of the Threat Reduction Advisory Committee. The DFO, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

Dated: May 23, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–12443 Filed 5–28–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID: USAF–2014–0018]

Proposed Collection; Comment Request

AGENCY: Headquarters Air Force Space Command Nuclear C2 Systems Branch, DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Headquarters Air Force Space Command Nuclear C2 Systems Branch announces a proposed reinstatement of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 28, 2014.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.*Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

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.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the HQ AFSPC/A4MC, ATTN: SMSgt. John Storm, 150 Vadenberg St., Ste 1105, Peterson AFB CO 80914, or call HQ AFSPC/A4MC Nuclear C2 Systems Branch at (719) 554–4057.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Intercontinental Ballistic Missile Hardened Intersite Cable Right-of-Way Landowner Questionnaire; AF Form 3951; OMB Control Number 0701–0141.

Needs and Uses: The information collection requirement is used to report changes in ownership/lease information, conditions of missile cable route and associated appurtenances, and projected building/excavation projects. The information collected is used to ensure system integrity and to maintain a close contact public relations program with involved personnel and agencies.

Affected Public: Businesses or other for profit; Not-for-profit institutions.

Annual Burden Hours: 2,000.

Number of Respondents: 8,000.

Responses per Respondent: 1.

Average Burden per Response: 15 minutes.

Frequency: On occasion.

Respondents are landowners/tenants. This form collects updated landowner/tenant information as well as data on local property conditions which could adversely affect the Hardened Intersite Cable System (HICS) such as soil erosion, projected/building projects, evacuation plans, etc. This information also aids in notifying landowners/tenants when HCIS preventative or corrective maintenance becomes necessary to ensure uninterrupted Intercontinental Ballistic Missile command and control capability.

Dated: May 23, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–12464 Filed 5–28–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket ID USAF–2014–0017]

Proposed Collection; Comment Request

AGENCY: Department of the Air Force, Department of Defense (DoD).

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Department of the Air Force, Director of Bases, Ranges, and Airspace, Directorate of Operations, Deputy Chief of Staff, Operations, Plans and Requirements, announces a proposed reinstatement of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 28, 2014.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

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.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the HQ USAF/A3O–B, 1480 Air Force Pentagon, Washington, DC 20330–1480, ATTN: Mr. Tim Bennett, or call 703–695–2986.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Civil Aircraft Certificate of Insurance, DD Form 2400; Civil Aircraft Landing Permit, DD Form 2401; and DD Form 2402, Civil Aircraft Hold Harmless Agreement, OMB Control Number 0701–0050.

Needs and Uses: The information collection requirement is necessary to ensure that the security and operational integrity of military airfields are maintained; to identify the aircraft operator and the aircraft to be operated; to avoid competition with the private sector by establishing the purpose for use of military airfields; and to ensure the U.S. government is not held liable if the civil aircraft becomes involved in an accident or incident while using military airfields, facilities, and services.

Affected Public: Individuals or households.

Annual Burden Hours: 1,800.

Number of Respondents: 3,600.

Responses per Respondent: 3.

Average Burden per Response: 10 minutes.

Frequency: On occasion.

Respondents are civil aircraft owners/operators who are requesting authorized landings at DoD airfields. These requestors are required to submit the indicated DD Forms (2400, 2401, and 2402). The completed forms are included are maintained by HQ USAF/A3O–B for 2 years for any required review. These forms ensure only authorized civil aircraft owners/operators are authorized access to DoD airfields.

Dated: May 22, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–12395 Filed 5–28–14; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2014–0033]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Evaluation Factor for Use of Members of the Armed Forces Selected Reserve

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed reinstatement of a previously approved information collection requirement.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), DoD announces the intention to request reinstatement of a previously approved information collection from the Office of Management and Budget (OMB), for which approval has expired. DoD seeks public comment on the provisions of the information collection requirement. Specifically, DoD invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) previously approved this information collection requirement for use through February 29, 2012. DoD proposes that OMB reinstate and renew its approval for use for three additional years from date of approval.

DATES: DoD will consider all comments received by July 28, 2014.

ADDRESSES: You may submit comments, identified by OMB Control Number

0704–0446, using any of the following methods:

○ *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

○ *Email: osd.dfars@mail.mil.* Include OMB Control Number 0704–0446 in the subject line of the message.

○ *Fax:* (571) 372–6094.

○ *Mail:* Defense Acquisition Regulations System, Attn: Janetta Brewer, OUSD (AT&L) DPAP (DARS), 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Janetta Brewer, (571) 372–6104. The information collection requirements addressed in this notice are available on the World Wide Web at: *http://www.acq.osd.mil/dpap/dars/dfars/index.htm.* Paper copies are available from Ms. Janetta Brewer, OUSD (AT&L) DPAP (DARS), 3B855, 3060 Defense Pentagon, Washington, DC 20301–3060.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS), Evaluation Factor for Use of Members of the Armed Forces Selected Reserve; related provision at DFARS 252.215–7005, Evaluation Factor for Employing or Subcontracting with Members of the Selected Reserve; OMB Control Number 0704–0446.

Needs and Uses: In accordance with section 819 of the National Defense Authorization Act for Fiscal Year 2006 (Pub. L. 109–163), the contracting officer may use an evaluation factor that considers whether an offeror intends to perform the contract using employees or individual subcontractors who are members of the Selected Reserve. When such an evaluation factor is used, the contracting officer includes the provision at DFARS 252.215–7005 to require offerors to provide documentation to support any proposal to use employees or individual subcontractors who are members of the Selected Reserve in performance of any resultant contract. This information is required to enable the contracting officer to properly evaluate the offer against the evaluation criteria.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Annual Burden Hours: 100.

Number of Respondents: 100.

Responses per Respondent: 1.

Annual Responses: 100.

Average Burden per Response: 1 hour.

Frequency: On occasion.

Summary of Information Collection

This information collection requires an offeror, when a solicitation includes an evaluation factor that considers the offeror's intended use of employees, or individual subcontractors who are members of the Selected Reserve, to submit documentation with its offer if it intends to use such employees or individual subcontractors. This documentation may include (1) existing company documentation, such as payroll or personnel records, indicating the names of the Selected Reserve members who are currently employed by the company; or (2) a statement that one or more positions will be set aside to be filled by new hires of Selected Reserve members, along with verifying documentation.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2014–12449 Filed 5–28–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID USN–2014–0018]

Proposed Collection; Comment Request

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Navy Recruiting Command announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 28, 2014.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

• Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

• Mail: Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

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.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please contact Mr. Kenneth Saxion at (901) 874–9045.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Application Processing and Summary Record; NAVCRUIT Form 1131/238 replacing the Application for Commission in the U.S. Navy/U.S. Navy Reserve; OMB Control Number 0703–0029.

Needs and Uses: All persons interested in entering the U.S. Navy or U.S. Navy Reserve, in a commissioned status must provide various personal data in order for a Selection Board to determine their qualifications for naval service and for specific fields of endeavor which the applicant intends to pursue. This information is used to recruit and select applicants who are qualified for commission in the U.S. Navy or U.S. Navy Reserve.

Affected Public: Individuals or Households.

Annual Burden Hours: 12,000 hours.

Number of Respondents: 12,000.

Responses per Respondent: 1.

Total Annual Responses: 12,000.

Average Burden per Response: 60 minutes.

Frequency: On occasion.

The reason for the extension of this form is that even though most of the information is already gathered by the Standard Form 86, Questionnaire for National Security Positions, OMB Control Number 3206–0005, and is already in the system there are still

several bits of information needed for the boards to base their selection decisions on.

Dated: May 22, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–12388 Filed 5–28–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Inventions; Available for Licensing

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The inventions listed below are assigned to the U.S. Government as represented by the Secretary of the Navy and are available for domestic licensing by the Department of the Navy.

The following patents are available for licensing: Patent Application No: 13/998,207ASSEMBLE MODULE CHARGE SYSTEM//

Patent Application No 13/998,208: MODULE CHARGE SYSTEM.

ADDRESSES: Requests for copies of the Patent Applications cited should be directed to Dr. John Scott Deiter, Head, Technology Transfer Office, Code CAB, Naval Surface Warfare Center, 3824 Strauss Avenue, Suite 108, 1st Floor, Indian Head, MD 20640–5152.

FOR FURTHER INFORMATION CONTACT: Dr. John Scott Deiter, Head, Technology Transfer Office, Code CAB, Naval Surface Warfare Center, 3824 Strauss Avenue, Suite 108, 1st Floor, Indian Head, MD 20640–5152, telephone 301–744–6111.

Dated: May 19, 2014.

N.A. Hagerty-Ford,

Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2014–12447 Filed 5–28–14; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2014–ICCD–0078]

Agency Information Collection Activities; Comment Request; Annual Progress Reporting Form for the American Indian Vocational Rehabilitation Services (AIVRS) Program

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 a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before July 28, 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–0078 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 Alfreda Reeves, 202–245–7485.

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: Annual Progress Reporting Form for the American Indian Vocational Rehabilitation Services (AIVRS) Program.

OMB Control Number: 1820–0655.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: State, Local, or Tribal Governments.

Total Estimated Number of Annual Responses: 85.

Total Estimated Number of Annual Burden Hours: 1,063.

Abstract: The Rehabilitation Services Administration (RSA) of the U.S. Department of Education (ED) will use this data collection form to capture the annual performance report data from grantees funded under the American Indian Vocational Rehabilitation Services (AIVRS) program. RSA and ED will use the information gathered annually to: (a) Comply with reporting requirements under Section 75.118 of the Education Department General Administration Regulations (EDGAR), (b) provide annual information to Congress on activities conducted under the program, (c) measure performance on the program in accordance with the program indicators identified in the Government Performance Result Act (GPRA), and (d) collect information that is consistent with the common measures for federal job training programs.

The proposed changes to the existing form will improve user friendliness, clarity of data questions, and accuracy of data reported. These revisions are not of a substantial manner nor significantly different from the original collection, but are proposed to provide clarity and consistency. In many areas, the data element language has been modified with direct language instead of passive terminology.

Dated: May 22, 2014.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–12400 Filed 5–28–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2014–ICCD–0042]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Protection and Advocacy of Individual Rights (PAIR)

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 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–0042 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 David Jones, 202–245–7356.

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: Protection and Advocacy of Individual Rights (PAIR).

OMB Control Number: 1820–0627.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 57.

Total Estimated Number of Annual Burden Hours: 912.

Abstract: The Annual Protection and Advocacy of Individual Rights (PAIR) Program Performance Report (Form RSA–509) will be used to analyze and evaluate the effectiveness of eligible systems within individual states in meeting annual priorities and objectives. These systems provide services to eligible individuals with disabilities to protect their legal and human rights. Rehabilitation Services Administration (RSA) uses the form to meet specific data collection requirements of Section 509 of the Rehabilitation Act of 1973, as amended (the act), and its implementing federal regulations at 34 CFR Part 381. PAIR programs must report annually using the form, which is due on or before December 30 each year. Form RSA–509 has enabled RSA to furnish the President and Congress with data on the provision of protection and advocacy services and has helped to establish a sound basis for future funding requests. These data also have been used to indicate trends in the provision of services from year-to-year.

Dated: May 22, 2014.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–12398 Filed 5–28–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2014–ICCD–0077]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Impact Aid Discretionary Construction Grant Program (1894–0001)

AGENCY: Office of Elementary and Secondary Education (OESE), 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 a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on 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–0077 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 Jameel Scott, 202–205–3784.

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: Impact Aid Discretionary Construction Grant Program (1894–0001).

OMB Control Number: 1810–0657.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: State, Local, or Tribal Governments.

Total Estimated Number of Annual Responses: 360.

Total Estimated Number of Annual Burden Hours: 1,080.

Abstract: The Impact Aid Program, authorized by Title VIII of the Elementary and Secondary Education Act, as amended, provides financial assistance to Local Educational Agencies (LEA) whose enrollment or revenues are adversely affected by Federal activities. The ESEA, as amended, authorized a Discretionary Construction Grant program under Section 8007(b). The Impact Aid Discretionary Construction Program provides grants to eligible Impact Aid school districts for emergency repairs and modernization of school facilitates. The eligible Impact Aid school districts have a limited ability to raise revenues for capital improvements because they have large areas of Federal land within their boundaries. As a result, these districts find it difficult to respond when their school facilities are in need of emergency repairs or modernization; the Impact Aid Discretionary Construction Program assists these LEAs.

Dated: May 22, 2014.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–12399 Filed 5–28–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–97–D]

Application To Export Electric Energy; Portland General Electric Company

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of Application.

SUMMARY: Portland General Electric Company (PGE) has applied to renew its authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before June 30, 2014.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed to: Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Electricity.Exports@hq.doe.gov*, or by facsimile to 202–586–8008.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On June 25, 2004, DOE issued Order No. EA–97–C, which authorized PGE to transmit electric energy from the United States to Canada as a power marketer for a 10-year term using existing international transmission facilities. That authority expires on June 25, 2014. On May 09, 2014, PGE filed an application with DOE for renewal of the export authority contained in Order No. EA–97–C for an additional 10-year term. PGE is also requesting expedited treatment of this renewal application and issuance of an Order within 45 days to avoid any lapse in PGE's authority to export electricity to Canada.

In its application, PGE owns electric generating, transmission, and distribution facilities for service to wholesale and retail customers. The electric energy that PGE proposes to export to Canada would not occur if such action would jeopardize PGE's system or the regional system. The existing international transmission facilities to be utilized by PGE have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedures (18 CFR 385.211). Any person desiring to become a party to these proceedings should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments on the PGE application to export electric energy to Canada should be clearly marked with OE Docket No. EA–97–D. An additional copy is to be provided directly to Loretta Mabinton, Associate General Counsel, Portland General Electric Company, 121 SW. Salmon Street, 1 WTC 1301, Portland, OR 97204 and to Connie Colter, Risk Management—Power Operations, Portland General Electric Company, 121 SW. Salmon Street, 3 WTC 0306, Portland, OR 97204. A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing

Procedures (10 CFR part 1021) and after a determination is made by DOE that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available by request to the addresses provided above or by accessing the program Web site at *http://energy.gov/node/11845*.

Issued in Washington, DC, on May 23, 2014.

Brian Mills,

Director, Permitting and Siting, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2014–12457 Filed 5–28–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 14–001–CIC]

Cameron LNG, LLC; Application To Transfer Control of Long-Term Authorization To Export LNG to Free Trade Agreement Nations and Conditional Long-Term Authorization to Non-Free Trade Agreement Nations

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application (Application), filed on February 18, 2014, by Cameron LNG, LLC (Cameron), requesting to transfer indirect control of two export authorizations that it currently holds: an authorization to export liquefied natural gas (LNG) to any country with which the United States has a free trade agreement (FTA) that requires national treatment for trade in natural gas (FTA countries), and a conditional authorization to export LNG to countries with which the United States does not have a FTA that requires national treatment for trade in natural gas (non-FTA countries). Cameron seeks authorization to transfer its authorizations pursuant to 10 CFR 590.405, which states, in its entirety, that ''authorizations by the Assistant Secretary to import or export natural gas shall not be transferable or assignable, unless specifically authorized by the Assistant Secretary.''

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed using procedures detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, June 18, 2014.

ADDRESSES:

Electronic Filing by email: fergas@hq.doe.gov

Regular Mail

U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375.

Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.)

U.S. Department of Energy (FE–34), Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Larine Moore or Benjamin Nussdorf, U.S. Department of Energy (FE–34) Office of Oil and Gas Global Security and Supply, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478; (202) 586–9387.

Edward Myers, U.S. Department of Energy (GC–76) Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, 1000 Independence Ave. SW., Washington, DC 20585, (202) 586–9793.

SUPPLEMENTARY INFORMATION:

Background

Applicant. Cameron states that it is a Delaware limited liability company with its executive offices in Houston, Texas. Cameron further states that it is a wholly-owned subsidiary of Sempra LNG Holdings, which is a wholly owned subsidiary of Sempra Energy, a publicly traded corporation. Cameron constructed and operates the Cameron LNG Terminal, and has an interconnection with the Cameron Interstate Pipeline.

Procedural History. This Application concerns two export authorizations issued by DOE/FE to Cameron. First, on January 17, 2012, DOE/FE issued Order No. 3059, in which it authorized Cameron to export domestically produced LNG in a volume equivalent to approximately 620 billion cubic feet per year (Bcf/yr) of natural gas by vessel from the Cameron LNG Terminal to FTA countries for a period of 20 years, beginning on the earlier of the date of first cargo export or seven years from the date of authorization.[1]

Second, on February 11, 2014, DOE/FE issued Order No. 3391, in which it authorized Cameron to export domestically produced LNG in a volume equivalent to approximately 620 Bcf/yr of natural gas to non-FTA countries for a 20-year period, commencing on the earlier of the date of first cargo export or seven years from the date of the authorization.[2] As these volumes authorized for export from the Cameron LNG Terminal are the same, they are not additive.[3]

Current Application

Pursuant to 10 CFR 590.405, Cameron seeks approval for the indirect transfer of control due to a change in its upstream ownership structure. Cameron states in its Application that Sempra LNG's interest in Cameron will transfer to Cameron LNG Holdings, which is a wholly owned subsidiary of Sempra LNG Holdings. Sempra LNG Holdings will issue additional membership holdings in Cameron LNG Holdings equal to a 49.8% interest in Cameron LNG Holdings.

Sempra LNG Holdings will convey a 16.6% interest to GDF Suez Cameron LNG Holding II Corporation, a Delaware corporation and a wholly owned, indirect subsidiary of GDF Suez. Sempra LNG Holdings will convey a 16.6% interest to Mitsui & Co. Cameron LNG Investment, Inc., a Delaware corporation and a wholly owned, indirect subsidiary of Mitsui, Inc. Sempra LNG Holdings will convey a 16.6% interest to Japan LNG Investment, LLC, a Delaware limited liability company indirectly owned by the Nippon Yusen Kabushiki Shipping Company through NYK Cameron LNG Holdings, Inc., (a Delaware corporation) and to Mitsubishi through Diamond Gas America Corporation (also a Delaware corporation). Cameron states that it will continue to own the authorizations; only the upstream ownership structure will change.

Public Interest Considerations

Cameron states that the proposed indirect transfer of control will not undermine the public interest, and that the export characteristics will be unchanged. Specifically, Cameron maintains that the proposed transfer of indirect control will not affect the amount of gas authorized for export, the scope of the project, the commencement date of the project, the source of the gas supply, the price, or other terms of the transaction. Further, Cameron states that DOE/FE has granted applications to transfer or assign import authorizations to customers of the authorization holder in other proceedings, which is the type of transfer that Cameron proposes.

Environmental Impact

Cameron states that no changes to the Cameron LNG Terminal would be required for the requested change in control. Therefore, Cameron maintains that a grant of its Application would not constitute a federal action significantly affecting the human environment within the meaning of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.,* nor would an

[1] Order Conditionally Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Cameron LNG Terminal to Free Trade Agreement Nations, Order No. 3059, *Cameron LNG, LLC,* FE Docket No. 11–145–LNG (2012).

[2] Order Conditionally Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel for the Cameron LNG Terminal in Cameron Parish, Louisiana, to Non-Free Trade Agreement Nations, Order No. 3391, *Cameron LNG, LLC,* FE Docket No. 11–162–LNG (2014).

[3] *Cameron LNG, LLC,* FE Docket No. 11–162–LNG at 142 (Ordering Paragraph C).

environmental impact statement or environmental assessment be required.

DOE/FE Evaluation

Cameron's Application will be reviewed pursuant to section 3 of the NGA, as amended, and the authority contained in DOE Delegation Order No. 00–002.00N (July 11, 2013) and DOE Redelegation Order No. 00–002.04F (July 11, 2013). In reviewing this Application, DOE will consider the application, comments filed in response to this application, and as well as any other issues determined to be appropriate including conformity with the regulations at 10 CFR 590.405 and the Natural Gas Act at 15 U.S.C. 717b. Parties that may oppose this Application should comment in their responses on these issues.

NEPA requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities, to the extent any are deemed to exist.

Public Comment Procedures

In response to this notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable. Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention, as applicable. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by the regulations in 10 CFR Part 590.

Filings may be submitted using one of the following methods: (1) emailing the filing to *fergas@hq.doe.gov*, with FE Docket No. 14–001–CIC in the title line; (2) mailing an original and three paper copies of the filing to the Office of Oil and Gas Global Security and Supply at the address listed in **ADDRESSES**; or (3) hand delivering an original and three paper copies of the filing to the Office of Oil and Gas Global Supply at the address listed in **ADDRESSES**. All filings must include a reference to FE Docket No. 14–001–CIC. PLEASE NOTE: If submitting a filing via email, please include all related documents and attachments (e.g., exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

A decisional record on the Application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

The Application is available for inspection and copying in the Division of Natural Gas Regulatory Activities docket room, Room 3E–042, 1000 Independence Avenue SW., Washington, DC 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The Application and any filed protests, motions to intervene or notice of interventions, and comments will also be available electronically by going to the following DOE/FE Web address: *http://www.fe.doe.gov/programs/gasregulation/index.html*.

Issued in Washington, DC, on May 22, 2014.

John A. Anderson,

Director, Division of Natural Gas Regulatory Activities, Office of Oil and Gas Global Security and Supply, Office of Oil and Natural Gas.

[FR Doc. 2014–12455 Filed 5–28–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Electricity Advisory Committee Meeting

AGENCY: Office of Electricity Delivery and Energy Reliability, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Electricity Advisory Committee (EAC). The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Monday, June 16, 2014, 12:00 p.m.–6:10 p.m. EDT; Tuesday, June 17, 2014, 8:00 a.m.–2:55 p.m. EDT.

ADDRESSES: National Rural Electric Cooperative Association, 4301 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Matthew Rosenbaum, Office of Electricity Delivery and Energy Reliability, U.S. Department of Energy, Forrestal Building, Room 8G–017, 1000 Independence Avenue SW., Washington, DC 20585; Telephone: (202) 586–1060 or Email: *matthew.rosenbaum@hq.doe.gov*.

SUPPLEMENTARY INFORMATION: *Purpose of the Committee:* The Electricity Advisory Committee (EAC) was re-established in July 2010, in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App.2, to provide advice to the U.S. Department of Energy (DOE) in implementing the Energy Policy Act of 2005, executing the Energy Independence and Security Act of 2007, and modernizing the nation's electricity delivery infrastructure. The EAC is composed of individuals of diverse background selected for their technical expertise and experience, established records of distinguished professional service, and their knowledge of issues that pertain to electricity.

Tentative Agenda: The meeting of the EAC is expected to include an update on the 2014 programs and initiatives of DOE's Office of Electricity Delivery and Energy Reliability and the Office of Energy Efficiency and Renewable Energy, as well as an update on the DOE

Quadrennial Energy Review. The meeting is also expected to include a discussion of the activities of the Energy Storage Subcommittee and the Smart Grid Subcommittee, as well as discussions of electric power delivery systems, distributed energy storage, and EPA Clean Air Act Section 111(d) rules.

Tentative Agenda: June 16, 2014

12:00 p.m.–1:00 p.m. Swearing in Ceremony and Ethics Briefing—For New EAC Members
12:00 p.m.–1:00 p.m. EAC Leadership Committee Meeting
12:00 p.m.–1:00 p.m. Registration
1:00 p.m.–1:15 p.m. Welcome, Introductions, Developments since the March 2014 Meeting and Recognition Long-Standing Members Departing the Committee
1:15 p.m.–1:40 p.m. Update on the U.S. Department of Energy (DOE), Office of Electricity Delivery and Energy Reliability's (OE) 2014 Programs and Initiatives
1:40 p.m.–2:00 p.m. Update on the DOE, Office of Energy Efficiency and Renewable Energy (EERE) 2014 Programs and Initiatives
2:00 p.m.–2:15 p.m. Break
2:15 p.m.–2:45 p.m. Update on the DOE Quadrennial Energy Review: EPSA Speaker TBD
2:45 p.m.–3:15 p.m. Presentation—Transactive Energy
3:15 p.m.–4:35 p.m. Panel—Electric Power Delivery System for the 21st Century
4:35 p.m.–4:55 p.m. EAC Member Discussion of Key Power Delivery Issues
4:55 p.m.–5:10 p.m. Break
5:10 p.m.–5:40 p.m. EAC Power Delivery Subcommittee Papers and Work Plan
5:40 p.m.–6:00 p.m. EAC Member Discussion of Power Delivery Subcommittee Plans
6:00 p.m.–6:10 p.m. Wrap-up and Adjourn Day One of March 2014 Meeting of the EAC

Tentative Agenda: June 17, 2014

8:00 a.m.–8:30 a.m. EAC Energy Storage Subcommittee Activities and Plans
8:30 a.m.–8:50 a.m. EAC Member Discussion of Energy Storage Subcommittee Plans
8:50 a.m.–10:10 a.m. Panel—Distributed Energy Storage (DES)
10:10 a.m.–10:30 a.m. EAC Discussion of DES Panel Topics
10:30 a.m.–10:45 a.m. Break
10:45 a.m.–12:15 p.m. Panel—EPA Clean Air Act Section 111(d) Rule
12:15 p.m.–1:35 p.m. Lunch (Local Restaurants)
1:35 p.m.–2:05 p.m. EAC Smart Grid Subcommittee Activities and Plans
2:05 p.m.–2:25 p.m. EAC Member Discussion of Energy Storage Subcommittee Plans
2:25 p.m.–2:40 p.m. Public Comments (Must register at time of check in)
2:40 p.m.–2:55 p.m. Wrap-up and Adjourn March 2014 Meeting of the EAC

The meeting agenda may change to accommodate EAC business. For EAC agenda updates, see the EAC Web site at: *http://energy.gov/oe/services/electricity-advisory-committee-eac.*

Public Participation: The EAC welcomes the attendance of the public at its meetings. Individuals who wish to offer public comments at the EAC meeting may do so on Tuesday, June 17, 2014, but must register at the registration table in advance. Approximately 15 minutes will be reserved for public comments. Time allotted per speaker will depend on the number who wish to speak but is not expected to exceed three minutes. Anyone who is not able to attend the meeting, or for whom the allotted public comments time is insufficient to address pertinent issues with the EAC, is invited to send a written statement to Mr. Matthew Rosenbaum.

You may submit comments, identified by ''Electricity Advisory Committee Open Meeting,'' by any of the following methods:

• *Mail/Hand Delivery/Courier:* Matthew Rosenbaum, Office of Electricity Delivery and Energy Reliability, U.S. Department of Energy, Forrestal Building, Room 8G–017, 1000 Independence Avenue SW., Washington, DC 20585.

• *Email: matthew.rosenbaum@hq.doe.gov.* Include ''Electricity Advisory Committee Open Meeting'' in the subject line of the message.

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. *Instructions:* All submissions received must include the agency name and identifier. All comments received will be posted without change to *http://energy.gov/oe/services/electricity-advisory-committee-eac,* including any personal information provided.

• *Docket:* For access to the docket, to read background documents or comments received, go to *http://energy.gov/oe/services/electricity-advisory-committee-eac.*

The following electronic file formats are acceptable: Microsoft Word (.doc), Corel Word Perfect (.wpd), Adobe Acrobat (.pdf), Rich Text Format (.rtf), plain text (.txt), Microsoft Excel (.xls), and Microsoft PowerPoint (.ppt). If you submit information that you believe to be exempt by law from public disclosure, you must submit one complete copy, as well as one copy from which the information claimed to be exempt by law from public disclosure has been deleted. You must also explain the reasons why you believe the deleted information is exempt from disclosure.

DOE is responsible for the final determination concerning disclosure or nondisclosure of the information and for treating it in accordance with the DOE's Freedom of Information regulations (10 CFR 1004.11).

Note: Delivery of the U.S. Postal Service mail to DOE may be delayed by several weeks due to security screening. DOE, therefore, encourages those wishing to comment to submit comments electronically by email. If comments are submitted by regular mail, the Department requests that they be accompanied by a CD or diskette containing electronic files of the submission.

Minutes: The minutes of the EAC meeting will be posted on the EAC Web page at *http://energy.gov/oe/services/electricity-advisory-committee-eac.* They can also be obtained by contacting Mr. Matthew Rosenbaum at the address above.

Issued in Washington, DC on May 22, 2014.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2014–12446 Filed 5–28–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13642–001]

GB Energy Park LLC; Notice of Scoping Meetings, Environmental Site Review, and Soliciting Scoping Comments

a. *Type of Filing:* Notice of Intent to File License Application and Pre-Application Document for an Original Major License.

b. *Project No.:* 13642–001.

c. *Date filed:* April 29, 2013.

d. *Applicant:* GB Energy Park LLC.

e. *Name of Project:* Gordon Butte Pumped Storage Project.

f. *Location:* Near Cottonwood Creek in Meagher County near the town of Martinsdale, Montana. The project would not occupy any federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Carl Borgquist, President, Absaroka Energy LLC, 209

South Willson Avenue, P.O. Box 309, Bozeman, MT 59771–0309; (406) 570–4254; *carl@absarokaenergy.com*.

i. *FERC Contact:* Mike Tust, *michael.tust@ferc.gov*, (202) 502–6522.

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item k below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See* 94 FERC ¶ 61,076 (2001).

k. *Deadline for filing scoping comments:* July 25, 2014.

The Commission strongly encourages electronic filing. Please file scoping 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 at *FERCOnlineSupport@ferc.gov*, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include the docket number P–13642–001.

l. A copy of the Pre-Application Document is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

m. *Scoping Process*

The Commission intends to prepare an Environmental Assessment (EA) on the project in accordance with the National Environmental Policy Act. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed action.

Scoping Meetings

FERC staff will conduct one agency scoping meeting and one public meeting. The agency scoping meeting will focus on resource agency and non-governmental organization concerns, while the public scoping meeting is primarily for public input. All interested individuals, organizations, and agencies are invited to attend one or both of the meetings, and to assist the staff in identifying the scope of the environmental issues that should be analyzed in the EA. The times and locations of these meetings are as follows:

Daytime Scoping Meeting

Date: Wednesday, June 25, 2014.

Time: 9:00 a.m. (MDT).

Place: Red Lion Colonial Hotel.

Address: 2301 Colonial Drive, Helena, Montana.

Evening Scoping Meeting

Date: Wednesday, June 25, 2014.

Time: 6:00 p.m. (MDT).

Place: Martinsdale Community Center.

Address: 110 Main Street, Martinsdale, Montana.

Copies of the Scoping Document (SD1) outlining the subject areas to be addressed in the EA were distributed to the parties on the Commission's mailing list. Copies of the SD1 will be available at the scoping meeting or may be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link (see item l above).

Environmental Site Review

The Applicant and FERC staff will conduct a project Environmental Site Review beginning at 2:00 p.m. (MDT) on Wednesday, June 25, 2014. All interested individuals, organizations, and agencies are invited to attend. All participants should meet at the Martinsdale Community Center, 110 Main Street, Martinsdale, Montana. All participants are responsible for their own transportation to the site. The Environmental Site Review will include a trip up to the top of the butte where the proposed upper reservoir would be located. This area also provides a view of the drop down to the site of the proposed lower reservoir. Anyone with questions about the Environmental Site Review should contact Mr. Carl Borgquist of Absaroka Energy LLC at (406) 570–4254.

Objectives

At the scoping meetings, staff will: (1) Summarize the environmental issues tentatively identified for analysis in the EA; (2) solicit from the meeting participants all available information, especially quantifiable data, on the resources at issue; (3) encourage statements from experts and the public on issues that should be analyzed in the EA, including viewpoints in opposition to, or in support of, staff's preliminary views; (4) determine the resource issues to be addressed in the EA; and (5) identify those issues that require a detailed analysis, as well as those issues that do not require a detailed analysis.

Procedures

The meetings will be recorded by a stenographer and become part of the formal record of the Commission proceeding on the project.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meeting and to assist the staff in defining and clarifying the issues to be addressed in the EA.

Dated: May 21, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–12368 Filed 5–28–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–486–000]

East Cheyenne Gas Storage, LLC; Notice of Application for Amendment, Reaffirmation of Market-Based Rate Authority, and Request To Vacate, in Part, Prior Authorizations

Take notice that on May 12, 2014, East Cheyenne Gas Storage, LLC (East Cheyenne), 10370 Richmond Avenue, Suite 510, Houston, Texas 77042, filed with the Federal Energy Regulatory Commission an application under Section 7(c) of the Natural Gas Act (NGA) to amend in part the certificate of public convenience and necessity issued by the Commission in Docket No. CP10–34–000 (as amended in Docket Nos. CP11–40–000, CP12–35–000, and CP12–124–000); to increase the certificated working gas capacity of the West Peetz field; and to construct and install six injection/withdrawal wells in the West Peetz field. The Application also requests the Commission issue an order reaffirming its market-based rate authorization, and vacating in part East

Cheyenne's certificate authorization related to construction of the Lewis Creek field, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

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.

Any questions concerning this application may be directed to: James Hoff, Vice President, Reservoir Engineering, East Cheyenne Gas Storage, LLC, 10370 Richmond Avenue, Suite 510, Houston, Texas 77042; Telephone: (713) 403–6467; FAX: (888) 861–5701.

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

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

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

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

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*www.ferc.gov*) under the ''e-Filing'' link. 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.

Comment Date: 5:00 p.m. Eastern Time on June 11, 2014.

Dated: May 21, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–12364 Filed 5–28–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 848–034]

Wells Rural Electric Company; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 848–034.

c. *Date Filed:* February 6, 2014.

d. *Submitted By:* Wells Rural Electric Company.

e. *Name of Project:* Trout Creek Hydroelectric Project.

f. *Location:* On Trout Creek, near the Town of Wells in Elko County, Nevada. The project occupies 0.5 acres of United States lands administered by the Humbolt-Toiyabe National Forest.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Lonnie Abbott, Wells Rural Electric Company, P.O. Box 365, Wells, Nevada 89835; (775) 752–3328 extension 1516; email—*labbott@wrec.coop*.

i. *FERC Contact:* Joseph Hassell at (202) 502–8079; or email at *joseph.hassell@ferc.gov*.

j. Wells Rural Electric Company filed its request to use the Traditional Licensing Process on February 6, 2014. Wells Rural Electric Company provided public notice of its request on February 24, 2014. In a letter dated May 21, 2014 the Director of the Division of Hydropower Licensing approved Wells Rural Electric Company's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402; and NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the Nevada State Historic Preservation Officer, as required by section 106, National Historical Preservation Act, and the implementing regulations of the

Advisory Council on Historic Preservation at 36 CFR 800.2.

l. Wells Rural Electric Company filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

m. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*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*, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

n. The licensee states its unequivocal intent to submit an application for a new license for Project No. 848–034. Pursuant to 18 CFR 16.8, 16.9, and 16.10 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 2016.

o. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: May 21, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–12367 Filed 5–28–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2203–015]

Alabama Power Company; Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 2203–015.

c. *Date filed:* August 16, 2013.

d. *Applicant:* Alabama Power Company (Alabama Power).

e. *Name of Project:* Holt Hydroelectric Project.

f. *Location:* The existing project is on the Black Warrior River in Tuscaloosa County, Alabama. The project is located on 36.64 acres of federal lands administered by the U.S. Army Corps of Engineers (Corps).

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Jim Heilbron, Senior Vice President and Senior Production Officer, Alabama Power Company, 600 North 18th Street, P.O. Box 2641, Birmingham, AL 35203–2206, (205) 257–1000.

i. *FERC Contact:* Jeanne Edwards, Telephone (202) 502–6181, and email *Jeanne.edwards@ferc.gov*.

j. *Deadline for filing motions to intervene and protests and requests for cooperating agency status:* 60 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file motions to intervene and protests and requests for cooperating agency status using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov*, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–2203–015.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted, but is not ready for environmental analysis at this time.

l. The Holt Project consist of: (1) An existing 130-foot-long concrete non-overflow dam; (2) an existing 110-foot long earth fill dam located between the non-overflow structure and the right abutment; and (3) an existing powerhouse containing 1 turbine with an installed capacity of 46,944-kilowatts. The remaining dam structures and reservoir are owned and operated by the Corps. The applicant estimates that the total average annual generation would be 153,604,600 kilowatt hours. All generated power is utilized within the applicant's electric utility system.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST'' or ''MOTION TO INTERVENE;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application.

Dated: May 21, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–12369 Filed 5–28–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–489–000]

Northern Natural Gas Company; Notice of Application

Take notice that on May 16, 2014, Northern Natural Gas Company

(Northern), 1111 South 103rd Street, Omaha, Nebraska 68124, filed in Docket No. CP14–489–000, an application pursuant to section 7(b) of the Natural Gas Act (NGA), to abandon in-place compression facilities at its Tescott compressor station located in Ottawa County, Kansas, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Any questions regarding the applications should be directed to Michael T. Loeffler, Senior Director of Certificates and External Affairs, Northern Natural Gas Company, 1111 South 103rd Street, Omaha, Nebraska 68124, or call 402–398–7103.

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

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

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

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

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 7 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE., Washington, DC 20426.

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

Comment Date: 5:00 p.m. Eastern Time on June 11, 2014.

Dated: May 21, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–12365 Filed 5–28–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR14–31–000]

Tesoro High Plains Pipeline Company LLC; Tesoro Logistics Operations, L.L.C.; Notice of Petition for Declaratory Order

Take notice that on May 19, 2014, pursuant to Rule 207(a)(2) of the Federal Energy Regulatory Commission's (Commission) Rules of Practices and Procedure, 18 CFR 385.207(a)(2)(2014), Tesoro High Plains Pipeline Company LLC and Tesoro Logistics Operations, L.L.C. filed a petition for a declaratory order requesting that the Commission issue an order approving the overall rate design and tariff structure, and priority allocation methodology for an expansion of an existing crude oil pipeline segment between Johnson's Corner, North Dakota and Ramberg, North Dakota, as more fully explained in the petition.

Any person desiring to intervene or to protest in this proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

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 St. NE., Washington, DC 20426.

The filings in the above proceedings 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.

Comment Date: 5:00 p.m. Eastern time on June 18, 2014.

Dated: May 21, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–12366 Filed 5–28–14; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202)-523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012161–002.

Title: Siem Car Carriers AS/Hyundai Glovis Co., Ltd. Space Charter Agreement.

Parties: Siem Car Carriers AS; and Hyundai Glovis Co., Ltd.

Filing Party: Ashley W. Craig, and Elizabeth K. Lowe; Venable LLP; 575 Seventh Street NW., Washington, DC 20004.

Synopsis: The amendment updates the name and address of Siem Car Carriers AS and expands the geographic scope to include the U.S. East Coast.

Agreement No.: 012280.

Title: CKYHE Discussion Agreement.

Parties: COSCO Container Lines Company, Limited; Kawasaki Kisen Kaisha, Ltd.; Yang Ming (UK) Ltd.; Hanjin Shipping Co., Ltd.; and Evergreen Line Joint Service Agreement.

Filing Party: Eric. C. Jeffrey, Esq.; Nixon Peabody LLP; 401 9th Street NW., Suite 900; Washington, DC 20004.

Synopsis: The agreement would authorize the parties to discuss possible cooperation in the U.S. trades.

Agreement No.: 201202–005.

Title: Oakland MTO Agreement.

Parties: Ports of America Outer Harbor Terminal, LLC; Seaside Transportation Service LLC; SSA Terminals, LLC; SSA Terminals (Oakland), LLC; and Trapac, Inc.

Filing Party: David F. Smith, Esq.; Cozen O'Connor; 1627 I Street NW.; Suite 1100; Washington, DC 20006.

Synopsis: The amendment would authorize the parties to discuss and agree on a potential off-peak program. The amendment would also update the address of one of the parties, and the name of another party.

By Order of the Federal Maritime Commission.

Dated: May 23, 2014.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2014–12477 Filed 5–28–14; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 11, 2014.

A. Federal Reserve Bank of Minneapolis (Jacquelyn K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Carol A. Nelson, Baxter, Minnesota, and Lee W. Anderson, Tower, Minnesota, individually, and, with Doug B. Junker, Brainerd, Minnesota,* as a group acting in concert; to acquire voting shares of Timberland Bancorp, Baxter, Minnesota, and thereby indirectly acquire voting shares of First National Bank of Buhl, Mountain Iron, Minnesota.

Board of Governors of the Federal Reserve System, May 22, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–12361 Filed 5–28–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension

AGENCY: Federal Trade Commission (''FTC'' or ''Commission'').

ACTION: Notice.

SUMMARY: The FTC intends to ask the Office of Management and Budget (''OMB'') to extend for an additional three years the current Paperwork Reduction Act (''PRA'') clearance for the FTC's enforcement of the information collection requirements in its ''Fair Credit Reporting Risk-Based Pricing Regulations'' (''RBP Rule''), which applies to certain motor vehicle dealers, and its shared enforcement with the Consumer Financial Protection Bureau (''CFPB'') of the risk-based pricing provisions (subpart H) of the CFPB's Regulation V regarding other entities. That clearance expires on August 31, 2014.

DATES: Comments must be filed by June 30, 2014.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''RBP Rule, PRA Comment, P145403,'' on your comment and file your comment online at *https://ftcpublic.commentworks.com/ftc/rbprulepra2* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex J), 600 Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Katherine White, Attorney, Division of Privacy and Identity Protection, Bureau of Consumer Protection, (202) 326–2878, 600 Pennsylvania Ave. NW., Room CC–8232, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: On February 27, 2014, the FTC sought public comment on the information collection requirements (creditor disclosures to consumers) associated with the RBP Rule and the Commission's shared enforcement with

the CFPB of subpart H of Regulation V (February 27, 2014 Notice [1]) and the FTC's associated PRA burden analysis. No comments were received. Pursuant to the OMB regulations, 5 CFR Part 1320, that implement the PRA, 44 U.S.C. 3501 et seq., the FTC is providing this second opportunity for public comment while seeking OMB approval to renew clearance for the FTC's calculated share of the associated PRA burden for the underlying disclosure requirements.

The burden figures below present estimates of the number of applicable motor vehicle dealers subject to the FTC's RBP Rule [2] and their assumed recurring disclosure burden, in addition to the estimated number of and burden for other entities over which the FTC shares enforcement burden with the CFPB under subpart H of Regulation V. For more details about the creditor notifications required and the basis for the calculations summarized below, see 79 FR 11108.

Title: Fair Credit Reporting Risk-Based Pricing Regulations.

OMB Control Number: 3084–0145.

Type of Review: Extension of currently approved collection.

Estimated number of respondents: 160,875.

Estimated Annual Burden: 9,652,500 hours and $166,216,050 [3] in associated labor costs.

The FTC believes that the FTC and CFPB rules impose negligible capital or other non-labor costs, as the affected entities are likely to have the necessary supplies and/or equipment already (*e.g.,* offices and computers) for the information collections discussed above.

Request for Comment: You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before June 30, 2014. Write ''RBP Rule, PRA Comment, P145403,'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which is . . . privileged or confidential'' as provided in Section 6(f) of the FTC Act 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c).[4] Your comment will be kept confidential only if the FTC General Counsel grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/rbprulepra2,* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you file your comment on paper, write ''RBP Rule, PRA Comment, P145403,'' on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex J), 600 Pennsylvania Avenue NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before June 30, 2014. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

Comments on the information collection requirements subject to review under the PRA should additionally be submitted to OMB. If sent by U.S. mail, they should be addressed to Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503. Comments sent to OMB by U.S. postal mail, however, are subject to delays due to heightened security precautions. Thus, comments instead should be sent by facsimile to (202) 395–5167.

David C. Shonka,

Principal Deputy General Counsel.

[FR Doc. 2014–12416 Filed 5–28–14; 8:45 am]

BILLING CODE 6750–01–P

[1] 79 FR 11108.

[2] The FTC retains rulemaking authority for its RBP Rule solely for motor vehicle dealers described in section 1029(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111–203, 124 Stat. 1376 (2010)) that are predominantly engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.

[3] Bureau of Labor Statistics, Economic News Release, April 1, 2014, Table 1, ''National employment and wage data from the Occupational Employment Statistics survey by occupation, May 2013'': *http://www.bls.gov/news.release/ocwage.htm.* This is an update of the labor information used in the February 27, 2014 Notice. The newer table shows $17.22 as the mean hourly wage for correspondence clerks.

[4] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Chronic Fatigue Syndrome Advisory Committee

AGENCY: Office of the Secretary, Office of the Assistant Secretary for Health, Department of Health and Human Services (HHS)

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the U.S. Department of Health and Human Services is hereby giving notice that the Chronic Fatigue Syndrome Advisory Committee (CFSAC) will hold a meeting. The meeting will be open to the public.

DATES: The meeting will be held on Monday, June 16, 2014, from 12:00 p.m. until 5:00 p.m., E.T. and Tuesday, June 17, 2014, from 9:00 a.m. until 5:00 p.m., ET.

ADDRESSES: Department of Health and Human Services, Hubert H. Humphrey Building, 200 Independence Avenue SW., Great Hall, First Floor, Washington, DC 20201. For a map and directions to the Hubert H. Humphrey building, see *http://www.hhs.gov/about/hhh.html.*

FOR FURTHER INFORMATION CONTACT: Any questions about meeting registration or public comment sign-up should be directed to *CFSAC@seamoncorporation.com*.

Please direct other inquiries to *cfsac@hhs.gov*.

SUPPLEMENTARY INFORMATION: CFSAC was established on September 5, 2002 to advise, consult with, and make recommendations to the Secretary, through the Assistant Secretary for Health, on a broad range of topics including: (1) The current state of knowledge and research and the relevant gaps in knowledge and research about the epidemiology, etiologies, biomarkers, and risk factors relating to myalgic encephalomyelitis/chronic fatigue syndrome (ME/CFS), and identifying potential opportunities in these areas; (2) impact and implications of current and proposed diagnosis and treatment methods for ME/CFS; (3) development and implementation of programs to inform the public, health care professionals, and the biomedical research communities about ME/CFS advances; and (4) strategies to improve the quality of life of ME/CFS patients.

The agenda for this meeting is being developed and will be posted on the CFSAC Web site, *http://www.hhs.gov/advcomcfs/* when finalized. The meeting will be live-video streamed at *http://www.hhs.gov/live* and archived through the CFSAC Web site: *http://www.hhs.gov/advcomcfs/*. Listening-only via telephone will be available on both days. Call-in information will be posted on the CFSAC Web site. Individuals who plan to attend in-person should register at *http://www.blsmeetings.net/CFSAC*. All registration should be completed by June 12, 2014. Attendance by visitors who are not U.S. citizens is welcome, but prior approval is required by sending a request to *CFSAC@seamoncorporation.com* before June 5, 2014. Members of the media will also need to register. All attendees will be required to show valid government-issued picture identification (state or federal) for entry into the federal building. Non-federal employees will receive a wrist band that must be worn the entire time. Security requires all non-federal employees to be escorted the entire time they are in the building. Upon leaving the building for any reason, persons will be required to follow the security steps mentioned above and receive a new wrist band.

Members of the public will have the opportunity to provide public comment at the meeting or via telephone. International calls cannot be accommodated. You are no longer required to submit a written copy of your testimony unless you wish to have it included in the public record. Individuals wishing to provide public comment in-person or via phone will be required to request time for public comment by Monday, June 9, 2014, at the following link: *http://www.blsmeetings.net/CFSAC*. An email to acknowledge receipt of the request for public comment will be sent from *CFSAC@seamoncorporaton.com*. Another email will be sent by June 12, 2014, to confirm the time that has been given to each individual who is scheduled to provide public comment. Each speaker will be limited to three minutes for public comment. No exceptions will be made. Priority will be given to individuals who have not provided public comment within the previous year.

Individuals wishing to submit written comment for the public record should send an electronic copy of their written testimony to: *CFSAC@seamoncorporation.com* by June 12, 2014. The document for public record must not exceed 5 single-spaced, typed pages, using a 12-point typeface; it is preferred that the document be prepared in the MS Word format. Please note that PDF files, handwritten notes, charts, and photographs will not be posted on the CFSAC Web site, but will be available upon request at *CFSAC@seamoncorporation.com* and for public view during the CFSAC meeting at the Hubert H. Humphrey Building, Department of Health and Human Services, 200 Independence Ave. SW., Great Hall, Washington, DC 20201.

Requests to participate in the public comment session and provide written testimony will not be accepted through the CFSAC email account. Please send all questions about specific public comment requests or inquiries to *CFSAC@seamoncorporation.com*.

Only written testimony submitted for public record and received in advance of the meeting are part of the official meeting record and will be posted to the CFSAC Web site. Materials submitted should not include sensitive personal information, such as social security number, birthdate, driver's license number, state identification or foreign country equivalent, passport number, financial account number, credit or debit card number. If you wish to remain anonymous the document must specify this.

Persons who wish to distribute printed materials in person to CFSAC members should submit one copy to the Designated Federal Officer at *cfsac@hhs.gov*, prior to June 12, 2014.

Dated: May 16, 2014.

Nancy C. Lee,

Designated Federal Officer, Chronic Fatigue Syndrome Advisory Committee.

[FR Doc. 2014–12371 Filed 5–28–14; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Research Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) has taken final action in the following case:

Helen Freeman, Ph.D., Harvard Medical School and Beth Israel Deaconess Medical Center: Based on an investigation conducted by Harvard Medical School (HMS) and Beth Israel Deaconess Medical Center (BIDMS) and additional analysis conducted by ORI in its oversight review, ORI found that Dr. Helen Freeman, former HMS Postdoctoral Fellow at BIDMS, engaged in research misconduct in research supported by National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), National Institutes of Health (NIH), grant R37 DK053477.

ORI found that the Respondent engaged in research misconduct by knowingly and intentionally falsifying three (3) figures and/or legends and one (1) supplemental movie legend in a manuscript submitted for publication to the journal *Nature* (Freeman, H.C., Kong, D., Sidman, R.L., & Lowell, B. ''Inhibition of UCP2 Prevents Neurodegenerative Diseases in Mice.'').

Specifically, ORI found that Respondent:

• Falsified Figure 6 and its legend in a manuscript submitted to *Nature* by claiming that the experiment represented histological and rotarod results from 5 week old *pcd3J*$^{-/-}$ mice treated with saline or *pcd3J*$^{-/-}$ mice treated with genipin when the genotype, treatment conditions, numbers of mice used, and mice age were not as claimed; these falsified data also were presented to a colleague for use in related experiments

• falsified Figure 4, Supplementary Figure 3, and Supplementary Movie 1 and/or its legends in a manuscript submitted to *Nature* by claiming that the knockout of UCP2 rescues the ataxic phenotype of *pcd3J*$^{-/-}$ mice when she knew this to be false.

•

Dr. Freeman has voluntarily agreed for a period of three (3) years, beginning on May 6, 2014:

(1) To have her research supervised if employed by an institution that receives or applies for U.S. Public Health Service (PHS) funding; Respondent agreed that prior to the submission of an application for PHS support for a research project on which the Respondent's participation is proposed and prior to Respondent's participation in any capacity on PHS-supported research, Respondent shall ensure that a plan for supervision of Respondent's duties is submitted to ORI for approval; the supervision plan must be designed to ensure the scientific integrity of Respondent's research contribution; Respondent agreed that she shall not participate in any PHS-supported research until such a supervision plan is submitted to and approved by ORI; Respondent agreed to maintain responsibility for compliance with the agreed-upon supervision plan;

(2) that any institution employing her shall submit, in conjunction with each application for PHS funds, or report, manuscript, or abstract involving PHS-supported research in which Respondent is involved, a certification to ORI that the data provided by Respondent are based on actual experiments or are otherwise legitimately derived and that the data, procedures, and methodology are accurately reported in the application, report, manuscript, or abstract; and

(3) to exclude herself voluntarily from serving in any advisory capacity to PHS including, but not limited to, service on any PHS advisory committee, board, and/or peer review committee, or as a consultant.

FOR FURTHER INFORMATION CONTACT: Acting Director, Office of Research Integrity, 1101 Wootton Parkway, Suite 750, Rockville, MD 20852, (240) 453–8800.

Donald Wright,

Acting Director, Office of Research Integrity.

[FR Doc. 2014–12442 Filed 5–28–14; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: ''Voluntary Customer Survey Generic Clearance for the Agency for Healthcare Research and Quality.'' In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3520, AHRQ invites the public to comment on this proposed information collection.

DATES: Comments on this notice must be received by July 28, 2014.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by email at *doris.letkowitz@AHRQ.hhs.gov*.

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@AHRQ.hhs.gov*.

SUPPLEMENTARY INFORMATION:

Proposed Project

Voluntary Customer Survey Generic Clearance for the Agency for Healthcare Research and Quality

This is a request for the Office of Management and Budget (OMB) to re-approve for an additional 3 years, under the Paperwork Reduction Act of 1995, the generic clearance for the Agency for Healthcare Research and Quality (AHRQ) to survey the users of AHRQ's work products and services, OMB control number 0935–0106. The current clearance was approved on July 20th, 2011 and will expire on July 31st, 2014.

Customer surveys will be undertaken by AHRQ to assess its work products and services provided to its customers, to identify problem areas, and to determine how they can be improved. Surveys conducted under this generic clearance are not required by regulation and will not be used by AHRQ to regulate or sanction its customers. Surveys will be entirely voluntary, and information provided by respondents will be combined and summarized so that no individually identifiable information will be released. Proposed information collections submitted under this generic clearance will be reviewed and acted upon by OMB within 14 days of submission to OMB.

Method of Collection

The information collected through focus groups and voluntary customer surveys will be used by AHRQ to identify strengths and weaknesses in products and services to make improvements that are practical and feasible. Information from these customer surveys will be used to plan and redirect resources and efforts to improve or maintain a high quality of service to the lay and health professional public.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated total burden hours for the respondents. Mail surveys are estimated to average 15 minutes, telephone surveys 40 minutes, web-based surveys 10 minutes, focus groups two hours, and in-person interviews are estimated to average 50 minutes. Mail surveys may also be sent to respondents via email, and may include a telephone non-response follow-up. Telephone non-response follow-up for mailed surveys does not count as a telephone survey. The total burden hours for the 3 years of the clearance is estimated to be 10,150 hours.

Exhibit 2 shows the estimated cost burden for the respondents. The total cost burden for the 3 years of the clearance is estimated to be $340,127.

EXHIBIT 1—ESTIMATED BURDEN HOURS OVER 3 YEARS

Type of information collection	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
Mail/email *	15,000	1	15/60	3,750
Telephone	600	1	40/60	400
Web-based	15,000	1	10/60	2,500
Focus Groups	1,500	1	2.0	3,000
In-person	600	1	50/60	500
Total	32,700	na	na	10,150

* May include telephone non-response follow-up in which case the burden will not change.

EXHIBIT 2—ESTIMATED COST BURDEN OVER 3 YEARS

Type of information collection	Number of respondents	Total burden hours	Average hourly wage rate *	Total cost burden
Mail/email	15,000	3,750	$33.51	$25,663
Telephone	600	400	33.51	3,404
Web-based	15,000	2,500	33.51	83,775
Focus Groups	1,500	3,000	33.51	100,530
In-person	600	500	33.51	16,755
Total	32,700	10,150	na	340,127

* Based upon the average wages for 29–000 (Healthcare Practitioner ''National Compensation Survey: Occupational Wages in the United States, May 2009,'' U.S. Department of Labor, Bureau of Labor Statistics.

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of AHRQ healthcare research and healthcare information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: May 21, 2014.

Richard Kronick,

Director.

[FR Doc. 2014–12360 Filed 5–28–14; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection; Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the proposed information collection project: ''Generic Clearance for Questionnaire and Data Collection Testing, Evaluation, and Research for the Agency for Healthcare Research and Quality.'' In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3520, AHRQ invites the public to comment on this proposed information collection.

DATES: Comments on this notice must be received by July 28, 2014.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by email at *doris.lefkowitz@AHRQ.hhs.gov*.

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AI–IRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at *doris.lefkowitz@AHRQ.hhs.gov*.

SUPPLEMENTARY INFORMATION:

Proposed Project

Generic Clearance for Questionnaire and Data Collection Testing, Evaluation, and Research for the Agency for Healthcare Research and Quality

The Agency for Healthcare Research and Quality (AHRQ) requests that the Office of Management and Budget (OMB) reinstate generic pre-testing clearance 0935–0124 for three years to facilitate AHRQ's efforts to (1) employ evaluation-type methods and techniques to improve AHRQ's current data collection and estimation procedures, (2) develop new collections and procedures, including toolkits, and (3) revise existing collections and procedures. AHRQ uses techniques to simplify data collection and estimation procedures, reduce respondent burden, and improve efficiencies to meet the needs of individuals and small business respondents who may have reduced budgets and staff. AHRQ believes that developing, testing, and evaluating data collection and estimation procedures using survey methods and other techniques in anticipation of agency-sponsored studies can improve its

information collection efforts and the products it develops and allow AHRQ to be more responsive to fast-changing developments in the healthcare research field.

This clearance request is limited to research on data collection, toolkit development, and estimation procedures and reports and does not extend to the collection of data for public release or policy formation. The current clearance was granted on May 27th, 2011 and expires on May 31st, 2014.

This generic clearance will allow AHRQ to draft and test toolkits, survey instruments and other data collection and estimation procedures more quickly and with greater lead time, thereby managing project time more efficiently and improving the quality of the data AHRQ collects. In some instances, the ability to test and evaluate toolkits, data collection and estimation procedures in anticipation of work or early in a project may result in the decision not to proceed with additional activities, thereby saving both public and private resources and effectively eliminating respondent burden.

Many of the tools AHRQ develops are made available to the private sector to assist in improving health care quality. The health and health care environment changes rapidly and requires a quick response from AHRQ to provide refined tools. This generic clearance will facilitate AHRQ's response to this changing environment.

These preliminary research activities will not be used by AHRQ to regulate or sanction its customers. They will be entirely voluntary and the confidentiality of respondents and their responses will be preserved. Proposed information collections submitted under this generic clearance will be reviewed and acted upon by OMB within 14 days of submission to OMB.

Method of Collection

The information collected through preliminary research activities will be used by AHRQ to employ techniques to (1) improve AHRQ's current data collection and estimation procedures, (2) develop new collections and procedures, including toolkits, and (3) revise existing collections and procedures in anticipation or in response to changes in the health or health care field. The end result will be improvement in AHRQ's data collections and procedures and the quality of data collected, a reduction or minimization of respondent burden, increased agency efficiency, and improved responsiveness to the public.

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated burden hours, over the full 3 years of this clearance, for the respondents' time to participate in the research activities that may be conducted under this generic clearance. Mail surveys will be conducted with about 6,000 persons (2,000 per year for 3 years) and are estimated to average 20 minutes. Mail surveys may also be sent to respondents via email, and may include a telephone non-response follow-up. Telephone non-response follow-up for mailed surveys is not counted as a telephone survey in Exhibit 1. Not more than 600 persons, over 3 years, will participate in telephone surveys that will take about 40 minutes. Web-based surveys will be conducted with no more than 3,000 persons and will require no more than 10 minutes to complete. About 1,500 persons will participate in focus groups which may last up to two hours, while in-person interviews will be conducted with 600 persons and will take about 50 minutes. Automated data collection will be conducted for about 1,500 persons and could take up to 1 hour. Cognitive testing will be conducted with about 600 persons and is estimated to take 1½ hours to complete. The total burden over 3 years is estimated to be 8,900 hours (about 2,967 hours per year).

Exhibit 2 shows the estimated cost burden over 3 years, based on the respondents' time to participate in these research activities. The total cost burden is estimated to be $298,239.

EXHIBIT 1—ESTIMATED BURDEN HOURS OVER 3 YEARS

Type of information collection	Number of respondents	Number of responses per respondent	Hours per response	Total burden hours
Mail/email *	6,000	1	20/60	2,000
Telephone	600	1	40/60	400
Web-based	3,000	1	10/60	500
Focus Groups	1,500	1	2.0	3,000
In-person	600	1	1.0	600
Automated **	1,500	1	1.0	1,500
Cognitive Testing ***	600	1	1.5	900
Totals	13,800	na	na	8,900

* May include telephone non-response follow-up in which case the burden will not change
** May include testing of database software, CAPI software or other automated technologies.
*** May include cognitive interviews for questionnaire or toolkit development, or "think aloud" testing of prototype Web sites.

EXHIBIT 2—ESTIMATED COST BURDEN OVER 3 YEARS

Type of information collection	Number of respondents	Total burden hours	Average hourly wage rate *	Total cost burden
Mail/email	6,000	2,000	33.51	67,020
Telephone	600	400	33.51	13,404
Web-based	3,000	500	33.51	16,755
Focus Groups	1,500	3,000	33.51	100,530
In-person	600	600	33.51	20,106
Automated	1,500	1,500	33.51	50,265
Cognitive Testing	600	900	33.51	30,159

EXHIBIT 2—ESTIMATED COST BURDEN OVER 3 YEARS—Continued

Type of information collection	Number of respondents	Total burden hours	Average hourly wage rate *	Total cost burden
Totals	13,800	8,900	na	298,239

* Based upon the average wages for 29–000 (Healthcare Practitioner and Technical Occupations), ''National Compensation Survey: Occupational Wages in the United States, May 2009,'' U.S. Department of Labor, Bureau of Labor Statistics.

Request for Comments

In accordance with the Paperwork Reduction Act, comments on AHRQ's information collection are requested with regard to any of the following: (a) whether the proposed collection of information is necessary for the proper performance of AHRQ healthcare research and healthcare information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and costs) of the proposed collection(s) of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency's subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: May 21, 2014.

Richard Kronick,

Director.

[FR Doc. 2014–12359 Filed 5–28–14; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Title: Adoption and Foster Care Analysis Reporting System for Title IV–B and Title IV–E (AFCARS).

OMB No.: 0970–0422.

Description: The Adoption and Foster Care Analysis and Reporting System (AFCARS) is mandated by 42 U.S.C. 679. The regulation at 45 CFR 1355 sets forth the requirements of section 479 of the Social Security Act for the collection of uniform, reliable information on children who are under the responsibility of the State or Tribal title IV–B/IV–E agency for placement, care, and adoption. Effective October 1, 2009, section 479B(b) of the Act authorizes direct Federal funding of Indian Tribes, Tribal organizations, and Tribal consortia that choose to operate a foster care, adoption assistance and, at Tribal option, a kinship guardianship assistance program under title IV–E of the Act. The Federal regulations at 45 CFR 1355.40 were amended as part of an Interim Final Rule published January 6, 2012 to apply the same regulatory requirements for data collection and reporting to a Tribal title IV–E agency as are applied to a State title IV–E agency.

The data collected will inform State/Tribal/Federal policy decisions, program management, and responses to Congressional and Departmental inquiries. Specifically, the data are used for short/long-term budget projections, trend analysis, child and family service reviews, and to target areas for improved technical assistance. The data will provide information about foster care placements, adoptive parents, length of time in care, delays in termination of parental rights and placement for adoption.

Respondents: Title IV–E State and Tribal Child Welfare Agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
AFCARS	72	2	1,786	257,184

Estimated Total Annual Burden Hours: 257,184.

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov*. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2014–12405 Filed 5–28–14; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–P–1516]

Determination That SODIUM PERTECHNETATE TC–99M (Technetium Tc-99m Sodium Pertechnetate) Injection, Oral, 2 to 100 Millicuries per Milliliter and 10 to 60 Millicuries per Milliliter, Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that SODIUM PERTECHNETATE TC–99M (technetium Tc-99m sodium pertechnetate) Injection, Oral, 2 to 100 millicuries per milliliter (mCi/mL) and 10 to 60 mCi/mL, were not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for technetium Tc-99m sodium pertechnetate, injection, oral, 2 to 100 mCi/mL and 10 to 60 mCi/mL, if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Ayako Sato, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6228, Silver Spring, MD 20993–0002, 240–402–4191.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

SODIUM PERTECHNETATE TC–99M (technetium Tc-99m sodium pertechnetate) Injection, Oral, 2 to 100 mCi/mL, is the subject of NDA 17–471, held by GE Healthcare. SODIUM PERTECHNETATE TC–99M (technetium Tc-99m sodium pertechnetate) Injection, Oral, 10 to 60 mCi/mL, is the subject of NDA 17–725, held by Mallinckrodt Pharmaceuticals. The most recent labeling indicates that SODIUM PERTECHNETATE TC–99M is used in adults as an agent for thyroid imaging, salivary gland imaging, urinary bladder imaging (direct isotopic cystography) for the detection of vesicoureteral reflux, and nasolacrimal drainage system imaging (dacryoscintigraphy). The most recent labeling also indicates that SODIUM PERTECHNETATE TC–99M is used in children as an agent for thyroid imaging and urinary bladder imaging (direct isotopic cystography) for the detection of vesicoureteral reflux.

In a letter dated April 15, 2004, Amersham Health, the former holder of NDA 17–471, notified FDA that SODIUM PERTECHNETATE TC–99M (technetium Tc-99m sodium pertechnetate) Injection, Oral, 2 to 100 mCi/mL, was being discontinued, and FDA moved the drug product to the ''Discontinued Drug Product List'' section of the Orange Book. In the **Federal Register** of March 4, 2005 (70 FR 10651), FDA announced that it was withdrawing approval of NDA 17–471. In a letter dated October 23, 2006, Mallinckrodt Pharmaceuticals, the holder of NDA 17–725, notified FDA that SODIUM PERTECHNETATE TC–99M (technetium Tc-99m sodium pertechnetate) Injection, Oral, 10 to 60 mCi/mL, was being discontinued, and FDA moved the drug product to the ''Discontinued Drug Product List'' section of the Orange Book. In the **Federal Register** of November 7, 2007 (72 FR 62858), FDA announced that it was withdrawing approval of NDA 17–725.

Spectron mrc, LLC, submitted a citizen petition dated November 19, 2013 (Docket No. FDA–2013–P–1516), under 21 CFR 10.30, requesting that the Agency determine whether SODIUM PERTECHNETATE TC–99M (technetium Tc-99m sodium pertechnetate) Injection, Oral, 2 to 100 mCi/mL and 10 to 60 mCi/mL, were withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that SODIUM PERTECHNETATE TC–99M (technetium Tc-99m sodium pertechnetate) Injection, Oral, 2 to 100 mCi/mL and 10 to 60 mCi/mL, were not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that SODIUM PERTECHNETATE TC–99M (technetium Tc-99m sodium pertechnetate) Injection, Oral, 2 to 100 mCi/mL and 10–60 mCi/mL, were withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of SODIUM PERTECHNETATE TC–99M (technetium Tc-99m sodium pertechnetate) Injection, Oral, 2 to 100 mCi/mL and 10 to 60 mCi/mL, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have found no information that would indicate that these products were withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list SODIUM PERTECHNETATE TC–99M (technetium Tc-99m sodium pertechnetate) Injection, Oral, 2 to 100 mCi/mL and 10 to 60 mCi/mL, in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to SODIUM PERTECHNETATE TC–99M (technetium Tc-99m sodium pertechnetate) Injection, Oral, 2 to 100 mCi/mL and 10 to 60 mCi/mL, may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised

to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: May 21, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–12351 Filed 5–28–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–D–0622]

Draft Guidance for Industry on Best Practices in Developing Proprietary Names for Drugs; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Best Practices in Developing Proprietary Names for Drugs.'' The draft guidance focuses on the safety aspects in the development and selection of proposed proprietary names for all prescription and nonprescription human drug products and biological products. The draft guidance describes naming design practices to help avoid medication errors and provides a qualitative systematic framework for evaluating proprietary names before submitting them for FDA review. FDA is issuing this draft guidance to help drug and biologic product sponsors develop proprietary names that do not cause or contribute to medication errors or otherwise contribute to the misbranding of the drug.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comments on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by July 28, 2014.

ADDRESSES: Submit written requests for single copies of this draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2201, Silver Spring, MD 20993–0002; or the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. The draft guidance may also be obtained by calling CBER at 1–800–835–4709 or 240–402–7800. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit electronic comments on the draft guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Kellie Taylor, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 4418, Silver Spring, MD 20993–0002, 301–796–0157, or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Best Practices in Developing Proprietary Names for Drugs.'' FDA has long recognized the importance of proprietary name confusion as a potential cause of medication errors, and has addressed this issue repeatedly in recent decades. Our primary focus has been to develop and communicate to sponsors a systematic, standardized, and transparent approach to proprietary name evaluation within the product review and approval process. As part of this initiative, FDA held public meetings in June and December 2003 to discuss the methods used for proprietary name evaluation. In 2007, FDA formally committed to certain performance goals (under the reauthorization of the Prescription Drug User Fee Act (PDUFA IV) (Public Law 110–85), including implementing measures to reduce medication errors related to look-alike and sound-alike proprietary names (PDUFA IV performance goals). In 2008, FDA held a public meeting to further discuss testing and evaluating proprietary names, and initiating a pilot project on proprietary name review. The 2008 meeting focused on advances and current limitations in the science of proprietary name evaluation, FDA's recommendations for best practices in the absence of a ''gold standard,'' and details of the proposed pilot project. The participating expert panel judged all the evaluation methods proposed by FDA to be complementary and of value in the proprietary name testing process. We are issuing this guidance in partial fulfillment of the PDUFA IV performance goals.

This draft guidance document, which addresses minimizing risks through the design of drug product naming, is the last in a series of three guidance documents that FDA is issuing to help sponsors minimize the potential for medication errors when designing and developing products. The first draft guidance, published in the **Federal Register** on December 13, 2012 (77 FR 74196), focuses on minimizing risks associated with the design of the drug product and its container closure system. The second draft guidance, published in the **Federal Register** on April 24, 2013 (78 FR 24211), focuses on safety aspects of the container label and carton labeling design.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on best practices for developing and selecting proposed proprietary names to minimize medication errors. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

III. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Proprietary name information submitted under 21 CFR part 314 has been approved under OMB control number 0910–0001, and proprietary name information submitted under 21 CFR part 601 has been

approved under OMB control number 0910–0338.

IV. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm,* or *http://www.regulations.gov.*

Dated: May 21, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–12348 Filed 5–28–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–1504]

Independent Assessment of the Process for the Review of Device Submissions; Final Comprehensive Findings and Recommendations and First Implementation Plan

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing Booz Allen Hamilton's final comprehensive findings and recommendations submitted as part of their independent assessment of the process for the review of medical device submissions. The assessment is part of the FDA performance commitments relating to the Medical Device User Fee Amendments of 2012 (MDUFA III), which reauthorized device user fees for fiscal years (FYs) 2013–2017. The assessment is described in section V, Independent Assessment of Review Process Management, of the commitment letter entitled ''MDUFA Performance Goals and Procedures'' (MDUFA III Commitment Letter). The assessment is being conducted in two phases. The final comprehensive findings and recommendations are the last of a series of deliverables, as outlined in the contract statement of work, to be published as part of Phase 1 of the assessment.

FOR FURTHER INFORMATION CONTACT: Amber Sligar, Office of Planning, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, rm. 3291, Silver Spring, MD 20993–0002, 301–796–9384, *Amber.Sligar@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On July 9, 2012, President Obama signed into law the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144) (FDASIA).[1] Title II of FDASIA is the Medical Device User Fee Amendments of 2012 (MDUFA III), which gives FDA the authority to collect device user fees from industry for FYs 2013–2017. MDUFA III took effect on October 1, 2012, and will continue through September 30, 2017.

Device user fees were first established by Congress in 2002. Medical device companies pay fees to FDA when they register their establishment and list their devices with the Agency, whenever they submit an application or a notification to market a new medical device in the United States, and for certain other types of submissions. Under MDUFA III, FDA is authorized to collect user fees that will total approximately $595 million (plus adjustments for inflation) over 5 years. With this additional funding, FDA will be able to hire more than 200 full-time-equivalent workers over the course of MDUFA III. In exchange, FDA has committed to meet certain performance goals outlined in the MDUFA III Commitment Letter.[2]

II. Assessment of FDA's Process for the Review of Device Submissions

Section V of the MDUFA III Commitment Letter states that FDA and the device industry will participate in a comprehensive assessment of the process for the review of device applications. The assessment will include consultation with both FDA and industry. The assessment will be conducted in two phases by a private, independent consulting firm, under contract with FDA, that is capable of performing the technical analysis, management assessment, and program evaluation tasks required to address the assessment as described in the MDUFA III Commitment Letter.

FDA awarded the contract in June 2013 to the consulting firm Booz Allen Hamilton. Findings on high-priority recommendations (i.e., those likely to have a significant impact on review times) were published in December 2013.[3] Final comprehensive findings and recommendations were scheduled to be published within 1 year of contract award and are included in the report available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/Overview/MDUFAIII/ucm314036.htm.* FDA agreed to publish an implementation plan within 6 months of receipt of each set of recommendations. The first of these implementation plans has been completed and is also available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/Overview/MDUFAIII/ucm314036.htm.* For Phase 2 of the independent assessment, the contractor will evaluate the implementation of recommendations and publish a written assessment no later than February 1, 2016.

The assessment includes, but is not limited to, the following areas:

- Identification of process improvements and best practices for conducting predictable, efficient, and consistent premarket reviews that meet regulatory review standards.
- Analysis of elements of the review process (including the Pre-Submission process, and investigational device exemption, premarket notification (510(k)), and premarket approval application reviews) that consume or save time to facilitate a more efficient process. This includes analysis of root causes for inefficiencies that may affect review performance and total time to decision. This will also include recommended actions to correct any failures to meet MDUFA goals. Analysis of the review process will include the impact of combination products and companion diagnostic products on the review process.
- Assessment of FDA methods and controls for collecting and reporting information on premarket review process resource use and performance.
- Assessment of effectiveness of FDA's Device Reviewer Training Program implementation.
- Recommendations for ongoing periodic assessments and any additional, more detailed or focused assessments.

FDA will incorporate findings and recommendations, as appropriate, into its management of the premarket review program. FDA will analyze the recommendations for improvement opportunities identified in the assessment, develop and implement a corrective action plan, and assure its effectiveness. FDA also will incorporate the results of the assessment into a Good Review Management Practices (GRMP) guidance document for medical devices. FDA's implementation of the GRMP guidance will include initial and

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[1] *http://www.gpo.gov/fdsys/pkg/PLAW-112publ144/pdf/PLAW-112publ144.pdf.*

[2] *http://www.fda.gov/downloads/MedicalDevices/NewsEvents/WorkshopsConferences/UCM295454.pdf.*

[3] *http://www.fda.gov/downloads/MedicalDevices/DeviceRegulationandGuidance/Overview/MDUFAIII/UCM378202.pdf.*

ongoing training of FDA staff, and periodic audits of compliance with the guidance.

The contractor's Phase 1 final comprehensive findings and recommendations along with FDA's implementation plan based on the contractor's high-priority recommendations issued December 11, 2013, are available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/Overview/MDUFAIII/ucm314036.htm*.

Dated: May 22, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–12403 Filed 5–28–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–E–0595]

Determination of Regulatory Review Period for Purposes of Patent Extension; ZACTRAN

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for ZACTRAN and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that animal drug product.

ADDRESSES: Submit electronic comments to *http://www.regulations.gov.* Submit written petitions (two copies are required) and written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Submit petitions electronically to *http://www.regulations.gov* at Docket No. FDA–2013–S–0610.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Management, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6257, Silver Spring, MD 20993–0002, 301–796–7900.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For animal drug products, the testing phase begins on the earlier date when either a major environmental effects test was initiated for the drug or when an exemption under section 512(j) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360b(j)) became effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the animal drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for an animal drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(4)(B).

FDA has approved for marketing the animal drug product ZACTRAN (gamithromycin). ZACTRAN, an animal drug product, is indicated for the treatment of bovine respiratory disease (BRD) associated with *Mannheimia haemolytica, Pasteurella multocida,* and *Histophilus somni* in beef and non-lactating dairy cattle. ZACTRAN is also indicated for the control of respiratory disease in beef and non-lactating dairy cattle at high risk of developing BRD associated with *M. haemolytica* and *P. multocida.* Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for ZACTRAN (U.S. Patent No. 5,985,844) from Merck Sharp & Dohme Corp., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated February 1, 2013, FDA advised the Patent and Trademark Office that this animal drug product had undergone a regulatory review period and that the approval of ZACTRAN represented the first permitted commercial marketing or use of the product. Thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for ZACTRAN is 2,990 days. Of this time, 2,930 days occurred during the testing phase of the regulatory review period, while 60 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the FD&C Act (21 U.S.C. 355(i)) became effective:* April 11, 2003. The applicant claims September 11, 1997, as the date the investigational new animal drug application (INAD) became effective. However, FDA records indicate that the INAD effective date was April 11, 2003, which was the date a major health or environmental effects test is begun or the date on which the Agency acknowledges the filing of a notice of claimed investigational exemption for a new animal drug, whichever is earlier.

2. *The date the application was initially submitted with respect to the animal drug product under section 512 of the FD&C Act (21 U.S.C. 360b):* April 18, 2011. The applicant claims April 15, 2011, as the date the new animal drug application (NADA) for ZACTRAN (NADA 141–328) was initially submitted. However, FDA records indicate that NADA 141–328 was submitted on April 18, 2011.

3. *The date the application was approved:* June 16, 2011. FDA has verified the applicant's claim that NADA 141–328 was approved on June 16, 2011.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,826 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments and ask for a redetermination by July 28, 2014. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by November 25, 2014. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess.,

pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) electronic or written comments and written or electronic petitions. It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. If you submit a written petition, two copies are required. A petition submitted electronically must be submitted to *http://www.regulations.gov,* Docket No. FDA–2013–S–0610. Comments and petitions that have not been made publicly available on *http://www.regulations.gov* may be viewed in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 21, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–12350 Filed 5–28–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–E–0035]

Determination of Regulatory Review Period for Purposes of Patent Extension; XARELTO

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for XARELTO and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Submit electronic comments to *http://www.regulations.gov.* Submit written petitions (two copies are required) and written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Submit petitions electronically to *http://www.regulations.gov* at Docket No. FDA–2013–S–0610.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Management, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6257, Silver Spring, MD 20993–0002, 301–796–7900.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product XARELTO (rivaroxaban). XARELTO is indicated for the prophylaxis of deep vein thrombosis, which may lead to pulmonary embolism in patients undergoing knee or hip replacement surgery. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for XARELTO (U.S. Patent No. 7,157,456) from Bayer Pharma Aktiengesellschaft, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated July 9, 2012, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of XARELTO represented the first permitted commercial marketing or use of the product. Thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for XARELTO is 3,291 days. Of this time, 2,222 days occurred during the testing phase of the regulatory review period, while 1,069 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 355(i)) became effective:* June 29, 2002. The applicant claims June 30, 2002, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was June 29, 2002, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the FD&C Act:* July 28, 2008. FDA has verified the applicant's claim that the new drug application (NDA) for XARELTO (NDA 22–406) was submitted on July 28, 2008.

3. *The date the application was approved:* July 1, 2011. FDA has verified the applicant's claim that NDA 22–406 was approved on July 1, 2011.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,354 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments and ask for a redetermination by July 28, 2014. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by November 25, 2014. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) electronic or written comments and written or electronic petitions. It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this

document. If you submit a written petition, two copies are required. A petition submitted electronically must be submitted to *http://www.regulations.gov,* Docket No. FDA–2013–S–0610. Comments and petitions that have not been made publicly available on *http://www.regulations.gov* may be viewed in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 21, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–12349 Filed 5–28–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request: Generic Clearance to Support the Safe to Sleep Campaign at the Eunice Kennedy Shriver National Institute for Child Health and Human Development (NICHD)

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institute of Child Health and Human Development, the National Institutes of Health, has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on December 30, 2013, pages 79472–79473 and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institute of Child Health and Human Development, National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, O*IRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: NIH Desk Officer.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, or request more information on the proposed project, contact: Dr. Sarah L. Glavin, Deputy Director, Office of Science Policy, Analysis and Communication, *Eunice Kennedy Shriver* National Institute of Child Health and Human Development, National Institutes of Health, 31 Center Drive, Room 2A18, Bethesda, Maryland 20892, or call a non-toll free number (301) 496–1877 or Email your request, including your address to *glavins@mail.nih.gov*. Formal requests for additional plans and instruments must be requested in writing.

Proposed Collection: Generic Clearance to Support the Safe to Sleep Campaign at the *Eunice Kennedy Shriver* National Institute for Child Health and Human Development (NICHD), 0925–NEW, *Eunice Kennedy Shriver* National Institute of Child Health and Human Development (NICHD), National Institutes of Health (NIH).

Need and Use of Information Collection: This is a request for a new generic clearance that would be used for submissions specific to the *Eunice Kennedy Shriver* National Institute of Child Health and Human Development (NICHD) Safe to Sleep (STS) public education campaign. Submissions for the STS campaign will be used to assess the understanding and reach of STS campaign materials and messages, and to monitor and improve campaign activities such as training workshops and overall implementation. The purpose of this information collection is to monitor and modify campaign activities, to plan future campaign activities, to develop messages and materials, and to develop distribution and outreach strategies that are effective at communicating their message to bring about the intended response, awareness, and/or behavioral change for the target audiences. This generic clearance will enable the NICHD to: (1) More efficiently assess the implementation of campaign activities; (2) better understand the target audiences' knowledge, attitudes, and beliefs toward STS messages and materials; (3) better understand how the campaign activities have influenced the target audiences' behaviors and practices; and (4) monitor and improve activities such as trainings, and material/message development. Having a way to gather feedback on the STS campaign activities is critical to assessing the reach and effect of campaign efforts. Data collected for the campaign can inform where future STS campaign resources can produce the most meaningful results.

Data collected for the STS campaign generic clearance will be used by a number of audiences, including STS campaign staff, NICHD leadership, STS campaign collaborators, Federal Sudden and Unexpected Infant Deaths (SUID)/Sudden Infant Death Syndrome (SIDS) Workgroup members, SUID/SIDS stakeholders, clinical and maternal/child health professionals, parents and caretakers, and the general public. These audiences may use the information collections to: (1) Develop new campaign messages, materials, and/or training curricula; (2) monitor and improve campaign activities; (3) make decisions about campaign activities; (4) inform current campaign activities; and (5) inform and/or change practices and behaviors of program participants.

Examples of the types of information collections that could be included under this generic clearance include: *Focus groups and in-depth interviews* with parents/caregivers and/or health professionals to get feedback on distribution and outreach activities, and/or campaign messages; and *Surveys* with parents/caregivers and/or health professionals to: (1) Assess the usefulness of the new STS campaign materials, including print and on-line materials and a video, (2) track outreach experiences of program participants, (3) assess training participants' changes in knowledge related to safe infant sleep behavior and implementation of outreach methods taught, and (4) assess program participants' resource needs.

The sub-studies for this generic will be small scale, designed to obtain results frequently and quickly to guide campaign development and implementation, inform campaign direction, and be used internally for campaign management purposes. NICHD's current scope and capacity for STS generic sub-studies is non-existent and this request would fill this gap.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 3,000.

Estimated Annualized Burden Hours

TABLE 1—ESTIMATES FOR ANNUAL BURDEN HOURS

Type of data collection instrument	Number of respondents	Frequency of response	Average time per response	Annual hour burden
Focus Groups	500	1	1	500
Pre/Post Test	2,500	1	15/60	625
Survey	2,500	1	15/60	625
Interview	500	1	1	500
Tracking/Feedback Form	1,500	1	30/60	750
Total	7,500			3,000

Dated: May 20, 2014.

Sarah L. Glavin,

Deputy Director, Office of Science Policy, Analysis, and Communications, Eunice Kennedy Shriver National Institute of Child Health and Human Development National Institutes of Health.

[FR Doc. 2014–12370 Filed 5–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, 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 Aging Special Emphasis Panel; Performance Measure of Multiple Chronic Conditions.

Date: June 2, 2014.

Time: 12:00 p.m. to 1:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute on Aging, Gateway Building, Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Isis S. Mikhail, MPH, DRPH, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7702, *MIKHAILI@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS).

Dated: May 22, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–12491 Filed 5–28–14; 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, PAR13–374: Modeling of Social Behavior.

Date: June 17, 2014.

Time: 7:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Tomas Drgon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3152, MSC 7770, Bethesda, MD 20892, 301–435–1017, *tdrgon@csr.nih.gov*.

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group, Biostatistical Methods and Research Design Study Section.

Date: June 20, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Admiral Fell Inn, 888 South Broadway, Baltimore, MD 21231.

Contact Person: Tomas Drgon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3152, MSC 7770, Bethesda, MD 20892, 301–435–1017, *tdrgon@csr.nih.gov*.

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group, Clinical and Integrative Cardiovascular Sciences Study Section.

Date: June 26, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Delvin R Knight, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 6194 MSC 4128, Bethesda, MD 20892–7814, 301.435.1850, *knightdr@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR Panel: High Throughput Screening Assays for Probe Discovery.

Date: June 26, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Kee Hyang Pyon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, MSC 7806, Bethesda, MD 20892, *pyonkh2@csr.nih.gov*.

Name of Committee: Oncology 1-Basic Translational Integrated Review Group, Molecular Oncogenesis Study Section.

Date: June 26, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Amalfi Hotel, 20 West Kinzie Street, Chicago, IL 60654.

Contact Person: Nywana Sizemore, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6204, MSC 7804, Bethesda, MD 20892, 301–435–1718, *sizemoren@csr.nih.gov*.

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review

Group, Respiratory Integrative Biology and Translational Research Study Section.

Date: June 26–27, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Pier 5 Hotel, 711 Eastern Avenue, Baltimore, MD 21202.

Contact Person: Bradley Nuss, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC7814, Bethesda, MD 20892, 301–451–8754, *nussb@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, RFA–RM–13–009: NIH Director's Early Independence Awards Review.

Date: June 26–27, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street NW., Washington, DC 20037.

Contact Person: Weijia Ni, Ph.D., Chief/Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3100, MSC 7808, Bethesda, MD 20892, (301) 594–3292, *niw@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowships: Brain Disorders, Language, Communication and Related Neurosciences.

Date: June 26–27, 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: Vilen A. Movsesyan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040M, MSC 7806, Bethesda, MD 20892, 301–402–7278, *movsesyanv@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowships: Neurodevelopment, Synaptic Plasticity and Neurodegeneration.

Date: June 26–27, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Palomar, 2121 P Street NW., Washington, DC 20037.

Contact Person: Mary Schueler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7846, Bethesda, MD 20892, 301–451–0996, *marygs@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business: Clinical Neurophysiology, Devices, Neuroprosthetics, and Biosensors.

Date: June 26–27, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, DC 20036.

Contact Person: Cristina Backman, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5211, MSC 7846, Bethesda, MD 20892, *cbackman@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business: Cancer Diagnostics and Treatments (CDT).

Date: June 26–27, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Zhang-Zhi Hu, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6186, MSC 7804, Bethesda, MD 20892, (301) 594–2414, *huzhuang@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowships: Biophysical, Physiological, Pharmacological and Bioengineering Neuroscience.

Date: June 26–27, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Dupont Circle, 1143 New Hampshire Avenue NW., Washington, DC 20037.

Contact Person: Sharon S. Low, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 5104, Bethesda, MD 20892–5104, 301–237–1487, *lowss@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Review of Neuroscience AREA Grant Applications.

Date: June 26, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Wardman Park Washington DC Hotel, 2660 Woodley Road NW., Washington, DC 20008.

Contact Person: Richard D. Crosland, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4190, MSC 7850, Bethesda, MD 20892, 301–435–1220, *crosland@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Innate and Adaptive Immune Mechanisms.

Date: June 26, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: David B. Winter, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4204, MSC 7812, Bethesda, MD 20892, 301–435–1152, *dwinter@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowships: Behavioral Neuroscience.

Date: June 26–27, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Torrance Marriott South Bay, 3635 Fashion Way, Torrance, CA 90503.

Contact Person: Kristin Kramer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5205, MSC 7846, Bethesda, MD 20892, (301) 437–0911, *kramerkm@csr.nih.gov*.

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Musculoskeletal Rehabilitation Sciences Study Section.

Date: June 26–27, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314.

Contact Person: Jo Pelham, BA, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4102, MSC 7814, Bethesda, MD 20892, (301) 435–1786, *pelhamj@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Risk, Prevention and Health Behavior.

Date: June 26–27, 2014.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Historic Inns of Annapolis, Duke of Gloucester, 58 State Circle, Annapolis, MD 21401.

Contact Person: Claire E Gutkin, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3106, MSC 7808, Bethesda, MD 20892, 301–594–3139, *gutkincl@csr.nih.gov*.

Name of Committee: Immunology Integrated Review Group; Immunity and Host Defense Study Section.

Date: June 26–27, 2014.

Time: 8:30 a.m. to 5:00 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: Patrick K Lai, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2215, MSC 7812, Bethesda, MD 20892, 301–435–1052, *laip@csr.nih.gov*.

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Biobehavioral Regulation, Learning and Ethology Study Section.

Date: June 26–27, 2014.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Hotel DC Convention Center, 900 10th Street NW., Washington, DC 20001.

Contact Person: Mark D Lindner, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182,

MSC 7770, Bethesda, MD 20892, 301–435–0913, *lindnermd@csr.nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group, Genetics of Health and Disease Study Section.

Date: June 26–27, 2014.

Time: 8:30 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington Embassy Row, 2015 Massachusetts Ave. NW., Washington, DC 20036.

Contact Person: Cheryl M Corsaro, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2204, MSC 7890, Bethesda, MD 20892, (301) 435–1045, *corsaroc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Cell, Computational, and Molecular Biology.

Date: June 26, 2014.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Maria DeBernardi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6158, MSC 7892, Bethesda, MD 20892, 301–435–1355, *debernardima@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflicts: Asthma and Airway Inflammation and Remodeling.

Date: June 26–27, 2014.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Yuanna Cheng, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7814, Bethesda, MD 20892, (301)435–1195, *Chengy5@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR–13–233: Age-Related Diseases and Inflammation.

Date: June 26, 2014.

Time: 11:00 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Raya Mandler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217, MSC 7840, Bethesda, MD 20892, 301–402–8228, *rayam@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, SBIB Pediatric and Fetal Applications.

Date: June 26, 2014.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: John Firrell, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5118, MSC 7854, Bethesda, MD 20892, 301–435–2598, *firrellj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR Panel: Studies of Lymphatics in Health and Disease in the Digestive, Urinary, Cardiovascular and Pulmonary Systems.

Date: June 26, 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, (Telephone Conference Call).

Contact Person: Bonnie L. Burgess-Beusse, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, 301–435–1783, *beusseb@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR 14–050: Virtual Consortium for Translational/Transdisciplinary, Environmental Research (ViCTER).

Date: June 26, 2014.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Imperial Hotel, 4700 Emperor Blvd., Durham, NC 27703.

Contact Person: Patricia Greenwel, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892, 301–435–1169, *greenwep@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business: Biomedical Sensing, Measurement and Instrumentation.

Date: June 27, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Guo Feng Xu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5122, MSC 7854, Bethesda, MD 20892, 301–237–9870, *xuguofen@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowship: Surgical Sciences, Biomedical Imaging and Bioengineering.

Date: June 27, 2014.

Time: 10:30 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Weihua Luo, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5114, MSC 7854, Bethesda, MD 20892, 301–435–1170, *luow@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: May 22, 2014.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–12490 Filed 5–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of 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 Cancer Institute Special Emphasis Panel; Omnibus SEP–4.

Date: June 24–25, 2014.

Time: 8:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: David G. Ransom, PhD., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W124, Rockville, MD 20850, 240–276–6351, *david.ransom@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NIH Support for Conferences and Scientific Meeting.

Date: June 26, 2014.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room-7W556 Rockville, MD 20850, (Telephone Conference Call).

Contact Person: Bratin K. Saha,, PhD., Scientific Review Officer, Program Coordination and Referral Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W556, Rockville, MD 20850, 240–276–6411, *sahab@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Using Social Media to Understand and Address Substance Use and Addiction (CRAN R01).

Date: June 27, 2014.

Time: 7:30 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

Contact Person: Scott A. Chen, PhD., Scientific Review Officer, Division Of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W604, Rockville, MD 20850, 240–276–6038, *chensc@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Omnibus SEP–3.

Date: July 9–10, 2014.

Time: 7:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Clifford W Schweinfest, PhD., Scientific Review Officer, Special Review Branch,, Division of Extramural Activities National Cancer Institute, NIH, 9609 Medical Center Drive, 7W108, Rockville, MD 20850, 240–276–6343, *schweinfestcw@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; Innovative and Applied Emerging Technologies in Biospecimen Science.

Date: July 9, 2014.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center, Drive Room-2W030, Rockville, MD 20850, (Telephone Conference Call).

Contact Person: Donald L Coppock, PhD., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W260, Rockville, MD 20850 240–276–6382, *donald.coppock@mail.nih.gov*.

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/sep/sep.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: May 22, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–12354 Filed 5–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 Mental Health Special Emphasis Panel; Disaster Mental Health Intervention Research Centers.

Date: June 20, 2014.

Time: 11:30 a.m. to 2:30 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: David I. Sommers, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Room 6154, MSC 9606, Bethesda, MD 20892–9606, 301–443–7861, *dsommers@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; BRAIN Initiative: Development and Validation of Novel Tools to Analyze Cell-Specific and Circuit-Specific Processes in the Brain.

Date: June 23, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The St. Regis Washington DC, 923 16th Street NW., Washington, DC 20006.

Contact Person: Megan Kinnane, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6148, MSC 9609, Rockville, MD 20852–9609, 301–402–6807, *libbeym@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; BRAIN Initiative: Planning Next Generation of Human Brain Imaging.

Date: June 23, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz Carlton Hotel, 1150 22nd Street, NW., Washington, DC 20037.

Contact Person: Vinod Charles, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9606, Bethesda, MD 20892–9606, 301–443–1606, *charlesvi@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; BRAIN Initiative: Transformative Approaches for Cell-type Classification in the Brain.

Date: June 24, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, DC 20036.

Contact Person: David W. Miller, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6140, MSC 9608, Bethesda, MD 20892–9608, 301–443–9734, *millerda@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; BSNIP2.

Date: June 27, 2014.

Time: 1:30 p.m. to 5:00 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: David I. Sommers, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Room 6154, MSC 9606, Bethesda, MD 20892–9606, 301–443–7861, *dsommers@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS).

Dated: May 22, 2014.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–12492 Filed 5–28–14; 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 RFA Panel: Tobacco Control Regulatory Research.

Date: June 3, 2014.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Mark P. Rubert, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–435–1775, *rubertm@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 Panel: Tobacco Control Regulatory Research.

Date: June 4, 2014.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Mark P. Rubert, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–435–1775, *rubertm@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.

(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: May 22, 2014.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–12489 Filed 5–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel; Review of NIAAA Member Conflict Applications—Biomedical Sciences.

Date: June 13, 2014.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: 5365 Fishers Lane, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Ranga Srinivas, Ph.D., Chief, Extramural Project Review Branch, NIAAA, National Institutes of Health, 5365 Fishers Lane, Room 2085, Rockville, MD 20852, (301) 451–2067, *srinivar@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards, National Institutes of Health, HHS)

Dated: May 22, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–12355 Filed 5–28–14; 8:45 am]

BILLING CODE 4140–01–P

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Notice of Issuance of Program Comment To Tailor the Federal Communications Commission's Review for Undertakings Involving the Construction of Positive Train Control Wayside Poles and Infrastructure

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: The Advisory Council on Historic Preservation (ACHP) issued a Program Comment at the request of the Federal Communications Commission (FCC) to tailor its review, under Section 106 of the National Historic Preservation Act, of undertakings involving the construction of Positive Train Control wayside poles and infrastructure.

DATES: The Program Comment was issued by the ACHP on May 16, 2014 and went into effect that day.

ADDRESSES: Address all questions concerning the Program Comment to Charlene Dwin Vaughn, AICP, Office of Federal Agency Programs, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue NW., Suite 803, Washington, DC 20004. The ACHP will soon be moving, so that address will change on June 2, 2014 to 401 F Street NW., Suite 308, Washington, DC 20001–2637. You may submit questions through electronic mail to: *cvaughn@achp.gov.*

FOR FURTHER INFORMATION CONTACT: Charlene Vaughn at *cvaughn@achp.gov.*

SUPPLEMENTARY INFORMATION: Section 106 of the National Historic Preservation Act (Section 106) requires federal agencies to consider the effects of their undertakings on historic properties and to provide the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment with regard to such undertakings. The ACHP has issued the regulations that set forth the process through which Federal agencies comply with these duties. Those regulations are codified under 36 CFR part 800 (Section 106 regulations).

Under Section 800.14(e) of those regulations, agencies can request the ACHP to issue a ''Program Comment'' on a particular category of undertakings in lieu of conducting reviews of each individual undertaking under such category, as set forth in 36 CFR 800.3 through 800.7. An agency can meet its Section 106 responsibilities with regard to the effects of particular aspects of those undertakings by taking into

account an applicable Program Comment that has been issued by the ACHP and following the steps set forth in that comment.

I. Background

The ACHP has issued a Program Comment to tailor the Federal Communications Commission's (FCC) Section 106 review for undertakings involving the construction of Positive Train Control (PTC) wayside poles and infrastructure. According to the requirements for obtaining a Program Comment, the FCC formally requested the ACHP to issue the mentioned program comment on March 5, 2014. After the ACHP staff made several revisions to the Program Comment, the ACHP membership voted in favor of issuing the revised Program Comment via an unassembled vote that concluded on May 16, 2014.

The need for this Program Comment relates to the Congressional enactment of the Rail Safety Improvement Act of 2008 (P.L. 110–432) (RSIA) on October 16, 2008, which requires freight and passenger railroads to deploy inter-operable PTC systems by December 31, 2015. RSIA requires PTC system implementation on all Class 1 railroad lines that carry poison- or toxic-by-inhalation hazardous materials and five million gross tons or more of annual traffic, and on any railroad's main line tracks over which intercity or commuter rail passenger train service is regularly provided. In addition, RSIA provides the Federal Railroad Administration (FRA) with the authority to require PTC system implementation on any other line.

Congress passed RSIA in response to a tragic railroad accident between a Southern California Regional Rail Authority Metrolink commuter train and Union Pacific freight train that occurred in Chatsworth, California, on September 12, 2008, killing 25 and injuring 100 persons. While this accident gained a high level of public attention, other railroad accidents have continued to occur. FRA documented in its annual report issued in 2011 that an average of 2,000 derailments and 205 train collisions occurred annually from 1998 to 2009, excluding accidents at highway-rail crossings. Given the high probability of derailments and train collisions continuing to occur on passenger and freight railroads as well as intercity commuter, the implementation of the provisions in RSIA, and related regulations implemented by FRA and FCC is critical.

PTC systems generally use radio signals between trains and a land-based network to prevent certain railroad accidents. When operating, PTC systems will be capable of controlling or stopping a train when a train operator is unavailable or unresponsive and action is required to avoid a derailment, incursion into a work zone, certain train-to-train collisions, or movement through a switch left in the wrong position. Wayside poles are the vertical structures that will be used to support fixed wireless antennas within the existing railroad right of way alongside existing tracks. The antennas are used to support the wireless flow of information needed for the operation of PTC. Wayside infrastructure refers to the wayside pole associated equipment cabinets and other supporting infrastructure. Approximately 30,000 wayside poles will be required nationwide, of which at least 10,000 poles have already been installed.

Various factors, including the public safety need for the PTC system, the approaching December 2015 mandatory deadline, and the sheer number of poles and infrastructure needed, argued for tailoring the Section 106 review of PTC wayside poles and infrastructure as provided by this Program Comment.

II. Public Input and Revisions to the Program Comment

To develop the Program Comment, the FCC issued two Public Notices on the PTC wayside facilities program on September 27, 2013, and January 29, 2014. Approximately 60 comments were filed by diverse stakeholders during this period. FCC held two scheduled tribal consultations with several federally recognized tribes in 2013 in Oklahoma and South Dakota. Railroads representatives and FRA participated in both meetings to provide technical presentations on PTC and its engineering. The FCC has been consulting with State Historic Preservation Officers (SHPOs) regularly, and particularly with those who received submissions from railroads on PTC projects.

FCC has worked extensively with FRA and the railroad industry to consider options for developing an efficient Section 106 review process for PTC construction. FRA also had received several PTC implementation plans submitted by railroads pursuant to the PTC regulations published in January 2010. This information reflects the location of the tracks on which PTC systems will be deployed; the types of systems that would be used; and the anticipated number of wayside poles to support the PTC system.

The ACHP received the official FCC request for a Program Comment on March 5, 2014.

The ACHP notified the SHPOs, Indian tribes, and railroads via broadcast emails on March 12, 2014, that it was in receipt of FCC's draft Program Comment, and provided them a copy for review and comment. Subsequent to this notification, teleconferences were held for Indian tribes, SHPOs, and railroads to review their historic preservation concerns before the deadline for written comments. The ACHP received 36 written comments.

On April 24, 2014, the ACHP notified stakeholders via broadcast email about the request for an extension and FCC's approval of the new deadline of May 16 for ACHP action on the Program Comment. The ACHP staff revised the FCC proposed Program Comment, and provided it to stakeholders for review and comment, after which teleconferences were scheduled with each stakeholder group prior to the comment deadline. The ACHP received 21 comments by the May 6th deadline. An in-person Section 106 consultation meeting was also held on May 6th to discuss with stakeholders the substance of the final Program Comment.

The stakeholder comments raised several procedural and substantive issues. For instance, the railroad industry requested that the ACHP exempt the construction of PTC wayside poles and infrastructure from the requirements of Section 106 per 36 CFR 800.14(c). While the ACHP staff considered that request, it declined to pursue it due to concerns that such an exemption may not meet regulatory requirements. In particular, due to the high number of poles, their height, the level of subsurface disturbance resulting from their installation, and the potential that previously unknown archaeological sites may be impacted, it is questionable whether the requirement for an exemption that the poles' ''potential effects . . . upon historic properties [would be] foreseeable and likely to be minimal or not adverse'' would be met. 36 CFR 800.14(c)(1)(ii).

Another salient issue revolved around whether to make the use of the FCC's Tower Construction Notification System (TCNS) a requirement under the Program Comment. While the railroad industry noted its concerns about the use of TCNS, particularly questioning its capacity to handle the volume of submissions and possible geographic area limits for such submissions, the use of TCNS was seen by the staff as necessary to make tribal involvement feasible and provide the FCC with the ability to respond to disputes within the

short deadlines provided by the Program Comment. Given that TCNS is the most sophisticated and consistently used communication system with all federally recognized tribes, the existence of this system should give Indian tribes some assurance that they would be active participants and that their tribal concerns would be promptly and appropriately addressed. Accordingly, the use of TCNS (and the FCC's E–106) is required when railroads are going through the review process established by the Program Comment. Although the use of TCNS is not required in connection with alternative agreements allowed by the Program Comment, its use provides a safe harbor for railroads to satisfy the requirement to make a reasonable and good faith effort to identify relevant Indian tribes for such alternative agreements.

Another issue that raised concerns related to the number of towers and geographic areas that may be incorporated in each individual submission for SHPO and tribal review. While a higher number of poles and wider geographic area covered could speed up the process, such a larger number could present workload issues for reviewers. Likewise, submissions covering a wider geographic area could present problems for TCNS and make consultation unwieldy due to the number of relevant SHPOs and Indian tribes involved. Ultimately, the Program Comment did not prescribe limits of poles or areas to be included in a single submission, but stated that: ''to avoid confusion and unmanageable workloads by reviewers and to accommodate technical parameters of the FCC's systems, no later than June 6, 2014, the FCC, in coordination with the FRA and the railroads, will provide guidance regarding the quantity of poles and extent of geographic areas that should be allowed per submission.''

The exclusion proposed regarding wayside poles and infrastructure within the railroad right of way was another subject that engendered discussion. Through its original proposal, the FCC attempted to provide railroads with a similar exclusion to the one that exists in the Nationwide Programmatic Agreement the FCC uses for its Section 106 compliance for telecommunications towers. While some Indian tribes and SHPOs read the exclusion as removing too many poles from consideration, the railroad industry saw it as removing too few since it was limited to poles not more than 10% taller than similar structures in the vicinity. The exclusion was also seen as overly complex, which may explain the differences in how parties interpreted its effect. After much consideration, the exclusion was ultimately revised to be clearer, and to cover wayside poles and infrastructure located within 500 feet of certain existing railroad signal equipment, catenary bridge or catenary mast, or above ground utility transmission or distribution lines, provided they are not located within the boundaries of certain historic properties. The goal was to make the revised exclusion more useful to railroads, while not eliminating consideration of effects to historic properties when appropriate.

Various concerns were raised regarding monitoring in terms of possible time delays, expense, justification, and contractor safety. The Program Comment attempts to address most of these concerns by, among other things, providing that a request for monitoring must be accompanied by an explanation of the basis for the request; setting forth what must be decided prior to beginning monitoring; explaining when monitoring may not be appropriate and outlining some areas where it may be of particular use; specifying that railroads protocols must be followed to ensure safety; and explaining how to proceed when a previously unknown property is identified.

Railroads were particularly concerned about setting time frames that accommodate the timely installation of wayside poles and infrastructure, and making sure such time frames were met. The Program Comment sets up a review process with shorter and more predictable time frames than the original proposal, and explicitly states that certain eventualities (e.g., request for more information) do not stop the time clock. The only extensions of time frames relate to those considered by the FCC to present exceptional circumstances.

Finally, another issue of concern to many stakeholders had to do with how the FCC and railroads would address the issue about the many wayside poles and infrastructure that were installed prior to Section 106 review. The FCC and the seven Class I Freight Railroads have recently finished negotiating a landmark Memorandum of Understanding (MOU) regarding this matter. The MOU provides for the creation by the railroads of a $10 million cultural resources fund that will be available to Indian tribes and SHPOs to advance their work in the area of historic preservation. Under the MOU, each freight railroad has also committed to providing training for its employees on environmental and historic preservation reviews and to building working relationships with Indian tribes. The MOU notes the railroads' commitment to full compliance with environmental and historic review requirements on future PTC installations. As a result of this MOU, the railroads are immediately able to start using almost 11,000 poles (one third of the anticipated national deployment) for important testing and other preparatory activities necessary for the ultimate provision of PTC. As the Program Comment states, the agreement ''reflects ACHP's input and concerns [, and] [t]he FCC has determined, and the ACHP agrees, that the Memorandum of Understanding with the railroads fully addresses concerns regarding the previously constructed wayside poles and infrastructure and, to the extent Section 110(k) of the National Historic Preservation Act applied to this situation, any requirements for the FCC to consult with the ACHP under that statute and implementing regulations.''

The ACHP also revised the Program Comment to cover many other potential eventualities based on its own review of the request. Accordingly, the Program Comment provides for how it may be amended or withdrawn; how confidentiality concerns may be addressed; how the discovery of human remains will be handled; and how periodic meetings will be held to monitor the effectiveness of the Program Comment.

III. Final Text of the Program Comment

The following is the text of the Program Comment as issued by the ACHP:

Program Comment To Tailor the Federal Communications Commission's Section 106 Review for Undertakings Involving the Construction of Positive Train Control Wayside Poles and Infrastructure

This Program Comment was issued by the Advisory Council on Historic Preservation (ACHP) on May 16, 2014, pursuant to 36 CFR 800.14(e), and went into effect on that date. It provides the Federal Communications Commission (FCC) with an alternative way to comply with its responsibilities under Section 106 of the National Historic Preservation Act, 16 U.S.C. 470f, and its implementing regulations, 36 CFR part 800 (Section 106), with regard to the effects of wayside poles and associated infrastructure installed by the Nation's freight and passenger railroads to deploy Positive Train Control (PTC) systems on historic properties. It also relieves other federal agencies from the need to conduct separate Section 106 reviews regarding the effects of such poles and infrastructure.

I. Introduction

In response to a 2008 railroad accident in Chatsworth, California that claimed 25 lives and caused over 100 injuries, Congress enacted the Rail Safety Improvement Act of 2008 (Pub. L. 110–432) (RSIA). According to a Federal Railroad Administration report, an average of 2,000 derailments and 205 train collisions, resulting in 422 injuries and 12 fatalities, occurred annually from 1998 to 2009, excluding accidents at highway-rail crossings. Federal Railroad Administration, Office of Safety, Railroad Safety Statistics, Annual Report, April 1, 2011, pp. 4–20. The RSIA requires freight and passenger railroads to deploy interoperable PTC systems by December 31, 2015. More specifically, RSIA requires PTC system implementation on all Class 1 railroad lines that carry poison- or toxic-by-inhalation hazardous materials and five million gross tons or more of annual traffic, and on any railroad's main line tracks over which intercity or commuter rail passenger train service is regularly provided. In addition, RSIA provides the Federal Railroad Administration (FRA) with the authority to require PTC system implementation on any other line.

The implementation of the PTC system is a complex undertaking reaching almost every element of affected railroad operations. PTC systems generally use radio signals between trains and a land-based network to prevent certain railroad accidents. When operating, PTC systems will be capable of controlling or stopping a train when a train operator is unavailable or unresponsive and action is required to avoid a derailment, incursion into a work zone, certain train-to-train collisions, or movement through a switch left in the wrong position.

According to FRA, railroads required to implement PTC must do so on over 60,000 of approximately 160,000 miles of track nationwide. In addition, FRA has reported that railroads must design, produce, and install more than 20 major PTC components, such as data radios for locomotive communication, locomotive management computers, and back office servers as part of the PTC implementation. In 2010, FRA promulgated regulations to implement the requirements of RSIA. The regulations do not require the railroads to use a specific technology or install a specific type of infrastructure as long as the system is designed to meet certain performance objectives.

One of the components necessary to implement PTC systems is the ''wayside pole,'' a vertical structure that will be used to support fixed wireless antennas within the existing railroad right of way alongside existing tracks. Approximately 30,000 wayside poles will be required nationwide, of which at least 10,000 poles have already been installed. Although the precise system architecture varies somewhat depending on topography, the railroad's existing communications systems, and other factors, most of the major railroads intend generally to install wayside poles approximately one to three miles apart along their tracks and at certain switch points and other operational sites. Nearly all of the wayside poles measure between 25 and 65 feet in height, including the antenna, although in some instances the antenna may bring the total height to slightly more than 65 feet. Five of the seven Class 1 freight railroads are typically installing poles with foundations that vary from 5 to 10 feet or in some instances up to 15 feet in depth, depending on site conditions, and from 12 to 18 inches in diameter. These railroads generally install the foundations either by screwing the shaft directly into the ground or by auger drilling a hole up to 20 inches in diameter. However, some of these railroads have stated that they can use hand excavation methods where necessary in order to assist in ascertaining the presence of archaeological resources or avoiding effects on these properties. The other two Class 1 freight railroads are using precast foundations up to 30 inches square and up to 5.75 feet in depth. These foundations are generally installed using a backhoe to dig a hole up to 4 by 6 feet in surface area and up to 6 feet deep. At many sites, installation will also require using fill rock or dirt, either taken from the excavation hole or trucked in from elsewhere, in order to build up the area immediately adjacent to the track bed.

In addition to wayside poles, the railroads will need to install an estimated 3,000 to 4,000 additional antennas to serve as base stations. These base stations will in most instances be located farther away from the track and at greater heights above ground level, often 100 to 150 feet. While some of the base station antennas will require new tower construction, the railroads have predicted that the majority will be collocated on existing structures.

II. Section 106 Implications

The FCC has determined that the construction of PTC transmission facilities and their supporting structures is a federal undertaking under Section 106. These facilities transmit signals using radio spectrum that has been licensed (or in limited instances will be licensed) to the railroads or their affiliates by the FCC. Pursuant to the FCC's rules, at 47 CFR 1.1307 and 1.1312, the railroads are required to ascertain prior to construction the environmental impacts of facilities constructed to transmit signals under these licenses, including Section 106 review under the relevant procedures set forth by the ACHP and the FCC.

The FCC currently conducts Section 106 review of wireless tower and antenna undertakings in accordance with the Section 106 implementing regulations, 36 CFR part 800, as modified and supplemented by two Nationwide Programmatic Agreements negotiated and executed a decade ago in accordance with 36 CFR 800.14(b). These Nationwide Programmatic Agreements are codified in the FCC's rules at 47 CFR part 1, Apps. B (Nationwide Collocation Agreement) and C (FCC NPA).

There exists the possibility that, through assistance, licensing, permitting, or other approvals, other federal agencies may have Section 106 responsibilities regarding the implementation of PTC. For instance, to the extent that PTC may be implemented within lands managed by federal agencies, such agencies may have to provide approvals to allow the installation of PTC. Other agencies may be involved in financially supporting PTC implementation through grants or other financial assistance.

Various factors unique to PTC implementation call for an approach different from the typical Section 106 review process to provide needed flexibility to the FCC, the railroads, the State Historic Preservation Officers (SHPOs) and Indian tribes. Such a tailored approach will be provided through this Program Comment. Foremost among these factors is the underlying purpose of PTC implementation: To avoid the loss of life and property from preventable train accidents. Another factor is that, unlike many undertakings reviewed under Section 106, a ''no build'' alternative is not an option. As mentioned above, the RSIA legislation requires the implementation of PTC. Another consideration is the very short window of time for implementation. While the deployment of PTC has an aggressive schedule that may be challenging for reasons unrelated to historic preservation, the RSIA as it exists today has imposed a fast approaching deadline on railroads. Such deployment necessitates actions beyond the installation of PTC facilities, which

create further time constraints. For instance, such facilities, once installed, must be tested and debugged as necessary, before PTC can begin to be used. Finally, due to the technology chosen to implement PTC, there is limited flexibility in the exact location of the wayside poles and therefore there may be somewhat limited strategies to avoid adverse effects to historic properties such as cultural landscapes, archaeological sites, sites of religious and cultural significance to Indian tribes, buildings, and structures.

This Program Comment is responsive to the unusual set of factors surrounding the deployment of PTC. It is not meant to set a precedent for Section 106 Memoranda of Agreement or program alternatives covering different types of undertakings.

III. Scope and Use of This Program Comment

This Program Comment provides an alternative way for the FCC to comply with its Section 106 responsibility to take into account the effects on historic properties of PTC wayside poles that are no taller than 75 feet (including their antenna) located within existing railroad rights-of-way and PTC wayside pole associated equipment cabinets and other supporting infrastructure (including collocated antennas) also located within existing railroad rights-of-way (collectively, ''wayside poles and infrastructure'') and to give the ACHP a reasonable opportunity to comment regarding such poles and infrastructure. To achieve such compliance, the FCC may rely on the railroad's implementation of alternative agreements under Section VI, the exclusions under Section V, and the review process under Section VII.

Per Section VIII, this Program Comment also explains how the FCC will comply with its responsibilities under Sections 106 and, as applicable, Section 110(k) of the National Historic Preservation Act for those wayside poles and infrastructure that were installed prior to Section 106 compliance.

This Program Comment does not apply on tribal lands unless the relevant Indian tribe provides to the FCC a written notice agreeing to such application on its tribal lands.

In order to facilitate early consultation under this Program Comment, the ACHP encourages the railroads to work with the FCC to, as soon as possible, provide SHPOs and Indian tribes with easy access to information about the location of the railroad tracks subject to PTC implementation.

IV. Exemption from Duplicate Review of Effects of Wayside Poles and Infrastructure by Other Agencies

Other federal agencies are not required to comply with Section 106 with regard to the effects of wayside poles and infrastructure that either have undergone or will undergo Section 106 review, or are exempt from Section 106 review, under this Program Comment or any other Section 106 program alternative applicable to the FCC. When federal agencies have undertakings that include wayside poles and infrastructure as well as components in addition to such wayside poles and infrastructure, such agencies will need to comply with Section 106 in accordance with the process set forth at 36 CFR 800.3 through 800.7, or 36 CFR 800.8(c), or another applicable program alternative under 36 CFR 800.14. However, they will not have to consider the effects of the wayside poles and infrastructure on historic properties under the circumstance described earlier in this paragraph.

V. Exclusions

A. The FCC is not required to take into account the effects of the following on historic properties:

(1) Wayside poles and infrastructure that are installed within existing railroad rights-of-way, provided that:

(i) they are located within 500 feet of the following structures, so long as such structures are 25 feet tall or taller:

(a) existing railroad signal equipment that includes one or more vertical posts adjacent to the track that displays the signal indication or a platform or bridge extending over the tracks with the signal indication over the track that they control;

(b) an existing catenary bridge or catenary mast; or

(c) above ground utility transmission or distribution lines and associated structures and equipment located within 100 feet of the center line of the railroad right of way; and

(ii) they will not be located within the boundaries of a historic property that is listed in the National Register of Historic Places (National Register), formally determined eligible by the Keeper of the National Register, determined eligible on a SHPO or Indian tribe record, including State archaeological records, or found during any agreed-to monitoring under Section VII;

(2) wayside antennas of less than 10 feet in height that are collocated on existing railroad infrastructure, provided that such infrastructure is not listed in the National Register, formally determined eligible by the Keeper of the National Register, or determined eligible on a SHPO or Indian tribe record; and

(3) wayside poles and infrastructure to be located within the outer boundaries of a system of yard track occupying 100,000 square feet or more, so long as such poles and infrastructure are not located within the boundaries of or within 500 feet of a historic property that is listed in the National Register, formally determined eligible by the Keeper of the National Register, or determined eligible on a SHPO or Indian tribe record, including State archaeological records. For purposes of this exclusion, a yard track is defined as it is under 49 CFR 245.5(o) (''a system of tracks within defined limits used for the making up or breaking up of trains, for the storing of cars, and for other related purposes, over which movements not authorized by timetable, or by train order may be made subject to prescribed signals, rules or other special instructions''). Although that regulatory definition of yard track excludes sidings and main line track passing through the yard, this exclusion applies to all locations within the yard limits.

B. The FCC is also not required to take into account the effects of wayside poles and infrastructure on the rails themselves or the track bed itself. The track bed consists of the ballast that supports the tracks as well as minor culverts and drainage devices. It does not include the soil beneath the ballast or any archaeological resources within the ballast.

C. Through written notice to the railroad and the FCC, a SHPO or Indian tribe may exempt a railroad from including that SHPO or Indian tribe in the Section VII review of wayside poles and infrastructure within a geographic area defined by that SHPO or Indian tribe, as applicable.

VI. Alternative Agreements

The FCC may comply with its Section 106 responsibilities regarding the effects of wayside poles and infrastructure through railroad implementation of agreements negotiated between the railroad and the relevant SHPO(s) and Indian tribe(s) regarding the review and resolution of adverse effects of such poles and infrastructure within a particular geographic area. The relevant SHPOs are the SHPOs for the States in which the wayside poles and infrastructure covered by the agreement are to be located. The relevant Indian tribes are those Indian tribes that may attach religious and cultural significance to historic properties that may be affected by the installation and

operation of the wayside poles and infrastructure covered by the agreement. The railroads must make a reasonable and good faith effort to identify the relevant Indian tribes. Although the use of the FCC's Tower Construction Notification System (TCNS) is not required in connection with alternative agreements, use of TCNS is the FCC's recommended approach for satisfying the reasonable and good faith standard.

Such agreements must be in writing, and executed by the relevant railroad, and all relevant SHPO(s) and Indian tribe(s), and filed with the FCC's Federal Preservation Officer. FCC applicants are encouraged to use the assistance of qualified professionals (see the definition under Section XII.A., including its recognition of tribal expertise outside the Secretary of the Interior's standards) to facilitate the negotiation and drafting of such agreements. One agreement may include multiple SHPOs and/or Indian tribes.

Once such an agreement has been properly executed and filed with the FCC, the railroad may commence installation of the wayside poles and infrastructure covered by the agreement in accordance with the terms of the agreement. The railroad will maintain adequate documentation regarding its compliance with such an agreement for two years after the agreement has been fully implemented.

If a railroad reaches an agreement with some, but not all, of the relevant SHPO(s) and Indian tribe(s) regarding the wayside poles and infrastructure to be located in a particular geographic area, the railroad would follow the process in Section VII, below, with those SHPO(s) and Indian tribe(s) not parties to the agreement regarding the wayside poles and infrastructure in that area, and follow the terms of the agreement with the SHPO(s) and Indian tribe(s) that entered into the agreement.

Railroads, SHPOs, and Indian tribes are encouraged to use relevant provisions of the agreement template provided by the FCC under Section VII.G., below, when negotiating these alternative agreements.

VII. Review Process for Effects of Wayside Poles and Infrastructure Not Excluded or Covered by an Alternative Agreement

With regard to wayside poles and infrastructure that are neither excluded under Section V, nor fully covered by an alternative agreement under Section VI, FCC Section 106 compliance regarding the effects of such poles and infrastructure may be carried out using the FCC's TCNS and E–106 systems as follows. Before installing wayside poles and infrastructure in a particular area:

A. With the assistance of qualified professionals (see the definition under Section XII.A., including its recognition of tribal expertise outside the Secretary of the Interior's standards), railroads will prepare a map showing the proposed location of wayside poles and infrastructure to be installed within a selected geographic area (including the poles and infrastructure excluded per Section V, above). To avoid confusion and unmanageable workloads by reviewers and to accommodate technical parameters of the FCC's systems, no later than June 6, 2014, the FCC, in coordination with the FRA and the railroads, will provide guidance regarding the quantity of poles and extent of geographic areas that should be allowed per submission. The map and other information listed below will:

(1) Include an overlay showing the boundaries of documented historic properties within a 1/4 mile area from the location of the wayside poles and infrastructure. ''Documented historic properties'' means historic properties that are listed in the National Register, formally determined eligible by the Keeper of the National Register, or identified, after a reasonable and good faith effort search through existing SHPO and tribal records, including State archaeological records as appropriate, as having been determined eligible. SHPOs and Indian tribes are encouraged to make available survey information to railroads to assist in the identification of documented historic properties;

(2) be based on railroad engineering maps with pole coordinates, topographic information, and other background pertinent to the installation of wayside poles and infrastructure;

(3) identify any alternative locations considered by the railroad for wayside poles and infrastructure, that the railroad believes would avoid or minimize adverse effects to documented historic properties, and any proposed minimization and mitigation strategies to address adverse effects to documented historic properties when the railroad takes the position that avoidance is not a viable option;

(4) for each wayside pole and infrastructure, specify the type of wayside pole and infrastructure and the installation technique that is proposed, and include a photograph of each type of such pole and infrastructure; and

(5) for wayside poles and infrastructure excluded per Section V, above, specify the part of Section V that provides the exclusion for each wayside pole and infrastructure.

In order to facilitate future consultations, the maps should also include the location of the relevant PTC base stations. The submission should also include information about the source of fill material if such material will be used in the installation of the wayside poles and infrastructure.

B. The railroad will provide such a map and supporting documentation to the relevant SHPO and Indian tribes. The relevant SHPO is the SHPO for the State in which the wayside poles and infrastructure covered by the map are to be located. The relevant Indian tribes are those Indian tribes that may attach religious and cultural significance to historic properties that may be affected by the installation and operation of the wayside poles and infrastructure covered by the map. The railroads must make a reasonable and good faith effort to identify the relevant Indian tribes. Unless another method of submission is specified in an alternative agreement under Section VI, the railroads will use TCNS to submit required information to the Indian tribes and will use the FCC's E106 system (E106) to submit required information to the SHPOs. In the event an Indian tribe or SHPO does not accept submissions through TCNS or E106, the railroads will also provide information to that Indian tribe or SHPO by the means the Indian tribe or SHPO prefers. Use of TCNS meets the railroads' obligation to make a reasonable and good faith effort to identify the relevant Indian tribes. Such use of TCNS, and use of E106, also ensures the FCC will have access to the relevant information if the FCC needs to become involved in the review. The FCC will work with the railroads to coordinate the reasonable timing of submissions.

C. The railroads will also use their regular external communications protocol to inform relevant local governments and federal agencies, and the public of the status of wayside pole and infrastructure installations and the opportunity for them to provide their views to the railroad regarding adverse effects on historic properties of such installations during the 30-day review process outlined in Section VII.D., below.

D. The relevant SHPO and Indian tribe(s) have 30 days from receipt of a submission under Section VII.A. to review the map and supporting documentation, inform the railroad as to historic properties not identified by the railroad and/or areas likely to contain previously unidentified historic properties, inform the railroad about the need for additional information, and provide recommendations and comments to the railroad. Any request

for additional information, and any request for monitoring, will explain the basis for the request and will not suspend the 30-day review period once it commences. Within the review period, the railroad is encouraged to schedule meeting(s) or telephone call(s) with the relevant SHPO and Indian tribe(s) to discuss the adequacy of the map and supporting documentation, and proposed avoidance, minimization and mitigation strategies (including the need for monitoring). If an Indian tribe or SHPO has not responded within these 30 days, the railroad will refer the matter to the FCC. The Indian tribe or SHPO will have no further opportunity to participate in this review unless the FCC determines otherwise within 10 business days.

If an agreement between the railroad and the relevant SHPO and Indian tribe(s) is reached regarding how the adverse effects of the wayside poles and infrastructure will be avoided, minimized, or mitigated (PTC adverse effect agreement), the railroad will provide the FCC with a copy of the PTC adverse effect agreement. The Section 106 process is then complete, and the railroad may proceed with the installation of the wayside poles and infrastructure covered by the map in accordance with the PTC adverse effect agreement unless the FCC requires further processing for reasons other than Section 106. Such agreements must be in writing, and executed by the relevant railroad, and all relevant SHPO(s) and Indian tribe(s), and filed with the FCC's Federal Preservation Officer.

E. If the railroad is not able to reach a PTC adverse effect agreement with the relevant SHPO and Indian tribe(s) regarding how the adverse effects of the wayside poles and infrastructure will be avoided, minimized, or mitigated, the railroad will consult further with the relevant SHPO(s) and Indian tribe(s) for a period of no less than 10 business days to attempt to reach such an agreement, and will notify FCC of ongoing consultation and coordination.

(1) At any point after the end of the 10 business days, if the railroad, and the relevant SHPO and Indian tribe(s) are unable to reach a PTC adverse effect agreement, any of these parties may refer the lack of agreement (along with relevant information) to the FCC, with a copy to the ACHP.

(2) Within 10 business days after receipt of the referral and supporting documentation, the FCC will make a decision as to how the adverse effects of the wayside poles and infrastructure will be avoided, minimized, or mitigated, unless the FCC finds it necessary to extend this time period due to exceptional circumstances such as those involving sensitive historic properties and confidentiality concerns. During this period, the FCC will consult with the SHPO as appropriate and with Indian tribes as necessary to fulfill its trust responsibilities to Indian tribes. If the ACHP so requests, the FCC will consult with the ACHP during this period and will consider the timely comments of the ACHP in making its decision. At the end of the 10 business day period (plus extensions, if any), the railroad may then install the wayside poles and infrastructure in accordance with the FCC decision, if any, unless the FCC requires further processing for reasons other than Section 106.

F. (1) If, as part of consultations described in Section VII.D., the relevant SHPO and/or Indian tribe(s) request monitoring of construction for specific areas or wayside poles, the railroad will collaborate with the relevant SHPO and/or Indian tribe(s) to:

(i) Determine the proposed location of monitoring;

(ii) develop a scope of work for the monitors, including railroad monitoring protocols, coordination of information sharing regarding newly discovered historic properties, and compensation; and

(iii) establish a monitoring plan that is consistent with rail safety, PTC implementation scheduling, and approved engineering drawings.

Monitoring ordinarily will not be useful where a pole will be installed by helical screw due to the lack of removed sediments for observation or analysis, but may be appropriate in cases involving a pit excavation up to 30 square feet in surface area.

(2) The purpose of monitoring prior to installation of PTC wayside poles is to avoid or minimize disturbance of previously unknown and potentially National Register-eligible properties and to record the presence of such properties so that effects to them may be considered during future ground-disturbing activities.

(3) Areas with high probability of containing unknown National Register eligible sites may include, but are not necessarily limited to:

(i) Areas within close proximity to existing and previous natural water courses known to exhibit prehistoric habitation or use;

(ii) areas in close proximity to previously identified prehistoric archaeological resources;

(iii) areas identified as having potential for buried/subsurface archaeological deposits based on a professional geo-archaeological analysis; and/or

(iv) areas identified through consultation with tribal representatives as having sensitivity for tribal cultural resources.

(4) All monitors must be qualified professionals (see the definition under Section XII.A., including its recognition of tribal expertise outside the Secretary standards).

(5) All monitors will adhere to the applicable railroad protocols. To address safety and logistical concerns associated with monitoring, monitors must attend requisite training held by the railroads. Any concerns or disputes regarding monitoring will be submitted to the FCC for resolution, recognizing the time sensitive nature of monitoring for PTC installations.

(6) If a tribal or archaeological monitor finds that a previously unknown property exists at the location of a planned wayside pole installation, railroad personnel shall notify the FCC and will determine whether the pole location can be moved to avoid the property. If avoidance is possible, the monitor will record the property and installation of the pole will be completed at the new location. If the railroad personnel determine that the pole location cannot be moved, the monitor will record the property on the relevant State form, and the railroad will proceed consistent with the PTC adverse effect agreement prior to installation of the pole.

(7) If a tribal or archaeological monitor observes cultural materials being exposed during mechanical excavation of the pit for placement of the wayside pole foundation, railroad personnel shall notify the FCC and immediately halt the excavations. The monitor will record the exposed evidence, complete in-field analysis of any artifacts, record any visible features and take samples if appropriate, and consult with railroad personnel to determine how best to complete installation of the pole while minimizing further damage.

(8) Monitors will complete appropriate recordation forms for any discovered properties and submit them to the appropriate state or tribal records repository.

G. FCC will prepare an agreement template and guidance on standard measures to assist in the PTC adverse effect agreement drafting and negotiation mentioned above.

H. The ACHP encourages railroads to specify how wayside poles and infrastructure adjacent to or within the boundaries of a historic property will be disassembled if and when they become obsolete.

I. The ACHP encourages railroads to use fill that has not come from sites associated with historic properties in order to avoid the need for further Section 106 consideration of the effects of such use.

VIII. Previously Constructed Facilities

The FCC has entered into a Memorandum of Understanding with the railroads with respect to the wayside poles and infrastructure that were installed without prior compliance with the requirements of Section 106. The FCC provided the ACHP with a five-day opportunity to review the Memorandum of Understanding. The executed Memorandum of Understanding reflects ACHP's input and concerns. The FCC has determined, and the ACHP agrees, that the Memorandum of Understanding with the railroads fully addresses concerns regarding the previously constructed wayside poles and infrastructure and, to the extent Section 110(k) of the National Historic Preservation Act applied to this situation, any requirements for the FCC to consult with the ACHP under that statute and implementing regulations.

IX. Discoveries

A. Human Remains Discovery—Unless there are applicable provisions under an alternative agreement under Section VI or a PTC adverse effect agreement under Section VII.D. regarding the discovery of human remains, if human remains are discovered at any time in project implementation, the railroad will immediately cease work at the site, except for work that may be necessary to secure the site, and:

(1) Comply with State burial law or NAGPRA, as applicable; or

(2) if no such State law or NAGPRA is applicable, and an agreement with the relevant SHPO and Indian tribe(s) cannot be reached on treatment measures for human remains within 10 business days of the discovery, the matter will be referred by the railroad to FCC, with a copy to the ACHP, for a final resolution by the FCC. FCC will respond within 10 business days after the receipt of the referral, unless the FCC finds it necessary to extend this time period due to exceptional circumstances, such as those involving sensitive historic properties and confidentiality concerns. The FCC will consult with the SHPO and Indian tribes during this period as appropriate and to the extent necessary to fulfill its trust responsibility to Indian tribes. If the ACHP so requests, the FCC will consult with the ACHP during this period and will consider the timely comments of the ACHP in making its decision. The railroad may then continue the installation of the relevant wayside poles and infrastructure in accordance with the FCC decision. It is the expectation of the ACHP that human remains will be treated with respect, consistent with the ACHP's Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects, dated February 23, 2007.

B. Other Discoveries—Unless there are applicable provisions under an alternative agreement under Section VI or a PTC adverse effect agreement under Section VII.D. regarding the discovery of historic properties (other than those containing human remains), the railroad will follow the applicable provisions of 36 CFR 800.13(b).

X. Involvement of FCC as Requested by Indian Tribes

While the Program Comment is set up so as to operate mostly without the continuous involvement of the FCC, an Indian tribe that desires the involvement of the FCC at any point in the processes described in this Program Comment may request the FCC to become so involved, and the FCC will decide how to become involved consistent with its responsibilities towards Indian tribes. Such involvement by the FCC does not extend the deadlines provided in this Program Comment.

XI. Confidentiality Concerns

If a railroad, an Indian tribe, or a SHPO raises a confidentiality concern regarding information to be exchanged under this Program Comment, and such concern cannot be resolved through a confidentiality agreement among the relevant parties, that party may request that the FCC resolve the concern.

XII. Administrative Provisions

A. Definition of a ''qualified professional''—A ''qualified professional'' is a person who meets the relevant standards outlined in the Secretary of the Interior's Historic Preservation Professional Qualification Standards, consistent with the proposal at 62 FR 33708–33723 (June 20, 1997). These qualification standards do not apply to individuals recognized by the relevant Indian tribes to have expertise in identification, evaluation, assessment of effect, and treatment of effects to historic properties of religious and cultural significance to their tribes.

B. Other definitions—Unless otherwise defined in this Program Comment, the terms used in this Program Comment will have the meaning ascribed to them under 36 CFR part 800 (2004).

C. Duration—This Program Comment will be in effect until May 16, 2021, unless extended through an amendment per Section XII.D., below.

D. Amendments—The Chairman of the ACHP may amend this Program Comment after coordinating with the FCC and other parties as deemed appropriate by the Chairman, and providing written notice about the amendment to the FCC, the FRA, the Association of American Railroads, the American Public Transportation Association, the American Short Line and Regional Railroad Association, the National Conference on State Historic Preservation Officers, and the National Association of Tribal Historic Preservation Officers.

E. Withdrawal of Program Comment—If the Chairman of the ACHP determines that the consideration of historic properties is not being carried out in a manner consistent with this Program Comment, the ACHP Chairman may withdraw this Program Comment after consulting with the FCC, the FRA, the Association of American Railroads, the American Public Transportation Association, the American Short Line and Regional Railroad Association, the National Conference on State Historic Preservation Officers, and the National Association of Tribal Historic Preservation Officers, and thereafter providing them written notice of the withdrawal.

F. Periodic Meetings—Through the duration of this Program Comment, the ACHP and the FCC will meet semi-annually (during September and March) during the first two years of this Program Comment and then annually thereafter (in March) to discuss the effectiveness of this Program Comment, including any issues related to improper implementation, and to discuss any potential amendments that would improve the effectiveness of this Program Comment. The FCC may, and will if requested by the ACHP, also invite the FRA, the Association of American Railroads, the American Public Transportation Association, the American Short Line and Regional Railroad Association, the National Conference on State Historic Preservation Officers, the National Association of Tribal Historic Preservation Officers, and tribal representatives to these meetings or any portion thereof.

G. Complaints regarding implementation of this Program Comment—Members of the public may refer to the FCC any complaints regarding the implementation of this

Program Comment. The FCC may handle those complaints consistent with Stipulation XI of the FCC NPA.

Authority: 36 CFR 800.14(e).

Dated: May 19, 2014.

John M. Fowler,

Executive Director.

[FR Doc. 2014–11897 Filed 5–28–14; 8:45 am]

BILLING CODE 4310–K6–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0046]

Agency Information Collection Activities: Inter-Agency Alien Witness and Informant Record, Form I–854A; Agency Alien Witness and Informant Adjustment of Status, Form I–854B; Revision of a Currently Approved Collection

ACTION: 30-Day Notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice was previously published in the **Federal Register** on February 12, 2014, at 79 FR 8469, allowing for a 60-day public comment period. USCIS received one comment in connection with the 60-day notice.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until June 30, 2014. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *oira_submission@omb.eop.gov*. The comments submitted to the OMB USCIS Desk Officer may also be submitted to DHS via the Federal eRulemaking Portal Web site at *http://www.regulations.gov* under e-Docket ID number USCIS–2006–0062 or via email at *uscisfrcomment@uscis.dhs.gov*. All submissions received must include the agency name and the OMB Control Number 1615–0046.

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov*, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov*.

Note: The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do*, or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection Request:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Inter-Agency Alien Witness and Informant Record; Agency Alien Witness and Informant Adjustment of Status.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–854A; Form I–854B; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or Households. Form I–854 is used by law enforcement agencies to bring alien witnesses and informants to the United States in ''S'' nonimmigrant classification.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* Form I–854A—150 responses at 3 hours per response, and Form I–854B—150 responses at 1 hour per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 600 annual burden hours.

If you need a copy of the information collection instrument with supplementary documents, or need additional information, please visit *http://www.regulations.gov*. We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140; Telephone 202–272–8377.

Dated: May 22, 2014.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2014–12418 Filed 5–28–14; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–IA–2014–N102; FXIA16710900000–145–FF09A30000]

Endangered Species; Marine Mammals; Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species, marine mammals, or both. With some exceptions, the Endangered Species Act (ESA) and [Marine Mammal Protection Act (MMPA) prohibit activities with listed species unless Federal authorization is acquired that allows such activities.

DATES: We must receive comments or requests for documents on or before June 30, 2014. We must receive requests for marine mammal permit public hearings, in writing, at the address shown in the **ADDRESSES** section by June 30, 2014.

ADDRESSES: Brenda Tapia, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280; or email *DMAFR@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2280 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I request copies of applications or comment on submitted applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **ADDRESSES**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES**. If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the street address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. 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

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), along with Executive Order 13576, ''Delivering an Efficient, Effective, and Accountable Government,'' and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; January 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken. Under the MMPA, you may request a hearing on any MMPA application received. If you request a hearing, give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Service Director.

III. Permit Applications

A. Endangered Species

Applicant: Duke University, Durham, NC; PRT–217642

The applicant requests a permit to import biological specimens from various non-human primate species (Order Primates), including all species of lemurids, prosimians, New and Old World monkeys, and apes, for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Multiple Applicants

The following applicants each request a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: John Landgraf, Odessa, TX; PRT–36692B

Applicant: Nicholas Pittman, Whiteville, TN; PRT–37011B

B. Endangered Marine Mammals and Marine Mammals

Applicant: Alan Springer, University of Alaska, Fairbanks, AK; PRT–26132B

The applicant requests a permit to take biological samples from walrus (*Odobenus rosmarus*) in Alaska for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 2-year period.

Applicant: Open Lens Productions, Tucson, AZ; PRT–33758B

The applicant requests a permit to photograph walrus (*Odobenus rosmarus*) in the vicinity of Round Island, Alaska, while on foot for educational purposes. This notification covers activities to be conducted by the applicant over a 1-year period.

Applicant: Monterey Bay Aquarium, Monterey, CA; PRT–186914

The applicant requests amendment and renewal of the permit to take southern sea otters (*Enhydra lutris nereis*) which were rescued from the wild, for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Concurrent with publishing this notice in the **Federal Register**, we are forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2014–12451 Filed 5–28–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNMA00000 L12200000.DF0000 14X L1109AF]

Notice of Public Meeting, Albuquerque District Resource Advisory Council Meeting, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory

Committee Act, the Bureau of Land Management (BLM), Albuquerque District Resource Advisory Council (RAC) will meet as indicated below.

DATES: The RAC will meet on July 2, 2014, at the Albuquerque District Office, 435 Montano Rd., Albuquerque, NM 87107, from 9 a.m.–4 p.m. The public may send written comments to the RAC at the BLM Albuquerque District Office, 435 Montano Rd., Albuquerque, NM 87107.

FOR FURTHER INFORMATION CONTACT: Chip Kimball, BLM Albuquerque District Office, 435 Montano Rd., Albuquerque, NM 87107, 505–761–8734. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8229 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The 10-member Albuquerque District RAC advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in New Mexico's Albuquerque District. Planned agenda items include introductions of new staff, a Rio Puerco Resource Management Plan update, Rio Puerco Field Office and Socorro Field Office updates, and an update on proposed fees for Kasha-Katuwe Tent Rocks National Monument.

A half-hour comment period during which the public may address the RAC will begin at 11 a.m. All RAC meetings are open to the public. Depending on the number of individuals wishing to comment and time available, the time for individual oral comments may be limited.

Mary A. Uhl,

Acting, Acting Deputy State Director, Lands and Resources.

[FR Doc. 2014–12472 Filed 5–28–14; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[14X 1109AF LLUT030000–L17110000–PH0000–24–1A]

Cancellation of Grand Staircase-Escalante National Monument Advisory Committee Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Cancellation of Meeting.

SUMMARY: The May 21–22, 2014, Grand Staircase-Escalante National Monument Advisory Committee meeting is cancelled because a quorum cannot be met. If you have any questions, please contact Larry Crutchfield, Public Affairs Officer, Grand Staircase-Escalante National Monument, Bureau of Land Management, 669 South Highway 89A, Kanab, Utah 84741; phone (435) 644–1209; or *lcrutchf@blm.gov*.

Authority: 43 CFR 1784.4–1.

Jenna Whitlock,

Associate State Director.

[FR Doc. 2014–12471 Filed 5–28–14; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO956000 L14200000.BJ0000]

Notice of Filing of Plats of Survey; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Filing of Plats of Survey; Colorado.

SUMMARY: The Bureau of Land Management (BLM) Colorado State Office is publishing this notice to inform the public of the intent to officially file the survey plats listed below and afford a proper period of time to protest this action prior to the plat filing. During this time, the plats will be available for review in the BLM Colorado State Office.

DATES: Unless there are protests of this action, the filing of the plats described in this notice will happen on June 30, 2014.

ADDRESSES: BLM Colorado State Office, Cadastral Survey, 2850 Youngfield Street, Lakewood, CO 80215–7093.

FOR FURTHER INFORMATION CONTACT: Randy Bloom, Chief Cadastral Surveyor for Colorado, (303) 239–3856.

Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The plat, in 2 sheets, and field notes of the dependent resurvey and survey in Township 36 North, Range 13 West, New Mexico Principal Meridian, Colorado, were accepted on March 4, 2014.

The plat and field notes of the dependent resurvey and survey in Township 36 North, Range 1 West, New Mexico Principal Meridian, Colorado, were accepted on March 12, 2014.

The plat, in 2 sheets, incorporating the field notes of the dependent resurvey in Township 7 South, Range 81 West, Sixth Principal Meridian, Colorado, was accepted March 27, 2014.

The plat and field notes of the dependent resurvey in unsurveyed Township 7 South, Range 78 West, Sixth Principal Meridian, Colorado, were accepted on April 2, 2014. The plat and field notes of the dependent resurvey and survey in Township 13 South, Range 69 West, Sixth Principal Meridian, Colorado, were accepted on April 3, 2014. The plat of Amended Protraction Diagram No. 27A in unsurveyed Township 40 North, Range 7 West, New Mexico Principal Meridian, Colorado, was accepted on April 24, 2014.

The plat of Amended Protraction Diagram No. 27B in unsurveyed Township 40 North, Range 8 West, New Mexico Principal Meridian, Colorado, was accepted on April 24, 2014.

The plat and field notes of the dependent resurvey and survey in Township 15 South, Range 97 West, Sixth Principal Meridian, Colorado, were accepted on May 1, 2014. The plat and field notes of the dependent resurvey and corrective dependent resurvey in Township 15 South, Range 98 West, Sixth Principal Meridian, Colorado, were accepted on May 1, 2014.

Randy Bloom,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 2014–12466 Filed 5–28–14; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAK963000–L14300000–ET0000; AA–80005]

Public Land Order No. 7824; Extension of Public Land Order No. 7393; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order extends the duration of the withdrawal created by Public Land Order No. 7393, which was issued effective May 28, 1999, for an

additional 15-year period. The extension is necessary to continue protection of the Spencer Glacier Material Site, which was established on behalf of the United States Forest Service in order to make high quality rock and gravel available from the site to nearby communities for private and public works projects.

DATES: *Effective Date:* May 28, 2014.

FOR FURTHER INFORMATION CONTACT: Robert L. Lloyd, BLM Alaska State Office, 222 West 7th Avenue, No. 13, Anchorage, Alaska 99513–7504. 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 either of the above individuals. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individuals. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The purpose for which the withdrawal was first made requires this extension to continue to make high quality rock and gravel available for private and public works projects from the Spencer Glacier Material Site located in the Chugach National Forest. The withdrawal extended by this order will now expire on May 27, 2029, unless, as a result of a review conducted prior to the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be further extended.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714, it is ordered as follows:

Public Land Order No. 7393 (64 FR 29064 (1999)), which withdrew approximately 600 acres of National Forest System land from location and entry under the United States mining laws to make high quality rock and gravel available from the Spencer Glacier Material Site to nearby communities for private and public works projects, is hereby extended for an additional 15-year period until May 27, 2029.

Dated: May 18, 2014.

Anne J. Castle,

Assistant Secretary—Water and Science.

[FR Doc. 2014–12500 Filed 5–28–14; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–SERO–CONG–13989; PPMPSAS1Y.YP0000]

Notice of Designation of Potential Wilderness as Wilderness, Congaree National Park, South Carolina

AGENCY: National Park Service, Interior.

ACTION: Notice of Designation.

SUMMARY: The Congaree Swamp National Monument Expansion and Wilderness Act of 1988 (Pub. L. 100–524, October 24, 1988) designated approximately 15,010 acres of Congaree Swamp National Monument, now Congaree National Park, as wilderness, and approximately 6,840 acres as potential wilderness additions. Section 2(b) of Public Law 100–524 authorizes the Secretary of the Interior to convert any designated potential wilderness at Congaree National Park to designated wilderness upon publication in the **Federal Register** of a notice that any non-Federal interests in land have been acquired and all uses thereon prohibited by the Wilderness Act of 1964 (Pub. L. 88–577) have ceased.

Accordingly, this notice hereby converts approximately 6,690 acres of designated potential wilderness at Congaree National Park to designated wilderness. The converted acreage comprises all but about 60 acres of designated potential wilderness in the park that have been acquired to date by the United States. The approximately 90 acres of private land still remaining within the park's designated potential wilderness are not affected by this Notice. These private lands, if acquired by the United States, may be converted to designated wilderness at a later date. A map showing the lands hereby converted to designated wilderness is on file at the administrative office of Congaree National Park.

All interests in the lands converted to designated wilderness via this Notice have been acquired by the United States, and there are no current, or proposed, uses of the 6,690 acres that are incompatible with wilderness designation. These 6,690 acres shall be added to the 15,010 acres of designated wilderness within the Congaree National Park Wilderness and managed in accordance with the Wilderness Act of 1964.

Dated: December 20, 2013.

Jonathan B. Jarvis,

Director, National Park Service.

Editorial Note: This document was received by the Office of the Federal Register on May 23, 2014.

[FR Doc. 2014–12497 Filed 5–28–14; 8:45 am]

BILLING CODE 4310–JD–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–SERO–BISC–15012; PPSESEROC3, PPMPSAS1Y.YP0000]

Notice of Availability of the Final Environmental Impact Statement for the Fishery Management Plan, Biscayne National Park, Florida

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of Availability of the Final Environmental Impact Statement for the Fishery Management Plan, Biscayne National Park, Florida.

SUMMARY: Pursuant to 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), the National Park Service (NPS), announces the availability of the Final Environmental Impact Statement (FEIS) for the Fishery Management Plan (FMP) for Biscayne National Park (Park), Florida. The authority for publishing this notice is 40 CFR 1506.6.

The FMP is designed to guide fishery management decisions in the park for the next five to ten years. An FMP is needed to guide sustainable use of the Park's fishery-related resources, as recent studies suggest that many of these resources are in decline. The development of the alternatives and the identification of the preferred alternative were based on a combination of public input from three public comment periods and three series of public meetings, the input of the FMP Working Group, inter-agency meetings, and environmental and socioeconomic analyses.

DATES: The NPS will execute a Record of Decision (ROD) [no sooner than 30 days following publication of the Environmental Protection Agency of its Notice of Availability of the FEIS/GMP in the **Federal Register**.]

ADDRESSES: Biscayne National Park, 9700 SW 328th Street, Homestead, Florida, 33033. Electronic copies of the final document, including responses to public comments received and the entire Biological Opinion issued by the National Marine Fisheries Service, will

be available online at *http://parkplanning.nps.gov/BISC.*

FOR FURTHER INFORMATION CONTACT: Vanessa McDonough, Biscayne National Park, 9700 SW 328th Street, Homestead, FL, 33033; 305–230–1144, extension 027; *vanessa_mcdonough@nps.gov.*

SUPPLEMENTARY INFORMATION: The Final FMP responds to, and incorporates agency and public comments received on the Draft EIS, which was available for public review from August 5, 2009, through October 6, 2009. Three public meetings were held on September 15th through 17th, 2009, and a total of 337 comments were received. The NPS responses to substantive agency and public comments are provided in Appendix 8 of the FEIS.

The FMP FEIS offers five management alternatives, including the no action alternative (Alternative 1) and four action alternatives. Alternatives 2 through 5 represent progressively increasing levels of change from current regulations and management approaches, and thus would result in differing future levels of fishery resources and gear-related habitat impacts in Biscayne National Park.

Alternative 1: The No-Action alternative serves as a basis of comparison with the other alternatives. Alternative 1 is characterized by the continuation of current fisheries management and no new regulatory changes would be triggered by the establishment of the FMP.

Alternative 2, Maintain at or Above Current Levels: Management actions would be enacted to maintain Biscayne National Park's fisheries resources at or above current existing levels. Actions would be implemented in conjunction with the FWC and could include moderate increases in minimum harvest sizes, moderate decreases in bag limits, and seasonal and/or spatial closures. Numbers of commercial fishers would remain at current levels or decrease over time. Additional Park-specific regulations and management actions could be enacted to maintain current levels only if levels of fish stocks or recreational fishing experience decline, or if fishing-related habitat impacts increase.

Alternative 3, Improve Over Current Levels: Management actions would be enacted in conjunction with the FWC to increase the abundance and average size of fishery-targeted species within the Park by at least 10 percent over existing conditions. A range of management actions to achieve the desired resource status would be considered, and include moderate increases in minimum harvest sizes, moderate decreases in bag limits, seasonal and/or spatial closures. Under this alternative, the recreational Lobster Mini-Season would be eliminated in the Park and regulations would be enacted to prohibit the use of an air providing equipment (e.g. scuba or hookah) or use of gear with a trigger mechanism while spearfishing. Numbers of commercial fishers would remain at current levels or decrease over time. This alternative would require implementation of new regulations governing fishing activities within the Park that would be accomplished through continued collaboration with the FWC. Promulgation of any new regulations would include additional opportunities for public comment.

Alternative 4, Rebuild and Conserve Park Fisheries Resources, (preferred alternative): Management strategies would seek a balance between enjoyment, extraction, and conservation of fishery resources, while ensuring sustainable fishing activities. Management actions would be enacted in conjunction with the FWC to increase the abundance and average size of fishery-targeted species within the Park by at least 20 percent over existing conditions, as well as to reduce fishing-related habitat impacts. Possible management actions to achieve substantial improvement of fisheries resources could include considerable increases in minimum size limits, designation of slot limits, substantial decreases in bag limits, and seasonal and/or spatial closures. Alternative 4 includes many of the same concepts previously described for Alternative 3. However numbers of commercial fishers would decrease over time via establishment of a non-transferable use-or-lose permit system, and a no-trawl zone within the Bay would be proposed for consideration by the FWC. This alternative would require considerable changes to current fishing regulations within the Park, and would be accomplished through continued collaboration with the FWC. Promulgation of any new regulations would include additional opportunities for public comment.

Alternative 5, Restore Park Fisheries Resources: This alternative would require the most change from current management strategies in order to return the sizes and abundance of targeted species within 20 percent of their estimated, historic levels and to prevent further decline in fishing-related habitat impacts. Possible management actions to achieve the desired conditions would be enacted in conjunction with the FWC and could include substantial increases in minimum size limits, designation of slot limits, substantial decreases in bag limits, seasonal and/or spatial closures, prohibition of extractive fishing (*i.e.* only allowing catch-and-release fishing), and a temporary moratorium on all fishing activity within the Park. Among the five alternatives, this alternative would require the most extreme changes to current fishing regulations within the Park. These changes would be accomplished through continued collaboration with the FWC. Promulgation of any new regulations would include additional opportunities for public comment.

After careful consideration of public and agency comment, Alternative 4 continues to be the NPS preferred alternative because it results in the most equitable balance between protection and recreational enjoyment of the Park's fisheries resources. The NPS feels that Alternative 4 will allow for fishing activities to continue at a sustainable level that does not compromise the long-term health of the Park's fisheries resources.

The responsible official for this final FMP/EIS is the Regional Director for the Southeast Region, Stan Austin.

Dated: May 12, 2014.

Sherri L. Fields,

Acting Regional Director, Southeast Region.

[FR Doc. 2014–12494 Filed 5–28–14; 8:45 am]

BILLING CODE 4310–JD–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–15817; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before May 10, 2014. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th Floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by June 13, 2014. 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: May 13, 2014.

J. Paul Loether,

Chief, National Register of Historic Places/, National Historic Landmarks Program.

ALABAMA

Madison County

Ford, Hezekiah, House, 920 Countess Rd., Huntsville, 14000318

Jordan—Moore House, 565 Ryland Pike, Huntsville, 14000319

FLORIDA

Miami-Dade County

Thomas, Arden ''Doc'', House, 5530 Sunset Dr., South Miami, 14000320

IOWA

Linn County

West Side Third Avenue SW. Commercial Historic District, (Commercial & Industrial Development of Cedar Rapids MPS) 3rd Ave. SW. between 1st. & 3rd Sts. SW., Cedar Rapids, 14000323

Lucas County

Lucas County Courthouse Square Historic District, Braden Ct., Grand & Main Sts. around the Public Sq., Chariton, 14000324

MARYLAND

Frederick County

Catoctin Recreational Demonstration Area Historic District, (ECW Architecture in Catoctin Mountain Park MPS) 6602 Foxville Rd., Thurmont, 14000325

MASSACHUSETTS

Franklin County

North Leverett Historic District, North Leverett, Chestnut Hill, Cave Hill, Jackson Hill, Hemenway & Dickinson Rds., Leverett, 14000326

Middlesex County

Old Bedford Center Historic District (Boundary Increase and Decrease), Roughly The Great Rd. from Bacon Rd., Memorial Park & Narrow Gauge Trail on E. to North & Concord Rds. on W., Bedford, 14000327

MISSOURI

Buchanan County

Neely Elementary School, 1909 S. 12th St., St. Joseph, 14000328

NEW YORK

Chenango County

Loomis Family Farm, 414 S. Tyner Rd., Oxford, 14000329

New York County

Building at 116 John Street, 116 John St., New York, 14000331

Washington County

Farmer's National Bank and W.H. Hughes Slate Company Office, 44–46 Main St., Granville, 14000330

NORTH CAROLINA

Forsyth County

North Cherry Street Historic District (Boundary Decrease and Additional Documentation), 1407, 1408, 1409, 1410–12, 1411–13, 1415, 1419, 1463, 2067 N. Cherry St., Winston-Salem, 14000332

Hertford County

Barnes, David A., House, 625 W. Main St., Murfreesboro, 14000333

Wake County

Pugh House, (Wake County MPS) 103 Page St., Morrisville, 14000334

NORTH DAKOTA

Morton County

Hotel Brown, 202 Main St. N., Flasher, 14000335

OHIO

Hamilton County

Crescent, The, (Apartment Buildings in Ohio Urban Centers, 1870–1970 MPS) 3719 Reading Rd., Cincinnati, 14000336

Over-the-Rhine Historic District (Boundary Increase), 308–322, 500–550 Reading Rd., 222 W. 12th St., 1208, 1416–1430, 1544, 1600, 1628, 1900 Central Pkwy., Cincinnati, 14000337

Summit County

Firestone Tire and Rubber Company, 1200 Firestone Pkwy., Akron, 14000338

TEXAS

Fort Bend County

Methodist Church of Richmond, 400 Jackson St., Richmond, 14000339

Galveston County

Cemetery Historic District, 6 blks. between Broadway Ave., Ave. L, 43rd & 40th Sts., Galveston, 14000340

Hidalgo County

Griffin, Mary S. and Gordon, House, 704 N. 15th St., McAllen, 14000341

La Salle County

Cotulla Ranch, 1 mi. W. of jct. of 1–35 & Crockett St., Cotulla, 14000342

Tarrant County

Fort Worth Recreation Building, 215 W. Vickery Blvd., Fort Worth, 14000343

In the interest of preservation, a three day comment period is requested for the following resources:

FLORIDA

Pinellas County

Tarpon Springs Greektown Historic District, Bounded by Dodecanese & Roosevelt Blvds., W. Tarpon & N. Pinellas Aves., Tarpon Springs, 14000321

GEORGIA

DeKalb County

Northwoods Historic District, Roughly bounded by Buford Hwy., Chamblee-Tucker & Shallowford Rds., I–85 & I–285, Doraville, 14000322

[FR Doc. 2014–12401 Filed 5–28–14; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[OMB Control Number 1010–0057; MMAA104000]

Information Collection: Pollution Prevention and Control; Proposed Collection for OMB Review; Comment Request

ACTION: 60-Day notice.

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), the Bureau of Ocean Energy Management (BOEM) is inviting comments on a collection of information that we will submit to the Office of Management and Budget (OMB) for review and approval. The information collection request (ICR) concerns the paperwork requirements in the regulations under 30 CFR 550, Subpart C, Pollution Prevention and Control.

DATES: Submit written comments by July 28, 2014.

ADDRESSES: Please send your comments on this ICR to the BOEM Information Collection Clearance Officer, Arlene Bajusz, Bureau of Ocean Energy Management, 381 Elden Street, HM–3127, Herndon, Virginia 20170 (mail); or *arlene.bajusz@boem.gov* (email); or 703–787–1209 (fax). Please reference ICR 1010–0057 in your comment and include your name and return address.

FOR FURTHER INFORMATION CONTACT: Arlene Bajusz, Office of Policy, Regulations, and Analysis at (703) 787–1025 to request a copy of the ICR.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR part 550, Subpart C, Pollution Prevention and Control.

OMB Control Number: 1010–0057.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1331 *et seq.,* and 43 U.S.C. 1801 *et seq.*), authorizes the Secretary of the Interior (Secretary) to prescribe rules and regulations to manage the mineral resources of the OCS. Such rules and regulations apply to all operations conducted under a lease, right-of-use and easement, and pipeline right-of-way. Operations on the OCS must

preserve, protect, and develop oil and natural gas resources in a manner that is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; to balance orderly energy resource development with protection of human, marine, and coastal environments; to ensure the public a fair and equitable return on the resources of the OCS; and to preserve and maintain free enterprise competition.

Section 1332(6) states that ''operations in the [O]uter Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize . . . occurrences which may cause damage to the environment or to property, or endanger life or health.'' Section 1334(a)(8) requires that regulations prescribed by the Secretary include provisions ''for compliance with the national ambient air quality standards [NAAQS] pursuant to the Clean Air Act (42 U.S.C. 7401 *et seq.*), to the extent that activities authorized under this Act significantly affect the air quality of any State.'' This information collection renewal concerns the regulations at 30 CFR Part 550, Subpart C, Pollution Prevention and Control. It also covers the related Notices to Lessees and Operators (NTLs) that BOEM issues to clarify and provide additional guidance on some aspects of the regulations. BOEM uses the information to ensure operations are conducted according to all applicable regulations and permit conditions and in a manner that minimizes air pollution.

We will protect information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2) and under regulations at 30 CFR 550.197, ''Data and information to be made available to the public or for limited release.'' No items of a sensitive nature are collected. Responses are mandatory.

Frequency: On occasion, monthly, or annually.

Description of Respondents: Potential respondents comprise Federal OCS oil and gas or sulphur lessees and States.

Estimated Reporting and Recordkeeping Hour Burden: We estimate the burden for this collection to be about 112,111 hours. The following table details the individual components and respective hour burden estimates of this ICR. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

BURDEN BREAKDOWN

Citation 30 CFR 550 Subpart C and related NTL(s)	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
Facilities described in new or revised EP or DPP				
303; 304(a), (f)	Submit, modify, or revise Exploration Plans and Development and Production Plans; submit information required under 30 CFR Part 550, Subpart B.	Burden covered under 1010–0151 (30 CFR Part 550, Subpart B)		0
303(k); 304(a), (g)	Collect and report (in manner specified) air quality emissions related data (such as facility, equipment, fuel usage, and other activity information) during each specified calendar year for input into State and regional planning organizations modeling.	44 hrs per emission source.	2,546	112,024
303(l); 304(b); 304(h)	Collect and submit (in manner specified) meteorological data (not routinely collected—minimal burden); emission data for existing facilities to a State. (None submitted during renewal cycle.).	1	1	1
Subtotal			2,547	112,025
Existing Facilities				
304; related NTL	Submit copy of State-required Emergency Action Plan (EAP) containing test abatement plans (Pacific OCS Region).	1	1	1
304(a), (f)	Affected State may submit request with required information to BOEM for basic emission data from existing facilities to update State's emission inventory.	4	5	20
304(e)(2)	Submit compliance schedule for application of best available control technology (BACT). (None submitted during renewal cycle.).	40	1	40
304(e)(2)	Apply for suspension of operations	Burden covered under BSEE 1014–0022 (30 CFR 250.174)		0
304(f)	Submit information to demonstrate that exempt facility is not significantly affecting air quality of onshore area of a State. Submit additional information, as required. (None submitted during renewal cycle.).	15	1	15
Subtotal			8	76

BURDEN BREAKDOWN—Continued

Citation 30 CFR 550 Subpart C and related NTL(s)	Reporting and recordkeeping requirement	Hour burden	Average number of annual responses	Annual burden hours
General				
303–304	General departure and alternative compliance requests not specifically covered elsewhere in subpart C regulations.	2	5	10
Subtotal			5	10
Total Burden			2,560	112,111

Estimated Reporting and Recordkeeping Non-Hour Cost Burden: We have identified no non-hour cost burdens for this collection.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: We invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our burden estimates;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden on respondents.

If you have costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup costs or annual operation, maintenance, and purchase of service costs. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information, monitoring, and record storage facilities. You should not include estimates for equipment or services purchased: (a) Before October 1, 1995; (b) to comply with requirements not associated with the information collection; (c) for reasons other than to provide information or keep records for the Government; or (d) as part of customary and usual business or private practices.

We will summarize written responses to this notice and address them in our submission for OMB approval. As a result of your comments, we will make any necessary adjustments to the burden in our submission to OMB.

Public Availability of Comments: Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: May 20, 2014.

Deanna Meyer-Pietruszka,

Chief, Office of Policy, Regulations, and Analysis.

[FR Doc. 2014–12417 Filed 5–28–14; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM–2014–0050; MMAA104000]

Notice of Intent To Prepare an Environmental Assessment for Proposed Wind Energy-Related Development Activities on the Pacific Outer Continental Shelf (OCS) Offshore Oregon and Notice of Public Scoping Meetings

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Notice of Intent.

SUMMARY: In compliance with the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4231 et seq.), BOEM intends to prepare an Environmental Assessment (EA) to consider the reasonably foreseeable environmental consequences associated with the issuance of a lease and approval of plans proposed by Principle Power, Inc. (Principle Power) for wind energy-related development activities offshore Oregon. We are seeking public input regarding important environmental issues and the identification of alternatives that should be considered in the EA.

In addition to the request for written comments, we are holding two public scoping meetings to provide information and solicit comments on the scope of the EA. The meetings will be held from 1:00 p.m. to 4:00 p.m. and 5:00 p.m. to 8:00 p.m. PDT on Tuesday, June 17, 2014 at the Coos Bay Public Library, 525 Anderson Avenue, Coos Bay, Oregon 97420.

Authority: The Notice of Intent to prepare an EA is published pursuant to 43 CFR 46.305.

DATES: Comments should be submitted no later than July 28, 2014.

FOR FURTHER INFORMATION CONTACT: Greg Sanders, BOEM Pacific OCS Region, 770 Paseo Camarillo, 2nd Floor, Camarillo, California 93010; (805) 389–7863 or *greg.sanders@boem.gov.*

SUPPLEMENTARY INFORMATION:

1. Background

On May 15, 2013, BOEM received an unsolicited request from Principle Power for a commercial wind energy lease on the OCS offshore Coos Bay, Oregon. Principle Power's proposal, the WindFloat Pacific Project, is to install a floating wind energy demonstration facility approximately 16 nautical miles from shore in a water depth of approximately 1,400 feet. The total area being considered in the EA encompasses approximately 15 square miles. However, the lease will include only the portion of the 15-square-mile area necessary for project facilities. The project is designed to generate up to 30 megawatts (MW) of electricity from five

floating WindFloat units, each equipped with a 6–MW offshore wind turbine. Each unit would be moored with multiple anchors to the seafloor, and be connected to a single transmission cable running along the seafloor to shore. Additional information on Principle Power's unsolicited lease request and maps of the proposed lease site can be viewed at *http://www.boem.gov/State-Activities-Oregon/*.

On September 30, 2013, we published a notice of the unsolicited lease request and a Request for Interest (RFI) to determine whether anyone had an interest in acquiring a commercial wind lease in the area identified by Principle Power (78 FR 59969). The notice also provided the opportunity for interested stakeholders to comment on the proposed lease area, the proposed project and potential impacts wind energy development may have on the area.

No indications of competitive interest were received in response to the notice, and BOEM published a Determination of No Competitive Interest on February 6, 2014 (79 FR 7225). Stakeholder comments received in response to the RFI are being considered during our scoping process.

2. Purpose and Need for Agency Action

BOEM will process Principle Power's unsolicited lease request under the provisions at 30 CFR Part 585, Renewable Energy and Alternate Uses of Existing Facilities on the Outer Continental Shelf. These regulations provide for lease issuance and approval of plans for construction and operation of renewable energy facilities.

3. Proposed Action and Scope of Analysis

BOEM's proposed action is the issuance of a commercial lease and the approval of a construction and operation plan for the WindFloat Pacific Project. The EA will consider the reasonably foreseeable environmental consequences associated with the proposed action, including the impacts of the construction, operation, maintenance and decommissioning of wind turbines and cables.

This notice is intended to further engage the public in the scoping process for this EA. We are soliciting information regarding important environmental issues and alternatives that should be considered in the EA. Alternatives currently under consideration include the proposal submitted by Principle Power and a no-action alternative. Environmental resources we expect to evaluate in the EA include benthic invertebrates, fish, birds, bats and marine mammals. We will also consider other human uses in the vicinity of the proposed project, including commercial and sport fishing, recreation and vessel traffic.

If at any time during preparation of the EA we determine that an environmental impact statement (EIS) is needed, we will issue a Notice of Intent (NOI) to prepare an EIS in the **Federal Register**. In that case, scoping comments you submit now will be considered for the development of an EIS.

4. Other Environmental Review and Consultation Processes

BOEM will also use responses to this notice and the EA public involvement process to satisfy the public involvement requirements of the National Historic Preservation Act (16 U.S.C. 470f), as provided in 36 CFR 800.2(d)(3). We are seeking information from the public on the identification of historic properties that may be affected by the WindFloat Pacific Project. The analyses contained within the EA also will support compliance with other environmental statutes (e.g., Endangered Species Act, Magnuson-Stevens Fishery Conservation and Management Act, Migratory Bird Treaty Act and Marine Mammal Protection Act).

5. Cooperating Agencies

It is BOEM's intent to prepare an EA that will inform all Federal decisions related to Principle Power's proposal, and we invite Federal, state and local government agencies to consider becoming cooperating agencies in the preparation of this EA. Council on Environmental Quality regulations implementing the procedural provisions of NEPA define cooperating agencies as those with ''jurisdiction by law or special expertise'' (40 CFR 1508.5). Potential cooperating agencies should consider their authority and capacity to assume the responsibilities of a cooperating agency and remember that an agency's role in the environmental analysis neither enlarges nor diminishes the final decision-making authority of any other agency involved in the NEPA process.

Even if an organization is not a cooperating agency, opportunities will exist to provide information and comments to BOEM during the normal public involvement phases of the NEPA process.

6. Comments

Federal, state, local government agencies, tribal governments and other interested parties are requested to send written comments on the important issues to be considered in the EA by any of the following methods:

1. Federal eRulemaking Portal: *http://www.regulations.gov.* In the field entitled ''Enter Keyword or ID,'' enter BOEM–2014–0050, and then click ''search.'' Follow the instructions to submit public comments and view supporting and related materials available for this notice;

2. By U.S. Postal Service or other delivery service, send your comments and information to the following address: Bureau of Ocean Energy Management, Pacific OCS Region, Attention: Greg Sanders, Office of Environment, 770 Paseo Camarillo, 2nd Floor, Camarillo, California 93010; or

3. In person at one of the EA public scoping meetings.

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 comments to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: May 14, 2014.

Walter D. Cruickshank,

Acting Director, Bureau of Ocean Energy Management.

[FR Doc. 2014–12066 Filed 5–23–14; 8:45 am]

BILLING CODE 4810–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–454 and 731–TA–1144 (Review)]

Welded Stainless Steel Pressure Pipe from China

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of expedited reviews pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)) (the Act) to determine whether revocation of the countervailing duty order and revocation of the antidumping duty order on welded stainless steel pressure pipe from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. For further information concerning the conduct of this review 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, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* May 9, 2014.

FOR FURTHER INFORMATION CONTACT: Vincent Honnold (202–205–3314), 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 review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On May 9, 2014, the Commission determined that the domestic interested party group response to its notice of institution (79 FR 6163, February 3, 2014) of the subject five-year reviews was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting full reviews.[1] Accordingly, the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Act.[2]

Staff report.—A staff report containing information concerning the subject matter of the review will be placed in the nonpublic record on June 9, 2014, and made available to persons on the Administrative Protective Order service list for these reviews. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the reviews and that have provided individually adequate responses to the notice of institution,[3] and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the reviews. Comments are due on or before June 12, 2014 and may not contain new factual information. Any person that is neither a party to the five-year reviews nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by June 12, 2014. However, should the Department of Commerce extend the time limit for its completion of the final results of its reviews, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on E-Filing,* available on the Commission's Web site at *http://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the reviews must be served on all other parties to the review (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 reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: May 22, 2014.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–12409 Filed 5–28–14; 8:45 am]

BILLING CODE 7020–02–P

[1] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

[2] The Commission has the authority to toll statutory deadlines during a period when the government is closed. Because the Commission was closed on February 13, 2014; March 3, 2014; and March 17, 2014 due to inclement weather in Washington, DC, the statutory deadline may be tolled by up to three days.

[3] The Commission has found the responses submitted by Bristol Metals, Felker Brothers, and Outokumpu Stainless Pipe to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–859]

Certain Integrated Circuit Chips and Products Containing the Same Commission's Determination To Review in Part the Final Initial Determination; Request for Submissions

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part the final initial determination (''ID'') issued by the presiding administrative law judge (''ALJ'') on March 21, 2014, finding no violation of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in this investigation.

FOR FURTHER INFORMATION CONTACT: Amanda Pitcher Fisherow, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2737. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on October 23, 2012, based on a complaint filed by Realtek Semiconductor Corporation (''Realtek'') of Hsinchu, Taiwan alleging violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), as amended, by reason of infringement of certain claims of U.S. Patent Nos. 6,787,928 (''the '928 patent'') and 6,963,226 (''the '226 patent''). 77 FR 64826. The notice of investigation named as respondents LSI Corporation of Milpitas, California; and Seagate Technology of Cupertino, California (collectively ''Respondents''). The '226 patent was terminated from the investigation.

On March 21, 2014, the ALJ issued the subject final ID finding no violation of section 337. The ALJ held that no violation occurred in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain integrated circuit chips and products containing the same that infringe one or more of claims 1–10 of the '928 patent. Although the ALJ found that the asserted claims were infringed, the ALJ held claims 1–10 of the '928

patent invalid and found that no domestic industry exists.

The final ID also included the ALJ's recommended determination on remedy. The ALJ recommended that if the Commission finds a violation, that the Commission issue a limited exclusion order that includes a six month waiting period to permit only Respondent Seagate to replace the accused chips with non-infringing chips. *Id.* The ALJ further recommended that Realtek be required to submit quarterly reports certifying that it continues to maintain a domestic industry with respect to the domestic industry products and to specify the nature of the activities that constitute the domestic industry. The ALJ also recommend that the Commission not issue cease and desist orders. Further, the ALJ recommended that the Commission set a zero bond.

On April 4, 2014, Realtek filed a petition for review and on April 7, 2014 Respondents filed a contingent petition for review. The parties timely responded to each other's petitions for review. The Commission has determined to review the ID with the exception of the following: (1) Construction of the term ''second pad layer,'' (2) findings on jurisdiction, and (3) level of one of ordinary skill in the art.

The parties are requested to brief their positions on the issues under review with reference to the applicable law and the evidentiary record. In connection with its review, the Commission is particularly interested in responses to the following questions:

(1) Does the evidence of record show that a person of ordinary skill in the art would understand the ''lower electric-conduction layer'' to be composed of a single layer or that it could be composed of one or more layers? Does the evidence of record (*e.g.,* intrinsic evidence, expert testimony, etc.) preclude the ''lower electric-conduction layer'' from being composed of more than one planar layer? Please also cite and/or discuss any relevant case law.

(2) If the ''lower electric-conduction layer'' may be composed of more than a single planar layer, what impact would that have, if any, on the ALJ's invalidity findings?

(3) If the ''lower electric-conduction layer'' may be composed of more than a single planar layer, do the accused products infringe the asserted claims?

(4) If the ''lower electric-conduction layer'' may be composed of more than a single planar layer, what impact would that have, if any, on the ALJ's domestic industry findings?

(5) Discuss whether Realtek waived its argument that the term ''wherein a noise from the substrate is kept away from the first pad layer by the lower electric-conduction layer'' should be construed to require a significant or substantial reduction of noise.

(6) In light of the specification's stated goals, what would a person of ordinary skill in the art understand as the amount of reduction in noise required by the wherein clause of claim 10? *See e.g.,* '928 patent at 1:7–14, 2:20–26, 29–34. Please provide citations to the evidentiary record and discuss relevant case law pertaining to this issue.

(7) Is the limitation ''wherein a noise from the substrate is kept away from the first pad layer by the lower electric-conduction layer'' of claim 10 indefinite? Would one of ordinary skill in the art understand the scope of the limitation, and if so what is that scope? Please cite to record evidence.

(8) If the ''wherein a noise from the substrate is kept away from the first pad layer by the lower electric-conduction layer'' limitation requires significant or substantial reduction of noise, is claim 10 invalid?

(9) If the ''wherein a noise from the substrate is kept away from the first pad layer by the lower electric-conduction layer'' limitation of claim 10 requires a significant or substantial reduction of noise, do the accused products infringe claim 10?

(10) If the ''wherein a noise from the substrate is kept away from the first pad layer by the lower electric-conduction layer'' limitation of claim 10 requires significant or substantial reduction of noise, do the domestic industry products practice claim 10?

(11) Discuss whether or not the evidence of record shows the metal layers 53 and 54 of the Ker application are ''necessarily'' coupled to a ''second pad layer'' that provides a bonding zone to an external power source or potential. Please cite record evidence to support your position.

(12) Discuss whether there is clear and convincing evidence that the metal layer 53 of the Ker application is not coupled to the bond pad.

(13) Discuss whether and how Realtek's research and development investment in the United States is investment in the asserted patent's exploitation pursuant to 19 U.S.C. 1337(a)(3)(C). *See Certain Computers and Computer Peripheral Devices, and Components Thereof, and Products Containing Same,* Inv. No. 337–TA–841, Comm'n Op. 27 (Jan. 9, 2014) (''The Commission has established that the 'its' in 'substantial investment in its exploitation' of subparagraph (a)(3)(C) refers to 'the patent, copyright, trademark, mask work, or design.'); *InterDigital Commc'ns, LLC* v. *ITC,* 707 F.3d 1295, 1297 (Fed. Cir. 2013) (''The parties agree that the word 'its' in the last clause of paragraph 337(a)(3) refers to the intellectual property at issue.'').

(14) Discuss whether and how Realtek's domestic-industry research and development in the United States involves or relates to articles protected by the asserted patent pursuant to 19 U.S.C. 1337(a)(3)(C). *See Microsoft Corp.* v. *ITC,* 731 F.3d 1354, 1362 (Fed. Cir. 2013) (explaining that a complainant must ''provide evidence that its substantial domestic investment—*e.g.,* in research and development—relates to an actual article that practices the patent'').

(15) If Realtek has demonstrated investment in the United States in exploitation of the asserted patent pursuant to 19 U.S.C. 1337(a)(3)(C), identify each investment specifically and explain why the investments, as a whole, are substantial.

(16) Discuss whether Realtek presented and preserved theories of domestic industry based upon 19 U.S.C. 1337(a)(3)(A) or (a)(3)(B), and if so, whether Realtek demonstrated the existence of a domestic industry on those bases.

(17) Please comment on whether a six month delay in enforcing a limited exclusion order against Seagate is or is not appropriate.

In connection with the final disposition of this investigation, the Commission may (1) issue an order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) issue one or more cease and desist orders that could result in the respondent(s) being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. When the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, *see Certain Devices for Connecting Computers via Telephone Lines,* Inv. No. 337–TA–360, USITC Pub. No. 2843 (December 1994) (Commission Opinion).

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. *See* Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and

prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: The parties to the investigation are requested to file written submissions on the issues identified in this notice. Parties to the investigation, interested government agencies, and any other interested persons are encouraged to file written submissions on the issues of remedy, the public interest, and bonding, as well as respond to the questions posed herein relating to remedy and the public interest. Such submissions should address the recommended determination by the ALJ on remedy and bonding. Complainant is also requested to submit proposed remedial orders for the Commission's consideration.

Complainant is also requested to state the date that the '928 patent expires and the HTSUS numbers under which the accused products are imported. The written submissions and proposed remedial orders must be filed no later than close of business on Thursday, June 5, 2014. Reply submissions must be filed no later than the close of business on Monday, June 16, 2014. No further submissions on these issues will be permitted unless otherwise ordered by the Commission. The page limit for the parties' initial submissions on the questions posed by the Commission is 75 pages. The parties' reply submissions, if any, are limited to 35 pages.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (''Inv. No. 337–TA–859'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with the any confidential filing. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR Part 210).

By order of the Commission.

Issued: May 22, 2014.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–12410 Filed 5–28–14; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–14–017]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: May 28, 2014 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: none.
2. Minutes.
3. Ratification List.
4. Vote in Inv. No. 731–TA–991 (Second Review) (Silicon Metal from Russia). The Commission is currently scheduled to complete and file its determination and views of the Commission on June 11, 2014.
5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: May 20, 2014.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2014–12536 Filed 5–27–14; 11:15 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–14–018]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: May 30, 2014 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: none.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 701–TA–417 and 731–TA–953, 957–959, and 961–962 (Second Review)(Carbon and Certain Alloy Steel Wire Rod from Brazil, Indonesia, Mexico, Moldova, Trinidad and Tobago, and Ukraine). The Commission is currently scheduled to complete and file its determinations and views of the Commission on June 16, 2014.
5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: May 20, 2014.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2014–12537 Filed 5–27–14; 11:15 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Agency Information Collection Activities; Proposed eCollection eComments Requested; New Collection: Salt Lake City Police Department HOST Project Stakeholder Survey

AGENCY: Office of Community Oriented Policing Services (COPS), Department of Justice

ACTION: 30-day notice.

SUMMARY: The Department of Justice (DOJ), Office of Community Oriented Policing Services (COPS), 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

was previously published in the **Federal Register** Volume 79, Number 57, page 16376, on March 25, 2014, allowing for a 60 day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 days until June 30, 2014.

FOR FURTHER INFORMATION CONTACT: If you have 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 Kimberly Brummett, Program Specialist, Office of Community Oriented Policing Services, 145 N Street NE., Washington, DC 20530.

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 agency, including whether the information will have practical utility;
—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
—Enhance the quality, utility, and clarity of the information to be collected; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New collection.

(2) Title *of the Form/Collection:* Salt Lake City Police Department HOST Project Stakeholder Survey.

(3) *Agency form number:* n/a.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* This information collection is a survey of the stakeholders of the Salt Lake City Police Department's HOST Project to combat panhandling in their jurisdiction. Salt Lake City Police Department is a grantee of the Office of Community Oriented Policing Services, and the survey will support the work they are doing with the grant. Stakeholders who will be surveyed include law enforcement officers and staff, Volunteers of America, clinic workers, NGO staff, businesses and general community members.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 75 stakeholders will take part in the Salt Lake City Police Department HOST Project Stakeholder Survey. The estimated range of burden for respondents is expected to be between 15–20 minutes for completion.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 24.75 hours. It is estimated that the respondents will take 20 minutes to complete the survey. The burden hours for collecting respondent data sum to 24.75 hours (75 respondents × .33 hours = 24.75 hours).

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., Room 3W–1407B, Washington, DC 20530.

Dated: May 22, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–12352 Filed 5–28–14; 8:45 am]

BILLING CODE 4410–AT–P

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Frasure Creek Mining, LLC, et al.,* Civil No. 12–56–ART, was lodged with the United States District Court for the Eastern District of Kentucky on May 15, 2014.

The proposed Consent Decree concerns a complaint filed by the United States against Frasure Creek Mining, LLC, Essar Minerals, Inc., Trinity Coal Corporation, Trinity Coal Partners, LLC, Bear Fork Resources, LLC, Falcon Resources, LLC, Prater Branch Resources, LLC, and Trinity Parent Corporation, pursuant to Sections 309(b) and 309(d) of the Clean Water Act, 33 U.S.C. 1319(b) and 1319(d), to obtain injunctive relief from and impose civil penalties against the Defendants for violating the Clean Water Act by discharging pollutants without a permit into waters of the United States. The proposed Consent Decree resolves these allegations by requiring the Defendants to mitigate the damage caused by the unpermitted discharges and to pay a civil penalty.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this Notice. Please address comments to John Thomas H. Do, Trial Attorney, United States Department of Justice, Environment and Natural Resources Division, Post Office Box 7611, Washington, DC 20044–7611 and refer to *United States* v. *Frasure Creek Mining, LLC, et al.,* DJ# 90–5–1–1–18938.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the Eastern District of Kentucky, 110 Main Street, Pikeville, KY 41501. In addition, the proposed Consent Decree may be examined electronically at *http://www.justice.gov/enrd/Consent_Decrees.html.*

Cherie L. Rogers,

Assistant Section Chief, Environmental Defense Section, Environment and Natural Resources Division.

[FR Doc. 2014–12415 Filed 5–28–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

United States of America v. ConAgra Foods, Inc, et al.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Hold Separate Stipulation and Order, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America* v. *ConAgra Foods, Inc., et al.,* Civil Action No. 1:14-cv-823. On May 20, 2014, the United States filed a Complaint alleging that the combination of the wheat flour milling assets of ConAgra Foods, Inc. and Horizon Milling, LLC (a joint venture between Cargill, Inc. and CHS, Inc.) to form a joint venture to be known as Ardent Mills would violate Section 7 of the Clayton Act, 15 U.S.C. 18, and Section 1 of the Sherman Act, 15 U.S.C. 1. The proposed Final Judgment, filed the same time as the Complaint, requires Ardent

Mills to divest flour mills located in Los Angeles, California; New Prague, Minnesota; Oakland, California; and Saginaw, Texas, along with certain tangible and intangible assets.

Copies of the Complaint, proposed Final Judgment and Competitive Impact Statement are available for inspection at the Department of Justice, Antitrust Division, Antitrust Documents Group, 450 Fifth Street NW., Suite 1010, Washington, DC 20530 (telephone: 202–514–2481), on the Department of Justice's Web site at *http://www.usdoj.gov/atr,* and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, including the name of the submitter, and responses thereto, will be posted on the U.S. Department of Justice, Antitrust Division's internet Web site, filed with the Court and, under certain circumstances, published in the **Federal Register**. Comments should be directed to Maribeth Petrizzi, Chief, Litigation II Section, Antitrust Division, Department of Justice, 450 Fifth Street NW., Suite 8700, Washington, DC 20530.

Patricia A. Brink,

Director of Civil Enforcement.

FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, United States Department of Justice, Antitrust Division, 450 Fifth Street N.W., Suite 8700, Washington, D.C. 20530, *Plaintiff,* v. CONAGRA FOODS, INC., One ConAgra Drive, Omaha, Nebraska 68102, HORIZON MILLING, LLC, 15407 McGinty Road West, Wayzata, Minnesota 55391, CARGILL, INCORPORATED, 15407 McGinty Road West, Wayzata, Minnesota 55391, and CHS INC., 5500 Cenex Drive, Inver Grove Heights, Minnesota 55077, Defendants.

Case No.: 1:14–cv–00823

Judge: Hon. Ketanji Brown Jackson

Filed: 05/20/2014

COMPLAINT

The United States of America (''United States''), acting under the direction of the Attorney General of the United States, brings this civil antitrust action against Defendants ConAgra Foods, Inc. (''ConAgra''), Horizon Milling, LLC (''Horizon''), Cargill, Incorporated (''Cargill''), and CHS Inc. (''CHS'') to enjoin the formation of a flour milling joint venture to be known as Ardent Mills (''Ardent Mills'' or ''the joint venture'').

Ardent Mills would be formed by combining the flour milling assets of Horizon (a joint venture between Cargill and CHS) and ConAgra Mills (a subsidiary of ConAgra). Horizon and ConAgra Mills are two of the three largest flour millers in the United States, as measured by capacity. Horizon and ConAgra Mills are significant competitors in the sale of hard and soft wheat flour in Southern California and Northern Texas; they also are significant competitors in the sale of hard wheat flour in Northern California and the Upper Midwest. The formation of Ardent Mills likely would lessen competition in each of these markets in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18, and Section 1 of the Sherman Act, 15 U.S.C. § 1.

I. JURISDICTION, VENUE, AND COMMERCE

1. The United States brings this action under Section 15 of the Clayton Act, 15 U.S.C. § 25, and Section 4 of the Sherman Act, 15 U.S.C. § 4, to prevent and restrain Defendants from violating Section 7 of the Clayton Act, 15 U.S.C. § 18, and Section 1 of the Sherman Act, 15 U.S.C. § 1.

2. Defendants produce and sell flour in the flow of interstate commerce. Defendants' activities in the production and sale of flour substantially affect interstate commerce. This Court has subject matter jurisdiction over this action pursuant to Section 15 of the Clayton Act, 15 U.S.C. § 25; Section 4 of the Sherman Act, 15 U.S.C. § 4; and 28 U.S.C. §§ 1331, 1337(a), and 1345.

3. Defendants have consented to venue and personal jurisdiction in this judicial district.

II. THE DEFENDANTS AND THE TRANSACTION

4. ConAgra is incorporated in Delaware and has its headquarters in Omaha, Nebraska. ConAgra is one of the largest food companies in the United States. Its ConAgra Mills subsidiary makes several types of flour, including hard wheat flour and soft wheat flour. ConAgra Mills operates twenty-one wheat flour mills in the United States. It is one of the three largest wheat flour millers in the country, with a total daily wheat flour capacity of approximately 225,000 hundred weight (''cwt''). In 2012, ConAgra reported revenues of $13.3 billion; ConAgra Mills reported revenues of $1.8 billion.

5. Horizon is a joint venture formed in 2002 by Cargill and CHS that is headquartered in Wayzata, Minnesota. Cargill owns 76 percent of Horizon and CHS owns 24 percent of Horizon. Horizon makes several types of flour, including hard wheat flour and soft wheat flour. It is one of the three largest wheat flour millers in the United States, controlling twenty wheat flour mills with a total daily wheat flour capacity of approximately 270,000 cwt. In 2012, Horizon reported revenues of approximately $2.5 billion.

6. Cargill is a privately held company that is incorporated in Delaware and has its headquarters in Wayzata, Minnesota. Cargill produces agricultural products and food ingredients; it also markets wheat to flour mills. All of Cargill's flour mills were contributed to the Horizon joint venture, which presently includes fifteen of Cargill's former wheat flour mills. In 2012, Cargill reported revenues of $133.8 billion.

7. CHS is incorporated in Minnesota and has its headquarters in Inver Grove Heights, Minnesota. It sells, among other things, grains and grain marketing services, animal feed, foods, and food ingredients; it also markets wheat to flour mills. CHS owns five wheat flour mills in the United States, all of which are leased to the Horizon joint venture. In 2012, CHS reported revenues of $40.1 billion.

8. Pursuant to a March 4, 2013 Master Agreement, Ardent Mills would combine the flour milling operations of ConAgra Mills and Horizon. The joint venture would be 44 percent owned by ConAgra, 44 percent owned by Cargill, and 12 percent owned by CHS. Ardent Mills would own forty-one wheat flour mills in the United States. It would have annual sales of more than $3 billion, and assets worth more than $2.5 billion.

III. BACKGROUND

9. Wheat flour is an important ingredient in many baked goods. The two primary types of wheat flour—hard wheat flour and soft wheat flour—are distinguished by their gluten content. ''Hard'' wheat flour has a high gluten content, which makes it well suited for baking bread, rolls, bagels, pizza dough, and similar baked goods. Gluten is a protein that helps trap gasses during the leavening process, permitting baked goods to rise, and giving them a tougher, chewier texture. ''Soft'' wheat flour has a low gluten content, which makes it well suited for baked goods that are lighter and flakier than bread and rolls, such as cakes, cookies, and crackers, which have a tender, crumbly texture.

10. Wheat flour is produced by grinding wheat into a fine powder. The process starts by feeding wheat kernels into a flour mill's ''breaker rollers,'' which crack open the wheat kernels, separating the exterior hull from the

interior endosperm of each kernel. The separated exterior hulls are known as wheat middlings, or ''midds,'' and typically are sold for use in the manufacture of animal feed. The interior endosperm is further ground between rollers to produce flour. Although some flour mills, known as ''swing'' mills, are set up to produce hard and soft wheat flour, most flour mills are designed to produce only one or the other. Hard and soft wheat flour generally cannot be produced on the same equipment without a substantial loss of efficiency, which increases the cost of producing flour.

11. Finished wheat flour is sold to industrial bakers, food service companies, distributors, and retail sellers. Larger flour customers typically purchase flour pursuant to a formal request for proposal or a less formal bidding-type solicitation. For such purchases, large flour customers often specify the characteristics of the flour they desire to buy (including protein level, an indicator of gluten content), and they seek to negotiate the lowest price possible for the type of flour they desire. Smaller customers typically purchase standard types of flour at a price based on a miller's daily or weekly price sheet. Smaller customers often compare the delivered price offered by rival millers to determine the best available flour price, and they often can negotiate a discount off of list prices by playing millers against one another.

12. The price of delivered wheat flour has five key components: (i) the price of wheat, which is usually determined by the price on an organized wheat market; (ii) the ''basis,'' which accounts for the difference between the organized wheat market price and the local price for a miller; (iii) the ''millfeed credit,'' which is based on the price at which a miller can sell wheat middlings; (iv) transportation costs, *i.e.,* the cost of delivering flour from the mill to the customer; and (v) the ''block,'' which covers the cost of converting wheat into flour.

13. The first four components largely are determined by a mill's location or market forces that are beyond a miller's control, and account for the overwhelming majority of the price of delivered flour. Although competing millers seek to minimize each of these components to keep the delivered price of flour low, the block—which is a relatively small portion of the total delivered price of flour—is the primary component on which millers compete.

14. Although transportation costs also are a relatively small portion of the cost of delivered flour, they often determine whether a flour miller can supply a customer cost effectively. Customers frequently find that the most cost competitive flour millers are those with nearby mills, whose flour transportation costs are low relative to those of more distant flour mills. Although flour can travel long distances by rail, the added cost of doing so may prevent distant mills from making substantial sales to local customers. Thus, competition for flour sales to a customer takes place largely among millers located within approximately 150 to 200 miles of a customer. Within that area, competition among millers largely takes place over the size of the block offered to the customer, all else equal.

IV. RELEVANT MARKETS

A. Relevant Product Markets

15. Hard wheat flour is a relevant product market and a line of commerce under Section 7 of the Clayton Act, and Section 1 of the Sherman Act. Hard wheat flour has specific applications for which other types of flour cannot be used. A baker of crusty, chewy baked goods, such as bread, bagels, or pizza dough, cannot use soft wheat flour because the finished product will not ''rise'' or have the texture that consumers expect. As a result, a flour customer who requires hard wheat flour would not substitute other products in response to a small but significant and nontransitory increase in the price of hard wheat flour.

16. Soft wheat flour is a relevant product market and line of commerce under Section 7 of the Clayton Act, and Section 1 of the Sherman Act. Soft wheat flour has specific applications for which other types of flour cannot be used. A baker of lighter, flakier baked goods, such as cakes, cookies, crackers, or pastries, cannot use hard wheat flour in place of soft wheat flour because the finished product will not remain flat—as is desirable for crackers or pastries—or have the texture that consumers expect. As a result, a flour customer who requires soft wheat flour would not substitute other products in response to a small but significant and nontransitory increase in the price of soft wheat flour.

B. Relevant Geographic Markets

17. Flour millers can price differently to customers in different locations. Hard and soft wheat flour sales typically are negotiated by a miller and an individual customer. Flour millers take into account rivals' mills that can economically supply a customer when determining the price at which to sell to that customer. Thus, a miller will charge a higher price to a customer in an area with few supply options relative to a customer in an area with many supply options.

18. Flour customers are unlikely to arbitrage in response to such differential pricing. The ability of customers to arbitrage by securing flour from customers in other areas is limited by transportation costs, which limit the distance that flour can economically be shipped. Moreover, arbitrage by securing flour from customers in other areas entails increased food safety and quality risks. As a result, most customers would not find it desirable or cost effective to buy flour from customers in other areas.

19. Because flour millers can price differentially and customers are unlikely to arbitrage, flour millers can price discriminate. In the presence of price discrimination, relevant geographic markets may be defined by reference to the location of customers. In particular, the relevant geographic markets for hard and soft wheat flour are those areas of the country encompassing the locations of customers who could be similarly targeted for a price increase.

20. A hypothetical monopolist flour miller could impose on customers a small but significant nontransitory price increase in each of the following areas (which encompass certain metropolitan statistical areas): Northern California (encompassing Santa Rosa-Petaluma, Napa, Sacramento-Arden-Arcade-Roseville, Stockton, Vallejo-Fairfield, San Francisco-Oakland-Fremont, Santa Cruz-Watsonville, San Jose-Sunnyvale-Santa Clara, Merced, and Modesto), Southern California (encompassing Los Angeles-Long Beach-Santa Ana, Riverside-San Bernardino-Ontario, and San Diego-Carlsbad-San Marcos), Northern Texas (encompassing Dallas-Fort Worth-Arlington), and the Upper Midwest (encompassing Minneapolis-St. Paul-Bloomington, Eau Claire, Madison, La Crosse, and Rochester). Therefore, each area is a relevant geographic market under Section 7 of the Clayton Act, and Section 1 of the Sherman Act.

V. MARKET SHARES AND CONCENTRATION

21. Ardent Mills would own a substantial share of flour milling capacity serving each relevant market. Because transportation costs limit the ability of distant millers to compete with local millers for customers, competition for flour sales largely takes place among millers with milling capacity located within 150 to 200 miles of a customer. Thus, milling capacity within 200 miles of key cities within each geographic area is a useful basis on

which to estimate market shares and concentration, and it approximates sales shares in each geographic market. Each 200-mile area around a city encompasses those flour millers most likely to compete for sales in each geographic market, and shares based on capacity within 200 miles of each city are indicative of the likely competitive effects for customers in the broader relevant markets.

22. In Northern California, Ardent Mills would own approximately 70 percent of hard wheat flour milling capacity within 200 miles of San Francisco. In Southern California, it would own more than 40 percent of hard wheat flour milling capacity, and approximately 70 percent of soft wheat flour milling capacity, within 200 miles of Los Angeles. In Northern Texas, it would own more than 75 percent of hard wheat flour milling capacity, and 100 percent of the soft wheat flour milling capacity, within 200 miles of Dallas/Ft. Worth. In the Upper Midwest, it would own more than 60 percent of hard wheat flour milling capacity within 200 miles of Minneapolis. Given that transportation costs limit the ability of more distant mills to compete in these areas, Ardent Mills's large capacity shares would result in Ardent Mills having a large share of sales in these areas.

23. Based on capacity within 200 miles of key cities in each market, formation of Ardent Mills would increase the Herfindahl-Hirschman Index (''HHI''),[1] a standard measure of market concentration, by more than 200 points to more than 2,500 points in the relevant markets. For San Francisco, formation of the joint venture would increase the HHI for hard wheat flour to more than 5,000. For Los Angeles, the joint venture would increase the HHI for hard wheat flour to more than 2,500; and the HHI for soft wheat flour to more than 5,500. For Dallas/Ft. Worth, the HHI for the hard wheat flour would increase to more than 6,000; and the HHI for soft wheat flour would increase to 10,000. For Minneapolis, the HHI for hard wheat flour would increase to more than 4,500. As a result, the joint venture should be presumed likely to enhance market power in each of the relevant markets.

VI. ANTICOMPETITIVE EFFECTS OF THE JOINT VENTURE

A. Formation of Ardent Mills Would Eliminate Head-to-Head Competition Between Horizon and ConAgra

24. The formation of Ardent Mills would eliminate head-to-head competition between ConAgra Mills and Horizon in the relevant markets. ConAgra Mills and Horizon routinely compete by offering lower prices to their customers, and customers have secured lower prices by playing ConAgra Mills and Horizon against one another. The formation of Ardent Mills would eliminate that competition, resulting in higher hard wheat flour prices for customers in Northern California, Southern California, Northern Texas, and the Upper Midwest, and higher soft wheat flour prices for customers in Southern California and Northern Texas.

25. Horizon and ConAgra Mills operate mills that are close to one another in the relevant geographic markets, and that are among those closest to many customers in those markets. Because their mills are the closest mills to many customers, Horizon's and ConAgra's delivered flour costs tend to be lower than those of their rivals' more distant mills. Moreover, because their mills are located close to one another, Horizon's and ConAgra's flour transportation costs tend to be similar. As a result of the proximity of their mills to one another—and to one another's customers—Horizon and ConAgra frequently are among the lowest-cost flour suppliers for customers in the relevant areas, and they compete aggressively against one another to make sales in those areas. That competition would be lost with the formation of Ardent Mills.

B. Formation of Ardent Mills Would Increase the Likelihood of Anticompetitive Capacity Closures

26. Relative to stand-alone Horizon and ConAgra Mills, the joint venture would increase the incentive and ability of Ardent Mills to close hard and soft wheat flour milling capacity serving the relevant markets. With a larger base of mills to benefit from increased flour prices, the joint venture would have an increased incentive to shut down capacity. The joint venture also would have mills with a wider array of operating costs from which to choose capacity to shut down, increasing the ability of the joint venture to profitably shut down capacity or entire mills. By creating a larger portfolio of flour mills with differing costs, formation of the joint venture would make it more likely that Ardent Mills would find it profitable to close a higher-cost mill to raise hard or soft wheat flour prices. Thus, the joint venture would increase the likelihood of capacity closure, which would tighten supply relative to demand, inducing Ardent Mills and rival millers to compete less aggressively for flour sales, ultimately increasing flour prices to customers in the relevant geographic markets.

C. Formation of Ardent Mills Would Increase the Likelihood of Anticompetitive Coordination

27. The formation of Ardent Mills would increase the likelihood of anticompetitive coordination among flour millers. Several features of hard and soft wheat flour markets render them susceptible to anticompetitive coordination. First, the markets are transparent, which gives millers insight into their rivals' costs, prices, output, and capacity utilization levels. Second, hard wheat flour and soft wheat flour are relatively homogeneous products that are purchased frequently. Third, the demand for hard and soft wheat flour is relatively inelastic. Finally, larger flour millers compete against one another to supply hard and soft flour in multiple geographic markets.

28. The relevant markets already are highly concentrated, and the formation of the joint venture would significantly increase that concentration by reducing the number of substantial millers in each of the relevant markets. As a result, the formation of Ardent Mills would allow it and its few remaining rivals to more easily identify and account for the competitive strategies of one another, making it easier for them to coordinate on capacity, price, or other competitive strategies in the relevant markets, which already are susceptible to coordination. This, in turn, will make coordination more likely and more durable, increasing the likelihood that hard and soft wheat flour prices would increase in the relevant markets.

29. The formation of Ardent Mills also would permit information exchanges between CHS, Cargill, and the joint venture that would facilitate coordination in the relevant markets. CHS and Cargill propose entering into side agreements to supply Ardent Mills with wheat. These agreements include terms that, in principle, would permit CHS, and Cargill to provide Ardent Mills with detailed information about rival millers' wheat purchases, giving the joint venture greater insight into its

[1] *See* U.S. Dep't of Justice and Federal Trade Commission, Horizontal Merger Guidelines § 5.3 (2010), *available at http://www.justice.gov/atr/public/guidelines/hmg-2010.html.* The HHI is calculated by squaring the market share of each firm competing in the market, then summing the resulting numbers. The HHI takes into account the relative size distribution of the firms in a market; it increases both as the number of firms in the market decreases and as the disparity in size between those firms increases. The HHI approaches zero in markets with a large number of participants of relatively equal size and reaches a maximum of 10,000 points in markets controlled by a single firm.

rivals' costs. As a result, the side agreements would make it easier for Ardent Mills to understand the competitive strategies of its rivals, which would make coordination more likely and durable, increasing the likelihood that hard and soft wheat flour prices would increase in the relevant markets.

VII. ENTRY

30. Entry would not be likely, timely, or sufficient to offset the anticompetitive effects of the formation of Ardent Mills. Flour is a mature industry with stable demand and margins, which means that the incentive to enter the relevant markets with a new mill, or with substantial new capacity at an existing mill, is small. It also is unlikely that entry by more distant mills delivering flour by rail will be timely, likely, or sufficient due to rail delivery's additional cost and inconvenience, which renders it an unacceptable option for many customers.

VIII. VIOLATIONS ALLEGED

A. Violation of Section 7 of the Clayton Act

31. The proposed joint venture likely would substantially lessen competition in the relevant markets, in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

32. Unless enjoined, the joint venture likely would have the following anticompetitive effects, among others:

a. competition between ConAgra and Horizon in the relevant markets would be eliminated;
b. competition in the relevant markets likely would be substantially lessened;
c. reductions in milling capacity would be more likely;
d. coordination in the relevant markets would be easier and more likely; and, as a result,
e. hard wheat flour prices would increase for customers in Northern California, Southern California, Northern Texas, and the Upper Midwest; and soft wheat flour prices would increase for customers in Southern California and Northern Texas.

B. Violation of Section 1 of the Sherman Act

33. ConAgra and Horizon's agreement to combine their flour-milling assets and operations through the Ardent Mills joint venture, to eliminate competition between them, and not to compete against each other unreasonably restrains trade, and likely would continue to unreasonably restrain trade, in the relevant markets in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

IX. REQUESTED RELIEF

34. The United States requests that this Court:

a. adjudge and decree that the Ardent Mills joint venture would be unlawful and violate Section 7 of the Clayton Act, 15 U.S.C. § 18;
b. adjudge and decree that the Ardent Mills joint venture would be unlawful and violate Section 1 of the Sherman Act, 15 U.S.C. § 1;
c. preliminarily and permanently enjoin and restrain Defendants and all persons acting on their behalf from effectuating the Ardent Mills joint venture, or from entering into or carrying out any other contract, agreement, plan, or understanding, the effect of which would be to create such a joint venture;
d. award the United States its costs for this action; and
e. award the United States such other and further relief as the Court deems just and proper.

Dated: May 20, 2014

Respectfully submitted,

FOR PLAINTIFF UNITED STATES OF AMERICA:

/s/ _____

RENATA B. HESSE
Acting Assistant Attorney General.

/s/ _____

DAVID I. GELFAND
Deputy Assistant Attorney General.

/s/ _____

PATRICIA A. BRINK
Director of Civil Enforcement.

/s/ _____

MARIBETH PETRIZZI
(D.C. BAR # 435204), Chief, Litigation II Section.

/s/ _____

DOROTHY B. FOUNTAIN
(D.C. BAR # 439469), Assistant Chief, Litigation II Section.

/s/ _____

MARK J. NIEFER*
(D.C. BAR # 470370), Attorney, United States Department of Justice, Antitrust Division, 450 Fifth Street NW., Suite 8000, Washington, DC 20530, Telephone: (202) 307–6381, Facsimile: (202) 616–2441, *E-mail: mark.niefer@usdoj.gov.*

SUSAN L. EDELHEIT
(D.C. BAR # 250720)

CHRISTINE A. HILL
ANGELA L. HUGHES
(D.C. BAR # 303420)

MICHELLE A. LIVINGSTON
(D.C. BAR # 461268)

JOHN M. NEWMAN
JILL A. PTACEK
JAMES A. RYAN
CHINITA M. SINKLER
Attorneys for the United States.
** Attorney of Record.*

UNITED STATES OF AMERICA

FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA Plaintiff, v.*CONAGRA FOODS, INC., HORIZON MILLING, LLC, CARGILL, INCORPORATED, and CHS INC.,* Defendants.

Case No.: 1:14-cv-00823

Judge: Hon. Ketanji Brown Jackson

Dated: May 20, 2014

COMPETITIVE IMPACT STATEMENT

Plaintiff United States of America (''United States''), pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA'' or ''Tunney Act''), 15 U.S.C. § 16(b)–(h), files this Competitive Impact Statement relating to the Proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. NATURE AND PURPOSE OF THE PROCEEDING

Defendants ConAgra Foods, Inc. (''ConAgra''), Cargill, Incorporated (''Cargill''), and CHS Inc. (''CHS'') entered into a Master Agreement, dated March 4, 2013, which would combine the wheat flour milling assets of ConAgra and defendant Horizon Milling, LLC (''Horizon'') (a joint venture between Cargill and CHS) to form a joint venture to be known as Ardent Mills (''Ardent Mills'' or ''the joint venture'').

The United States filed a civil antitrust Complaint on May 20, 2014, seeking to enjoin the joint venture. The Complaint alleges that the likely effect of the formation of Ardent Mills would be to substantially lessen competition for the provision of hard wheat flour to customers in Northern California, Southern California, Northern Texas, and the Upper Midwest, and soft wheat flour to customers in Southern California and the Northern Texas, in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18, and Section 1 of the Sherman Act, 15 U.S.C. § 1.

At the same time the Complaint was filed, the United States also filed a Proposed Final Judgment, which is designed to eliminate the anticompetitive effects of the joint venture. Under the Proposed Final Judgment, which is explained more fully below, Defendants are required to

divest four flour mills located in Oakland, California; Los Angeles, California; Saginaw, Texas; and New Prague, Minnesota. The Proposed Final Judgment also prohibits Cargill, CHS, and ConAgra from disclosing to Ardent Mills certain non-public information relating to wheat sales to, and wheat use by, Cargill, CHS, and ConAgra wheat customers.

In a Hold Separate Stipulation and Order filed at the same time as the Complaint and Proposed Final Judgment, the United States and Defendants have stipulated that the Proposed Final Judgment may be entered after compliance with the APPA.[2] Entry of the Proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the Proposed Final Judgment and to punish violations thereof.

II. DESCRIPTION OF THE EVENTS GIVING RISE TO THE ALLEGED VIOLATION

A. Defendants and the Proposed Joint Venture

ConAgra is a Delaware corporation headquartered in Omaha, Nebraska. It is one of the largest food companies in the United States. Its ConAgra Mills subsidiary makes multiple types of flour, including hard wheat flour and soft wheat flour. ConAgra Mills operates twenty-one wheat flour mills in the United States. In terms of capacity, ConAgra Mills is one of the three largest wheat flour millers in the United States, capable of producing approximately 225,000 hundred weights (''cwt''), or about 23 million pounds, of flour per day. In 2012, ConAgra reported revenues of $13.3 billion; ConAgra Mills reported revenues of $1.8 billion.

Horizon is a joint venture between Cargill and CHS that is headquartered in Wayzata, Minnesota. Cargill owns 76 percent of Horizon, and CHS owns the remaining 24 percent of Horizon. Horizon makes several types of flour, including hard wheat flour and soft wheat flour. In terms of capacity, Horizon is one of the three largest wheat flour millers in the country, with twenty mills in the United States, capable of producing approximately 270,000 cwt, or about 27 million pounds, of flour per day. In 2012, Horizon reported revenues of approximately $2.5 billion.

Cargill is a privately held Delaware corporation headquartered in Wayzata, Minnesota. Cargill produces agricultural products and food ingredients; it also markets wheat to flour mills. The Horizon joint venture includes fifteen mills located in the United States that were contributed by Cargill. In 2012, Cargill reported revenues of $133.8 billion.

CHS is a Minnesota corporation headquartered in Inver Grove Heights, Minnesota. It sells, among other things, grains and grain marketing services (including wheat for flour milling), animal feed, food, and food ingredients; it also markets wheat to flour mills. The Horizon joint venture includes five mills owned by CHS, located in the United States, leased by CHS to Horizon. In 2012, CHS reported revenues of $40.1 billion.

Under the March 4, 2013 Master Agreement, ConAgra, Cargill, and CHS agreed to combine the wheat flour milling assets of ConAgra Mills and Horizon to form Ardent Mills. ConAgra and Cargill each would own a 44 percent share of the joint venture, and CHS would own the remaining 12 percent share. Under the Master Agreement, Cargill and CHS also would share with Ardent Mills certain information regarding wheat markets. The formation of the joint venture likely would substantially lessen competition as a result of Defendants' combination of their wheat flour milling assets. This proposed joint venture is the subject of the Complaint and Proposed Final Judgment filed by the United States on May 20, 2014.

B. Industry Background

1. Flour Milling and Flour Uses

Wheat flour is an important ingredient in many baked food products. It is made by grinding wheat into a fine powder. The process begins with a miller feeding wheat kernels into a flour mill's ''breaker rollers,'' which crack open the hard outer shell of the wheat kernel, separating the exterior hull from the interior endosperm of each kernel. The separated exterior hulls, known as wheat middlings or ''midds,'' often are sold to manufacturers of animal feed, who typically mix the midds with other inputs to manufacture feed. The interior endosperm is further ground and sifted to produce wheat flour.

Hard wheat flour is milled from hard wheat, which has high gluten content and a hard endosperm. Soft wheat flour is milled from soft wheat, which has low gluten content and a soft endosperm. Soft wheat generally does not flow as easily through a mill as hard wheat, which necessitates certain design features in a soft wheat flour mill that are not required in a hard wheat flour mill. As a result, most flour mills are designed to produce hard wheat flour or soft wheat flour. Some mills can produce hard wheat flour and soft wheat flour using two or more milling units, each of which is dedicated to milling one type of flour using the appropriate equipment. Finally, some mills, known as ''swing'' mills, can produce both types of flour using the same equipment. The production of flour in a swing mill, however, usually entails a loss of efficiency, which increases the costs of producing wheat flour, making a mill less competitive.

The different gluten content of hard and soft wheat flour limits each to certain baked goods applications. Gluten is a type of protein found only in wheat that traps gasses produced during leavening and baking. The greater the gluten content of flour, the more it will rise during baking and the chewier will be the finished product. Hard wheat flour's high gluten content makes it well-suited for use in bread, rolls, bagels, pizza dough, and similar goods. Soft wheat flour, which has lower gluten content, is well-suited for use in lighter, flakier products like cakes, cookies, crackers, and pastries. Substituting hard wheat flour for soft wheat flour (or vice versa) in a specific application would compromise the finished-product characteristics that consumers demand. As a result, there is very little substitutability between hard and soft wheat flour.

2. Flour Customers and Flour Pricing

Wheat flour is purchased by four main types of customers: industrial bakers, food service companies, flour distributors, and retail flour sellers. Larger flour customers typically buy flour pursuant to a formal request for proposal or a less formal bidding-type process, wherein the customer seeks bids from multiple flour millers. These customers frequently specify the characteristics of the flour they seek to purchase (including protein content, which is an indicator of gluten content). Smaller flour customers often purchase standard types of flour at prices that are based on millers' daily or weekly price sheets. Whether they buy flour based on a bidding-type process or price sheets, customers frequently play millers against one another during negotiations, using price quotes from one or more millers as leverage to secure lower delivered flour prices from competing millers.

[2] The Hold Separate Stipulation and Order requires Defendants to hold separate their entire wheat flour milling businesses until after the divestitures required by the Proposed Final Judgment have occurred.

The price of delivered flour has five components: (i) the price of wheat, usually based on an organized wheat market price (*e.g.,* the price of wheat sold on the Minneapolis Grain Exchange, Kansas City Board of Trade, or Chicago Mercantile Exchange); (ii) the ''basis,'' which is the difference between the price of wheat on an organized market and the local market price of wheat for the miller; (iii) the ''millfeed credit,'' which is based on the price at which the miller can sell wheat middlings; (iv) transportation costs, that is, the cost of delivering flour from the mill to the customer; and (v) the ''block'' (sometimes referred to as the ''margin''), which amounts to the miller's fee for converting wheat into flour.

The first four components largely are determined by market forces beyond the control of an individual miller, and they account for the overwhelming majority of the cost of delivered flour. The block, on the other hand, is a relatively small portion of the price of delivered flour. Although millers competing with one another to supply a customer may seek to minimize the cost of the other components to keep the delivered price of flour low, the block is the primary term that millers can control, and it is the primary term on which they compete.

3. Transportation Costs and Customers' Supply Options

Although transportation costs tend to be a relatively small portion of the delivered price of flour, they frequently determine whether a flour miller can supply a customer cost effectively. Transportation costs increase as the distance flour must travel from a mill to a customer increases. Therefore, a miller's ability to economically supply a customer will depend in part on how far away its mills are from the customer's delivery point, which usually is a flour-using facility, such as a bakery, food processing plant, or distribution center. Mills located close enough to customers to which they can cost effectively deliver flour by truck typically are the lowest cost competitors for those customers' business. The maximum distance flour can economically travel via truck typically is 150 to 200 miles.

Although some customers are capable of receiving flour delivery from distant mills by rail or ''rail-to-truck transfer'' (which entails shipping flour by rail, then transferring it to truck for delivery), neither is a viable option for many customers. Customers not located on a rail spur cannot physically receive direct rail shipments. Even for customers with rail access, rail shipments from distant mills are typically more expensive, slower, and less reliable than direct truck shipments from local mills. Many customers also find that shipments by rail-to-truck transfer have all the disadvantages of rail, plus the risk that using two modes of transportation (and the need to transfer flour from rail to truck) will degrade the quality of the delivered flour. Thus, competition for flour sales to a customer takes place primarily among millers located no more than 150 to 200 miles from a customer.

C. The Relevant Product Markets

The Complaint alleges that hard wheat flour and soft wheat flour are relevant product markets and lines of commerce.

Due to hard wheat flour's unique characteristics, flour consumers use it for specific applications and cannot use other types of flour for those applications. For example, a baker that produces crusty, chewy baked goods, such as bread, rolls, bagels, pizza dough, or similar products, cannot use soft wheat flour in place of hard wheat flour to produce those goods because the finished goods will not ''rise'' or have the texture that baked-goods consumers expect and demand. Consequently, hard wheat flour customers generally do not regard other types of flour as adequate substitutes for hard wheat flour. Thus, hard wheat flour is a relevant product market.

Due to soft wheat flour's unique characteristics, flour consumers also use soft wheat flour for specific applications and cannot use other types of flour for those applications. For example, a baker that produces lighter, flakier products, such as cakes, cookies, crackers, or pastries, cannot use hard wheat flour in place of soft wheat flour to produce those goods because the finished goods will not remain flat—as is desirable for crackers or pastries—or have the texture that that baked-goods consumers expect and demand. Consequently, soft wheat flour customers generally do not regard other types of flour as adequate substitutes for soft wheat flour. Thus, soft wheat flour is a relevant product market.

D. Relevant Geographic Markets

The Complaint alleges that the relevant geographic markets are Northern California, Southern California, Northern Texas, and the Upper Midwest. These markets are defined based on metropolitan statistical areas (''MSAs'') as follows:

- *Northern California* encompasses the Santa Rosa-Petaluma, Napa, Sacramento-Arden-Arcade-Roseville, Stockton, Vallejo-Fairfield, San Francisco-Oakland-Fremont, Santa Cruz-Watsonville, San Jose-Sunnyvale-Santa Clara, Merced, and Modesto MSAs;
- *Southern California* encompasses the Los Angeles-Long Beach-Santa Ana, Riverside-San Bernardino-Ontario, and San Diego-Carlsbad-San Marcos MSAs;
- *Northern Texas* encompasses the Dallas-Fort Worth-Arlington MSA; and the
- *Upper Midwest* encompasses the Minneapolis-St. Paul-Bloomington, Eau Claire, Madison, La Crosse, and Rochester MSAs.

The relevant geographic markets in this case are best defined by the locations of customers. Flour millers take into account rivals' mills that can economically supply a customer when determining the price at which to sell to that customer. Because transportation costs are an important component of the delivered price of flour, local mills tend to be more cost-effective sources of supply than mills located further away from the customer. When a customer has few local mills capable of supplying it with the flour it needs at a relatively low cost, a miller will charge a higher price to the customer. On the other hand, when a customer has many nearby mills capable of supplying it, a miller will charge a lower price. Thus, flour millers price differently to different customers depending on their location.

Most flour customers are unable to defeat such pricing by arbitrage. That is, they cannot secure flour at a lower price from customers in other areas. Customers' ability to arbitrage is limited by transportation costs, which limit the distance that flour can be shipped cost effectively. In addition, securing flour from other customers increases the number of times that flour changes hands, and potentially increases the number of transportation modes used, which increases food safety and quality risks, making arbitrage by buying flour from customers in other areas undesirable.

Because of differential pricing and the inability of most wheat flour customers to arbitrage, a hypothetical monopolist controlling the sale of all hard wheat flour to customers in Northern California, Southern California, Northern Texas, or the Upper Midwest, or the sale of all soft wheat flour to customers in Southern California or Northern Texas, would profitably impose a small but significant and nontransitory increase in the price (''SSNIP'') of each relevant product. It is appropriate to aggregate flour customers in each of these areas because each customer in the area faces similar

supply options and, hence, would similarly be affected by the formation of Ardent Mills.

E. Relevant SSNIP

The Division applies the hypothetical monopolist test to help define relevant markets. This test asks whether a hypothetical monopolist of a product, or of a product in an area, would profitably impose a SSNIP. When applying the hypothetical monopolist test, the Division typically bases the SSNIP on the price of the final product to a consumer. In this case, however, the Division based the SSNIP primarily on the ''block,'' which is the primary component of the delivered price of flour that is determined by competition among millers.

The use of a smaller SSNIP in this case is consistent with the Horizontal Merger Guidelines, which state that ''[w]here explicit or implicit prices for . . . firms' specific contribution to value can be identified with reasonable clarity,'' those prices (instead of the total price paid by customers) may be the relevant benchmark for analyzing whether a hypothetical monopolist would profitably impose a SSNIP.[3] This method of analysis better directs attention to what ''might result from a significant lessening of competition caused by'' the joint venture.[4]

Flour millers' specific contribution to value largely involves the conversion of wheat into flour, for which the block is the primary form of compensation. Moreover, competition among wheat flour millers largely is centered on the block, whether explicitly (for customers who seek to identify each of the five components of delivered price) or implicitly (for customers who pay a flat delivered price). Thus, the lessening of competition resulting from the formation of Ardent Mills largely would result in an increase in the block, which in turn would increase the delivered price of flour to customers. As a result, basing the SSNIP primarily on the block, rather than the delivered price of flour, is appropriate in this case.

F. Competitive Effects of the Proposed Joint Venture

The Complaint alleges that the formation of Ardent Mills would eliminate head-to-head competition between ConAgra Mills and Horizon for sales to individual customers, increase the likelihood of capacity closures, and increase the likelihood of anticompetitive coordination among wheat flour millers.

1. Market Shares and Concentration

The Complaint alleges that the formation of Ardent Mills would increase concentration in each relevant market. Market concentration levels often indicate the likely competitive effects of a transaction—the higher the concentration, and the more the proposed transaction would increase concentration, the greater the likelihood that the transaction would reduce competition. The Complaint alleges that each relevant market is already concentrated, and that the joint venture would significantly increase concentration in each market, indicating that the joint venture likely would substantially lessen competition in the relevant markets.

Due to transportation costs—which increase as shipping distances increase—most competition in the relevant markets occurs among millers with flour mills that are close to customers in the relevant geographic markets. In particular, mills located close enough to customers to allow for economical direct truck shipments of flour (*i.e.,* no more than 150 to 200 miles from customers) typically are the most effective competitors for those customers' business. Although some millers located more than 200 miles from a customer may sell flour into a geographic market, higher transportation costs typically render distant millers less competitive.

Detailed information on the sales and costs of each miller selling into a geographic market would permit one to compute sales shares for each relevant market. Absent that information, market shares and concentration levels based on milling capacity within 200 miles of key cities within each market serve to illuminate the likely competitive effects of the joint venture. Each such 200-mile area includes the flour millers who typically can serve customers at the lowest cost, and competition will most directly be affected by a loss of competition among those millers.

The market shares and concentration levels identified in the Complaint indicate that the formation of Ardent Mills would give it a large share of capacity—as well as a large share of sales—presumptively enhancing market power in each relevant market. Transactions are presumed likely to enhance market power where they would raise a measure of market concentration called the Herfindahl-Hirschman Index (''HHI'')[5] more than 200 points to a total of more than 2500 points. In each relevant market, the formation of Ardent Mills would do so:

- *Northern California.* Ardent Mills would own two mills in this area comprising approximately 70 percent of the hard wheat flour capacity within 200 miles of San Francisco. The joint venture would increase the HHI for hard wheat flour in this market to more than 5,000.
- *Southern California.* Ardent Mills would own three mills in this area comprising more than 40 percent of hard wheat flour milling capacity within 200 miles of Los Angeles; the joint venture would increase the HHI for hard wheat flour in this market to more than 2,500. Ardent Mills would also own two mills comprising more than 70 percent of soft wheat flour milling capacity; the joint venture would increase the HHI for soft wheat flour in this market to more than 5,500.
- *Northern Texas.* Ardent Mills would own three mills in this area comprising more than 75 percent of hard wheat flour milling capacity within 200 miles of Dallas–Ft. Worth. The joint venture would increase the HHI for hard wheat flour to more than 6,000. Ardent Mills would also own two mills comprising all soft wheat flour milling capacity, increasing the HHI for soft wheat flour to 10,000.
- *Upper Midwest.* Ardent Mills would control six mills in this area comprising more than 60 percent of the hard wheat flour milling capacity within 200 miles of Minneapolis. The joint venture would increase the HHI for hard wheat flour in this market to more than 4,500.

2. Elimination of Head-to-Head Competition

The Complaint alleges that the formation of the joint venture likely would substantially lessen competition in the relevant markets by eliminating head-to-head competition between ConAgra Mills and Horizon. Horizon

[3] *See* U.S. Dep't of Justice and Federal Trade Commission, Horizontal Merger Guidelines § 4.1.2 (2010), *available at http://www.justice.gov/atr/public/guidelines/hmg-2010 html.*

[4] *Id.*

[5] *See* U.S. Dep't of Justice and Federal Trade Commission, Horizontal Merger Guidelines § 5.3 (2010), *available at http://www.justice.gov/atr/public/guidelines/hmg-2010 html.* The HHI is calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers. For example, for a market consisting of four firms with shares of 30, 30, 20, and 20 percent, the HHI is 2,600 (302 + 302 + 202 + 202 = 2,600). The HHI takes into account the relative size distribution of the firms in a market. It approaches zero when a market is occupied by a large number of firms of relatively equal size and reaches its maximum of 10,000 points when a market is controlled by a single firm. The HHI increases both as the number of firms in the market decreases and as the disparity in size between those firms increases.

and ConAgra Mills operate mills that are close to one another in the relevant geographic markets, and that are among those closest to many customers in those markets. Because their mills are the closest mills to many customers, Horizon's and ConAgra's delivered flour costs tend to be lower than those of their rivals' more distant mills. Moreover, because their mills are located close to one another, Horizon's and ConAgra's flour transportation costs tend to be similar.

As a result of the proximity of their mills to one another—and to one another's customers—Horizon and ConAgra frequently are among the lowest-cost flour suppliers in the relevant markets, and they compete aggressively against one another to make sales in those markets by offering a lower delivered price to their customers. Indeed, wheat flour customers in the relevant markets have obtained lower flour prices—largely by securing a smaller block—by playing ConAgra Mills and Horizon against one another during negotiations. The formation of Ardent Mills would eliminate that competition, resulting in higher hard wheat flour prices for customers in Northern California, Southern California, Northern Texas, and the Upper Midwest, and higher soft wheat flour prices for customers in Southern California and Northern Texas.

3. Increased Likelihood of Capacity Closures

The Complaint alleges that the formation of Ardent Mills likely would substantially lessen competition in the relevant markets by increasing the likelihood of unilateral, anticompetitive capacity closures.

A miller will find it profitable to unilaterally close capacity if any lost profit due to lower sales would be more than offset by a corresponding increase in profit on sales made at a higher price due to the capacity closure. A wheat flour miller with a relatively large base of milling capacity that can benefit from a price increase has a greater incentive to shut capacity, forcing higher cost capacity to step in and increase flour production to meet demand. The joint venture would significantly increase Ardent Mills's base of capacity relative to that of ConAgra Mills or Horizon standing alone, giving Ardent Mills a greater incentive to unilaterally close capacity than either ConAgra Mills or Horizon would have had.

Ardent Mills also would have a greater ability to unilaterally close capacity than either ConAgra Mills or Horizon. Relatively high-cost mills make an attractive target for capacity closures. All else equal, higher-cost capacity yields lower profits. Closing high-cost capacity is more attractive than closing low-cost capacity because profits lost due to closing high-cost capacity are smaller. Because the joint venture would give Ardent Mills a broader array of capacity from which to choose capacity to close—including relatively high-cost capacity—it would increase the ability of the joint venture to profitably shut down capacity. When combined with the increased incentive to close capacity, this increased ability increases the likelihood that Ardent Mills will close capacity, with the result that Ardent Mills and its remaining rivals will compete less aggressively for the business of flour customers, ultimately increasing prices in the relevant markets.

4. Increased Likelihood of Anticompetitive Coordination

The Complaint alleges that the formation of Ardent Mills likely would substantially lessen competition in the relevant markets by increasing the likelihood of anticompetitive coordination among flour millers. Such coordination occurs where competing firms reach implicit or explicit agreements on output, capacity, price, quality, or other aspects of competition. Such coordination also could occur as a result of parallel accommodating conduct. As described in Section 7 of the Merger Guidelines, ''[p]arallel accommodating conduct [involves] situations in which each rival's response to competitive moves made by others is individually rational, and not motivated by retaliation or deterrence nor intended to sustain an agreed-upon market outcome, but nevertheless emboldens price increases and weakens competitive incentives to reduce prices or offer customers better terms.''

Several features of hard wheat flour and soft wheat flour markets render them susceptible to coordination. In particular, the Complaint alleges these markets are transparent; that soft and hard wheat flour are homogeneous and purchased frequently; that demand for soft and hard wheat flour is inelastic; and that larger millers compete against one another in multiple geographic markets. By eliminating a significant independent competitor from each of the relevant markets, which already are highly concentrated and are susceptible to anticompetitive coordination, the joint venture would substantially increase the likelihood of coordination among Ardent Mills and its few remaining rivals.

The joint venture would further increase the likelihood of anticompetitive coordination by permitting Cargill and CHS to share certain wheat-related information with Ardent Mills. Under side agreements to the Master Agreement forming Ardent Mills, Cargill and CHS (both of which own grain trading businesses that would operate independently of Ardent) are to be preferred suppliers to the joint venture. These side agreements may permit Cargill and CHS to give Ardent Mills information regarding wheat purchases and wheat uses by the joint venture's rival millers. The exchange of such information would make it easier for Ardent to monitor its rivals' behavior and discipline deviations from coordinated strategies, substantially increasing the likelihood of coordination in the relevant markets.

III. EXPLANATION OF THE PROPOSED FINAL JUDGMENT

A. Divestiture Requirement

The Proposed Final Judgment requires divestitures of individual wheat flour mills that will eliminate the anticompetitive effects of the formation of Ardent Mills by establishing a substantial, independent and economically viable competitor in each relevant market. The divestitures are to be made to Miller Milling Company, LLC (''Miller Milling''). As explained in the *Antitrust Division Policy Guide to Merger Remedies,* the Antitrust Division may require such upfront buyers when a divested package is less than an existing business entity.[6] In this case, the mills to be divested are not existing business entities; rather, the operation of each mill is intertwined with the operation of Defendants' other wheat flour mills.[7] An upfront buyer is appropriate to ensure that the acquirer will have all assets necessary to be an effective, long-term competitor in the production and sale of flour. The United States can evaluate the ability of a buyer to take the Divestiture Assets and operate them as part of a complete flour milling company that can replace the competition lost due to the proposed joint venture.

The Proposed Final Judgment requires Defendants, within ten (10) days after the Court signs the Hold Separate Stipulation and Order, to divest to

[6] U.S. Department of Justice, Antitrust Division Policy Guide to Merger Remedies (June 2011), *available at http://www.justice.gov/atr/public/guidelines/272350.pdf* (identifying an upfront buyer provides greater assurance that the divestiture package contains the assets needed to create a viable entity that will preserve competition).

[7] The purchase of wheat, sale of flour, and arrangement of transportation of wheat and flour are examples of functions that are centralized rather than based at the mill sites.

Miller Milling four mills: ConAgra's mills located in New Prague, Minnesota; Oakland, California; and Saginaw, Texas; and Horizon's mill located in Los Angeles, California. In its sole discretion, the United States may agree to one or more extensions of this period not to exceed thirty (30) days in total. As the United States already has approved the acquirer, any such extensions need not be as long as ordinarily is the case when acquirers are not identified upfront. Defendants must take all reasonable steps necessary to accomplish the divestiture quickly and shall cooperate with prospective purchasers.

In the event that, through no action of the Defendants, the sale of any of the Divestiture Assets cannot be completed, the Final Judgment provides for the United States, in its sole discretion, to agree to the sale of the unsold Divestiture Assets to an alternative purchaser approved by the United States. If Defendants fail to sell the Divestiture assets to Miller Milling or approved alternative purchasers within the time permitted by the Final Judgment, the Final Judgment provides that the Court will appoint a trustee selected by the United States to effect the divestiture.

If a trustee is appointed, the Proposed Final Judgment provides that Defendants will pay all costs and expenses of the trustee. The trustee's commission will be structured so as to provide an incentive for the trustee based on the price obtained and the speed with which the divestiture is accomplished. After the trustee's appointment becomes effective, the trustee will file monthly reports with the Court and the United States setting forth his or her efforts to accomplish the divestiture. At the end of six months, if the divestiture has not been accomplished, the trustee and the United States will make recommendations to the Court, which shall enter such orders as appropriate, in order to carry out the purpose of the trust, including extending the trust or the term of the trustee's appointment.

In addition, because experienced, knowledgeable personnel are critical to success in the relevant markets—and may be even more critical to a new entrant seeking to secure customers' business—the Proposed Final Judgment provides the acquirer(s) with an expansive right to hire relevant personnel without interference. The Proposed Final Judgment gives the acquirer(s) the right to hire any and all of Defendants' employees who are employed at, purchase or advise on the purchase of wheat or wheat futures for, provide instructions, guidance, or assistance relating to food safety or quality assurance for, or sell or arrange for transportation of wheat flour or any wheat flour byproducts from the assets to be divested. The Proposed Final Judgment contains numerous provisions to facilitate the hiring and retention of these employees. These provisions require Defendants to provide detailed information about each relevant employee, to grant reasonable access to relevant employees and the ability to interview them, and to refrain from interfering with negotiations to hire any relevant employee.

B. Nondisclosure of Wheat Customer Confidential Information Requirement

The Proposed Final Judgment prohibits Cargill, CHS, and ConAgra from disclosing to Ardent Mills any non-public, customer-specific information relating to wheat sales or usage, and it prohibits Ardent Mills from soliciting or receiving such information from Cargill, CHS, or ConAgra, or from using such information. No later than seven (7) calendar days after the Final Judgment is entered by the Court, the Proposed Final Judgment requires Defendants to distribute a copy of the Final Judgment to each of their employees with responsibility for wheat sales or flour sales. The Proposed Final Judgment requires Defendants to distribute a copy of the Final Judgment and this Competitive Impact Statement to each of their employees with responsibility for wheat sales or flour sales, as well as to any person who succeeds to a position with responsibility for wheat sales or flour sales within thirty (30) calendar days of that succession. These documents also are to be distributed annually to such employees.

IV. REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

Section 4 of the Clayton Act, 15 U.S.C. § 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the Proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. § 16(a), the Proposed Final Judgment has no prima facie effect in any subsequent private lawsuit that may be brought against Defendants.

V. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT

The United States and Defendants have stipulated that the Proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the Proposed Final Judgment is in the public interest. The APPA provides a period of at least sixty (60) days preceding the effective date of the Proposed Final Judgment within which any person may submit to the United States written comments regarding the Proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the U.S. Department of Justice, which remains free to withdraw its consent to the Proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of the United States will be filed with the Court. In addition, comments will be posted on the U.S. Department of Justice, Antitrust Division's internet Web site and, under certain circumstances, published in the **Federal Register**.

Written comments should be submitted to: Maribeth Petrizzi, Chief, Litigation II Section, Antitrust Division, United States Department of Justice, 450 Fifth Street NW., Suite 8700, Washington, DC 20530.

The Proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

The United States considered, as an alternative to the Proposed Final Judgment, a full trial on the merits against Defendants. The United States could have continued the litigation and sought preliminary and permanent injunctions against Defendants' formation of Ardent Mills. The United States is satisfied, however, that the divestiture of assets requirement and the nondisclosure of wheat customer confidential information requirement

described in the Proposed Final Judgment will preserve competition for the provision of hard wheat flour to customers in Northern California, Southern California, Northern Texas, and the Upper Midwest, and for the provision of soft wheat flour to customers in Southern California and Northern Texas, the relevant markets identified by the United States. Thus, the Proposed Final Judgment would achieve all or substantially all of the relief the United States would have obtained through litigation, but avoids the time, expense, and uncertainty of a full trial on the merits of the Complaint.

VII. STANDARD OF REVIEW UNDER THE APPA FOR THE PROPOSED FINAL JUDGMENT

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the Proposed Final Judgment ''is in the public interest.'' 15 U.S.C. § 16(e)(1). In making that determination, the court, in accordance with the statute as amended in 2004, is required to consider:

> (A) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and
>
> (B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint 7 including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. § 16(e)(1)(A) & (B). In considering these statutory factors, the court's inquiry is necessarily a limited one, as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cir. 1995); *see generally United States* v. *SBC Commc'ns, Inc.,* 489 F. Supp. 2d 1 (D.D.C. 2007) (assessing the public interest standard under the Tunney Act); *United States* v. *InBev N.V./S.A.,* 2009–2 Trade Cas. (CCH) ¶ 76,736, 2009 U.S. Dist. LEXIS 84787, No. 08–1965 (JR), at *3, (D.D.C. Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires ''into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanism to enforce the final judgment are clear and manageable'').[8]

As the United States Court of Appeals for the District of Columbia Circuit has held, under the APPA a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988) (citing *United States* v. *Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); *see also Microsoft,* 56 F.3d at 1460–62; *United States* v. *Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *3. Courts have held that:

> [t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''*within the reaches of the public interest.''* More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[9] In determining whether a proposed settlement is in the public interest, a district court ''must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17; *see also Microsoft,* 56 F.3d at 1461 (noting the need for courts to be ''deferential to the government's predictions as to the effect of the proposed remedies''); *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States' prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case).

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' '' *United States* v. *Am. Tel. & Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff'd sub nom. Maryland* v. *United States,* 460 U.S. 1001 (1983); *see also United States* v. *Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States ''need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17.

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and the APPA does not authorize the court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459; *see also InBev,* 2009 U.S. Dist. LEXIS 84787, at *20 (''[T]he 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged.''). Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d at 1459–60. As this Court recently confirmed in

[8] The 2004 amendments substituted ''shall'' for ''may'' in directing relevant factors for court to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. *Compare* 15 U.S.C. § 16(e) (2004), *with* 15 U.S.C. § 16(e)(1) (2006); *see also SBC Commc'ns,* 489 F. Supp. 2d at 11 (concluding that the 2004 amendments ''effected minimal changes'' to Tunney Act review).

[9] *Cf. BNS,* 858 F.2d at 464 (holding that the court's ''ultimate authority under the [APPA] is limited to approving or disapproving the consent decree''); *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass''). *See generally Microsoft,* 56 F.3d at 1461 (discussing whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest' '').

SBC Communications, courts ''cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.'' *SBC Commc'ns,* 489 F. Supp. 2d at 15.

In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. § 16(e)(2). The language wrote into the statute what Congress intended when it enacted the Tunney Act in 1974, as Senator Tunney explained: ''The court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Senator Tunney). Rather, the procedure for the public interest determination is left to the discretion of the court, with the recognition that the court's ''scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.'' *SBC Commc'ns,* 489 F. Supp. 2d at 11.[10]

VIII. DETERMINATIVE DOCUMENTS

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the Proposed Final Judgment.

Dated: May 20, 2014

Respectfully submitted,

JOHN M. NEWMAN
Attorney
Antitrust Division
MARK J. NIEFER*
(D.C. BAR# 470370)
Attorney
Antitrust Division
U.S. Department of Justice
450 Fifth Street, NW., Suite 8000
Washington, DC 20530
Telephone: (202) 307–6318
Facsimile: (202) 616–2441
Email: *mark.niefer@usdoj.gov*
*Attorney of Record

[10] *See United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the ''Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone''); *United States* v. *Mid-Am. Dairymen, Inc.,* 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.D. Mo. 1977) (''Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.''); S. Rep. No. 93–298, 93d Cong., 1st Sess., at 6 (1973) (''Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.'').

UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,
Plaintiff,
v.
CONAGRA FOODS, INC.,
HORIZON MILLING, LLC,
CARGILL INCORPORATED,
and
CHS INC.,
Defendants.

Case No.: 1:14-cv-00823
Judge: Hon. Ketanji Brown Jackson
Dated: May 20, 2014

PROPOSED FINAL JUDGMENT

WHEREAS, Plaintiff United States of America (''United States'') filed its Complaint on May 20, 2014, the United States and Defendants, by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party regarding any issue of fact or law;

AND WHEREAS, Defendants agree to be bound by the provisions of this Final Judgment pending its approval by the Court;

AND WHEREAS, the essence of this Final Judgment is the prompt and certain divestiture of certain rights or assets by Defendants to assure that competition is not substantially lessened;

AND WHEREAS, the United States requires Defendants to make certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

AND WHEREAS, Defendants have represented to the United States that the divestitures required below can and will be made and that Defendants will later raise no claim of mistake, hardship or difficulty of compliance as grounds for asking the Court to modify any of the provisions contained below;

NOW THEREFORE, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is ORDERED, ADJUDGED, AND DECREED:

I. JURISDICTION

This Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states a claim upon which relief may be granted against Defendants under Section 7 of the Clayton Act, as amended (15 U.S.C. § 18), and Section 1 of the Sherman Act, 15 U.S.C. § 1.

II. DEFINITIONS

As used in this Final Judgment:

A. ''Acquirer'' means Miller Milling, or another entity or entities to which Defendants divest the Los Angeles Mill, the New Prague Mill, the Oakland Mill, and the Saginaw Mill.

B. ''Ardent Mills'' means the joint venture that will be formed by the Transaction.

C. ''Cargill'' means Defendant Cargill Incorporated, a privately held company that is incorporated in Delaware and headquartered in Wayzata, Minnesota, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, including Ardent Mills, and their directors, officers, managers, agents, and employees.

D. ''CHS'' means Defendant CHS Inc., a Minnesota corporation headquartered in Inver Grove Heights, Minnesota, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, including Ardent Mills, and their directors, officers, managers, agents, and employees.

E. ''ConAgra'' means Defendant ConAgra Foods, Inc., a Delaware corporation headquartered in Omaha, Nebraska, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, including Ardent Mills, and their directors, officers, managers, agents, and employees.

F. ''Horizon'' means Defendant Horizon Milling, LLC, a joint venture between Cargill and CHS headquartered in Wayzata, Minnesota, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, including Ardent Mills, and their directors, officers, managers, agents, and employees.

G. ''Divestiture Assets'' means the assets listed in Schedule A.

H. ''Los Angeles Mill'' means Item 2 on Schedule A and the assets associated with Item 2 that are listed in Item 3 on Schedule A.

I. ''New Prague Mill'' means Item 1(a) on Schedule A and the assets associated with Item 1(a) that are listed in Item 3 on Schedule A.

J. ''Oakland Mill'' means Item 1(b) on Schedule A and the assets associated with Item 1(b) that are listed in Item 3 on Schedule A.

K. ''Saginaw Mill'' means Item 1(c) on Schedule A and the assets associated with Item 1(c) that are listed in Item 3 on Schedule A.

L. ''Miller Milling'' means Miller Milling Company, LLC, a Minnesota limited liability company headquartered in Minneapolis, Minnesota, its parent, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

M. ''Transaction'' means the proposed formation of the Ardent Mills Joint Venture pursuant to the March 4, 2013 Master Agreement by and among ConAgra, Cargill, CHS, and HM Luxembourg S.A.R.L., as amended.

N. ''Wheat Customer Confidential Information'' means any customer-specific information not in the public domain that reflects:

1. wheat sales by Defendants to customers or potential customers other than Ardent Mills, including, but not limited to, the type of wheat purchased, origination or delivery point of purchased wheat, date of purchase, purchase price or quantities, or mode or cost of delivery; or

2. wheat use by such customers or potential customers (other than Defendants in connection with their wheat use to manufacture products for themselves or others), including, but not limited to, the types of products produced using wheat as an input, and the price charged, quantity produced, or capacity or cost to produce such products.

III. APPLICABILITY

A. This Final Judgment applies to Defendants and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

B. If, prior to complying with Sections IV and V of this Final Judgment, Defendants sell or otherwise dispose of all or substantially all of their assets or of lesser business units that include the Divestiture Assets, they shall require the purchaser to be bound by the provisions of this Final Judgment. Defendants need not obtain such an agreement from the Acquirer(s) of the assets divested pursuant to this Final Judgment.

IV. DIVESTITURES

A. Defendants are ordered and directed, within ten (10) calendar days after the Court signs the Hold Separate Stipulation and Order in this matter, to divest the Los Angeles Mill, New Prague Mill, Oakland Mill, and Saginaw Mill to Miller Milling in a manner consistent with this Final Judgment. Defendants shall use their best efforts to accomplish the divestitures ordered by this Final Judgment as expeditiously as possible. The United States, in its sole discretion, may agree to one or more extensions of this time period not to exceed thirty (30) calendar days in total, and shall notify the Court of any such extension. In the event that, through no action of Defendants, the sale of any of the Divestiture Assets cannot be consummated, the United States, in its sole discretion, may agree to the sale of the unsold Divestiture Assets to an alternative Acquirer(s) approved by the United States.

B. Defendants shall offer to furnish to Acquirer(s), subject to customary confidentiality assurances, all information and documents relating to the Divestiture Assets customarily provided in a due diligence process, except such information or documents subject to the attorney-client privilege or work-product doctrine. Defendants shall make available such information to the United States at the same time that such information is made available to the Acquirer(s).

C. Defendants shall permit the Acquirer(s) to have reasonable access to personnel and to make inspections of the physical facilities associated with the Divestiture Assets; access to any and all environmental, zoning, and other permit documents and information; and access to any and all financial, operational, or other documents and information customarily provided as part of a due diligence process, except such information or documents subject to the attorney client privilege or the work-product doctrine.

D. Defendants shall warrant to the Acquirer(s) that each asset will be operational on the date of sale.

E. Defendants shall not take any action that will impede in any way the permitting, operation, or divestiture of the Divestiture Assets.

F. Defendants shall warrant to the Acquirer(s) that there are no material defects in the environmental, zoning or other permits pertaining to the operation of each asset, and that following the sale of the Divestiture Assets, Defendants will not undertake, directly or indirectly, any challenges to the environmental, zoning, or other permits relating to the operation of the Divestiture Assets.

G. At the option of the Acquirer(s) of the Divestiture Assets, Defendants shall enter into one or more transition services agreements. These agreements may include, but not be limited to, services relating to the packaging of flour, the purchase of wheat or other ingredients, the inbound transportation of wheat or other ingredients, the outbound transportation of flour or millfeed, or the milling of flour.

1. The terms and conditions of any contractual arrangement meant to satisfy this provision must be reasonably related to market conditions. The duration of any transition services agreement shall not be longer than six (6) months from the date of divestiture. The United States, in its sole discretion, may approve an extension of the term of any transition services agreement for a period of up to six (6) months. If the Acquirer(s) seeks an extension of the term of any transition services agreement, it shall so notify the United States in writing at least two (2) months prior to the date the transition services agreement expires. The United States shall respond to any such request for extension in writing at least one (1) month prior to the date the transition services agreement expires.

2. If in conjunction with a transition services agreement pursuant to Subparagraph (1) above, Defendants temporarily assign any employee to the Acquirer(s) to fill a position at a mill to be divested, such employee (a) shall not be assigned to Acquirer(s) longer than six (6) months from the date of divestiture of the Divestiture Assets; (b) shall be located at the mill; (c) shall not, during the temporary assignment, reveal to the Acquirer(s), or make use of, any non-public information concerning Defendants; (d) shall not, during or subsequent to the temporary assignment, reveal to Defendants or anyone else any non-public information concerning Acquirer(s); (e) shall not, subsequent to the temporary assignment, make use of any non-public information concerning Acquirer(s); and (f) shall not retain or convey to others any documents, data, or tangible things concerning the Acquirer(s) obtained during the temporary assignment. Any temporary employee assignment pursuant to this subparagraph IV(G)(2) cannot be extended beyond six (6) months, even if the United States, in its sole discretion, approves an extension of the related transition services agreement.

3. Defendants shall distribute a copy of this Final Judgment and related Competitive Impact Statement to any employees who perform services for the Acquirer(s) pursuant to Paragraph IV(G)(2).

H. Unless the United States otherwise consents in writing, the divestiture by Defendants pursuant to Section IV, or by the trustee appointed pursuant to Section V, of this Final Judgment, shall include the entire Divestiture Assets,

and shall be accomplished in such a way as to satisfy the United States, in its sole discretion, that the Divestiture Assets can and will be used by the Acquirer(s) as part of a viable ongoing business producing and selling wheat flour. Divestiture of the Divestiture Assets may be made to one or more Acquirers, provided that in each instance it is demonstrated to the sole satisfaction of the United States that the Divestiture Assets will remain viable and the divestiture of such assets will remedy the competitive harm alleged in the Complaint. The divestitures, whether pursuant to Section IV or Section V of this Final Judgment:

1. shall be made to an Acquirer(s) that, in the United States's sole judgment, has the intent and capability (including the necessary managerial, operational, technical and financial capability) of competing effectively as a producer and seller of wheat flour; and

2. shall be accomplished so as to satisfy the United States, in its sole discretion, that none of the terms of any agreement between the Acquirer(s) and Defendants gives Defendants the ability unreasonably to raise the Acquirer's costs, to lower the Acquirer's efficiency, or otherwise to interfere in the ability of the Acquirer or Acquirers to compete effectively.

V. APPOINTMENT OF TRUSTEE

A. If Defendants have not divested all of the Divestiture Assets within the time period specified in Paragraph IV(A), Defendants shall notify the United States of that fact in writing. Upon application of the United States, the Court shall appoint a trustee selected by the United States and approved by the Court to effect the divestiture of any of the Divestiture Assets not yet divested.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to sell the Divestiture Assets. The trustee shall have the power and authority to accomplish the divestiture to an Acquirer(s) acceptable to the United States at such price and on such terms as are then obtainable upon reasonable effort by the trustee, subject to the provisions of Sections IV, V, and VI of this Final Judgment, and shall have such other powers as this Court deems appropriate. Subject to Paragraph V(D) of this Final Judgment, the trustee may hire at the cost and expense of Defendants any investment bankers, attorneys, or other agents, who shall be solely accountable to the trustee, reasonably necessary in the trustee's judgment to assist in the divestiture.

C. Defendants shall not object to a sale by the trustee on any ground other than the trustee's malfeasance. Any such objections by Defendants must be conveyed in writing to the United States and the trustee no later than ten (10) calendar days after the trustee has provided the notice required under Section VI.

D. The trustee shall serve at the cost and expense of Defendants, on such terms and conditions as the United States approves, including confidentiality requirements and conflict of interest certifications. The trustee shall account for all monies derived from the sale of the assets sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services yet unpaid and those of any professionals and agents retained by the trustee, all remaining money shall be paid to Defendants and the trust shall be terminated. The compensation of the trustee and any professionals and agents retained by the trustee shall be reasonable in light of the value of the Divestiture Assets and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished, but timeliness is paramount. If the trustee and Defendants are unable to reach agreement on the trustee's compensation or other terms and conditions of sale within fourteen (14) calendar days of appointment of the trustee, the United States may, in its sole discretion, take appropriate action, including making a recommendation to the Court.

E. Defendants shall use their best efforts to assist the trustee in accomplishing the required divestitures. The trustee and any consultants, accountants, attorneys, and other agents retained by the trustee shall have full and complete access to the personnel, books, records, and facilities of the assets to be divested, and Defendants shall develop financial and other information relevant to such business as the trustee may reasonably request, subject to reasonable protection for trade secret or other confidential research, development, or commercial information, except such information or documents subject to the attorney client privilege or work-product doctrine. Defendants shall take no action to interfere with or to impede the trustee's accomplishment of the divestitures.

F. After its appointment, the trustee shall file monthly reports with the United States and, as appropriate, the Court, setting forth the trustee's efforts to accomplish the divestitures ordered under this Final Judgment. To the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person. The trustee shall maintain full records of all efforts made to divest the Divestiture Assets.

G. If the trustee has not accomplished the divestitures ordered under this Final Judgment within six (6) months after the trustee's appointment, the trustee shall promptly file with the Court a report setting forth: (1) the trustee's efforts to accomplish the required divestitures; (2) the reasons, in the trustee's judgment, why the required divestitures have not been accomplished; and (3) the trustee's recommendations. To the extent such report contains information that the trustee deems confidential, such report shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the United States, which shall have the right to make additional recommendations consistent with the purpose of the trust. The Court thereafter shall enter such orders as it shall deem appropriate to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by the United States.

H. If the United States determines that the trustee has ceased to act or failed to act diligently or in a reasonably cost-effective manner, it may recommend the Court appoint a substitute trustee.

VI. NOTICE OF PROPOSED DIVESTITURE

A. If the trustee is responsible for effecting the divestitures required herein, within two (2) business days following execution of a definitive divestiture agreement, the trustee shall notify the United States and Defendants of any proposed divestiture required by Section V of this Final Judgment. The notice provided to the United States shall set forth the details of the proposed divestiture and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Divestiture Assets, together with full details of the same.

B. Within fifteen (15) calendar days of receipt by the United States of such

notice, the United States may request from Defendants, the proposed Acquirer(s), any other third party, or the trustee, if applicable, additional information concerning the proposed divestiture, the proposed Acquirer(s), and any other potential Acquirer. Defendants and the trustee shall furnish any additional information requested, except such information or documents subject to the attorney client privilege or work-product doctrine within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree.

C. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after the United States has been provided the additional information requested from Defendants, the proposed Acquirer or Acquirers, any third party, and the trustee, whichever is later, the United States shall provide written notice to Defendants and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. If the United States provides written notice that it does not object, the divestiture may be consummated, subject only to Defendants' limited right to object to the sale under Paragraph V(C) of this Final Judgment. Absent written notice that the United States does not object to the proposed Acquirer(s) or upon objection by the United States, a divestiture proposed under Sections IV or V shall not be consummated. Upon objection by Defendants under Paragraph V(C), a divestiture proposed under Section V shall not be consummated unless approved by the Court.

VII. RIGHT TO HIRE

A. To enable the Acquirer(s) to make offers of employment, Defendants shall provide the Acquirer(s) and the United States information relating to the personnel who are employed at, purchase wheat for, purchase or advise on the purchase of wheat futures for, provide instructions, guidance, or assistance relating to food safety or quality assurance for, or who sell or arrange transportation for flour, millfeed or any other product produced at any of the mills listed in 1(a)–(c) and 2 in Schedule A. The information provided by Defendants shall include for each employee his or her name, job title, responsibilities as of January 1, 2014, training and educational history, relevant certifications, and, to the extent permissible by law, job performance evaluations, and current salary and benefits information.

B. Defendants shall make personnel available for interviews with the Acquirer(s) during normal business hours at a mutually agreeable location and will not interfere with any negotiations by the Acquirer or Acquirers to employ any of the personnel employed at the facilities listed in 1(a)–(c) and 2 in Schedule A. Interference with respect to this paragraph includes, but is not limited to, enforcement of noncompete and nondisclosure agreements and offers to increase an employee's salary or benefits other than as a part of a company-wide increase in salary or benefits.

1. For each employee who elects employment by the Acquirer(s), Defendants shall vest all unvested pension and other equity rights of that employee and provide all benefits to which the employee would have been entitled if terminated without cause, per the terms of the applicable plan(s). Defendants also shall waive all noncompete and nondisclosure agreements.

2. Nothing in this Section shall prohibit Defendants from maintaining any reasonable restriction on the disclosure by an employee who accepts an offer of employment with the Acquirer(s) of the Defendants' proprietary, non-public information that is (1) not otherwise required to be disclosed by this Final Judgment, (2) related solely to Defendants' businesses and clients, and (3) unrelated to the Divestiture Assets.

VIII. NONDISCLOSURE OF WHEAT CUSTOMER CONFIDENTIAL INFORMATION

A. Cargill, CHS, and ConAgra shall not disclose to Ardent Mills any Wheat Customer Confidential Information.

B. Ardent Mills shall not solicit or receive from Cargill, CHS, or ConAgra any Wheat Customer Confidential Information, or use any Wheat Customer Confidential Information received from Cargill, CHS, or ConAgra.

C. No later than seven (7) calendar days after the entry of this Final Judgment, Defendants shall distribute a copy of this Final Judgment and the Competitive Impact Statement to each of their employees with responsibility for wheat sales or flour sales.

D. Defendants shall distribute a copy of this Final Judgment and related Competitive Impact Statement to any person who succeeds to a position described in Paragraph VIII(C) within thirty (30) days of that succession.

E. Defendants shall annually furnish to each person designated in Paragraphs VIII(C) and VIII(D) a description and summary of the meaning and requirements of Section VIII of this Final Judgment.

F. Defendants shall report to the United States any violations of Section VIII (A) or VIII(B) of this Final Judgment.

IX. FINANCING

Defendants shall not finance all or any part of any purchase made pursuant to Section IV or V of this Final Judgment.

X. HOLD SEPARATE

Until the divestitures required by this Final Judgment have been accomplished, Defendants shall take all steps necessary to comply with the Hold Separate Stipulation and Order entered by this Court. Defendants shall take no action that would jeopardize the divestitures ordered by this Court.

XI. AFFIDAVITS

A. Within twenty (20) calendar days of the filing of the Complaint in this matter, Defendants shall deliver to the United States an affidavit that describes in reasonable detail all actions Defendants have taken and all steps Defendants have implemented on an ongoing basis to comply with Section X of this Final Judgment. Defendants shall deliver to the United States an affidavit describing any changes to the efforts and actions outlined in Defendants' earlier affidavits filed pursuant to this Section within fifteen (15) calendar days after the change is implemented.

B. Defendants shall keep all records of all efforts made to preserve and divest the Divestiture Assets until one year after such divestiture has been completed.

XII. COMPLIANCE INSPECTION

A. For the purposes of determining or securing compliance with this Final Judgment, or of any related orders such as the Hold Separate Stipulation and Order, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time authorized representatives of the United States Department of Justice, including consultants and other persons retained by the United States, shall, upon written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Defendants, be permitted:

1. access during Defendants' office hours to inspect and copy, or at the option of the United States, to require Defendants to provide hard copy or electronic copies of, all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of

Defendants, relating to any matters contained in this Final Judgment; and

2. to interview, either informally or on the record, Defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by Defendants.

B. Upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, Defendants shall submit written reports or responses to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this Section shall be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If, at the time information or documents are furnished by Defendants to the United States, Defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and Defendants mark each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure,'' then the United States shall give Defendants ten (10) calendar days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XIII. NO REACQUISITION

Defendants may not reacquire any part of the Divestiture Assets during the term of this Final Judgment, other than incidental purchases of finished goods, raw materials, spare parts, or other equipment offered by the Acquirer in the ordinary course of business.

XIV. RETENTION OF JURISDICTION

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XV. EXPIRATION OF FINAL JUDGMENT

Unless this Court grants an extension, this Final Judgment shall expire ten (10) years from the date of its entry.

XVI. PUBLIC INTEREST DETERMINATION

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, including making available to the public copies of this Final Judgment, the Competitive Impact Statement, and any comments thereon and the United States's responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and responses to comments filed with the Court, entry of this Final Judgment is in the public interest.

Date:_____

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. § 16

_____

United States District Judge

SCHEDULE A

1. ConAgra's ownership and leasehold interest in each of the following properties:

a. New Prague

i. The property at 100 2nd Avenue SW., New Prague, Minnesota 56071–2314;

ii. 2.46 acres of real property at 302 Second Street Northwest, New Prague, Minnesota pursuant to Lease Agreement, effective as of September 1, 2012, by and between ConAgra Foods, Inc. and City of New Prague, Minnesota;

iii. Lease of Property, dated June 1, 2001, by and between Union Pacific Railroad Company and ConAgra Foods, Inc.;

iv. Track Lease Agreement, dated March 1, 1989, by and between Union Pacific Railroad Company (as assignee of Chicago and North Western Transportation Company) and ConAgra Flour Milling Company;

b. Oakland

i. The property at 2201 East 7th Street, Oakland, California 94606–5301;

ii. The property at 401 Kennedy Street, Oakland, California 94606;

iii. The agreement for Service from Track of Railroad, dated July 26, 1991, by and between Southern Pacific Transportation Company and ConAgra, Inc.;

c. Saginaw

i. The property at 221 Fairmount Street, Saginaw, Texas 94606;

ii. The property at 221 South Fairmount Street, Saginaw, Texas 76179;

iii. The property at 220 South Fairmount Street, Saginaw, Texas 76179 (maintenance office that includes the machine shop and spare parts);

2. Horizon's ownership and leasehold interest in each of the following properties in Los Angeles, California:

a. Parcel 1 of Parcel Map NO 23131, in the City of Commerce, in the County of Los Angeles, State of California, as per map filed in Book 276 Pages 33–36 inclusive of Parcel Maps, in the Office of the County Recorder of said county;

i. Except therefrom all coal, oil, and other minerals, without the right to use any surface thereof, in and under that portion of said land lying within the lands described therein, as reserved by Las Vegas Land and Water Company, in deed recorded August 16, 1944 as instrument no. 15;

ii. Also excepting therefrom all minerals and minerals rights of every kind and nature, including oil and gas rights, without the right to enter upon the surface thereof, in and under that portion of said land lying within the lands described therein, as reserved by Union Pacific Railway Company, in deed recorded September 30, 1947 as instrument no. 278;

b. A perpetual easement for ingress and egress as established and more particularly described in that certain document entitled ''Reciprocal Easement Agreement for Driveway'' recorded May 23, 1980 as instrument no. 80–511791, of official records;

c. The Industry Track Contract between Union Pacific Railroad Company and Cargill, Incorporated, dated May 10, 2005;

d. The Sublease Agreement between Horizon Milling, LLC and Lowey Enterprises d/b/a Sunrise Produce, dated August 16, 2004;

e. The License Agreement between Horizon Milling LLC and 5469 Ferguson Drive, LLC (''Licensor'') allowing Horizon Mill's employees to park on a portion of Licensor's property.

3. For each property listed in 1(a)–(c) and 2 above and for the mill on that property,

a. all tangible assets (leased or owned) used at or for the operation or maintenance of the mill, including, but not limited to, all real property and improvements; machinery; equipment; hardware; fixtures (including production fixtures); computer hardware, other tangible information technology assets; furniture; laboratories or other assets used to test or evaluate wheat or flour; equipment or buildings used for the storage, offloading, or

onloading of wheat, flour, or millfeed; supplies; materials; vehicles; and spare parts in respect of any of the foregoing;

b. all improvements, fixed assets, and fixtures pertaining the mill or any other facility on the real property described in 1 (a)–(c) or 2 above, and for any real property on which any facility is located that is used in connection with the operation or maintenance of the mill, or for any real property used for wheat that will be processed at the mill or for flour, millfeed, or any other product produced at the mill;

c. all inventories, ingredients, raw materials, works-in-progress, finished goods, supplies, stock, parts, packaging materials and other accessories related thereto, including wheat or other ingredients that are in transit to the mill or flour, millfeed, or other products produced at the mill that is in transit to customers;

d. all real property and other legal rights possessed by Defendants relating to the use, control or operation of the mill, for elevators, storage, offloading or onloading or other facilities used for wheat to be processed by the mill or for flour, millfeed, or any other product produced at the mill, whether located on the same land as the mill or not, including but not limited to, fee simple ownership rights, easements and all other real property rights for land, improvements, and fixtures; leasehold and rental rights for facilities that are leased or rented, including all renewal or option rights; personal property ownership rights for equipment and other personal property; and contract rights with respect thereto;

e. all real property and other legal rights possessed by Defendants and not described in 3(d) above, relating to the real property described in 1(a)–(c) or 2 above, or any building thereon, including but not limited to, fee simple ownership rights, easements and all other real property rights for land, improvements, and fixtures; leasehold and rental rights for facilities that are leased or rented, including all renewal or option rights; personal property ownership rights for equipment and other personal property; and contract rights with respect thereto;

f. all assets not otherwise described in 3 (a)–(e) above that relate to the transportation of wheat to the mill, or flour, millfeed, or any other product from the mill, including, but not limited to, leases or rights to use rail-to-truck transfer facilities, or leases or ownership interests in rail spurs or rail lines;

g. all business records relating to operation of the mill located on the property, to transportation of wheat, flour, millfeed, or any other product produced at the mill, to the purchase of wheat, or to the sale of flour, millfeed, or any other product produced at the mill, or to any legal right in the real property described in 1 (a)–(c) or 2 above and any building affixed thereto, including, but not limited to, maintenance records, financial records, accounting and credit records, leases, correspondence, tax records, governmental licenses and permits, bid or quote records, customer lists, customer communications, customer contracts, supplier contracts, service agreements, operations records, research and development records, testing records, non-employee specific health, environment and safety records, equipment, repair and performance records, training records, and all manuals and technical information Defendants provide to their employees, customers, suppliers, agents or licensees; and

4. All intangible assets that are used to operate the mill or any facility located on the real property described in 1(a)–(c) or 2 above, to operate, maintain, or repair any of the equipment in the mill or in any facility located on the real property described in 1(a)–(c), or 2 above, including, but not limited to, contractual rights (to the extent assignable) relating to energy, packaging, transportation, purchases of wheat or other materials for processing at the mill, sales of flour, millfeed or other products produced at the mill, including but not limited to, open contracts or orders for the purchase of wheat that have been assigned to the mill and open contracts or orders for the sale of flour, millfeed or other products produced at the mill that have been assigned to the mill; rights to use know-how, trade secrets, patents, licenses, sublicenses and other intellectual property in connection with the Divested Assets, and any assigned trademarks; technical information; computer software and related documentation; blueprints; specifications for materials; specifications provided by customers for flour, millfeed or other products produced at the mill; specifications for parts and devices; safety procedures; and quality assurance and control procedures.

To the extent transference of any contract, lease or other rights described above requires the consent of the other party, Defendants shall use their best efforts to obtain that consent.

[FR Doc. 2014–12397 Filed 5–28–14; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Notice of Alleged Safety and Health Hazards

ACTION: Notice.

SUMMARY: On May 30, 2014, the Department of Labor (DOL) will submit the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) revision titled, ''Notice of Alleged Safety and Health Hazards,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 et seq.). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before June 30, 2014.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201405–1218–001* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov*.

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–6881 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov*. Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov*.

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to DOL_PRA_PUBLIC@dol.gov.

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for revisions to the Notice of Alleged Safety and Health Hazards, Form OSHA–7, information collection. Respondents use Form OSHA–7 to report unhealthful and/or unsafe conditions in the workplace to the OSHA. The OSHA uses this information to evaluate the alleged hazards and to schedule an inspection. This information collection has been classified as a revision, because the agency proposes to include a question about whether the respondent is a current or former employee of the employer cited in the complaint. The Occupational Safety and Health Act authorizes this information collection. See 29 U.S.C. 651, 657.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0064. The current approval is scheduled to expire on May 31, 2014; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on January 24, 2014 (79 FR 4180).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section by June 30, 2014. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0064. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–OSHA.

Title of Collection: Notice of Alleged Safety and Health Hazards.

OMB Control Number: 1218–0064.

Affected Public: Individuals or Households and Private Sector—businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 50,641.

Total Estimated Number of Responses: 50,641.

Total Estimated Annual Time Burden: 13,659 hours.

Total Estimated Annual Other Costs Burden: $532.

Dated: May 22, 2014.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2014–12468 Filed 5–28–14; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Advisory Committee on Veterans' Employment, Training and Employer Outreach (ACVETEO): Meeting

AGENCY: Veterans' Employment and Training Service (VETS), Department of Labor.

ACTION: Notice of Open Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the ACVETEO. The ACVETEO will discuss the VETS core programs and services regarding efforts that assist veterans seeking employment and raise employer awareness as to the advantages of hiring veterans. There will be an opportunity for persons or organizations to address the committee. Any individual or organization that wishes to do so should contact Mr. Anthony C. Camilli at 202–693–4708. Time constraints may limit the number of outside participants/presentations.

Individuals who will need accommodations for a disability in order to attend the meeting (e.g., interpreting services, assistive listening devices, and/or materials in alternative format) should notify the Advisory Committee no later than Wednesday, June 18, 2014 by contacting Mr. Gregory Green at 202–693–4734. Requests made after this date will be reviewed, but availability of the requested accommodations cannot be guaranteed. The meeting site is accessible to individuals with disabilities. This Notice also describes the functions of the ACVETEO. Notice of this meeting is required under Section 10(a) (2) of the Federal Advisory Committee Act. This document is intended to notify the general public.

DATES: *Date and Time:* Wednesday, June 25, 2014 beginning at 9 a.m. and ending at approximately 5:00 p.m. (E.S.T.).

ADDRESSES: The meeting will take place at the U.S. Department of Labor, Frances Perkins Building, 200 Constitution Avenue NW., Washington, DC 20210. Members of the public are encouraged to arrive early to allow for security clearance into the Frances Perkins Building.

Security Instructions: Meeting participants should use the visitors' entrance to access the Frances Perkins Building, one block north of Constitution Avenue at 3rd and C Streets, NW. For security purposes meeting participants must:

1. Present a valid photo ID to receive a visitor badge.
2. Know the name of the event being attending: The meeting event is the Advisory Committee on Veterans' Employment, Training and Employer Outreach (ACVETEO).
3. Visitor badges are issued by the security officer at the Visitor Entrance located at 3rd and C Streets NW. When receiving a visitor badge, the security officer will retain the visitor's photo ID until the visitor badge is returned to the security desk.
4. Laptops and other electronic devices may be inspected and logged for identification purposes.
5. Due to limited parking options, Metro is the easiest way to access the Frances Perkins Building.

Notice of Intent To Attend the Meeting: All meeting participants are being asked to submit a notice of intent to attend by Wednesday, June 18, 2014, via email to Mr. Anthony C. Camilli at camilli.anthony@dol.gov, subject line ''June 2014 ACVETEO Meeting.''

FOR FURTHER INFORMATION CONTACT: Mr. Anthony C. Camilli, Alternate Designated Federal Official for the ACVETEO, (202) 693–4708.

SUPPLEMENTARY INFORMATION: The ACVETEO is a Congressionally mandated advisory committee authorized under Title 38, U.S. Code, Section 4110 and subject to the Federal

Advisory Committee Act, 5 U.S.C. App. 2, as amended. The ACVETEO is responsible for: Assessing employment and training needs of veterans; determining the extent to which the programs and activities of the U.S. Department of Labor meet these needs; assisting to conduct outreach to employers seeking to hire veterans; making recommendations to the Secretary, through the Assistant Secretary of Labor for VETS, with respect to outreach activities and employment and training needs of Veterans; and carrying out such other activities necessary to make required reports and recommendations. The ACVETEO meets at least quarterly.

Agenda

9:00 a.m. Welcome and remarks, Keith Kelly, Assistant Secretary of Labor for Veterans' Employment and Training
9:05 a.m Administrative Business, Anthony Camilli, Assistant Designated Federal Official
9:10 a.m. Presentation on veterans outreach pilot, Lt Col Jeffrey Holland, USAF, Harvard University, JFK School of Government
9:50 a.m. Break
10:00 a.m. Outreach Subcommittee Briefing and Discussion
10:50 a.m. Break
11:00 a.m. Focused Populations Subcommittee Briefing and Discussion
12:00 p.m. Lunch
1:00 p.m. Transition Subcommittee Briefing and Discussion
1:50 p.m. Break
2:00 p.m. Discussion and work on Fiscal Year 2014 Report, J. Michael Haynie, ACVETEO Chairman
4:45 p.m. Public Forum, Timothy Green, ACVETEO Designated Federal Official
5:00 p.m. Adjourn

Signed in Washington, DC, this 23rd day of May, 2014.

Keith Kelly,

Assistant Secretary of Labor for Veterans' Employment and Training.

[FR Doc. 2014–12496 Filed 5–28–14; 8:45 am]

BILLING CODE 4510–79–P

LEGAL SERVICES CORPORATION

Extension of Comment Period for Proposed Changes to LSC Grant Assurances for Calendar Year 2015 Funding

AGENCY: Legal Services Corporation.

ACTION: Notice of extended comment period for the proposed LSC 2015 Grant Assurances.

SUMMARY: The Legal Services Corporation (''LSC'') is extending the public comment period for the proposed LSC 2015 Grant Assurances. The extended comment period is applicable only to Grant Assurances 10 and 11. The proposed LSC grant assurances for calendar year 2015 funding, in redline format indicating the proposed changes to the current ''LSC 2014 Grant Assurances,'' are available at *http://grants.lsc.gov/sites/default/files/Grants/ReferenceMaterials/2015-GrantAssurances-Proposed.pdf.*

DATES: All comments and recommendations must be received on or before the close of business on June 20, 2014.

ADDRESSES: Written comments may be submitted by mail, email, or fax to Reginald J. Haley, Office of Program Performance, Legal Services Corporation, 3333 K Street NW., Washington, DC 20007; *LSCGrantAssurances@lsc.gov;* or (202) 337–6813 (fax). Comments may also be submitted online at *http://www.lsc.gov/contact-us.*

FOR FURTHER INFORMATION CONTACT: Reginald J. Haley, *haleyr@lsc.gov,* (202) 295–1545.

SUPPLEMENTARY INFORMATION: In response to recent requests, LSC is extending the comment period for changes proposed for grant assurances 10 and 11. The deadline for comments regarding proposed changes to all other grant assurances remains May 30, 2014.

Grant Assurance #10 requires LSC recipients to give LSC and the U.S. Comptroller General access to records they are entitled to under the provisions of the LSC Act and other applicable law. The proposed change to the grant assurance requires LSC recipients to provide access to records in accordance with Federal law.

Grant Assurance #11 requires LSC recipients to provide LSC, federal agencies, and other auditing or monitoring entities access to financial records, time records, retainer agreements, client trust fund and eligibility records, and client names. As with Grant Assurance #10, the proposed change to the grant assurance requires LSC recipients to provide access to these records in accordance with Federal law.

As part of the grant certifications, LSC has required since 2009 that all applicants for funding consent to the exclusive jurisdiction of the U.S. District Court for the District of Columbia, which is within the D.C. Circuit. The proposed revisions to Grant Assurances 10 and 11 are based on the decision of the United States Court of Appeals for the District of Columbia Circuit in United States v. California Rural Legal Assistance, 722 F.3d 424 (D.C. Cir. 2013), which involved an action to enforce a subpoena for documents held by an LSC recipient. The question before the court was ''whether, and[,] if so, which[,] California state privileges and protections apply.'' *Id.* at 427. The court decided that ''the answer to the 'whether' issue is 'no'. . . .'' *Id.* The decision was based entirely on federal law; the court found it unnecessary to consider the nature and extent of the California laws and rules on privileges and protections. The DC Circuit held that ''[f]ederal law and not state law governs.'' *Id.*

Under the court's decision, the laws and rules of other states are similarly inapplicable. The court specifically considered the LSC Act and concluded that ''Congress has made abundantly clear its intention to regulate the federal programs funded through LSC according to federal and not California standards.'' *Id.* at 428.

Dated: May 23, 2014.

Stefanie K. Davis,

Assistant General Counsel.

[FR Doc. 2014–12460 Filed 5–28–14; 8:45 am]

BILLING CODE 7050–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (14–043)]

Notice of Intent To Grant Partially Exclusive License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent To Grant Exclusive License.

SUMMARY: This notice is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). NASA hereby gives notice of its intent to grant an exclusive license in the United States to practice the invention described and claimed in USPN 6,997,637, Deceleration-Limiting Roadway Barrier, NASA Case No. MSC–23178–1 to LifeNet Systems Inc., having its principal place of business in Wellborn, Florida. The patent rights in this invention have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective exclusivelicense will

comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

DATES: The prospective exclusive license may be granted unless within fifteen (15)days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license. Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

ADDRESSES: Objections relating to the prospective license may be submitted to Patent Counsel, Office of Chief Counsel, NASA Johnson Space Center, 2101 NASA Parkway, Mail Code AL; Houston, Texas 77058; Phone (281) 483–3021; Fax (281) 483–6936.

FOR FURTHER INFORMATION CONTACT: Ms. Michelle P. Lewis, Technology Transfer and Commercialization Office/AO52, Johnson Space Center, Houston, TX 77058, (281) 483–8051. Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov*.

Sumara M. Thompson-King,

Deputy General Counsel.

[FR Doc. 2014–12493 Filed 5–28–14; 8:45 am]

BILLING CODE 7510–13–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–305; NRC–2014–0125]

License Exemption Request for Dominion Energy Kewaunee, Inc.

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is granting exemptions in response to a request from Dominion Energy Kewaunee, Inc. (DEK or the licensee) dated April 4, 2013, as supplemented by letter dated November 6, 2013. The exemptions would permit the use of a portion of the Kewaunee Power Station (KPS) decommissioning trust fund (Trust) for expenses related to irradiated fuel management, and to be able to make such withdrawals from the trust fund without prior notification of the NRC. The NRC has reviewed the KPS Trust, the decommissioning approach and cost estimates in the KPS Post-Shutdown Decommissioning Activities Report (PSDAR), and the KPS updated Irradiated Fuel Management Plan and determined that, at this time, there is sufficient financial resources in the trust for both irradiated fuel management and to complete decommissioning activities.

ADDRESSES: Please refer to Docket ID NRC–2014–0125 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0125. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *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.* The ADAMS Accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *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.

FOR FURTHER INFORMATION CONTACT: Jeanne A. Dion, telephone: 301–415–1349, email: *Jeanne.Dion@nrc.gov;* or William Huffman, telephone: 301–415–2046, email: *William.Huffman@nrc.gov.* Both of the Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001.

I. Background

Dominion Energy Kewaunee is the holder of Renewed Facility Operating License No. DPR–43. By letter dated February 25, 2013 (ADAMS Accession No. ML13058A065), DEK, submitted a certification to the NRC indicating it would permanently cease power operations at the Kewanee Power Station (KPS) on May 7, 2013. On May 7, 2013, DEK permanently ceased power operation at KPS. On May 14, 2013, DEK certified that it had permanently defueled the KPS reactor vessel (ADAMS Accession No. ML13135A209).

The facility consists of a permanently shutdown and defueled pressurized water reactor located in Kewaunee County, Wisconsin.

II. Request/Action

On April 4, 2013, DEK submitted a request for exemptions (ADAMS Accession No. ML13098A031) from Section 50.82(a)(8)(i)(A) and Section 50.75(h)(1)(iv) of Part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR). The exemptions from 10 CFR 50.82(a)(8)(i)(A) and 10 CFR 50.75(h)(1)(iv) would permit withdrawal and use of a portion of the funds from the KPS Trust for irradiated fuel management consistent with the KPS updated Irradiated Fuel Management Plan and the KPS PSDAR. The licensee also requested an exemption from 10 CFR 50.75(h)(1)(iv) that would permit withdrawals from the Trust for irradiated fuel management activities without prior notification of the NRC, in the same manner as withdrawals are made under 10 CFR 50.82(a)(8) for decommissioning activities. By separate letters dated February 26, 2013, and April 25, 2014, DEK submitted updates to the KPS Irradiated Fuel Management Plan as required by 10 CFR 50.54(bb) (ADAMS Accession Nos. ML13059A028 and ML14119A120). By separate letters dated February 26, 2013, and April 25, 2014, DEK submitted its PSDAR and a revision to the PSDAR, as required by 10 CFR 50.82(a)(4)(i) (ADAMS Accession Nos. ML13063A248 and ML14118A382). In addition, DEK supplemented the April 4, 2013, submittal with a letter dated November 6, 2013 (ADAMS Accession No. ML13312A916), in which DEK committed to executing a Parent Company Guarantee in the amount of up to $60 million if supplemental decommissioning funds are needed in the future. This Parent Company Guarantee will provide additional financial assurance that sufficient funding is available for decommissioning and irradiated fuel management beyond those funds already available in the Trust.

The requirements of 10 CFR 50.82(a)(8)(i)(A) restrict the use of decommissioning trust fund withdrawals to expenses for legitimate decommissioning activities consistent

with the definition of decommissioning in 10 CFR 50.2, which reads as follows:

''to remove a facility or site safely from service and reduce residual radioactivity to a level that permits—

(1) Release of the property for unrestricted use and termination of the license; or

(2) Release of the property under restricted conditions and termination of the license.''

The definition does not include activities associated with irradiated fuel management. The requirements of 10 CFR 50.75(h)(1)(iv) also restrict the use of decommissioning trust fund disbursements (other than for ordinary and incidental expenses) to decommissioning expenses until final decommissioning is completed. Therefore, exemptions from 10 CFR 50.82(a)(8)(i)(A) and 10 CFR 50.75(h)(1)(iv) are needed to allow DEK to withdraw funds from the Trust for irradiated fuel management prior to completion of all decommissioning activities.

The requirements of 10 CFR 50.75(h)(1)(iv) further provide that, except for decommissioning withdrawals being made under 10 CFR 50.82(a)(8) or for payment of ordinary and incidental expenses, no disbursement may be made from the Trust without written notice to the NRC at least 30 working days in advance. Therefore an exemption from 10 CFR 50.75(h)(1)(iv) is also needed to allow DEK to withdraw funds from the Trust for irradiated fuel management without prior NRC notification.

III. Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) any of the special circumstances listed in 10 CFR 50.12(a)(2) are present. These special circumstances include, among other things, the following:

(a) Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule; or

(b) Compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated.

A. Special Circumstances

Special circumstances, in accordance with 10 CFR 50.12(a)(2)(ii), are present whenever application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule.

The underlying purposes of 10 CFR 50.82(a)(8)(i)(A) and 10 CFR 50.75(h)(1)(iv) are to provide reasonable assurance that adequate funds will be available for decommissioning of power reactors. Strict application of these requirements would prohibit withdrawal of funds from the Trust for activities associated with irradiated fuel management until final decommissioning at KPS has been completed.

DEK's total Trust balance as of December 31, 2013, was $649.3 million. According to the PSDAR, DEK intends to use SAFSTOR as its initial decommissioning approach. The DEK analysis in the PSDAR projects that the total cost of decommissioning KPS to be approximately $532.8 million (2012 dollars). As required by 10 CFR 50.54(bb), DEK estimated the costs associated with the long-term irradiated fuel management at $278.4 million (2012 dollars). DEK estimated expenditures for site restoration at $34.8 million (2012 dollars).

The staff performed an independent cash flow analysis of the Trust over the projected 60 years of decommissioning activities (assuming an annual real rate of return of 2%, as allowed by 10 CFR 50.75(e)(1)(ii)) and determined a projected earnings of the Trust of $393.3 million. The staff confirms that there is presently adequate funding to complete all decommissioning activities based on the current funds and projected earnings of the Trust. In addition, DEK committed to executing a Parent Company Guarantee in the amount of up to $60 million if supplemental decommissioning funds are needed in the future pursuant to 10 CFR 50.82(a)(8)(iv). This Parent Company Guarantee provides additional financial assurance that sufficient funding is available for decommissioning and irradiated fuel management beyond those funds already available in the Trust.

The staff concludes, at this time, that the site-specific decommissioning cost analysis demonstrates adequate funds are available in the Trust for irradiated fuel management and completion of decommissioning within 60 years. The staff's review and conclusions are based on DEK's specific financial situation and decommissioning approach as described in the KPS PSDAR and the updated Irradiated Fuel Management Plan. Therefore, DEK has demonstrated reasonable assurance that sufficient funding will be available for both decommissioning and for irradiated fuel management and that the exemptions from the requirements of 10 CFR 50.82(a)(8)(i)(A) and 10 CFR 50.75(h)(1)(iv), with respect to use of the trust funds for irradiated fuel management, will still achieve the underlying purposes of the rules.

In its submittal, DEK also requested exemption from the requirements of 10 CFR 50.75(h)(1)(iv) concerning prior written notification to the NRC for withdrawals from the Trust for irradiated fuel management activities. The underlying purpose of notifying the NRC prior to withdrawal of funds from the Trust is to provide opportunity for NRC intervention, when deemed necessary, if the withdrawals are for expenses other than those authorized by 10 CFR 50.75(h)(1)(iv) and 10 CFR 50.82(a)(8) that could result in insufficient funds in the Trust to accomplish radiological decontamination of the site.

By granting the exemptions to 10 CFR 50.75(h)(1)(iv) and 10 CFR 50.82(a)(8) to allow withdrawals from the Trust for irradiated fuel management, the staff considers that the withdrawals consistent with the KPS updated Irradiated Fuel Management Plan are authorized. As stated previously, the staff has determined that there are sufficient funds in the Trust to complete legitimate decommissioning activities, as well as management of irradiated fuel consistent with the KPS PSDAR and updated Irradiated Fuel Management Plan. Pursuant to the annual reporting requirements in 10 CFR 50.82(a)(8)(v)–(vii), licensees are required to monitor and report the status of the decommissioning trust fund and the funding status for managing irradiated fuel. These reports provide NRC awareness of and the ability to take action on any actual or potential funding deficiencies. The requested exemption would not allow withdrawal of funds from the KPS Trust for any other purpose that is not currently authorized in the regulations without prior notification to the NRC. Therefore, the granting of this exemption to 10 CFR 50.75(h)(1)(iv) to allow the licensee to make withdrawals from the Trust to cover authorized expenses for irradiated fuel management without prior written notification to the NRC will still meet the underlying purpose of the regulation.

Special circumstances, in accordance with 10 CFR 50.12(a)(2)(iii) are present whenever compliance would result in

undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated.

The licensee states that the Trust contains funds in excess of the estimated costs of radiological decommissioning and that these excess funds are needed for irradiated fuel management. The NRC does not preclude use of funds from the decommissioning trust in excess of those needed for radiological decommissioning for other purposes, such as irradiated fuel management or site restoration. The NRC has stated that funding for irradiated fuel management may be commingled in the decommissioning trust provided the licensee is able to identify and account the radiological decommissioning funds separately from the funds set aside for irradiated fuel management (see NRC Regulatory Issue Summary 2001–07, Rev 1, ''10 CFR 50.75 Reporting and Recordkeeping for Decommissioning Planning'' dated January 8, 2009 [ADAMS Accession No. ML083440158], and Regulatory Guide 1.184, Rev 1, ''Decommissioning of Nuclear Power Reactors,'' [ADAMS Accession No. ML13144A840]). To prevent access to those excess funds in the Trust because irradiated fuel management is not associated with radiological decommissioning would create an unnecessary financial burden without any corresponding safety benefit. The adequacy of the Trust to cover the cost of activities associated with irradiated fuel management in addition to radiological decommissioning is supported by the staff's site-specific decommissioning cost analysis. If DEK cannot use its Trust for irradiated fuel management activities, it would need to obtain additional funding that would not be recoverable from the Trust, or DEK would have to modify its decommissioning approach and methods. The NRC staff concludes that either outcome would impose an unnecessary and undue burden significantly in excess of that contemplated when the regulation was adopted.

Therefore, since the underlying purposes of 10 CFR 50.82(a)(8)(i)(A) and 10 CFR 50.75(h)(1(iv) would be achieved by allowing DEK to use a portion of the Trust for irradiated fuel management without prior NRC notification, and compliance with the rules would result in an undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, the special circumstances required by 10 CFR 50.12(a)(2)(ii) and 10 CFR 50.12(a)(2)(iii) exist.

B. Authorized by Law

The exemptions from 10 CFR 50.82(a)(8)(i)(A) and 10 CFR 50.75(h)(1(iv) would allow DEK to use a portion of the funds from the Trust for irradiated fuel management, consistent with the KPS updated Irradiated Fuel Management Plan and PSDAR, and would allow DEK to withdraw funds from the trust for irradiated fuel management activities without prior notice to the NRC. As stated above, 10 CFR 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR Part 50. The NRC staff has determined that granting of the licensee's proposed exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations. Therefore, the exemption is authorized by law.

C. No Undue Risk to Public Health and Safety

The underlying purposes of 10 CFR 50.82(a)(8)(i)(A) and 10 CFR 50.75(h)(1)(iv) are to provide reasonable assurance that adequate funds will be available for decommissioning of power reactors. Based on the site-specific cost estimate and the cash flow analysis, use of a portion of the Trust for irradiated fuel management will not adversely impact the DEK's ability to terminate the KPS license (i.e., complete radiological decontamination) within 60 years, consistent with the schedule and costs contained in the KPS updated Irradiated Fuel Management Plan and PSDAR. Furthermore, exemption from 10 CFR 50.75(h)(1)(iv) to allow the licensee to make authorized withdrawals from the Trust to cover expenses for irradiated fuel management without prior written notification to the NRC should not affect the sufficiency of funds in the Trust to accomplish radiological decontamination of the site.

Based on the above, no new accident precursors are created by using the Trust in the proposed manner. Thus, the probability of postulated accidents is not increased. Also, based on the above, the consequences of postulated accidents are not increased. No changes are being made in the types or amounts of effluents that may be released offsite. There is no significant increase in occupational or public radiation exposure. Therefore, there is no undue risk to public health and safety.

D. Consistent With the Common Defense and Security

The proposed exemption would allow DEK to use a portion of the funds from the Trust for irradiated fuel management, consistent with the KPS updated Irradiated Fuel Management Plan and PSDAR. Irradiated fuel management is an integral part of the planned KPS decommissioning process as discussed in the KPS PSDAR and should not adversely affect DEK's ability to physically secure the site or protect special nuclear material. This change to enable use of a portion of the funds from the Trust for irradiated fuel management will not alter the scope of, or availability of funding for the licensee's security program. Therefore, the common defense and security is not impacted by this exemption.

E. Environmental Considerations

In accordance with 10 CFR 51.31(a), the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (see Environmental Assessment and Finding of No Significant Impact published on May 2, 2014; 79 FR 25156).

IV. Conclusions

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemptions are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants DEK exemptions from the requirements of 10 CFR 50.82(a)(8)(i)(A) and 10 CFR 50.75(h)(1)(iv) to allow withdrawals from the KPS Trust for irradiated fuel management in accordance with the KPS updated Irradiated Fuel Management Plan and PSDAR, without prior notice to the NRC. The granting of this exemption does not allow withdrawal of funds from the KPS Trust for any other purpose that is not currently authorized in the regulations without prior notification to the NRC.

The exemptions are effective upon issuance.

Dated at Rockville, Maryland, this 21st day of May, 2014.

For the Nuclear Regulatory Commission.

Michele G. Evans,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2014–12486 Filed 5–28–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) Meeting of the ACRS Subcommittee on Power Uprates; Notice of Meeting

The ACRS Subcommittee on Power Uprates will hold a meeting on June 10, 2014, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance with the exception of a portion that may be closed to protect information that is propriety pursuant to 5 U.S.C. 552b(c)(4). The agenda for the subject meeting shall be as follows:

Tuesday, June 10, 2014, 8:30 a.m. thru 5:00 p.m.

The Subcommittee will review the Safety Evaluation Report (SER) associated with the Peach Bottom Units 2 and 3 extended power uprate application. The Subcommittee will hear presentations by and hold discussions with the NRC staff, Exelon Generation Company, LLC, 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), Weidong Wang (Telephone 301–415–6279 or Email: *Weidong.Wang@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: May 22, 2014.

Cayetano Santos,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2014–12480 Filed 5–28–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) Meeting of the ACRS Subcommittee on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on June 10, 2014, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The meeting will be open to public attendance with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Tuesday, June 10, 2014–12:00 p.m. Until 1:00 p.m.

The Subcommittee will discuss proposed ACRS activities and related matters. 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), Quynh Nguyen (Telephone 301–415–5844 or Email: *Quynh.Nguyen@nrc.gov*) five days prior to the meeting, if possible, so that 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).

Information regarding changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained 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 the DFO 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 (240–888–9835) to be escorted to the meeting room.

Dated: May 22, 2014.

Cayetano Santos,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2014–12478 Filed 5–28–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Application for a License To Export High-Enriched Uranium

Pursuant to 10 CFR 110.70 (b) ''Public Notice of Receipt of an Application,'' please take notice that the Nuclear Regulatory Commission (NRC) has received the following request for an export license. Copies of the request are available electronically through ADAMS and can be accessed through the Public Electronic Reading Room (PERR) link *http://www.nrc.gov/reading-rm.html* at the NRC Homepage.

A request for a hearing or petition for leave to intervene may be filed within thirty days after publication of this

notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

A request for a hearing or petition for leave to intervene may be filed with the NRC electronically in accordance with NRC's E-Filing rule promulgated in August 2007, 72 Fed. Reg 49139 (Aug. 28, 2007). Information about filing electronically is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* To ensure timely electronic filing, at least 5 (five) days prior to the filing deadline, the petitioner/requestor should contact the Office of the Secretary by email at *HEARINGDOCKET@NRC.GOV*, or by calling (301) 415–1677, to request a digital ID certificate and allow for the creation of an electronic docket.

In addition to a request for hearing or petition for leave to intervene, written comments, in accordance with 10 CFR 110.81, should be submitted within thirty (30) days after publication of this notice in the **Federal Register** to Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Rulemaking and Adjudications.

The information concerning this application for an export license follows.

NRC Export License Application

DESCRIPTION OF MATERIAL

Name of applicant date of application date received application No. docket No.	Material type	Total quantity	End use	Destination
DOE/NNSA—Y–12 National Security Complex, April 23, 2014, April 28, 2014, XSNM3752, 11006162.	High-Enriched Uranium (93.35%).	7.0 kilograms uranium-235 contained in 7.5 kilograms uranium.	To fabricate targets at the National Research Universal reactor in Canada for ultimate use in production of medical isotopes.	Canada.

For The Nuclear Regulatory Commission.

Dated this 15th day of May 2014 at Rockville, Maryland.

Michael J. Case,

Acting Deputy Director, Office of International Programs.

[FR Doc. 2014–12481 Filed 5–28–14; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2014–50; Order No. 2081]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing requesting the addition of a Global Expedited Package Services 3 (MC2010–28) negotiated service agreement to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* May 30, 2014.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

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

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Notice of Commission Action
III. Ordering Paragraphs

I. Introduction

On May 22, 2014, the Postal Service filed notice that it has entered into an additional Global Expedited Package Services 3 (GEPS 3) negotiated service agreement (Agreement).[1]

To support its Notice, the Postal Service filed a copy of the Agreement, a copy of the Governors' Decision authorizing the product, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket No. CP2014–50 for consideration of matters raised by the Notice.

The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than May 30, 2014. The public portions of the filing can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Kenneth R. Moeller to serve as Public Representative in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2014–50 for consideration of the matters raised by the Postal Service's Notice.
2. Pursuant to 39 U.S.C. 505, Kenneth R. Moeller is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).
3. Comments are due no later than May 30, 2014.
4. The Secretary shall arrange for publication of this Order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2014–12440 Filed 5–28–14; 8:45 am]

BILLING CODE 7710–FW–P

[1] Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, May 22, 2014 (Notice).

RAILROAD RETIREMENT BOARD

Sunshine Act; Notice of Public Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on June 11, 2014, 10:00 a.m. at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois,

60611. The agenda for this meeting follows:

Portion open to the public:

(1) Executive Committee Reports

The person to contact for more information is Martha P. Rico, Secretary to the Board, Phone No. 312–751–4920.

Dated: May 23, 2014.

Martha P. Rico,

Secretary to the Board.

[FR Doc. 2014–12579 Filed 5–27–14; 4:15 pm]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72226; File No. SR–NASDAQ–2014–054]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt the Nasdaq Opening Cross Contingency

May 22, 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 May 13, 2014, The NASDAQ Stock Market LLC (''NASDAQ'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

NASDAQ proposes a rule change to adopt an alternative market opening process, the Opening Cross Contingency, used only when the normal opening process fails to calculate an opening price.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDAQ included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ is proposing to adopt an alternative market opening process, to be used only in instances where the primary opening process has failed to calculate an opening price. The proposed process will help ensure that the NASDAQ market opens in an orderly manner.

Current Opening Process

The Nasdaq Opening Cross [3] (the ''Opening Cross'') is NASDAQ's process for matching orders at the launch of the regular trading hours, and is open to all securities listed on the NASDAQ, NYSE, NYSE Amex and NYSE Arca Exchanges (collectively, ''System Securities''). Beginning at 4:00 a.m. Eastern Time (all times noted hereafter are Eastern Time), NASDAQ accepts orders executable during the Opening Cross. At 9:28 a.m., NASDAQ begins to disseminate information about order Imbalances [4] in the opening book along with indicative opening prices every five seconds until the initiation of the Opening Cross.[5] NASDAQ initiates an Opening Cross in all System Securities for which there are orders that will execute against contra-side orders at 9:30 a.m., at which time the opening book and the NASDAQ continuous book are brought together to create single NASDAQ opening prices for System Securities. The securities' Nasdaq Opening Cross price is the Nasdaq Official Opening Price (''NOOP'') for these securities.[6] The NOOP is distributed to the consolidated tape immediately after completion of the Opening Cross and conclusion of the Opening Cross signals the System to open a System Security for regular market hours trading.

In certain cases, a System Security will not have any contra-side interest for execution in the Opening Cross, or any orders whatsoever, when the Opening Cross process is initiated. When this occurs, NASDAQ executes a ''null cross'' instead, whereby no securities are matched yet the System receives the necessary precondition to regular hours trading that a ''cross'' in the security has occurred. After completion of the null cross, regular hours trading begins by integrating Market Hours Orders [7] into the book in time priority and executing in accordance with market hours rules.[8] In such cases, the NOOP is determined by the first last-sale eligible trade [9] reported at or after 9:30 a.m., when regular trading hours begin.

Proposed Opening Cross Contingency

NASDAQ is retaining its current opening process, but is proposing to adopt an alternative opening process to be used only in cases in which the Opening Cross fails to calculate an opening price.[10] The proposed Opening Cross Contingency will provide NASDAQ with a rules-based process to address Opening Cross failures. Specifically, upon being informed that an Opening Cross has failed to calculate an opening price in one or more System Securities, a senior official will initiate an Opening Cross Contingency for each of the affected System Securities.[11] Like the opening process followed when there are no orders to cross in a System Security, the Opening Cross Contingency will initiate a null cross in each affected System Security to allow the System to release such securities for

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Rule 4752.

[4] An Imbalance is defined as the number of shares of buy or sell MOO, LOO, Early Market Hours, Open Eligible Interest or OIO order shares at a particular price at any given time. *See* Rule 4752(a)(1).

[5] Rule 4752(d)(1).

[6] Rule 4752(d)(4).

[7] A Market Hours Order is any order that may be entered into the system and designated with a time-in-force of MIOC, MDAY, MGTC. Market Hours Orders shall be designated as ''Early Market Hours Orders'' if entered into the system prior to 9:28 a.m. and shall be treated as market-on-open and limit-on-open orders, as appropriate, for the purposes of the Nasdaq Opening Cross. Orders entered into the system at 9:28 a.m. or after shall be designated as ''Late Market Hours Orders'' and shall be treated as imbalance-only orders for the purposes of the cross. Beginning at 9:28 a.m., requests to cancel or modify Market Hours Orders shall be suspended until after completion of the Opening Cross at which time such requests shall be processed, to the extent that such orders remain available within the System. *See* Rule 4752(a)(7).

[8] Rule 4752(c).

[9] The first last-sale eligible trade is the first trade transaction that occurs during the regular market session (9:30 a.m. to 4:00 p.m.). If an Opening Cross occurs, the NOOP is determined by the bulk print. If there is no Opening Cross, the NOOP is determined by the first regular way print.

[10] There are two general types of failure of the Opening Cross, hardware-based and software-based. Hardware-based failures are the result of problems with the physical infrastructure supporting the Opening Cross process. This includes, but is not limited to, switch failures, cabling failures, server failures, and power failures. Hardware-based failures are mitigated via network and server infrastructure redundancy designed into the system. Software-based failures are the result of bugs. These include, but are not limited to, coding errors and configuration errors. Software-based failures are mitigated via application redundancy, core system code diversity, the proposed Opening Cross Contingency, and configuration management policies and procedures.

[11] System Securities that have successful Opening Crosses will open normally under that process at the NOOP based on the Opening Cross price.

regular market hours trading. Unlike the null cross in the normal opening process in which Market Hours Orders are integrated into the book in time priority, orders entered for execution where an Opening Cross that fails to calculate an opening price and where the Opening Cross Contingency is initiated are cancelled out of the book instead of executing against regular Market Hours Orders. NASDAQ notes that this is a consequence of the orders eligible for execution in the Opening Cross being locked in the failed cross. Each System Security in which an Opening Cross Contingency is applied will open at the first last sale eligible trade when regular market hours begin, which is the NOOP for such securities.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[12] in general, and with Section 6(b)(5) of the Act,[13] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange believes that the proposed changes to Rule 4752 will promote transparency in the process for handling failures of the Opening Cross in calculating an opening price for System securities. Moreover, the proposed changes will also help assure consistent results in handling such Opening Cross failures, thus furthering fair and orderly markets, the protection of investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.[14] The Exchange believes that the proposal is irrelevant to competition because it is not driven by, and will have no impact on, competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[15] and subparagraph (f)(6) of Rule 19b–4 thereunder.[16]

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–NASDAQ–2014–054 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–2014–054. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2014–054, and should be submitted on or before June 19, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–12422 Filed 5–28–14; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78f.

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78f(b)(8).

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72229; File No. SR–Phlx–2014–35]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Reporting of Accounts

May 22, 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 May 12, 2014, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II and III, below, which Items have been prepared by the Exchange. The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 1022 (''Securities Accounts and Orders of Specialists and Registered Options Traders'') to require firms to report all of the accounts for which they engage in trading activities or which they exercise investment discretion upon request, rather than on a continuing basis.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaqtrader.com/micro.aspx?id=PHLXRulefilings,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 1022, entitled ''Securities Accounts and Orders of Specialists and Registered Options Traders,'' regarding the identification and filing of a list of accounts identifying all accounts in which a Specialist [3] or Registered Options Trader [4] may engage in trading activity for or over which they exercise investment discretion. This filing is similar to Chicago Board Options Exchange (''CBOE'') rule 8.9.

The Exchange is proposing to make the change in order eliminate the obligation for members or member organizations (collectively ''member'') to continuously provide nonessential regulatory documentation. The Exchange would retain the ability to request the information from the member upon request when needed.

The Exchange recognizes the importance of requiring Specialists and ROTs to keep a current list of all accounts for stock, options, or related securities or physical commodities or other derivatives which they trade or over which they have discretion. The proposed rule change would require members to keep this information accessible and updated. However, it should be noted, that the Exchange does not have an immediate and ongoing regulatory need for the information described herein. The information which is required, should be available to members today if requested by the Exchange. If the Exchange requests such information today, the Exchange may utilize other rules [5] to request the information that is being provided today to CBOE pursuant to its rule 8.9. The Exchange believes this proposed rule will make clear that account identification information for Specialists and ROTs is to be retained by and should be provided to the Exchange upon request.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[6] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [7] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. This proposed change will remove an impediment to a free and open market by eliminating an unnecessary ongoing reporting process to PHLX members which is not required of members conducting similar transactions on CBOE and will retain the regulatory obligation to provide the information when needed in order to effectively regulate the market. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [8] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers as this requirement continues to apply to both Specialists and ROTs.

B. Self-Regulatory Organization's Statement on Burden on Competition

Phlx does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change does not impose any burden on intramarket competition because it applies to all members and member organizations. There is no burden on intermarket competition as the proposed change is merely attempting to remove an additional reporting document that the Exchange will continue to require members to retain and produce upon request.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [9] and subparagraph (f)(6) of Rule 19b–4 thereunder.[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: (i) Necessary or appropriate in

[3] A Specialist is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a). An options Specialist includes a Remote Specialist which is defined as an options specialist in one or more classes that does not have a physical presence on an Exchange floor and is approved by the Exchange pursuant to Rule 501.

[4] A Registered Option Trader (''ROT'') is defined in Exchange Rule 1014(b) as a regular member of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. A ROT includes SQTs and RSQTs as well as on and off-floor ROTS.

[5] Rule 960.2(b) *Cooperation with Investigation or Examination* and Rule 760 *Maintenance, Retention and Furnishing of Books, Records and Other Information.*

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] *Id.*

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 240.19b–4(f)(6).

the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved. The Exchange has provided the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–Phlx–2014–35 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–Phlx–2014–35. 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–Phlx–2014–35 and should be submitted on or before June 19, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–12425 Filed 5–28–14; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72228; File No. SR–MIAX–2014–18]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 503

May 22, 2014.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 13, 2014, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend MIAX Rule 503 with respect to the Opening Process in an option series.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing*, at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 503 to change the definition of a valid width NBBO and valid width quote to correspond to the standard bid-ask differential specified under Rule 603(b)(4)(i). The Exchange's current methodology to start the Opening Process is not conducive to a quick and efficient opening on the Exchange. The proposed rule change will amend the current process to provide that the bid-ask differential to allow for the Exchange System to start the Opening Process based on the bid-ask differentials specified in Rule 603(b)(4)(i), which are wider than the bid-ask differential of Rule 603(b)(4)(ii).[3] In addition, the Exchange proposes some technical changes related to the removal of the narrow-width quote standard from Rule 603(b)(4)(ii), as it would no longer be necessary once the definition of a valid width NBBO and valid width quote is updated to correspond to Rule 603(b)(4)(i).

Current Opening Process

Currently, Rule 503 describes the process pursuant to which the Exchange System opens an option series. Pursuant to the procedures described in Rule 503(e), after an initial pause following the dissemination of a quote or trade in the market for the underlying security, the Opening Process starts with one of the following events: (i) The Primary Lead Market Maker's valid width quote has been submitted; (ii) the valid width quotes of at least two Market Makers, where at least one is a Lead Market Maker have been submitted; or (iii) for multiply listed option classes, at least one Eligible Exchange (as defined in Rule 1400(f)) has disseminated a quote in the individual option in accordance with Rule 1402(a), there is a valid width NBBO available and the valid width quote of at least one Lead Market Maker

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] For purposes of this filing, the quote width in Rule 603(b)(4)(i) will be referred to as the ''standard-width quote'' and that of Rule 603(b)(40(ii) [sic] will be referred to as the ''narrow-width quote.''

has been submitted.[4] For the purposes of Rule 503(e) both a valid width NBBO and valid width quote is one where the bid and offer differ by no more than the differences outlined in Rule 603(b)(4)(ii), the narrow-width quote.[5] Additionally, if after two minutes following the dissemination of a quote or trade in the market for the underlying security none of the provisions described above have occurred, then the opening process can begin when one Market Maker has submitted its valid width quote.[6] The Primary Lead Market Maker assigned in a particular equity option class must enter valid width quotes not later than one minute following the dissemination of a quote or trade by the market for the underlying security.[7] A Registered Market Maker that submits a quote pursuant to this Rule 503 in any series when a Lead Market Maker's or Primary Lead Market Maker's quote has not been submitted shall be required to submit continuous, two-sided quotes in such series until such time as a Lead Market Maker submits his/her quote, after which the Registered Market Maker that submitted such quote shall be obligated to submit quotations pursuant to Rule 604(e)(3).[8]

Once the Opening Process has been started, the Exchange System will either open with a quote or a trade. Rule 503(f)(1) provides the mechanism by which the Exchange System will open on a quote.[9] Pursuant to Rule 503(f)(1), the Exchange System, if there are no quotes or orders that lock or cross each other, will open by disseminating the Exchange's best bid and offer among quotes and orders that exist in the System at that time. The remainder of Rule 503(f) provides how the Exchange System operates when opening with a trade—scenarios where there are quotes or orders that lock or cross an order. Rule 503(f)(2)–(11) provides the mechanics of how the Exchange System calculates the price of an opening trade and handles any imbalance that may occur.[10] For purposes of opening with a trade, Rule 503(f) utilizes the narrow-width quote used to first start the Opening Process pursuant to Rule 503(e).

Proposed Change to Opening Process

The Exchange proposes to amend Rule 503(e)(2) and (3) to change the definition of a valid width NBBO[11] and valid width quote[12] to correspond to the standard bid-ask differential specified under Rule 603(b)(4)(i). As noted above, the Exchange currently uses the narrow-width quote to define a valid width NBBO and valid width quote. The Exchange proposes to replace references to Rule 603(b)(4)(ii) in Rule 503(e)(2) and (3) with the standard-width quote of Rule 603(b)(4)(i).

Rule 603(b)(4)(i) provides that options, following the opening rotation, may be quoted with a difference not to exceed $5 between the bid and offer regardless of the price of the bid. The proposed change will align the requirements to open the unopened series on a quote with the existing Market Marker quoting requirements following the opening rotation.

The Exchange believes that the application of the narrow-width quoting requirement of Rule 603(b)(4)(ii) to start the Opening Process prevents series from opening promptly and thus unnecessarily delays the execution of orders on the Exchange. The Exchange believes that setting a wider quote differential requirement to start the Opening Process would expedite the opening of all options series on the Exchange promptly after the opening of the underlying security. The Exchange believes that market participants will benefit by having the ability to execute orders on the Exchange without unnecessary delay. In addition, applying the standard-width quote bid-ask differential to start the Opening Process is consistent with the quoting requirements that are applicable following the start of regular trading.

The Exchange further believes that applying the standard-width quote to start the Opening Process is appropriate because it would more closely align the Exchange's Rules with the rules of other option exchanges with respect to opening a series—specifically in the area of opening a series on a quote. Other options exchanges have the ability to open a series for trading when there are no executable orders and/or quotes to conduct an auction. BOX Options Exchange (''BOX'') and NASDAQ Options Market (''NOM''), allow for the opening of series without conducting an opening auction. Similar to the Exchange's proposal, NYSE Arca opens option series for trading after receiving notification of an initial NBBO disseminated by OPRA for the series or on a Market Maker quote, provided that the bid-ask differential does not exceed its standard-width quote of $5 when not opening with a trade.[13] On BOX, the BOX system attempts to conduct an opening match (similar to the Exchange's Opening Process) to determine a single price at which a particular option series will be opened.[14] However, if the BOX system is not able to determine an opening price, the option series will nevertheless move from the ''Pre-Opening Phase'' to the continuous trading phase and the option series will be open for trading. When the option series move from Pre-Opening Phase to the continuous trading phase, there is no requirement for a bid-ask differential to be met. Market makers on BOX would only be required to meet the $5 bid-ask differential in the option series if and when they ever decided to quote.[15] Similarly, NOM has no bid-ask differential requirements to open a series if an ''Opening Cross'' (similar to Trading Auction) cannot be initiated because there are no opening quotes or orders that lock or cross each other.[16] Specifically, if an Opening Cross cannot be initiated because there are no opening quotes or orders that lock or cross each other, the option series will open for trading on NOM.[17] Market makers on NOM would only be required to meet the $5 bid-ask differentials in the option series if and when they ever decided to quote.[18] Both, BOX and NOM could open options series and disseminate a protected quotation without the benefit of Market Maker quotation to facilitate price discovery.

By contrast, currently, if the options series does not meet the narrow-width quotes, the series will not start the Opening Process and not open at all on the Exchange, which differs from NYSE Arca, BOX and NOM. As noted above, NYSE Arca requires a Market Maker quote that meets the standard-width requirement to open with a quote and neither BOX nor NOM require any bid-ask differential to be met prior to opening series for trading with a quote. The current inability of the Exchange to

[4] *See* Rule 503(e).

[5] *See* Rule 603(b)(4)(ii). The bid-ask guidelines specified in Rule 603(b)(4)(ii) that are required to start the Opening Process are narrower than the $5 wide bid-ask differential for options traded after the opening rotation. *See also* Rule 603(b)(4)(i). Rule 603(b)(4)(i) provides that options traded after the opening rotation may be quoted with a difference not to exceed $5 between the bid and offer regardless of the price of the bid.

[6] *See* Rule 503(e)(4).

[7] *See* Rule 503(e)(5).

[8] *See* Rule 503(e)(6).

[9] *See* Rule 503(f)(1).

[10] *See* Rule 503(f).

[11] *See* Rule 503(e)(2).

[12] *See* Rule 503(e)(3).

[13] *See* NYSE Arca Rule 6.64(b)(E). *See also* Securities Exchange Release No. 68290 (November 26, 2012), 77 FR 71469 (November 30, 2012) (SR–NYSEArca-2012–126).

[14] *See* BOX Rule 7070(e).

[15] *See* BOX Rule 7070(f). *See also* BOX Rule 8040, which sets forth BOX market maker quoting obligations.

[16] *See* NOM Chapter VI, Section 8(c)(1).

[17] *See id.*

[18] *See* NOM Chapter VII, Section 6(d).

open a series without quotes subject to a narrow-width quote requirement puts the Exchange at a competitive disadvantage to other options exchanges that do not have that similar restriction. By not opening the option series, the Exchange cannot display orders in the Exchange System and thus has no protected quotation in the options series. Until the options series officially opens for trading, the Exchange cannot route out orders in the Exchange System pursuant to Linkage, nor can it have a protected quote that draws trading interest from other options markets. The Exchange believes that the delay in execution of orders on the Exchange in this situation is unnecessary and harmful to market participants. The Exchange's proposal would provide for the ability to open an option series on a quote in a similar fashion as NYSE Arca, BOX, and NOM. The Exchange believes that having a bid-ask differential requirement to open a series is beneficial for opening series and helps ensure there is a sufficient quoted market in the options series, whether it is via NBBO from OPRA or Market Maker generated quote, prior to opening of the series on the Exchange to facilitate transactions in securities on the Exchange.

Technical Changes

To clarify that the Exchange System uses the standard-width quote standard to start the Opening Process, the Exchange proposes to delete Rule 603(b)(4)(ii). Related to the proposed deletion of Rule 603(b)(4)(ii), the Exchange further proposes replacing the reference to Rule 603(b)(4)(ii) within Rule 521 (Obvious and Catastrophic Errors) with the specific bid-ask differential contained in Rule 603(b)(4)(ii) so that Rule 521 will be substantially unchanged and remain operatively the same.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) [19] of the Act in general, and furthers the objectives of Section 6(b)(5) [20] of the Act in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The proposed rule change is designed to remove impediments to, and perfect the mechanism of, a free and open market and a national market system because it would permit the Exchange to utilize the standard-width quote bid-ask differential to start the Opening Process which will expedite the opening of all options series on the Exchange promptly after the opening of the underlying security, and thus remove impediments to and perfect the mechanism of a free and open market in a way that benefits market participants and enables them to execute their orders on the Exchange.

The proposed rule change contributes to the protection of investors and the public interest by ensuring that if the Exchange should open a series on a quote the opening quote will be within the standard bid-ask differential of Rule 603(b)(4)(i). The Exchange believes this offers better protection than the alternative of requiring no bid-ask differential when opening an option series on a quote.

The proposal would provide fair and orderly means to open a series when the Exchange does not have sufficient executable quotes and/or orders to conduct an Opening Process and would reasonably ensure that the Exchange does not open the series at a price that is beyond the price at which Market Makers are permitted to quote for the series during the trading session, which also contributes to the protection of investors and the public interest, generally. The proposed rule change is also designed to promote just and equitable principles of trade because it would permit the Exchange to open a series in a manner that is more consistent with the opening of individual series on other option exchanges.[21]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes are designed to facilitate the opening of series on the Exchange in a manner that is fair, orderly and more consistent with the practice of other option exchanges. Thus, the Exchange believes that the filing is pro-competitive and should increase intermarket and intramarket competition for options transactions during and immediately after the opening.

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act [22] and Rule 19b–4(f)(6) [23] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–2014–18 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.

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(5).

[21] *See supra* notes 13, 14, and 16.

[22] 15 U.S.C. 78s(b)(3)(A).

[23] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

All submissions should refer to File Number SR–MIAX–2014–18. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2014–18, and should be submitted on or before June 19, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–12424 Filed 5–28–14; 8:45 am]

BILLING CODE 8011–01–P

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72230; File No. SR–CBOE–2014–029]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving a Proposed Rule Change To Enhance the Exchange's Audit Trail

May 22, 2014.

I. Introduction

On March 27, 2014, the 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 (the ''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to enhance the Exchange's audit trail. The proposed rule change was published for comment in the **Federal Register** on April 9, 2014.[3] The Commission received no comment letters regarding the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to require Floor Brokers[4] and PAR Officials[5] to electronically capture, by pressing a ''Represent Button'' on their trading device, the time at which they initially verbally present orders in the Exchange's trading crowd.[6] The Represent Button will be located on PAR workstations and other Exchange-approved devices used by Floor Brokers.[7]

According to the Exchange, CBOE Trading Permit Holders may use Exchange-approved devices to systematize[8] orders on the floor, but the Exchange does not currently require Floor Brokers and PAR Officials to electronically capture the time when orders are represented in the trading crowd on these devices.[9] The Exchange states that the procedure Floor Brokers and PAR Officials currently follow to represent orders and consummate trades on the Exchange's trading floor will not change aside from the added step of capturing the time an order is initially represented in the trading crowd by pushing the Represent Button.[10] The Exchange also represents that any new floor based order management device will be required to have the Represent Button functionality before CBOE will approve it to be used on the Exchange trading floor if it will be used to represent orders on an agency basis.[11] The Exchange believes that capturing the time when orders are represented on the Exchange's trading floor will help the Exchange develop and implement surveillances concerning the Exchange's rules, including, but not limited to, due diligence requirements of Floor Brokers and Exchange priority rules.[12]

The Exchange proposes to announce the implementation date of the proposed rule change within 30 days following approval by the Commission and has represented to the Commission that all devices currently used to represent orders in the trading crowd by Floor Brokers and PAR Officials will have the Represent Button functionality by the time of implementation.[13]

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.[14] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[15] 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 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.

As described above, the Exchange proposes to require that Floor Brokers and PAR Officials press the Represent Button to capture electronically the time at which they initially represent an order to the Exchange's trading crowd. The Commission notes that the Exchange has represented that, aside from this additional requirement, open out-cry trading will generally continue to operate as it currently does once this proposed rule change is implemented.[16] The Represent Button will be added to devices already used by Floor Brokers and PAR Officials on the Exchange floor and represents an additional discrete functionality to capture the time that an order is represented. The Exchange also represents that this new requirement will apply equally to all participants that handle agency orders in the trading crowd.[17] The Commission believes that the proposed rule change represents an incremental enhancement to CBOE's audit trail and should help facilitate CBOE's ability to monitor activity on its trading floor and assess compliance with its rules.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 71859 (April 3, 2014), 79 FR 19697 (''Notice'').

[4] *See* CBOE Rule 6.70 defining a Floor Broker.

[5] *See* CBOE Rule 7.12(a) defining a PAR Official.

[6] *See* Notice, *supra* note 3, at 19697.

[7] *See id.*

[8] *See* id. at n. 4 (citing CBOE Rule 6.24).

[9] *See* id. at 19698.

[10] *See id.*

[11] *See id.* at n. 5.

[12] *See id.* at 19698.

[13] *See id.*

[14] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78f(b)(5).

[16] *See* Notice, *supra* note 3, at 19698.

[17] *See id.*

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[18] that the proposed rule change (SR–CBOE–2014–029) is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–12426 Filed 5–28–14; 8:45 am]

BILLING CODE 8011–01–P

[18] 15 U.S.C. 78s(b)(2).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72223; File No. SR–NSCC–2014–04]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving Proposed Rule Change to Effect Processing Enhancements to the NSCC Automated Customer Account Transfer Service

May 22, 2014.

I. Introduction

On March 27, 2014, National Securities Clearing Corporation (''NSCC'') 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] proposed rule change SR–NSCC–2014–04 (''Proposed Rule Change'') [3] to implement processing enhancements [4] to NSCC's Automated Customer Account Transfer Service (''ACATS'').[5] The Proposed Rule Change was published for comment in the **Federal Register** on April 11, 2014.[6] The Commission did not receive comments on the Proposed Rule Change. This order approves the Proposed Rule Change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Defined terms not defined herein have the meaning set forth in NSCC's Rules and Procedures (''Rules''), available at *http://dtcc.com/~/media/Files/Downloads/legal/rules/nscc_rules.ashx.*

[4] NSCC will announce the implementation of this Proposed Rule Change via an Important Notice to Members.

[5] The Depository Trust Company (''DTC'') filed a corresponding proposed rule change with the Commission. *See* Release No. 34–71886 (Mar. 27, 2014), 79 FR 20260 (Apr. 11, 2014) (SR–DTC–2014–04) (''DTC Proposal'').

[6] Release No. 34–71887 (Mar. 27, 2014), 79 FR 20290 (Apr. 11, 2014) (SR–NSCC–2014–04).

II. Description

A. Current ACATS Process

ACATS enables NSCC Members (''Members'') to automatically transfer customer accounts among themselves.[7] A Member to whom a customer's securities account is to be transferred (''Receiving Member'') may initiate the account transfer process by submitting a Transfer Initiation Request to NSCC. When the Member who is to deliver the customer's securities account through ACATS (''Delivering Member'') accepts the request, NSCC will cause eligible securities in that account to enter NSCC's Continuous Net Settlement Accounting Operation (''CNS'') prior to the settlement cycle on the day before Settlement Date. Securities that are not eligible for CNS but are eligible for settlement at DTC (''Non-CNS DTC-Eligible Securities'') may be settled either through another NSCC service or outside of NSCC, depending on the asset type.

In order to incentivize the Delivering Member to make delivery of the securities, the Delivering Member is charged with a money settlement debit and the Receiving Member with a money settlement credit (''Incentive Charges''). Incentive Charges are then reversed when the securities transfer is complete.

For ACATS transfers of CNS-eligible securities, NSCC tracks the receive and deliver obligations in CNS so that NSCC is able to reverse the uncompleted transfers of a Member that is party to the transfer but fails to meet its money settlement obligation to NSCC or NSCC ceases to act for such Member (collectively, ''Fails to Settle''). However, if two or more Members Fail to Settle, then NSCC may not be able to identify completed versus uncompleted transfers because ACATS securities that settle via CNS are fungible with CNS's other activity and are netted with the guaranteed trades in the same securities that settle in CNS. As a result, in such a scenario, NSCC may have to reverse all ACATS transfers relating to those Members, whether or not the transactions were completed, in order to eliminate the Incentive Charges.

For ACATS transfers of Non-CNS DTC-Eligible Securities, the Delivering Member that fails to make delivery of the securities (''Fails to Deliver'') will receive a money debit (i.e., an Incentive Charge) for the full value of the securities. However, NSCC does not track the completion of those transfers. Thus, if the Delivering Member ultimately Fails to Settle, NSCC will reverse the Member's ACATS transfers in order to eliminate the associated money debit.

B. New ACATS Process

The Proposed Rule Change will create a new ACATS process (''ACATS Settlement Accounting Operation'') for both CNS-eligible and Non-CNS DTC-Eligible Securities that will operate outside of CNS. The initiation of an ACATS transfer will remain the same. However, all transfers through the ACATS Settlement Accounting Operation will be made without the application of Incentive Charges (i.e., the transfers will be made free-of-value). Additionally, applicable ACATS transfers will be aggregated into one receive and one deliver obligation per security, per Member. Those obligations will be processed through the Member's corresponding receive or deliver subaccounts at NSCC, which NSCC will require each Member participating in the ACATS Settlement Accounting Operation to establish and maintain.[8] NSCC will not net the obligations between a Member's subaccounts.

Under the Proposed Rule Change, after NSCC receives securities from Delivering Members, NSCC will allocate those securities to Receiving Members. The allocation of these securities will be governed by an algorithm formulated by NSCC. To maximize customer account deliveries, NSCC will instruct DTC to deliver shares out of a Delivering Member's account to satisfy first the Delivering Member's ACATS obligations, and then the Delivering Member's outstanding CNS obligations.

The ACATS Settlement Accounting Operation will enable NSCC to track ACATS obligations at the Member level, so NSCC can identify and reverse, as necessary, any uncompleted ACATS transfers in the event that one or more Members Fail to Settle on the scheduled ACATS settlement date.[9] An ACATS transfer of a Member that Fails to Settle will be deemed uncompleted if the Member is: (i) the Delivering Member and it has Failed to Deliver to NSCC all or a portion of the securities associated with the ACATS transfer, or (ii) the Receiving Member and it has failed to receive from NSCC all or a portion of the securities associated with the ACATS transfer (''Fail to Receive''). However, in either case, where the Delivering Member has made a partial

[7] ACATS is a non-guaranteed service and transfers are not subject to risk management by NSCC.

[8] An NSCC account at DTC will be established to accommodate processing of these transfers.

[9] The current process only provides for tracking of a single Member default for this purpose.

delivery for an amount of the securities to NSCC (''Delivered Amount'') the transfer will be: (i) deemed completed for any amount of the securities received from NSCC by the Receiving Member up to an amount not to exceed the Delivered Amount (''Received Amount''), and (ii) deemed uncompleted for any amount of the securities scheduled for delivery other than the Received Amount, in which case only the uncompleted portion of the obligation will be subject to reversal.

In the event that a Delivering Member and Receiving Member to the same ACATS transfer Fail to Settle on the same settlement day, then any transfer deemed uncompleted for the Delivering Member will also be deemed uncompleted as to the Receiving Member, and vice versa. NSCC will then notify firms with the details associated with the securities subject to the reversal and firms will need to reestablish customer positions accordingly.

The fact that deliveries will be made free-of-value in the new ACATS process will obviate any need to reverse completed transactions.[10] Securities associated with completed ACATS transfers will remain with the Receiving Member, thus ensuring that customer account transfers to new firms are maximized.

If a scheduled securities delivery or receive through ACATS Settlement Accounting Operation for a transaction Fails to Deliver or Fails to Receive at the end of the day, but the corresponding Member has not Failed to Settle, NSCC will apply a funds settlement debit to the Delivering Member and a funds settlement credit to the Receiving Member prior to final settlement. For CNS-eligible securities, the money amount will be 100 percent of the CNS market value.[11] For Non-CNS DTC-Eligible Securities, the money amount will be 100 percent of the ACATS market value. When the Member makes final money settlement, the failed obligations will take one of two paths depending on whether they involve CNS-eligible or Non-CNS DTC-Eligible Securities.

For an ACATS obligation in CNS-eligible securities where there has been a Fail to Deliver or Receive but not a Fail to Settle, the obligation will enter the applicable Member's general CNS account. The obligation will then be netted with regular CNS processing. Because NSCC has collected the full value on the securities, NSCC will guarantee settlement for the obligations upon their inclusion in CNS.

For Non-CNS DTC-Eligible Securities, NSCC will provide instructions to both the Delivering Member and Receiving Member to settle the failed obligation directly with each other. These transactions will be automatically entered into NSCC's Obligation Warehouse system, if eligible.

The new ACATS process will also provide for ''Level 1'' delivery exemptions that will allow Members to indicate that deliver obligations in the ACATS Settlement Accounting Operation should not be automatically settled against their current DTC position. With respect to same day settling transactions, Members may select a standing exemption to permit all such short positions to be delivered. Additionally, during the daytime cycle, a Member may override the one-day settling exemption, as well as other exemptions entered by the Member the previous evening. To use this feature, the Member should prepare a Delivery Order (''DO'') and submit it to DTC in the normal manner.

With this Proposed Rule Change, NSCC will also ensure that neither DTC nor NSCC will have a lien on securities delivered to a receiver as a result of an ACATS transfer. Because the new ACATS process will allocate shares to the Receiving Member via an algorithm that NSCC will establish for this purpose, as discussed above, DTC will credit the shares to the Receiving Members Minimum Amount (''MA'') or non-lien/non-collateral account at DTC.

Final accounting reports for the ACATS Settlement Accounting Operation will be provided in conjunction with the final CNS accounting reports. However, reporting along with the CNS accounting reports will have no effect on the status of the reported ACATS transactions as non-guaranteed.

C. Elimination of Short Cover Charge and Long Allocation Reversals

An ACATS short cover charge is a dollar amount guaranteed by NSCC to DTC for the value of securities delivered from a DTC Participant account to NSCC for CNS processing by NSCC. NSCC's guaranty to DTC for the short cover charge will no longer be applicable because, under the new ACATS process, the deliveries no longer present risk to DTC. As such, DTC will delete provisions in its procedures related to ACATS short cover charges.[12] No change to NSCC's Rules is required.

At NSCC, under the current ACATS process, long allocations may be reversed if the NSCC Member Fails to Settle. Because ACATS transfers under the new process will not generate any funds settlement obligations, this reversal is eliminated. As such, DTC will delete provisions in its procedures describing the reversal of ACATS long allocations.[13] No change to NSCC's Rules is required.

III. Discussion and Commission Finding

Section 19(b)(2)(C) of the Act[14] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act[15] requires that the rules of a clearing agency be designed to, among other things, ''promote the prompt and accurate clearance and settlement of securities transactions and . . . to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.''[16] The Commission finds that the Proposed Rule Change is consistent with these requirements because the new ACATS processing system will enhance NSCC's ability to track receive and deliver obligations associated with ACATS activity and preclude the reversal of completed ACATS transfers in the event that multiple Members Fail to Settle.

Further, Commission Rules 17Ad–22(d)(3)[17] and 17Ad–22(d)(12)[18] require that registered clearing agencies establish, implement, maintain and enforce written policies and procedures reasonable designed to ''[h]old assets in a manner that minimizes risk of loss or of delay in its access to them . . .''[19] and ''[e]sure that final settlement occurs no later than the end of the settlement day; and require that intraday or real-time finality be provided where necessary to reduce risks.''[20]

Currently, if two or more Members Fail to Settle, NSCC may need to reverse all ACATS transactions relating to those Members, whether or not the transactions are completed. The potential that NSCC may be required to reverse all transactions, including transactions that have already

[10] DTC will inform NSCC through the DTC/NSCC interface as to when deliveries are complete.

[11] If a market price is unavailable, then NSCC will use the value provided by the Delivering Member.

[12] *See* DTC Proposal, 79 FR 20260.

[13] *Id.*

[14] 15 U.S.C. 78s(b)(2)(C).

[15] 15 U.S.C. 78q–1(b)(3)(F).

[16] 15 U.S.C. 78q–1(b)(3)(F).

[17] 17 CFR 240.17Ad–22(d)(3).

[18] 17 CFR 240.17Ad–22(d)(12).

[19] 17 CFR 240.17Ad–22(d)(3).

[20] 17 CFR 240.17Ad–22(d)(12).

completed, may delay a Receiving Member's ability to access the account being transferred and delay final settlement of the ACATS transfer. Under the Proposed Rule Change, NSCC will be able to identify and reverse only uncompleted ACATS obligations in the event of a multiple Member default, thus minimizing the risk of delayed access to settled ACATS transfers. As such, the Commission finds the Proposed Rule Change consistent with Rules 17Ad–22(d)(3)[21] and 17Ad–22(d)(12).[22]

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[23] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change SR–NSCC–2014–04 be, and it hereby is, *approved.*

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–12419 Filed 5–28–14; 8:45 am]

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[21] 17 CFR 240.17Ad–22(d)(3).

[22] 17 CFR 240.17Ad–22(d)(12).

[23] 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).

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72227; File No. SR–NSX–2014–15]

Self-Regulatory Organizations; National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend Certain Requirements Pertaining to Sponsored Access Under Rules 11.9 and 11.17

May 22, 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 May 8, 2014, National Stock Exchange, Inc. (''NSX®'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change, as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comment 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 is proposing certain amendments to Rule 11.9, titled ''Access'' and to Rule 11.17, titled ''Clearance and Settlement.'' The text of the proposed rule change is available on the Exchange's Web site at *http://www.nsx.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing certain amendments to Rule 11.9, paragraph (b) governing the requirements for a Sponsored Participant[3] to obtain access to the Exchange's trading system (the ''System'')[4] through a Sponsoring ETP Holder.[5] First, the Exchange is proposing to amend paragraph (b) of Rule 11.9 to eliminate a provision that a Sponsored Participant may obtain access to the System ''. . . only if such participant is a registered broker or dealer and a self-clearing member of a Qualified Clearing Agency. . . .'' The Exchange proposes to make a conforming amendment to paragraph (a) of Rule 11.17 to eliminate the parallel provision that ''[e]ach Sponsored Participant must be a member of a Qualified Clearing Agency . . . .;''

The Exchange submits that the import of these two rule provisions was to assure that a Sponsored Participant accessing the Exchange was an entity subject to the risk, capital and compliance requirements applicable to brokers and dealers under the federal securities laws, the regulations promulgated thereunder, and the rules of the self-regulatory organizations to which such a broker or dealer belonged. The additional requirement that the Sponsored Participant be a self-clearing member of a Qualified Clearing Agency operated to assure that trades executed by the Sponsored Participant in the NSX marketplace would settle and clear without risk to counter-parties, to the Exchange, or to the wider market. These considerations were particularly important to the extent that a Sponsored Participant may have had an arrangement with the Sponsoring ETP Holder whereby the Sponsored Participant's orders bypassed the Sponsoring ETP Holder's trading systems and were routed orders directly to the Exchange.

The Exchange submits that the requirement of Rule 11.9 that a Sponsored Participant must be a registered broker or dealer and a self-clearing member of a Qualified Clearing Agency is no longer necessary in view of the significant changes to the regulations governing market access that have been enacted since Rule 11.9 was last amended in 2006.[6] Most notably, in November 2010, the Commission adopted Rule 15c3–5, *Risk Management Controls for Brokers or Dealers with Market Access*[7] Rule 15c3–5 requires, *inter alia,* that a broker or dealer with market access,[8] or that provides a customer or any other person with access to an exchange through the use

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A ''Sponsored Participant'' is defined in Exchange Rule 1.5S.(1) as ''. . . a person who has entered into a sponsorship arrangement with a Sponsoring ETP Holder pursuant to Rule 11.9.''

[4] The ''System'' is defined in Exchange Rule 1.5S.(4) as ''. . . the electronic securities communications and trading facility designated by the Board [of Directors of the Exchange] through which the orders of Users are consolidated for ranking and execution.''

[5] A ''Sponsoring ETP Holder'' is defined in Exchange Rule 1.5S(2) as ''. . . a broker-dealer that has been issued an ETP by the Exchange who has been designated by a Sponsored Participant to execute, clear and settle transactions resulting from the System. The Sponsoring ETP Holder shall be either (i) a clearing firm with membership in a clearing agency registered with the Commission that maintains facilities through which transactions may be cleared or (ii) a correspondent firm with a clearing arrangement with any such clearing firm.''

[6] *See* Exchange Act Release No. 54391 (August 31, 2006); 71 FR 52836 (September 7, 2006)(SR–NSX–2006–08).

[7] 17 CFR 240.15c3–5; Securities Exchange Act Release No. 63241 (November 3, 2010), 75 FR 69791 (November 15, 2010).

[8] Rule 15c3–5(a)(1) defines market access as access to trading in securities on an exchange or alternative trading system as a result of being a member or subscriber of the exchange or alternative trading system, or access to trading in securities on an alternative trading system provided by a broker-dealer operator of an alternative trading system to a non-broker-dealer. *See* 17 CFR 240.15c3–5(a)(1).

of its mnemonic or market participant identifier or otherwise, establish, document and maintain a system of risk management controls and supervisory procedures reasonably designed to manage the financial, regulatory and other risks, such as legal and operational risks, related to market access.[9] Rule 15c3–5 requires that a broker or dealer's financial risk management controls and supervisory procedures be reasonably designed to systematically limit the financial exposure that could arise as a result of market access, including preventing the entry of orders that exceed pre-set credit or capital thresholds and rejecting erroneous or duplicative orders.[10] A broker-dealer's regulatory risk management controls and supervisory procedures must be reasonably designed to ensure compliance with all regulatory requirements, including preventing the entry of orders unless there has been compliance with all regulatory requirements that must be satisfied on a pre-order entry basis.[11] The Rule further requires that the broker or dealer with market access have direct and exclusive control of the risk management controls and supervisory procedures.[12]

The Exchange submits that the provisions of Rule 15c3–5, which operate to prohibit ''unfiltered'' or ''naked'' access where a customer's order flow does not pass through an ETP Holder's systems or filters prior to entry on the Exchange, render the requirement of Rule 11.9(b) that a Sponsored Participant be a self-clearing broker-dealer, and its parallel requirement in the text of Rule 11.17(a), to be extraneous. Moreover, the Exchange notes that an examination of the requirements for Sponsored Participants under the rules of other national equity security exchanges discloses that they do not contain a similar requirement that a Sponsored Participant be a registered, self-clearing broker-dealer.[13] Thus, by this proposed amendment, the Exchange will bring the requirements of Rule 11.9(b) into alignment with the rules of other exchanges. The Exchange believes that this change will operate to enhance efficiencies by eliminating the need for ETP Holders to impose special requirements on its Sponsored Participants for purposes of accessing the Exchange when such special requirements are not required for purposes of sponsored access to other exchanges.

The Exchange also proposes to amend subparagraph (b)(2)(D) of Rule 11.9 that requires, in relevant part, that a Sponsored Participant provide ''upon request'' a list of Authorized Traders who may obtain access to the System on behalf of the Sponsored Participant to the Sponsoring ETP Holder and to the Exchange. Under the Exchange's proposed amendment, the Sponsored Participant would be required to provide a list of Authorized Traders to the Sponsoring ETP Holder, but would not limit this requirement to instances where a request is made by the Sponsoring ETP Holder to do so.[14] The Exchange believes that it is important for a Sponsoring ETP Holder to have a current list of its Sponsored Participants' Authorized Traders and, since other exchanges have the same requirement, the amendment as proposed would enhance the ability of the Sponsoring ETP Holder to comply with market access requirements while not imposing any greater compliance burden.

The Exchange also proposes to delete from paragraph (b)(3) of Rule 11.9 the provision that it is the responsibility of the Sponsoring ETP Holder, without limitation to clear and settle the Sponsored Participant's trades in the event that the Sponsored Participant or its Qualified Clearing Agency does not accept any such trades. The Exchange believes that deletion of this text is consistent with the proposed removal of the requirement under Rule 11.9 that a Sponsored Participant must be a self-clearing broker or dealer and notes that the preceding sentence of Rule 11.9(b)(3), which will remain unchanged under the Exchange's proposal, requires a written statement from the Sponsoring ETP Holder that it is responsible for the ''orders, executions and actions of its Sponsored Participant at issue.'' The Exchange also notes that Rule 1.5S.(2) defines ''Sponsoring ETP Holder'' as a broker-dealer that has been designated by a Sponsored Participant to ''. . . execute, clear and settle transactions resulting from the System. . . .'' The Exchange does not believe that the text it proposes to remove impacts in any way the respective obligations of the Sponsoring ETP Holder or Sponsored Participant with respect to the clearing and settlement of the Sponsored Participant's executions on the Exchange.

2. Statutory Basis

The Exchange believes that the proposed amendments to Rules 11.9 and 11.17 are consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange and, in particular, with the requirements of Section 6(b) of the Act.[15] In particular, the Exchange submits that its proposal is consistent with Section 6(b)(5) of the Act,[16] because it would promote just and equitable principles of trade and remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, protect investors and the public interest.

The Exchange believes that amending Rule 11.9(b) to remove the requirement that a Sponsored Participant must be a registered, self-clearing broker or dealer, along with the parallel requirement contained in Rule 11.17(a), is consistent with Section 6(b)(5), in that it would remove from the Exchange's rules provisions that, while intended as salutary requirements intended to protect investors and the public interest, are now extraneous to that goal because of the significant changes to the regulatory and compliance structure for market access that have resulted from the implementation of Rule 15c3–5. Accordingly, the Exchange submits that considerations of investor protection and the public interest are no longer effectively served by placing the additional requirement on prospective Sponsored Participants that they meet the criterion of being a self-clearing broker-dealer, as well as satisfying the other requirements of Rule 11.9, before they can access the Exchange's marketplace.

The Exchange further believes that its proposal to eliminate the self-clearing broker-dealer requirement for Sponsored Participants from Rule 11.9(b)(2) and 11.17(a) would operate to promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and national market system. The Exchange's proposal aligns the Exchange's rules with those of other national securities exchanges, which do not have the same requirements in their respective sponsored access and

[9] 17 CFR 240.15c3–5(b).

[10] 17 CFR 240.15c3–5(c)(1).

[11] 17 CFR 240.15c3–5(b) and (c).

[12] 17 CFR 240.15c3–5(d).

[13] *See, e.g.,* New York Stock Exchange LLC (''NYSE) Rule 123B.10(c); NYSE Arca Equities, Inc. (''NYSE Arca'') Rule 7.29(b); BATS Exchange, Inc. (''BATS'') Rule 11.3; EDGA Exchange, Inc. (''EDGA'') Rule 11.3(b).

[14] The Exchange's proposed amendment to require that a Sponsored Participant furnish a list of its Authorized Traders to its Sponsoring ETP Holder mirrors the same requirement found in NYSE Arca Rule 7.29(b)(2)(D) and BATS Rule 11.3(b)(2)(D).

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

clearance and settlement rules.[17] The Exchange thereby aspires to promote the consistency of its rules with other Exchanges by removing a requirement that other exchanges do not have and which can be deemed an impediment to a free and open market and national market system.

Similarly, the Exchange believes that its proposal to amend subparagraph (b)(2)(D) of Rule 11.9 to require that a Sponsored Participant shall provide a list of its Authorized Traders to the Sponsoring ETP Holder is consistent with Section 6(b)(5) of the Act in that it promotes just and equitable principles of trade and the protection of investors. The Exchange believes that it is important for a Sponsoring ETP Holder to have a current list of its Sponsored Participants' Authorized Traders and not confine that requirement to instances where the Sponsoring ETP Holder requests such a list. Moreover, as other exchanges have the same requirement, the amendment as proposed would enhance the ability of the Sponsoring ETP Holder to comply with market access requirements while not imposing any greater compliance burden.[18]

The Exchange's proposed amendment deleting from paragraph (b)(3) of Rule 11.9 the provision that it is the responsibility of the Sponsoring ETP Holder, without limitation to clear and settle the Sponsored Participant's trades in the event that the Sponsored Participant or its Qualified Clearing Agency does not accept any such trades, is consistent with Section 6(b)(5). The Exchange submits that the text proposed for deletion was apposite within the context of the requirement that a Sponsored Participant must be a self-clearing registered broker or dealer, which is also proposed for deletion. The Exchange notes that the preceding sentence of Rule 11.9(b)(3), which will remain unchanged under the Exchange's proposal, requires a written statement from the Sponsoring ETP Holder that it is responsible for the ''orders, executions and actions of its Sponsored Participant at issue'' and that Rule 1.5S.(2) defines ''Sponsoring ETP Holder'' as a broker-dealer that has been designated by a Sponsored Participant to ''. . . execute, clear and settle transactions resulting from the System. . . .'' The Exchange believes that its proposal will operate to clarify and impart consistency within its rules, which is consistent with the requirements of Section 6(b)(5) of the Act that the rules of the Exchange promote just and equitable principles of trade and the protection of investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed amendments to Rules 11.9 and 11.17 are in accordance with Section 6(b)(8) of the Act in that they will not place any burden on competition that is not necessary or appropriate in furtherance of the Act. In fact, the Exchange believes that its proposed amendment will promote competition by removing from Rule 11.9 the requirement that a Sponsored Participant seeking to attain access to the Exchange's marketplace through a Sponsoring ETP Holder must itself be a self-clearing registered broker or dealer. Since the access rules of other national securities exchanges do not contain a similar requirement, its proposed removal from Rule 11.9 will make access to the Exchange subject to meeting similar terms and conditions as required by other exchanges and not imposing special or unique provisions that operate as a barrier to obtaining access on the Exchange. The Exchange believes that the proposed amendments will therefore promote competition rather than impede it in any way.

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 written comments from ETP Holders or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. Significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate;

it has become effective pursuant to Section 19(b)(3)(A)[19] of the Exchange Act and Rule 19b–4(f)(6)[20] thereunder. In addition, the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing, or such shorter time as designated by the Commission.[21]

The Exchange requests that the Commission waive the 30-day operative delay so that the proposed rule change may become effective and operative upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act[22] and paragraph (f)(6) of Rule 19b–4 thereunder.[23]

The Commission finds that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. In particular, the proposed rule change will align the NSX sponsored access requirements with that of other exchanges. Further, waiver of the operative delay would allow Exchange ETP Holders to enter sponsored access arrangements immediately. Accordingly, the Commission designates the proposal operative upon filing.[24]

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–NSX–2014–15 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 No. SR–NSX–2014–15. This file number should be included in the subject line if email is used. To help the Commission process and review

[17] *See* footnote 13, *supra.*

[18] *Id.*

[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f)(6).

[21] 17 CFR 240.19b–4(f)(6)(iii).

[22] 15 U.S.C. 78s(b)(3)(A).

[23] 17 CFR 240.19b–4(f)(6).

[24] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. eastern time. Copies of such filings will also 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–NSX–2014–15 and should be submitted on or before June 19, 2014.

For the Commission by the Division of Trading and Markets, pursuant to the delegated authority.[25]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–12423 Filed 5–28–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72225; File No. SR–Phlx–2014–34]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing of Proposed Rule Change To Delete From Section IX of the Exchange's Options Fee Schedule the PHOTO Historical Data Product

May 22, 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 May 9, 2014, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to delete from Section IX of the Exchange's Options Fee Schedule the PHOTO Historical data product.

The text of the proposed rule change is below; proposed new language is italicized.

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NASDAQ OMX PHLX LLC Pricing Schedule

* * *

IX. Proprietary Data Feed Fees

Top of PHLX Options (''TOPO'')

No change.

TOPO Plus Orders

No change.

PHLX Orders

No change.

PHLX Depth Data

No change.

PHLX Options Trade Outline (''PHOTO'')

Account type	Monthly charge
End of Day Product Subscriber	$500
Intra-Day Product Subscriber	1,500

[PHOTO Historical Data

Account type	Charge per calendar month requested
End of Day Product Subscriber	$400
Intra-Day Product Subscriber	750

[9] For example, a subscriber who requests End of Day PHOTO Historical Data for the Month of March, 2009 would be charged $400. A subscriber who requests End of Day PHOTO Historical Data for the months of March, 2009 and April, 2009 would be charged $400 for the March, 2009 End of Day data and $400 for the April, 2009 End of day data, for a total of $800, etc. A subscriber who requests Intra-Day PHOTO Historical Data for the Month of March, 2009 would be charged $750.00. A subscriber who requests Intra-Day PHOTO Historical Data for the months of March, 2009 and April, 2009 would be charged $750 for the March, 2009 Intra-Day data and $750 for the April, 2009 Intra-Day data, for a total of $1,500, etc.]

* * * * *

(b) Not applicable.

(c) Not applicable.

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II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify Section IX of the Exchange's Options Pricing Schedule to delete references to the PHOTO Historical data product. PHOTO Historical is a stored data product and not a real time data feed. NASDAQ OMX stores the data on a server within a technology subsidiary that functions like any vendor that receives and stores real time data feed. PHOTO Historical is not a facility of the Exchange and fees associated with it do not belong in the Exchange Rule Manual.

Background. In September 2010, the Exchange established fees for its PHOTO market data product.[3] PHOTO is a market data product offered by the Exchange that provides proprietary electronic trade data to subscribers. PHOTO is available as either an ''Intra-Day'' or ''End-of-Day'' product. PHOTO Historical, as the name implies, is not a real-time product; it is a stored product that permits a subscriber to select a particular prior calendar month or months and receive the ''End of Day'' or ''Intra-Day'' data for each trading session conducted during the calendar month(s) selected.

Like PHOTO subscribers, PHOTO Historical subscribers receive the following data:

[25] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 62887 (September 10, 2010), 75 FR 57092 (September 17, 2010) (SR–Phlx–2010–121).

• Aggregate number of buy and sell transactions in the affected series for each trading session conducted during the specified calendar month(s);

• Aggregate volume traded electronically on the Exchange in the affected series for each trading session conducted during the specified calendar month(s);

• Aggregate number of trades effected on the Exchange to open a position [4] for each trading session conducted during the specified calendar month(s);

• Aggregate number of trades effected on the Exchange to close a position [5] for each trading session conducted during the specified calendar month(s);

• Origin of the orders involved in trades on the Exchange in the affected series for each trading session conducted during the specified calendar month(s), specifically aggregated in the following categories of participants: Customers, broker-dealers, market makers (including specialists, Registered Options Traders (''ROTs''), Streaming Quote Traders (''SQTs'') [6] and Remote Streaming Quote Traders (''RSQTs'') [7]), and professionals.[8]

The fee for the PHOTO Historical Data End of Day product for subscribers is $400.00 per calendar month selected. The fee for the PHOTO Historical Data Intra-day product subscribers is $750.00 per calendar month selected.

Proposal. NASDAQ believes that PHOTO Historical is not a facility of the Exchange within the meaning of the Act, and that previous proposed rule changes with respect to such PHOTO Historical were unnecessary under the Act. Congress enacted the Exchange Act to impose federal regulation on stock exchanges, and included in its definition of ''exchange'' ''the market facilities maintained by such exchange.'' [9] The Exchange Act separately defines ''facility,'' providing that ''[t]he term 'facility' when used with respect to an exchange includes [1] its premises, [2] tangible or intangible property whether on the premises or not, [3] any right to the use of such premises or property or any service thereof for the purpose of effecting or reporting a transaction on an exchange (including among other things, any system of communication to or from the exchange, by ticker or otherwise, maintained by or with the consent of the exchange), and [4] any right of the exchange to the use of any property or service.'' *Id.* The Commission has not separately interpreted the definition of ''facility.'' [10]

PHOTO Historical does not satisfy any of the four prongs set forth in the statutory definition of ''facility.'' First, it is not the ''premises'' of the Exchange. The term ''premises'' is generally understood to refer to a building, its land, and appurtenances. Second, PHOTO Historical is not tangible or intangible property of the Exchange. While the Exchange initially distributes the PHOTO product as a facility; NASDAQ OMX stores and distributes PHOTO Historical as any vendor would do. Third, PHOTO Historical is not used on the Exchange's premises ''for the purpose of effecting or reporting a transaction'' on an exchange.[11] Fourth, PHLX, in its capacity as an exchange, does not hold any right to PHOTO Historical other than as the original distributor of such data for which it receives applicable, filed fees.

The Exchange's proposal is consistent with past precedent regarding the distribution of historical data. Specifically, in 2010, the NASDAQ Stock Market submitted a proposed rule change to eliminate from the NASDAQ rule manual references to Historical TotalView.[12] In that case, TotalView was a real-time data product that was stored in a non-exchange subsidiary that then redistributed the stored data in the same manner and capacity as any market data vendor. The proposal was designated as an immediately effective proposal and was not acted upon by the Commission.

Conversely, there is no Commission precedent for considering the historical data of an exchange to be considered a facility when re-distributed by a market data vendor. For example, when NASDAQ separated from NASD, the Commission was asked to determine whether TRF LLC, which would operate NASD's Trade Reporting Facility, was a facility of NASD or the Nasdaq Exchange, which together owned TRF LLC.[13] The Nasdaq Exchange was to be ''primarily responsible for the management of the TRF LLC's business affairs,'' and all ''profits and losses from the TRF LLC [were] allocated to NASDAQ.'' *Id.* at 15; *see also id.* at 18 (''[T]he Nasdaq Exchange's parent company controls the board of the TRF LLC, directs all business decisions, provides technology, and will reap the economic benefits of the TRF LLC.''). Nevertheless, the Commission concluded that the TRF LLC was a facility of *NASD,* not the Nasdaq Exchange, because the ''Trade Reporting Facility is not a service 'for the purpose of effecting or reporting a transaction' on the Nasdaq Exchange.'' *Id.* at 18. The

[4] PHOTO Historical Data provides subscribers with the aggregate number of ''opening purchase transactions'' in the affected series for each trading session conducted during the calendar month(s) selected. An opening purchase transaction is an Exchange options transaction in which the purchaser's intention is to create or increase a long position in the series of options involved in such transaction. *See* Exchange Rule 1000(b)(24). PHOTO Historical Data also provides subscribers with the aggregate number of ''opening writing transactions'' in the affected series for each trading session conducted during the calendar month(s) selected. An opening writing transaction is an Exchange options transaction in which the seller's (writer's) intention is to create or increase a short position in the series of options involved in such transaction. *See* Exchange Rule 1000(b)(25).

[5] PHOTO Historical Data provides subscribers with the aggregate number of ''closing purchase transactions'' in the affected series for each trading session conducted during the calendar month(s) selected. A closing purchase transaction is an Exchange options transaction in which the purchaser's intention is to reduce or eliminate a short position in the series of options involved in such transaction. *See* Exchange Rule 1000(b)(27). PHOTO Historical Data will also provide subscribers with the aggregate number of ''closing sale transactions'' in the affected series for each trading session conducted during the calendar month(s) selected. A closing sale transaction is an Exchange options transaction an Exchange options transaction in which the seller's intention is to reduce or eliminate a long position in the series of options involved in such transaction. *See* Exchange Rule 1000(b)(26).

[6] An SQT is an Exchange Registered Options Trader (''ROT'') who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned. *See* Exchange Rule 1014(b)(ii)(A).

[7] An RSQT is an ROT that is a member or member organization with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. An RSQT may only submit such quotations electronically from off the floor of the Exchange. *See* Exchange Rule 1014(b)(ii)(B).

[8] The term ''professional'' means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). A professional will be treated in the same manner as an off-floor broker-dealer for purposes of Rules 1014(g) (except with respect to all-or-none orders, which will be treated like customer orders), 1033(e), 1064.02 (except professional orders will be considered customer orders subject to facilitation), and 1080.08 as well as Options Floor Procedure Advices B–6, B–11 and F–5. Member organizations must indicate whether orders are for professionals. *See* Exchange Rule 1000(b)(14).

[9] 15 U.S.C. § 78c(a)(1).

[10] Securities Exchange Act Release No. 26708, at 4 n.28 (1989) (recognizing that the definition of the term ''facility'' has not changed since it was originally adopted and that no hearing testimony referred to it because ''the Committee felt that the definition was 'self-explanatory'''') (citation omitted).

[11] 15 U.S.C. 78c(a)(2).

[12] Securities Exchange Act Release No. 61416 (Jan. 25, 2010) (SR–NASDAQ–2010–010).

[13] Securities Exchange Act Release No. 54084 (June 30, 2006).

TRF LLC was instead ''a service for the purpose of reporting transactions to the NASD.'' *Id.*

Similarly, the Commission concluded that the ACES System, ''a neutral communications service that allows NASDAQ members and non-members to route orders to one another,'' is not a facility of the NASDAQ Exchange.[14] The Commission deemed it significant that the ACES System does not route orders to NASDAQ and does not report executed trades on the Exchange. *Id.* The Commission emphasized that, because the ACES System is ''not linked to the Exchange's core systems, including the NASDAQ Market Center,'' it ''is not possible for an order to be routed to the NASDAQ Market Center via the ACES system.'' *Id.* Accordingly, the Commission concluded that ACES does not have ''the purpose of effecting or reporting a transaction on an exchange'' within the meaning of the Exchange Act. *Id.* The Commission has also permitted NASDAQ to remove from its rule book fees related to the Mutual Fund Quotation Service and the NASDAQ Index Dissemination Service, both of which disseminated market data not properly considered ''facilities'' of NASDAQ within the meaning of the Exchange Act.[15]

Given the plain language of the Exchange Act and the above-referenced precedents, there is no basis in the Act for determining that a real-time market data facility of an exchange retains that character when an affiliated vendor redistributes it on an historical basis. First, the affiliated vendor is not an exclusive processor of such data, unlike the data that PHLX produces directly. Second, historical data does not provide access or order entry capability to the Exchange's execution system; nor does it carry information from or about executions currently within the execution system. Third, the affiliated vendor receives the data via an arms-length agreement and it has no inherent advantage over any other recipient of such data. Moreover, historical data is available via multiple sources. It is a completely voluntary product in that PHLX makes it available on a voluntary basis, and clients purchase it from NASDAQ OMX (or another vendor) only if they voluntarily choose to do so.

For all of these reasons, PHLX believes that its PHOTO Historical data service is not a facility of a national securities exchange within the meaning of the Act and that it is not required under Section 19(b)(1) of the Act[16] and Rule 19b–4 thereunder[17] to file rules regarding the applicable charges.

2. Statutory Basis

PHLX believes that PHOTO Historical is not a facility of a national securities exchange within the meaning of the Act and the terms of this service are not rules that must be filed with the Commission under Section 19(b)(1) of the Act[18] and Rule 19b–4 thereunder.[19] Therefore, removing the applicable provisions from the PHLX rule book would be consistent with the provisions of Section 6(b) of the Act.[20]

PHLX's proposal to remove PHOTO Historical from the rule manual is also consistent with the Exchange Act insofar as it will have no impact on PHLX's or its members' compliance with applicable regulations and rules. First, PHLX has no obligation under the Exchange Act, either as an exchange or a vendor, to offer PHOTO Historical to PHLX members. Having chosen to offer such data and to do so on non-discriminatory terms imposes no continuing obligation to do so. Second, even assuming PHLX did have an obligation to make PHOTO Historical available, it will continue to do so in the same manner if does now. Therefore, to the extent PHLX members utilize PHOTO Historical, that use will be uninterrupted. Third, there are multiple vendors of historical, many of whom are not subject to Commission oversight.

B. Self-Regulatory Organization's Statement on Burden on Competition

PHLX 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. To the contrary, PHLX believes that this proposed rule change removing from the PHLX rule manual a service improperly included, promotes competition by removing an impediment to PHLX's competition with unregulated market data providers with which PHLX competes for these services. Removing barriers to competition has the potential to promote innovation, reduce prices, and increase efficiency.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2014–34 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–Phlx–2014–34. 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

[14] Securities Exchange Act Release No. 56237 (August 9, 2007).

[15] *See* Securities Exchange Act Release No. 58392 (August 20, 2008) (removing MFQS from rule book); Securities Exchange Act Release No. 58897 (November 3, 2008) (removing NIDS from rule book).

[16] 15 U.S.C. 78s(b)(1).

[17] 17 CFR 240.19b–4.

[18] 15 U.S.C. 78s(b)(1).

[19] 17 CFR 240.19b–4.

[20] 15 U.S.C. 78f(b).

printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2014–34, and should be submitted on or before June 19, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–12421 Filed 5–28–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72224; File No. SR–DTC–2014–04]

Self-Regulatory Organizations; The Depository Trust Company; Order Approving Proposed Rule Change to Effect Changes to the DTC Settlement Service Guide Relating to the Automated Customer Account Transfer Service of National Securities Clearing Corporation

May 22, 2014.

I. Introduction

On March 27, 2014, The Depository Trust Company (''DTC'') 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] proposed rule change SR–DTC–2014–04 (''Proposed Rule Change'')[3] to implement changes to the DTC Settlement Service Guide (''Guide'') that conform with proposed changes to the Automated Customer Account Transfer Service (''ACATS'') of National Securities Clearing Corporation (''NSCC''),[4] a DTC affiliate. The Proposed Rule Change was published for comment in the **Federal Register** on April 11, 2014.[5] The Commission did not receive comments to the Proposed Rule Change. This order approves the Proposed Rule Change.[6]

II. Description

A. Current ACATS Process

ACATS is an NSCC service that interfaces with DTC for the delivery of customer[7] securities from the account of one Participant (that is also an NSCC member (''Member'')) to another Participant (that is also a Member). Under the NSCC Proposal, customer account transfers with respect to two types of DTC-eligible securities will be processed through a new NSCC accounting operation (''ACATS Settlement Accounting Operation'') on an ACATS settlement date. Because of the NSCC Proposal, conforming changes are required to the Guide.

The key provision of the NSCC Proposal impacting DTC is that ACATS transactions will no longer have an associated incentive charge applied to them by NSCC as the transactions are processed.[8] As such, an ACATS transfer will no longer present a funds settlement risk to NSCC or DTC; thus, ACATS transfers will be processed by DTC free of payment. Accordingly, DTC proposes to change the applicable procedures in the Guide, as described below. Additionally, the Proposed Rule Change includes clarifications in the Guide with respect to the protection of customer securities processed through ACATS.

B. Proposed DTC Rule Changes

Elimination of Short Cover Charge

An ''ACATS short cover charge'' is a dollar amount guaranteed by NSCC to DTC for the value of securities delivered from a Participant's DTC account to NSCC for processing by NSCC through its Continuous Net Settlement system (''CNS''). Because ACATS transfers will be entirely free of payment under the NSCC proposal as described above, a provision in the Guide relating to the processing of ''ACATS short cover charges'' will be deleted, with related adjustments to references to the DTC Collateral Monitor.[9]

Elimination of Long Allocation Reversals

At NSCC, under current rules, long allocations of securities made via CNS may be reversed if the NSCC Member receiving the securities fails to meet its NSCC money settlement obligation. Because ACATS transactions will not generate any funds settlement obligations, this reversal is eliminated. The provision in the Guide describing the NSCC reversal will be deleted.

Memo Seg Optionality

Memo Seg is a systemic mechanism that allows Participants to prevent inventory that is not subject to a lien or claim of DTC (''Minimum Amount'' or ''MA'') from falling below a certain number of units.[10] In order to extend the Memo Seg option to securities received via ACATS transfers, the Guide will be revised to provide that a Participant may increase its number of units designated for protection under Memo Seg to reflect ACATS receipts.

Clarification with Respect to MA Securities

ACATS transfers are not subject to any lien or claims by DTC because they are transferred free of payment. Upon receipt into a Participant account, the securities constitute MA securities pursuant to the Rules.[11] The Guide currently uses the term ''Deemed MA'' to reflect this condition. This terminology is no longer necessary because, under the NSCC Proposal, a funds obligation no longer attaches to ACATS transactions. Accordingly, the term ''Deemed MA'' will be deleted from the Guide, and a new section of the Guide will confirm that ACATS securities received by a Participant will, by virtue of the ACATS transfer, be credited to the Participant's receiving account as MA.[12]

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[21] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] DTC will announce the implementation of this Proposed Rule Change via an Important Notice to DTC participants (''Participants'').

[4] NSCC filed a corresponding proposed rule change with the Commission. *See* Release No. 34–71887 (Mar. 27, 2014), 79 FR 20290 (Apr. 11, 2014) (SR–NSCC–2014–04) (''NSCC Proposal'').

[5] Release No. 34–71886 (Mar. 27, 2014), 79 FR 20260 (Apr. 11, 2014) (SR–DTC–2014–04).

[6] Terms not defined herein have the meaning set forth in DTC's Rules, By-Laws, and Organization Certificate (''Rules''), available at *http://dtcc.com/~/media/Files/Downloads/legal/rules/dtc_rules.ashx.*

[7] For purposes of the Proposed Rule Change, ''customer'' refers to an accountholder of a Participant whose account is transferred to another Participant by an ACATS transaction.

[8] *See* NSCC Proposal, 79 FR 20290.

[9] These adjustments reduce a Participant's Collateral Monitor with respect to its net ACATS short positions at the start of ACATS settlement date. The Participant then receives credit in its Collateral Monitor for ACATS deliveries as they occur throughout the day.

[10] Memo Seg is offered by DTC to its Participants to support their control of fully-paid customer securities, although its effectiveness for that purpose depends entirely on the Participant's management of its accounts.

[11] Securities received through the ACATS Settlement Accounting Operation are not counted as part of the Participant's Collateral Monitor, unless and until the receiving Participant, in accordance with the Rules, designates those securities as Net Additions (''NA'').

[12] In this regard, a Participant accepting an ACATS free delivery automatically designates the subject securities as MA securities. Therefore, such securities are not counted in the Collateral Monitor

Other Clarifications

The Guide will be revised to clarify the descriptions of CNS Short Covers and Long Allocations and their effect on Participant collateral and the Collateral Monitor.

III. Discussion and Commission Finding

Section 19(b)(2)(C) of the Act [13] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to, among other things, ''promote the prompt and accurate clearance and settlement of securities transactions and . . . to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.'' [14] Further, Commission Rule 17Ad–22(d)(12) requires that registered clearing agencies ''establish, implement, maintain and enforce written policies and procedures reasonable designed to, as applicable . . . [e]sure that final settlement occurs no later than the end of the settlement day; and require that intraday or real-time finality be provided where necessary to reduce risks.'' [15]

The Commission finds that the Proposed Rule Change is consistent with those requirements because the changes, which will conform to the changes proposed by NSCC in establishing a new ACATS processing system,[16] will enable DTC to complete ACATS transfers free of payment, thus streamlining DTC's related processes, as described above. Therefore, the Proposed Rule Change will promote the prompt and accurate clearance and settlement of ACATS transfers, while supporting finality of such transfers at DTC on settlement day.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act [17] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change SR–DTC–2014–04 be, and it hereby is, *approved.*

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Kevin M. O'Neill,

Deputy Secretary.

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of the Participant. It should be noted that the Participant may re-designate the securities as NA or deliver them versus payment in which case these securities will be counted in the Participant's Collateral Monitor.

[13] 15 U.S.C. 78s(b)(2)(C).

[14] 15 U.S.C. 78q–1(b)(3)(F).

[15] 17 CFR 240.17Ad–22(d)(12).

[16] *See* NSCC Proposal, 79 FR 20290.

[17] 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).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Pro-Tech Industries, Inc., Vida Life International Ltd., Vitavea, Inc., Western Power & Equipment Corp., and Westmont Resources, Inc.; Order of Suspension of Trading

May 23, 2014.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Pro-Tech Industries, Inc. because it has not filed any periodic reports since the period ended June 30, 2011.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Vida Life International Ltd. because it has not filed any periodic reports since the period ended September 30, 2009.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Vitavea, Inc. because it has not filed any periodic reports since the period ended April 30, 2007.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Western Power & Equipment Corp. because it has not filed any periodic reports since the period ended April 30, 3008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Westmont Resources Inc. because it has not filed any periodic reports since the period ended February 28, 2011.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies. Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on May 23, 2014, through 11:59 p.m. EDT on June 6, 2014.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–12433 Filed 5–23–14; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

In the Matter of OCTuS, Inc., Pacific Coast National Bancorp, Travelstar, Inc., We Save Homes, Inc., and ZVUE Corp., Order of Suspension of Trading

May 23, 2014.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of OCTuS, Inc. because it has not filed any periodic reports since the period ended March 31, 2011.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Pacific Coast National Bancorp because it has not filed any periodic reports since the period ended December 31, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Travelstar, Inc. because it has not filed any periodic reports since the period ended March 31, 2008.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of We Save Homes, Inc. because it has not filed any periodic reports since the period ended September 30, 2010.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of ZVUE Corporation because it has not filed any periodic reports since the period ended September 30, 2008.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed companies. Therefore, it is ordered, pursuant to Section 12(k) of the

Securities Exchange Act of 1934, that trading in the securities of the above-listed companies is suspended for the period from 9:30 a.m. EDT on May 23, 2014, through 11:59 p.m. EDT on June 6, 2014.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–12432 Filed 5–23–14; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Fortitude Group, Inc.; Order of Suspension of Trading

May 23, 2014.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Fortitude Group, Inc. because of questions regarding the accuracy of publicly available information about the company's operations. Fortitude Group, Inc. is a Florida corporation with its principal place of business located in Erie, Pennsylvania. Its stock is quoted on OTC Link, operated by OTC Markets Group Inc., under the ticker: FRTD.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. EDT on May 23, 2014, through 11:59 p.m. EDT on June 6, 2014.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–12431 Filed 5–23–14; 11:15 am]

BILLING CODE 8011–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law (Pub. L.) 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions and extensions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

(SSA), Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov.*

I. The information collection below is pending at SSA. SSA will submit it to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than July 28, 2014. Individuals can obtain copies of the collection instruments by writing to the above email address.

Authorization to Disclose Information to SSA—20 CFR 404.1512 and 416.912, 45 CFR 160 and 164—0960–0623. Sections 223(d)(5)(A) and 1614(a)(3)(H)(i) of the Social Security Act (Act) require claimants to furnish such medical and other evidence as the Commissioner of Social Security may need to prove they are disabled. SSA must obtain sufficient evidence to make eligibility determinations for Title II and Title XVI payments. Therefore, the applicant must authorize release of information from various sources to SSA. The applicants use Form SSA–827 to provide consent for the release of medical records, education records, and other information related to their ability to perform tasks. Once the applicant completes Form SSA–827, SSA or the State Disability Determination Service sends the form to the designated source(s) to obtain pertinent records. The respondents are applicants for Title II benefits and Title XVI payments.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–827 with electronic signature (eAuthorization)	1,922,938	1	9	288,441
SSA–827 with wet signature (paper version)	1,441,052	1	10	240,175
Totals	3,363,990			528,616

II. SSA submitted the information collections below to OMB for clearance. Your comments regarding the information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than June 30, 2014. Individuals can obtain copies of the OMB clearance packages by writing to *OR.Reports.Clearance@ssa.gov.*

1. Statement Regarding Marriage—20 CFR 404.726—0960–0017. According to section 216(h)(1)(A) of the Act, SSA must apply state law when determining an individual's marital status. Some state laws recognize marriages without a ceremony (i.e., common-law marriages). In such cases, SSA provides the same spouse or widow(er) benefits to the common-law spouses as it does to ceremonially married spouses. To determine common-law spouses, SSA must elicit information from blood relatives or other persons who are knowledgeable about the alleged common-law relationship. SSA uses Form SSA–753, Statement Regarding Marriage, to collect information from third parties to verify the applicant's statements about intent, cohabitation, and holding out to the public as married, which are the basic tenets of a common-law marriage. SSA uses the information to determine if a valid marital relationship exists, and if the common-law spouse is entitled to Social

Security spouse or widow(er) benefits. The respondents are third parties who can confirm or deny the alleged common-law marriage.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–753	40,000	1	9	6,000

2. Request for Waiver of Overpayment Recovery or Change in Repayment Notice—20 CFR 404.502–404.513, 404.515 and 20 CFR 416.550–416.570, 416.572—0960–0037. When Social Security beneficiaries and Supplemental Security Income (SSI) recipients receive an overpayment, they must return the extra money. These beneficiaries and recipients can use Form SSA–632–BK to take one of three actions: (1) Request an exemption from repaying, as recovery of the payment would cause financial hardship; (2) inform SSA they want to repay the overpayment at a monthly rate over a period longer than 36 months; and

(3) request a different rate of recovery. In the latter two cases, the respondents must also provide financial information to help the agency determine how much the overpaid person can afford to repay each month. Respondents are overpaid beneficiaries or SSI recipients who are requesting: (1) A waiver of recovery of an overpayment, or (2) a lesser rate of withholding.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Waiver of Overpayment (Completes Whole Paper Form)	400,000	1	120	800,000
Change in Repayment (Completes Partial Paper Form)	100,000	1	45	75,000
Regional Application (New York Debt Management)	44,000	1	120	88,000
Internet Instructions	500,000	1	5	41,667
Totals	1,044,000			1,004,667

3. Annual Earnings Test Direct Mail Follow-Up Program Notices—20 CFR 404.452–404.455—0960–0369. SSA developed the Annual Earnings Test Direct Mail Follow-up Program to improve beneficiary reporting on work and earnings during the year and earnings information at the end of the year. SSA may reduce benefits payable under the Act when an individual has wages or self-employment income exceeding the annual exempt amount. SSA identifies beneficiaries likely to receive more than the annual exempt amount, and requests more frequent estimates of earnings from them. When applicable, SSA also requests a future year estimate to reduce overpayments due to earnings. SSA sends letters (SSA–L9778, SSA–L9779, SSA–L9781, SSA–L9784, SSA–L9785, and SSA–L9790) to beneficiaries requesting earnings information the month prior to their attainment of full retirement age. We send each beneficiary a tailored letter that includes relevant earnings data from SSA records. The Annual Earnings Test Direct Mail Follow-up Program helps to ensure Social Security payments are correct, and enables us to prevent earnings-related overpayments, and avoid erroneous withholding. The respondents are working Social Security beneficiaries with earnings over the exempt amount.

Type of Request: Extension of an OMB-approved information collection.

Note: This is a correction notice. When we published the 60-day Notice for this collection on 3/21/14 at 79 FR 15782 we listed it as a revision; however, this is an extension of a currently approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–L9778	42,630	1	10	7,105
SSA–L9779	158,865	1	10	26,478
SSA–L9781	472,437	1	10	78,740
SSA–L9784	1,270	1	10	212
SSA–L9785	15,870	1	10	2,645
SSA–L9790	45,000	1	10	7,500
Totals	736,072			122,680

4. Questionnaire for Children Claiming SSI Benefits—0960–0499. Section 1631(d)(2) of the Act allows SSA to determine the eligibility of an applicant's claim for SSI payments. Parents or legal guardians seeking to obtain or retain SSI eligibility for their children use Form SSA–3881–BK to provide SSA with the addresses of non-medical sources such as schools, counselors, agencies, organizations, or therapists who would have information about a child's functioning. SSA uses this information to help determine a child's claim or continuing eligibility

for SSI. The respondents are applicants who appeal SSI childhood disability decisions or recipients undergoing a continuing disability review.

Type of Request: Revision of an OMB-approved information collection.

Modality of collection	Number of respondents	Frequency of response	Average burden per response (minutes)	Total annual burden (hours)
Appeals Cases	65,000	1	30	32,500
Disability Review Cases	45,000	1	30	22,500
Total	110,000			55,000

5. Social Security Administration Eligible Non-Attorney Representative—20 CFR 404.1717, 404.1745—404.1799, 416.1517, and 416.1545—416.1599—0960–0699. Section 3 of the Social Security Disability Applicants Access to Professional Representation Act (PRA) of 2010, Public Law 111–142, permanently extends the direct payment provision of Section 303 of the Social Security Protection Act (SSPA) of 2004, Public Law 108–203. The PRA permits SSA to extend direct payment of approved fees from claimants' past-due benefits to certain non-attorney representatives. Prior to the enactment of the SSPA and PRA, only attorneys could receive direct payment of SSA-approved fees. Under the PRA, non-attorneys must meet certain prerequisites to be eligible for direct payment of fees. These prerequisites include: (1) A bachelor's degree from an accredited institution of higher education, or four years of relevant professional experience and a high school diploma or General Education Development (GED) certificate; (2) passing a written examination administered by SSA testing the knowledge of relevant provisions of the Act under Titles II and XVI; (3) securing and maintaining continuous professional liability insurance, or equivalent, to protect claimants from malpractice; (4) passing a criminal background check; (5) demonstrating ongoing completion of continuing education courses. The PRA requires SSA to collect the information needed to determine if applicants have satisfied these prerequisites. SSA uses the information we collect on Form SSA–1691 to determine whether an applicant has fulfilled the statutory prerequisites and regulatory requirements as listed above. To verify this information, we also request the five required items listed above from each new applicant, and we request items #3 and #5 from all non-attorney representatives (new and existing) on a yearly basis. Every year, SSA evaluates the applications, conducts verification investigations, and issues recommendations regarding applicants' eligibility to sit for the examination and eligibility to receive direct payment. The respondents are non-attorneys who want to receive direct payment of their fees for representational services before SSA.

Type of Request: Extension of an OMB-approved information collection.

Note: This is a correction notice. When we published the 60-day Notice for this collection on 3/21/14 at 79 FR 15782 we listed it as a revision; however, this is an extension of a currently approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
New Respondents—Paper Application (complete and submit)—404.1717(b)&(c); 416.1517(b)&(c)	200	1	45	150
New Respondents Examination—404.1717(a)(5); 416.1517(a)(5)	200	1	120	400
New Respondents—Submission of proof of Bachelor's Degree or Equivalent Qualifications—404.1717(a)(3); 416.1517(a)(3)	200	1	10	33
New and Existing Respondents—CE Submission via email/mail/or FAX of training courses taken as prescribed by SSA—404.1717(a)(7); 416.1517(a)(7)	710	1	20	237
New and Existing Respondents—Proof of Continuous Professional or Business Liability Insurance Coverage (Scan and Email)—404.1717(a)(6); 416.1517(a)(6)	672	1	10	112
New and Existing Respondents—Proof of Continuous Professional or Business Liability Insurance Coverage (Copy and Mail)—404.1717(a)(6); 416.1517(a)(6)	38	1	15	10
New and Existing Respondents—Written Protests—404.1717(d); 416.1517(d)	45	1	45	34
Totals	2,065			976

Dated: May 23, 2014.

Faye Lipsky,

Reports Clearance Director, Social Security Administration.

[FR Doc. 2014–12428 Filed 5–28–14; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 8747]

U.S. National Commission for UNESCO Notice of Teleconference Meeting

The U.S. National Commission for UNESCO will hold a conference call on Tuesday, June 17, 2014, from 3:00 p.m. until 4:00 p.m. Eastern Time. The purpose of the teleconference meeting is to consider the recommendations of the Commission's National Committee for the International Hydrological Programme (IHP) and Commission's National Committee for the

Intergovernmental Oceanographic Commission (IOC). The call will also be an opportunity to provide an update on recent and upcoming Commission and UNESCO activities. The Commission will accept brief oral comments during a portion of this conference call. The public comment period will be limited to approximately 10 minutes in total, with two minutes allowed per speaker. For more information or to arrange to participate in the conference call, individuals must make arrangements with the Executive Director of the National Commission by June 13.

The National Commission, Washington, DC 20037 may be contacted via email *DCUNESCO@state.gov* or Telephone (202) 663–0026; Fax (202) 663–0035. The Web site can be accessed at: *http://www.state.gov/p/io/unesco/.*

Dated: May 21, 2014.

Allison Wright,

Executive Director, U.S. National Commission for UNESCO, Department of State.

[FR Doc. 2014–12488 Filed 5–28–14; 8:45 am]

BILLING CODE 4710–19–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2007–29320]

Order Limiting Scheduled Operations at John F. Kennedy International Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Limited Waiver of the Slot Usage Requirement.

SUMMARY: This action grants with conditions a limited waiver of the slot usage requirement for operating authorizations (slots) at John F. Kennedy International Airport (JFK) due to construction at the airport during the winter 2014/2015 and summer 2015 scheduling seasons. This waiver applies only to JFK slots for the period from March 1, 2015, through October 24, 2015.

DATES: Effective upon publication. The deadlines for temporary slot returns under this waiver are December 15, 2014, for slots from March 1 through March 28, 2015, and January 15, 2015, for slots from March 29 through October 24, 2015.

FOR FURTHER INFORMATION CONTACT: Robert Hawks, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–7143; email: *rob.hawks@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Port Authority of New York and New Jersey (Port Authority) will conduct extensive construction on JFK runway 4L/22R. Runway safety area and other preparatory work will begin in 2014 and is not expected to have significant operational impacts. Extensive operational impacts are expected in 2015 as the airport rehabilitates Runway 4L/22R, widens the runway to 200 feet required for Group VI aircraft, improves taxiway fillets required for Group VI aircraft, and constructs access and high speed taxiways. The work will also impact Runways 13L/31R and 13R/31L as they intersect with Runway 4L/22R. Runway 13L/31R will be closed from March 1 through April 9, 2015. Runway 4L/22R will be open during this time with reduced length. Runway 13R/31L will operate with reduced length from April 10 through September 21, 2015.

The FAA, Port Authority, and airport stakeholders have been meeting for several months to review the construction plans and schedules, assess the potential operational impacts, and identify mitigation options. Updates will be discussed at various FAA and airport meetings over the coming months.

FAA Analysis

Under the Order limiting scheduled operations at JFK, slots must be used at least 80 percent of the time. This rule is expected to accommodate routine weather and other cancellations under all but the most unusual circumstances. Slots not meeting the minimum usage rules will not receive historic precedence for the following corresponding scheduling season.[1] The FAA may grant a waiver from the slot usage requirement in highly unusual and unpredictable conditions that are beyond a carrier's control and affect a carrier's operations for a period of five or more consecutive days. However, the FAA does not routinely grant general waivers to the usage requirement except under the most unusual circumstances.

The FAA has determined that the projected operational, congestion, and delay impacts of the 2015 JFK runway construction meet the requirements for a temporary waiver of the slot usage requirement. In light of the projected runway capacity and throughput impacts during construction, reducing operations to minimize congestion and delays is in the public interest. The FAA expects to implement measures such as those used during the JFK Runway 13R/31L construction in 2010 and Newark Liberty International Airport Runway 4L/22R construction in 2014. These include seeking voluntary schedule reductions of historic flights in the busiest hours, retiming flights to less congested periods, increasing scheduled block time, limiting the allocation of new slots to off peak hours, optimizing the use of airport capacity based on demand and aircraft fleet mix, and revising air traffic control operational plans and procedures as warranted. Carriers that temporarily reduce flights and elect to temporarily return slots to the FAA rather than transfer them for another carrier's use should not be penalized by permanently losing the authority to operate.

FAA Decision

In consideration of the foregoing, the FAA has determined to issue a limited slot usage waiver for the part of the winter 2014/2015 scheduling season and all of the summer 2015 scheduling season. Granting a waiver for these slots is consistent with recent agency decisions.[2] This waiver applies only to JFK slots for the period from March 1, 2015, through October 24, 2015.[3] To obtain a waiver for a specific slot held, a carrier must temporarily return to the FAA slots that it will not operate during the waiver period. The carrier will retain historical precedence for these temporarily returned slots. These temporary slot returns permit the FAA to plan for days on which construction closures and resulting operational impacts occur. If the closure dates change due to weather or other factors, the FAA will apply the waiver, including retroactively, if a carrier notifies the FAA that the temporarily returned slots will not be operated on any new closure dates.

The FAA recognizes that carriers may make adjustments in schedules based on operational assessments and modeling efforts that are currently underway. The FAA also understands that some carriers

[1] 79 FR 16854 (Mar. 26, 2014).

[2] Notice of Temporary Waiver of the Minimum Usage Requirement Under the Order Limiting Scheduled Operations at John F. Kennedy International, 74 FR 52838 (Oct. 14, 2009) (granting waiver for JFK runway construction); Notice of Limited Waiver of the Slot Usage Requirement Under the Order Limiting Operations at Newark Liberty International Airport, 78 FR 57674 (Sept. 19, 2013) (granting waiver for EWR runway construction).

[3] The FAA is granting the waiver until the end of the summer scheduling season rather than only until the planned September 22 reopening of the runway. It may not be practical for carriers to resume some scheduled flights in late September and October.

may need additional time to finalize schedules and potential reductions beyond the regular winter 2014/2015 slot return deadline of August 15, 2014. Accordingly, the FAA will allow an additional slot return date to allow for better planning by carriers and for discussions with the FAA on potential schedule and slot adjustments to mitigate delays. For slots from March 1 through March 28, 2015, the temporary slot return deadline is Monday, December 15, 2014. For slots March 29 through October 24, 2015, the slot return deadline is Thursday, January 15, 2015. Temporary slot returns should be submitted to the Slot Administration Office by email at *7-awa-slotadmin@faa.gov.* These return notifications should indicate they are subject to this waiver.

Issued in Washington, DC, on May 21, 2014.

Mark W. Bury,

Assistant Chief Counsel for International Law, Legislation, and Regulations.

[FR Doc. 2014–12363 Filed 5–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[NHTSA Docket No. NHTSA–2014–0060]

Meeting Notice—Federal Interagency Committee on Emergency Medical Services

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Meeting Notice—Federal Interagency Committee on Emergency Medical Services.

SUMMARY: NHTSA announces a meeting of the Federal Interagency Committee on Emergency Medical Services (FICEMS) to be held in the Washington, DC area. This notice announces the date, time, and location of the meeting, which will be open to the public. Pre-registration is encouraged.

DATES: The meeting will be held on June 19, 2014, from 1:00 p.m. e.d.t. to 4:00 p.m. e.d.t.

ADDRESSES: The meeting will be held at the Wilbur J. Cohen Building at 330 Independence Avenue SW., Washington, DC 20024 in the Snow Room on the fifth floor.

FOR FURTHER INFORMATION CONTACT: Drew Dawson, Director, Office of Emergency Medical Services, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., NTI–140, Washington, DC 20590, Telephone number (202) 366–9966; Email *Drew.Dawson@dot.gov.*

Registration Information: This meeting will be open to the public; however, pre-registration is highly encouraged to comply with security procedures. Members of the public wishing to attend should register online at *http://events.signup4.com/FICEMSJune2014* no later than June 13, 2014. Please note that the information collected for registration, including name and email address, will be used solely for the purposes of providing registrants with access to the meeting site and to provide meeting materials to registrants via email when they become available.

A picture I.D. must be provided to enter the Cohen Building and it is suggested that visitors arrive 30 minutes early in order to facilitate entry. Attendees who are not United States citizens must produce a valid passport to enter the building. Please be aware that visitors to the Cohen Building are subject to search and must pass through a magnetometer. Weapons of any kind are strictly forbidden in the building unless authorized through the performance of the official duties of your employment (i.e. law enforcement officer). Federal staff will be in the lobby beginning at 12:30 p.m. EDT on the day of the meeting to escort members of the public to the meeting room. Please enter through the south entrance on C Street SW. between 3rd and 4th Streets SW.

SUPPLEMENTARY INFORMATION: Section 10202 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy For Users (SAFETEA–LU), Public Law 109–59, provides that the FICEMS consist of several officials from Federal agencies as well as a State emergency medical services director appointed by the Secretary of Transportation.

Tentative Agenda: This meeting of the FICEMS will focus on addressing the requirements of SAFETEA–LU and the opportunities for collaboration among the key Federal agencies involved in emergency medical services. The tentative agenda includes:

- Report from the Chair of the National EMS Advisory Council (NEMSAC) on recently adopted recommendations for FICEMS
- Discussion of Possible Revision of the 1996 EMS Agenda for the Future
- Overview of the FICEMS Strategic Plan and the Role of Agencies in Implementation
- Reports on Progress Related to Four Priority Areas of the Strategic Plan
  - EMS Preparedness
  - EMS Data Standardization
  - Evidence-based Guidelines Development and Implementation
  - Military Veteran Credentialing, including Considering of a Position Statement on the Topic
- Reports, updates, and recommendations from FICEMS members
- An overview of the GROW AMERICA Act
- A public comment period

There will not be a call-in number provided for this FICEMS meeting; however, minutes of the meeting will be available to the public online at *www.EMS.gov.* A final agenda and other meeting materials will be posted at *www.EMS.gov/FICEMS.htm* prior to the meeting.

Issued on: May 23, 2014.

Jeffrey P. Michael,

Associate Administrator, Research and Program Development.

[FR Doc. 2014–12499 Filed 5–28–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 22, 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 June 30, 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.*

Alcohol and Tobacco Tax and Trade Bureau (TTB)

OMB Number: 1513–0014.

Type of Review: Extension without change of a currently approved collection.

Title: Power of Attorney.

Form: TTB F 5000.8.

Abstract: TTB F 5000.8 delegates the authority to a specific individual to sign documents on behalf of an applicant or principal. Title 26 U.S.C. 6061 authorizes that individuals signing returns, statements, or other documents required to be filed by industry members under the provisions of the IRC or the FAA Act, are to have that authority on file with TTB.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 3,250.

OMB Number: 1513–0044.

Type of Review: Extension without change of a currently approved collection.

Title: Notice of Change in Status of Plant.

Abstract: This change notice is necessary to show the use of the distilled spirits plant (DSP) premises for other activities or by alternating proprietors. It describes proprietor's use of plant premises and other information to show that the change in plant status is in conformity with laws and regulations.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 500.

OMB Number: 1513–0050.

Type of Review: Extension without change of a currently approved collection.

Title: Tax Deferral Bond—Distilled Spirits (Puerto Rico).

Form: TTB F 5110.50.

Abstract: TTB F 5110.50 is the bond to secure payment of excise taxes on distilled spirits shipped from Puerto Rico to the U.S. on deferral of the tax. The form identifies the principal, the surety, purpose of bond, and allocation of the penal sum among the principal's locations.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 10.

OMB Number: 1513–0069.

Type of Review: Extension without change of a currently approved collection.

Title: Tobacco Products Manufacturers—Supporting Records for Removals for the Use of the United States.

Abstract: Tobacco products and cigarette papers and tubes are taxed under the Internal Revenue Code of 1986, as amended. These items can be removed without the payment of tax for the use of the United States. In order to safeguard taxes, tobacco products manufacturers are required to maintain a system of records designed to establish accountability over the tobacco products and cigarette papers and tubes produced and removed. Records must be retained by the manufacturer for 3 years following the close of the year covered by the record and must be made available for inspection by TTB upon request.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Annual Burden Hours: 505.

OMB Number: 1513–0128.

Type of Review: Extension without change of a currently approved collection.

Title: Records to Support Tax Free and Tax Overpayment Sales of Firearms and Ammunition.

Forms: TTB F 5600.33, 5600.34, 5600.35, 5600.36, and 5600.37.

Abstract: Industry Members are required to maintain certain records in accordance with regulations. TTB offers forms that ensure that all of the information required by regulations is accounted for, when completed. The information collected on the forms serve as a record to justify the sales to exempt users, exportation, or use for further manufacture of articles.

Affected Public: Private Sector: Businesses or other for-profits; State, Local, and Tribal Governments.

Estimated Annual Burden Hours: 52,500.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2014–12414 Filed 5–28–14; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Agency Information Collection Activities; Comment Request; Renewal Without Change to Correspondent Accounts for Foreign Shell Banks; Recordkeeping and Termination of Correspondent Accounts.

AGENCY: Financial Crimes Enforcement Network (''FinCEN''), U.S. Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: FinCEN, a bureau of the U.S. Department of the Treasury (''Treasury''), invites all interested parties to comment on its proposed renewal without change to the collection of information in 31 CFR 1010.630 concerning the prohibition on correspondent accounts for foreign shell banks, including recordkeeping and termination of correspondent account provisions. This request for comments is made pursuant to the Paperwork Reduction Act (''PRA'') of 1995, Public Law 104–13, 44 U.S.C. 3506(c)(2)(A).

DATES: Written comments should be received on or before July 28, 2014 to be assured of consideration.

ADDRESSES: Written comments should be submitted to: Policy Division, Financial Crimes Enforcement Network, U.S. Department of the Treasury, P.O. Box 39, Vienna, Virginia 22183. *Attention:* PRA Comments—OMB Control Number 1506–0043 Renewal. Comments also may be submitted by electronic mail to the following Internet address: *regcomments@fincen.gov* with the caption in the body of the text, ''Attention: PRA Comments—OMB Control Number 1506–0043 Renewal.''

Instructions. It is preferable for comments to be submitted by electronic mail. Please submit comments by one method only. All submissions received must include the agency name and the OMB control number for this notice.

Inspection of comments. Comments may be inspected, between 10 a.m. and 4 p.m., in the FinCEN reading room in Vienna, VA. Persons wishing to inspect the comments submitted must request an appointment with the Disclosure Officer by telephoning (703) 905–5034 (not a toll free call).

FOR FURTHER INFORMATION CONTACT: The FinCEN Resource Center at 800–767–2825.

SUPPLEMENTARY INFORMATION: The Bank Secrecy Act (''BSA''), Titles I and II of Public Law 91–508, as amended, codified at 12 U.S.C. 1829(b), 12 U.S.C. 1951–1959, and 31 U.S.C. *et seq.,* authorizes the Secretary of the Treasury, *inter alia,* to issue regulations requiring records and reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters. Title III of the USA PATRIOT Act of 2001, Public Law 107–56, included certain amendments to the anti-money laundering provisions of Title II of the BSA, 31 U.S.C. 5311 *et seq.,* which are intended to aid in the prevention, detection, and prosecution of international money laundering and terrorist financing. Regulations implementing Title II of the BSA appear at 31 CFR Chapter X. The authority of the Secretary of the Treasury to administer Title II of the BSA has been delegated to the Director of FinCEN. The information collected and retained

under the regulation addressed in this notice assist federal, state, and local law enforcement as well as regulatory authorities in the identification, investigation and prosecution of money laundering and other matters. In accordance with the requirements of the PRA, 44 U.S.C. 3506(c)(2)(A), and its implementing regulations, the following information is presented concerning the information collection below.

Title: Correspondent Accounts for Foreign Shell Banks; Recordkeeping and Termination of Correspondent Accounts (31 CFR 1010.630).

OMB Number: 1506–0043.

Abstract: Covered financial institutions are prohibited from maintaining correspondent accounts for foreign shell banks (31 CFR 1010.630(a)(1)). Covered financial institutions that maintain correspondent accounts for foreign banks must maintain records of owner(s) of the foreign bank and the name and address of a person residing in the United States who is authorized to accept service of legal process for the foreign bank (31 CFR 1010.630(a)(2)). Covered financial institutions may satisfy these requirements by using the sample certification on the FinCEN Web site: (*http://www.fincen.gov/forms/files/Certification%20Regarding%20Correspondent%20Accounts%20for%20Foreign%20Banks.pdf*) and re-certification (*http://www.fincen.gov/forms/files/Recertification%20Regarding%20Correspondent%20Accounts%20for%20Foreign%20Banks.pdf*). Records of documents relied upon by a financial institution for purposes of 31 CFR 1010.630 must be maintained for at least five years after the date that the financial institution no longer maintains a correspondent account for such foreign bank (31 CFR 1010.630(e)).

Current Action: Renewal without change to the existing regulations.

Type of Review: Extension without change of a currently approved collection.

Affected Public: Businesses or other for-profit institutions, and non-profit institutions.

Burden: Total PRA burden hours for this OMB Control number is 306,000 hours.

The burden is calculated as follows: It is estimated that 2,000 covered financial institutions maintain correspondent accounts with 9,000 foreign banks. The estimated average annual reporting burden associated with certification is 180,000 hours (9,000 respondents at 20 hours per respondent); the estimated average annual reporting burden associated with recertification is 45,000 hours (9,000 respondents at 5 hours per respondent); and the estimated average recordkeeping burden associated with section 1010.630(e) is 81,000 hours (9,000 respondents at 9 hours per recordkeeper).

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 OMB control number. Records required to be retained under the BSA must be retained for five years. Generally, information collected pursuant to the BSA is confidential, but may be shared as provided by law with regulatory and law enforcement authorities.

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 shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information 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.

Dated: May 22, 2014.

Jennifer Shasky Calvery,

Director, Financial Crimes Enforcement Network.

[FR Doc. 2014–12450 Filed 5–28–14; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Agency Information Collection Activities; Comment Request; Renewal Without Change of Bank Secrecy Act Recordkeeping Requirements

AGENCY: Financial Crimes Enforcement Network (''FinCEN''), U.S. Department of the Treasury.

ACTION: Notice and request for comments.

SUMMARY: FinCEN, a bureau of the U.S. Department of the Treasury (''Treasury''), invites all interested parties to comment on its proposed renewal without change of the Bank Secrecy Act (''BSA'') recordkeeping requirements addressed in this notice. FinCEN intends to submit these requirements for approval by the Office of Management and Budget (''OMB'') of a three-year extension of Control Numbers 1506–0050 through 1506–0059. This request for comments is made pursuant to the Paperwork Reduction Act (''PRA'') of 1995, Public Law 104–13, 44 U.S.C. 3506(c)(2)(A). In addition, FinCEN is seeking comment on 31 CFR 1010.430, (a provision in FinCEN's regulations which establishes a general five-year recordkeeping) the nature of records and retention period, and which is not subject to the PRA because there is no information collection associated with it.

DATES: Written comments should be received on or before July 28, 2014 to be assured of consideration.

ADDRESSES: Written comments should be submitted to: Policy Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. *Attention:* PRA Comments—BSA Recordkeeping Requirements, OMB Control Numbers 1506–0050 through 1506–0059. Comments also may be submitted by electronic mail to the following Internet address: *regcomments@fincen.gov* with the caption in the body of the text, ''Attention: PRA Comments—BSA Recordkeeping Requirements, OMB Control Numbers 1506–0050 through 1506–0059.''

Instructions. It is preferable for comments to be submitted by electronic mail. Please submit comments by one method only. All submissions received must include the agency name and the specific OMB control number or BSA Recordkeeping Requirements for this notice.

Inspection of comments. Comments may be inspected, between 10 a.m. and 4 p.m., in the FinCEN reading room in Vienna, VA. Persons wishing to inspect the comments submitted must request an appointment with the Disclosure Officer by telephoning (703) 905–5034 (not a toll free call).

FOR FURTHER INFORMATION CONTACT: The FinCEN Resource Center at 800–767–2825.

SUPPLEMENTARY INFORMATION: The BSA, Titles I and II of Public Law 91–508, as amended, codified at 12 U.S.C. 1829(b), 12 U.S.C. 1951–1959, and 31 U.S.C. *et seq.,* authorizes the Secretary of the Treasury, *inter alia,* to issue regulations requiring records and reports that are determined to have a high degree of

usefulness in criminal, tax and regulatory matters. Title III of the USA PATRIOT Act of 2001, Public Law 107–56, included certain amendments to the anti-money laundering provisions of Title II of the BSA, 31 U.S.C. 5311 *et seq.,* which are intended to aid in the prevention, detection and prosecution of international money laundering and terrorist financing. Regulations implementing Title II of the BSA appear at 31 CFR Chapter X. The authority of the Secretary of the Treasury to administer Title II of the BSA has been delegated to the Director of FinCEN. The information collected and retained under the regulation addressed in this notice assist Federal, state, and local law enforcement as well as regulatory authorities in the identification, investigation, and prosecution of money laundering and other matters. In accordance with the requirements of the PRA, 44 U.S.C. 3506(c)(2)(A), and its implementing regulations, the following information is presented concerning the recordkeeping requirements listed below.

Title: BSA Recordkeeping Requirements.

OMB Numbers: 1506–0050 through 1506–0059.

Abstract: In accordance with 31 CFR 1010.430, covered financial institutions are required to maintain records of certain financial transactions for a period of five years. Covered financial institutions may satisfy these requirements by using their internal records management system.

Current Action: Renewal without change to the existing regulations.

Type of Review: Extension of currently approved recordkeeping requirements.

Affected Public: Businesses or other for-profit institutions, and non-profit institutions.

1. *Title:* Administrative Rulings (31 CFR 1010.711–717).

OMB Number: 1506–0050.

Current action: This is a renewal without change of a currently approved PRA burden.

Summary of proposed action: FinCEN proposes renewing the PRA burden currently included in OMB Control Number 1506–0050. The sections under this control number are: (a) How to submit a ruling request (1010.711), (b) how non-conforming requests are handled (1010.712), (c) how oral communications are treated (1010.713), (d) how rulings are issued (1010.715), (e) how rulings are modified or rescinded (1010.716), and (f) how information in connection with a ruling may be disclosed (1010.717). Effective September 2009, all redacted administrative rulings are published on the FinCEN Web site and may be reviewed at *http://www.fincen.gov/statutes_regs/rulings/.*

Burden: The estimated number of responses (request for a ruling) is 60 annually, with a burden of 1 hour per submission, for a total annual burden of 60 hours.

Type of Review: Extension without change of a currently approved information collection.

Affected Public: Businesses or other for-profit institutions, and non-profit institutions.

Frequency: N/A.

2. *Title:* Special Rules for Casinos (31 CFR 1021.210(b), 31 CFR 1021.100(a)–(e), and 31 CFR 1010.430).

OMB Number: 1506–0051.

Current Action: This is a renewal without change of a currently approved PRA burden.

Type of Review: Extension without change of a currently approved information collection.

Affected Public: Businesses or other for-profit institutions.

Burden: The estimated number of recordkeepers is 925. The estimated annual recordkeeping burden per recordkeeper is 100 hours, for a total estimated annual recordkeeping burden of 92,500 hours.

3. *Title:* Nature of Records and Retention Period (31 CFR 1010.430).[1]

OMB Number: None Assigned, see footnote 1.

Current Action: This is a renewal without change of a BSA required action.

Type of Review: Extension without change of a BSA required action.

Affected Public: Businesses or other for-profit institutions, and non-profit institutions.

Burden: The burden for this regulation is reflected in the reporting and recordkeeping provisions of 31 CFR Chapter X.

4. *Title:* Additional Records to be made and retained by Currency Dealers or Exchangers (31 CFR 1022.410 and 31 CFR 1010.430).

OMB Number: 1506–0052.

Current Action: This is a renewal without change of a currently approved PRA burden.

Type of Review: Extension without change of a currently approved information collection.

Affected Public: Businesses or other for-profit institutions.

Burden: The estimated number of recordkeepers is 2,300. The estimated annual recordkeeping burden per recordkeeper is 16 hours, for a total estimated annual recordkeeping burden of 368,000 hours.

5. *Title:* Additional Records to be made and retained by Brokers or Dealers in Securities (31 CFR 1023.410 and 31 CFR 1010.410).

OMB Number: 1506–0053.

Current Action: This is a renewal without change of a currently approved PRA burden.

Type of Review: Extension without change of a currently approved information collection.

Affected Public: Businesses or other for-profit institutions.

Burden: The estimated number of recordkeepers is 8,300. The estimated annual recordkeeping burden per recordkeeper is 100 hours, for a total estimated annual recordkeeping burden of 830,000 hours.

6. *Title:* Additional Records to be made and retained by Casinos (31 CFR 1021.410 (except 31 CFR 1021.410(b)(10)) and 31 CFR 1010.430).

OMB Number: 1506–0054.

Current Action: This is a renewal without change of a currently approved PRA burden.

Type of Review: Extension without change of a currently approved information collection.

Affected Public: Businesses or other for-profit institutions.

Burden: Total burden of 102,374 hours.

The burden for the action will be as follows:

31 CFR 1021.410(a) & (b)(1)–(8). The estimated number of recordkeepers is 912. The estimated annual recordkeeping burden per recordkeeper is 100 hours, for a total estimated annual recordkeeping burden of 91,200.

31 CFR 1021.410(b)(9). The estimated number of recordkeepers is 912. The estimated annual recordkeeping burden per recordkeeper is 7.5 hours, for a total estimated annual recordkeeping burden of 6,840 hours.

31 CFR 1021.410(b)(11). The estimated number of recordkeepers is 62. The estimated number of transactions is 215,000 annually and the total estimated annual recordkeeping burden is 686 hours.

31 CFR 1021.410(c). The estimated number of respondents is 912. The estimated annual recordkeeping burden per recordkeeper is 4 hours, for a total estimated annual recordkeeping burden of 3,648 hours.

[1] This section applies to all the BSA recordkeeping rules; it imposes a 5-year record retention period for all BSA recordkeeping rules and includes a brief discussion of how to make the records. This paragraph is not subject to the PRA because there is no information collection associated with it.

7. *Title:* Reports of Transactions with Foreign Financial Agencies (31 CFR 1010.360).[2]

OMB Number: 1506–0055.

Current Action: This is a renewal without change of a currently approved PRA burden.

Type of Review: Extension without change of a currently approved information collection.

Affected Public: Businesses or other for-profit institutions, and non-profit institutions.

Burden: The estimated number of respondents per year is 1. The estimated number of responses is 1 with a reporting burden of 1 hour per respondent for a total annual burden of 1 hour.[3]

8. *Title:* Reports of Certain Domestic Coin and Currency Transactions (31 CFR 1010.370 and 31 CFR 1010.410(d)).

OMB Number: 1506–0056.

Current Action: This is a renewal without change of a currently approved PRA burden.

Type of Review: Extension without change of a currently approved information collection.

Affected Public: Businesses or other for-profit institutions, and non-profit institutions.

Burden: The estimated number of respondents per year is 3,200. The estimated number of responses is 17,000, with a reporting burden of 19 minutes per response and a recordkeeping burden of 5 minutes per response. Total estimated burden 6,800 hours.[4]

9. *Title:* Purchases of Bank Checks and Drafts, Cashier's Checks, Money Orders, and Traveler's Checks (31 CFR 1010.415, and 31 CFR 1010.430).

OMB Number: 1506–0057.

Current Action: This is a renewal without change of a currently approved PRA burden.

Type of Review: Extension without change of a currently approved information collection.

Affected Public: Businesses or other for-profit institutions, and non-profit institutions.

Burden: The estimated number of recordkeepers is 60,900. The average burden per record-keeper is 7.5 hours, for a total estimated annual recordkeeping burden of 456,750 hours.

10. *Title:* Records to be made and retained by Financial Institutions (31 CFR 1010.410 (except 1010.410(d)) and 31 CFR 1010.430).

OMB Number: 1506–0058.

Current Action: This is a renewal without change of a currently approved PRA burden.

Type of Review: Extension without change of a currently approved information collection.

Affected Public: Businesses or other for-profit institutions, and non-profit institutions.

Burden: Total of 2,139,000 hours.

The burden for this action will be as follows:

31 CFR 1010.410(a)–(c). The estimated number of recordkeepers is 22,900. The estimated annual recordkeeping burden per recordkeeper is 50 hours, for a total estimated annual recordkeeping burden of 1,145,000 hours.

31 CFR 1010.410(e)–(f). The estimated number of recordkeepers is 35,500. The estimated annual recordkeeping burden per recordkeeper is 16 hours, for a total estimated annual recordkeeping burden of 568,000.

31 CFR 1010.410(g). The estimated number of recordkeepers is 35,500. The estimated annual recordkeeping burden per recordkeeper is 12 hours, for a total estimated annual recordkeeping burden of 426,000.

11. *Title:* Additional Records to be made and retained by Banks (31 CFR 1020.410 and 31 CFR 1010.430).

OMB Number: 1506–0059.

Current Action: This is a renewal without change of a currently approved PRA burden.

Type of Review: Extension without change of a currently approved information collection.

Affected Public: Businesses or other for-profit institutions, and non-profit institutions.

Burden: The estimated number of recordkeepers is 22,900. The estimated annual recordkeeping burden per recordkeeper is 100 hours for a total annual recordkeeping burden of 2,290,000 hours.

The following paragraph applies to the recordkeeping requirements addressed in 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 OMB control number. Records required to be retained under the BSA must be retained for five years. Generally, information collected pursuant to the BSA is confidential, but may be shared as provided by law with regulatory and law enforcement authorities.

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 shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information 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.

Dated: May 22, 2014.

Jennifer Shasky Calvery,

Director, Financial Crimes Enforcement Network.

[FR Doc. 2014–12502 Filed 5–28–14; 8:45 am]

BILLING CODE 4810–02–P

[2] Treasury may, by regulation, require specified financial institutions to report transactions by persons with designated foreign financial agencies.

[3] Should FinCEN issue regulations under this authority, it will provide a burden estimate specific to those regulations.

[4] Although the burden is stated as an annual burden in accordance with the PRA, the estimated annual burden is not intended to indicate any geographic targeting order that may be in effect throughout a year or in each year.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting for the Electronic Tax Administration Advisory Committee (ETAAC)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Meeting notice.

SUMMARY: An open meeting of the Electronic Tax Administration Advisory Committee (ETAAC) will be conducted via telephone conference call. The ETAAC will discuss recommendations for electronic tax administration which will be published in their Annual Report to Congress by June 30, 2014. The IRS will respond to these recommendations.

DATES: *Meeting Date:* The meeting will be held on Tuesday, June 24, 2014, beginning at 9:30 a.m. eastern time, ending at approximately 10:30 a.m.

FOR FURTHER INFORMATION CONTACT: Cassandra Daniels at 240–613–6155 or email *etaac@irs.gov* to receive the call information. Please spell out all names if you leave a voice message.

SUPPLEMENTARY INFORMATION:

Background: The Internal Revenue Service established the Electronic Tax Administration Advisory Committee (ETAAC) in 1998 as a result of the

Restructuring and Reform Act of 1998 (RRA'98). The primary purpose of ETAAC is to provide an organized public forum for discussion of electronic tax administration issues in support of the overriding goal that paperless filing should be the preferred and most convenient method of filing tax and information returns. The ETAAC members convey the public's perceptions of the IRS electronic tax administration activities, offer constructive observations about current or proposed policies, programs, and procedures, and suggest improvements. The ETAAC's duties are to research, analyze, consider, and make recommendations on a wide range of electronic tax administrative issues and to provide input into the development and implementation of the strategic plan for electronic tax administration.

Meeting Access: The teleconference meeting will be open to the public. Interested members of the public may listen to the ETAAC's discussion of their recommendations. The public may also submit written comments about issues in electronic tax administration for the committee to consider analyzing later this fall to *etaac@irs.gov* no later than 12 p.m. eastern on June 18, 2014. Written statements received after this date may not be provided to or considered by the ETAAC until its next meeting.

Dated: May 16, 2014.

Diane L. Fox,

Supervisor, Industry Stakeholder Engagement and Strategy Branch.

[FR Doc. 2014–12503 Filed 5–28–14; 8:45 am]

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Part II

Department of Energy

10 CFR Part 431

Energy Conservation Program: Energy Conservation Standards for Commercial and Industrial Electric Motors; Final Rule

DEPARTMENT OF ENERGY

10 CFR Part 431

[Docket No. EERE–2010–BT–STD–0027]

RIN 1904–AC28

Energy Conservation Program: Energy Conservation Standards for Commercial and Industrial Electric Motors

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

ACTION: Final rule.

SUMMARY: The Energy Policy and Conservation Act of 1975 (EPCA), as amended, prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including commercial and industrial electric motors. 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 final rule, DOE establishes energy conservation standards for a number of different groups of electric motors that DOE has not previously regulated. For those groups of electric motors currently regulated, today's rulemaking would maintain the current energy conservation standards for some electric motor types and amend the energy conservation standards for other electric motor types. DOE has determined that the new and amended energy conservation standards for this equipment would result in significant conservation of energy, and are technologically feasible and economically justified.

DATES: The effective date of this rule is July 28, 2014. Compliance with the standards established for commercial and industrial electric motors in today's final rule is required starting on June 1, 2016.

The incorporation by reference of a certain publication listed in this rule was approved by the **Federal Register** on May 4, 2012.

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

A link to the docket Web page can be found at: *http://www.regulations.gov/#!docketDetail;D=EERE-2010-BT-STD-0027*. This Web page will contain a link to the docket for this rule on the regulations.gov site. The regulations.gov Web page will contain simple instructions on how to access all documents, including public comments, in the docket.

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

FOR FURTHER INFORMATION CONTACT: James Raba, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–8654. Email: *medium_electric_motors@ee.doe.gov*.

Ami Grace-Tardy, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–5709. Email: *Ami.Grace-Tardy@hq.doe.gov*.

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VII. Approval of the Office of the Secretary

I. Summary of the Final Rule and Its Benefits

Title III of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6291, *et seq.;* ''EPCA''), Public Law 94–163, sets forth a variety of provisions designed to improve energy efficiency. Part C of title III, which for editorial reasons was re-designated as Part A–1 upon incorporation into the U.S. Code (42 U.S.C. 6311–6317), establishes the ''Energy Conservation Program for Certain Industrial Equipment,'' including certain electric motors.[1] (Within this preamble, DOE will use the terms ''electric motors'' and ''motors'' interchangeably as today's rulemaking only pertains to electric motors.) Pursuant to EPCA, any new or amended energy conservation standard must be designed to achieve the maximum improvement in energy efficiency that DOE determines is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A) and 6316(a)) Furthermore, the new or amended standards must result in significant conservation of energy. (42 U.S.C. 6295(o)(3)(B) and 6316(a))

In accordance with these and other statutory provisions discussed in this final rule, DOE is adopting new and amended energy conservation standards for electric motors by applying the standards currently in place to a wider scope of electric motors that DOE does not currently regulate. In setting these standards, DOE is addressing a number of different groups of electric motors that have, to date, not been required to satisfy the energy conservation standards currently set out in 10 CFR part 431. In addition, today's rule, would require all currently regulated motors, with the exception of fire pump electric motors, to satisfy the efficiency levels (ELs) prescribed in Table 12–12 of National Electrical Manufacturers Association (NEMA) Standards Publication MG 1–2011, ''Motors and Generators;'' fire pump motors would continue to meet the current standards that apply. All other electric motors covered in today's rulemaking would also need to meet the efficiency levels found in MG 1–2011, Table 12–12. As a practical matter, most currently regulated motors would continue to be required to meet the same standards that they are already required to meet, but certain motors, such as those that satisfy the general purpose electric motors (subtype II) (*i.e.* ''subtype II'') or that are NEMA Design B (or equivalent IEC Design N) motors with a power rating of more than 200 horsepower, but not greater than 500 horsepower, would now be required to meet the more stringent levels prescribed by MG 1–2011, Tables 12–12. These adopted efficiency levels (depicted here as trial standard levels or ''TSLs'') and the motor types to which they apply are shown in Table I.1.

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

TABLE I.1—ENERGY CONSERVATION STANDARDS FOR ELECTRIC MOTORS

[Compliance starting June 1, 2016]

Equipment class group	Electric motor design type	Horsepower rating	Pole configuration	Enclosure	Adopted TSL**
1	NEMA Design A & B*	1–500	2, 4, 6, 8	Open	2
				Enclosed	2
2	NEMA Design C*	1–200	4, 6, 8	Open	2
				Enclosed	2
3	Fire Pump*	1–500	2, 4, 6, 8	Open	2
				Enclosed	2

*Indicates International Electrotechnical Commission (IEC) equivalent electric motors are included. Also, due to the elimination of an equipment class for brake motors, previously reported brake motor results are now reported in Equipment Class Group 1 (ECG 1).

**Tables I.2 through I.4 detail the various standard levels that compose TSL 2. Table I.2 applies to NEMA Design A & B, Table I.3 applies to NEMA Design C and Table I.4 applies to fire pump electric motors.

In determining where a particular motor with a certain horsepower (hp) or kilowatt (kW) rating would fall within the requirements, today's final rule establishes the same approach provided in current regulations to determine which rating would apply for compliance purposes. Namely:

1. A horsepower at or above the midpoint between the two consecutive horsepowers shall be rounded up to the higher of the two horsepowers;

2. A horsepower below the midpoint between the two consecutive horsepowers shall be rounded down to the lower of the two horsepowers; and

3. A kilowatt rating shall be directly converted from kilowatts to horsepower using the formula 1 kilowatt = (1/0.746) horsepower. The conversion should be calculated to three significant decimal places, and the resulting horsepower shall be rounded in accordance with the rules listed in (1) and (2).

TABLE I.2—ENERGY CONSERVATION STANDARDS FOR NEMA DESIGN A AND NEMA DESIGN B MOTORS (EXCLUDING FIRE PUMP ELECTRIC MOTORS)

[Compliance starting June 1, 2016]

Motor horsepower/standard kilowatt equivalent	Nominal full-load efficiency (percent)							
	2 Pole		4 Pole		6 Pole		8 Pole	
	Enclosed	Open	Enclosed	Open	Enclosed	Open	Enclosed	Open
1/.75	77.0	77.0	85.5	85.5	82.5	82.5	75.5	75.5
1.5/1.1	84.0	84.0	86.5	86.5	87.5	86.5	78.5	77.0
2/1.5	85.5	85.5	86.5	86.5	88.5	87.5	84.0	86.5
3/2.2	86.5	85.5	89.5	89.5	89.5	88.5	85.5	87.5
5/3.7	88.5	86.5	89.5	89.5	89.5	89.5	86.5	88.5
7.5/5.5	89.5	88.5	91.7	91.0	91.0	90.2	86.5	89.5
10/7.5	90.2	89.5	91.7	91.7	91.0	91.7	89.5	90.2
15/11	91.0	90.2	92.4	93.0	91.7	91.7	89.5	90.2
20/15	91.0	91.0	93.0	93.0	91.7	92.4	90.2	91.0
25/18.5	91.7	91.7	93.6	93.6	93.0	93.0	90.2	91.0
30/22	91.7	91.7	93.6	94.1	93.0	93.6	91.7	91.7
40/30	92.4	92.4	94.1	94.1	94.1	94.1	91.7	91.7
50/37	93.0	93.0	94.5	94.5	94.1	94.1	92.4	92.4
60/45	93.6	93.6	95.0	95.0	94.5	94.5	92.4	93.0
75/55	93.6	93.6	95.4	95.0	94.5	94.5	93.6	94.1
100/75	94.1	93.6	95.4	95.4	95.0	95.0	93.6	94.1
125/90	95.0	94.1	95.4	95.4	95.0	95.0	94.1	94.1
150/110	95.0	94.1	95.8	95.8	95.8	95.4	94.1	94.1
200/150	95.4	95.0	96.2	95.8	95.8	95.4	94.5	94.1
250/186	95.8	95.0	96.2	95.8	95.8	95.8	95.0	95.0
300/224	95.8	95.4	96.2	95.8	95.8	95.8	.....	.....
350/261	95.8	95.4	96.2	95.8	95.8	95.8	.....	.....
400/298	95.8	95.8	96.2	95.8	.....	.....	.....	.....
450/336	95.8	96.2	96.2	96.2	.....	.....	.....	
500/373	95.8	96.2	96.2	96.2	.....	.....	.....	.....

TABLE I.3—ENERGY CONSERVATION STANDARDS FOR NEMA DESIGN C MOTORS

[Compliance starting June 1, 2016]

Motor horsepower/standard kilowatt equivalent	Nominal full-load efficiency (percent)					
	4 Pole		6 Pole		8 Pole	
	Enclosed	Open	Enclosed	Open	Enclosed	Open
1/.75	85.5	85.5	82.5	82.5	75.5	75.5
1.5/1.1	86.5	86.5	87.5	86.5	78.5	77.0
2/1.5	86.5	86.5	88.5	87.5	84.0	86.5
3/2.2	89.5	89.5	89.5	88.5	85.5	87.5
5/3.7	89.5	89.5	89.5	89.5	86.5	88.5
7.5/5.5	91.7	91.0	91.0	90.2	86.5	89.5
10/7.5	91.7	91.7	91.0	91.7	89.5	90.2
15/11	92.4	93.0	91.7	91.7	89.5	90.2
20/15	93.0	93.0	91.7	92.4	90.2	91.0
25/18.5	93.6	93.6	93.0	93.0	90.2	91.0
30/22	93.6	94.1	93.0	93.6	91.7	91.7
40/30	94.1	94.1	94.1	94.1	91.7	91.7
50/37	94.5	94.5	94.1	94.1	92.4	92.4
60/45	95.0	95.0	94.5	94.5	92.4	93.0
75/55	95.4	95.0	94.5	94.5	93.6	94.1
100/75	95.4	95.4	95.0	95.0	93.6	94.1
125/90	95.4	95.4	95.0	95.0	94.1	94.1
150/110	95.8	95.8	95.8	95.4	94.1	94.1
200/150	96.2	95.8	95.8	95.4	94.5	94.1

TABLE I.4—ENERGY CONSERVATION STANDARDS FOR FIRE PUMP ELECTRIC MOTORS

[Compliance starting June 1, 2016]

Motor horsepower/standard kilowatt equivalent	Nominal full-load efficiency (percent)							
	2 Pole		4 Pole		6 Pole		8 Pole	
	Enclosed	Open	Enclosed	Open	Enclosed	Open	Enclosed	Open
1/.75	75.5	.....	82.5	82.5	80.0	80.0	74.0	74.0
1.5/1.1	82.5	82.5	84.0	84.0	85.5	84.0	77.0	75.5
2/1.5	84.0	84.0	84.0	84.0	86.5	85.5	82.5	85.5
3/2.2	85.5	84.0	87.5	86.5	87.5	86.5	84.0	86.5
5/3.7	87.5	85.5	87.5	87.5	87.5	87.5	85.5	87.5
7.5/5.5	88.5	87.5	89.5	88.5	89.5	88.5	85.5	88.5
10/7.5	89.5	88.5	89.5	89.5	89.5	90.2	88.5	89.5
15/11	90.2	89.5	91.0	91.0	90.2	90.2	88.5	89.5
20/15	90.2	90.2	91.0	91.0	90.2	91.0	89.5	90.2
25/18.5	91.0	91.0	92.4	91.7	91.7	91.7	89.5	90.2
30/22	91.0	91.0	92.4	92.4	91.7	92.4	91.0	91.0
40/30	91.7	91.7	93.0	93.0	93.0	93.0	91.0	91.0
50/37	92.4	92.4	93.0	93.0	93.0	93.0	91.7	91.7
60/45	93.0	93.0	93.6	93.6	93.6	93.6	91.7	92.4
75/55	93.0	93.0	94.1	94.1	93.6	93.6	93.0	93.6
100/75	93.6	93.0	94.5	94.1	94.1	94.1	93.0	93.6
125/90	94.5	93.6	94.5	94.5	94.1	94.1	93.6	93.6
150/110	94.5	93.6	95.0	95.0	95.0	94.5	93.6	93.6
200/150	95.0	94.5	95.0	95.0	95.0	94.5	94.1	93.6
250/186	95.4	94.5	95.0	95.4	95.0	95.4	94.5	94.5
300/224	95.4	95.0	95.4	95.4	95.0	95.4	.....	.....
350/261	95.4	95.0	95.4	95.4	95.0	95.4	.....	.....
400/298	95.4	95.4	95.4	95.4	.....	.....	.....	.....
450/336	95.4	95.8	95.4	95.8	.....	.....	.....	.....
500/373	95.4	95.8	95.8	95.8	.....	.....	.....	.....

Note: Energy conservation standards for fire pump electric motors have not changed and remain at the current efficiency levels.

A. Benefits and Costs to Consumers

Table I.5 presents DOE's evaluation of the economic impacts of today's standards on consumers of electric motors, as measured by the weighted average life-cycle cost (LCC) savings and the median payback period. The average LCC savings are positive for all equipment classes for which consumers are impacted by the standards.

TABLE I.5—IMPACTS OF TODAY'S STANDARDS ON CONSUMERS OF ELECTRIC MOTORS

Equipment class group	Weighted average LCC savings* (2013$)	Weighted median payback period* (years)
1	160	2.9
2	53	4.5
3	N/A**	N/A**

* The results for each equipment class group (ECG) are a shipment weighted average of results for the representative units in the group. ECG 1: Representative units 1, 2, 3, 9, and 10; ECG 2: Representative units 4 and 5; ECG 3: Representative units 6, 7, and 8. The weighted average lifetime in each equipment class is 15 years and ranges from 8 to 29 years, depending on the motor horsepower and application.

** For the ECG 3 motor, the standard level is the same as the baseline; thus, no customers are affected.

B. Impact on Manufacturers

The industry net present value (INPV) is the sum of the discounted cash flows to the industry from the base year through the end of the analysis period (2014 to 2045). Using a real discount rate of 9.1 percent, DOE estimates that the industry net present value (INPV) for manufacturers of electric motors is $3,478 million in 2013$. Under today's standards, DOE expects that manufacturers may lose up to 10.0 percent of their INPV, which is approximately $348 million. Additionally, based on DOE's interviews with the manufacturers of electric motors, DOE does not expect any plant closings or significant loss of employment based on the energy conservation standards chosen in today's rule.

C. National Benefits and Costs [2]

DOE's analyses indicate that today's standards would save a significant amount of energy. Estimated lifetime savings for electric motors purchased over the 30-year period that begins in the year of compliance with new and amended standards (2016–2045) would amount to 7.0 quads (full-fuel-cycle energy).[3] The annualized energy savings (0.23 quad) is equivalent to one percent of total U.S. industrial primary energy consumption in 2013.[4]

The estimated cumulative net present value (NPV) of total consumer costs and savings attributed to today's standards for electric motors ranges from $11.3 billion (at a 7-percent discount rate) to $28.8 billion (at a 3-percent discount rate). This NPV expresses the estimated total value of future operating-cost savings minus the estimated increased equipment costs for equipment purchased in 2016–2045.[5]

In addition, today's standards would have significant environmental benefits across the entire analysis period. Estimated energy savings would result in cumulative greenhouse gas emission reductions of approximately 395 million metric tons (Mt) [6] of carbon dioxide (CO_2), 1,883 thousand tons of methane, 673 thousand tons of sulfur dioxide (SO_2), 498 thousand tons of nitrogen oxides (NO_X) and 0.8 tons of mercury (Hg).[7] The cumulative reduction in CO_2 emissions through 2030 amounts to 96 Mt.

The value of the CO_2 reductions is calculated using a range of values per metric ton of CO_2 (otherwise known as the Social Cost of Carbon, or SCC) developed by a recent Federal interagency process.[8] The derivation of the SCC values is discussed in section IV.L. Using discount rates appropriate for each set of SCC values, DOE estimates that the present monetary value of the CO_2 emissions reductions is between $2.7 billion and $38.3 billion. DOE also estimates that the present monetary value of the NO_X emissions reductions is $0.3 billion at a 7-percent discount rate, and $0.7 billion at a 3-percent discount rate.[9]

Table I.6 summarizes the national economic costs and benefits expected to result from today's standards for electric motors.

TABLE I.6—SUMMARY OF NATIONAL ECONOMIC BENEFITS AND COSTS OF ELECTRIC MOTORS ENERGY CONSERVATION STANDARDS, PRESENT VALUE FOR MOTORS SHIPPED IN 2016–2045 IN BILLION 2013$ *

Category	Present value billion 2013$	Discount rate %
Benefits		
Consumer Operating Cost Savings	18.2	7
	41.4	3
CO_2 Reduction Monetized Value ($12.0/t case) **	2.7	5
CO_2 Reduction Monetized Value ($40.5/t case) **	12.4	3
CO_2 Reduction Monetized Value ($62.4/t case) **	19.7	2.5
CO_2 Reduction Monetized Value ($119/t case) **	38.3	3
NO_X Reduction Monetized Value (at $2,684/ton) **	0.3	7
	0.7	3
Total Benefits †	30.9	7
	54.4	3

[2] All monetary values in this section are expressed in 2013 dollars and are discounted to 2014.

[3] The agency also conducted the site energy analysis as well (see TSD chapter 10). One quad (quadrillion Btu) is the equivalent of 293 billion kilowatt hours (kWh) or 172.3 million barrels of oil.

[4] Based on U.S. Department of Energy, Energy Information Administration, Annual Energy Outlook (AEO) 2013 data.

[5] The analytic timeframe includes motors shipped each year from 2016 to 2045.

[6] A metric ton is equivalent to 1.1 short tons. Results for NO_X and Hg are presented in short tons.

[7] DOE calculates emissions reductions relative to the Annual Energy Outlook (AEO) 2013 Reference case, which generally represents current legislation and environmental regulations for which implementing regulations were available as of December 31, 2012.

[8] *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.*

[9] DOE is currently investigating valuation of avoided Hg and SO_2 emissions.

TABLE I.6—SUMMARY OF NATIONAL ECONOMIC BENEFITS AND COSTS OF ELECTRIC MOTORS ENERGY CONSERVATION STANDARDS, PRESENT VALUE FOR MOTORS SHIPPED IN 2016–2045 IN BILLION 2013$ *—Continued

Category	Present value billion 2013$	Discount rate %
Costs		
Consumer Incremental Installed Costs	6.9	7
	12.5	3
Net Benefits		
Including CO_2 and NO_X Reduction Monetized Value	24.0	7
	41.9	3

* This table presents the costs and benefits associated with electric motors shipped in 2016–2045. These results include benefits to customers which accrue after 2045 from the equipment purchased in 2016–2045. The results account for the incremental variable and fixed costs incurred by manufacturers due to the amended standard, some of which may be incurred in preparation for this final rule.

** The CO_2 values represent global monetized values of the SCC, in 2013$, 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 incorporates 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 SCC value of $40.5/t in 2015.

The benefits and costs of today's standards for electric motors, sold in 2016–2045, 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 operation of the commercial and industrial equipment that meet the standards (consisting primarily of operating cost savings from using less energy, minus increases in equipment purchase and installation costs, which is another way of representing consumer NPV); and (2) the annualized monetary value of the benefits of emission reductions, including CO_2 emission reductions.[10]

Although combining the value of operating savings and CO_2 emissions reductions provides a useful 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 CO_2 savings are performed with different methods that use different time frames for analysis. The national operating cost savings is measured over the lifetime of electric motors shipped in years 2016–2045. 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 carbon dioxide in each year. These impacts continue well beyond 2100.

Estimates of annualized benefits and costs of today's standards 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 cost of the standards in today's rule is $517 million per year in increased equipment costs (incremental installed costs), while the estimated benefits are $1,367 million per year in reduced equipment operating costs, $614 million in CO_2 emission reductions, and $23.3 million in reduced NO_X emissions. In this case, the net benefits would amount to $1,488 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 in today's rule is $621 million per year in increased equipment costs, while the estimated benefits are $2,048 million per year in reduced operating costs, $614 million in CO_2 emission reductions, and $32.9 million in reduced NO_X emissions. In this case, the net benefit would amount to approximately $2,074 million per year.

TABLE I.8—ANNUALIZED BENEFITS AND COSTS OF ENERGY CONSERVATION STANDARDS FOR ELECTRIC MOTORS

[Million 2013$/year]

	Discount rate	Primary estimate *	Low net benefits estimate *	High net benefits estimate *
Benefits				
Consumer Operating Cost Savings	7%	1,367	1,134	1,664
	3%	2,048	1,684	2,521
CO_2 Reduction Monetized Value ($12.0/t case) *	5%	166	143	192
CO_2 Reduction Monetized Value ($40.5/t case) *	3%	614	531	712
CO_2 Reduction Monetized Value ($62.4/t case) *	2.5%	920	795	1,066
CO_2 Reduction Monetized Value ($119/t case) *	3%	1,899	1,641	2,200
NO_X Reduction Monetized Value (at $2,684/ton) **	7%	23.3	20.1	26.8

[10] 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 2014, the year used for discounting the NPV of total consumer costs and savings, for the time-series of costs and benefits using discount rates of three and seven percent for all costs and benefits except for the value of CO_2 reductions. For the latter, DOE used a range of discount rates, as shown in Table I.3. From the present value, DOE then calculated the fixed annual payment over a 30-year period (2016 through 2045) 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.

TABLE I.8—ANNUALIZED BENEFITS AND COSTS OF ENERGY CONSERVATION STANDARDS FOR ELECTRIC MOTORS—Continued

[Million 2013$/year]

	Discount rate	Primary estimate *	Low net benefits estimate *	High net benefits estimate *
	3%	32.9	28.4	38.0
Total Benefits †	7% plus CO_2 range	1,556 to 3,289	1,297 to 2,795	1,882 to 3,890
	7%	2,005	1,685	2,402
	3% plus CO_2 range	2,247 to 3,980	1,855 to 3,353	2,750 to 4,758
	3%	2,696	2,243	3,270
Costs				
Incremental Installed Costs	7%	517	582	503
	3%	621	697	616
Net Benefits				
Total †	7% plus CO_2 range	1,039 to 2,772	716 to 2,213	1,380 to 3,388
	7%	1,488	1,103	1,900
	3% plus CO_2 range	1,626 to 3,359	1,158 to 2,656	2,134 to 4,143
	3%	2,074	1,546	2,654

* This table presents the annualized costs and benefits associated with electric motors shipped in 2016–2045. These results include benefits to consumers which accrue after 2045 from the equipment purchased in years 2016–2045. Costs incurred by manufacturers, some of which may be incurred in preparation for the rule, are not directly included, but are indirectly included as part of incremental equipment costs. The Primary, Low Benefits, and High Benefits Estimates are in view of projections of energy prices from the Annual Energy Outlook (AEO) 2013 Reference case, Low Estimate, and High Estimate, respectively. In addition, incremental equipment costs reflect a medium constant projected equipment price in the Primary Estimate, a declining rate for projected equipment price trends in the Low Benefits Estimate, and an increasing rate for projected equipment price trends in the High Benefits Estimate. The methods used to derive projected price trends are explained in section IV.F.1.

** The CO_2 values represent global monetized values of the SCC, in 2013$, 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.

D. Conclusion

DOE has concluded that the standards in today's final rule represent the maximum improvement in energy efficiency that is technologically feasible and economically justified, and would result in significant conservation of energy. DOE further notes that equipment achieving these standard levels is already commercially available for most equipment classes covered by today's final rule. Based on the analyses described above, DOE has concluded that the benefits of the 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).

DOE also considered more-stringent energy efficiency levels as trial standard levels. However, DOE has concluded that the potential burdens of the more-stringent energy efficiency levels would outweigh the projected benefits.

II. Introduction

The following section briefly discusses the statutory authority underlying today's final rule, as well as some of the relevant historical background related to the establishment of standards for electric motors.

A. Authority

Title III of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6291, *et seq.;* "EPCA"), Public Law 94–163, sets forth a variety of provisions designed to improve energy efficiency. Part C of title III, which for editorial reasons was re-designated as Part A–1 upon incorporation into the U.S. Code (42 U.S.C. 6311–6317, as codified), establishes the "Energy Conservation Program for Certain Industrial Equipment," including certain electric motors.[11] The Energy Policy Act of 1992 (EPACT 1992) (Pub. L. 102–486) amended EPCA by establishing energy conservation standards and test procedures for certain commercial and industrial electric motors (in context, "motors") manufactured (alone or as a component of another piece of equipment) after October 24, 1997. In December 2007, Congress enacted the Energy Independence and Security Act of 2007 (EISA 2007) (Pub. L. 110–140). Section 313(b)(1) of EISA 2007 updated the energy conservation standards for those electric motors already covered by EPCA and established energy conservation standards for a larger scope of motors not previously covered by standards. (42 U.S.C. 6313(b)(2))

Pursuant to EPCA, DOE's energy conservation program for covered equipment consists essentially of four parts: (1) Testing; (2) labeling; (3) the establishment of Federal energy conservation standards; and (4) certification and enforcement procedures. For those electric motors for which Congress established standards, or for which DOE amends or establishes standards, the required test procedure is found at 10 CFR part 431, subpart B. The test procedure is subject to review

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

and revision by the Secretary in accordance with certain criteria and conditions. (*See* 42 U.S.C. 6314(a))

As required by section 343(a)(5)(A) of EPCA, 42 U.S.C. 6314(a)(5)(A), DOE's electric motors test procedures are those procedures specified in two documents: National Electrical Manufacturers Association (NEMA) Standards Publication MG 1 and Institute of Electrical and Electronics Engineers (IEEE) Standard 112 (Test Method B) for motor efficiency.[12]

Manufacturers of covered equipment must use these methods, as described in appendix B to subpart B of 10 CFR part 431as the basis for certifying to DOE that their equipment complies with the applicable energy conservation standards adopted under EPCA and when making representations to the public regarding the energy use or efficiency of such equipment. (42 U.S.C. 6314(d)) Similarly, DOE must use these test procedures to determine whether the equipment complies with standards adopted pursuant to EPCA.

DOE must follow specific statutory criteria for prescribing new and amended standards for covered equipment. In the case of electric motors, the criteria set out in relevant subsections of 42 U.S.C. 6295 apply to the setting of energy conservation standards for motors via 42 U.S.C. 6316(a). As indicated above, new and amended standards 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) and 6316(a)) Furthermore, DOE may not adopt any standard that would not result in significant conservation of energy. (42 U.S.C. 6295(o)(3) and 6316(a)) Moreover, DOE may not prescribe a standard: (1) For certain commercial and industrial equipment, including electric motors, if no test procedure has been established for the equipment, or (2) if DOE determines by rule that the new and amended standard is not technologically feasible or economically justified. (42 U.S.C. 6295(o)(3)(A)–(B) and 6316(a)) In deciding whether a new and amended standard is economically justified, DOE must determine whether the benefits of the standard exceed its burdens. (42 U.S.C. 6295(o)(2)(B)(i) and 6316(a)) 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 equipment subject to the standard;
2. The savings in operating costs throughout the estimated average life of the covered equipment in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered equipment 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 equipment 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) and 6316(a))

EPCA, as codified, also contains what is known as an ''anti-backsliding'' provision, which prevents the Secretary from prescribing any new or amended standard that either increases the maximum allowable energy use or decreases the minimum required energy efficiency of a covered product or piece of equipment. (42 U.S.C. 6295(o)(1) and 6316(a)) 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- or equipment-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) and 6316(a))

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 equipment 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. (42 U.S.C. 6295(o)(2)(B)(iii) and 6316(a))

Additionally, 42 U.S.C. 6295(q)(1), as applied to covered equipment via 42 U.S.C. 6316(a), specifies requirements when promulgating a standard for a type or class of covered equipment that has two or more subcategories. DOE must specify a different standard level than that which applies generally to such type or class of equipment for any group of covered equipment that have the same function or intended use if DOE determines that equipment within such group: (A) Consumes a different kind of energy from that consumed by other covered equipment within such type (or class); or (B) has a capacity or other performance-related feature which other equipment within such type (or class) does not have and such feature justifies a higher or lower standard. (42 U.S.C. 6295(q)(1) and 6316(a)) In determining whether a performance-related feature justifies a different standard for a group of equipment, DOE must consider such factors as the utility to the consumer of such a feature and other factors DOE deems appropriate. *Id.* Any rule prescribing such a standard must include an explanation of the basis on which such higher or lower level was established. (42 U.S.C. 6295(q)(2) and 6316(a))

Federal energy conservation requirements generally supersede State laws or regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6297(a)–(c) and 6316(a)) 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)).

B. Background

1. Current Standards

An electric motor is a device that converts electrical power into rotational mechanical power. The outside structure of the motor is called the frame, which houses a rotor (the spinning part of the motor) and the stator (the stationary part that creates a magnetic field to drive the rotor). Although many different technologies exist, DOE's rulemaking is concerned with squirrel-cage induction motors, which represent the majority of electric motor energy use. In squirrel-cage induction motors, the stator drives the rotor by inducing an electric current in the squirrel-cage, which then reacts with the rotating magnetic field to propel the rotor in the same way a person can repel one handheld magnet with another. The squirrel-cage used in the rotor of induction motors consists of longitudinal conductive bars (rotor bars) connected at both ends by rings (end rings) forming a cage-like shape. Among other design parameters, motors can

[12] DOE also added Canadian Standards Association (CSA) CAN/CSA C390–93, ''Energy Efficiency Test Methods for Three-Phase Induction Motors'' as an equivalent and acceptable test method, which aligns with industry practices.

vary in horsepower, number of ''poles'' (which determines how quickly the motor rotates), and torque characteristics. Most motors have ''open'' frames that allow cooling airflow through the motor body, though some have enclosed frames that offer added protection from foreign substances and bodies. DOE regulates various motor types from between 1 and 500 horsepower, with 2, 4, 6, and 8 poles, and with both open and enclosed frames.

EPACT 1992 amended EPCA by establishing energy conservation standards and test procedures for certain commercial and industrial electric motors manufactured either alone or as a component of another piece of equipment on or after October 24, 1997. Section 313 of EISA 2007 amended EPCA by: (1) Striking the definition of ''electric motor'' provided under EPACT 1992, (2) setting forth definitions for ''general purpose electric motor (subtype I)'' and ''general purpose electric motor (subtype II),'' and (3) prescribing energy conservation standards for ''general purpose electric motors (subtype I),'' ''general purpose electric motors (subtype II),'' ''fire pump electric motors,'' and ''NEMA Design B general purpose electric motors'' with a power rating of more than 200 horsepower but not greater than 500 horsepower. (42 U.S.C. 6311(13) and 6313(b)) The current standards for these motors (available at 10 CFR 431.25(a)–(e)), which are reproduced in the regulatory text at the end of this rulemaking, are divided into four tables that prescribe specific efficiency levels for each of those groups of motors.

2. History of Standards Rulemaking for Electric Motors

On October 5, 1999, DOE published in the **Federal Register**, a final rule to codify the EPACT 1992 electric motor requirements. See 64 FR 54114. After EISA 2007's enactment, DOE updated, among other things, the corresponding electric motor regulations at 10 CFR part 431 by incorporating the new definitions and energy conservation standards that the law established. *See* 74 FR 12058 (March 23, 2009). DOE subsequently updated its test procedures for electric motors and small electric motors, *see* 73 FR 78220 (December 22, 2008), and later finalized key provisions related to small electric motor testing. *See* 74 FR 32059 (July 7, 2009). Further updates to the test procedures for electric motors and small electric motors followed when DOE issued a rule that primarily focused on updating various definitions and incorporations by reference related to the current test procedure. *See* 77 FR 26608 (May 4, 2012). That rule defined the term ''electric motor'' to account for EISA 2007's removal of the previous statutory definition of ''electric motor''. DOE also clarified definitions related to those motors that EISA 2007 laid out as part of EPCA's statutory framework, including motor types that DOE had not previously regulated. See generally, *id.* at 26613–26619. DOE also published a new test procedure on December 13, 2013, that further refined various electric motor definitions and added certain definitions and test procedure preparatory steps to address a wider variety of electric motor types than are currently regulated, including those electric motors that are largely considered to be special-or definite-purpose motors. 78 FR 75961.

DOE received numerous comments from interested parties who provided significant input to DOE in response to DOE's framework document and preliminary analysis for this rulemaking. *See* 75 FR 59657 (September 28, 2010) (framework document notice of availability) and 77 FR 43015 (July 23, 2012) (preliminary analysis notice of availability). All such comments were addressed in the December 6, 2013, notice of proposed rulemaking (standards NOPR). 78 FR 73589 During the framework document comment period, several interested parties urged DOE to consider including additional motor types currently without energy conservation standards in DOE's analyses and establishing standards for such motor types. In the commenters' view, this approach would more effectively increase energy savings than setting more stringent standards for currently regulated electric motors. In response, DOE published a Request for Information (RFI) seeking public comments from interested parties regarding establishment of energy conservation standards for several types of definite and special purpose motors for which EISA 2007 did not provide energy conservation standards. 76 FR 17577 (March 30, 2011) DOE received comments responding to the RFI advocating that DOE regulate many of the electric motors discussed in the RFI, as well as many additional motor types.

Then, on August 15, 2012, a group of interested parties (the ''Motor Coalition'' [13]) submitted the ''Joint Petition to Adopt Joint Stakeholder Proposal As it Relates to the Rulemaking on Energy Conservation Standards for Electric Motors'' (the ''Petition'') to DOE asking the agency to adopt a consensus stakeholder proposal that would amend the energy conservation standards for electric motors.[14] The Motor Coalition's proposal advocated expanding the scope of coverage to a broader range of motors than what DOE currently regulates and it recommended that energy conservation standards for all covered electric motors be set at levels that are largely equivalent to what DOE adopts in today's notice (*i.e.,* efficiency levels in NEMA MG 1–2011 Tables 12–12).[15] (Motor Coalition, No. 35 at pp. 1–3) Several interested parties submitted comments supporting the Petition, including: U.S. Senators Lisa Murkowski and Jeff Bingaman, BBF and Associates, the Air Movement and Control Association International, Inc., the Hydraulic Institute, the Arkansas Economic Development and Commission—Energy Office, and the Power Transmission Distributors Association.

3. Process for Setting Energy Conservation Standards

Section 325(o) of EPCA (as applied to covered equipment via 42 U.S.C. 6316(a)), provides criteria for prescribing new or amended standards which are designed to achieve the maximum improvement in energy efficiency and for which the Secretary of Energy determines are technologically feasible and economically justified. Consequently, DOE must consider, to the greatest extent practicable, the seven factors listed at 42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII) (as applied to commercial equipment via 6316(a)). Other statutory requirements are set forth in 42 U.S.C. 6295(o)(1)–(2)(A), (2)(B)(ii)–(iii), and (3)–(4). These criteria apply to the setting of standards for electric motors through 42 U.S.C. 6316(a).

The Motor Coalition expressed concern that much of the relevant information regarding electric motors spans various rulemaking documents. It requested that DOE consolidate all documents related to electric motors at one place, which can serve as a quick and easy reference for any consumer or

[13] The members of the Motor Coalition include: National Electrical Manufacturers Association, American Council for an Energy-Efficient Economy, Appliance Standards Awareness Project, Alliance to Save Energy, Earthjustice, Natural Resources Defense Council, Northwest Energy Efficiency Alliance, Northeast Energy Efficiency Partnerships, and Northwest Power and Conservation Council.

[14] The Petition is available at: *http://www.regulations.gov/#!documentDetail;D=EERE-2010-BT-STD-0027-0035.*

[15] DOE's final rule differs from the Motor Coalition's proposal in that DOE's rule covers all types of brake electric motors and does not set separate, lower standards for U-frame motors and does not cover open, special- and definite-purpose 56-frame motors.

manufacturer in the U.S or outside the U.S. (Motor Coalition, Pub. Mtg. Tr., No. 87 at p. 20–21) Baldor expressed similar concerns and suggested that DOE clearly state in the Code of Federal Regulations (CFR) whatever information manufacturers need to comply with standards. (Baldor, No. 100 at p. 2) NEMA commented that the notice needs to be clearer and unambiguous so that it is easier for anyone (such as offshore suppliers) to follow it. It added that the final rule should include all required information. (NEMA, Pub. Mtg. Tr., No. 87 at p. 46–47)

First, DOE notes that its regulatory requirements are incorporated into the CFR. The regulations laid out in the CFR comprise the official set of requirements that a regulated entity must follow. While any member of the public (including manufacturers) may seek guidance from DOE, the requirements laid out in the CFR provide the regulatory framework that manufacturers must follow and apply when determining which (if any) requirements a given motor must meet. DOE may issue related guidance documents, if needed, which are available on its Web site at *http://www1.eere.energy.gov/guidance/default.aspx?pid=2&spid=1*. Finally, it is worth noting that the division of regulations in 10 CFR 431.25(a)–(f) (for currently regulated electric motors) and 10 CFR 431.25(g)–(l) (for newly regulated electric motors) was developed as a mechanism to demonstrate the upcoming change in standards without creating confusion about existing standards. At some point in the future after the new standards being adopted in this final rule have been in effect for some time, DOE anticipates removing the standards currently at 10 CFR 431.25(a)–(f), as DOE has done in the past.

III. General Discussion

DOE developed today's rule after considering input, including verbal and written comments, data, and information from interested parties that represent a variety of interests. All commenters, along with their corresponding abbreviations and affiliations, are listed in Table III.1 below. The issues raised by these commenters are addressed in the discussions that follow.

TABLE III.1—SUMMARY OF COMMENTERS

Company or organization	Abbreviation	Affiliation
Air Movement and Control Association International, Inc.	AMCAI	Trade Association.
Alliance to Save Energy	ASE	Energy Efficiency Advocates.
American Council for an Energy-Efficient Economy	ACEEE	Energy Efficiency Advocates.
American Forest & Paper Association	AF&PA	Trade Association.
American Fuel & Petrochemical Manufacturers	AFPM	Trade Association.
Appliance Standards Awareness Project	ASAP	Energy Efficiency Advocates.
Baldor Electric Co.	Baldor	Manufacturers.
BBF & Associates	BBF	Representative for Trade Association.
California Energy Commission	CEC	State Government Agency.
California Investor Owned Utilities	CA IOUs	Utilities.
Cato Institute	Cato	Public Interest Group.
China WTO/TBT National Notification & Enquiry Center	China WTO/TBT	Chinese Government Agency.
Copper Development Association	CDA	Trade Association.
Earthjustice	Earthjustice	Energy Efficiency Advocates.
Edison Electric Institute	EEI	Association of U.S. investor-owned electric companies.
Electric Apparatus Service Association	EASA	Trade Association.
European Committee of Manufacturers of Electrical Machines and Power Electronics.	CEMEP	Trade Association.
Flolo Corporation	Flolo	Electromechanical Repairer.
Greg Gerritsen	Gerritsen	Individual.
Industrial Energy Consumers of America	IECA	Trade Association.
Motor Coalition*	MC	Energy Efficiency Advocates, Trade Associations, Manufacturers, Utilities.
National Electrical Manufacturers Association	NEMA	Trade Association.
Natural Resources Defense Council	NRDC	Energy Efficiency Advocates.
Nidec Corporation	Nidec	Manufacturer.
NORD Gear Corporation	NORD Gear	Manufacturer.
Northwest Energy Efficiency Alliance	NEEA	Energy Efficiency Advocates.
Northeast Energy Efficiency Partnerships	NEEP	Energy Efficiency Advocates.
Northwest Power & Conservation Council	NPCC	Utilities.
Oakland University	OU	Academic Institution.
PlasticMetal	PlasticMetal	Non-motor Manufacturer.
Regal Beloit	Regal Beloit	Manufacturer.
Scott Mohs	Scott	Individual.
SEW-Eurodrive, Inc.	SEWE	Manufacturer.
Siemens	Siemens	Manufacturer.
Southern California Edison	SCE	Utility.
UL LLC	UL	Testing Laboratory.
University of Michigan	UMI	Academic Institution.
WEG Electric Corporation	WEG	Manufacturer.

*The members of the Motor Coalition include: National Electrical Manufacturers Association (NEMA), American Council for an Energy-Efficient Economy (ACEEE), Appliance Standards Awareness Project (ASAP), Alliance to Save Energy (ASE), Earthjustice, Natural Resources Defense Council (NRDC), Northwest Energy Efficiency Alliance (NEEA), Northeast Energy Efficiency Partnerships (NEEP), and Northwest Power and Conservation Council (NPCC).

A. Compliance Date

During the NOPR public meeting and in written comments, many interested parties, including the Motor Coalition, requested that DOE provide at least two years for compliance from the date of publication of the final rule. (Motor Coalition, Pub. Mtg. Tr., No. 87 at pp. 21–22; NEMA, Pub. Mtg. Tr., No. 87 at p. 29; CA IOUs, Pub. Mtg. Tr., No. 87 at p. 31; ASAP, Pub. Mtg. Tr., No. 87 at p. 32; CEMEP, No. 89 at p. 2; Joint Advocates,[16] No. 97 at p. 3; NEMA, No. 93 at p. 7; CA IOUs, No. 99 at p. 2; Nidec, No. 98 at pp. 2–3; SCE, No. 101 at p. 2)

DOE received other comments on the proposed compliance date for the newly covered equipment requesting that DOE provide more than two years after publication of the final rule for newly covered motors to comply with today's standards because such motors may require testing and/or modification of original equipment manufacturer (OEM) equipment within which these motors are used. (NEMA, No. 93 at p. 7; NEMA, Pub. Mtg. Tr., No. 87 at p. 30–31) Regal Beloit commented that manufacturers of these newly covered motors should be given 48 months for compliance, whereas EEI argued for a three-year lead time for such motors. (Regal Beloit, Pub. Mtg. Tr., No. 87 at pp. 34–35; EEI, Pub. Mtg. Tr., No. 87 at pp. 24–25, 33) EEI also noted that many manufacturers should be fine with a two-year compliance lead time for already-covered equipment since they anticipated the change in regulatory requirements coming after EISA 2007. (EEI, Pub. Mtg. Tr., No. 87 at pp. 24–25, 33) DOE notes that NEMA, as part of the Motor Coalition, had commented earlier in the Petition that a two-year compliance lead time would be sufficient for all motors covered by today's rule and this stance was reiterated by the Motor Coalition representative at the NOPR public meeting and NEMA in their NOPR comments. (Motor Coalition, Pub. Mtg. Tr., No. 87 at pp. 21–22; Motor Coalition, No. 35 at p. 9; NEMA, No. 93 at p. 7)

Regarding the compliance date that would apply to the requirements of today's rule, the energy conservation standards established under EISA 2007 went into effect after the three-year period beginning on the date of enactment of EISA 2007. Under 42 U.S.C. § 6313(b)(4)(B), EPCA directs the Secretary of Energy to publish a final rule amending such standards and to apply the rule to electric motors manufactured five years after the effective date EISA 2007. DOE is relying on the Congressionally established two-year spread between the effective date of the latest amendments to electric motor energy conservation standards and the date by which DOE must amend such standards to arrive at the two-year lead-time for manufacturers to comply with today's rule after its date of issuance. *See* 42 U.S.C. 6313(b).

B. Test Procedure

On June 26, 2013, DOE published a notice that proposed to incorporate definitions for certain motor types not currently subject to energy conservation standards (78 FR 38456). The notice also proposed to clarify several definitions for motor types currently regulated by energy conservation standards and add some necessary steps to facilitate the testing of certain motor types that DOE does not currently require to meet standards. During the preliminary analysis stage, DOE received comments concerning definitions and test procedure set-up steps suggested for testing motors under an expanded scope approach. DOE addressed the comments as part of the test procedure NOPR. *See* 78 FR 38456.

On December 13, 2013, DOE published a test procedure final rule (2013 test procedure) that incorporated comments from the test procedure NOPR and added and clarified both definitions and testing instructions for a variety of electric motors that DOE was considering for regulation under this standards rulemaking. 78 FR 75961. The test procedure changes published in the 2013 final test procedure allow DOE to require testing and compliance to meet the energy conservation standards established today.

Commenting on DOE's recent round of electric motor rulemakings, Baldor raised concerns that developing the standards rulemaking and test procedures rulemaking in parallel has caused inconsistencies that need to be resolved. For example, the 2013 test procedure used the term ''brake electric motor'' to refer jointly to what the standards NOPR published earlier had called ''integral'' and ''non-integral'' brake electric motors. Baldor suggested that definitions for NEMA Design A and B motors in the 2013 test procedure should refer to nine characteristics for covered equipment that are laid out in the NOPR. (Baldor, No. 100 at p. 7)

Inconsistencies, if any, are resolved in today's rule. DOE developed the nine criteria in 10 CFR 431.25(g) below to characterize all of the newly covered and currently covered motor types. Therefore, adding these characteristics to the definitions for motor types is unnecessary. Moreover, as described earlier, the regulatory structure proposed by DOE and adopted in this rule preserves the existing standards and structure for currently regulated motors while providing a new section for new standards for motors being regulated for the first time and amended standards for currently regulated motors.

CEC recommended that DOE should add definitions of continuous duty and duty type S1 (IEC) in 10 CFR 431.12. It also recommended that DOE revise the current definitions of NEMA Design A, B, and C motors to update the reference from NEMA MG 1–2009 to the revised document ANSI/NEMA MG 1–2011. (CEC, No. 96 at p. 3)

DOE understands that ''continuous'' and ''S1'' are terms well understood by the motor industry, and DOE has therefore not established definitions for these terms. DOE clarifies in this rule that these terms are used to designate a motor that can operate indefinitely in rated conditions and reaches thermal equilibrium. This stands in contrast to motors that may be rated for intermittent operation or with specific loading, braking, or starting restrictions.

With respect to the MG 1 publication version, DOE notes that the terms mentioned by CEC are identical in both versions of MG 1. DOE, therefore, finds there is no reason to amend the reference.

1. Vertical Electric Motors

NEMA and Nidec both suggested several modifications in the test procedure for vertical electric motors and expressed concern that, without these changes, it will be difficult for manufacturers to test vertical electric motors correctly for compliance purposes. (NEMA, No. 93 at p. 29; Nidec, No. 98 at p. 9–10)

DOE recognizes the desire for clarification in the 2013 test procedure for vertical electric motors, but notes that the rule has now gone into effect and the changes suggested by commenters are beyond the scope of today's energy conservation standard. Based on stakeholder concerns, however, DOE will evaluate whether further clarification on the testing of vertical electric motors is necessary.

C. Current Equipment Classes and Scope of Coverage

When evaluating and establishing energy conservation standards, DOE divides covered equipment into equipment classes by the type of energy

[16] For the purposes of this document, ''Joint Advocates'' is a term used to describe NPCC, NEEA, ACEEE, ASAP, Earthjustice, ASE, NRDC, and NEEP, who commented jointly.

used or by capacity or other performance-related features that would justify a different standard. In making a determination whether a performance-related feature justifies a different standard, DOE must consider factors such as the utility to the consumer of the feature and other factors DOE determines are appropriate. (42 U.S.C. 6295(q) and 6316(a))

Existing energy conservation standards cover electric motors that fall into four categories based on design features of the motor. These four categories are: General purpose electric motors (subtype I), general purpose electric motors (subtype II), fire pump electric motors, and NEMA Design B motors (with a horsepower rating from 201 through 500). Definitions for each of these terms can be found at 10 CFR 431.12.

D. Updated Equipment Classes and Scope of Coverage

DOE has the authority to set energy conservation standards for a wider range of electric motors than those classified as general purpose electric motors (*e.g.,* definite or special purpose motors). EPACT 1992 first provided DOE with the statutory authority to regulate ''electric motors,'' which were defined as including certain ''general purpose'' motors. (42 U.S.C. 6311(13)(A) (1992)) In addition to defining this term, Congress prescribed specific energy conservation standards for electric motors (*i.e.,* general purpose electric motors (subtype I). EPACT 1992 also defined the terms ''definite purpose motors'' and ''special purpose motor''. (42 U.S.C. 6311(13)(C) and (D) (1992)) EPACT 1992 explicitly excluded definite purpose and special purpose motors from the prescribed standards. (42 U.S.C. 6313(b)(1) (1992)) However, EISA 2007 struck the narrow EPACT 1992 definition of ''electric motor''. (42 U.S.C. 6311(13)) With the removal of this definition, the term ''electric motor'' became broader in scope. As a result of these changes, both definite and special purpose motors fell under the broad heading of ''electric motors'' that previously only applied to ''general purpose'' motors. While EISA 2007 prescribed standards for general purpose motors, it did not apply those standards to definite or special purpose motors. (42 U.S.C. 6313(b) (2012))

Consistent with EISA 2007's reworking of the ''electric motor'' definition, the 2012 test procedure broadly defined the term ''electric motor''. 77 FR 26608 (codified at 10 CFR 431.12). In view of the changes introduced by EISA 2007 and the absence of energy conservation standards for special purpose and definite purpose motors, it is DOE's view that both of these motors are categories of ''electric motors'' covered under EPCA, as currently amended. Accordingly, DOE added the term ''electric'' to the definitions of ''special purpose motor'' and ''definite purpose motor'' in the 2013 test procedure. *See* 78 FR 75994. Today's rule amends and establishes standards for a variety of electric motors, including certain definite purpose and special purpose motors. DOE is setting energy conservation standards for any electric motor exhibiting all of the following nine characteristics:

(1) Is a single-speed, induction motor,

(2) Is rated for continuous duty (MG 1) operation or for duty type S1 (IEC),

(3) Contains a squirrel-cage (MG 1) or cage (IEC) rotor,

(4) Operates on polyphase alternating current 60-hertz sinusoidal line power,

(5) Is rated 600 volts or less,

(6) Has a 2-, 4-, 6-, or 8-pole configuration,

(7) Is built in a three-digit or four-digit NEMA frame size (or IEC metric equivalent), including those designs between two consecutive NEMA frame sizes (or IEC metric equivalent), or an enclosed 56 NEMA frame size (or IEC metric equivalent),

(8) Produces at least 1 horsepower (0.746 kW) but not greater than 500 horsepower (373 kW), and

(9) Meets all of the performance requirements of a NEMA Design A, B, or C motor or of an IEC Design N or H motor.

However, the updated standards specifically do not apply to the following equipment:

- Air-over electric motors;
- Component sets of an electric motor;
- Liquid-cooled electric motors;
- Submersible electric motors; and
- Inverter-only electric motors.

To facilitate the potential application of energy conservation standards to special and definite purpose motors, DOE defined certain motors and provided certain preparatory test procedure steps in the 2013 test procedure. *See* 78 FR 75961. DOE chose not to establish standards for the component sets of an electric motor, liquid-cooled, submersible, and inverter-only electric motors listed above because of the current absence of a reliable and repeatable method to test them for efficiency. If a test procedure becomes available, DOE may consider setting standards for these motors at that time. For air-over electric motors, during the course of the test procedure rulemaking, DOE learned about a possible test procedure for such motors but DOE does not currently have enough information to support the establishment of a test method. 78 FR 75975.

Finally, as discussed in the NOPR, although DOE believes that EPCA, as amended through EISA 2007, provides sufficient statutory authority to regulate a wider variety of electric motors (including those commonly referred to as special purpose or definite purpose motors) than those already regulated as ''electric motors,'' DOE notes that section 10 of the American Energy Manufacturing Technical Corrections Act (''AEMTCA''), Public Law 112–210 (December 18, 2012), amended DOE's authority to regulate commercial and industrial equipment by including ''other motors,'' in addition to ''electric motors''. (42 U.S.C. 6311(2)(B)(xiii).) Therefore, even if special and definite purpose motors were not ''electric motors,'' special and definite purpose motors would be considered as ''other motors'' that EPCA already treats as covered industrial equipment.[17]

[17] EPCA specifies the types of industrial equipment that can be classified as covered in addition to the equipment enumerated in 42 U.S.C. 6311(1). This equipment includes ''other motors'' (to be codified at 42 U.S.C. 6311(2)(B)). Industrial equipment must also, without regard to whether such equipment is in fact distributed in commerce for industrial or commercial use, be of a type that: (1) In operation consumes, or is designed to consume, energy in operation; (2) to any significant extent, is distributed in commerce for industrial or commercial use; and (3) is not a covered product as defined in 42 U.S.C. 6291(a)(2) of EPCA, other than a component of a covered product with respect to which there is in effect a determination under 42 U.S.C. 6312(c). (42 U.S.C. 6311 (2)(A).) Data from the 2002 United States Industrial Electric Motor Systems Market Opportunities Assessment estimated total energy use from industrial motor systems to be 747 billion kWh. Based on the expansion of industrial activity, it is likely that current annual electric motor energy use is higher than this figure. Electric motors are distributed in commerce for both the industrial and commercial sectors. According to data provided by the Motor Coalition, the number of electric motors manufactured in, or imported into, the United States is over five million electric motors annually, including special and definite purpose motors. Finally, special and definite purpose motors are not currently regulated under Title 10 of the Code of Federal Regulations, part 430 (10 CFR Part 430).

To classify equipment as covered commercial or industrial equipment, the Secretary must also determine that classifying the equipment as covered equipment is necessary for the purposes of Part A–1 of EPCA. The purpose of Part A–1 is to improve the efficiency of electric motors, pumps and certain other industrial equipment to conserve the energy resources of the nation. (42 U.S.C. 6312(a)–(b)) In today's rule, DOE has determined that the regulation of special and definite purpose motors is necessary to carry out the purposes of part A–1 of EPCA because regulating these motors will promote the conservation of energy supplies. Efficiency standards that may result from coverage would help to capture some portion of the potential for improving the efficiency of special and definite purpose motors.

In response to the NOPR, the Motor Coalition recognized that DOE's proposed broadening of the scope of motors that would be covered at TSL 2 efficiency levels is consistent with the Petition. (Motor Coalition, Pub. Mtg. Tr., No. 87 at pp. 18–19) NEMA agreed with DOE's proposed expansion of scope of coverage, noting that it is largely consistent with the Petition. (NEMA, No. 93 at p. 3) Nidec commented that DOE's proposal presents a sufficiently broad scope of coverage and that no further adjustment is needed. (Nidec, No. 98 at p. 5) The CA IOUs supported DOE in adopting TSL 2 for most equipment class groups. (CA IOUs, No. 99 at pp. 1–2) The Joint Advocates supported the proposed standards, noting that the standards will save 7 quads of energy over thirty years of equipment sales and will significantly contribute to the President's Climate Action Plan goal for new standards. It urged DOE to complete the final rule by May 2014 as previously committed to the Attorneys General of several states. (Joint Advocates, No. 97 at p. 2) The European Committee of Manufacturers of Electrical Machines and Power Electronics (CEMEP) expressed support for increasing certain motor efficiency standards to TSL 2, or NEMA Table 12–12. CEMEP noted that DOE is appropriately considering impacts on and perspectives of OEMs and end users, as well as global harmonization issues. (CEMEP, No. 89 at p. 2) Gerritsen supported the proposed standards, noting that is the standards are essential to curb carbon dioxide emissions. (Gerritsen, No. 81 at p. 1) Southern California Edison commented that they support DOE in adopting TSL 2, *i.e.*, NEMA Premium®[18] levels, noting that these will lead to ''the maximum improvement in energy efficiency that is technologically feasible and economically justified'' as well as significant energy savings. In view of significant energy savings and general stakeholder support, SCE requested that DOE publish final rule soon. (SCE, No. 101 at pp. 1–2)

The Copper Development Association (CDA) supported DOE's current rulemaking and the inclusion of additional motor categories and requiring motors that operate at 201 hp through 500 hp to meet premium standards. CDA suggested that DOE investigate covering motors over 500 hp and currently uncovered motors 1 hp through 500 hp for future rulemaking. CDA noted that motors over 500 hp consume 27 percent of all U.S. energy consumed by motors in operation. Noting that some manufacturers even currently offer motors significantly above premium efficiency levels, CDA suggested that DOE investigate the development of a new even higher energy efficiency category—''super premium'' above the current premium efficiencies. (CDA, No. 90 at pp. 1–2)

DOE may consider expanding the scope of its regulations to large motors, which carry different technologies and usage patterns, in future updates to the rule. At that time, DOE would consider any efficiency levels beyond premium efficiency in place and evaluate them for standards.

E. Technological Feasibility

1. General

EPCA requires that any new or amended energy conservation standard that DOE prescribes shall be designed to achieve the maximum improvement in energy efficiency that DOE determines is technologically feasible. (42 U.S.C. 6295(o)(2)(A) and 6316(a)). 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.

After DOE has determined that particular technology options are technologically feasible, it further evaluates each technology option in view of the following additional screening criteria: (1) Practicability to manufacture, install, or service; (2) adverse impacts on equipment utility or availability; and (3) adverse impacts on health or safety. Section IV.B of this rule discusses the results of the screening analysis for electric motors, particularly the designs DOE considered, those it screened out, and those that are the basis for the trial standard levels (TSLs) in this rulemaking. For further details on the screening analysis for this rulemaking, see chapter 4 of the final TSD.

2. Maximum Technologically Feasible Levels

When DOE adopts a new or amended standard for a type or class of covered equipment, 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)) This requirement also applies to DOE proposals to amend the standards for electric motors. (42 U.S.C. 6316(a)) Accordingly, in its engineering analysis, DOE determined the maximum technologically feasible (''max-tech'') improvements in energy efficiency for electric motors, using the design parameters for the most efficient motors available on the market or in working prototypes. (See chapter 5 of the final TSD.) The max-tech levels that DOE determined for this rulemaking are described in section IV.C.3 of this final rule.

In response to the NOPR, CEC claimed that DOE has not provided the technological feasibility and economic justification as required by statute for updating the existing energy consumption standards for general purpose electric motors (subtype I or II) that are not NEMA Design A, B, or C, or IEC Design N or H, and for polyphase motors rated between 1 and 250 hp (2 poles) and motors between 1 and 350 hp (8 poles). It further stated that DOE did not provide market and technology analysis for motors greater than 500 hp, motors with more than 8 poles and shaded pole motors. (CEC, No. 96 at pp. 1, 3)

DOE acknowledges that the motors in the scope of today's rulemaking are not the only possible motors for which standards may produce economically justified energy savings. As detailed above, DOE's electric motor regulations came about due to statutory requirements that initially included a narrow scope of electric motors that DOE could regulate, but that has become increasingly broad with the changes brought about by EISA 2007 and AEMTCA. As that universe of electric motors that DOE is authorized to regulate expands, DOE considers other motor types that it may regulate under the statute and considers what types of electric motors use large amounts of energy, are produced in large volume, and have opportunities for efficiency gains. DOE may consider future regulation of some of the motor types which CEC mentions and welcomes data that illustrates savings potential of currently unregulated technologies.

The University of Michigan and Oakland University (UMI & OU)

[18] DOE notes that ''NEMA Premium'' is a registered trademark of NEMA. NEMA has removed the term ''NEMA'' from the title of MG 1–2011, Table 12–12. Unless indicated otherwise, in the remainder of this document, any reference to ''premium'' standards should be considered a reference to MG 1–2011, Table 12–12.

suggested that before finalizing the current rulemaking, DOE should conduct a study to update National Electrical Code Table 430.250, which is used to design circuits of motors covered by current regulation. UMI & OU suggested that before finalizing the current rulemaking, a study should be conducted to determine the optional method of establishing the nameplate ratings of combination HVAC equipment rated according to running load amperes. (UMI & OU, No. 92 at pp. 1–2)

DOE understands that NEC Table 430.250, mentioned by UMI & OU, helps engineers specify wiring in building by providing current as a function of motor power, voltage, and power factor. DOE understands that more efficient motors may cause application engineers to differently design building circuits which contain electric motors. If such changes brought by a technology have adverse impacts to safety or equipment utility, DOE may opt to remove that technology from consideration in its screening analysis. Presently, DOE has not learned of any such expected impacts resulting from the standard levels selected in today's rule. Moreover, the National Electrical Code is developed by the National Fire Protection Association (NFPA) and DOE has no authority to change this code.

F. Energy Savings

1. Determination of Savings

Section 325(o) of EPCA also provides that any new or amended energy conservation standard that DOE prescribes shall be designed to achieve the maximum improvement in energy efficiency that DOE determines is economically justified. (42 U.S.C. 6295(o)(2)(A)–(B) and 6316(a)) In addition, in determining whether such standard is technologically feasible and economically justified, DOE may not prescribe standards for certain types or classes of electric motors if such standards would not result in significant energy savings. (42 U.S.C. 6295(o)(3)(B) and 6316(a)) For each TSL, DOE projected energy savings from the motors that would be covered under this rulemaking and that would be purchased in the 30-year period that begins in the year of compliance with the new and amended standards (2016–2045). The savings are measured over the entire lifetime of equipment purchased in the 30-year period.[19] 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 new or amended mandatory efficiency standards, and considers market forces and policies that affect demand for more efficient equipment.

DOE used its national impact analysis (NIA) spreadsheet model to estimate energy savings from new and amended standards for electric motors subject to this rulemaking. The NIA spreadsheet model (described in section IV.H of this rule) calculates energy savings in site energy, which is the energy directly consumed by motors at the locations where they are used. For electricity, DOE reports national energy savings in terms of the savings in the energy that is used to generate and transmit the site electricity, which is referred to as primary energy. To convert electricity in kWh to primary energy units, on-site electricity consumption is multiplied by the site-to-power plant energy use factor (see TSD chapter 10). The site-to-power plant energy use factor is defined as the ratio of the marginal change in total primary energy consumption by the electric power sector (in quadrillion Btu's) divided by the change in total electricity generation due to a standard. DOE derives site-to-power plant energy use factors from the model used to prepare the Energy Information Administration's (EIA) *Annual Energy Outlook (AEO).*

DOE also estimates full-fuel-cycle energy savings. 76 FR 51282 (August 18, 2011), as amended at 77 FR 49701 (August 17, 2012). The full-fuel-cycle (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 evaluation of FFC savings is driven in part by the National Academy of Science's (NAS) report on FFC measurement approaches for DOE's Appliance Standards Program.[20] The NAS report discusses that FFC was primarily intended for energy efficiency standards rulemakings where multiple fuels may be used by a particular product or piece of equipment. In the case of this rulemaking pertaining to electric motors, only a single fuel—electricity—is consumed by the equipment. DOE's approach is based on the calculation of an FFC multiplier for each of the energy types used by covered equipment. Although, the addition of FFC energy savings in the rulemakings is consistent with the recommendations, the methodology for estimating FFC does not project how fuel markets would respond to this particular standard rulemaking. The FFC methodology simply estimates how much additional energy, and in turn how many tons of emissions, may be displaced if the estimated fuel were not consumed by the equipment covered in this rulemaking. It is also important to note that inclusion of FFC savings does not affect DOE's choice of standards.

2. Significance of Savings

As noted above, 42 U.S.C. 6295(o)(3)(B) (as applied to equipment via 6316(a)) 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 explicitly defined in EPCA, 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''. DOE believes that the energy savings for all of the TSLs considered in this rulemaking (presented in section V.A) are nontrivial, and, therefore, DOE considers them ''significant'' within the meaning of section 325 of EPCA.

G. 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) (as applied to equipment via 6316(a))) 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 a 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

[19] In the past DOE, presented energy savings results for only 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 equipment purchased in the 30-year period. DOE has chosen to modify its presentation of national energy savings to be consistent with the approach used for its national economic analysis.

[20] ''Review of Site (Point-of-Use) and Full-Fuel-Cycle Measurement Approaches to DOE/EERE Building Appliance Energy-Efficiency Standards,'' (Academy report) was completed in May 2009 and included five recommendations. A copy of the study can be downloaded at: *http://www.nap.edu/catalog.php?record_id=12670.*

regulation—and a long-term assessment over a 30-year period.[21] The industry-wide impacts analyzed include industry net present value (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 individual consumers, measures of economic impact include the changes in life-cycle cost (LCC) and payback period (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 net present value 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. Life-Cycle Costs

EPCA requires DOE to consider the savings in operating costs throughout the estimated average life of the covered equipment compared to any increase in the price of the covered equipment that are likely to result from the imposition of the standard. (42 U.S.C. 6295(o)(2)(B)(i)(II) and 6316(a)) DOE conducts this comparison in its LCC and PBP analysis.

The LCC is the sum of the purchase price of a piece of equipment (including its installation) and the operating expense (including energy, maintenance, and repair expenditures) discounted over the lifetime of the equipment. To account for uncertainty and variability in specific inputs, such as equipment lifetime and discount rate, DOE uses a distribution of values, with probabilities attached to each value. For its analysis, DOE assumes that consumers will purchase the covered equipment in the first year of compliance with amended standards.

The LCC savings for the considered efficiency levels 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) and 6316(a)) As discussed in section IV.H, DOE uses the NIA spreadsheet to project national site energy savings.

d. Lessening of Utility or Performance of Products

In establishing classes of equipment, 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 equipment. (42 U.S.C. 6295(o)(2)(B)(i)(IV) and 6316(a)) As noted earlier, the substance of this provision applies to the equipment at issue in today's rule as well. DOE has determined that the standards in today's notice will not reduce the utility or performance of the equipment under consideration in this rulemaking. Currently, many motors are already commonly being sold at the selected levels (*i.e.,* ''premium efficiency'' designation). In addition, the selected standards closely track the recommendations of NEMA, a trade association that represents electric motor manufacturers. DOE assumes that NEMA would not recommend efficiency levels that would harm electric motor performance or utility.

e. Impact of Any Lessening of Competition

EPCA directs DOE to consider the impact of any lessening of competition that is likely to result from the imposition of a standard. (42 U.S.C. 6295(o)(2)(B)(i)(V) and 6316(a)) It also directs the Attorney General of the United States to determine the impact, if any, of any lessening of competition likely to result from a standard and to transmit such determination to the Secretary of Energy within 60 days of the publication of a proposed rule, together with an analysis of the nature and extent of the impact. (42 U.S.C. 6295(o)(2)(B)(i)(V) and (B)(ii)) To assist the Attorney General in making a determination for electric motor standards, DOE provided the Department of Justice (DOJ) with copies of the NOPR and the TSD for review. DOE received no adverse comments from DOJ regarding the proposal.

f. Need for National Energy Conservation

The energy savings from today's 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.

Today's standards also are likely to result in environmental benefits in the form of reduced emissions of air pollutants and greenhouse gases associated with energy production. DOE reports the emissions impacts from today's standards, and from each TSL it considered, in section V.B.4 of this rule. DOE also reports estimates of the economic value of emissions reductions resulting from the considered TSLs.

g. Other Factors

EPCA allows the Secretary of Energy, 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) and 6316(a)) In developing this final rule, DOE has also considered the submission of the Petition, which DOE believes sets forth a statement by interested persons that are representative of relevant points of view (including representatives of manufacturers of covered equipment, and efficiency advocates) and contains recommendations with respect to an energy conservation standard. DOE has encouraged the submission of consensus agreements as a way to bring diverse interested parties together, to develop an independent and probative analysis useful in DOE standard setting, and to expedite the rulemaking process. DOE also believes that standard levels recommended in the Petition may increase the likelihood for regulatory compliance, while decreasing the risk of litigation.

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

[21] DOE also presents a sensitivity analysis that considers impacts for products shipped in a 9-year period.

consumer of a product or piece of equipment 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 effect potential amended 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 IV.F.12 of this final rule.

IV. Methodology and Discussion of Related Comments

DOE used four spreadsheet tools to estimate the impact of today's standards. The first spreadsheet calculates LCCs and PBPs of potential new energy conservation standards. The second provides shipments forecasts and the third calculate national energy savings and net present value impacts of potential new energy conservation standards. The fourth tool helps assess manufacturer impacts, largely through use of the Government Regulatory Impact Model (GRIM).

Additionally, DOE estimated the impacts of energy conservation standards for electric motors on utilities and the environment. 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 Annual Energy Outlook (*AEO*), a widely known energy forecast for the United States. The version of NEMS used for standards analysis is called NEMS–BT [22] and is based on the *AEO* version with minor modifications.[23]

A. Market and Technology Assessment

For the market and technology assessment, DOE develops information that provides an overall picture of the market for the equipment concerned, including the purpose of the equipment, the industry structure, and market characteristics. This activity includes both quantitative and qualitative assessments, based primarily on publicly available information. The subjects addressed in the market and technology assessment for this rulemaking include scope of coverage, equipment classes, types of equipment sold and offered for sale, and technology options that could improve the energy efficiency of the equipment under examination. Chapter 3 of the TSD contains additional discussion of the market and technology assessment.

1. Current Scope of Electric Motors Energy Conservation Standards

EISA 2007 amended EPCA to prescribe energy conservation standards for four categories of electric motors: General purpose electric motors (subtype I) (hereinafter, ''subtype I''), general purpose electric motors (subtype II) (hereinafter, ''subtype II''), fire pump electric motors, and NEMA Design B, general purpose electric motors that also meet the subtype I or subtype II definitions and are rated above 200 horsepower through 500 horsepower. DOE's 2012 test procedure added clarity to the definitions for each of these motor categories, which are now codified at 10 CFR 431.12. 77 FR 26608.

DOE understands that an IEC frame motor could be treated as either a subtype I or subtype II motor depending on its other characteristics. Having an IEC frame alone does not dictate whether a motor is a general purpose subtype I or subtype II motor; rather, other characteristics provided in the definitions of general purpose electric motor (subtype I or subtype II) at 10 CFR 431.12 determine whether an IEC motor should be considered subtype I or II. All of these elements flow directly from the statutory changes enacted by EISA 2007. Currently, electric motors are required to meet energy conservation standards as follows:

TABLE IV.1—CURRENT ELECTRIC MOTOR ENERGY CONSERVATION STANDARDS [24]

Electric motor category	Horsepower range	Energy conservation standard level
General Purpose Electric Motors (Subtype I)	1 to 200 (inclusive)	MG 1–2011 Table 12–12.
General Purpose Electric Motors (Subtype II)	1 to 200 (inclusive)	MG 1–2011 Table 12–11.
NEMA Design B and IEC Design N Motors	201 to 500 (inclusive)	MG 1–2011 Table 12–11.
Fire Pump Electric Motors	1 to 500 (inclusive)	MG 1–2011 Table 12–11.

In response to the NOPR, NEMA commented that the proposed standards do not resolve the confusion regarding IEC electric motors. NEMA explained that it is not clear whether an electric motor in an IEC frame size that meets the other criteria of a general purpose electric motor (subtype I) would be classified as equivalent to a T-frame, hence subtype I, or U-frame, hence subtype II. Therefore, NEMA suggested that IEC frame sizes be considered equivalent to NEMA T-frames. NEMA suggested that the pertinent portion of the definition of ''general purpose electric motor (subtype II)'' in 10 CFR 431.12 should be revised from ''(i) A U-Frame motor'' to read ''(i) Is built in accordance with NEMA U-frame dimensions as described in NEMA MG 1–1967 (incorporated by reference, see § 431.15), including a frame size that is between two consecutive NEMA frame sizes.'' (NEMA, No. 93 at pp. 3–5, 32)

Changes to the applicability of the electric motor standards currently in effect are outside the scope of this rulemaking. Additionally, DOE notes that NEMA's proposed changes to the definition of ''general purpose electric motor (subtype II)'' reflect that it may have been looking at an older version of the definition rather than the current

[22] BT stands for DOE's Building Technologies Program.

[23] The EIA allows the use of the name ''NEMS'' to describe only an AEO version of the model without any modification to code or data. Because the present analysis entails some minor code modifications and runs the model under various policy scenarios that deviate from AEO assumptions, the name ''NEMS–BT'' refers to the model as used here. For more information on NEMS, refer to The National Energy Modeling System: An Overview, DOE/EIA–0581 (98) (February 1998), available at: *http://tonto.eia.doe.gov/FTPROOT/forecasting/058198.pdf.*

[24] For the purposes of determining compliance, DOE assesses a motors horsepower rating according to the provisions of 10 CFR 431.25(e).

definition found at 10 CFR 431.12. DOE notes that the current definition of ''general purpose electric motor (subtype II)'' already includes the language being suggested by NEMA.

2. Expanded Scope of Electric Motor Energy Conservation Standards

a. Summary

As referenced above, on August 15, 2012, the Motor Coalition petitioned DOE to adopt the Coalition's consensus agreement, which, in part, formed the basis for today's rule. The Motor Coalition petitioned DOE to simplify coverage to address a broad array of electric motors with a few clearly identified exceptions. The Motor Coalition advocated this approach to simplify manufacturer compliance and to help facilitate DOE's enforcement efforts. The Petition highlighted potential energy savings that would result from expanding the scope of covered electric motors. (Motor Coalition, No. 35 at pp. 1–30)

DOE is now requiring electric motor types beyond those currently covered to meet energy conservation standards. DOE's proposed expansion is similar to the approach recommended by the Motor Coalition in its Petition (Motor Coalition, No. 35 at pp. 1–3). DOE establishes energy conservation standards for electric motors that exhibit all of the characteristics listed in Table IV.2, with a limited number of exceptions, listed in Table IV.4.

TABLE IV.2—CHARACTERISTICS OF MOTORS REGULATED UNDER EXPANDED SCOPE OF COVERAGE

Motor characteristic
Is a single-speed, induction motor,
Is rated for continuous duty (MG 1) operation or for duty type S1 (IEC),
Contains a squirrel-cage (MG 1) or cage (IEC) rotor,
Operates on polyphase alternating current 60-hertz sinusoidal power,
Is rated for 600 volts or less,
Is built with a 2-, 4-, 6-, or 8-pole configuration,
Is built in a three-digit or four-digit NEMA frame size (or IEC metric equivalent), including those designs between two consecutive NEMA frame sizes (or IEC metric equivalent), or an enclosed 56 NEMA frame size (or IEC metric equivalent),
Produces at least 1 horsepower (0.746 kW) but not greater than 500 horsepower (373 kW) and
Meets all of the performance requirements of a NEMA Design A, B, or C motor or of an IEC Design N or H electric motor.

Table IV.3 lists the formerly unregulated electric motor types that will be covered by today's rule. Further details and definitions for the specific motor types can be found in DOE's 2013 test procedure. 78 FR 75961.

TABLE IV.3—CURRENTLY UNREGULATED MOTOR TYPES THAT ARE COVERED BY THIS RULE

Electric Motor Type	
NEMA Design A from 201 to 500 horsepower	Electric motors with non-standard endshields or flanges.
Electric motors with moisture resistant windings	Electric motors with non-standard bases.
Electric motors with sealed windings	Electric motors with special shafts.
Partial electric motors	Vertical hollow-shaft electric motors.
Totally enclosed non-ventilated (TENV) electric motors	Electric motors with sleeve bearings.
Immersible electric motors	Electric motors with thrust bearings.
Brake electric motors	Electric motors with encapsulated windings.
Electric motors with separately powered blowers	

However, the new standards specifically do not apply to the following equipment:

TABLE IV.4—EQUIPMENT SPECIFICALLY EXCLUDED FROM COVERAGE

Electric Motor Type
Air-over electric motors.
Component sets of an electric motor.
Liquid-cooled electric motors.
Submersible electric motors.
Inverter-only electric motors.

Additionally, DOE is clarifying the design, construction, and performance characteristics of covered electric motors. Specifically, DOE is clarifying that only motors rated from 1 to 500 horsepower (inclusive), or their IEC equivalents, would be covered by the standards established in today's rulemaking. Finally, with regard to IEC-frame motors, DOE's standards would not regulate IEC motors on the singular basis of frame size, but would regulate such motors if they meet all the criteria of Table IV.2. In other words, an IEC-frame motor that meets these nine criteria and does not fit within one of the five exceptions would have to meet today's final standards.

In response to the NOPR, DOE received several comments on its scope criteria. CEMEP supported the nine characteristics to define electric motors, noting that using those criteria to define covered motors will lead to huge energy savings by covering millions of units. CEMEP believed that the nine characteristics definition can be applied by customs and other enforcement officers to improve overall enforcement activities. (CEMEP, No. 89 at p. 2).

Nidec commented that DOE should bring more clarity to characteristic #8 (*i.e.,* 1–500 hp as proposed as (g)(8)) by including kilowatt values corresponding to the given horsepower values (*e.g.,* 500 horsepower (343 kilowatts), 1 horsepower (0.75 kilowatt). (Nidec, No. 98 at pp. 2, 7–8) DOE believes this is a helpful suggestion that comports with the inclusion of IEC motors in today's rulemaking and is incorporating the suggestion into today's rule.

NEMA sought clarification regarding whether solid shaft medium and high thrust motors are included in the scope of coverage. (NEMA, No. 93 at p. 27) During the NOPR public meeting, CEC and EEI requested clarification on whether pool pump motors are covered under new standards or by the Small Electric Motors regulations. (CEC, Pub. Mtg. Tr., No. 87 at p. 55) The CA IOUs commented during the public meeting that most pump motors are single-phase and, sometimes, variable-speed, both of which would disqualify motors from coverage. (CA IOUs, Pub. Mtg. Tr., No. 87 at pp. 55–56). Nidec added its belief that the small motor rule does not cover variable speed motors. (Nidec, Pub. Mtg. Tr., No. 87 at p.56).

Any motor that meets the nine criteria as given in paragraph (g) and which is not explicitly exempted by criteria given in paragraph (m) is covered under the current rulemaking. Both single-phase and variable speed motors are not

covered in today's rule, and so any motor with those qualities would not be subject to today's standards.

b. Definitions, Terminology, and Regulatory Language

In response to the NOPR, DOE received a number of comments requesting clarification on its choice of terminology.

''Motor'' and ''Electric Motor''

Baldor commented that the use of the terms ''motor'' and ''electric motor'' interchangeably in the NOPR is very confusing. DOE understands that the terms ''motor'' and ''electric motor'' may refer to a variety of machines outside of its regulatory context. In the NOPR, DOE used the terms to mean the same thing. 78 FR 73589. In addition, because there are no NEMA Design B motors, for example, that are not electrically driven, in DOE's view, the potential for ambiguity is minimal.

The Department chose to not include the term ''electric'' in the NEMA-designated motor types to be consistent with NEMA's definitions. In the regulatory context, however, DOE does not consider there to be any difference between the two terms and notes that all motors currently regulated under 10 CFR part 431, subpart B, are electric motors as stated in the title to 10 CFR part 431, subpart B and the purpose and scope section at 10 CFR 431.11. Moreover, NEMA itself uses the term ''motor'' in MG 1 to refer to electric motors.

Specificity of Definitions

Baldor stated that the definitions for ''NEMA Design A motor'' and ''NEMA Design B motor'' in 2013 test procedure does not make reference to nine characteristics listed in paragraph (g) and, thus, implies that it includes multi-speed motors, motors rated for voltages greater than 600 volts, motors rated for only 50 Hz, and motors constructed with more than 8 poles. According to Baldor, this conflicts with DOE's proposed scope of coverage in Table 4 and Table 5 of the NOPR. It noted that paragraph (i) and Table 6 for NEMA Design C motor are similarly confusing. (Baldor, No. 100 at pp. 2–4)

DOE agrees with Baldor that minimizing ambiguity in regulatory text is critical. In this case, however, DOE does not see the potential for confusion. DOE believes that today's regulatory text is of sufficient clarity that stakeholders will understand that the new standards apply only to those motors that meet the nine criteria in the new 10 CFR 431.25(g).

NEMA Design A, B or C motors are not defined to include these nine characteristics, which DOE is using to narrow the scope of covered electric motors. The definition of NEMA Design A may include multi-speed motors, motors rated for voltages greater than 600 volts, motors rated for only 50 Hz, and motors constructed with more than 8 poles. However, only NEMA Design A motors meeting all nine characteristics in § 431.25(g) are covered under today's rule. DOE's regulatory structure maintains the current standards at 10 CFR 431.25(a)–(f) while adding broader coverage in new paragraphs (g) through (l). The structure that DOE chose preserves the current regulatory text and allows DOE to use the same definitions for all motors covered under 10 CFR 431.25.

''NEMA Design A Motor'' Correction

NEMA commented that the definition for NEMA Design A motor needs to be corrected by replacing the phrase ''has a locked rotor current not to exceed'' the values shown in NEMA MG 1–2009, as proposed in the NOPR with ''has a locked rotor current higher than'' the values shown in NEMA MG 1–2009. (NEMA, No. 93 at p. 29) The Joint Advocates requested that DOE consider NEMA's comments on definitions to bring clarity to the covered motors. (Joint Advocates, No. 97 at p. 3)

DOE agrees with NEMA that the Department inadvertently used the incorrect phrase when discussing the locked rotor current in the definition of a ''NEMA Design A motor''. As evidenced in the preamble of the 2013 test procedure (78 FR 75968) and the preamble and regulatory text of the proposed test procedure (78 FR 38462, 38481), DOE intended to include locked rotor current that exceeds the maximum locked rotor current established for a NEMA Design B motor in the ''NEMA Design A motor'' definition. In today's rule, DOE is modifying the regulatory text accordingly.

''NEMA Design C Motor'' Correction

NEMA suggested DOE revise paragraph (i) and the title of Table 6 of the proposed 10 CFR 431.25 by replacing ''NEMA Design C electric motor'' with ''NEMA Design C motor'' for consistency with DOE's regulatory definitions.

As described above, DOE agrees, and has made the corresponding change in the regulatory text for consistency with the definitions adopted in the 2013 test procedure. DOE notes that it has further corrected the reference to ''NEMA Design A and B motors'' in the title of Table 5 to be consistent with the DOE regulatory definitions.

''Inverter-Only Electric Motor'' Definition

Baldor and NEMA raised concerns that DOE has defined ''inverter-only electric motor'' and not ''definite-purpose, inverter-fed electric motors'' which is the term that the NOPR referenced. Baldor noted that the term ''definite-purpose, inverter-fed electric motors'' is preferred and recognized by the motor industry as given in Part 31 of the NEMA MG 1 standard. (Baldor, No. 100 at p. 6; NEMA at pp. 2–3)

Although DOE has previously used the term ''definite-purpose, inverter-fed electric motor,'' DOE instead adopted the term ''inverter-only electric motor'' in its 2013 test procedure because ''definite-purpose''' is a term that has meaning in the context of many other motor types which DOE does not wish to be confused with those requiring inverters. DOE also wishes to define these motors in terms of their actual capabilities instead of design intent. *See* 78 FR 75989.

c. Horsepower Rating

DOE's proposed standards include only motors rated from 1–500 horsepower, inclusive. In its comments, NEMA agreed with DOE's decision not to cover fractional hp motors, noting that these motors do not fall within the scope of rating for which NEMA Design A, B and C performance standards are defined. (NEMA, No. 93 at p. 15) Consequently, DOE is continuing not to regulate fractional horsepower, enclosed, 56-frame motors in today's notice.

d. High-Horsepower Six- and Eight-Pole Motors

NEMA noted that Table 2 does not contain the higher horsepower ratings for large motors in 6 and 8 poles that are added in Table 7 and it suggested that DOE conform Table 7 to Table 2. (NEMA, No. 93 at pp. 23–26) Baldor made a similar comment. (Baldor, No. 100 at p. 4)

In keeping with the Motor Coalition's Petition and with MG 1–2009, DOE had proposed standards for motors with certain high horsepower and pole ratings (8-pole above 250 hp and 6-pole above 350 hp) that NEMA commented do not exist under MG 1's medium motors designations. For example, it is impossible to produce a NEMA Design A 6-pole motor of 400 hp because the criteria required to qualify a medium

motor as Design A [25] do not extend to such a high horsepower motor. NEMA notes that the table in the 2011 version of MG 1 has corrected the mistake of MG 1–2009 and moved these higher horsepower motors to the large motor Table 20–20 of MG 1. In its written comments in response to the NOPR, NEMA asked DOE not to adopt standards for motors of this pole and horsepower configuration because NEMA Design A and B types are not defined for and are not applicable to large motors. (NEMA, No. 93 at pp. 23–26) Accordingly, DOE has removed several efficiency levels that were proposed in table 5. As the eliminated ratings are nonexistent—it is not possible to build motors meeting such specifications—motors shipments analyses used in today's rule are unaffected.

e. Frame Size

In response to the NOPR, DOE received a number of comments related to frame size.

Scope Characteristic #7

NEMA requested that DOE amend the nine characteristics of regulated motor to include four-digit frame sizes because 500 hp and 6- and 8-pole motors only come in frame sizes larger than three-digit frame sizes. (NEMA, Pub. Mtg. Tr., No. 87 at pp. 42–43; NEMA, No. 93 at p 26)

NEMA also noted that IEC does not put design specifications on the motor, especially for larger-sized motors. Therefore, it requested that DOE use language that will include all such motors (through 500 hp) equivalent to covered NEMA motors. (NEMA, Pub. Mtg. Tr., No. 87 at pp. 42–44; NEMA, No. 93 at p. 26)

Nidec added that the higher horsepower ratings as shown in table 4 of the NOPR are above current three-digit frame size. (Nidec, Pub. Mtg. Tr., No. 87 at p. 45) Secondly, Nidec commented that while the proposed standard helps clarify the IEC motor coverage, removing characteristic #7 from the nine characteristics in paragraph (g) of 10 CFR 431.25 would remove any confusion about motor size. It commented that DOE may add electric motors covered by the regulations for small electric motors to the list of exempted motors in paragraph (m) of the proposed 10 CFR 431.25.

DOE agrees with the above commenters that it was DOE's intent to ensure that four-digit frame size motors and IEC equivalents of covered motors are covered by these new standards and has adopted revised language in paragraph (g)(7) of § 431.25 to reflect that fact. The updated language covers three-digit frame sizes, four-digit frame sizes, IEC equivalents, and equivalents between NEMA frame sizes.

NEMA 56-Frame Motors Coverage

NEMA 56-frame motors at 1 hp or greater have been the subject of considerable discussion, due to the fact that they may be covered as a small electric motor under subpart X of 10 CFR part 431, or as an electric motor under subpart B of 10 CFR part 431 depending on whether they are general-purpose, definite or special purpose, or have an open or enclosed frame. Currently, 56-frame motors are covered as small electric motors if the motor is an open, general-purpose motor that meets the ''small electric motor'' definition at 10 CFR 431.442. The NOPR proposed to extend coverage to 56-frame enclosed motors rated at 1 hp or greater. 78 FR 73589. For 56-frame open, special and definite purpose motors, the NOPR stated that DOE was considering establishing standards for these motor types as well, but requested additional information on those motor types. 78 FR 73606, 73679. Today's rule covers enclosed 56-frame motors rated at 1 hp or greater but does not establish standards for 56-frame open, definite or special purpose motors. DOE notes that, because today's rule covers all enclosed 56-frame motors, both general purpose and special and definite purpose enclosed 56-frame motors are covered under today's rule.

In response to the NOPR, NEMA provided detailed comments about how DOE should rephrase characteristic #7 and add a sixth exemption to 10 CFR 431.25 if DOE chose to include 56-frame open, definite or special purpose motors. This would also eliminate any confusion regarding covering all IEC frame sizes and all frame sizes between two consecutive NEMA or IEC frame sizes. It also commented that it is ambiguous as to whether a 56-frame, open general purpose motor has different efficiency levels and nameplate markings as compared to the 56-frame open, special and definite purpose motors. (NEMA, No. 93 at pp. 14–15; NEMA, Pub. Mtg. Tr., No. 87 at p. 61) NEMA noted that the current rulemaking cannot be compared with the small motors rule in terms of efficiency requirements and ELs, because the small motor rule requirements are based on average efficiency while electric motor rule are based on nominal full-load efficiency. (NEMA, No. 93 at pp. 28–29)

DOE agrees that coverage of 56-frame, open, special- and definite-purpose motors would require coordination with DOE's small electric motor requirements. In the NOPR, DOE requested additional data on this subset of 56-frame motors to allow DOE to fully assess these motor types. No commenter provided DOE such data. As a result of these complications and the need for more data, DOE does not cover them in today's rule, but may consider covering such motors in a future rulemaking. As explained in the ''Scope Characteristic #7'' section of this section, IVA.2.e, DOE has modified Characteristic #7 accordingly. Table IV.5 provides a summary of respective coverage of 56-frame electric motors.

TABLE IV.5—56-FRAME REGULATION, 1 HORSEPOWER AND GREATER

	Open	Enclosed
General Purpose	Covered as a ''small electric motor'' up to 3 hp.[26]	Not currently covered; covered by this rule.
Special/Definite Purpose	Not currently covered; not covered by this rule	Not currently covered; covered by this rule.

f. IEC Motors

NEMA noted that: (1) There is no one-to-one correspondence between NEMA frame sizes and IEC metric equivalents; (2) the phrase ''NEMA frame'' refers to specific NEMA T-frame sizes; and (3) IEC 100 frames are currently exempt but should be covered. Based on the above, NEMA commented that DOE has

[25] As described in both MG 1–2009 and 10 CFR 431.12.

[26] *See* 10 CFR 431.442.

removed nearly all IEC motors from any requirement to meet efficiency standards. In order to effectively include standards for IEC motors, it suggested DOE to change the titles of table 5 and 6 and the contents of paragraphs (h) and (i) within 10 CFR 431.25 to reflect that they included the IEC equivalents. (NEMA, No. 93 at p 4) DOE agrees that it was the intent to cover these motors and has amended the regulatory language to make this clear.

In response to the NOPR, NEMA commented that it believed DOE may be of the opinion that because, in DOE's proposed rule, reference is no longer being made to T-frames and all covered frame sizes would have three digits, that DOE no longer needs the text ''including a frame size that is between two consecutive NEMA frame sizes or their IEC metric equivalents'' when describing coverage. NEMA noted, however, that manufacturers may mistakenly equate ''NEMA frame'' with ''T-frame,'' and mistakenly conclude that certain IEC motors (*e.g.,* IEC 100 frame) were uncovered. To remedy this ambiguity, NEMA suggested that DOE modify scope Characteristic #7. (NEMA, No. 93 at p. 26)

DOE appreciates the need to clarify coverage of NEMA versus IEC motors and their equivalents and, consistent with its stated intentions in the NOPR to cover IEC-equivalents of all covered motors, has modified characteristic #7 to make coverage of IEC equivalents more explicit. *See* 78 FR 73589.

g. Frequency

NEMA noted that characteristic #4 in paragraph (g) is described as ''operate on polyphase alternating current 60-hertz line power''. NEMA acknowledged that DOE has explained that this is intended to cover electric motors rated at 60 Hz and 50/60 Hz; however, as written, the provision could be read as requiring coverage of 50 Hz motors that are operated on 60 Hz. It is not clear from the proposed standards whether an efficiency standard would apply to a motor's operation at the frequency or frequencies marked on the nameplate of the electric motor or to operation just at 60 Hz. NEMA suggested that DOE add ''at 60 Hz'' to all efficiency table titles to make clear that the covered motors were required to meet the efficiency standard while operating at 60 Hz. (NEMA, No. 93 at p. 5)

DOE agrees that the suggestion brings clarity to the regulations and reflects DOE's intent in the NOPR. Therefore, corresponding changes were made in the regulatory text. Although the efficiency values apply at 60 Hz only, DOE points out that the ability to operate at other frequencies (*e.g.,* 50 Hz) in addition to 60 Hz does not, itself, exclude a motor from coverage.

h. Random Winding

Noting that DOE has established the efficiency levels based on NEMA MG 1 Table 12–12, Nidec raised concern that Table 12–12 is intended only for random wound motors and, therefore, DOE, should amend characteristic #5 to include only electric motors that contain a random wound stator winding. (Nidec, No. 98 at pp. 2, 7–8)

DOE is not aware of any particular winding technique that would make it significantly more difficult for a motor to meet standards and has received no comment suggesting as much. DOE's understanding is that random winding is mostly done automatically to reduce assembly cost, and that more strategic winding (*e.g.,* on a form) is generally done for increased insulation performance at higher voltages. Hand winding is considered in DOE's analysis and generally exhibits performance superior to random winding and would more easily reach higher efficiencies. As a result, DOE perceives no reason to further constrain scope and does not alter scope with respect to the winding method in today's rule.

i. Duty Cycle

DOE's proposed standards applied only to motors rated for continuous duty, which means that a motor may operate indefinitely without pausing for heat to dissipate.

CEC suggested that DOE revise the criterion in proposed section 431.25(g)(2) such that motors not rated for continuous duty are also subject to standards. It suggested that both motors rated or not rated for continuous duty can meet the nominal full-load efficiency standards. (CEC, No. 96 at p. 3)

Although DOE did not receive data on the relative usages of continuous vs. intermittent duty motors, it understands that continuous duty motors account for the majority of the energy consumption of motors investigated within this rulemaking. Due to their inherent limitations, intermittent duty motors are more likely to be used in applications with a lower fraction of the time spent switched on. As a result, these motors use less energy than continuous duty motors. Although DOE has thus far focused its efforts on continuous duty motors, it remains possible that other motor types may achieve cost-effective energy savings through standards, and DOE may consider exploring their future inclusion. DOE notes that the scope of the MG 1 sections to which the standards listed in Tables 12–10, 12–11, and 12–12 apply is continuous duty motors. DOE also notes that today's rule represents an evolution of existing standards for General Purpose Electric Motors (Subtypes I and II), which are defined in 10 CFR part 431, subpart B to have continuous ratings.

j. Gear Motors

Presently, DOE does not define ''gear motor'' or ''gearmotor,'' but understands that these are motors that have gears attached to the motor body, usually for the purpose of trading speed for torque. Depending on the exact configuration, the motor may meet the definition of ''partial electric motor'' as defined in 10 CFR 431.12. In the NOPR, DOE stated that it believed that certain gearmotors could be tested as partial electric motors by first removing the gearbox, so that manufacturers could certify the partial electric motor and be freed from certifying every conceivable motor/gearbox combination. 78 FR 73647. In the 2013 test procedure, DOE specifically addressed integral gear motors and how to test such motors if they meet DOE's definition of ''partial electric motor''. *See* 78 FR 75979, 75994.

Baldor raised concern that the scope of coverage of integral gear motors (or other integral motors under the groupings of ''partial electric motors'') is not clear. Moreover, DOE did not define or propose test procedures for ''integral gearmotors'' in the 2013 test procedure. (Baldor, No. 100 at p. 5–6) In response, DOE reiterates that it does not, at this time, treat gear motors as a distinct category of equipment. Gear motors would be subject to standards if they meet the definition of ''partial electric motor'' or of another type of equipment subject to standards. In those cases, gear motors would be required to certify using whichever test instructions were applicable to that type of motor. DOE notes that manufacturers may apply for a test procedure waiver if their equipment cannot be tested under the methods found in 10 CFR part 431, subpart B.

NORD Gear Corp. recommended that integral gear motors be excluded from the coverage as they do not meet the statutory definition of ''electric motor''. It commented that if gearmotors are subject to rulemaking, it would require the NORD gear motors to be heavier due to the increased copper, steel and aluminum content. It will also require an increase in frame size for some motors and, thus, will prevent the combination of some gearmotors that are currently in use, leading to a product gap in the market for significant amount

of time and creating undue economic burden on gearmotor end users. Further, if gear motors are redesigned to meet the standard, millions of combinations of motors and gearboxes will have to be tested and this would place an undue economic burden on gearbox manufacturers. (NORD Gear, No. 91 at p. 2)

DOE understands that an investment of time and capital may be required by the imposition of any standard, and has attempted to discuss, quantify and consider those investments in its Manufacturer Impact Analysis in section IV.J. DOE believes that there should be sufficient time for manufacturers to make changes in designs (if needed) to comply with standards and make the integral gear motors available in the market. With respect to the question of statutory authority, DOE believes that EPCA, as amended through EISA 2007, provides sufficient statutory authority for the regulation of a wide variety of electric motors as described in detail in section II.A.

k. Partial Electric Motors

In response to the NOPR, NEMA raised concern that it is not clear whether the proposed standards in Tables 5 through 8 apply to partial electric motors. To clarify, NEMA recommended that DOE either revise paragraph (g) in 10 CFR 431.15 or add a tenth characteristic to include ''partial electric motors''. (NEMA, No. 93 at pp. 26–27) Baldor raised concerns that the content of Table IV of the NOPR implies that DOE intends to cover partial electric motors, however, these motors are neither mentioned in the NOPR nor are efficiency standard levels proposed for them. (NEMA, No. 93 at pp. 26–27)

Under the new regulatory scheme in today's final rule, DOE considers partial electric motors to be electric motors subject to the new requirements listed in 10 CFR 431.25(h)–(l) if they meet the nine criteria specified in paragraph (g) of the new § 431.25. DOE's 2013 test procedure provides instructions for testing these motor types to ensure their nominal full-load efficiency can be assessed. 78 FR 75961. To make the inclusion of these motor types abundantly clear, DOE has taken NEMA's suggestion of modifying the regulatory text in 10 CFR 431.25(g) to expressly state that partial electric motors are included.

Additionally, DOE now refers in the to ''special-purpose'' and ''definite-purpose'' ''*electric* motors''. The word ''electric'' was added in the 2013 test procedure. 78 FR 75961.

Finally, DOE notes that it has updated the definition of ''partial electric motor'' found in 10 CFR 431.12 to correct a typographical error: Repetition of the word ''an'' before ''electric motor''.

l. Certification Considerations Related to Expanded Scope

Baldor sought clarification on which manufacturer should be responsible to file compliance certification report with DOE. Baldor asked whether it should be the manufacturer of the partial electric motor or if instead the manufacturer of the electric motor or assembly of which the partial electric motor is a component must certify it. (Baldor, No. 100 at pp. 5–7)

DOE noted in the 2011 certification, compliance and enforcement rule that it intends to undertake a rulemaking to moving and harmonize, where possible, the certification, compliance, and enforcement provisions for electric motors into Part 429. 76 FR 12422, 12447. DOE will address the party responsible for certifying in that rulemaking.

m. Electric Motors With Separately Powered Blowers

In its comments, NEMA provides an ''Appendix B'' in which it outlines the ''industry interpretation'' of which motor types are covered by the rule. DOE notes that NEMA lists electric motors with separately powered blowers under the ''not a covered product'' category. (NEMA, No. 93 at p. 37)

In the 2013 test procedure, DOE established a method of testing for this type of motor and stated that at least some non-immersible motors that are furnished with separately-powered blowers would meet the same nine criteria that DOE was, at that time, considering applying with respect to its standards rulemaking. 78 FR 75986. Moreover, DOE did not propose to exempt these types of motors from standards in the standards NOPR. 78 FR 73681. DOE maintains its position that electric motors with separately powered blowers that meet the requirements in the new 10 CFR 431.25(g) are covered in today's rule.

3. Advanced Electric Motors

In its final rule analysis, DOE addressed various ''advanced electric motor'', which included those listed in Table IV.6. While DOE recognizes that such motors could offer improved efficiency, regulating them would represent a significant shift for DOE, which has primarily focused on the efficiency of polyphase, single-speed induction motors.

TABLE IV.6—ADVANCED ELECTRIC MOTORS

Motor Description
Inverter drives.
Permanent magnet motors.
Electrically commutated motors.
Switched-reluctance motors.

At this time, DOE has chosen not to regulate advanced motors and knows of no established definitions or test procedures that could be applied to them. Because DOE agrees that significant energy savings may be possible for some advanced motors, DOE plans to keep abreast of changes to these technologies and their use within industry, and may consider regulating them in the future.

4. Equipment Class Groups and Equipment Classes

When DOE prescribes or amends an energy conservation standard for a type (or class) of covered equipment, it considers: (1) The type of energy used; (2) the capacity of the equipment; or (3) any other performance-related feature that justifies different standard levels, such as features affecting consumer utility. (42 U.S.C. 6295(q) and 6316(a)) Due to the large number of characteristics involved in electric motor design, DOE has developed both ''equipment class groups'' and ''equipment classes''. An equipment class represents a unique combination of motor characteristics for which DOE is establishing a specific energy conservation standard. There are 482 potential equipment classes that consist of all permutations of electric motor design types (*i.e.,* NEMA Design A & B, NEMA Design C (and IEC equivalents), and fire pump electric motor), standard horsepower ratings (*i.e.,* standard ratings from 1 to 500 horsepower), pole configurations (*i.e.,* 2-, 4-, 6-, or 8-pole), and enclosure types (*i.e.,* open or enclosed). An equipment class group is a collection of equipment classes that share a common motor design type. The NEMA Standards Publication MG 1–2011, ''Motors and Generators,'' defines a series of standard electric motor designs (*i.e.,* Designs A, B and C) that are differentiated by variations in performance requirements. DOE chose to use these design types to establish equipment class groups because design types affect an electric motor's utility and efficiency.

In the NOPR, DOE had divided electric motors into four groups based on three main characteristics: NEMA (or IEC) design letter, whether the motor met the definition of ''fire pump electric

motor,'' and whether the motor had a brake. Within each of these groups, DOE utilized combinations of other pertinent motor characteristics to enumerate individual equipment classes. To illustrate the differences between the two terms, consider the following example. A NEMA Design B, 50 horsepower, two-pole enclosed electric motor and a NEMA Design B, 100 horsepower, six-pole open electric motor would be in the same equipment class group (ECG 1), but each would represent a unique equipment class that will ultimately have its own efficiency standard.[27]

At the NOPR stage, brake electric motors were separated out because DOE was concerned that the presence of a brake (which provides utility in the form of hastened stopping of the motor) might cause additional losses, thereby reducing the motors' ability to meet standards cost-effectively. In its 2013 test procedure, however, DOE established a method of testing brake motors that allowed exclusion of losses attributable to the brake, thereby allowing brake electric motors to be tested without regard to the brake. 78 FR 75995.

For today's final rule, then, DOE divided electric motors into three groups based on two main characteristics: NEMA (or IEC) design letter and whether the motor met the definition of a fire pump electric motor. DOE's three resulting equipment class groups are: NEMA Design A and B and IEC Design N motors (ECG 1), NEMA Design C and IEC Design H motors (ECG 2), and fire pump electric motors (ECG 3). Table IV.7 outlines the relationships between equipment class groups and the characteristics used to define equipment classes.

TABLE IV.7—ELECTRIC MOTOR EQUIPMENT CLASS GROUPS FOR THE FINAL RULE ANALYSIS

Equipment class group	Electric motor design	Horsepower	Poles	Enclosure
1	NEMA Design A & B*	1–500	2, 4, 6, 8	Open. Enclosed.
2	NEMA Design C*	1–200	4, 6, 8	Open. Enclosed.
3	Fire Pump*	1–500	2, 4, 6, 8	Open. Enclosed.

* Including IEC equivalents.

a. U-Frame Motors

EISA 2007 prescribed energy conservation standards for electric motors built with a U-frame, whereas previously, only electric motors built with a T-frame were covered.[28] (Compare 42 U.S.C. 6311(13)(A)(1992) with 42 U.S.C. 6311(13)(B)(2011)) In general, for the same combination of horsepower rating and pole configuration, an electric motor built in a U-frame is built with a larger ''D'' dimension than an electric motor built in a T-frame. The ''D'' dimension is a measurement of the distance from the centerline of the shaft to the bottom of the mounting feet. Consequently, U-frame motors should be able to reach efficiencies as high, or higher, than T-frame motors with similar ratings (*i.e.,* horsepower, pole-configuration, and enclosure) because the larger frame size allows for more active materials, such as copper wiring and electrical steel, which help reduce I^2R (*i.e.,* losses arising from the resistivity of the current-carrying material) and core losses (*i.e.,* losses that result from magnetic field stability changes).[29] Furthermore, U-frame motors do not have any unique utility relative to comparable T-frame motors. In general, a T-frame design could replace an equivalent U-frame design with minor modification of the mounting configuration for the driven equipment. By comparison, a U-frame design that is equivalent to a T-frame design could require substantial modification to the mounting configuration for the same piece of driven equipment because of its larger size. DOE's research indicated that manufacturers sell conversion brackets for installing T-frame motors into applications where a U-frame motor had previously been used.[30] In the NOPR, DOE proposed standards for both T-frame and U-frame motors.

In response to the NOPR, NEMA and the Joint Advocates recommended that DOE keep the standards for U-frame motors at current EPACT 1992 (NEMA MG 1–2011,Table 12–11) levels. These commenters argued that U-frame motors are a legacy design used only in the automotive manufacturing industry and that their market share is small and declining; according to these commenters, re-designing of U-frame motors would entail huge costs. NEMA commented that new U-frame motors are not being designed currently, and the old designs primarily cater to the replacement market. According to NEMA, there are no suppliers of U-frame general purpose motors (subtype II) at premium efficiency levels, and its review showed that only one manufacturer of U-frame general purpose electric motors (subtype II) would be impacted by the proposed change in efficiency standards. NEMA also stated that the cost of U-frame motors is generally significantly higher than T-frame motors of the same rating, as indicative of the larger size of the U-frame motor and the costs associated with maintaining of production equipment for old designs. Therefore, it would be highly unlikely that

[27] At its core, the equipment class concept, which is being applied only as a structural tool for purposes of this rulemaking, is equivalent to a ''basic model''. See 10 CFR 431.12. The fundamental difference between these concepts is that a ''basic model'' pertains to an individual manufacturer's equipment class. Each equipment class for a given manufacturer would comprise a basic model for that manufacturer.

[28] The terms ''U-frame'' and ''T-frame'' refer to lines of frame size dimensions, with a T-frame motor having a smaller frame size for the same horsepower rating as a comparable U-frame motor. In general, ''T'' frame became the preferred motor design around 1964 because it provided more horsepower output in a smaller package.

Under EPACT 1992, the only covered electric motors were T-frame electric motors. *See* 42 U.S.C. 6311(13)(A)(1992). These motors were redefined to be ''general purpose electric motor (subtype I)'' under EISA 2007, which, at the time, DOE defined as a motor that can be used in most general purpose applications and that meets standard operating characteristics and mechanical construction for use under usual or unusual service conditions in accordance with specific provisions of NEMA MG 1–1993. That version of MG 1 only included specifications for T-frame motors because the last version of MG 1 to contain U-frame dimensions was published in 1967. *See* 77 FR 266.8.

[29] Several manufacturers provide premium efficient U-frame motors. See, for example, *http://www.usmotors.com/Our-Products/~/media/USMotors/Documents/Literature/Datasheets/PDS/PDS_PREMIUM_EFFICIENT.ashx.*

[30] See, for example, *http://www.overlyhautz.com/adaptomounts1.html.*

consumers would increase purchases of U-frame motors of lower efficiency as substitutes for T-frame motors. NEMA claimed that DOE did not evaluate the cost burden on manufacturers from re-designing old U-frame motors, and if it did, the results would not support the increase in efficiency standards proposed in the NOPR. The Joint Advocates commented that leaving U-frame motor standards unchanged would enable manufacturers to direct scarce product design resources to product types with larger market shares. (NEMA, Pub. Mtg. Tr., No. 87 at pp. 69–70; NEMA, No. 93 at pp. 27–28; Joint Advocates, No. 97 at p. 2)

By contrast, Nidec supported DOE's proposal to raise efficiency standards of U-frame motors to EL2 (*i.e.,* Table 12–12) levels, noting that it is technologically feasible to increase the efficiency level of these motors. (Nidec, No. 98 at p. 5)

DOE understands NEMA's concerns regarding the diminishing market size of U-frame motors. However, DOE has determined that a complete phase-out of U-frame motors would not be the result of an efficiency standard that is technologically infeasible for U-frame motors, but because U-frame motors offer no unique utility relative to T-frame motors. Furthermore, DOE has concluded that the updated standards are unlikely to result in the unavailability of U-frame motors. Based on catalog data from several large electric motor manufacturers, DOE has observed manufacturer offerings of premium efficiency U-frame motors on the market today.[31] DOE sees no technical reason why U-frame manufacturers would not be able to comply with standards corresponding to TSL 2. DOE notes that it requested, but did not receive, data suggesting that U-frame motors would be eliminated from the market under the standard levels adopted in today's final rule. *See* 78 FR 73610.

Under 42 U.S.C. 6295(o)(4), as applied to commercial and industrial equipment via 42 U.S.C. 6316(a), DOE cannot prescribe a standard that would result in the ''unavailability in the United States in any covered equipment 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''. However, DOE notes that this statutory provision does not require the continued protection of particular classes or types of equipment—in this case, electric motors—if the same utility continues to be available to consumers. Consequently, based on available information, DOE continues to believe that U-frame motors fail to merit a separate equipment class with lower standards and has not created one for them in this final rule.

b. Electric Motor Design Letter

The first criterion that DOE considered when disaggregating equipment class groups was based on the NEMA (and IEC) design letter. The NEMA Standards Publication MG 1–2011, ''Motors and Generators,'' defines a series of standard electric motor designs that are differentiated by variations in performance requirements. These designs are designated by letter—Designs A, B, and C. (See NEMA MG 1–2011, paragraph 1.19.1). These designs are categorized by performance requirements for full-voltage starting and developing locked-rotor torque, breakdown torque, and locked-rotor current, all of which affect an electric motor's utility and efficiency. DOE is regulating the efficiency of motors of each of these design types.

The primary difference between a NEMA Design A and NEMA Design B motor is that they have different locked-rotor current requirements. NEMA Design B motors must not exceed the applicable locked-rotor current level specified in NEMA MG 1–2011, paragraph 12.35.1. NEMA Design A motors, on the other hand, do not have a maximum locked-rotor current limit. In most applications, NEMA Design B motors are generally preferred because locked-rotor current is constrained to established industry standards, making it easier to select suitable motor-starting devices. However, certain applications have special load torque or inertia requirements, which result in a design with high locked-rotor current (NEMA Design A). When selecting starting devices for NEMA Design A motors, extra care must be taken in properly sizing electrical protective devices to avoid nuisance tripping during motor startup. The distinction between NEMA Design A and NEMA Design B motors is important to applications that are sensitive to high locked-rotor current; however, both NEMA Design A and Design B motors have identical performance requirements in all other metrics, which indicates that they offer similar levels and types of utility. Given these similarities, DOE is grouping these motors together into a single equipment class group for the purposes of this rulemaking.

In contrast, DOE believes that the different torque requirements for NEMA Design C motors represent a change in utility that can affect efficiency performance. NEMA Design C motors are characterized by high starting torques. Applications that are hard to start, such as heavily loaded conveyors and rock crushers, require this higher starting torque. The difference in torque requirements will restrict which applications can use which NEMA Design types. As a result, NEMA Design C motors cannot always be replaced with NEMA Design A or B motors, or vice versa. Therefore, as in the preliminary analysis and NOPR, DOE has analyzed NEMA Design C motors in an equipment class group separate from NEMA Design A and B motors.

In chapter two, ''Analytical Framework,'' of the technical support document, DOE noted numerous instances where manufacturers were marketing electric motors rated greater than 200 horsepower as NEMA Design C motors. (see Chapter 2 of TSD)[32] DOE understands that NEMA MG 1–2011 specifies Design C performance requirements for motors rated 1–200 hp in four-, six-, and eight-pole configurations—a motor rated above 200 hp or using a two-pole configuration would not meet the Design C specifications. DOE understands that without established performance standards that form the basis for a two-pole NEMA Design C motor or a NEMA Design C motor with a horsepower rating above 200, motors labeled as such would not meet the regulatory definition for ''NEMA Design C motor'' as provided in the 2013 test procedure. 78 FR 75994. DOE considers motors at these ratings to be improperly labeled if they are name-plated as NEMA Design C. Mislabeled NEMA Design C motors, however, are still subject to energy conservation standards if they meet the definitions and performance standards for a regulated motor—*e.g.,* NEMA Design A or B. And since these motors either need to meet the same efficiency levels or would be required by customers to meet specific performance criteria expected of a given design letter (*i.e.,* Design A, B, or C), DOE does not foresee at this time any incentive that would encourage a manufacturer to identify a Design A or B motor as a Design C motor for standards circumvention purposes. DOE understands, however, that NEMA Design C motors as a whole constitute

[31] See, for example: *http://www.marathonelectric.com/motors/docs/manuals/SB547.pdf.*

[32] For instructions on how to access the TSD, visit the rulemaking page at: *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/42.*

an extremely small percentage of motor shipments—less than two percent of shipments—covered by this rulemaking, which would appear to create an unlikely risk that mislabeling motors as NEMA Design C will be used as an avenue to circumvent standards. In addition, DOE received no comments suggesting this would be likely. Nevertheless, DOE will monitor the potential presence of such motors and may reconsider standards for them provided such practice becomes prevalent.

c. Fire Pump Electric Motors

In addition to considering the NEMA design type when establishing equipment class groups, DOE considered whether an electric motor is a fire pump electric motor. EISA 2007 prescribed energy conservation standards for fire pump electric motors (42 U.S.C. 6313(b)(2)(B)) and, subsequently, DOE adopted a definition for the term ''fire pump electric motor,'' which incorporated portions of National Fire Protection Association Standard (NFPA) 20, ''Standard for the Installation of Stationary Pumps for Fire Protection'' (2010). (*See* 77 FR 26608 (codified at 10 CFR 431.12)) Pursuant to NFPA 20, a fire pump electric motor must comply with NEMA Design B performance standards and must continue to operate in spite of any risk of damage stemming from overheating or continuous operation. The additional requirements for a fire pump electric motor are intended to further the purpose of public safety and constitute a change in utility that DOE believes could also affect its performance and efficiency. Therefore, DOE established a separate equipment class group for such motors in the preliminary analysis to account for the special utility offered by these motors and maintained that practice through the NOPR and today's final rule.

Regarding the ''fire pump electric motor'' definition, as detailed in the 2012 test procedure (77 FR 26608), DOE intends its ''fire pump electric motor'' definition to cover both NEMA Design B motors and IEC-equivalents that meet the requirements of section 9.5 of NFPA 20. *See* 77 FR 26617–26618. As stated in the 2012 test procedure, DOE believes that IEC-equivalent motors should be included within the scope of the definition of ''fire pump electric motor,'' although NFPA 20 does not explicitly recognize the use of IEC motors with fire pumps. *Id.* DOE realizes that section 9.5 of NFPA 20 specifically requires that fire pump motors shall be marked as complying with NEMA Design B. The fire pump electric motor definition that DOE created focuses on ensuring that compliance with the energy efficiency requirements are applied in a consistent manner. DOE believes that there are IEC motors that can be used in fire pump applications that meet both NEMA Design B and IEC Design N criteria, as well as NEMA MG 1 service factors. DOE's definition encompasses both NEMA Design B motors and IEC-equivalents. To the extent that there is any ambiguity as to how DOE would apply this definition, in DOE's view, any Design B or IEC-equivalent motor that otherwise satisfies the relevant NFPA requirements would meet the fire pump electric motor definition in 10 CFR 431.12. See the standards NOPR for a historical discussion of comments related to fire pump electric motors. 78 FR 73623.

NEMA suggested that DOE should change the title of Table 7 and the content of paragraph (j) to specifically refer to NEMA Design B fire pump electric motors. NEMA commented that although DOE has stated that the standards for fire pump electric motors are based on NEMA Design B types, that fact it is not clear in the definition of ''fire pump electric motor'' in 10 CFR 431.12. (NEMA, No. 93 at p. 5) Baldor also raised concern that the scope of coverage of fire pump electric motors is not clear from only referring to the definition proposed in 10 CFR 431.12., nothing that it had to go through several documents to determine that fire pump electric motors that meet nine criteria and are limited to NEMA Design B and IEC equivalents are covered. (Baldor, No. 100 at p. 4)

Pursuant to NFPA 20, a fire pump electric motor must comply with NEMA Design B performance standards and must continue to run in spite of any risk of damage stemming from overheating or continuous operation. Therefore, DOE considers it unnecessary to add further restrictions in its regulatory text. DOE also wishes to avoid the implication that IEC equivalents would not be covered. Regarding having to review the nine criteria in the new 10 CFR 431.25(g) to know if a fire pump motor is covered, as DOE explained above, the regulatory scheme used in the new regulations was chosen to maintain the existing regulations for currently regulated electric motors while providing the criteria that all motors must meet if they are regulated motors under the new standards.

NEMA commented that it is aware of few entities that have listed IEC motors for application with fire pumps in the U.S. It also commented that there is confusion regarding the coverage of the efficiency standards for fire pump electric motors. (NEMA, No. 93 at p. 14) By contrast, Nidec provided a link to data on companies that have a UL certification for IEC motors for fire pump applications. (Nidec, No. 98 at p. 5)

Regarding IEC fire pump motors, DOE views Nidec's comment and the fact that IEC motors can be built to very similar specifications as Design B motors (even though they may not be labeled as such) as sufficient cause to maintain the requirement that IEC designs comply with fire pump motor standards as well.

Specifically regarding standards for fire pump electric motors, NEMA and Baldor both raised concerns that the proposed standards for fire pump electric motors in Table 7 were not consistent with the current standards for fire pump electric motors in Table 2, as suggested in the Petition and as DOE intended to propose (*see* 78 FR 73592). (NEMA, No. 93 at pp. 23, 26; Baldor, No. 100 at p. 4)

Finally, the NOPR had mistakenly listed a standard for 1 hp, 2 pole, open fire pump electric motors even though no standard for this configuration is currently in effect, as evidenced by the absence of a standard for this rating in DOE's regulations at 10 CFR 431.25(b). This standard has been removed from the final rule.

d. Brake Electric Motors

In its final rule analyses, DOE considered whether brake electric motors (both integral brake electric motors and non-integral brake electric motors). In the 2013 test procedure, DOE adopted a definition for brake electric motors. 78 FR 75993 In the NOPR, the two types of brake electric motor were contained in one equipment class group as separate from the equipment class groups established for NEMA Design A and B motors, NEMA Design C motors, and fire pump electric motors.

DOE understands that brake electric motors contain multiple features that can affect both utility and efficiency. In most applications, electric motors are not required to stop immediately. Instead, electric motors typically slow down and gradually stop after power is removed from the motor due to a buildup of friction and windage from the internal components of the motor. However, some applications [33] require electric motors to stop quickly. Motors used in such applications may employ a brake component that, when engaged, abruptly slows or stops shaft rotation.

[33] For example, some conveyor and other material-handling applications require motors to stop quickly.

The brake component attaches to one end of the motor and surrounds a section of the motor's shaft. During normal operation of the motor, the brake is disengaged from the motor's shaft—it neither touches nor interferes with the motor's operation. However, under normal operating conditions, the brake is drawing power from the electric motor's power source and may also be contributing to windage losses, because the brake is an additional rotating component on the motor's shaft. When power is removed from the electric motor (and therefore the brake component), the brake component de-energizes and engages the motor shaft, quickly slowing or stopping rotation of the rotor and shaft components. Because of these utility related features that affect efficiency, DOE had proposed to establish a separate equipment class group for electric motors with a brake.

During the NOPR public meeting, NEMA argued that DOE has captured most standard stock available and agreed with DOE's decision to limit standards for brake motors to 1–30 hp and 4-, 6- and 8-pole configurations. It commented that larger brake motors are generally design D or intermittent-duty motors for cranes and hoists, which are currently out of the scope of coverage. (NEMA, Pub. Mtg. Tr., No. 87 at pp. 70–71) In its written comments, NEMA noted that brakes can be treated as an accessory because in DOE's test procedure for brake motors, brake electrical losses are not included in the efficiency calculation. Therefore, it suggested that brake motors should not be put in separate equipment class but should be included in tables 5 and 6. (NEMA, No. 93 at pp. 7–8)

The Joint Advocates stated that they support inclusion of integral brake motors in the scope of coverage. However, they commented that establishing a separate class and table of standards for brake motors is unnecessary, because DOE has proposed setting standards for brake motors identical to other motors. Moreover, it requested that DOE include brake motors above 30 hp since there are some motors sold above 30 hp, and capping the brake motors coverage at 30 hp may create confusion about scope of coverage. (Joint Advocates, No. 97 at p. 2)

The Appliance Standards Awareness Project (ASAP) commented that if brake motors have the same standards as other motors, they would not require a separate equipment class group and would not only be regulated at the limited horsepower range proposed. (ASAP, Pub. Mtg. Tr., No. 87 at p. 74)

Regarding the brake motor standards proposed, Baldor raised concern that the title of table 8 does not fully identify the type of integral brake electric motors and non-integral brake electric motors to which the proposed standards apply. Baldor raised concern that DOE has not defined integral and non-integral brake motors in 10 CFR 431.12, even though it makes reference to these motors in the NOPR. Baldor raised concern that the term ''dedicated mechanism for speed reduction'' used in the definition of brake electric motors is ambiguous, stating that it is not clear what DOE intends to cover other than a ''brake''. (Baldor, No. 100 at p. 5)

WEG raised concern that even though a slight friction or windage adder needs to be considered due to brake, there is no need to create a separate equipment class group for brake motors because separate efficiency levels are not set for these motors. WEG commented that larger brake motors exist in the market, but most of them are special motors, which are out of scope of coverage. However, if any larger brake motor falls under the scope of coverage, the proposed standards (only up to 30 hp) may create a loophole. It commented that if it is a standard motor with a brake, the manufacturers would like to use same standard electrical design and not create special one to account for just a few losses. Therefore, it requested that DOE consider exclusion of the brake losses in the criteria. (WEG, Pub. Mtg. Tr., No. 87 at pp. 72–73, 75)

In response, DOE notes that as per the updated test procedures for brake motors, only power used to drive the motor is included in the efficiency calculation, and the power supplied to prevent the brake from engaging is not considered. Through that lens, the efficiency determination for brake motors is similar to that for any motor. Therefore, DOE has removed the separate equipment class group for brake motors in the final rule. DOE understands that most brake motors sold in the market would fall into ECG 1, but notes that a brake motor could be constructed such that it fell into other equipment classes, or none at all. For the purposes of analytical results, however, DOE is still reporting brake motors separately as equipment class subgroup 1b. Results of the former ECG 1 (NEMA Design A and Design B) are now reported as equipment class subgroup 1a. DOE notes that in the final rule, it is not segregating brake motors into ''integral brake motors'' and ''non-integral brake motors'' because it is not necessary for testing. Under this same logic, larger brake motors (*i.e.,* above 30 hp) are now also subject to coverage if rated from 1–500 hp, just as would any other motor type in ECG 1.

With respect to Baldor's concern on terminology, DOE's definition makes reference to a ''dedicated mechanism for speed reduction'' to clarify what is meant by a ''brake''. The definition aims to maintain the general sense of the term to avoid any loophole that may arise with an unnecessarily narrow definition.

The Chinese WTO/TBT National Notification & Enquiry Center acknowledged the energy conservation efforts of United States and requested more clarification about the efficiency values for brake motors given in Table I.5 of NOPR, particularly for 8-pole brake motors, 4-pole open brake motors and 6-pole closed brake motors. (China WTO/TBT NNEC, No. 104 at p. 3)

DOE notes that the confusion around Table I.5 in the NOPR is due to the formatting issues. For the final rule, DOE has deleted what was previously Table I.5 because brake motors are no longer in a separate equipment class group. Depending on the specific characteristics and configuration of a brake motor, it may fall under any ECG category and be subject to the corresponding efficiency standards.

e. Horsepower Rating

In its preliminary analysis, DOE considered three criteria when differentiating equipment classes. The first criterion was horsepower, a critical performance attribute of an electric motor that is directly related to the capacity of an electric motor to perform useful work and that generally scales with efficiency. For example, a 50-horsepower electric motor would generally be considered more efficient than a 10-horsepower electric motor. In view of the direct correlation between horsepower and efficiency, DOE preliminarily used horsepower rating as a criterion for distinguishing equipment classes in the framework document. In today's rule, DOE continues to use horsepower as an equipment class-setting criterion.

f. Pole Configuration

The number of poles in an induction motor determines the synchronous speed (*i.e.,* revolutions per minute) of that motor. There is an inverse relationship between the number of poles and a motor's speed. As the number of poles increases from two to four to six to eight, the synchronous speed drops from 3,600 to 1,800 to 1,200 to 900 revolutions per minute, respectively. In addition, manufacturer comments and independent analysis performed on behalf of DOE indicate

that the number of poles has a direct impact on the electric motor's performance and achievable efficiency because some pole configurations utilize the space inside of an electric motor enclosure more efficiently than other pole configurations. For example, eight pole motors have twice as many poles as four-pole motors and, correspondingly, less space for efficiency improvements. Two-pole motors have more internal space, but carry a greater magnetic field spacing which yields inherently less-efficient operation. DOE used the number of poles as a means of differentiating equipment classes in the preliminary analysis. In today's rule, DOE continues to use pole-configuration as an equipment class-setting criterion.

g. Enclosure Type

EISA 2007 prescribes separate energy conservation standards for open and enclosed electric motors. (42 U.S.C. 6313(b)(2)) Electric motors manufactured with open construction allow a free interchange of air between the electric motor's interior and exterior. Electric motors with enclosed construction have no direct air interchange between the motor's interior and exterior (but are not necessarily air-tight) and may be equipped with an internal fan for cooling. Whether an electric motor is open or enclosed affects its utility; open motors are generally not used in harsh operating environments, whereas totally enclosed electric motors often are. The enclosure type also affects an electric motor's ability to dissipate heat, which directly affects efficiency. For these reasons, DOE used an electric motor's enclosure type (open or enclosed) as an equipment class setting criterion in the preliminary analysis. DOE received no related comments during the NOPR. In today's rule, DOE is continuing to use separate equipment class groups for open and enclosed electric motors but is declining to further break out separate equipment classes for different types of open or enclosed enclosures because DOE does not have data supporting such separation.

h. Other Motor Characteristics

In its analysis, DOE addressed various other motor characteristics, but did not use them to disaggregate equipment classes. In the final TSD, DOE provided its rationale for not disaggregating equipment classes for vertical electric motors, electric motors with thrust or sleeve bearings, close-coupled pump motors, or by rated voltage or mounting feet. DOE believes that none of these electric motor characteristics provide any special utility that would impact efficiency and justify separate equipment classes.

5. Technology Assessment

The technology assessment provides information about existing technology options and designs used to construct more energy-efficient electric motors. Electric motors have four main types of losses that can be reduced to improve efficiency: Losses due to the resistance of conductive materials (stator and rotor I^2R losses), core losses, friction and windage losses, and stray load losses. These losses are interrelated such that measures taken to reduce one type of loss can result in an increase in another type of losses. In consultation with interested parties, DOE identified several technology options that could be used to reduce such losses and improve motor efficiency. These technology options are presented in Table IV.8. (See chapter 3 of the TSD for details.)

TABLE IV.8—TECHNOLOGY OPTIONS TO INCREASE ELECTRIC MOTOR EFFICIENCY

Type of loss to reduce	Technology option
Stator I^2R Losses.	Increase cross-sectional area of copper in stator slots.
	Decrease the length of coil extensions.
Rotor I^2R Losses.	Use a die-cast copper rotor cage.
	Increase cross-sectional area of rotor conductor bars.
	Increase cross-sectional area of end rings.
Core Losses ...	Use electrical steel laminations with lower losses (watts/lb).
	Use thinner steel laminations
	Increase stack length (*i.e.,* add electrical steel laminations).
Friction and Windage Losses.	Optimize bearing and lubrication selection.
	Improve cooling system design.
Stray-Load Losses.	Reduce skew on rotor cage.
	Improve rotor bar insulation.

DOE made several changes to the technology options considered and how they are analyzed between the NOPR TSD and the final rule TSD. First, DOE notes the listed option of ''improved rotor insulation'' refers to increasing the resistance between the rotor squirrel-cage and the rotor laminations. Manufacturers use different methods to insulate rotor cages, such as applying an insulating coating on the rotor slot prior to die-casting or heating and quenching [34] the rotor to separate rotor bars from rotor laminations after die-casting. DOE has updated the discussion in the TSD chapter 3 to clarify that there are multiple ways to implement this technology option.

Second, DOE notes that increasing the cross-sectional area of copper in the stator is synonymous with reducing the stator resistance, and has updated the discussion in TSD chapter 3 for clarity.

Third, DOE notes that increasing rotor slot size is a technique that reduces rotor resistivity. DOE also considered other techniques to reduce rotor resistivity such as increasing the volume of the rotor end rings and using die-cast copper rotors. For the sake of clarity, DOE has replaced the technology option ''reduce rotor resistance'' in the TSD discussion with the specific techniques that DOE considered in its analysis: Increasing the cross-sectional area of the rotor conductor bars, increasing the cross-sectional area of the end rings, and using a die-cast copper rotor cage.

Fourth, with regard to increasing the flux density in the air gap, DOE consulted with its subject matter expert (SME) [35] and acknowledges that this approach is not necessarily an independently adjustable design parameter used to increase motor efficiency and has removed it from its discussion in chapters 3 and 4 of the TSD. DOE notes that it understands that the technology options that it discusses do have limits, both practical limits in terms of manufacturing and design limits in terms of their effectiveness. DOE also understands that a manufacturer must balance any options to improve efficiency against the possible impacts on the performance attributes of its motor designs.

Other technology options considered are described in detail below.

a. Increase the Cross-Sectional Area of Copper in the Stator Slots

A manufacturer may increase the total cross-section of copper in the stator slots by either increasing slot fill or by increasing the number of stator slots.

Increasing Slot Fill

Increasing the slot fill by either adding windings or changing the gauge of wire used in the stator winding can also increase motor efficiency. Motor design engineers can achieve this by manipulating the wire gauges to allow for a greater total cross-sectional area of wire to be incorporated into the stator slots. This could mean either an

[34] Quenching is rapid cooling, generally by immersion in a fluid instead of allowing the rotor temperature to equalize to ambient temperature.

increase or decrease in wire gauge, depending on the dimensions of the stator slots and insulation thicknesses. As with the benefits associated with larger cross-sectional area of rotor conductor bars, using more total cross-sectional area in the stator windings decreases the winding resistance and associated losses. However, this change could affect the slot fill factor of the stator. The stator slot openings must be able to fit the wires so that automated machinery or manual labor can pull (or push) the wire into the stator slots. In the preliminary analysis, DOE increased the cross-sectional area of copper in the stator slots of the representative units by employing a combination of additional windings, thinner gauges of copper wire, and larger slots.

As described in the NOPR, DOE calculated the slot fill by measuring the total area of the stator slot and then subtracting the cross-sectional area for the slot insulation. This method gave DOE a net area of the slot available to house copper winding. DOE then identified the slot with the most windings and found the cross-sectional area of the insulated copper wires to get the total copper cross sectional area per slot. DOE then divided the total copper cross-sectional area by the total slot area to derive the slot fill. 78 FR 73620–73621. DOE's estimated slot fills for its teardowns and software models are all provided in chapter 5 of the TSD.[36]

DOE notes that the software designs exhibiting these changes in slot fill were used when switching from aluminum to a copper rotor design. Therefore, changing slot geometries impacted the design's slot fill and the slot fill changes resulted from different motor designs. Consequently, a 3-percent increase in slot fill does not imply that this change was made to increase the efficiency of another design, but could have been made to change other performance criteria of the motor, such as locked-rotor current.

DOE notes that motor design engineers can adjust slot fill by changing the gauge of wire used in fractions of half a gauge. DOE clarified that all the modeled motors utilized standard AWG wire sizes, either whole- or half-gauge sizes (*i.e.,* 18 or 18½). DOE clarifies that the statement of ''fractions of a half gauge'' referred to sizes in between a whole gauge (*i.e.* 18½ of a gauge is a fraction of 18 gauge wire). DOE did not end up using fractions consisting of a half gauge of wire sizes to conduct its modeling, but did indicate that this was a design option used by the motor industry.

DOE is aware of the extra time involved with hand winding and has attempted to incorporate this time into efficiency levels that it believes would require hand winding. DOE added additional labor hours accounted for hand winding in its engineering analysis. DOE reiterates that should the increase in infrastructure, manpower, or motor cost increase beyond a reasonable means, then ELs utilizing this technology will be screened out during the downstream analysis.

DOE captured the impact of jobs shifting out of the country if hand winding became more widespread during the manufacturer impact analysis (MIA) portion of DOE's analysis. Please see section IV.J for a discussion of the manufacturer impact analysis.

Increase the Number of Stator Slots

Increasing the number of stator slots associated with a given motor design can, in some cases, improve motor efficiency. Similar to increasing the amount of copper wire in a particular slot, increasing the number of slots may in some cases permit the manufacturer to incorporate more copper into the stator slots. This option would decrease the losses in the windings, but can also affect motor performance. Torque, speed and current can vary depending on the combination of stator and rotor slots used.

With respect to stator slot numbers, DOE understands that a motor manufacturer would not add stator slots without any appreciation of the impacts on the motor's performance. DOE also understands that there is an optimum combination of stator and rotor slots for any particular frame size and horsepower combination. DOE consulted with its SME and understands that optimum stator and rotor slot combinations have been determined by manufacturers and are already currently in use on existing production lines. DOE does not anticipate further efficiency gains from optimizing the combination of stator and rotor slots at the efficiency levels being considered for this rulemaking. Consequently, DOE removed this technology option from chapter 4 of the TSD in the NOPR.

b. Decrease the Length of Coil Extensions

One method of reducing resistance losses in the stator is by decreasing the length of the coil extensions at the end turns. Reducing the length of copper wire outside the stator slots not only reduces the resistive losses, but also reduces the material cost of the electric motor because less copper is being used.

DOE understands that there may be limited efficiency gains, if any, for most electric motors using this technology option. DOE also understands that electric motors have been produced for many decades and that many manufacturers have improved their production techniques to the point where certain design parameters may already be fully optimized. However, DOE maintains that this is a design parameter that affects efficiency and should be considered when designing an electric motor. DOE did not receive any additional comments regarding this technology option in response to the NOPR and continues to consider it for the final rule analysis.

c. Die-Cast Copper Rotor Cage

Copper offers lower resistivity than aluminum, as well as a potentially more compact design, both of which can contribute to higher efficiency. Manufacturers commonly use copper today to build high performance motors. Although a rotor of arbitrary size may be fabricated by hand, the economics of scale manufacturing demand die-casting of those wishing to produce at significant volumes. As a result, DOE considered die-cast copper only as a technology option. Die-cast copper rotors have been the subject of frequent comment and are more thoroughly discussed in the screening analysis section IV.B.1.a.

d. Increase Cross-Sectional Area of Rotor Conductor Bars

Increasing the cross-sectional area of the rotor bars, by changing the cross-sectional geometry of the rotor, can improve motor efficiency. Increasing the cross-sectional area of the rotor bars reduces the resistance and thus lowers the I^2R losses. However, changing the shape of the rotor bars may affect the size of the end rings and can also change the torque characteristics of the motor.

DOE recognizes that increasing the cross-sectional area of a conductor rotor bar may yield limited efficiency gains for most electric motors. However, DOE maintains that this is a design parameter that affects efficiency and must be considered when designing an electric motor. Additionally, when creating its software models, DOE considered rotor slot design, including cross sectional areas, such that any software model produced was designed to meet the appropriate NEMA performance requirements for torque and locked rotor current. DOE did not receive any additional comments regarding this

[36] See TSD at: *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/42.*

technology option in response to the NOPR and continues to consider it for the final rule analysis.

e. Increase Cross-Sectional Area of End Rings

End rings are the components of a squirrel-cage rotor that create electrical connections between the rotor bars. Increasing the cross-sectional area of the end rings reduces the resistance and, thus, lowers the I^2R losses in the end rings. A reduction in I^2R losses will occur only when any proportional increase in current as a result of an increase in the size of the end ring is less than the square of the proportional reduction in the end ring resistance.

When developing its software models, DOE relied on the expertise of its SME. Generally, increases to end ring area were limited to 10–20 percent, which are unlikely to have significant negative impacts on the mechanical aspects of the rotor. Furthermore, DOE ensured that the appropriate NEMA performance requirements for torque and locked-rotor current were maintained with its software modeled motors. DOE did not receive any additional comments regarding this technology option in response to the NOPR and continues to consider it for the final rule analysis.

f. Electrical Steel With Lower Losses

Losses generated in the electrical steel in the core of an induction motor can be significant and are classified as either hysteresis or eddy current losses. Hysteresis losses are caused by magnetic domains resisting reorientation to the alternating magnetic field. Eddy currents are physical currents that are induced in the steel laminations by the magnetic flux produced by the current in the windings. Both of these losses generate heat in the electrical steel.

In studying the techniques used to reduce steel losses, DOE considered two types of materials: Conventional silicon steels, and ''exotic'' steels, which contain a relatively high percentage of boron or cobalt. Conventional steels are commonly used in electric motors manufactured today. There are three types of steel that DOE considers ''conventional:'' Cold-rolled magnetic laminations, fully processed non-oriented electrical steel, and semi-processed non-oriented electrical steel.

One way to reduce core losses is to incorporate a higher grade of core steel into the electric motor design (*e.g.,* switching from an M56 to an M19 grade). In general, higher grades of electrical steel exhibit lower core losses. Lower core losses can be achieved by adding silicon and other elements to the steel, thereby increasing its electrical resistivity. Lower core losses can also be achieved by subjecting the steel to special heat treatments during processing.

The exotic steels are not generally manufactured for use specifically in the electric motors covered in this rulemaking. These steels include vanadium permendur and other alloyed steels containing a high percentage of boron or cobalt. These steels offer a lower loss level than the best electrical steels, but are more expensive per pound. In addition, these steels can present manufacturing challenges because they come in nonstandard thicknesses that are difficult to manufacture.

In the NOPR, DOE noted that its computer software did not model general classes of electrical steel, but instead modeled vendor-specific electrical steel. DOE's software utilized core loss vs. flux density curves supplied by an electrical steel vendor as one component of the core loss calculated by the program. A second component was also added to account for high frequency losses. DOE noted that relative performance derived from Epstein testing might not be indicative of relative performance in actual motor prototypes. DOE did not solely rely on relative steel grade when selecting electrical steels for its designs. To illustrate this point, DOE noted that almost all of its software modeled designs utilized M36 grade steel, even though it was not the highest grade of electrical steel considered in the analysis. When higher grade M15 steel was evaluated in DOE's software modeled designs, the resulting efficiencies were actually lower than the efficiencies when using M36 grade steel for several reasons. The Epstein test results for various grades of steel provided in chapter 3 of the NOPR TSD were purely informational and intended to give an indication of the relative performance of a sample of electrical steels considered. That information was removed from chapter 3 of the NOPR TSD to avoid any further confusion. *See* 78 FR 73614.

DOE did not receive any additional comments regarding this technology option in response to the NOPR and continues to consider it for the final rule analysis.

g. Thinner Steel Laminations

As addressed earlier, there are two types of core losses that develop in the electrical steel of induction motors—hysteresis losses and losses due to eddy current. Electric motors can use thinner laminations of core steel to reduce eddy currents. The magnitude of the eddy currents induced by the magnetic field become smaller in thinner laminations, making the motor more energy efficient. In the technology analysis, DOE only considered conventional steels with standard gauges available in the market. DOE did not receive any comments regarding this technology option in response to the NOPR and continues to consider it for the final rule analysis.

h. Increase Stack Length

Adding electrical steel to the rotor and stator to lengthen the motor (axially) can also reduce the core losses in an electric motor. Lengthening the motor by increasing stack length reduces the magnetic flux density, which reduces core losses. However, increasing the stack length affects other performance attributes of the motor, such as starting torque. Issues can arise when installing a more efficient motor with additional stack length because the motor becomes longer and may not fit into applications with dimensional constraints. DOE did not receive any comments regarding this technology option in response to the NOPR and continues to consider it in the final rule analysis.

i. Optimize Bearing and Lubrication

DOE notes that bearings and lubrication can be optimized for cost, performance, maintenance, and other attributes depending on the design requirements. However, DOE is of the understanding that choice of bearing and lubricant is generally driven by considerations unrelated to efficiency for common motors, and so does not vary it as a design parameter in the engineering analysis. DOE received no comments regarding this technology in response to the NOPR and does not include performance gains due to advanced bearings or lubricants in the engineering analysis in today's final rule.

j. Improve Cooling System

Optimizing a motor's cooling system that circulates air through the motor is another technology option to improve the efficiency of electric motors. Improving the cooling system reduces air resistance and associated frictional losses and decreases the operating temperature (and associated electrical resistance) by cooling the motor during operation. This can be accomplished by changing the fan or adding baffles to the current fan to help redirect airflow through the motor.

DOE notes that an improved cooling system may be more or less efficient, itself, as long losses within the motor at-large decline. When the design of an

electric motor is changed, losses associated with the cooling system may increase in order to provide a decrease in losses associated with some other part of the design. DOE did not receive any comments regarding this technology option in response to the NOPR and continues to consider it for the final rule analysis.

k. Reduce Skew on Conductor Cage

In the rotor, the conductor bars are not straight from one end to the other, but skewed or twisted slightly around the axis of the rotor. Decreasing the degree of skew can improve a motor's efficiency. The conductor bars are skewed to help eliminate harmonics that add cusps, losses, and noise to the motor's speed-torque characteristics. Reducing the degree of skew can help reduce the rotor resistance and reactance, which helps improve efficiency. However, overly reducing the skew also may have adverse effects on starting, noise, and the speed-torque characteristics.

DOE notes that all software designs used in the technology analysis had skewed rotor designs and, in general, the skews used were approximately 100 percent of a stator or rotor slot pitch, whichever had the smaller number of slots. Additionally, DOE intended for the option of reducing the skew on the conductor cage to be an option associated with reducing stray load losses and has made the appropriate adjustments to its text and tables. (See TSD Chapter 4)

l. Improve Rotor Bar Insulation

In motors, rotor bars are usually insulated to contain current within the rotor. Because no insulation is ideal, some current will always leak and induce undesired stray losses in other parts of the motor. By improving rotor insulation, this effect may be reduced. Insulation, however, competes for space within the motor with conductor and electrical steel. Therefore, manufacturers look to balance insulation with preservation of volume. DOE received no comments in response to the NOPR and does not change insulation assumptions for the final rule.

m. Technology Options Not Considered

Variable-speed drives (VSDs) are solid-state electronic devices able to vary the voltage, current, and frequency of a motor's input signal in order to vary (often continuously) vary torque and speed. DOE acknowledges that the ability to modulate motor output may produce energy savings in certain applications, if properly controlled. DOE does not consider this technology in today's rule because the scope of coverage only pertains to single-speed motors. DOE notes that many motors within the scope of the rulemaking may be capable of operation with a VSD. Inverter-only motors, which are not able to operate on 60 Hz sinusoidal current, are not subject to today's standards as today's rule only applies to motors capable of operation at 60 Hz.

In response to the NOPR, PlasticMetal commented that DOE should consider the use of syncrospeed VFD technology in reducing the energy consumed by motors, especially for motors used in injection molding machines. PlasticMetal noted that VFD technology can also be used for agricultural pump and hydraulic pump motors. (PlasticMetal, No. 80 at p. 1)

Although DOE's proposed standards were limited to single-speed motors, DOE recognizes that VFDs may offer further energy savings in injection molding (among other applications). DOE may consider exploring this technology further in a future rulemaking, but at present retains coverage of only single-speed motors.

B. Screening Analysis

After DOE identified the technologies that might improve the energy efficiency of electric motors, DOE conducted a screening analysis. The purpose of the screening analysis is to determine which options to consider further and which to screen out. DOE consulted with industry, technical experts, and other interested parties in developing a list of design options. DOE then applied the following set of screening criteria, under sections 4(a)(4) and 5(b) of appendix A to subpart C of 10 CFR part 430, ''Procedures, Interpretations and Policies for Consideration of New or Revised Energy Conservation Standards for Consumer Products,'' to determine which design options are unsuitable for further consideration in the rulemaking:

- *Technological Feasibility:* DOE will consider only those technologies incorporated in commercial equipment or in working prototypes to be technologically feasible.
- *Practicability to Manufacture, Install, and Service:* If mass production of a technology in commercial equipment and reliable installation and servicing of the technology could be achieved on the scale necessary to serve the relevant market at the time of the effective date of the standard, then DOE will consider that technology practicable to manufacture, install, and service.
- *Adverse Impacts on Equipment Utility or Equipment Availability:* DOE will not further consider a technology if DOE determines it will have a significant adverse impact on the utility of the equipment to significant subgroups of customers. DOE will also not further consider a technology that will result in the unavailability of any covered equipment type with performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as equipment generally available in the United States at the time.
- *Adverse Impacts on Health or Safety:* DOE will not further consider a technology if DOE determines that the technology will have significant adverse impacts on health or safety.

Table IV.9 presents a general summary of potential methods that a manufacturer may use to reduce losses in electric motors. The approaches presented in this table refer either to specific technologies (*e.g.,* aluminum versus copper die-cast rotor cages, different grades of electrical steel) or physical changes to the motor geometries (*e.g.,* cross-sectional area of rotor conductor bars, additional stack height). For additional details on the screening analysis, please refer to chapter 4 of the final rule TSD.

TABLE IV.9—SUMMARY LIST OF OPTIONS FROM TECHNOLOGY ASSESSMENT

Type of loss to reduce	Technology option
Stator I^2R Losses.	Increase cross-sectional area of copper in stator slots.
	Decrease the length of coil extensions.
Rotor I^2R Losses.	Use a die-cast copper rotor cage.
	Increase cross-sectional area of rotor conductor bars.
	Increase cross-sectional area of end rings.
Core Losses ...	Use electrical steel laminations with lower losses (watts/lb).
	Use thinner steel laminations.
	Increase stack length (*i.e.,* add electrical steel laminations).
Friction and Windage Losses.	Optimize bearing and lubrication selection.
	Improve cooling system design.
Stray-Load Losses.	Reduce skew on rotor cage.
	Improve rotor bar insulation.

1. Technology Options Not Screened Out of the Analysis

The technology options in this section are options that passed the screening

criteria of the analysis. DOE considers the technology options in this section to be viable means of improving the efficiency of electric motors.

In the NOPR, DOE stated that the notice provides detailed information about each technology option considered. With the exception of die-cast copper rotors, which many manufacturers stated they would usually never consider when increasing efficiency for the reasons detailed below, DOE understands that each technology option that it has not screened out is a design option that a manufacturer would consider for each motor designed and built. DOE recognized that manufacturers design their motors to balance a number of competing and interrelated factors, including performance, reliability, and energy efficiency. Because the options DOE had identified can be modified to improve efficiency while maintaining performance, it was DOE's view that at least some significant level of energy efficiency improvement is possible with each technology option not screened out by DOE. *See* 78 FR 73616.

Furthermore, DOE noted that it did not explicitly use each of the technology options that passed the screening criteria in the engineering analysis. As discussed in section IV.C of the NOPR, DOE's engineering analysis was a mixture of two approaches that DOE routinely uses in its engineering analysis methodology: The reverse-engineering approach (in which DOE has no control over the design parameters) and the efficiency-level approach (in which DOE tried to achieve a certain level of efficiency, rather than applying specific design options). This hybrid of methods did not allow for DOE to fully control which design parameters were ultimately used for each representative unit in the analysis. Without the ability to apply specific design options, DOE could not include every option that was not screened out of the analysis. *See* 78 FR 73616.

In addition, in the NOPR, DOE noted that its analysis neither assumes nor requires manufacturers to use identical technology for all motor types, horsepower ratings, or equipment classes. In other words, DOE's standards are technology-neutral and permit manufacturers design flexibility. *See id.*

DOE did not receive any comments regarding the technology screening process in response to the NOPR and maintains this same approach in the final rule.

a. Die-Cast Copper Rotors

Aluminum is the most common material used today to create die-cast rotor bars for electric motors. Some manufacturers that focus on producing high-efficiency designs have started to offer electric motors with die-cast rotor bars made of copper. Copper can offer better performance than aluminum because it has better electrical conductivity (*i.e.,* a lower electrical resistance). However, because copper also has a higher melting point than aluminum, the casting process becomes more difficult and is likely to increase both production time and cost.

DOE acknowledges that using copper in rotors may require different design approaches and considerations. In its own modeling and testing of copper rotor motors, DOE ensured that performance parameters stayed within MG 1–2011 limits (*i.e.,* met NEMA Design B criteria).

DOE did not screen out copper as a die-cast rotor conductor material in the NOPR because it believed that it passed the four screening criteria. Because several manufacturers currently die-cast copper rotors, DOE concluded that this material is both technologically feasible and practicable to manufacture, install, and service. Additionally, manufacturers are already producing such equipment, with no known increase in accidents or other health/safety problems. Finally, DOE's own engineering analysis supports what it sees in the market for copper rotors—that copper rotor motors may require some design tradeoffs but that, in general, it is possible to use copper and remain within NEMA Design A, B, or C specifications. In addition, DOE notes that its analysis neither assumes nor requires manufacturers to use identical technology for all motor types, horsepower ratings, or equipment classes. Moreover, DOE does not believe that the TSL chosen for today's standard would require most manufacturers to use copper rotor motors.

DOE received considerable feedback concerning copper rotor technology both in response to the preliminary analysis and the NOPR. DOE addressed comments made on this topic at the preliminary analysis stage in the NOPR (*see* 78 FR 73616–73620). Here DOE responds to comments made on this topic in response to the NOPR and organizes its responses by the four screening criteria. Although it is well-documented that die-cast copper rotors are available in the market to at least 30 hp, they are not widely marketed at the higher horsepower ratings. It is not clear precisely why copper rotor motors are not marketed at horsepowers greater than 30. It is possible that because it is impracticable to die-cast copper at those rotor sizes or there is simply a lack of demand at higher horsepowers to justify investment in production capacity.

As part of its analysis, DOE intends to ensure that utility, which includes frame size considerations, is maintained. Increased shipping costs are also taken into account in the national impact analysis (NIA) and the life-cycle cost (LCC) analysis portions of DOE's analytical procedures.

Technological Feasibility

In the NOPR, DOE cited a number of high horsepower designs with copper rotors as evidence of technological feasibility, as well as observing that distribution transformers, another large industrial product that uses conductors around electrical steel, commonly improve efficiency by replacing aluminum with copper. 78 FR 73618.

In response to the statements that DOE made in the NOPR (*see* 78 FR 73618), NEMA pointed out that transformers and induction motors are not comparable because the performance tradeoff between efficiency and inrush current is different in both cases. (NEMA, No. 93 at p. 10) Nidec commented that the examples of Tesla, REMY, and Oshkosh traction motors cited by DOE as evidence of the feasibility of copper die-cast rotors involved motors that operated at higher speeds and lower torques. Consequently, in its view, these comparisons were not an accurate representation of those motors that would be covered under DOE's proposal. (Nidec, No. 98 at pp. 3–4) NEMA agreed with Nidec, and made the point that it is physical rotor size, and not horsepower, that sets limits on copper die-casting. (NEMA, No. 93 at p. 9) NEMA also noted that, from a manufacturer perspective, the issue of importance is not the feasibility of designing a suitable copper rotor, but rather the issue of whether copper rotors can be die-cast and mass-produced. (NEMA, No. 93 at p. 9)

DOE recognizes that assessing the technological feasibility of high-horsepower copper die-cast rotors is made more complex by the fact that DOE believes that manufacturers do not offer them commercially. DOE acknowledges that the listed motor examples are of higher speed that those under consideration in this rule, and that horsepower must be discussed in the context of speed. DOE agrees with NEMA that the challenges with designing with copper rotor motors lie less in the feasibility of designing

copper rotor motors, and more in the die-casting of large copper rotors. As a result, DOE views the debate as residing chiefly in the domain of manufacturability, considered in the next section. Commenters have not demonstrated that it would be technologically infeasible to develop and incorporate copper die-cast rotors in lower-speed motors. Therefore, DOE does not screen out die-cast copper on the basis of technological feasibility.

Practicability to Manufacture, Install, and Service

In the NOPR, DOE stated that it was not able to conclude copper rotors were impracticable to manufacture because DOE identified parties already manufacturing copper rotor motors. DOE was able to purchase and tear down a copper rotor motor, which performed at DOE's max-tech level at its horsepower (5 hp) and met NEMA Design B requirements. 78 FR 73617.

In response to the NOPR, NEMA maintained its position that copper die-cast rotors should be screened out of the analysis for the current rulemaking. NEMA and Nidec argued that designs modeled by DOE for ECG 1 at EL 4 and ECG 2 at EL 2 used copper rotor technology and, thus, implied that copper rotor technology is a requirement to meet max-tech efficiency levels. (NEMA, No. 93 at p. 8; Nidec, No. 98 at p. 3) Referring to the U.S. Department of the Army studies on die-cast copper rotor motors that NEMA discussed in its preliminary analysis comments, NEMA raised concern that it is difficult to successfully die cast a copper rotors of the required size in mass production. NEMA commented that it is not aware of manufacturing, in the United States or outside, capable of mass production of copper die-cast rotors ''on the scale necessary to serve the relevant market at the time of the effective date of the standard,'' as proposed in the NOPR. NEMA stated that the challenge to design a motor when the material of the rotor is changed is not limited to meeting only a required value of efficiency and the limits on torques and current that DOE specifies in the definitions in 10 CFR 431.12. Noting that particular TSL levels were developed based on the EL levels, NEMA commented that if the copper die-cast rotor technology were screened out, then EL 4 would not be included in the creation of any TSL level, and TSL 3 would represent the maximum technology designs. (NEMA, No. 93 at pp. 8–12)

Baldor commented that the Motor Coalition has submitted earlier that they do not have the capacity to produce copper rotors at a volume of 5 million units per year. It raised concerns that it is challenging to manufacture a better design in actual production. (Baldor, Pub. Mtg. Tr., No. 87 at pp. 118–119)

In contrast, CDA disagreed with the manufacturers' claims that die-cast copper rotor motors are not commercially available. CDA commented that die-cast copper rotor motors—60 Hz ''Ultra'' motors manufactured by Siemens—have been commercially available at certain horsepower ratings in North America since February 2006. Siemens has copper rotor die-casting capabilities in Denver, Ohio, and Mexico. Multiple countries in Europe and Asia also have copper rotor die casters. Siemens produces 50 Hz motors in Germany, and SEW-Eurodrive produces 50 Hz and 60 Hz motors for worldwide shipment. Therefore, CDA stated that die-cast copper rotors are commercially available, and DOE should continue to include them in their evaluations. (CDA, No. 90 at p. 2)

Following publication of the NOPR, DOE was able to speak with a manufacturer of die-casting equipment who confirmed their ability to die-cast copper rotors in excess of 500 lbs in a single ''shot''. DOE has not been able to obtain written verification of this capability. If true, however, the question is whether such rotor size is sufficient to reach the limits of the horsepower scope of today's rule.

Although DOE did not directly model a copper rotor that large, DOE did purchase and tear down a 30 hp motor of specification within the scope of this rulemaking with a die-cast copper rotor and found the weight to be 29 lbs, or roughly 1 lb/hp. DOE understands that the active mass of a motor grows sublinearly with power, and by extension, that a 500 hp motor of similar design could be built with a copper rotor of less than 500 lbs.

Although these figures are estimates, DOE believes there is evidence to suggest that copper die-cast rotor would be practicable to manufacture, install, or service and, consequently, this technology should not be screened out on that basis. DOE understands that full-scale deployment of copper would likely require considerable capital investment and that such investment could increase the production cost of large copper rotor motors considerably. DOE believes that its current engineering analysis reflects this likelihood. DOE acknowledges that if it were adopting a max-tech standard, the chance that any manufacturer would use copper die-cast rotors would be much greater than the chance that any manufacturer would choose to use this technology under the efficiency level chosen in today's rule.

Adverse Impacts on Equipment Utility or Equipment Availability

For the NOPR, DOE acknowledged that the industry would need to make substantial investments in production capital to ensure the availability of motors at current production levels. DOE noted that, in some cases, redesigning equipment lines to use copper would entail substantial cost. DOE's engineering analysis reflects its estimates of these costs and discusses them in detail in section IV.C. Although using copper in place of aluminum can require design changes in order to keep parameters such as locked-rotor current within rated limits, DOE was able to model copper rotor motors adhering to the specifications of NEMA Design B,[37] including the reduced (relative to Design A) locked-rotor current.

In response, to the NOPR, NEMA reiterated many of its concerns about production capability worldwide and that utility may be impacted with respect to torque/speed characteristics if copper becomes a de facto standard. (NEMA, No. 93 at pp. 11–13)

Based on DOE's own shipments analysis (see final TSD, Chapter 9) and estimates of worldwide annual copper production,[38] DOE estimates that .01–.02 percent of worldwide copper supply would be required for electric motor manufacturers to use copper rotors for every single motor within DOE's scope of coverage. DOE acknowledges the need to vary design parameters in order to maintain equipment utility through a transition to copper rotors, but does not believe commenters have demonstrated that it is infeasible, particularly when DOE has been able to procure and test equipment meeting Design B specification. At the present, DOE does not believe there is sufficient evidence to screen copper die-cast rotors from the analysis on the basis of adverse impacts to equipment utility or availability.

Adverse Impacts on Health or Safety

In the NOPR, DOE did not screen out copper die-casting on the basis of adverse impacts to health or safety. DOE is aware of the higher melting point of copper (1084 degrees Celsius versus 660 degrees Celsius for aluminum) and the potential impacts this may have on the

[37] The parameters DOE believed to present the largest risk of rendering a motor noncompliant with NEMA MG 1–2011standards were those related to NEMA design letter, which were adhered to in DOE's modeling efforts.

[38] *See http://minerals.usgs.gov/minerals/pubs/commodity/copper/mcs-2012-coppe.pdf.*

health or safety of plant workers. However, DOE does not believe at this time that this potential impact is sufficiently adverse to screen out copper as a die-cast material for rotor conductors. The process for die-casting copper rotors involves risks similar to those of die-casting aluminum. DOE believes that manufacturers who die-cast metal at 660 Celsius or 1085 Celsius (the respective temperatures required for aluminum and copper) would need to observe strict protocols to operate safely. DOE understands that many plants already work with molten aluminum die-casting processes and believes that similar processes could be adopted for copper. DOE has not received any supporting data about the increased risks associated with copper die-casting, and could not locate any studies suggesting that the die-casting of copper inherently represents incrementally more risks to worker safety and health. DOE notes that several OSHA standards relate to the safety of ''Nonferrous Die-Castings, Except Aluminum,'' of which die-cast copper is part. DOE did not receive comment on this topic specifically in response to the NOPR and maintains this approach for the final rule.

b. Increase the Cross-Sectional Area of Copper in the Stator Slots

DOE describes its approach for ''Increase the Cross-Sectional Area of Copper in the Stator Slots'' in section IV.A.5.a. Considering the four screening criteria for this technology option, DOE did not screen out the possibility of changing gauges of copper wire in the stator as a means of improving efficiency. Motor design engineers adjust this option by using different wire gauges when manufacturing an electric motor to achieve desired performance and efficiency targets. Because this design technique is in commercial use today, DOE considers this technology option both technologically feasible and practicable to manufacture, install, and service. DOE is not aware of any adverse impacts on consumer utility, reliability, health, or safety associated with changing the wire gauges in the stator to obtain increased efficiency. Should the technology option prove to not be economical on a scale necessary to supply the entire industry, then this technology option would be likely not be selected for in the analysis, either in the LCC or MIA.

In response to the NOPR, NEMA commented that hand winding is not a viable technology to gain an increase in slot fill of less than 5% and thus suggested that hand winding should be screened out. NEMA stated that hand winding poses adverse impacts on manufacturing relative to mass production and may shift production of stators to cheaper labor locations outside of the United States. Hand winding also has adverse impacts on health and safety of personnel and on product utility and availability. Noting that none of the representative units are hand wound, it commented that the engineering analysis should not be based on stator slot fill levels which require hand winding (NEMA, No. 93 at pp. 12–13)

DOE acknowledges that the industry is moving towards increased automation. However, hand winding is currently practiced by manufacturers, making it a viable option for DOE to consider as part of its engineering analysis. Furthermore, DOE is not aware of any data or studies suggesting hand-winding leads to negative health consequences and notes that hand winding is currently practiced by industry. In response to the NOPR, DOE did not receive any comment on its cost estimates for hand-wound motors nor on studies suggesting any health impacts. DOE acknowledges that, were hand-winding to become widespread, manufacturers would need to hire more workers to perform hand-winding to maintain person-winding-hour equivalence and has accounted for the added costs of hand-winding in its engineering analysis.

c. Power Factor

Although not considered as a technology option *per se,* several commenters commented on power factor in response to DOE's NOPR. Power factor is the ratio of real power to apparent power, or the fraction of power sent to a device divided by its actual power consumption. Power factor equals one for purely resistive loads, but falls for circuits with loads that are capacitive or (in the usual case of electric motors) inductive. Generally, low power factor is viewed as undesirable; it may force the use of larger conductors and hardware within a building. Furthermore, many industrial customers are charged more for electrical power by their utility as their net power factor falls. Because power factor has value to owners of electric motors, any standard that causes power factor to rise significantly could be said to negatively affected consumer utility. Several parties commented on power factor in response to DOE's NOPR.

The CA IOUs noted that energy saved in the motor can show up as energy lost in the building and utility distribution systems. (CA IOUs, Pub. Mtg. Tr., No. 87 at p. 115)

Baldor commented that it is challenging to get a higher efficiency motor along with good power factor and low inrush current. When a motor is redesigned for efficiency, power factor goes down when efficiency goes up and inrush current can rise and change motor design from Design B to Design A. (Baldor, Pub. Mtg. Tr., No. 87 at pp. 118–119)

EEI expressed concern that larger industrial facilities (having heavy motor populations) may incur higher economic costs if higher efficiency requirements lead to lower power factor. This is because larger customers are metered for kVA and they are penalized if the facility power factor goes below a certain level. (EEI, Pub. Mtg. Tr., No. 87 at pp. 120–121)

DOE acknowledges that power factor is one parameter of many that requires supervision in redesigning motors for greater efficiency. Electric motors, by their very nature, are highly inductive loads with correspondingly low power factors. Facilities with large numbers of motors often choose to add capacitance in parallel with their inductive loads in order to correct power factor, and often be charged lower rates for electricity. Several motor manufacturers advocate power factor correction and advertise equipment to do it.[39]

Furthermore, DOE notes that MG 1–2009 characterizes the relationship between motor efficiency and power factor in paragraph 14.44.1. This relationship is nonlinear, but it can be used to show that[40] even when going from 74% motor efficiency[41] to the corresponding premium efficiency requirement of 82.5%, power factor falls by only 11% Higher horsepower motors would be predicted (by paragraph 14.44.1) to experience smaller declines in power factor. Finally, Premium efficiency motors are in widespread use today, suggesting to DOE that the associated power factor considerations are not insurmountable. As a result, DOE does not view power factor as a significant obstacle in adopted of today's standards.

2. Technology Options Screened Out of the Analysis

DOE developed an initial list of design options from the technologies identified in the technology assessment.

[39] For example, *http://www.baldor.com/support/Literature/Load.ashx/FM1307?LitNumber=FM1307.*

[40] Taking the derivative suggests that power factor may scale inversely with efficiency raised to the -2 power.

[41] The current requirement for 1 horsepower, 8-pole, subtype II electric motors.

DOE reviewed the list to determine if the design options are practicable to manufacture, install, and service; would adversely affect equipment utility or equipment availability; or would have adverse impacts on health and safety. In the engineering analysis, DOE did not consider any of those options that failed to satisfy one or more of the screening criterion. The design options screened out are summarized in Table IV.10.

TABLE IV.10—DESIGN OPTIONS SCREENED OUT OF THE ANALYSIS

Design option excluded	Eliminating screening criterion
Plastic Bonded Iron Powder (PBIP)	Technological Feasibility.
Amorphous Steels	Technological Feasibility.

At the preliminary analysis stage, NEMA, Baldor, and NPCC agreed with DOE that plastic bonded iron powder has not been proven to be a technologically feasible method of construction of stator and rotor cores in induction motors, and that amorphous metal laminations are not a type of material that lends itself to use in electric motors in the foreseeable future. (NEMA, No. 54 at pp. 63–64; Baldor, Pub. Mtg. Tr., No. 60 at p. 108; Advocates, No. 56 at p. 3)

As DOE did in the NOPR, DOE is continuing to screen out both of these technology options from further consideration in the engineering analysis in the final rule. *See* 78 FR 73622. Additionally, DOE understands the concerns expressed by NEMA regarding technological feasibility, but DOE maintains that if a working prototype exists, which implies that the motor has performance characteristics consistent with other motors using a different technology, then that technology would be deemed technologically feasible. However, that fact would not necessarily mean that a technology option would pass all three of the remaining screening criteria.

Chapter 4 of the TSD discusses each of these screened out design options in more detail, as well as the design options that DOE considered in the electric motor engineering analysis. DOE did not receive additional comments on the technology options screened out in response to the NOPR.

C. Engineering Analysis

The engineering analysis develops cost-efficiency relationships for the equipment that are the subject of a rulemaking by estimating manufacturer costs of achieving increased efficiency levels. DOE uses manufacturing costs to determine retail prices for use in the LCC analysis and MIA. In general, the engineering analysis estimates the efficiency improvement potential of individual design options or combinations of design options that pass the four criteria in the screening analysis. The engineering analysis also determines the maximum technologically feasible energy efficiency level.

When DOE adopts a new or amended standard for a type or class of covered equipment, it must determine the maximum improvement in energy efficiency or maximum reduction in energy use that is technologically feasible for such equipment. (42 U.S.C. 6295(p)(1) and 6316(a)) Accordingly, in the engineering analysis, DOE determined the maximum technologically feasible (''max-tech'') improvements in energy efficiency for electric motors, using the design parameters for the most efficient equipment available on the market or in working prototypes. (See chapter 5 of the TSD) The max-tech levels that DOE determined for this rulemaking are described in IV.3 of this rule.

In general, DOE used three methodologies to generate the manufacturing costs needed for the engineering analysis. These methods are:

(1) The design-option approach—reporting the incremental costs of adding design options to a baseline model;

(2) the efficiency-level approach—reporting relative costs of achieving improvements in energy efficiency; and

(3) the reverse engineering or cost assessment approach—involving a ''bottoms up'' manufacturing cost assessment based on a detailed bill of materials derived from electric motor teardowns.

1. Engineering Analysis Methodology

DOE's analysis for the electric motor rulemaking is based on a combination of the efficiency-level approach and the reverse engineering approach. Primarily, DOE elected to derive its production costs by tearing down electric motors and recording detailed information regarding individual components and designs. DOE used the costs derived from the engineering teardowns and the corresponding nameplate nominal efficiency of the torn down motors to report the relative costs of achieving improvements in energy efficiency. DOE derived material prices from current, publicly available data, as well as input from SMEs and manufacturers. For most representative units analyzed, DOE was not able to test and teardown a max-tech unit, because such units are generally cost-prohibitive and are not readily available. Therefore, DOE supplemented the results of its test and teardown analysis with software modeling.

When developing its engineering analysis for electric motors, DOE divided covered equipment into equipment class groups. As discussed above, there are three electric motor equipment class groups: ECG 1: NEMA Design A and B motors, ECG 2: NEMA Design C motors, and ECG 3: Fire pump electric motors. The motors within these ECGs are further divided into equipment classes based on pole-configuration, enclosure type, and horsepower rating. For DOE's rulemaking, there are 482 equipment classes.

2. Representative Units

Due to the high number of equipment classes for electric motors, DOE selected and analyzed only a few representative units from each ECG and based its overall analysis for all equipment classes within that ECG on those representative units. Results are scaled to equipment classes not directly analyzed.[42] During the final rule analysis, DOE selected three units to represent ECG 1 and two units to represent ECG 2. DOE based the analysis of ECG 3 on the representative units for ECG 1 because of the low shipment volume and run time of fire pump electric motors. When selecting representative units for each ECG, DOE considered NEMA design type, horsepower rating, pole-configuration, and enclosure.

a. Electric Motor Design Type

For ECG 1, which includes all NEMA Design A and B motors, DOE only selected NEMA Design B motors as representative units to analyze in the engineering analysis. DOE chose NEMA Design B motors because NEMA Design

[42] See Chapter 5 of the TSD for details.

B motors have slightly more stringent performance requirements, namely their locked-rotor current has a maximum allowable level for a given rating. Consequently, NEMA Design B motors are slightly more restricted in terms of their maximum efficiency levels. Therefore, by analyzing a NEMA Design B motor, DOE could ensure technological feasibility for all designs covered in ECG 1. Additionally, NEMA Design B units have much higher shipment volumes than NEMA Design A motors because most motor driven equipment is designed (and UL listed) to run with NEMA Design B motors.

As mentioned for ECG 2, DOE selected two representative units to analyze. Because NEMA Design C is the only NEMA design type covered by this ECG, DOE only selected NEMA Design C motors as its representative units.

For ECG 3, which consists of fire pump electric motors, DOE based its engineering analysis on the NEMA Design B units analyzed for ECG 1. As noted above, in order to be in compliance with section 9.5 of National Fire Protection Association (NFPA) ''Standard for the Installation of Stationary Pumps for Fire Protection'' Standard 20–2010, which is a requirement for a motor to meet DOE's current definition of a ''fire pump electric motor,'' the motor must comply with NEMA Design B requirements.[43] Although DOE understands that fire pump electric motors have additional performance requirements, DOE believed that analysis of the ECG 1 motors would serve as a sufficient approximation for the cost-efficiency relationship for fire pump electric motors. The design differences between a NEMA Design B motor (or IEC-equivalent) and fire pump electric motor are small and unlikely to greatly affect incremental cost behavior.

Regarding DOE's ''fire pump electric motor'' definition, as detailed in the electric motors 2012 test procedure,[44] DOE intends its ''fire pump electric motor'' definition to cover both NEMA Design B motors and IEC-equivalents that meet the requirements of section 9.5 of NFPA 20. *See* 77 FR 26617–18. As stated in the 2012 test procedure, DOE agrees that IEC-equivalent motors should be included within the scope of the definition of ''fire pump electric motor,'' although NFPA 20 does not explicitly recognize the use of IEC motors with fire pumps. 77 FR 26617. DOE realizes that section 9.5 of NFPA 20 specifically requires that fire pump motors shall be marked as complying with NEMA Design B. The ''fire pump electric motor'' definition that DOE created focuses on ensuring that compliance with the energy efficiency requirements are applied in a consistent manner. DOE believes that there are IEC motors that can be used in fire pump applications that meet both NEMA Design B and IEC Design N criteria, as well as NEMA MG 1 service factors. DOE's definition encompasses both NEMA Design B motors and IEC-equivalents. To the extent that there is any ambiguity as to how DOE would apply this definition, in DOE's view, any Design B or IEC-equivalent motor that otherwise satisfies the relevant NFPA requirements would meet the ''fire pump electric motor'' definition in 10 CFR 431.12. See the standards NOPR for a historical discussion of comments related to fire pump electric motors. 78 FR 73623.

ECG 4 proposed in the NOPR consisted of brake electric motors and was also based on ECG 1, because DOE is only aware of brake motors being built to NEMA Design B specifications. Furthermore, DOE understands that there is no fundamental difference in design between brake and non-brake electric motors, other than the presence of the brake. Therefore, the same design options could be used on both sets of electric motors, and both motor types are likely to exhibit similar cost versus efficiency relationships. In today's final rule, brake motors no longer constitute a separate equipment class group and, therefore, brake motors fall into equipment classes based on their other characteristics (*e.g.,* pole count, design type).

b. Horsepower Rating

Horsepower rating is an important equipment class setting criterion. When DOE selected its preliminary analysis representative units, DOE chose those horsepower ratings that constitute a high volume of shipments in the market and provide a wide range upon which DOE could reasonably base a scaling methodology. For NEMA Design B motors, for example, DOE chose 5-, 30-, and 75-horsepower-rated electric motors to analyze as representative units. DOE selected the 5-horsepower rating because these motors have the highest shipment volume of all motors. DOE selected the 30-horsepower rating as an intermediary between the small and large frame number series electric motors. Finally, DOE selected a 75-horsepower unit because there is minimal variation in efficiency for motors with horsepower ratings above 75-horsepower. Based on this fact, DOE determined it was unnecessary to analyze a higher horsepower motor. Additionally, as horsepower levels increase, shipments typically decrease. Therefore, DOE believed there would be minimal gains to its analysis had it examined a higher horsepower representative unit.

DOE selected the 5-horsepower motor for multiple reasons. The 5-horsepower unit had the highest percentage of shipments for all covered electric motors, which ensured that there would be multiple efficiency levels from multiple manufacturers available for comparison during the teardown analysis. In addition, because DOE later employed scaling to establish efficiency levels for all equipment classes, it attempted to find a frame series and D-dimension[45] that could serve as a strong basis from which to scale to a relatively small set of unanalyzed frame series. The standard NEMA MG 1–2011 frame series for the 5-horsepower enclosed motor was a midpoint between the standard frame series for 1 horsepower and 10-horsepower motors, which was the group of ratings covered by the 5-horsepower representative unit. A larger representative unit would have meant a larger range of frame series on which to apply the scaling methodology.

As to DOE's selection of the 75-horsepower representative unit as a maximum, DOE understands that the 75-horsepower motor is not built in the largest NEMA MG 1–2011 frame series covered, but maintains that its selection is appropriate for this analysis. As stated previously, efficiency changes slowly when approaching the highest horsepower ratings, and choosing a higher horsepower rating would not have provided any appreciable improvement over the data DOE already developed for its analysis. DOE has found minimal variation in efficiency for motors above 75-horsepower. Because the change in efficiency diminishes with increasing horsepower, one may achieve a similar level of analytical accuracy with fewer data points at higher horsepower. Stated inversely, one needs more data points to accurately characterize a curve where it has a greater rate of change, such as

[43] With the exception of having a thermal shutoff switch, which could prevent a fire pump motor from performing its duty in hot conditions, NFPA 20 also excludes several motor types not considered in this rulemaking from the NEMA Design B requirement. They are direct current, high-voltage (over 600 V), large-horsepower (over 500 hp), single-phase, universal-type, and wound-rotor motors.

[44] 77 FR 26608.

[45] ''D'' dimension is the length from the centerline of the shaft to the mounting feet of the motor, and impacts how large the motor's laminations can be, impacting the achievable efficiency of the motor. ''D'' dimensions are designated in NEMA MG 1–2011 Section 4.2.1, Table 4–2.

lower horsepower. Finally, DOE notes that its scaling methodology mirrors the scaling methodology used in NEMA's MG 1–2011 tables of efficiencies, including the rate of change in efficiency with horsepower.

DOE also notes that part 13 [46] of NEMA MG 1–2011 does not standardize frame series for NEMA Design B motors at the highest horsepower levels covered in today's rule. Therefore, motors with the highest capacity have variability in their frame series. This added flexibility would give manufacturers more options to improve the efficiency of their largest motors covered by this rulemaking. Although altering the frame size of a motor may be costly, DOE believes that its selection of a 75-hp representative unit for higher horsepower motors is appropriate for scaling higher horsepower efficiency levels and the efficiency levels examined are technologically feasible for the largest capacity motors.

For NEMA Design C motors, DOE again selected the 5-horsepower rating because of its prevalence. In addition, DOE selected a 50-horsepower rating as an incrementally higher representative unit. DOE only selected two horsepower ratings for these electric motors because of their low shipment volumes. For more information on how DOE selected these horsepower ratings see chapter 5 of the TSD.

In its preliminary analysis comments NEMA questioned DOE's selection of the 50-horsepower representative unit for the NEMA Design C equipment class group because the NEMA T-frame size for such a rating is three NEMA T-frame number series below the largest frame number series and the fact that the 2011 shipment data that DOE used to select its representative units was not broken down by NEMA design type. (NEMA, No. 54 at p. 66)

As stated in the NOPR and as DOE maintains in this final rule, as with ECG 1, DOE selected representative units that fell in the middle of the range of ratings covered in this rulemaking and not necessarily the largest frame size covered in the rulemaking. Furthermore, as discussed earlier, NEMA Design C motors are produced in a smaller range of horsepower ratings than NEMA Design B motors (1 to 200 rather than 1 to 500). With this smaller horsepower range, a correspondingly smaller range of representative units is needed. Therefore, DOE selected a slightly lower rating as its maximum for ECG 2. *See* 78 FR 73625. As for the shipments data used to select the 5-hp representative unit, DOE did not separate the data by design type within an ECG because the same standard applies to motors of any design type (*e.g.,* ''Design A'') within an ECG, and has revised the text for the final TSD to clarify that fact. *See id.* However, DOE still maintains that the prevalence of 5-hp units make it an appropriate selection as a representative unit. DOE did not receive further comments on representative units in response to the NOPR and has maintained its approach for the final rule.

c. Pole-Configuration

Pole-configuration is another important equipment class setting criterion that DOE had to consider when selecting its representative units. For the preliminary analysis, DOE selected 4-pole motors for all of its representative units. DOE chose 4-pole motors because they represent the highest shipment volume of motors compared to other pole configurations. DOE chose not to alternate between pole configurations for its representative units because it wanted to keep as many design characteristics constant as possible. Doing so allowed DOE to more accurately identify how design changes affect efficiency across horsepower ratings. Additionally, DOE believed that the horsepower rating-versus-efficiency relationship is the most important (rather than pole-configuration and enclosure type-versus-efficiency) because there are significantly more horsepower ratings to consider.

In the preliminary analysis, NEMA and Baldor commented that scaling across pole configurations will lead to inaccurate results. (NEMA, No. 54 at pp. 26, 66–67; Baldor, Pub. Mtg. Tr., No. 60 at pp. 130, 131)

As mentioned earlier, DOE assessed energy conservation standards for 482 equipment classes. As described in the NOPR [47] and as DOE retains in today's rule, analyzing each of the classes individually is not feasible, which requires DOE to select representative units on which to base its analysis. DOE understands that different pole-configurations have different design constraints. Originally, DOE selected only 4-pole motors to analyze because they were the most common, allowing DOE to most accurately characterize motor behavior at the pole configuration consuming the majority of motor energy. Additionally, by holding pole-configuration constant across its representative units, DOE would be able to develop a baseline from which to scale. By maintaining this baseline and holding all other variables constant, DOE is able to modify the horsepower of the various representative units and isolate which efficiency effects are due to size.

Also as described in the NOPR [48] and as DOE retains in today's rule, as discussed in section IV.C.8, DOE has used the simpler of two scaling approaches presented in the preliminary analysis because both methods had similar results. This simpler approach does not require DOE to develop a relationship for 4-pole motors from which to scale. Furthermore, DOE notes that the scaling approach it selected mirrors the scaling laid out in NEMA's MG 1–2011 tables, in which at least a subset of the motors industry has already presented a possible relationship between efficiency and pole count. DOE has continued to analyze 4-pole electric motors because they are the most common and DOE believes that all of the efficiency levels it has developed are technologically feasible.

d. Enclosure Type

The final equipment class setting criterion that DOE considered when selecting its representative units was enclosure type. For the preliminary analysis, DOE elected to analyze electric motors with enclosed designs rather than open designs for all of its representative units. DOE selected enclosed motors because, as with pole-configurations, these motors have higher shipments than open motors. Again, DOE did not alternate between the two design possibilities for its representative units because it sought to keep design characteristics as constant as possible in an attempt to more accurately identify the reasons for efficiency improvements.

At the preliminary analysis stage, NEMA and Baldor commented that DOE's analysis did not consider the significance of enclosure type as it relates to efficiency as there is generally a lower efficiency level designated for open-frame motors. (NEMA, No. 54 at p. 68; Baldor, Pub. Mtg. Tr., No. 60 at p. 131)

For the preliminary analysis, DOE analyzed only electric motors with totally enclosed, fan-cooled (TEFC) designs rather than open designs for all of its representative units. DOE selected TEFC motors because, as with pole configurations, DOE wanted as many design characteristics to remain constant as possible. The Department used the same approach for the NOPR [49]

[46] This part provides standardized frame sizing by horsepower and speed for integral horsepower AC induction motors.

[47] *See* 78 FR 73625.

[48] *See* 78 FR 73625.

[49] *See* 78 FR 73625.

and today's final rule. DOE believed then and still believes that such an approach allows it to more accurately pinpoint the factors that affect efficiency. While DOE only analyzed one enclosure type, it notes that its scaling follows NEMA's efficiency tables (Table 12–11 and Table 12–12), which already map how efficiency changes with enclosure type. Finally, TEFC electric motors represented more than three times the shipment volume of open motors. DOE chose ELs that correspond to the tables of standards published in NEMA's MG 1–2011 and to efficiency bands derived from those tables, preserving the relationship between NEMA's standards for open and enclosed motors.

DOE did not receive additional comments on enclosure type as an equipment class setting criterion in response to the NOPR.

3. Efficiency Levels Analyzed

After selecting its representative units for each electric motor equipment class group, DOE examined the impacts on the cost of improving the efficiency of each of the representative units to evaluate the impact and assess the viability of potential energy conservation standards. As described in the technology assessment and screening analysis, there are numerous design options available for improving efficiency and each incremental improvement increases the electric motor efficiency along a continuum. The engineering analysis develops cost estimates for several efficiency levels [50] along that continuum.

ELs are often based on: (1) Efficiencies available in the market; (2) voluntary specifications or mandatory standards that cause manufacturers to develop equipment at particular efficiency levels; and (3) the max-tech level.

Currently, there are two energy conservation standard levels that apply to various types of electric motors. In ECG 1, some motors currently must meet efficiency standards that correspond to NEMA MG 1–2011 Table 12–11 (*i.e.,* EPACT 1992 levels [51]), others must meet efficiency standards that correspond to NEMA MG 1–2011 Table 12–12 (*i.e.,* premium efficiency levels), and some are not currently required to meet any energy conservation standard levels. DOE cannot establish energy conservation standards that are less efficient than current standards (*i.e.,* the ''anti-backsliding'' provision at 42 U.S.C. 6295(o)(1) as applied via 42 U.S.C. 6316(a)). ECG 1 includes both currently regulated and unregulated electric motors. For the baseline, DOE selected the lowest efficiency level available for unregulated motors for all motors in this group rather than applying the current standard requirements to an ECG that includes unregulated motors. However, in estimating the base case efficiency distribution, DOE accounted for the fact that the regulated motors are already at least at the current standard requirements. For ECG 1, DOE established an EL that corresponded to each of these levels, with EL 0 as the baseline (*i.e.,* the lowest efficiency level available for unregulated motors), EL 1 as equivalent to EPACT 1992 levels, and EL 2 as equivalent to premium efficiency levels for ECG 1 motors. Additionally, DOE analyzed two ELs above EL 2. One of these levels was the max-tech level, denoted as EL 4 and one was an incremental level that approximated a best-in-market efficiency level (EL 3). For all equipment classes within ECG 1, EL 3 was a one ''band'' increase in NEMA nominal efficiency relative to premium efficiency and EL 4 was a two ''band'' increase.[52] For ECG 3 and 4, DOE used the same ELs with one exception for ECG 3. Because fire pump electric motors are required to meet EPACT 1992 efficiency levels and those are the only motors in that equipment class group, EPACT 1992 levels were used as the baseline efficiency level, which means that fire pump electric motors have one fewer EL than ECG 1 for purposes of DOE's analysis. Following the preliminary analysis, DOE adjusted one max-tech Design B representative unit level (5 hp) after receiving additional data in order to base that level on a physical unit in place of modeling. Table IV.11 and Table IV.12 show the ELs for ECGs 1 and 3.

TABLE IV.11—EFFICIENCY LEVELS FOR EQUIPMENT CLASS GROUP 1**

Representative unit	EL 0 (baseline) (percent)	EL 1 (EPACT 1992) (percent)	EL 2 (premium efficiency) (percent)	EL 3 (best-in-market*) (percent)	EL 4 (max-tech) (percent)
5 hp (ECG 1)	82.5	87.5	89.5	90.2	91.0
30 hp (ECG 1)	89.5	92.4	93.6	94.1	94.5
75 hp (ECG 1)	93.0	94.1	95.4	95.8	96.2

* Best-in-market represents the best or near best efficiency level at which current manufacturers are producing electric motors. Although these efficiencies represent the best-in-market values found for the representative units, but when efficiency was scaled to the remaining equipment classes, the scaled efficiency was sometimes above and sometimes below the best-in-market value for a particular rating.

** ECG 1 includes both currently regulated and unregulated electric motors. For the baseline, DOE selected the lowest efficiency level available for unregulated motors for all motors in this group rather than applying the current standard requirements to an ECG that includes unregulated motors. However, in estimating the base case efficiency distribution, DOE accounted for the fact that the regulated motors are already at least at the current standard requirements.

[50] For the purposes of the final rule, the term ''efficiency level'' (EL) is equivalent to that of Candidate Standard Level (CSL) in the preliminary analysis.

[51] EPACT 1992 only established efficiency standards for motors up to and including 200 hp. Eventually, NEMA MG 1–2011 added a table, 20–A, which functioned as an extension of Table 12–11. So, although EPACT 1992 is a slight misnomer, DOE is using it to refer to those ELs that were based on Table 12–11.

[52] Because motor efficiency varies from unit to unit, even within a specific model, NEMA has established a list of standardized efficiency values that manufacturers use when labeling their motors. Each incremental step, or ''band,'' constitutes a 10 percent change in motor losses. NEMA MG 1–2011 Table 12–10 contains the list of NEMA nominal efficiencies.

TABLE IV.12—EFFICIENCY LEVELS FOR EQUIPMENT CLASS GROUP 3

Representative unit	EL 0 (EPACT 1992) (percent)	EL 1 (premium efficiency) (percent)	EL 2 (best-in-market *) (percent)	EL 3 (max-tech) (percent)
5 hp	87.5	89.5	90.2	91.0
30 hp	92.4	93.6	94.1	94.5
75 hp	94.1	95.4	95.8	96.2

For ECG 2, DOE took a similar approach in developing its ELs as it did for ECG 1, but with two primary differences. First, when DOE examined catalog data, it found that no NEMA Design C motors had efficiencies below EPACT 1992 levels, which is the current standard for all covered NEMA Design C motors. For DOE's representative units, it also found no catalog listings above the required EPACT 1992 levels. Additionally, when DOE's SME modeled NEMA Design C motors, the model would only generate designs at premium efficiency levels and one incremental level above that while maintaining proper performance standards. Therefore, ECG 2 only contains three ELs: EPACT 1992 (EL 0), premium efficiency (EL 1), and a max-tech level (EL 2).

These ELs differed slightly from the CSLs presented in the preliminary analysis for ECG2. In the preliminary analysis, a CSL for the 50 hp unit existed between two industry standard levels in order to provide greater resolution in selection of a standard (NEMA MG 1 Table 12–11 and Table 12–12). For the final rule analysis, this level was removed so that the ELs analyzed would align with Tables 12–11 and 12–12. For the 5 hp representative unit, DOE also removed one preliminary analysis CSL, which was intended to represent the ''best in market'' level in the preliminary analysis. After further market research, DOE found that few Design C motors are offered above the baseline, and those that were mainly met the premium efficiency level, without going higher in efficiency. It determined that for the final rule analysis, the previously designated ''max in market'' level was not applicable. The ELs analyzed for ECG2 are shown in Table IV.13.

TABLE IV.13—EFFICIENCY LEVELS FOR EQUIPMENT CLASS GROUP 2

Representative unit	EL 0 (EPACT 1992) (percent)	EL 1 (premium efficiency) (percent)	EL 2 (max-tech) (percent)
5 hp	87.5	89.5	91.0
50 hp	93.0	94.5	95.0

DOE has found many instances of electric motors being sold and marketed one or two NEMA bands of efficiency above premium efficiency, which suggests that manufacturers have extended technological performance where they perceived market demand for higher efficiencies. In other words, DOE has seen no evidence suggesting that the absence of equipment on the market at any given EL implies that such equipment could not be developed, were there sufficient demand. DOE contends that all of the ELs analyzed in its engineering analysis are viable because equipment is currently commercially available at such levels [53] and, to the extent possible, has been included in DOE's analysis.

In response to the NOPR, NEMA and Baldor both raised concern that it is not clear what horsepower rated motors in 6 and 8 poles are covered because NEMA Design A and B are not defined under MG 1 for large motors. This is because motors of higher horsepower rating in 6 and 8 poles are covered by the standards for large motors in Part 20 of NEMA MG 1. However, DOE defined NEMA Design A and Design B types in 10 CFR 431.12 with respect to the standards in Part 12 of NEMA MG 1 and not with respect to Part 20. NEMA noted that DOE took Table 5 values for large motors from an incorrect table (*i.e.,* Table 12–12) that was submitted to DOE previously in the Petition. NEMA commented that in order to align Table 12–12 with the scope of Part 12, it has removed the ratings for large motors from Table 12–12 and has included them in premium efficiency standards in Part 20 for large motors. NEMA and Baldor suggested that DOE either remove standards for higher horsepower rating 6 and 8 poles motors from Table 5 of the proposed rule to properly represent only ratings for which Design A and B standards apply. NEMA also suggested that DOE could modify 10 CFR 431.12 to define large motors covered by the standards and 10 CFR 431.25 to include efficiency standards for these new covered large motors. (NEMA, No. 93 at p. 22; NEMA, Pub. Mtg. Tr., No. 87 at pp. 48–50, Baldor, No. 100 at p. 4)

DOE agrees with NEMA and Baldor that large motors given in NEMA MG 1 Part 20 (*i.e.* 6-pole motors with horsepower ratings greater than 400 hp and 8-pole motors with horsepower ratings greater than 300 hp) are not defined for NEMA Design A and B. Therefore, DOE has modified the efficiency tables as suggested. See Section IV.A.2.c for further detail. DOE notes that the standards adopted today, as well as those proposed in the NOPR, as well as those suggested by the Motor Coalition, still contain efficiency values for 300 and 350 hp 6 pole motors which are the same as their corresponding 250 hp values and which are not found on MG 1–2011's Table 12–12.

In response to the NOPR, CEC sought clarification on the efficiency levels selected by DOE for Design C motors. CEC commented that it expected DOE to choose a baseline above the current market minimum. Second, CEC asked for clarification regarding the selected ECG 2 representative unit picked to

[53] DOE understands that this is not true for every equipment classes covered by this rulemaking, but has not seen evidence to suggest that the absence of equipment in any particular classes is not due to lack of market demand instead of technological limitations.

represent the efficiency levels and noted that the baseline level was below the EPACT 1992 level for the 50 horsepower motor. Third, CEC asked clarification regarding the EL numbering for ECG 2 in Table IV.11 of the NOPR. (CEC, No. 96 at p. 3)

Both ECG 1 and ECG 2 contain currently regulated and unregulated electric motors. For the baseline, DOE selected the lowest efficiency level available for unregulated motors for all motors in this group rather than applying the current standard requirements to an ECG that includes unregulated motors. However, in estimating the base case efficiency distribution, DOE accounted for the fact that the regulated motors are already at least at the current standard requirements. See Chapter 10 of the TSD for details.

With respect to the EL numbering in Table IV.10 of the NOPR, DOE notes that the table's values should have begun at EL 0 (instead of EL 1) and reached EL 2 (instead of EL 3). DOE always labels its baseline ''EL 0'' in this rulemaking, and the error was limited to mislabeling of the table in question rather than a more fundamental mistake in the analysis. In other words, there are no representative units for which the analysis should be at EL 1, as had been indicated in the NOPR's Table V.10. This mislabeling was confined to the table in question and has been fixed for the final rule.

4. Testing and Teardowns

Whenever possible, DOE attempted to base its engineering analysis on actual electric motors being produced and sold in the market today. First, DOE identified electric motors in manufacturer catalogs that represented a range of efficiencies corresponding to the ELs discussed in the previous sections. Next, DOE had the electric motors shipped to a certified testing laboratory where each was tested in accordance with IEEE Standard 112 (Test Method B) to verify its nameplate-rated efficiency. After testing, DOE derived production and material costs by having a professional motor laboratory [54] disassemble and inventory the purchased electric motors. For ECG 1, DOE obtained tear-down results for all of the 5-horsepower ELs and all of the 30- and 75-horsepower ELs except the max-tech levels. For ECG 2, DOE obtained tear-down results only for the baseline EL, which corresponds to EPACT 1992 efficiency levels.

These tear-downs provided DOE with the necessary data to construct a bill of materials (BOM), which, along with a standardized cost model and markup structure, DOE could use to estimate a manufacturer selling price (MSP). DOE paired the MSP derived from the tear-down with the corresponding nameplate nominal efficiency to report the relative costs of achieving improvements in energy efficiency. DOE's estimates of material prices came from a combination of current, publicly available data, manufacturer feedback, and conversations with its SME. DOE supplemented the findings from its tests and tear-downs through: (1) a review of data collected from manufacturers about prices, efficiencies, and other features of various models of electric motors, and (2) interviews with manufacturers about the techniques and associated costs used to improve efficiency.

As discussed earlier, DOE's engineering analysis documents the design changes and associated costs when improving electric motor efficiency from the baseline level up to a max-tech level. This includes considering improved electrical steel for the stator and rotor, interchanging aluminum and copper rotor bar material, increasing stack length, and any other applicable design options remaining after the screening analysis. As each of these design options are added, the manufacturer's cost increases and the electric motor's efficiency improves.

At the preliminary analysis stage, DOE received multiple comments regarding its test and tear-down analysis. (NEMA, No. 54 at p. 27, 74–75) In its NOPR response, DOE stated that it accurately captured such changes because electric motor was torn down, components such as electrical steel and copper wiring were weighed. 78 FR 73629.

DOE noted in the NOPR and re-assert today that an increased sample size would improve the value of efficiency used in its analysis, but only if DOE were using an average full-load efficiency value, as it did for the small electric motors rulemaking engineering analysis, which did not have the benefit of NEMA-developed nominal efficiency values. *See* 78 FR 73629. For the analysis in the NOPR and the final rule, DOE did not use the tested efficiency value and believes that to do so would be erroneous precisely because it only tested and tore down one unit for a given representative unit and EL. Rather than using an average efficiency of a sample of multiple units that is likely to change with each additional motor tested, DOE elected to use the nameplate NEMA nominal efficiency given. DOE understands that this value, short of testing data, is the most accurate value to use to describe a statistically valid population of motors of a given design; that is, in part, why manufacturers use NEMA nominal efficiencies on their motors' nameplates.

Also, DOE believes that the bill of materials generated is more is likely to be representative of the motor's nominal efficiency value rather efficiency than as-tested. DOE believes that the variance from unit-to-unit, in terms of materials, is likely to be insignificant because manufacturers have an incentive to produce equipment with consistent performance (*i.e.,* characteristics other than efficiency). Changes in the tested efficiency are likely to occur because of variations in production that motor manufacturers have less control over (*e.g.,* the quality of the electrical steel). DOE does not believe that the amount of material (in particular, electrical steel, copper wiring, and die-cast material) from unit-to-unit for a given design is likely to change significantly, if at all, because manufacturers have much greater control of those production variables. Therefore, additional tests and tear-downs are unlikely to change the MSP estimated for a given motor design and DOE believes that its sample size of one is appropriate.

In the preliminary engineering analysis, DOE replaced a tear-down result with a software model for CSL 2 of its 30-horsepower representative unit because it believed that it had inadvertently tested and torn down a motor with an efficiency equivalent to CSL 3. DOE noted that it removed the tear-down because there was conflicting efficiency information on the Web site, in the catalog, and on the physical nameplate. Subsequently, NEMA and Baldor commented that the 30-horsepower, CSL 2 motor should not have been replaced with a software-modeled motor, stating that the test result was statistically viable. (NEMA, No. 54 at pp. 76–79; Baldor, Pub. Mtg. Tr., No. 60 at pp. 150–155) NEMA and Baldor also asserted that DOE had placed emphasis on the use of purchased motors in its analysis only when the tested value of efficiency was less than or not significantly greater than the marked value of NEMA efficiency. (NEMA, No. 54 at p. 80; Baldor, Pub. Mtg. Tr., No. 60 at pp. 156, 157)

[54] The Center for Electromechanics at the University of Texas at Austin, a 140,000 sq. ft. lab with 40 years of operating experience, performed the teardowns, which were overseen by Dr. Angelo Gattozzi, an electric motor expert with previous industry experience. DOE also used Advanced Energy Corporation of North Carolina to perform some of the teardowns.

DOE understands that the test result may have been viable for either of the efficiency ratings that the manufacturer had assigned. Given the uncertainty, however, DOE elected to replace the motor. For its updated NOPR engineering analysis, DOE has tested and torn down a new 30-horsepower motor to describe CSL 2. As stated previously, DOE always prefers to base its analysis using motors purchased in the market when possible.

After DOE's tear-down lab determined that the torn-down motors were machine-wound, a precise measurement of the slot fill was not taken. Although the actual measurement of slot fill has no bearing on the estimates of the MSP, because the actual copper weights were measured and not calculated, DOE did ask its lab to provide actual measurements of slot fill on any subsequent tear-downs and has included the data in chapter 5 of the TSD.

5. Software Modeling

DOE worked with technical experts to develop certain ELs, in particular, the max-tech efficiency levels for each representative unit analyzed. To this end, DOE retained an electric motors (SME [55] with significant experience in terms of both design and related software, who prepared a set of electric motor designs with increasing efficiency. The software program used for this analysis is a proprietary software program called VICA.[56] The SME also checked his designs against tear-down data and calibrated the software using the relevant test results. As new designs were created, DOE's SME ensured that the critical performance characteristics that define a NEMA design letter (*e.g.,* locked-rotor torque, breakdown torque, pull-up torque, and locked-rotor currents) were maintained. For a given representative unit, DOE ensured that the modeled electric motors met the same set of torque and locked-rotor current requirements as the purchased electric motors. This was done to ensure that the utility of the baseline unit was maintained as efficiency improved, and that the unit in question did not meet the criteria of a different equipment class. Additionally, DOE limited its modeled stack length increases based on teardown data and maximum ''C'' dimensions found in manufacturer's catalogs, also to ensure the utility of the baseline units was maintained [57] DOE has provided comparisons of software estimates and tested efficiencies in Appendix 5C of the TSD.

During the preliminary analysis, DOE approached motor laboratories in an attempt to build physical prototypes of its software models. DOE was unable to identify a laboratory that could prototype its software-modeled motors in a manner that would exactly replicate the designs produced (*i.e.,* they could not die-cast copper). Consequently, DOE did not build a prototype of its software models. However, DOE was able to procure a 5-horsepower NEMA Design B die-cast copper rotor motor with an efficiency two NEMA bands above the premium efficiency level. Therefore, DOE elected to use this design to represent the max-tech EL for the 5-horsepower representative unit in equipment class group 1, rather than the software-modeled design used in the preliminary analysis. DOE's SME used information gained from testing and tearing down this motor to help corroborate the software modeling.

Since that time, DOE has conducted further calibration of its software program using data obtained from motor teardowns, has provided comparisons of software estimates, and tested efficiencies for both aluminum and copper rotor motors in Appendix 5C of the TSD. DOE eliminated designs from its preliminary analysis because of concerns regarding the feasibility of certain efficiency levels. Regarding performance parameters beyond efficiency,[58] DOE understands that these characteristics must be maintained when improving an electric motor's efficiency. However, the performance parameters DOE believed to present the largest risk of rendering a motor noncompliant with NEMA MG 1–2011 standards were those related to NEMA design letter, and these were adhered to in DOE's modeling efforts. Based on comparisons of motor teardowns and software estimates, DOE has no reason at this time to believe that its modeled designs would violate the additional performance parameters.

DOE's SME, who has been designing electric motors for several decades, is well qualified to understand the design tradeoffs that must be considered. Although the SME's primary task was to design a more-efficient motor using various technologies, it was of critical importance that the designs be feasible. Even though DOE was unable to prototype its modeled designs, DOE has conducted comparisons of software estimates and tested efficiencies for both aluminum and copper rotor motors and has concluded that these actions corroborate the modeled designs. Based on this work and its total analysis, which included input from its SME, DOE has concluded that it has developed a sufficiently robust set of technically feasible efficiency levels for its engineering analysis.

In the final rule TSD, DOE also shows that any increase in stack length would fit into the existing frame designation for that particular motor rating. (DOE noted that the frame designation does not limit frame length, but rather frame diameter.) DOE understands that manufacturers have fixed-length frames that they use when manufacturing motors. In addition to generating per-unit costs associated with redesigning motors with new frames at all ELs above the premium efficiency levels (see section IV.C.6), DOE sought to maintain motor length by limiting how much it would modify stack dimensions to improve efficiency. First, the software models created by DOE used lamination diameters observed during teardowns, which ensured that the software-modeled designs would fit into existing frame designations. However, for some designs, DOE increased the number of laminations (*i.e.,* length of the stack of laminations, or stack length) beyond the stack lengths observed during the motor teardowns in order to achieve the desired efficiency gains.

DOE limited the amount by which it would increase the stack length of its software-modeled electric motors in order to preserve the motor's utility. The maximum stack lengths used in the software-modeled ELs were determined by first analyzing the stack lengths and ''C'' dimensions of torn-down electric motors. Then, DOE analyzed the ''C'' dimensions of various electric motors in the marketplace conforming to the same design constraints as the representative units (same horsepower rating, NEMA frame size, enclosure type, and pole configuration). For each representative unit, DOE found the largest ''C'' dimension currently available on the marketplace and estimated a maximum stack length based on the stack length to ''C'' dimension ratios of motors it tore down. The resulting equipment served as the basis for the maximum stack length value that DOE used in its software-modeled designs, although DOE notes that it did not always model a motor with that maximum stack length. In most instances, the SME was

[55] Dr. Howard Jordan, Ph.D., an electric motor design expert with over 40 years of industry experience, served as DOE's subject matter expert.

[56] VICA stands for ''Veinott Interactive Computer Aid''.

[57] The ''C'' dimension of an electric motor is the length of the electric motor from the end of the shaft to the end of the opposite side's fan cover guard. Essentially, the ''C'' dimension is the overall length of an electric motor including its shaft extension.

[58] For example, locked-rotor current or locked-rotor torque.

able to achieve the desired improvement in efficiency with a stack length shorter than DOE's estimated maximum. Table IV.14 presents the estimated maximum stack length,[59] the maximum stack length found during tear-downs, and the maximum stack length modeled for a given representative unit. DOE notes that the 5-horsepower Design B representative unit is not shown because modeling was not performed, as described earlier.

TABLE IV.14—MAXIMUM STACK LENGTH DATA

Representative unit	Estimated maximum stack length	Maximum stack length of a torn down motor	Maximum stack length modeled
30 Horsepower Design B	8.87 in	8.02 in. (EL 2)	7.00 in.
75 Horsepower Design B	13.06 in	11.33 in. (EL 3)	12.00 in.
5 Horsepower Design C	5.80 in	4.75 in. (EL 0)	5.32 in.
50 Horsepower Design C	9.55 in	8.67 in. (EL 0)	9.55 in.

During the NOPR public meeting, several parties commented with respect to modeling. Noting that all the components of loss are first calculated and summed together to obtain efficiency, Nidec sought clarification as to how friction and windage component losses (mechanical loss), I^2R losses and stray losses were obtained. Nidec also sought clarification on how the area of conductors was calculated to obtain slot fill. (Nidec, Pub. Mtg. Tr., No. 87 at pp. 103–108) Regal Beloit commented that the VICA program used by DOE's SME to model efficiency may be over ten years old. (Regal Beloit, Pub. Mtg. Tr., No. 87 at p. 110)

DOE responded that the friction and windage losses were input items into the VICA program and were obtained as average values from data on various frame sizes. I^2R losses and stray losses were also input items into VICA. Stray losses were obtained as a percentage of the full-load value. DOE performed correlations of the estimated value and the values obtained from the testing of motors. DOE found that the estimated value was very close to the average of tested values. DOE also noted that the square method was used to calculate the area of the conductor. The number of conductors in the slot was multiplied by the square of the conductor diameter.

6. Cost Model

When developing manufacturer selling prices (MSPs) for the motor designs obtained from DOE's tear-downs and software models, DOE used modeling to generate a more accurate approximation of the costs necessary to improve electric motor efficiency. DOE derived the manufacturer's selling price for each design in the engineering analysis by considering the full range of production and non-production costs. The full production cost is a combination of direct labor, direct materials, and overhead. The overhead contributing to full production cost includes indirect labor, indirect material, maintenance, depreciation, taxes, and insurance related to company assets. Non-production cost includes the cost of selling, general and administrative items (market research, advertising, sales representatives, logistics), research and development (R&D), interest payments, warranty and risk provisions, shipping, and profit factor. Because profit factor is included in the non-production cost, the sum of production and non-production costs is an estimate of the MSP. DOE utilized various markups to arrive at the total cost for each component of the electric motor, which are detailed in chapter 5 of the final rule TSD. The following subsections discuss specific features of the DOE's cost model.

a. Copper Pricing

DOE conducted the engineering analysis using material prices based on manufacturer feedback, industry experts, and publicly available data. In the preliminary analysis, most material prices were based on 2011 prices, with the exception of cast copper and copper wire pricing, which were based on a five-year (2007–2011) average price.

Noting the comments of interested parties during the preliminary analysis phase, DOE slightly modified its approach in the NOPR. First, DOE added updated data for 2012 pricing. Second, rather than a five-year average, DOE changed to a three-year average price for copper materials. DOE made this modification based on feedback received during manufacturer interviews. By reducing to a three-year average, DOE eliminated data from 2008 and 2009, which manufacturers believed were unrepresentative data points due to the recession. Data from those two years had the effect of depressing the five-year average calculated.

In response to the NOPR, NEMA raised concern about the potential for copper price volatility. (NEMA, No. 93 at p. 12)

DOE acknowledges that price volatility can affect the economic results of a standards rulemaking, either in the positive or negative direction depending on the relative movement of raw materials and energy. To diminish the effect of volatility on the engineering analysis results, DOE used a 3-year average for copper, from 2010–2012. DOE's understanding is that manufacturers may choose to use financial instruments in cases where raw material volatility is exceptionally high in order to guarantee margins. Although DOE has not published a formal materials price sensitivity in this rulemaking, it observes that for the highest ELs examined across all representative units, copper cost amount to roughly 3 percent of the installed price. At these levels, copper would have to more than quadruple in price in order to increase installed price by 10 percent. At the levels being adopted in today's rule, however, DOE's engineering analysis does not suggest significantly increased demand for copper and, therefore, does not suggest significantly increased exposure to volatility in copper price. DOE discusses material pricing in greater detail in Appendix 5A of the final rule TSD.

b. Labor Rate and Non-Production Markup

In the preliminary analysis, DOE looked at the percentage of electric motors imported into the U.S. and the percentage of electric motors built domestically and calculated the ratio of foreign and domestic labor rates on these percentages. During the preliminary analysis public meeting, Nidec commented that the labor rate DOE used in its analysis seems high if

[59] Based on manufacturer product offerings. See Chapter 5 of the TSD for details.

that number is weighted towards offshore labor. Nidec agreed with DOE's smaller markup on the lower-horsepower motors, but commented that the overall markups seem to be high. (Nidec, Pub. Mtg. Tr., No. 60 at p. 184) WEG commented that DOE was adequately addressing the cost structure variations among the different motor manufacturers. Additionally, WEG stated that basing a labor rate on both foreign and domestic labor rates increases accuracy of the analysis, but that it could encourage production moving outside the United States. (WEG, Pub. Mtg. Tr., No. 60 at pp. 184–186)

In the NOPR, and again in today's final rule, DOE elected to keep the same labor rates and markups as were used in the preliminary analysis. DOE is basing this decision on additional feedback received during interviews with manufacturers (which suggested that DOE's labor rates and markups are appropriate) and the absence of any alternative labor rate or markups to apply. DOE does not expect that use of the most accurate labor rates possible in its analyses will contribute to outsourcing of jobs in the electric motors industry.

Finally, DOE is aware of potential cost increases caused by increased slot fill,[60] including the transition to hand-wound stators in motors requiring higher slot fills. In the preliminary analysis, DOE assigned a higher labor hour to any tear-down motor which it determined to be hand-wound. DOE found that none of the tear-down motors were hand-wound, and, therefore, no hand-winding labor-hour amounts were assigned. This has been clarified in the final rule analysis. Additionally, DOE has assumed that all of its max-tech software models require hand-winding, which is reflected in its increased labor time assumptions for those motors. For additional details, please see chapter 5 of the final rule TSD.

DOE understands that lower-volume equipment will often realize higher per-unit costs, and has concluded that this reality is common to most or all manufacturing processes in general. Because DOE's analysis focuses on the differential impacts on cost due to energy conservation standards, and because DOE has no evidence to suggest a significant market shift to lower production volume equipment in a post-standards scenario, DOE expects that the relative mix of high-volume and low-volume production would be preserved. Indeed, because DOE is expanding the scope of coverage and bringing many previously excluded motor types to premium efficiency levels, DOE sees the possibility that standardization may increase and that average production volume may, in fact, rise.[61]

c. Catalog Prices

At the preliminary analysis stage, NEMA requested that DOE publish the purchase price for its torn-down motors, so that they could be compared to the MSPs DOE derived from its motor tear-downs. (NEMA, No. 54 at p. 27; Baldor, Pub. Mtg. Tr., No. 60 at pp. 181, 182) As stated in the NOPR[62] and reaffirmed today, DOE elects not to include the purchase price for its torn-down motors. DOE believes that such information is not relevant and could lead to erroneous conclusions. Some of the purchased motors were more expensive to purchase based on certain features that do not affect efficiency, which could skew the price curves incorrectly and indicate incorrect trends. For these reasons, in the engineering analysis, DOE develops its own cost model so that a consistent cost structure can be applied to similar equipment. The details of this model are available in Appendix 5A of the final rule TSD. Because DOE purchased electric motors that were built by different manufacturers and sold by different distributors, who all have different costs structures, DOE does not believe that such a comparison as NEMA suggests would provide a meaningful evaluation.

d. Product Development Cost

DOE's preliminary analysis cost model included an incremental markup used to account for higher production costs associated with manufacturing copper die-cast rotors. Although DOE used this incremental markup in the preliminary analysis, after conducting manufacturer interviews, it determined that additional cost adders were warranted for the examined ELs that exceeded the premium efficiency level. For the NOPR and final rule, DOE developed a per-unit adder[63] for the manufacturer production costs (MPCs) intended to capture one-time increased equipment development and capital conversion costs that would likely result if an energy conservation standard with an efficiency level above premium efficiency levels were established.

DOE's per-unit adder reflects the additional cost passed along to the consumer by manufacturers attempting to recover the costs incurred from having to redevelop their equipment lines as a result of higher energy conservation standards. The conversion costs incurred by manufacturers include capital investment (*e.g.,* new tooling and machinery), equipment development (*e.g.,* reengineering each motor design offered), plus testing and compliance certification costs.

The conversion cost adder was only applied to ELs above premium efficiency based on manufacturer feedback. Most manufacturers now offer premium efficiency motors for a significant portion of their equipment lines as a result of EISA 2007, which required manufacturers to meet this level. Many manufacturers also offer certain ratings with efficiency levels higher than premium efficiency. However, DOE is not aware of any manufacturer with a complete line of motors above premium efficiency. Consequently, DOE believes that energy conservation standards above premium efficiency would result in manufacturers incurring significant conversion costs to bring offerings of electric motors up to the higher standard.

DOE developed the various conversion costs from data collected during manufacturer interviews that were conducted for the Manufacturer Impact Analysis (MIA). For more information on the MIA, see chapter 12 of the final rule TSD. DOE used the manufacturer-supplied data to estimate industry-wide capital conversion costs and equipment conversion costs for each EL above premium efficiency. DOE then assumed that manufacturers would mark up their motors to recover the total conversion costs over a seven-year period. By dividing industry-wide conversion costs by seven years of expected industry-wide revenue, DOE obtained a percentage estimate of how much each motor would be marked up by manufacturers. The conversion costs as a percentage of seven-year revenue that DOE derived for each NEMA band above premium efficiency are shown below. Details on these calculations are shown in Chapter 5 of the final rule TSD.

[60] A measure of how efficiently conductor is packed into the stator slots, which affects efficiency.

[61] Labor costs may rise starkly at max-tech levels, where hand-winding is employed in order to maximize slot fill. DOE's engineering analysis reflects this fact.

[62] *See* 78 FR 73633.

[63] The ''per-unit adder'' discussed in this section refers to a fixed adder for each motor that varies based on horsepower and NEMA design letter. Each representative unit has their own unique ''per-unit adder'' that is fixed for the analysis.

TABLE IV.15—PRODUCT CONVERSION COSTS AS A PERCENTAGE OF 7-YEAR REVENUE

NEMA Bands above premium efficiency	Conversion costs as a percentage of 7-year revenue
1	4.1%
2	6.5%

The percentage markup was then applied to the full production cost (direct material + direct labor + overhead) at the premium efficiency levels to derive the per-unit adder for levels above premium efficiency (see Table IV.16). DOE received no comments in response to the NOPR and maintained its approach for the final rule.

TABLE IV.16—PRODUCT CONVERSION COSTS FOR EFFICIENCY LEVELS ABOVE PREMIUM EFFICIENCY

Representative unit	Per-unit adder for 1 band above premium efficiency (2013$)	Per-unit adder for 2 bands above premium efficiency (2013$)
5 hp, Design B	$11.06	$17.36
30 hp, Design B	32.89	51.61
75 hp, Design B	66.18	103.86
5 hp, Design C	10.68	16.75
50 hp, Design C	60.59	95.08

7. Engineering Analysis Results

The results of the engineering analysis are reported as cost-versus-efficiency data in the form of MSP (in dollars) versus nominal full-load efficiency (in percentage). These data form the basis for subsequent analyses in today's notice. Table IV.17 through Table IV.21 show the results of DOE's updated engineering analysis.

Results for Equipment Class Group 1 (NEMA Design A and B Motors)

TABLE IV.17—MANUFACTURER SELLING PRICE AND EFFICIENCY FOR 5-HORSEPOWER REPRESENTATIVE UNIT

Efficiency level	Efficiency (%)	Manufacturer selling price (2013$)
EL 0 (Baseline)	82.5	333
EL 1 (EPACT 1992)	87.5	344
EL 2 (Premium Efficiency)	89.5	371
EL 3 (Best-in-Market)	90.2	406
EL 4 (Max-Tech)	91.0	677

TABLE IV.18—MANUFACTURER SELLING PRICE AND EFFICIENCY FOR 30-HORSEPOWER REPRESENTATIVE UNIT

Efficiency level	Efficiency (%)	Manufacturer selling price (2013$)
EL 0 (Baseline)	89.5	856
EL 1 (EPACT 1992)	92.4	1,096
EL 2 (Premium Efficiency)	93.6	1,168
EL 3 (Best-in-Market)	94.1	1,308
EL 4 (Max-Tech)	94.5	2,077

TABLE IV.19—MANUFACTURER SELLING PRICE AND EFFICIENCY FOR 75-HORSEPOWER REPRESENTATIVE UNIT

Efficiency level	Efficiency (%)	Manufacturer selling price (2013$)
EL 0 (Baseline)	93.0	1,910
EL 1 (EPACT 1992)	94.1	2,068
EL 2 (Premium Efficiency)	95.4	2,351
EL 3 (Best-in-Market)	95.8	2,804
EL 4 (Max-Tech)	96.2	3,656

Results for Equipment Class Group 2 (NEMA Design C Motors)

TABLE IV.20—MANUFACTURER SELLING PRICE AND EFFICIENCY FOR 5-HORSEPOWER REPRESENTATIVE UNIT

Efficiency level	Efficiency (%)	Manufacturer selling price (2013$)
EL 0 (Baseline/EPACT 1992)	87.5	334
EL 1 (Premium Efficiency)	89.5	358
EL 2 (Max-Tech)	91.0	627

TABLE IV.21—MANUFACTURER SELLING PRICE AND EFFICIENCY FOR 50-HORSEPOWER REPRESENTATIVE UNIT

Efficiency level	Efficiency (%)	Manufacturer selling price (2013$)
EL 0 (Baseline/EPACT 1992)	93.0	1,552
EL 1 (Premium Efficiency)	94.5	2,152
EL 2 (Max-Tech)	95.0	2,612

Results for Equipment Class Group 3
(Fire Pump Electric Motors)

TABLE IV.22—MANUFACTURER SELLING PRICE AND EFFICIENCY FOR 5-HORSEPOWER REPRESENTATIVE UNIT

Efficiency level	Efficiency (%)	Manufacturer selling price (2013$)
EL 0 (Baseline/EPACT 1992)	87.5	344
EL 1 (Premium Efficiency)	89.5	371
EL 2 (Best-in-Market)	90.2	406
EL 3 (Max-Tech)	91.0	677

TABLE IV.23—MANUFACTURER SELLING PRICE AND EFFICIENCY FOR 30-HORSEPOWER REPRESENTATIVE UNIT

Efficiency level	Efficiency (%)	Manufacturer selling price (2013$)
EL 0 (Baseline/EPACT 1992)	92.4	1,096
EL 1 (Premium Efficiency)	93.6	1,168
EL 2 (Best-in-Market)	94.1	1,308
EL 3 (Max-Tech)	94.5	2,077

TABLE IV.24—MANUFACTURER SELLING PRICE AND EFFICIENCY FOR 75-HORSEPOWER REPRESENTATIVE UNIT

Efficiency level	Efficiency (%)	Manufacturer selling price (2013$)
EL 0 (Baseline/EPACT 1992)	94.1	2,068
EL 1 (Premium Efficiency)	95.4	2,351
EL 2 (Best-in-Market)	95.8	2,804
EL 3 (Max-Tech)	96.2	3,656

8. Scaling Methodology

Once DOE has identified cost-efficiency relationships for its representative units, it must appropriately scale the efficiencies analyzed for its representative units to those equipment classes not directly analyzed. DOE recognizes that scaling motor efficiencies is a complicated proposition that has the potential to result in efficiency standards that are not evenly stringent across all equipment classes. However, between DOE's three ECGs, there are 482 equipment classes, reflecting the various combinations of horsepower rating, pole configuration, and enclosure. Within these combinations, there are a large number of standardized frame number series. Given the sizable number of frame number series and equipment classes, DOE cannot feasibly analyze all of these variants directly, hence, the need for scaling. Thus, scaling across horsepower ratings, pole configurations, enclosures, and frame number series is a necessity.

For the preliminary analysis, DOE considered two methods to scaling, one that develops a set of power law equations based on the relationships found in the EPACT 1992 and Premium tables of efficiency in MG 1, and one based on the incremental improvement in motor losses. As discussed in the preliminary analysis, DOE did not find a large discrepancy between the results of the two approaches and, therefore,

used the simpler, incremental improvement in motor losses approach in its final rule analysis.

As discussed in section IV.C.3, some of the ELs analyzed by DOE were based on existing efficiency standards (*i.e.,* EPACT 1992 and premium efficiency). Additionally, the baseline EL is based on the lowest efficiency levels found for each horsepower rating, pole configuration, and enclosure type observed in motor catalog data. Therefore, DOE only required the use of scaling when developing the two ELs above premium efficiency (only one EL above premium efficiency for ECG 2).

For the higher ELs in ECG 1, DOE's scaling approach relies on NEMA MG 1–2011 Table 12–10 of nominal efficiencies and the relative improvement in motor losses of the representative units. As has been discussed, each incremental improvement in NEMA nominal efficiency (or NEMA band) corresponds to roughly a 10-percent reduction in motor losses. After ELs 3 and 4 were developed for each representative unit, DOE applied the same reduction in motor losses (or the same number of NEMA band improvements) to various segments of the market based on its representative units. DOE assigned a segment of the electric motors market, based on horsepower ratings, to each representative unit analyzed. DOE's assignments of these segments of the markets were in part based on the standardized NEMA frame number series that NEMA MG 1–2011 assigns to horsepower and pole combinations. In the end, EL 3 corresponded to a one band improvement relative to premium efficiency level, and EL 4 corresponded to a two-band improvement relative to premium efficiency level.

DOE maintains that scaling is a tool necessary to analyze the potential effects of energy conservation standards above premium efficiency levels. As stated earlier, DOE is evaluating energy conservation standards for 482 equipment classes. DOE acknowledges that analyzing every one of these classes individually is not feasible, which requires DOE to choose representative units on which to base its analysis. Consequently, DOE has concluded that scaling is necessary and suitable for establishing appropriate efficiency levels for new or amended energy conservation standards for electric motors.

However, DOE notes that its analysis neither assumes nor requires manufacturers to use identical technology for all motor types and horsepower ratings. In other words, although DOE may choose a certain set of technologies to estimate cost behavior at varying efficiencies, DOE's standards are technology-neutral and permit manufacturers design flexibility. DOE clarifies that the national impacts analysis is one of the primary ways in which DOE analyses those potential efficiency levels and determines if they would be economically justified. As DOE has stated, it is also important that the levels be technically feasible. In order to maintain technical feasibility, DOE has maintained the scaling approach that it developed for the preliminary analysis, which accomplishes that objective while maintaining the use of NEMA nominal efficiencies. For each incremental EL above the premium efficiency level, DOE has incremented possible efficiency levels by just one band of efficiency. Through the use of this conservative approach to scaling, DOE believes that it has helped ensure the technological feasibility of each of its ELs to the greatest extent practicable. DOE received no comments in response to the NOPR on this issue and has maintained its approach for the final rule.

D. Markups Analysis

The markups analysis develops appropriate markups in the distribution chain to convert the estimates of manufacturer selling price derived in the engineering analysis to customer prices (the term ''customer'' refers to purchasers of the equipment being regulated). For the NOPR, DOE determined the distribution channels for electric motors, the percentage of shipments sold through either of these channels, and the markups associated with the main parties in the distribution chain (distributors and contractors).

Several stakeholders, including NEMA and NEEA, commented that the OEM distribution channel (manufacturer to OEM to end-user), which represents the distribution channel for 50 percent of shipments, is further divided into shipments going directly to the user (25 percent) and shipments going through a distributor and then to the customer (25 percent). (WEG, NEMA, NEEA, Pub. Mtg. Tr., No. 87 at p. 131) For the final rule, DOE modified its distribution channels in accordance with the channels and shares described by the commenters.

DOE developed average distributor and contractor markups by examining the contractor cost estimates provided by RS Means Electrical Cost Data 2013.[64] DOE calculates baseline and overall incremental markups based on the equipment markups at each step in the distribution chain. The incremental markup relates the change in the manufacturer sales price of higher-efficiency models (the incremental cost increase) to the change in the customer price. Chapter 6 of the final rule TSD addresses estimating markups.

E. Energy Use Analysis

The energy use analysis provides estimates of the annual energy consumption of commercial and industrial electric motors at the considered efficiency levels. DOE uses these values in the LCC and PBP analyses and in the NIA. DOE developed energy consumption estimates for all equipment analyzed in the engineering analysis.

The annual energy consumption of an electric motor that has a given nominal full-load efficiency depends on the electric motor's sector (industry, agriculture, or commercial) and application (compressor, fans, pumps, material handling, fire pumps, and others), which in turn determine the electric motor's annual operating hours and load.

To calculate the annual kilowatt-hours (kWh) consumed at each efficiency level in each equipment class, DOE used the nominal efficiencies at various loads from the engineering analysis, along with estimates of operating hours and electric motor load for electric motors in various sectors and applications.

In the preliminary analysis, DOE used statistical information on annual electric motor operating hours and load derived from a database of more than 15,000 individual motor field assessments obtained through the Washington State University and the New York State Energy Research and Development Authority[65] to determine the variation in field energy use in the industrial sector. For the agricultural and the commercial sectors, DOE relied on data found in the literature.

As part of its NOPR analysis, for the industrial sector, DOE re-examined its initial usage profiles and recalculated motor distribution across applications, operating hours, and load information based on additional motor field data

[64] RS Means (2013), Electrical Cost Data, 36th Annual Edition (Available at: *http://www.rsmeans.com*).

[65] Database of motor nameplate and field measurement data compiled by the Washington State University Extension Energy Program (WSU) and Applied Proactive Technologies (APT) under contract with the New York State Energy Research and Development Authority (NYSERDA). 2011.

compiled by the Industrial Assessment Center at the University of Oregon,[66] which includes over 20,000 individual motor records. For the agricultural sector, DOE revised its average annual operating hours assumptions based on additional data found in the literature. No changes were made to the commercial sector average annual operating hours.

In response to the NOPR, DOE did not receive any comments regarding the energy use analysis and retained the same approach for the final rule. Chapter 7 of the final rule TSD describes the energy use analysis in further detail.

F. Life-Cycle Cost and Payback Period Analysis

For each representative unit analyzed in the engineering analysis, DOE conducts LCC and PBP analyses to evaluate the economic impacts on individual customers of potential energy conservation standards for electric motors. The LCC is the total customer expense over the life of the motor, consisting of equipment and installation costs plus operating costs over the lifetime of the equipment (expenses for energy use, maintenance and repair). DOE discounts future operating costs to the time of purchase using customer discount rates. The PBP is the estimated amount of time (in years) it takes customers to recover the increased total installed cost (including equipment and installation costs) of a more efficient type of equipment through lower operating costs. DOE calculates the PBP by dividing the change in total installed cost (normally higher) due to a standard by the change in annual operating cost (normally lower) which results from the standard.

For any given efficiency level, DOE measures the PBP and the change in LCC relative to an estimate of the base-case efficiency levels. The base-case estimate reflects the market in the absence of new or amended energy conservation standards, including the market for equipment that exceeds the current energy conservation standards.

For each representative unit, DOE calculated the LCC and PBP for a distribution of individual electric motors across a range of operating conditions. DOE used Monte Carlo simulations to model the distributions of inputs. The Monte Carlo process statistically captures input variability and distribution without testing all possible input combinations. Therefore, while some atypical situations may not be captured in the analysis, DOE believes the analysis captures an adequate range of situations in which electric motors operate.

The following sections contain brief discussions of comments on the inputs and key assumptions of DOE's LCC and PBP analysis and explain how DOE took these comments into consideration.

1. Equipment Costs

In the LCC and PBP analysis, the equipment costs faced by electric motor purchasers are derived from the MSPs estimated in the engineering analysis and the overall markups estimated in the markups analysis.

To forecast a price trend for the NOPR analysis, DOE derived an inflation-adjusted index of the producer price index (PPI) for integral horsepower motors and generators manufacturing from 1969 to 2011. These data show a long-term decline in the PPI from 1985 to 2003, and a steep increase in the PPI since then. DOE also examined a forecast based on the ''chained price index—industrial equipment'' that was forecasted for *AEO2013* out to 2040. This index is the most disaggregated category that includes electric motors. These data show a short-term increase in the PPI from 2011 to 2015, and then a steep decrease. DOE believes that there is considerable uncertainty as to whether the recent increasing trend has peaked, and would be followed by a return to the previous long-term declining trend, or whether the recent trend represents the beginning of a long-term rising trend due to global demand for electric motors and rising commodity costs for key motor components. Given the uncertainty, DOE chose to use constant prices for both its LCC and PBP analysis and the NIA. For the NIA, DOE also analyzed the sensitivity of results to alternative electric motor price forecasts.

DOE did not receive comments on the trend it used for electric motor prices, and it retained the approach used in the NOPR analysis for the final rule.

2. Installation Costs

In the NOPR analysis, the engineering analysis showed that for some representative units, increased efficiency led to increased stack length. However, the electric motor frame remained in the same NEMA frame size requirements as the baseline electric motor, and the motor's ''C'' dimension remained fairly constant across efficiency levels. In addition, electric motor installation cost data from RS Means Electrical Cost Data 2013 showed a variation in installation costs by horsepower (for three-phase electric motors), but not by efficiency. Therefore, in the NOPR analysis, DOE assumed there is no variation in installation costs between a baseline efficiency electric motor and a higher efficiency electric motor.

DOE did not receive comments on the installation costs it used for electric motors, and it retained the approach used in the NOPR analysis for the final rule.

3. Maintenance Costs

In the NOPR analysis, DOE did not find data indicating a variation in maintenance costs between a baseline efficiency and higher efficiency electric motor. According to data from Vaughen's Price Publishing Company,[67] which publishes an industry reference guide on motor repair pricing, the price of replacing bearings, which is the most common maintenance practice, is the same at all efficiency levels. Therefore, DOE did not consider maintenance costs for electric motors. DOE did not receive comments on this issue and retained the approach used for the NOPR analysis for the final rule.

4. Repair Costs

In the NOPR analysis, DOE accounted for the differences in repair costs of a higher efficiency motor compared to a baseline efficiency motor and defined a repair as including a rewind and reconditioning. Based on data from Vaughen's, DOE derived a model to estimate repair costs by horsepower, enclosure and pole, for each EL.

The Electrical Apparatus Service Association (EASA), which represents the electric motor repair service sector, noted that DOE should clarify the definition of repair as including rewinding and reconditioning. (EASA, No. 86 at p. 1) DOE agrees with this suggestion and defines a motor repair as repair including rewinding and reconditioning.

5. Unit Energy Consumption

The analysis used in the final rule uses the same approach for determining unit energy consumptions (UECs) as the NOPR analysis. The UEC was determined for each application and sector based on estimated load points and annual operating hours.

6. Electricity Prices and Electricity Price Trends

In the NOPR analysis, DOE derived sector-specific weighted average electricity prices for four different U.S.

[66] Strategic Energy Group (January, 2008), Northwest Industrial Motor Database Summary. From Regional Technical Forum. Retrieved March 5, 2013 from *http://rtf.nwcouncil.org/subcommittees/osumotor/Default.htm.*

[67] Vaughen's (2011, 2013), Vaughen's Motor & Pump Repair Price Guide, 2011, 2013 Edition. *http://www.vaughens.com/.*

Bureau of the Census (Census) regions (Northeast, Midwest, South, and West) using data from the Energy Information Administration (EIA Form 861). For each utility in a region, DOE used the average industrial or commercial price, and then weighted the price by the number of customers in each sector for each utility.

For each representative motor, DOE assigned electricity prices using a Monte Carlo approach that incorporated weightings based on the estimated share of electric motors in each region. The regional shares were derived based on indicators specific to each sector (*e.g.,* commercial floor space from the Commercial Building Energy Consumption Survey for the commercial sector [68]) and assumed to remain constant over time. To estimate future trends in energy prices, DOE used projections from the EIA's Annual Energy Outlook 2013 (*AEO 2013*). DOE did not receive any comments regarding the electricity prices and today's rulemaking retains the same approach for determining electricity prices.

7. Lifetime

In the NOPR analysis, DOE estimated the mechanical lifetime of electric motors in hours (*i.e.,* the total number of hours an electric motor operates throughout its lifetime), depending on its horsepower size and sector of application. DOE then developed Weibull distributions of mechanical lifetimes. The lifetime in years for a sampled electric motor was then calculated by dividing the sampled mechanical lifetime by the sampled annual operating hours of the electric motor. DOE did not receive any comments regarding lifetimes and retained the same approach and lifetime assumptions for the final rule.

8. Discount Rate

DOE did not receive any comments regarding discount rates and retained the same approach as used in the NOPR for the final rule. The discount rate is the rate at which future expenditures are discounted to estimate their present value. The cost of capital commonly is used to estimate the present value of cash flows to be derived from a typical company project or investment. Most companies use both debt and equity capital to fund investments, so the cost of capital is the weighted-average cost to the firm of equity and debt financing. DOE uses the capital asset pricing model (CAPM) to calculate the equity capital component, and financial data sources to calculate the cost of debt financing.

For today's rulemaking, DOE estimated a statistical distribution of industrial and commercial customer discount rates by calculating the average cost of capital for the different types of electric motor owners (*e.g.,* chemical industry, food processing, and paper industry). For the agricultural sector, DOE assumed similar discount rates as in industry. More details regarding DOE's estimates of motor customer discount rates are provided in chapter 8 of the TSD.

9. Base Case Market Efficiency Distributions

For the LCC analysis, DOE analyzed the considered motor efficiency levels relative to a base case (*i.e.,* the case without new or amended energy efficiency standards). This requires an estimate of the distribution of equipment efficiencies in the base case (*i.e.,* what consumers would have purchased in the compliance year in the absence of new standards). DOE refers to this distribution of equipment energy efficiencies as the base case efficiency distribution.

Data on motor sales by efficiency are not available. In the preliminary analysis, DOE used the number of models meeting the requirements of each efficiency level from six major manufacturers and one distributor's catalog data to develop the base-case efficiency distributions. The distribution is estimated separately for each equipment class group and horsepower range and was assumed constant and equal to 2012 throughout the analysis period.

For the NOPR, DOE retained the same approach to estimate the base case efficiency distribution in 2012, but it updated the base case efficiency distributions to account for the NOPR engineering analysis (revised ELs) and for the update in the scope of electric motors considered in the analysis. Beyond 2012, DOE assumed the efficiency distributions for equipment class group 1 and 4 vary over time based on historical data [69] for the market penetration of Premium motors within the market for integral alternating current induction motors. For equipment class groups 2 and 3, which represent a very minor share of the market (less than 0.2 percent), DOE believes the overall trend in efficiency improvement for the total integral AC induction motors may not be representative, so DOE kept the base case efficiency distributions in the compliance year equal to 2012 levels. DOE did not receive additional comments and retained the same approach for the final rule.

10. Compliance Date

DOE calculated customer impacts as if each new electric motor purchase occurs in the year that manufacturers must comply with the standard. As discussed in section III.A, any amended standard for electric motors shall apply to electric motors manufactured on or after June 1, 2016. DOE has chosen to retain the same compliance date for both the amended and new energy conservation standards to simplify the requirements and to avoid any potential confusion for manufacturers.

11. Payback Period Inputs

The payback period is the amount of time it takes the consumer to recover the additional installed cost of more efficient equipment, compared to baseline equipment, through energy cost savings. Payback periods are expressed in years. Payback periods that exceed the life of the equipment mean that the increased total installed cost is not recovered in reduced operating expenses. DOE did not receive any comments regarding the PBP calculation.

The inputs to the PBP calculation are the total installed cost of the equipment to the customer for each efficiency level and the average annual operating expenditures for each efficiency level. The PBP calculation uses the same inputs as the LCC analysis, except that discount rates are not needed as it only takes into account the totaled installed costs and the first year of operating expenses.

12. Rebuttable-Presumption Payback Period

EPCA establishes a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing equipment complying with an energy conservation standard level will be less than three times the value of the energy (and, as applicable, water) savings during the first year that the consumer will receive as a result of the standard, as calculated under the test procedure in place for that standard. (42 U.S.C. 6295(o)(2)(B)(iii) and 6316(a)) For each considered efficiency level, DOE determines the value of the first year's energy savings by calculating the quantity of those savings in accordance

[68] U.S. Department of Energy Information Administration (2003), Commercial Buildings Energy Consumption Survey, *http://www.eia.gov/consumption/commercial/data/2003/pdf/a4.pdf.*

[69] Robert Boteler, USA Motor Update 2009, Energy Efficient Motor Driven Systems Conference (EEMODS) 2009.

with the applicable DOE test procedure, and multiplying that amount by the average energy price forecast for the year in which compliance with the new or amended standards would be required.

13. Comments on Other Issues

In response to DOE's request for comments regarding whether there are features or attributes of the more efficient electric motors that could impact how customers use their equipment. NEMA commented that higher efficiency motors could have increased inrush currents, reduced starting torque, longer frames, and higher speeds. (NEMA, No. 93 at p. 15).

DOE acknowledges that some manufacturers may choose to produce higher efficiency motors in a way that could impact the inrush current, starting torque, frame size, and speed. However, in the engineering analysis, for all efficiency levels, DOE analyzed motors that remain within the NEMA Design B design requirements for inrush currents and torque characteristics and kept the frame size constant. Therefore, DOE maintained installation costs constant across all efficiency levels (see section IV.F.2)

With respect to the potential for higher efficiency motors having higher speed, DOE acknowledges that this could occur and affect the benefits gained by using efficient electric motors. Although it is possible to quantify this impact for an individual motor, DOE was not able to extend this analysis to the national level because DOE does not have robust data related to the overall share of motors that would be negatively impacted by higher speeds. Instead, DOE developed assumptions [70] and estimated the effects of higher operating speeds as a sensitivity analysis in the LCC spreadsheet (see appendix 7–A of the final TSD).

G. Shipments Analysis

DOE uses projections of equipment 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 type of equipment.

To populate the model with current data, DOE used data from a market research report,[71] confidential inputs from manufacturers, trade associations, and other interested parties' responses to the 2011 RFI. DOE then used estimates of market distributions to redistribute the shipments across pole configurations, horsepower, and enclosures within each electric motor equipment class and also by sector.

DOE's shipments projection assumes that electric motor sales are driven by machinery production growth for equipment, including motors. DOE estimated that growth rates for total motor shipments correlate to growth rates in fixed investment in equipment and structures including motors, which is provided by the U.S. Bureau of Economic Analysis (BEA).[72] Projections of real gross domestic product (GDP) from *AEO 2013* for 2015–2040 were used to project fixed investments in equipment and structures including motors. The current market distributions are maintained over the forecast period.

For the preliminary analysis, DOE collected data on historical series of shipment quantities and values for the 1990–2003 period, but concluded that the data were not sufficient to estimate motor price elasticity.[73] Consequently, DOE assumed zero price elasticity for all efficiency standards cases and did not estimate any impact of potential standards levels on shipments. DOE requested stakeholder recommendations on data sources to help better estimate the impacts of increased efficiency levels on shipments. DOE did not receive further comments on this issue and retained the same approach for the final rule.

Including the NOPR's proposed expansion of motor coverage, DOE estimates total in-scope shipments were 5.43 million units in 2011. DOE did not receive any NOPR comments on shipments and maintained the same estimate for the final rule. For further information on DOE's shipments analysis, see chapter 9 of the final rule TSD.

H. National Impact Analysis

The NIA assesses the national energy savings (NES) and the national NPV of total customer costs and savings that would be expected to result from new and amended standards at specific efficiency levels.

To make the analysis more accessible and transparent to all interested parties, DOE used a spreadsheet model to calculate the energy savings and the national customer costs and savings from each TSL.[74] The NES and NPV are based on the annual energy consumption and total installed cost data from the energy use analysis and the LCC analysis. DOE forecasted the lifetime energy savings, energy cost savings, equipment costs, and NPV of customer benefits for each equipment class for equipment sold from 2016 through 2045. In addition, DOE analyzed scenarios that used inputs from the *AEO 2013* Low Economic Growth and High Economic Growth cases. These cases have higher and lower energy price trends compared to the reference case.

DOE evaluated the impacts of potential new and amended standards for electric motors by comparing base-case projections with standards-case projections. The base-case projections characterize energy use and customer costs for each equipment class in the absence of new and amended energy conservation standards. DOE compared these projections with projections characterizing the market for each equipment class if DOE were to adopt new or amended standards at specific energy efficiency levels (*i.e.,* the standards cases) for that class.

Table IV.25 summarizes all the major NOPR analysis inputs to the NIA and whether those inputs were revised for the final rule.

[70] DOE assumed that 60 percent of pumps, fans and compressor applications are variable torque applications. Of these 60 percent, DOE assumed that all fans and a majority (70 percent) of compressors and pumps would be negatively impacted by higher operating speeds; and that 30 percent of compressors and pumps would not be negatively impacted from higher operating speeds as their time of use would decrease as the flow increases with the speed (e.g. a pump filling a reservoir).

[71] IMS Research (February 2012), The World Market for Low Voltage Motors, 2012 Edition (Available at: *http://www.imsresearch.com/report/Motor_Drives_Low_Voltage_World_2012*).

[72] Bureau of Economic Analysis (March 1, 2012), Private Fixed Investment in Equipment and Software by Type and Private Fixed Investment in Structures by Type (Available at: *http://www.bea.gov/iTable/iTable.cfm?ReqID=12&step=1*).

[73] Business Trend Analysts, The Motor and Generator Industry, 2002; U.S. Census Bureau (November 2004), Motors and Generators—2003.MA335H(03)–1 (Available at: *http://www.census.gov/manufacturing/cir/historical_data/discontinued/ma335h/index.html*); and U.S. Census Bureau (August 2003), Motors and Generators—2002.MA335H(02)–1 (Available at: *http://www.census.gov/manufacturing/cir/historical_data/discontinued/ma335h/ma335h02.xls*).

[74] DOE's use of spreadsheet models provides interested parties with access to the models within a familiar context. In addition, the TSD and other documentation that DOE provides during the rulemaking help explain the models and how to use them, and interested parties can review DOE's analyses by changing various input quantities within the spreadsheet.

TABLE IV.25—INPUTS FOR THE NATIONAL IMPACT ANALYSIS

Input	NOPR Analysis description	Changes for final rule
Shipments	Annual shipments from shipments model.	No change.
Compliance date of standard	2016	No change.
Equipment Classes	Four separate equipment class groups for NEMA Design A and B motors, NEMA Design C motors, Fire Electric Pump Motors, and brake motors.	Three separate equipment class groups. Brake motors were added to ECG 1 (NEMA Design A and B motors).
Base case efficiencies	Constant efficiency from 2015 through 2044 for ECG 2 and 3.Trend for the efficiency distribution of ECG 1 and 4.	No change in methodology. Constant efficiency from 2016 through 2045 for ECG 2 and 3.Trend for the efficiency distribution of ECG 1.
Standards case efficiencies	Constant efficiency from 2015 through 2044 for ECG 2 and 3.Trend for the efficiency distribution of ECG 1 and 4.	No change in methodology. Constant efficiency from 2016 through 2045 for ECG 2 and 3.Trend for the efficiency distribution of ECG 1.
Annual energy consumption per unit.	Average unit energy use data are calculated for each horsepower rating and equipment class based on inputs from the Energy use analysis..	No change.
Total installed cost per unit	Based on the MSP and weight data from the engineering, and then scaled for different hp and enclosure categories..	No change.
Electricity expense per unit	Annual energy use for each equipment class is multiplied by the corresponding average energy price..	No change.
Escalation of electricity prices	*AEO 2013* forecasts (to 2035) and extrapolation for 2044 and beyond.	No change.
Electricity site-to-primary conversion.	A time series conversion factor; includes electric generation, transmission, and distribution losses..	No change.
Discount rates	3% and 7% real.	No change.
Present year	2013.	2014.

1. Efficiency Trends

As explained in section IV.F, for the NOPR, DOE assumed that the efficiency distributions in the base case for ECGs 1 changes over time. The projected share of 1 to 5 horsepower Premium motors (EL 2) for equipment class subgroup 1.a. grows from 36.6 percent to 45.5 percent over the analysis period, and for equipment class subgroup 1.b., it grows from 30.0 percent to 38.9 percent. For ECG 2 and 3, DOE assumed that the efficiency remains constant from 2016 to 2045.

In the standards cases, equipment with efficiency below the standard levels ''roll up'' to the standard level in the compliance year. Thereafter, for ECG 1, DOE assumed that the level immediately above the standard would show a similar increase in market penetration as the Premium motors in the base case.

The Joint Advocates commented that DOE's ''rollup'' scenario will lead to conservative energy saving estimates and given that some manufacturers already offer motors with efficiency levels above Premium, one would expect that the adoption of standards at or above Premium would accelerate the interest in more efficient motor designs. (Joint Advocates, No. 97 at p. 3)

The ''rollup'' scenario was used to establish the efficiency distributions in the compliance year. Thereafter, for ECGs 1, DOE used a shift scenario and assumed that the level immediately above the standard would show a similar increase in market penetration as the Premium motors in the base case. This approach aligns with the Joint Advocates' suggestion. DOE did not receive any other comments on efficiency trends and, consequently, retained the same approach for the final rule. The assumed efficiency trends in the base case and standards cases are described in chapter 10 of the TSD.

2. National Energy Savings

For each year in the forecast period, DOE calculates the national energy savings for each standard level by multiplying the shipments of electric motors affected by the energy conservation standards by the per-unit lifetime annual energy savings. Cumulative energy savings are the sum of the NES for all motors shipped during the analysis period, 2016–2045.

DOE estimated energy consumption and savings based on site energy and converted the electricity consumption and savings to primary energy (power plant energy use) using annual conversion factors derived from the *AEO 2013* version of the NEMS.

DOE has historically presented NES in terms of primary energy savings. 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 full-fuel-cycle (FFC) measures of energy use and greenhouse gas and other emissions in the national impact analyses and emissions analyses included in future energy conservation standards rulemakings. 76 FR 51281 (August 18, 2011). After evaluating 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 the most appropriate tool for its FFC analysis and its intention to use NEMS for that purpose. 77 FR 49701 (August 17, 2012). The approach used for today's final rule, and the FFC multipliers that were applied, are described in appendix 10–C of the final TSD.

3. Electric Motor Weights

NEMA commented that motors vary greatly when it comes to frame length, thickness, material and weights for comparable ratings. It disagreed a with the motor weight estimates as performed by DOE. NEMA stated that there are too many variables to accurately determine weights relative to motor performance attributes. NEMA listed variables such as the construction material for the frame (iron, steel, and aluminum), the casting variations (robust, thin), the inclusion of packaging weight in the total weight, and other variations in

construction practices. NEMA did not provide an alternative method or additional information that could be used to refine the approach DOE used for estimating weights. (NEMA, No. 93 at pp. 6–7)

Weight data are used to estimate shipping costs, which are a component of the total installed cost used to calculate the life cycle cost. The LCC results show that the average shipping costs represent a small fraction of the total installed costs (about 15 percent) and less than one percent of the total life cycle cost. While manufacturer catalogs contain weight data, these data showed some variations in weights.[75] To account for these variations, DOE performed a sensitivity analysis to evaluate the impacts of lower and higher weight assumptions. Since the shipping costs are such a small fraction of the LCC, the variations in weights did not significantly impact the results. Therefore, DOE retained the same approach for establishing weights for motors configurations not directly analyzed in the engineering analysis.

4. Equipment Price Forecast

As noted in section IV.F.2, DOE assumed no change in electric motor prices over the 2016–2045 period. In addition, DOE conducted a sensitivity analysis using alternative price trends. DOE developed one forecast in which prices decline after 2011, and one in which prices rise. These price trends, and the NPV results from the associated sensitivity cases, are described in appendix 10–B of the TSD.

5. Net Present Value of Customer Benefit

The inputs for determining the NPV of the total costs and benefits experienced by consumers of considered equipment are: (1) Total annual installed cost; (2) total annual savings in operating costs; and (3) a discount factor. DOE calculates the lifetime net savings for motors shipped each year as the difference between the base case and each standards case in total lifetime savings in lifetime operating costs and total lifetime increases in installed costs. DOE calculates lifetime operating cost savings over the life of each motor shipped during the forecast period.

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.[76] 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.

I. Consumer Subgroup Analysis

In analyzing the potential impacts of new or amended standards, DOE evaluates impacts on identifiable groups (*i.e.,* subgroups) of customers that may be disproportionately affected by a national standard. For the final rule, DOE evaluated impacts on various subgroups (e.g., customer from the agricultural, commercial, and industrial sector; customers with lower electricity prices) using the LCC spreadsheet model. DOE did not receive any comments on its consumer subgroup analysis in response to the NOPR. The customer subgroup analysis is discussed in detail in chapter 11 of the final rule TSD.

J. Manufacturer Impact Analysis

DOE conducted an MIA to estimate the financial impact of new and amended energy conservation standards on manufacturers of covered electric motors. The MIA also estimates the impact standards could have on direct employment, manufacturing capacity, manufacturer subgroups, and the cumulative regulatory burden. The MIA has both quantitative and qualitative aspects. The quantitative aspect of the MIA primarily relies on the GRIM, an industry cash-flow model customized for electric motors covered in this rulemaking. The key GRIM inputs are data on the industry cost structure, MPCs, shipments, and assumptions about manufacturer 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 standards on manufacturers of covered electric motors. DOE employed different assumptions about manufacturer markups to produce ranges of results that represent the uncertainty about how electric motor manufacturers will respond to standards. The qualitative part of the MIA addresses factors such as manufacturing capacity; characteristics of, and impacts on, any particular subgroup of manufacturers; impacts on competition; and the cumulative regulatory burden of electric motor manufacturers.

DOE outlined its complete methodology for the MIA in the previously published NOPR. Also the complete MIA is presented in chapter 12 of this final TSD.

1. Manufacturer Production Costs

Manufacturing more efficient equipment is typically more expensive than manufacturing baseline equipment due to the need for more costly components and more extensive R&D to reduced motor losses. The resulting changes in the MPCs of the analyzed equipment can affect the revenues, gross margins, and cash flows of manufacturers. DOE strives to accurately model the potential changes in these equipment costs, as they are a key input for the GRIM and DOE's overall analysis. For the final rule, DOE only updated the dollar year of the MPCs from 2012$, the dollar year used in the NOPR, to 2013$. For a complete description of the how the MPCs were created see section IV.C of this final rule.

2. Shipment Projections

Changes in sales volumes and efficiency distribution of equipment over time can significantly affect manufacturer finances. The GRIM estimates manufacturer revenues based on total unit shipment projections and the distribution of shipments by efficiency level. For the final rule, DOE slightly altered the distribution of shipments across pole configuration at the highest horsepower ratings based on stakeholder comments. This had a negligible effect on the MIA results. For the MIA, the GRIM used the NIA's annual shipment projections from 2014, the base year, to 2045, the end of the analysis period. For a complete description of the shipment analysis see section IV.G of this final rule.

3. Markup Scenarios

For the MIA, DOE modeled three standards case markup scenarios to represent the uncertainty regarding the potential impacts on prices and profitability for manufacturers following the implementation of new and amended energy conservation standards: (1) A flat, or preservation of gross margin, markup scenario; (2) a

[75] For example, in the case of a 50 horsepower motor, a standard deviation equal to 18 percent of the average weight was observed.

[76] OMB Circular A–4, section E (September 17, 2003). *http://www.whitehouse.gov/omb/circulars_a004_a-4.*

preservation of operating profit markup scenario; and (3) a two-tiered markup scenario. These scenarios lead to different manufacturer markup values, which when applied to the inputted MPCs, result in varying revenue and cash-flow impacts.

The Joint Advocates commented that the lower bound markup scenarios overstated the negative impacts to electric motor manufacturers. They also stated that manufacturer support for the standards proposed in the NOPR suggests that the lower bound markup scenario is unrealistic. (Joint Advocates, No. 97 at p. 4) DOE presents an upper bound to manufacturer impacts, which are positive for all TSLs, and a lower bound to manufacturer impacts, which are negative for all TSLs. This range of possible manufacturer impacts represents the uncertainty of manufacturers' profitability following standards. The lower bound to manufacturer impacts represents a worst-case scenario for manufacturers and does not imply that this will be the markup scenario manufacturers will face following standards. Just as the upper bound markup scenario represents a best-case scenario for manufacturers and again does not imply that this will be the markup scenario manufacturers will face following standards. Therefore, DOE believes that the lower bound markup scenario presented in this final rule is an appropriate worst-case scenario for manufacturers and is not intended to represent the true outcome for all electric motor manufacturers following standards, simply the lower bound of a range of possible outcomes.

NEEA commented that since there is an enormous range of electric motor types covered in this rulemaking (*e.g.,* horsepower, pole configuration) and since there are several distribution channels these motors could be sold through, different markup scenarios might apply to different motor sizes, different markets, and different distribution channels. (NEEA, Pub. Mtg. Tr., No. 87 at p. 172) DOE agrees with this assessment of the market as various manufacturers could markup various motors differently following new and amended energy conservation standards. The upper and lower bound markup scenarios represent this range of various markup options that manufacturers will pursue following standards given the unique circumstances each manufacture faces.

For the final rule, DOE did not alter the markup scenarios or the methodology used to calculate the markup values from those used in the NOPR analysis.

4. Product and Capital Conversion Costs

New and amended energy conservation standards will cause manufacturers to incur one-time conversion costs to bring their production facilities and equipment designs into compliance. For the MIA, DOE classified these one-time conversion costs into two major groups: (1) Product conversion costs and (2) capital conversion costs. Product conversion costs are one-time investments in R&D, testing, compliance, marketing, and other non-capitalized costs necessary to make equipment designs comply with standards. Capital conversion costs are one-time investments in property, plant, and equipment necessary to adapt or change existing production facilities such that new equipment designs can be fabricated and assembled. For the preliminary analysis NEMA commented that electric motors at ELs above premium efficiency levels, and especially at ELs requiring die-cast copper rotors, would require manufacturers to make significant capital investments and significant time to redesign, test, and certify their entire production lines. (NEMA, No. 54 at p. 4 & 11) For the NOPR analysis, DOE incorporated NEMA's comment when creating the conversion costs for electric motors at ELs requiring die-cast copper rotors. For the final rule, DOE only updated the dollar year of the conversion costs from 2012$, the dollar year used in the NOPR, to 2013$.

5. Other Comments From Interested Parties

During the NOPR public meeting and comment period, interested parties commented on the assumptions, methodology, and results of the NOPR MIA. DOE received comments about the manufacturer markups used in the MIA versus the NIA and potential trade barriers. These comments are addressed in the following sections.

a. Manufacturer Markups Used in the MIA Versus the NIA

The Joint Advocates commented that while the MIA presents a range of potential changes to manufacturers' INPV by altering the manufacturer markups, the NIA only uses one manufacturer markup when analyzing the impacts to customers. Further, they state that the manufacturer markup that is used in the NIA typically yields a higher customer purchase price for more efficient equipment analyzed in the rulemaking. (Joint Advocates, No. 97 at p. 4) Based on manufacturer interviews and DOE's understanding of the electric motor market, DOE believes that manufacturers might not be able to maintain their gross margin on all motors sold if the MPCs for those motors increased significantly due to standards. Therefore, the MIA conducted a sensitivity analysis around the manufacturer markup by modeling a lower bound manufacturer markup where manufacturers must compress their manufacturer markup to maintain market competition. This lower bound represents a worse-case scenario for manufacturer profitability. The NIA, which looks at the impacts of standards on customers, only models the scenario where manufacturers are able to maintain their manufacturer markup (the upper bound manufacturer markup scenario in the MIA). This manufacturer markup used in the NIA is the most conservative estimate for the purchase price that customers would pay for the equipment. Since there is uncertainty regarding how manufacturers would markup specific equipment following standards, DOE uses the most conservative estimates for the impacts to customers and manufacturers in the NIA and MIA respectively.

b. Potential Trade Barriers

Baldor commented that if electric motor energy conservation standards are set above the rest of the world's standards, it could be a potential trade barrier for foreign motor manufacturer trying to sell electric motors in the United States. Baldor states that there are a lot of small foreign motor manufacturers, so they might not have the resources to manufacture separate motor production lines specifically to comply with U.S. electric motor standards. (Baldor, Pub. Mtg. Tr., No. 87 at p. 176–177) DOE acknowledge that manufacturers selling motors in the United States and other countries with standards below the United States could be required to operate motor production lines specifically for the U.S. market. However, DOE does not believe that setting electric motor standards above other countries' standards would constitute a potential trade barrier because all motor sold in the United States must comply with U.S. standards regardless if the motor is manufactured domestically or abroad. Also, DOE is not adopting standards above premium efficiency levels, which are the standards other countries have recently adopted for electric motors (*e.g.,* the European Union).

6. Manufacturer Interviews

DOE interviewed manufacturers representing more than 75 percent of covered electric motor sales in the

United States. The NOPR interviews were in addition to the preliminary interviews DOE conducted as part of the preliminary analysis. DOE outlined the key issues for the rulemaking for electric motor manufacturers in the NOPR. DOE considered the information received during these interviews in the development of the NOPR and this final rule. Comments on the NOPR regarding the impact of standards on manufacturers were discussed in the preceding sections. DOE did not conduct interviews with manufacturers between the publication of the NOPR and this final rule. Also, DOE did not receive any comments on the key issues identified in the NOPR.

K. Emissions Analysis

In the emissions analysis, DOE estimates the reduction in power sector emissions of carbon dioxide (CO_2), nitrogen oxides (NO_X), sulfur dioxide (SO_2), and mercury (Hg) from potential energy conservation standards for electric motors. 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 full-fuel-cycle (FFC). In accordance with DOE's FFC Statement of Policy (76 FR 51282 (August 18, 2011) as amended at 77 FR 49701 (August 17, 2012), the FFC analysis includes impacts on emissions of methane (CH_4) and nitrous oxide (N_2O), both of which are recognized as greenhouse gases.

DOE primarily conducted the emissions analysis using emissions factors for CO_2 and other gases derived from data in *AEO 2013,* supplemented by data from other sources. DOE developed separate emissions factors for power sector emissions and upstream emissions. The method that DOE used to derive emissions factors is described in chapter 13 of the TSD.

For CH_4 and N_2O, DOE calculated emissions reduction in tons and also in terms of units of carbon dioxide equivalent (CO_2eq). Gases are converted to CO_2eq by multiplying the physical units 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,[77] DOE used GWP values of 25 for CH_4 and 298 for N_2O.

EIA prepares the *Annual Energy Outlook* using the National Energy Modeling System (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.

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 (42 U.S.C. 7651 *et seq.*) and the District of Columbia (DC). SO_2 emissions from 28 eastern states and DC were also limited under the Clean Air Interstate Rule (CAIR; 70 FR 25162 (May 12, 2005)), which created an allowance-based trading 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.[78] *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). In 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 DC Circuit issued a decision to vacate CSAPR.[79] The court ordered EPA to continue administering CAIR. The *AEO 2013* emissions factors used for today's final rule 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 tradable emissions allowances. Under existing EPA regulations, any excess SO_2 emissions allowances resulting from the lower electricity demand caused by the adoption of a new or amended efficiency standard could be used to allow 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. 77 FR 9304 (February 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, in order 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 that would be 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 allow 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 allow 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 today's final rule 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 mercury emissions reduction using emissions factors based on *AEO 2013,* which incorporates the MATS.

[77] 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.

[78] 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).

[79] See *EME Homer City Generation, LP* v. *EPA,* 696 F.3d 7, 38 (D.C. Cir. 2012), cert. granted, 81 U.S.L.W. 3567, 81 U.S.L.W. 3696, 81 U.S.L.W. 3702 (U.S. June 24, 2013) (No. 12–1182).

L. Monetizing Carbon Dioxide and Other Emissions Impacts

As part of the development of today's rule, DOE considered the estimated monetary benefits from the reduced emissions of CO_2 and NO_X that are expected to result from each of the TSLs considered. In order to make this calculation analogous to the calculation of the NPV of consumer benefit, DOE considered the reduced emissions expected to result over the lifetime of equipment 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 final rule.

For today's final rule, DOE is relying on a set of values for the SCC that was developed by a Federal interagency process. The basis for these values is summarized below, and a more detailed description of the methodologies used is provided as an appendix to chapter 14 of the final rule 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 carbon dioxide. A domestic SCC value is meant to reflect the value of damages in the United States resulting from a unit change in carbon dioxide emissions, while a global SCC value is meant to reflect the value of damages worldwide.

Under section 1(b) of Executive Order 12866, 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. The estimates are presented with an acknowledgement of the many uncertainties involved and with a clear understanding that they should be updated over time to reflect increasing knowledge of the science and economics of climate impacts.

As part of the interagency process that developed these SCC estimates, technical experts from numerous agencies met on a regular basis to consider public comments, explore the technical literature in relevant fields, and discuss key model inputs and assumptions. The main objective of this process was to develop a range of SCC values using a defensible set of input assumptions grounded in the existing scientific and economic literatures. In this way, key uncertainties and model differences transparently and consistently inform the range of SCC estimates used in the rulemaking process.

a. Monetizing Carbon Dioxide Emissions

When attempting to assess the incremental economic impacts of carbon dioxide emissions, the analyst faces a number of challenges. A report from the National Research Council [80] 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 questions of science, economics, and ethics and should be viewed as provisional.

Despite the limits of both quantification and monetization, SCC estimates can be useful in estimating the social benefits of reducing CO_2 emissions. The agency can estimate the benefits from reduced (or costs from increased) emissions in any future year by multiplying the change in emissions in that year by the SCC values appropriate for that year. The net present value of the benefits can then be calculated by multiplying each of these future benefits by an appropriate discount factor and summing across all affected years.

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.

[80] National Research Council. *Hidden Costs of Energy: Unpriced Consequences of Energy Production and Use.* 2009. National Academies Press: Washington, DC.

b. Development of Social Cost of Carbon Values

In 2009, an interagency process was initiated to offer a preliminary assessment of how best to quantify the benefits from reducing carbon dioxide emissions. To ensure consistency in how benefits are evaluated across Federal 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

After the release of the interim values, the interagency group reconvened on a regular basis to generate improved SCC estimates. Specially, 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 (IPCC). Each model was given equal weight in the SCC values that were developed.

Each model takes a slightly different approach to model how changes in emissions result in changes in economic damages. A key objective of the interagency process was to enable a consistent exploration of the three models, while respecting the different approaches to quantifying damages taken by the key modelers in the field. An extensive review of the literature was conducted to select three sets of input parameters for these models: climate sensitivity, socio-economic and emissions trajectories, and discount rates. A probability distribution for climate sensitivity was specified as an

input into all three models. In addition, the interagency group used a range of scenarios for the socio-economic parameters and a range of values for the discount rate. All other model features were left unchanged, relying on the model developers' best estimates and judgments.

The interagency group selected four sets of SCC values for use in regulatory analyses. Three sets of values are based on the average SCC from the three IAMs, at discount rates of 2.5, 3, and 5 percent. The fourth set, which represents the 95th percentile SCC estimate across all three models at a 3-percent discount rate, was included to represent higher than expected impacts from temperature 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,[81] although preference is given to consideration of the global benefits of reducing CO_2 emissions. Table IV.26 presents the values in the 2010 interagency group report,[82] which is reproduced in appendix 14–A of the TSD.

TABLE IV.26—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.[83] Table IV.27 shows the updated sets of SCC estimates in 5-year increments from 2010 to 2050. The full set of annual SCC estimates between 2010 and 2050 is reported in appendix 14B of the DOE final rule TSD. The central value that emerges is the average SCC across models at the 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 IV.27—ANNUAL SCC VALUES FROM 2013 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	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 2009 National Research Council report mentioned above points out that there is tension between the goal of producing

[81] It is recognized that this calculation for domestic values is approximate, provisional, and highly speculative. There is no *a priori* reason why domestic benefits should be a constant fraction of net global damages over time.

[82] *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.*

[83] *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*

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 analytic challenges that are being 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 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, DOE used the values from the 2013 interagency report adjusted to 2012$ using the GDP price deflator. For each of the four sets of SCC values, the values 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 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.

NEMA provided a lengthy critique of the integrated assessment models (IAMs) that were utilized by the Interagency Working Group to projecting future damages from CO_2 emissions, pointing out that there is enormous uncertainty in the models. (NEMA, No. 93 at p. 16) The Cato Institute stated that the determination of the SCC is discordant with the best scientific literature on the equilibrium climate sensitivity and the fertilization effect of carbon dioxide—two critically important parameters for establishing the net externality of carbon dioxide emissions, at odds with existing OMB guidelines for preparing regulatory analyses, and founded upon the output of IAMs that encapsulate such large uncertainties as to provide no reliable guidance as to the sign, much less the magnitude of the social cost of carbon. (Cato Institute, No. 94 at p. 1)

NEMA stated that the monetized benefits of carbon emission reductions are informative at some level, but should not be considered as determinative in the Secretary's decision-making under EPCA. NEMA believes that DOE should base its net benefit determination for justifying a particular energy conservation standard on the traditional criteria relied upon by DOE—impacts on manufacturers, consumers, employment, energy savings, and competition. (NEMA, No. 93 at p. 16) The American Forest & Paper Association (AF&PA) and the American Fuel & Petrochemical Manufacturers (AFPM) stated that the SCC calculation should not be used in any rulemaking and/or policymaking until it undergoes a more rigorous notice, review and comment process.[84] (AF&PA and AFPM, No. 95 at p. 1) Similarly, the Cato Institute stated that the SCC should not be used in this or other rulemakings. (Cato Institute, No. 94 at p. 1) In contrast, the Joint Advocates and CA IOUs expressed support for the use of the updated SCC values that are based on the interagency working group's most recent review of peer-reviewed models on the subject. (Joint Advocates, No. 97 at p. 4; CA IOUs, No. 99 at p. 2)

In response to the comments on the SCC values, DOE acknowledges the limitations in the SCC estimates, which are discussed in detail in the 2010 interagency group report. Specifically, uncertainties in the assumptions regarding climate sensitivity, as well as other model inputs such as economic growth and emissions trajectories, are discussed and the reasons for the specific input assumptions chosen are explained. However, the three integrated assessment models used to estimate the SCC are frequently cited in the peer-reviewed literature and were used in the last assessment of the IPCC. In addition, new versions of the models that were used in 2013 to estimate revised SCC values were published in the peer-reviewed literature (see appendix 14B of the final rule TSD for discussion). Although uncertainties remain, the revised estimates that were issued in November, 2013 are based on the best available scientific information on the impacts of climate change. The current estimates of the SCC have been developed over many years, using the best science available, and with input from the public. In November 2013, OMB announced a new opportunity for public comment on the interagency technical support document underlying the revised SCC estimates. See 78 FR 70586. The comment period for the OMB announcement closed on February 26, 2014. OMB is currently reviewing comments and considering whether further revisions to the 2013 SCC estimates are warranted. DOE stands ready to work with OMB and the other members of the interagency working group on further review and revision of the SCC estimates as appropriate.

2. Valuation of Other Emissions Reductions

DOE investigated the potential monetary benefit of reduced NO_X emissions from the TSLs it considered. As noted above, 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 rule based on estimates found in the relevant scientific literature. Estimates of monetary value for reducing NO_X from stationary sources range from $476 to $4,893 per ton (2013$).[85] DOE calculated monetary benefits using a medium value for NO_X emissions of $2,684 per short ton (in 2014$), 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.

M. 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 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 15 of the final rule TSD describes the utility impact analysis in further detail.

[84] AF&PA and AFPM pointed to more detailed comments that were filed by AFPM and several other trade associations on DOE's Energy Conservation Standards for Commercial Refrigeration Equipment. *http://www.regulations.gov/#!documentDetail;D=EERE-2010-BT-STD-0003-0079.*

[85] For additional information, refer to U.S. Office of Management and Budget, Office of Information and Regulatory Affairs, 2006 Report to Congress on the Costs and Benefits of Federal Regulations and Unfunded Mandates on State, Local, and Tribal Entities, Washington, DC.

N. 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 equipment 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 equipment. 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 equipment; 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 [86]). 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 sector (*i.e.,* the utility sector) to more labor-intensive sectors (*e.g.,* the retail and service sectors). Thus, based on the BLS data alone, DOE believes net national employment may increase because of shifts in economic activity resulting from new and amended standards.

For the standard levels considered, 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 final rule, DOE did not receive any comments and retained the same approach using ImSET only to estimate short-term employment impacts.

For more details on the employment impact analysis, see chapter 16 of the final rule TSD.

O. Other Comments Received

In response to the NOPR, interested parties submitted additional comments on a variety of general issues. CEC and NEMA both pointed out a table formatting error that appeared in Table 4 on p. 73679 the **Federal Register** version of the NOPR.[87] (CEC, No. 96 at p. 3, NEMA, No. 93 at p. 30) DOE notes that this error was corrected in the CFR and future versions of the table. The Office of the **Federal Register** published a correction to the table on February 14, 2014. *See* 79 FR 8309.

In response to the NOPR, Scott Mohs raised concern about loss of wildlife habitat due to corn acreage. (Scott Mohs, No. 102 at p. 1) This issue is beyond the scope of the electric motors rulemaking, and, accordingly, DOE does not discuss corn acreage in today's final rule.

V. Analytical Results

A. Trial Standard Levels

DOE ordinarily considers several Trial Standard Levels (TSLs) in its analytical process. TSLs are formed by grouping different Efficiency Levels (ELs), which are standard levels for each Equipment Class Grouping (ECG) of motors. Within each equipment class grouping, DOE established equipment classes based on pole configuration, horsepower rating, and enclosure, leading to a total of 482 equipment classes (see section IV.A.4). DOE analyzed the benefits and burdens of the TSLs developed for today's final rule. DOE examined four TSLs for electric motors. Table V.1 presents the TSLs analyzed and the corresponding efficiency level for each equipment class group.

The efficiency levels in each TSL can be characterized as follows: TSL 1 represents each equipment class group moving up one efficiency level from the current baseline, with the exception of fire-pump motors, which remain at their baseline level; TSL 2 represents Premium levels for all equipment class groups with the exception of fire-pump motors, which remain at the baseline; TSL 3 represents one NEMA band above Premium for all groups except fire-pump motors, which move up to Premium; and TSL 4 represents the maximum technologically feasible level (max-tech) for all equipment class groups.[1] Because today's final rule includes equipment class groups containing both currently regulated motors and newly regulated motors, at certain TSLs, an equipment class group may encompass different standard levels, some of which may be above one EL above the baseline. For example, at TSL1, EL1 is being selected for equipment class group 1. However, a large number of motors in equipment class group 1 already have to meet EL2. If TSL1 was selected, these motors would continue to be required to meet the standards at TSL2, while currently un-regulated motors would be regulated to TSL1 (see TSD chapter 10).

TABLE V.1—SUMMARY OF TSLS

Equipment class group	TSL 1	TSL 2	TSL 3	TSL 4
1	EL 1	EL 2	EL 3	EL 4.

[86] See Labor Department's Bureau of Labor Statistics, Current Employment Statistics (Available at: *http://www.bls.gov/ces/.*)

[87] 78 FR 73679.

TABLE V.1—SUMMARY OF TSLS—Continued

Equipment class group	TSL 1	TSL 2	TSL 3	TSL 4
2	EL 1	EL 1	EL 2	EL 2.
3	EL 0	EL 0	EL 1	EL 3.

B. Economic Justification and Energy Savings

As discussed in section II.A, EPCA provides seven factors to be evaluated in determining whether a potential energy conservation standard is economically justified. (42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII) as applied to equipment via 6316(a)) The following sections generally discuss how DOE is addressing each of those seven factors in this rulemaking.

1. Economic Impacts on Individual Customers

DOE analyzed the economic impacts on electric motor customers by looking at the effects standards would have on the LCC and PBP. DOE also examined the rebuttable presumption payback periods for each equipment class, and the impacts of potential standards on customer subgroups. These analyses are discussed below.

a. Life-Cycle Cost and Payback Period

To evaluate the net economic impact of standards on electric motor customers, DOE conducted LCC and PBP analyses for each TSL. In general, higher-efficiency equipment would typically affect customers in two ways: (1) Annual operating expense would decrease, and (2) purchase price would increase. Section IV.F of this rule discusses the inputs DOE used for calculating the LCC and PBP. The LCC and PBP results are calculated from electric motor cost and efficiency data that are modeled in the engineering analysis (section IV.C).

For each representative unit, the key outputs of the LCC analysis are a mean LCC savings and a median PBP relative to the base case, as well as the fraction of customers for which the LCC will decrease (net benefit), increase (net cost), or exhibit no change (no impact) relative to the base-case product forecast. No impacts occur when the base-case efficiency equals or exceeds the efficiency at a given TSL. Table V.2 show the key shipment-weighted average of results for the representative units in each equipment class group.

TABLE V.2—SUMMARY LIFE-CYCLE COST AND PAYBACK PERIOD RESULTS FOR EQUIPMENT CLASS GROUP 1

Trial Standard Level *	1	2	3	4
Efficiency Level	1	2	3	4
Customers with Net LCC Cost (%) **	0.3	7.8	34.8	83.3
Customers with Net LCC Benefit (%) **	10.9	34.3	44.7	9.4
Customers with No Change in LCC (%) **	88.8	57.9	20.4	7.3
Mean LCC Savings ($)	$55	$160	$98	−$409
Median PBP (Years)	1.0	2.9	6.0	26.5

* The results for equipment class group 1 are the shipment weighted averages of the results for representative units 1, 2, 3, 9 and 10.
** Rounding may cause some items to not total 100 percent.

TABLE V.3—SUMMARY LIFE-CYCLE COST AND PAYBACK PERIOD RESULTS FOR EQUIPMENT CLASS GROUP 2

Trial Standard Level *	1	2	3	4
Efficiency Level	1	1	2	2
Customers with Net LCC Cost (%) **	18.6	18.6	92.8	92.8
Customers with Net LCC Benefit (%) **	71.5	71.5	7.2	7.2
Customers with No Change in LCC (%) **	9.8	9.8	0.0	0.0
Mean LCC Savings ($)	$53	$53	−$280	−$280
Median PBP (Years)	4.5	4.5	20.7	20.7

* The results for equipment class group 2 are the shipment weighted averages of the results for representative units 4 and 5.
** Rounding may cause some items to not total 100 percent.

TABLE V.4—SUMMARY LIFE-CYCLE COST AND PAYBACK PERIOD RESULTS FOR EQUIPMENT CLASS GROUP 3

Trial Standard Level *	1	2	3	4
Efficiency Level	0	0	1	3
Customers with Net LCC Cost (%) **	0.0	0.0	81.7	100.0
Customers with Net LCC Benefit (%) **	0.0	0.0	0.0	0.0
Customers with No Change in LCC (%) **	0.0	0.0	18.3	0.0
Mean LCC Savings ($)	N/A ***	N/A ***	−$64.6	−$807
Median PBP (Years)	N/A ***	N/A ***	3016	11632

* The results for equipment class group 3 are the shipment weighted averages of the results for representative units 6, 7, and 8.
** Rounding may cause some items to not total 100 percent.
*** For equipment class group 3, TSLs 1 and 2 are the same as the baseline; thus, no customers are affected.

b. Consumer Subgroup Analysis

In the customer subgroup analysis, DOE estimated the LCC impacts of the electric motor TSLs on various groups of customers. Table V.5 and Table V.6 compare the weighted average mean LCC savings and median payback periods for ECG 1 at each TSL for different customer subgroups. Chapter 11 of the TSD presents the detailed results of the customer subgroup analysis and results for the other equipment class groups.

TABLE V.5—SUMMARY LIFE-CYCLE COST RESULTS FOR SUBGROUPS FOR EQUIPMENT CLASS GROUP 1: AVERAGE LCC SAVINGS

EL	TSL	Average LCC savings (2013$)*					
		Reference scenario	Low energy price	Small business	Industrial sector only	Commercial sector only	Agricultural sector only
1	1	55	55	49	65	52	20
2	2	160	160	141	195	148	11
3	3	98	97	76	136	85	−100
4	4	−409	−410	−439	−355	−428	−701

* The results for equipment class group 1 are the shipment weighted averages of the results for representative units 1, 2, 3, 9 and 10.

TABLE V.6—SUMMARY LIFE-CYCLE COST RESULTS FOR SUBGROUPS FOR EQUIPMENT CLASS GROUP 1: MEDIAN PAYBACK PERIOD

EL	TSL	Median payback period (years)*					
		Reference scenario	Low energy price	Small business	Industrial sector only	Commercial sector only	Agricultural sector only
1	1	1.0	1	1	1	1	3
2	2	2.9	3	3	2	3	7
3	3	6.0	6	6	4	7	23
4	4	26.5	26	27	18	30	126

* The results for equipment class group 1 are the shipment weighted averages of the results for representative units 1, 2, 3, 9 and 10.

c. Rebuttable Presumption Payback

As discussed in section IV.F.12, EPCA establishes a rebuttable presumption that an energy conservation standard is economically justified if the increased purchase cost for equipment that meets the standard is less than three times the value of the first-year energy savings resulting from the standard. (42 U.S.C. 6295(o)(2)(B)(iii) and 6316(a)) DOE calculated a rebuttable-presumption PBP for each TSL to determine whether DOE could presume that a standard at that level is economically justified. DOE based the calculations on average usage profiles. As a result, DOE calculated a single rebuttable-presumption payback value, and not a distribution of PBPs, for each TSL. Table V.7 shows the rebuttable-presumption PBPs for the considered TSLs. The rebuttable presumption is fulfilled in those cases where the PBP is three years or less. However, DOE routinely conducts an economic analysis that considers the full range of impacts to the customer, manufacturer, Nation, and environment, as required under 42 U.S.C. 6295(o)(2)(B)(i) as applied to equipment via 42 U.S.C. 6316(a). The results of that analysis serve as the basis for DOE to definitively evaluate the economic justification for a potential standard level (thereby supporting or rebutting the results of any three-year PBP analysis). Section V.C addresses how DOE considered the range of impacts to select today's final rule.

TABLE V.7—REBUTTABLE-PRESUMPTION PAYBACK PERIODS (YEARS)

Equipment class group*	Trial standard level			
	1	2	3	4
1	0.5	0.8	1.2	4.0
2	1.6	1.6	7.3	7.3
3	N/A**	N/A**	817	4,991

*The results for each equipment class group (ECG) are a shipment weighted average of results for the representative units in the group. ECG 1: Representative units 1, 2, 3, 9 and 10; ECG 2: Representative units 4 and 5; ECG 3: Representative units 6, 7, and 8.
**For equipment class group 3, TSLs 1 and 2 are the same as the baseline; thus, no customers are affected.

2. Economic Impacts on Manufacturers

DOE performed an MIA to estimate the impact of new and amended energy conservation standards on manufacturers of covered electric motors. The following section describes the expected impacts on manufacturers at each TSL. Chapter 12 of this final rule TSD explains the analysis in further detail.

a. Industry Cash-Flow Analysis Results

The results below show three INPV tables representing the three markup scenarios used for the analysis. The first table reflects the flat, or gross margin, markup scenario, which is the upper (less severe) bound of impacts. To assess the lower end of the range of potential impacts, DOE modeled two potential markup scenarios, a two-tiered markup

scenario and a preservation of operating profit markup scenario. The two-tiered markup scenario assumes manufacturers offer two different tiers of markups—one for lower efficiency levels and one for higher efficiency levels. Meanwhile the preservation of operating profit markup scenario assumes that in the standards case, manufacturers would be able to earn the same operating margin in absolute dollars in the standards case as in the base case. In general, the larger the MPC price increases, the less likely manufacturers are able to fully pass through additional costs due to standards calculated in the flat markup scenario.

Table V.8, Table V.9, and Table V.10 present the results for all electric motors under the flat, two-tiered, and preservation of operating profit markup scenarios. DOE examined all three ECGs (Design A and B motors, Design C motors, fire pump motors) together.

TABLE V.8—MANUFACTURER IMPACT ANALYSIS FOR ELECTRIC MOTORS—FLAT MARKUP SCENARIO

	Units	Base case	Trial standard level			
			1	2	3	4
INPV	(2013$ millions)	$3,478.0	$3,486.4	$3,870.6	$4,541.9	$5,382.1
Change in INPV	(2013$ millions)		$8.4	$392.6	$1,063.9	$1,904.1
	(%)		0.2%	11.3%	30.6%	54.7%
Product Conversion Costs	(2013$ millions)		$6.2	$58.0	$618.1	$627.4
Capital Conversion Costs	(2013$ millions)		$0.0	$26.6	$222.8	$707.2
Total Conversion Costs	(2013$ millions)		$6.2	$84.6	$841.0	$1,334.6

TABLE V.9—MANUFACTURER IMPACT ANALYSIS FOR ELECTRIC MOTORS—TWO-TIERED MARKUP SCENARIO

	Units	Base case	Trial standard level			
			1	2	3	4
INPV	(2013$ millions)	$3,478.0	$3,481.6	$3,130.4	$2,928.3	$3,282.0
Change in INPV	(2013$ millions)		$3.6	$−347.7	$−549.7	$−196.0
	(%)		0.1%	−10.0%	−15.8%	−5.6%
Product Conversion Costs	(2013$ millions)		$6.2	$58.0	$618.1	$627.4
Capital Conversion Costs	(2013$ millions)		$0.0	$26.6	$222.8	$707.2
Total Conversion Costs	(2013$ millions)		$6.2	$84.6	$841.0	$1,334.6

TABLE V.10—MANUFACTURER IMPACT ANALYSIS FOR ELECTRIC MOTORS—PRESERVATION OF OPERATING PROFIT MARKUP SCENARIO

	Units	Base case	Trial standard level			
			1	2	3	4
INPV	(2013$ millions)	$3,478.0	$3,461.3	$3,643.0	$3,362.0	$2,048.3
Change in INPV	(2013$ millions)		$−16.7	$165.0	$−116.0	$−1,429.8
	(%)		−0.5%	4.7%	−3.3%	−41.1%
Product Conversion Costs	(2013$ millions)		$6.2	$58.0	$618.1	$627.4
Capital Conversion Costs	(2013$ millions)		$0.0	$26.6	$222.8	$707.2
Total Conversion Costs	(2013$ millions)		$6.2	$84.6	$841.0	$1,334.6

TSL 1 represents EL 1 for ECG 1 and ECG 2 motors and baseline for ECG 3 motors. At TSL 1, DOE estimates impacts on INPV to range from $8.4 million to −$16.7 million, or a change in INPV of 0.2 percent to −0.5 percent. At this TSL, industry free cash flow is estimated to decrease by approximately 1 percent to $164.3 million, compared to the base case value of $166.1 million in 2015.

The INPV impacts at TSL 1 range from slightly positive to slightly negative. Consequently, 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 efficiency levels prescribed at TSL 1. DOE estimates that in the year of compliance (2016), 90 percent of all electric motor shipments (91 percent of ECG 1a, 68 percent of ECG 1b, 8 percent of ECG 2, and 100 percent of ECG 3 shipments) would already meet the efficiency levels at TSL 1 or higher in the base case. Since ECG 1a shipments account for over 97 percent of all electric motor shipments, the effects on those motors are the primary driver for the impacts at this TSL. Only a few ECG 1a shipments not currently covered by the existing electric motor standard and a small amount of ECG 1b and ECG 2 shipments would need to be converted to comply with efficiency standards prescribed at TSL 1.

DOE expects conversion costs to be small compared to the industry value because most of the electric motor shipments, on a volume basis, already meet the efficiency levels analyzed at this TSL. DOE estimates product conversion costs of $6.2 million due to the expanded scope of motors covered by this rulemaking, which includes motors previously not covered by the existing electric motor energy conservation standards. DOE believes that at this TSL, there will be some engineering costs, as well as testing and certification costs associated with this scope expansion. DOE estimates the capital conversion costs to be minimal at TSL 1. This is mainly because almost all manufacturers currently produce

some motors that are compliant at TSL 1 efficiency levels, and it would not be much of a capital investment to bring all motor production to this efficiency level.

TSL 2 represents EL 2 for ECG 1a and ECG 1b motors, EL 1 for ECG 2 motors, and baseline for ECG 3 motors. At TSL 2, DOE estimates impacts on INPV to range from $392.6 million to −$347.7 million, or a change in INPV of 11.3 percent to −10.0 percent. At this TSL, industry free cash flow is estimated to decrease by approximately 17 percent to $137.1 million, compared to the base case value of $166.1 million in 2015.

The INPV impacts at TSL 2 range from moderately positive to slightly negative. DOE estimates that in the year of compliance (2016), 60 percent of all electric motor shipments (60 percent of ECG 1a, 31 percent of ECG 1b, 8 percent of ECG 2, and 100 percent of ECG 3 shipments) would already meet the efficiency levels at TSL 2 or higher in the base case. The majority of shipments are currently covered by an electric motors standard that requires general purpose Design A and B motors to meet the efficiency levels at this TSL. Therefore, only previously non-covered Design A and B motors and most ECG 1b and ECG 2 motors would need to be converted to comply with efficiency standards prescribed at TSL 2.

At TSL 2, DOE expects conversion costs to increase significantly from TSL 1. However, these conversion costs do not represent a large portion of the base case INPV, since the majority of electric motor shipments already meet the efficiency levels required at this TSL. DOE estimates product conversion costs of $58.0 million due to the expanded scope of this rulemaking, which includes motors not previously covered by the existing electric motor energy conservation standards and the inclusion of ECG 1b and ECG 2 motors. DOE believes there will be moderate engineering costs, as well as testing and certification costs at this TSL associated with this scope expansion. DOE estimates the capital conversion costs to be approximately $26.6 million at TSL 2. While most manufacturers already produce at least some motors that are compliant at TSL 2, these manufacturers would likely have to invest in machinery to bring all motor production to these efficiency levels.

TSL 3 represents EL 3 for ECG 1a and ECG 1b motors, EL 2 for ECG 2 motors, and EL 1 for ECG 3 motors. At TSL 3, DOE estimates the impacts on INPV to range from $1,063.9 million to −$549.7 million, or a change in INPV of 30.6 percent to −15.8 percent. At this TSL, industry free cash flow is estimated to decrease by approximately 170 percent to −$116.0 million, compared to the base case value of $166.1 million in 2015.

The INPV impacts at TSL 3 range from significantly positive to moderately negative. DOE estimates that in the year of compliance (2016), 23 percent of all electric motor shipments (24 percent of ECG 1a, 4 percent of ECG 1b, less than 1 percent of ECG 2, and 19 percent of ECG 3 shipments) would already meet the efficiency levels at TSL 3 or higher in the base case. The majority of shipments would need to be converted to comply with efficiency standards prescribed at TSL 3.

DOE expects conversion costs to increase significantly at TSL 3 and become a substantial investment for manufacturers. DOE estimates product conversion costs of $618.1 million at TSL 3, since most electric motors in the base case do not exceed the current motor standards set at premium efficiency levels for Design A and B motors, which represents EL 2 for ECG 1a. DOE believes there would need to be a massive reengineering effort that manufacturers would have to undergo to have all motors meet this TSL. Additionally, motor manufacturers would have to increase the efficiency levels for ECG 1b, ECG 2, and ECG 3 motors. DOE estimates the capital conversion costs to be approximately $222.8 million at TSL 3. Most manufacturers would have to make significant investments to their production facilities in order to convert all their motors to be compliant at TSL 3.

TSL 4 represents EL 4 for ECG 1a and ECG 1b motors, EL 2 for ECG 2 motors, and EL 3 for ECG 3 motors. At TSL 4, DOE estimates impacts on INPV to range from $1,904.1 million to −$1,429.8 million, or a change in INPV of 54.7 percent to −41.1 percent. At this TSL, industry free cash flow is estimated to decrease by approximately 303 percent to −$336.6 million, compared to the base case value of $166.1 million in 2015.

The INPV impacts at TSL 4 range from significantly positive to significantly negative. DOE estimates that in the year of compliance (2016) only 8 percent of all electric motor shipments (9 percent of ECG 1a, less than 1 percent of ECG 1b, less than 1 percent of ECG 2, and no ECG 3 shipments) would meet the efficiency levels at TSL 2 or higher in the base case. Almost all shipments would need to be converted to comply with efficiency standards prescribed at TSL 4.

DOE expects conversion costs again to increase significantly from TSL 3 to TSL 4. Conversion costs at TSL 4 now represent a massive investment for electric motor manufacturers. DOE estimates product conversion costs of $627.4 million at TSL 4, which are only slightly more than at TSL 3. DOE believes that manufacturers would need to completely reengineer almost all electric motors sold, as well as test and certify those motors. DOE estimates capital conversion costs of $707.2 million at TSL 4. This is a significant increase in capital conversion costs from TSL 3, since manufacturers would need to adopt copper die-casting at TSL 4. This technology requires a significant level of investment because the majority of manufacturers' machinery would need to be replaced or significantly modified.

b. Impacts on Employment

DOE quantitatively assessed the impact of new and amended energy conservation standards on direct employment in the electric motors industry. 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 the announcement of standards in 2014 (*i.e.,* the publication of this final rule) to the end of the analysis period in 2045. DOE used statistical data from the U.S. Census Bureau's 2011 Annual Survey of Manufacturers [88] (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 manufacturing of electric motors are a function of the labor intensity of the equipment, the MPC of the equipment, the sales volume, and an assumption that wages remain fixed in real terms over time.

In the GRIM, DOE used the labor content of the equipment and the MPCs to estimate the annual labor expenditures of the industry. DOE used Census data and interviews with manufacturers to estimate the portion of the total labor expenditures attributable to domestic labor.

The production worker estimates in this employment section cover only workers up to the line-supervisor level who are directly involved in fabricating and assembling an electric motor within a motor facility. Workers performing services that are closely associated with production operations, such as material

[88] See *http://www.census.gov/manufacturing/asm/index.html.*

handling with a forklift, are also included as production labor. DOE's estimates account for only production workers who manufacture the specific equipment covered by this rulemaking. For example, a worker on an electric motor production line manufacturing a fractional horsepower motor (*i.e.,* a motor with less than one horsepower) would not be included with this estimate of the number of electric motor workers, since fractional motors are not covered by this rulemaking.

The employment impacts shown in the tables below represent the potential production employment impact resulting from new and 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 standards when assuming that manufacturers continue to produce the same scope of covered equipment 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 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 U.S. While the results present a range of employment impacts following 2016, the following sections also include qualitative discussions of the likelihood of negative employment impacts at the various TSLs. Finally, the employment impacts shown are independent of the indirect employment impacts from the broader U.S. economy, which are documented in chapter 16 of this final rule TSD.

Based on 2011 ASM data and interviews with manufacturers, DOE estimates approximately 60 percent of electric motors sold in the U.S. are manufactured domestically. Using this assumption, DOE estimates that in the absence of new and amended energy conservation standards, there would be approximately 7,313 domestic production workers involved in manufacturing all electric motors covered by this rulemaking in 2016. Table V.11 shows the range of potential impacts of standards on U.S. production workers in the electric motor industry. However, because ECG 1a motors comprise more than 97 percent of the electric motors covered by this rulemaking, DOE believes that potential changes in domestic employment will be driven primarily by the standards that are selected for ECG 1a (*i.e.,* Design A and B motors).

TABLE V.11—POTENTIAL CHANGES IN THE TOTAL NUMBER OF ALL DOMESTIC ELECTRIC MOTOR PRODUCTION WORKERS IN 2016

	Base case	Trial standard level			
		1	2	3	4
Total Number of Domestic Production Workers in 2016 (upper bound: without changes in production locations)	7,313	7,346	7,498	8,374	16,049
Total Number of Domestic Production Workers in 2016 (lower bound: with changes to off-shore production locations)	7,313	7,313	6,947	3,657	0
Potential Changes in Domestic Production Workers in 2016*		33 to 0	185 to −366	1,061 to −3,656	8,736 to −7,313

* DOE presents a range of potential employment impacts.

Most manufacturers agree that any standard that involves expanding the scope of equipment required to meet premium efficiency levels for ECG 1a motors would not significantly change domestic employment levels. For standards that required ECG 1a motors to be at premium efficiency levels (the efficiency levels required for ECG 1a motors at TSL 2), most large manufacturers would not need to make major modifications to their production lines nor would they have to undertake new manufacturing processes. A few small manufacturers who primarily make electric motors outside the scope of coverage for the existing electric motor standards, but whose equipment would be covered by these electric motor standards, could be impacted by efficiency standards at TSL 2. These impacts to small manufacturers, including employment impacts, are discussed in more detail in section VI.B of today's final rule.

Overall, DOE believes there would not be a significant decrease in domestic employment levels at TSL 2, the selected TSL in today's final rule. DOE created a lower bound of the potential loss of domestic employment at 366 employees for TSL 2. DOE based this lower bound estimate on the fact that approximately 5 percent of the electric motor market is comprised of manufacturers that do not currently produce any motors at Premium efficiency levels. Therefore, DOE estimated that at most 5 percent of domestic electric motor employment in the base case in 2016 could potentially move abroad or exit the market entirely. However, DOE similarly estimated that all electric motor manufacturers produce some electric motors at or above TSL 1 efficiency levels. Therefore, DOE does not believe that any potential loss of domestic employment would occur at TSL 1.

Manufacturers, however, cautioned that any energy conservation standard set above premium efficiency levels would require major changes to production lines, large investments in capital and labor, and would result in extensive stranded assets. This is largely because manufacturers would have to design and build motors with larger frame sizes and could potentially have to use copper, rather than aluminum rotors. Several manufacturers pointed out that this would require extensive retooling, vast engineering resources, and would ultimately result in a more labor-intensive production process. Manufacturers generally agreed that a shift toward copper rotors would cause companies to incur higher labor costs. These factors could cause manufacturers to consider moving production offshore in an attempt to reduce labor costs or they may choose to exit the market entirely. Therefore, DOE believes it is more likely that efficiency standards set above premium efficiency levels could result in a decrease of labor. Accordingly, DOE set the lower bound

on the potential loss of domestic employment at 50 percent of the domestic labor market in the base case in 2016 for TSL 3 and 100 percent for TSL 4. However, these values represent the worst-case scenario DOE modeled. Manufacturers also stated that larger motor manufacturing (*i.e.,* the manufacturing of motors above 200 horsepower) would be very unlikely to move abroad, because the shipping costs associated with those motors are very large. Consequently, DOE believes that standards set at TSL 3 and TSL 4 would not necessarily result in the large losses of domestic employment suggested by the lower bound of DOE's direct employment analysis.

c. Impacts on Manufacturing Capacity

Most manufacturers agree that any standard expanding the scope of equipment required to meet premium efficiency levels would not have a significant impact on manufacturing capacity. Manufacturers pointed out, however, that standards that required them to use copper rotors would severely disrupt manufacturing capacity. Baldor commented that motor manufacturers do not have the capacity to produce 5 million copper rotors per year. They stated it is challenging to manufacture better motor designs in actual production, compared to what can be obtained on paper. (Baldor, Pub. Mtg. Tr., No. 87 at p. 118–119) Most manufacturers emphasized they do not currently have the machinery, technology, or engineering resources to produce copper rotors in-house. Some manufacturers claim that the few manufacturers that do have the capability of producing copper rotors are not able to produce these motors in volumes sufficient to meet the demands of the entire market. For manufacturers to either completely redesign their motor production lines or significantly expand their fairly limited copper rotor production line would require a massive retooling and engineering effort, which could take several years to complete. Most manufacturers stated they would have to outsource copper rotor production because they would not be able to modify their facilities and production processes to produce copper rotors in-house within a two year time period. Most manufacturers agree that outsourcing copper rotor die-casting would constrain capacity by creating a bottleneck in copper rotor production, as there are very few companies that produce copper rotors.

Manufacturers also pointed out that there is substantial uncertainty surrounding the global availability and price of copper, which has the potential to constrain capacity. NEMA commented they are concerned about the potential price volatility with any standards requiring copper rotors. (NEMA, No. 93 at p. 12) DOE acknowledges that it is likely that there could be copper capacity concerns at any TSL requiring copper rotor motors. Currently, there is only a limited amount of copper die-casting machinery and companies with experience die-casting copper today. In addition, there could be significant fluctuations in the price of copper in the near term, which could lead to supply chain problems. Because the TSL selected in today's final rule (TSL 2) does not require the use of copper rotors for any motors, DOE does not anticipate that today's electric motor standards will cause any manufacturing capacity constraints.

d. Impacts on Sub-Group of Manufacturers

Using average cost assumptions to develop industry cash-flow estimates may not adequately assess differential impacts among manufacturer subgroups. Small manufacturers, niche equipment 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 VI.B and did not identify any other adversely impacted electric motor subgroups 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 production lines or markets with lower expected future returns than competing equipment. For these reasons, DOE conducts an analysis of cumulative regulatory burden as part of its rulemakings pertaining to equipment efficiency.

During previous stages of this rulemaking, DOE identified a number of requirements, in addition to new and amended energy conservation standards for electric motors, that manufacturers will face for equipment they manufacture approximately three years prior to, and three years after, the compliance date of the standards selected in today's final rule, such as the small electric motors standard (75 FR 10874) and the distribution transformers standard (78 FR 23336). The following section briefly addresses comments DOE received with respect to cumulative regulatory burden.

Baldor commented that DOE should try to harmonize electric motor standards with the rest of the world. Baldor stated that the European Union's (EU's) electric motor standards will be set at premium efficiency levels in the next few years, so having U.S. electric motor standards at premium efficiency levels would harmonize U.S. electric motor standards with the EU's standards. Baldor also stated that no other country is setting electric motor standards above premium efficiency levels, so any U.S. standards set above premium efficiency levels would cause the U.S. motor market to be out of synchronization with the rest of the world's standards. Also, there is an ongoing effort to develop global markings for electric motors so that manufacturers do not have to conduct separate compliance testing and approvals for each country. Therefore, standards that are harmonized with the rest of the world's standards would benefit manufacturers. (Baldor, Pub. Mtg. Tr., No. 87 at p. 176–180) The standards adopted in today's final rule do not require motor manufacturers to exceed premium efficiency levels for any motors. Therefore, the U.S. standards prescribed in today's final rule would keep U.S. standards in harmony with the rest of the world and would not significantly add to the motor manufacturers' cumulative regulatory burden from a global standards perspective.

3. National Impact Analysis

a. Significance of Energy Savings

For each TSL, DOE projected energy savings for electric motors purchased in the 30-year period that begins in the year of compliance with new and amended standards (2016–2045). The savings are measured over the entire lifetime of equipment 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. Table V.12 presents the estimated primary energy savings for each considered TSL, and Table V.13 presents the estimated FFC energy savings for each considered TSL. The approach for estimating national energy

savings is further described in section IV.H.

TABLE V.12—CUMULATIVE PRIMARY ENERGY SAVINGS FOR ELECTRIC MOTORS TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2016–2045

Equipment class	Trial standard level			
	1	2	3	4
	quads			
1	1.08	6.83	10.54	13.42
2	0.02	0.02	0.03	0.03
3	0.00	0.00	0.00	0.00
Total all classes	1.10	6.85	10.57	13.45

TABLE V.13—CUMULATIVE FULL-FUEL-CYCLE ENERGY SAVINGS FOR ELECTRIC MOTORS TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2016–2045

Equipment class	Trial standard level			
	1	2	3	4
	quads			
1	1.10	6.95	10.72	13.64
2	0.02	0.02	0.03	0.03
3	0.00	0.00	0.00	0.00
Total all classes	1.12	6.97	10.75	13.67

OMB 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 equipment 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] DOE notes that the review timeframe established in EPCA generally does not overlap with the equipment lifetime, equipment manufacturing cycles, or other factors specific to electric motors. 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 a 9-year analytical period are presented in Table V.14. The impacts are counted over the lifetime of electric motors purchased in 2016–2024.

TABLE V.14—CUMULATIVE NATIONAL ENERGY SAVINGS FOR ELECTRIC MOTORS TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2016–2024

Equipment class	Trial standard level			
	1	2	3	4
	quads			
1	0.42	1.59	2.35	3.05
2	0.00	0.00	0.01	0.01
3	0.00	0.00	0.00	0.00
Total all classes	0.43	1.59	2.36	3.06

[89] 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.

b. Net Present Value of Customer Costs and Benefits

DOE estimated the cumulative NPV of the total costs and savings for customers that would result from the TSLs considered for electric motors. 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, and 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 (OMB analysis has found the average rate of return on capital to be near this rate). The 3-percent rate reflects the potential effects of standards on private consumption (*e.g.,* through higher prices for equipment 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 V.15—NET PRESENT VALUE OF CUSTOMER BENEFITS FOR ELECTRIC MOTORS TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2016–2045

[Billion 2013$]

Equipment class	Discount rate %	Trial standard level			
		1	2	3	4
1	3	6.91	28.75	8.61	−39.27
2		0.06	0.06	−0.02	−0.02
3		0.00	0.00	0.00	−0.03
Total All Classes		6.97	28.81	8.59	−39.32
1	7	3.34	11.27	−1.50	−31.29
2		0.02	0.02	−0.03	−0.03
3		0.00	0.00	0.00	−0.02
Total All Classes		3.36	11.29	−1.54	−31.34

The NPV results based on the aforementioned 9-year analytical period are presented in Table V.16. The impacts are counted over the lifetime of equipment purchased in 2016–2024. The review timeframe established in EPCA is generally not synchronized with the product lifetime, product manufacturing cycles, or other factors specific to electric motors. 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 V.16—NET PRESENT VALUE OF CUSTOMER BENEFITS FOR ELECTRIC MOTORS TRIAL STANDARD LEVELS FOR UNITS SOLD IN 2016–2024

[Billion 2013$]

Equipment class	Discount rate %	Trial standard level			
		1	2	3	4
1	3	3.15	8.81	4.79	−11.60
2		0.01	0.01	−0.01	−0.01
3		0.00	0.00	0.00	−0.01
Total All Classes		3.17	8.83	4.78	−11.61
1	7	1.95	5.02	1.04	−12.94
2		0.01	0.01	−0.02	−0.02
3		0.00	0.00	0.00	−0.01
Total All Classes		1.95	5.02	1.03	−12.97

c. Indirect Impacts on Employment

DOE expects energy conservation standards for electric motors to reduce energy costs for equipment owners, with the resulting net savings being redirected to other forms of economic activity. Those shifts in spending and economic activity could affect the overall domestic demand for labor. As described in section IV.N, 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 (2016–2021), where these uncertainties are reduced.

The results suggest that today's 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 16 of the TSD presents detailed results.

[90] OMB Circular A–4, section E (September 17, 2003), available at: *http://www.whitehouse.gov/omb/circulars_a004_a-4.*

4. Impact on Utility or Performance

DOE believes that today's standards will not lessen the utility or performance of electric motors.

5. Impact of Any Lessening of Competition

DOE has also considered any lessening of competition that is likely to result from new and amended energy conservation 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 in writing to the Secretary, together with an analysis of the nature and extent of such impact. (42 U.S.C. 6295(o)(2)(B)(i)(V) and (ii); 42 U.S.C. 6316(a))

To assist the Attorney General in making such determination, DOE transmitted a copy of its proposed rule and NOPR TSD to the Attorney General with a request that the Department of Justice (DOJ) provide its determination on this issue. DOJ's response, that the proposed energy conservation standards are unlikely to have a significant adverse impact on competition, is reprinted at the end of this rule.

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 and increase the reliability of the electricity system, particularly during peak-load periods. As a measure of this reduced demand, chapter 15 in the TSD presents the estimated reduction in the growth of generating capacity in 2044 for the TSLs that DOE considered in this rulemaking.

Energy savings from energy conservation standards for electric motors could also produce environmental benefits in the form of reduced emissions of air pollutants and greenhouse gases associated with electricity production. Table V.17 provides 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 13 of the TSD.

TABLE V.17—CUMULATIVE EMISSIONS REDUCTION ESTIMATED FOR ELECTRIC MOTORS TRIAL STANDARD LEVELS

	Trial standard level			
	1	2	3	4
Primary Energy Emissions				
CO_2 (million metric tons)	62.7	373	574	731
NO_X (thousand tons)	106	668	1,032	1,312
SO_2 (thousand tons)	33.6	196	301	383
Hg (tons)	0.132	0.819	1.26	1.61
N_2O (thousand tons)	1.24	8.30	12.9	16.3
CH_4 (thousand tons)	7.38	46.2	71.4	90.7
Upstream Emissions				
CO_2 (million metric tons)	3.55	22.0	33.9	43.1
NO_X (thousand tons)	0.761	4.71	7.26	9.23
SO_2 (thousand tons)	48.8	302	466	593
Hg (tons)	0.002	0.012	0.018	0.023
N_2O (thousand tons)	0.036	0.221	0.341	0.433
CH_4 (thousand tons)	296	1,837	2,834	3,604
Full-Fuel-Cycle Emissions				
CO_2 (million metric tons)	66.2	395	608	774
NO_X (thousand tons)	107	673	1,039	1,321
SO_2 (thousand tons)	82.5	498	767	977
Hg (tons)	0.134	0.831	1.28	1.63
N_2O (thousand tons)	1.27	8.52	13.2	16.8
CH_4 (thousand tons)	304	1,883	2,905	3,695

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 IV.L, DOE used values for the SCC developed by an interagency process. The four sets of SCC values resulting from that process [91] (expressed in 2013$) are represented in today's rule as the value of emission reductions in 2015 by $12.0/metric ton (the average value from a distribution that uses a 5-percent discount rate), $40.5/metric ton (the average value from a distribution that uses a 3-percent discount rate), $62.4/metric ton (the average value from a distribution that uses a 2.5-percent discount rate), and $119 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 V.18 presents 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

[91] These values reflect the latest SCC values developed by interagency process (November 2013) (see IV.L.1).

values as a range from 7 percent to 23 percent of the global values, and these results are presented in chapter 14 of the final rule TSD.

TABLE V.18—ESTIMATES OF GLOBAL PRESENT VALUE OF CO_2 EMISSIONS REDUCTION UNDER ELECTRIC MOTORS TRIAL STANDARD LEVELS

[Million 2013$]

TSL	SCC Case *			
	5% discount rate, average *	3% discount rate, average *	2.5% discount rate, average *	3% discount rate, 95th percentile *
Primary Energy Emissions				
1	465	2,070	3,269	6,373
2	2,529	11,720	18,651	36,225
3	3,870	17,985	28,633	55,600
4	4,939	22,923	36,488	70,858
Upstream Emissions				
1	25.7	116	183	357
2	146	682	1,087	2,110
3	223	1,049	1,673	3,246
4	285	1,335	2,129	4,132
Full-Fuel-Cycle Emissions				
1	491	2,185	3,452	6,730
2	2,675	12,402	19,738	38,335
3	4,094	19,033	30,306	58,845
4	5,223	24,258	38,618	74,991

* For each of the four cases, the corresponding SCC value for emissions in 2015 is $12.0, $40.5, $62.4, and $119 per metric ton (2013$).

DOE is well aware that scientific and economic knowledge about the contribution of CO_2 and other greenhouse gas (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.

DOE also estimated a range for the cumulative monetary value of the economic benefits associated with NO_X emissions reductions anticipated to result from new and amended standards for electric motors. The low and high dollar-per-ton values that DOE used are discussed in section IV.L. Table V.19 presents the estimated cumulative present values of NO_X emissions reductions for each TSL calculated using seven-percent and three-percent discount rates.

TABLE V.19—ESTIMATES OF PRESENT VALUE OF NO_X EMISSIONS REDUCTION UNDER ELECTRIC MOTORS TRIAL STANDARD LEVELS

[Million 2013$]

TSL	3% discount rate	7% discount rate
Power Sector Emissions		
1	52.1	28.8
2	269	131
3	410	197
4	524	253
Upstream Emissions		
1	71.5	36.9
2	396	179
3	606	272
4	773	348
Full-Fuel-Cycle Emissions		
1	124	65.8
2	664	310
3	1,016	469
4	1,297	601

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 customer savings calculated for each TSL considered in this rulemaking. Table V.20 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 customer savings calculated for each TSL considered in this rulemaking, at both a seven-percent and three-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 V.20—NET PRESENT VALUE OF CUSTOMER SAVINGS COMBINED WITH NET PRESENT VALUE OF MONETIZED BENEFITS FROM CO_2 AND NO_X EMISSIONS REDUCTIONS

[Billion 2013$]

TSL	SCC Case $12.0/metric ton CO_2* and Low Value for NO_X**	SCC Case $40.5/metric ton CO_2* and Medium Value for NO_X**	SCC Case $62.4/metric ton CO_2* and Medium Value for NO_X**	SCC Case $119/metric ton CO_2* and High Value for NO_X**
	Customer NPV at 3% Discount Rate added with:			
1	7.5	9.3	10.6	13.9
2	31.6	41.9	49.2	68.4
3	12.9	28.6	39.9	69.3
4	−33.9	−13.8	0.6	38.0
	Customer NPV at 7% Discount Rate added with:			
1	3.9	5.6	6.9	10.2
2	14.0	24.0	31.3	50.2
3	2.6	18.0	29.2	58.2
4	−26.0	−6.5	7.9	44.7

* These label values represent the global SCC in 2015, in 2013$.

** Low Value corresponds to $476 per ton of NO_X emissions. Medium Value corresponds to $2,684 per ton, and High Value corresponds to $4,893 per ton.

Although adding the value of customer 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. customer 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 quite different time frames for analysis. The national operating cost savings is measured for the lifetime of equipment shipped in 2016–2045. 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 of Energy, 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)(VI)) DOE has considered the submission of the Petition under this factor. As described previously, DOE believes the Petition sets forth a statement by interested persons that are fairly representative of relevant points of view (including representatives of manufacturers of covered equipment, efficiency advocates, and others) and contains recommendations with respect to an energy conservation standard that are technologically feasible, economically justified, and likely to save significant energy. DOE encourages the submission of such consensus agreements as a way to bring diverse interested parties together, to develop an independent and probative analysis useful in DOE standard setting, and to expedite the rulemaking process. DOE also believes that standard levels recommended in the Petition may increase the likelihood for regulatory compliance, while decreasing the risk of litigation.

C. Conclusions

When considering standards, the new or amended energy conservation standard that DOE adopts for any type (or class) of covered equipment shall be designed to achieve the maximum improvement in energy efficiency that the Secretary of Energy determines is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A) and 6316(a)) In determining whether a standard is economically justified, the Secretary must determine whether the benefits of the standard exceed its burdens to the greatest extent practicable, considering the seven statutory factors discussed previously. (42 U.S.C. 6295(o)(2)(B)(i) and 6316(a)) The new or amended standard must also ''result in significant conservation of energy''. (42 U.S.C. 6295(o)(3)(B) and 6316(a))

For today's final rule, DOE considered the impacts of standards at each TSL, beginning with the max-tech level, to determine whether that level was economically justified. Where the max-tech level was not justified, DOE then considered the next most efficient level and undertook the same evaluation until it reached the highest efficiency level that is technologically feasible, economically justified, and saves a significant amount of energy. Throughout this process, DOE also considered the consensus recommendations made by the Motors Coalition and the views of other stakeholders in their submitted comments.

To aid the reader in understanding the benefits and/or burdens of each TSL, tables in this section summarize the quantitative analytical results for each TSL, based on the assumptions and methodology discussed herein. The efficiency levels contained in each TSL are described in section V.A. 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 customers who may be disproportionately affected by a national standard, and impacts on employment. Section V.B.1.b presents the estimated impacts of each TSL for the considered subgroup. DOE discusses the impacts on employment in the electric motor manufacturing sector in section V.B.2.b, and discusses the indirect employment impacts in section V.B.3.c

1. Benefits and Burdens of Trial Standard Levels Considered for Electric Motors

Table V.21 and Table V.22 summarize the quantitative impacts estimated for each TSL for electric motors.

TABLE V.21—SUMMARY OF ANALYTICAL RESULTS FOR ELECTRIC MOTORS: NATIONAL IMPACTS

Category	TSL 1	TSL 2	TSL 3	TSL 4
National Full-Fuel-Cycle Energy Savings quads				
	1.1	7.0	10.7	13.7
NPV of Consumer Benefits 2013$ billion				
3% discount rate	7.0	28.8	8.6	−39.3
7% discount rate	3.4	11.3	−1.5	−31.3
Cumulative Emissions Reduction (Total FFC Emissions)				
CO_2 million metric tons	66.2	395	608	774
SO_2 thousand tons	107	673	1,039	1,321
NO_X thousand tons	82.5	498	767	977
Hg *tons*	0.134	0.831	1.28	1.63
N_2O thousand tons	1.27	8.52	13.2	16.8
CH_4 thousand tons	304	1,883	2,905	3,695
Value of Emissions Reduction (Total FFC Emissions)				
CO_2 2013$ *million**	491 to 6,730	2,675 to 38,335	4,094 to 58,845	5,233 to 74,991
NO_X—3% discount rate *2013$ million*	124	664	1,016	1,297
NO_X—7% discount rate *2013$ million*	66	310	469	601

* Range of the economic value of CO_2 reductions is based on estimates of the global benefit of reduced CO_2 emissions.

TABLE V.22—SUMMARY OF ANALYTICAL RESULTS FOR ELECTRIC MOTORS: MANUFACTURER AND CONSUMER IMPACTS

Category	TSL 1	TSL 2	TSL 3	TSL 4
Manufacturer Impacts				
INPV (2013$ million) (Base Case INPV of $3,478.0)	3,486.4 to 3,461.3	3,870.6 to 3,130.4	4,541.9 to 2,928.3	5,382.2 to 2,048.3
INPV (change in 2013$)	8.4 to −16.7	392.6 to −347.7	1,063.9 to −549.7	1,904.1 to −1,429.8
INPV (% change)	0.2 to −0.5	11.3 to −10.0	30.6 to −15.8	54.7 to −41.1
Consumer Mean LCC Savings * 2013$				
Equipment Class Group 1	55	160	98	−409
Equipment Class Group 2	53	53	−280	−280
Equipment Class Group 3	N/A **	N/A **	−65	−807
Consumer Median PBP * years				
Equipment Class Group 1	1.0	2.9	6.0	26.5
Equipment Class Group 2	4.5	4.5	20.7	20.7
Equipment Class Group 3	N/A **	N/A **	3,016	11,632
Equipment Class Group 1				
Net Cost %	0.3	7.8	34.8	83.3
Net Benefit %	10.9	34.3	44.7	9.4
No Impact %	88.8	57.9	20.4	7.3
Equipment Class Group 2				
Net Cost %	18.6	18.6	92.8	92.8
Net Benefit %	71.5	71.5	7.2	7.2
No Impact %	9.8	9.8	0.0	0.0
Equipment Class Group 3				
Net Cost (%)	0.0	0.0	81.7	100.0
Net Benefit (%)	0.0	0.0	0.0	0.0
No Impact (%)	0.0	0.0	18.3	0.0

* The results for each equipment class group (ECG) are a shipment weighted average of results for the representative units in the group. ECG 1: Representative units 1, 2, 3, 9, and 10; ECG 2: Representative units 4 and 5; ECG 3: Representative units 6, 7, and 8.
** For equipment class group 3, TSL 1 and 2 are the same as the baseline; thus, no customers are affected.

First, DOE considered TSL 4, the most efficient level (max-tech), which would save an estimated total of 13.7 quads of energy, an amount DOE considers significant. TSL 4 has an estimated NPV of customer benefit of −31.3 billion using a 7-percent discount rate, and −39.3 billion using a 3-percent discount rate.

The cumulative emissions reductions at TSL 4 are 774 million metric tons of CO_2, 977 thousand tons of NO_X, 1,321 thousand tons of SO_2, and 1.6 tons of Hg. The estimated monetary value of the CO_2 emissions reductions at TSL 4 ranges from $5,233 million to $74,991 million.

At TSL 4, the weighted average LCC impact ranges from $−807 for ECG 3 to $−280 for ECG 2. The weighted average median PBP ranges from 20.7 years for ECG 2 to 11,632 years for ECG 3. The weighted average share of customers experiencing a net LCC benefit ranges from 0-percent for ECG 3 to 9.4-percent for ECG 1.

At TSL 4, the projected change in INPV ranges from a decrease of $1,429.8 million to an increase of $1,904.1 million. If the decrease of $1,429.8 million were to occur, TSL 4 could result in a net loss of 41.1 percent in INPV to manufacturers of covered electric motors.

Based on the foregoing, DOE concludes that, at TSL 4 for electric motors, the benefits of energy savings, generating capacity reductions, emission reductions, and the estimated monetary value of the emissions reductions would be outweighed by the potential multi-billion dollar negative

net economic cost; the economic burden on customers as indicated by the increase in customer LCC (negative savings), large PBPs, the large percentage of customers who would experience LCC increases; the increase in the cumulative regulatory burden on manufacturers; and the capital and engineering costs that could result in a large reduction in INPV for manufacturers at TSL 4. Additionally, DOE believes that efficiency standards at this level could result in significant impacts on OEMs due to larger and faster motors. Although DOE has not quantified these potential OEM impacts, DOE believes that it is possible that these impacts could be significant and further reduce any potential benefits of standards established at this TSL. Consequently, DOE has concluded that TSL 4 is not economically justified.

Next, DOE considered TSL 3, which would save an estimated total of 10.7 quads of energy, an amount DOE considers significant. TSL 3 has an estimated NPV of customer benefit of $ − 1.5 billion using a 7-percent discount rate, and $8.6 billion using a 3-percent discount rate.

The cumulative emissions reductions at TSL 3 are 608 million metric tons of CO_2, 767 thousand tons of NO_X, 1,039 thousand tons of SO_2, and 1.3 tons of Hg. The estimated monetary value of the CO_2 emissions reductions at TSL 4 ranges from $4,094 million to $58,845 million.

At TSL 3, the weighted average LCC impact ranges from $ − 280 for ECG 2 to $98 for ECG 1. The weighted average median PBP ranges from 6 years for ECG 1 to 3,016 years for ECG 3. The share of customers experiencing a net LCC benefit ranges from 0-percent for ECG 3 to 44.7-percent for ECG 1.

At TSL 3, the projected change in INPV ranges from a decrease of $549.7 million to an increase of $1,063.9 million. If the decrease of $549.7 million were to occur, TSL 3 could result in a net loss of 15.8 percent in INPV to manufacturers of covered electric motors.

Based on the foregoing, DOE concludes that, at TSL 3 for electric motors, the benefits of energy savings, positive weighted average customer LCC savings for some ECGs, generating capacity reductions, emission reductions, and the estimated monetary value of the emissions reductions would be outweighed by the potential negative net economic cost; the economic burden on customers as indicated by the increase in weighted average LCC for some ECGs (negative savings), large PBPs, the large percentage of customers who would experience LCC increases; the increase in the cumulative regulatory burden on manufacturers; and the capital and engineering costs that could result in a large reduction in INPV for manufacturers at TSL 3. Additionally, DOE believes that efficiency standards at this level could result in significant impacts on OEMs due to larger and faster motors. Although DOE has not quantified these potential OEM impacts, DOE believes that it is possible that these impacts could be significant and further reduce any potential benefits of standards established at this TSL. Consequently, DOE has concluded that TSL 3 is not economically justified.

Next, DOE considered TSL 2, which would save an estimated total of 7.0 quads of energy, an amount DOE considers significant. TSL 2 has an estimated NPV of customer benefit of $11.3 billion using a 7-percent discount rate, and $28.8 billion using a 3-percent discount rate.

The cumulative emissions reductions at TSL 2 are 395 million metric tons of CO_2, 498 thousand tons of NO_X, 673 thousand tons of SO_2, and 0.8 tons of Hg. The estimated monetary value of the CO_2 emissions reductions at TSL 4 ranges from $2,675 million to $38,335 million.

At TSL 2, the weighted average LCC impact ranges from no impacts for ECG 3 to $160 for ECG 1. The weighted average median PBP ranges from 0 years for ECG 3 to 4.5 years for ECG 2. The share of customers experiencing a net LCC benefit ranges from 0-percent for ECG 3 to 71.5-percent for ECG 2.The share of motors already at TSL2 efficiency levels varies by equipment class group and by horsepower range (from 0- to 57.9-percent). For ECG 1, which represents the most significant share of the market, about 30-percent of motors already meet the TSL levels.

At TSL 2, the projected change in INPV ranges from a decrease of $347.7 million to an increase of $392.6 million. If the decrease of $347.7 million were to occur, TSL 2 could result in a net loss of 10.0 percent in INPV to manufacturers of covered electric motors.

After considering the analysis and weighing the benefits and the burdens, DOE has concluded that at TSL 2 for electric motors, the benefits of energy savings, positive NPV of customer benefit, positive impacts on consumers (as indicated by positive weighted average LCC savings for all ECGs impacted at TSL 2), favorable PBPs, the large percentage of customers who would experience LCC benefits, emission reductions, and the estimated monetary value of the emissions reductions would outweigh the slight increase in the cumulative regulatory burden on manufacturers and the risk of small negative impacts if manufacturers are unable to recoup investments made to meet the standard. In particular, the Secretary of Energy has concluded that TSL 2 would save a significant amount of energy and is technologically feasible and economically justified.

In addition, DOE notes that TSL 2 most closely corresponds to the standards that were proposed by the Motor Coalition, as described in section II.B.2. Based on the above considerations, DOE today adopts the energy conservation standards for electric motors at TSL 2. Table V.23 through Table V.25 present the energy conservation standards for electric motors.

TABLE V.23—ENERGY CONSERVATION STANDARDS FOR NEMA DESIGN A AND NEMA DESIGN B MOTORS

[Compliance starting June 1, 2016]

Motor horsepower/ standard kilowatt equivalent	Nominal full-load efficiency (%)							
	2-Pole		4-Pole		6-Pole		8-Pole	
	Enclosed	Open	Enclosed	Open	Enclosed	Open	Enclosed	Open
1/.75	77.0	77.0	85.5	85.5	82.5	82.5	75.5	75.5
1.5/1.1	84.0	84.0	86.5	86.5	87.5	86.5	78.5	77.0
2/1.5	85.5	85.5	86.5	86.5	88.5	87.5	84.0	86.5
3/2.2	86.5	85.5	89.5	89.5	89.5	88.5	85.5	87.5
5/3.7	88.5	86.5	89.5	89.5	89.5	89.5	86.5	88.5
7.5/5.5	89.5	88.5	91.7	91.0	91.0	90.2	86.5	89.5

TABLE V.23—ENERGY CONSERVATION STANDARDS FOR NEMA DESIGN A AND NEMA DESIGN B MOTORS—Continued

[Compliance starting June 1, 2016]

Motor horsepower/ standard kilowatt equivalent	Nominal full-load efficiency (%)							
	2-Pole		4-Pole		6-Pole		8-Pole	
	Enclosed	Open	Enclosed	Open	Enclosed	Open	Enclosed	Open
10/7.5	90.2	89.5	91.7	91.7	91.0	91.7	89.5	90.2
15/11	91.0	90.2	92.4	93.0	91.7	91.7	89.5	90.2
20/15	91.0	91.0	93.0	93.0	91.7	92.4	90.2	91.0
25/18.5	91.7	91.7	93.6	93.6	93.0	93.0	90.2	91.0
30/22	91.7	91.7	93.6	94.1	93.0	93.6	91.7	91.7
40/30	92.4	92.4	94.1	94.1	94.1	94.1	91.7	91.7
50/37	93.0	93.0	94.5	94.5	94.1	94.1	92.4	92.4
60/45	93.6	93.6	95.0	95.0	94.5	94.5	92.4	93.0
75/55	93.6	93.6	95.4	95.0	94.5	94.5	93.6	94.1
100/75	94.1	93.6	95.4	95.4	95.0	95.0	93.6	94.1
125/90	95.0	94.1	95.4	95.4	95.0	95.0	94.1	94.1
150/110	95.0	94.1	95.8	95.8	95.8	95.4	94.1	94.1
200/150	95.4	95.0	96.2	95.8	95.8	95.4	94.5	94.1
250/186	95.8	95.0	96.2	95.8	95.8	95.8	95.0	95.0
300/224	95.8	95.4	96.2	95.8	95.8	95.8	.....	.....
350/261	95.8	95.4	96.2	95.8	95.8	95.8	.....	.....
400/298	95.8	95.8	96.2	95.8	.....	.....	.....	.....
450/336	95.8	96.2	96.2	96.2	.....	.....	.....	.....
500/373	95.8	96.2	96.2	96.2	.....	.....	.....	.....

TABLE V.24—ENERGY CONSERVATION STANDARDS FOR NEMA DESIGN C MOTORS

[Compliance starting June 1, 2016]

Motor horsepower/standard kilowatt equivalent	Nominal full-load efficiency (%)					
	4-Pole		6-Pole		8-Pole	
	Enclosed	Open	Enclosed	Open	Enclosed	Open
1/.75	85.5	85.5	82.5	82.5	75.5	75.5
1.5/1.1	86.5	86.5	87.5	86.5	78.5	77.0
2/1.5	86.5	86.5	88.5	87.5	84.0	86.5
3/2.2	89.5	89.5	89.5	88.5	85.5	87.5
5/3.7	89.5	89.5	89.5	89.5	86.5	88.5
7.5/5.5	91.7	91.0	91.0	90.2	86.5	89.5
10/7.5	91.7	91.7	91.0	91.7	89.5	90.2
15/11	92.4	93.0	91.7	91.7	89.5	90.2
20/15	93.0	93.0	91.7	92.4	90.2	91.0
25/18.5	93.6	93.6	93.0	93.0	90.2	91.0
30/22	93.6	94.1	93.0	93.6	91.7	91.7
40/30	94.1	94.1	94.1	94.1	91.7	91.7
50/37	94.5	94.5	94.1	94.1	92.4	92.4
60/45	95.0	95.0	94.5	94.5	92.4	93.0
75/55	95.4	95.0	94.5	94.5	93.6	94.1
100/75	95.4	95.4	95.0	95.0	93.6	94.1
125/90	95.4	95.4	95.0	95.0	94.1	94.1
150/110	95.8	95.8	95.8	95.4	94.1	94.1
200/150	96.2	95.8	95.8	95.4	94.5	94.1

TABLE V.25—ENERGY CONSERVATION STANDARDS FOR FIRE PUMP ELECTRIC MOTORS

[Compliance starting June 1, 2016]

Motor horsepower/ standard kilowatt equivalent	Nominal full-load efficiency (%)							
	2-Pole		4-Pole		6-Pole		8-Pole	
	Enclosed	Open	Enclosed	Open	Enclosed	Open	Enclosed	Open
1/.75	75.5	.....	82.5	82.5	80.0	80.0	74.0	74.0
1.5/1.1	82.5	82.5	84.0	84.0	85.5	84.0	77.0	75.5
2/1.5	84.0	84.0	84.0	84.0	86.5	85.5	82.5	85.5
3/2.2	85.5	84.0	87.5	86.5	87.5	86.5	84.0	86.5
5/3.7	87.5	85.5	87.5	87.5	87.5	87.5	85.5	87.5
7.5/5.5	88.5	87.5	89.5	88.5	89.5	88.5	85.5	88.5
10/7.5	89.5	88.5	89.5	89.5	89.5	90.2	88.5	89.5

TABLE V.25—ENERGY CONSERVATION STANDARDS FOR FIRE PUMP ELECTRIC MOTORS—Continued

[Compliance starting June 1, 2016]

Motor horsepower/ standard kilowatt equivalent	Nominal full-load efficiency (%)							
	2-Pole		4-Pole		6-Pole		8-Pole	
	Enclosed	Open	Enclosed	Open	Enclosed	Open	Enclosed	Open
15/11	90.2	89.5	91.0	91.0	90.2	90.2	88.5	89.5
20/15	90.2	90.2	91.0	91.0	90.2	91.0	89.5	90.2
25/18.5	91.0	91.0	92.4	91.7	91.7	91.7	89.5	90.2
30/22	91.0	91.0	92.4	92.4	91.7	92.4	91.0	91.0
40/30	91.7	91.7	93.0	93.0	93.0	93.0	91.0	91.0
50/37	92.4	92.4	93.0	93.0	93.0	93.0	91.7	91.7
60/45	93.0	93.0	93.6	93.6	93.6	93.6	91.7	92.4
75/55	93.0	93.0	94.1	94.1	93.6	93.6	93.0	93.6
100/75	93.6	93.0	94.5	94.1	94.1	94.1	93.0	93.6
125/90	94.5	93.6	94.5	94.5	94.1	94.1	93.6	93.6
150/110	94.5	93.6	95.0	95.0	95.0	94.5	93.6	93.6
200/150	95.0	94.5	95.0	95.0	95.0	94.5	94.1	93.6
250/186	95.4	94.5	95.0	95.4	95.0	95.4	94.5	94.5
300/224	95.4	95.0	95.4	95.4	95.0	95.4	.....	.....
350/261	95.4	95.0	95.4	95.4	95.0	95.4	.....	.....
400/298	95.4	95.4	95.4	95.4	.....	.....	.....	.....
450/336	95.4	95.8	95.4	95.8	.....	.....	.....	.....
500/373	95.4	95.8	95.8	95.8	.....	.....	.....	.....

2. Summary of Benefits and Costs (Annualized) of Today's Standards

The benefits and costs of today's standards, for equipment sold in 2016–2045, 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 equipment that meet the standards (consisting primarily of operating cost savings from using less energy, minus increases in equipment purchase and installation costs, which is another way of representing consumer NPV), and (2) the annualized monetary value of the benefits of emission reductions, including CO_2 emission reductions.[92]

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 electric motors shipped in 2016–2045. 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 carbon dioxide in each year. These impacts continue well beyond 2100.

Estimates of annualized benefits and costs of today's standards for electric motors are shown in Table V.26. 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 today's standards is $517 million per year in increased equipment costs; while the estimated benefits are $1,367 million per year in reduced equipment operating costs, $614 million per year in CO_2 reductions, and $23.3 million per year in reduced NO_X emissions. In this case, the net benefit would amount to $1,488 million per year. Using a 3-percent discount rate for all benefits and costs and the average SCC series, the estimated cost of today's standards is $621 million per year in increased equipment costs; while the estimated benefits are $2,048 million per year in reduced operating costs, $614 million per year in CO_2 reductions, and $32.9 million per year in reduced NO_X emissions. In this case, the net benefit would amount to approximately $2,074 million per year.

TABLE V.26—ANNUALIZED BENEFITS AND COSTS OF STANDARDS FOR ELECTRIC MOTORS

[Million 2013$/year]

	Discount rate	Primary estimate *	Low net benefits estimate *	High net benefits estimate *
Benefits				
Consumer Operating Cost Savings	7%	1,367	1,134	1,664
	3%	2,048	1,684	2,521
CO_2 Reduction Monetized Value ($12.0/t case) *	5%	166	143	192
CO_2 Reduction Monetized Value ($40.5/t case) *	3%	614	531	712

[92] 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 2014, the year used for discounting the NPV of total consumer costs and savings, for the time-series of costs and benefits using discount rates of three and seven percent for all costs and benefits except for the value of CO_2 reductions. For the latter, DOE used a range of discount rates, as shown in Table I.3. From the present value, DOE then calculated the fixed annual payment over a 30-year period (2016 through 2045) 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.

TABLE V.26—ANNUALIZED BENEFITS AND COSTS OF STANDARDS FOR ELECTRIC MOTORS—Continued

[Million 2013$/year]

	Discount rate	Primary estimate *	Low net benefits estimate *	High net benefits estimate *
CO_2 Reduction Monetized Value ($62.4/t case) *	2.5%	920	795	1,066
CO_2 Reduction Monetized Value $119/t case) *	3%	1,899	1,641	2,200
NO_X Reduction Monetized Value (at $2,684/ton) **	7%	23.3	20.1	26.8
	3%	32.9	28.4	38.0
Total Benefits †	7% plus CO_2 range	1,556 to 3,289	1,297 to 2,795	1,882 to 3,890
	7%	2,005	1,685	2,402
	3% plus CO_2 range	2,247 to 3,980	1,855 to 3,353	2,750 to 4,758
	3%	2,696	2,243	3,270
Costs				
Consumer Incremental Equipment Costs	7%	517	582	503
	3%	621	697	616
Net Benefits				
Total †	7% plus CO_2 range	1,039 to 2,772	716 to 2,213	1,380 to 3,388
	7%	1,488	1,103	1,900
	3% plus CO_2 range	1,626 to 3,359	1,158 to 2,656	2,134 to 4,143
	3%	2,074	1,546	2,654

* This table presents the annualized costs and benefits associated with electric motors shipped in 2016–2045. These results include benefits to consumers which accrue after 2044 from the equipment purchased in years 2016–2045. Costs incurred by manufacturers, some of which may be incurred in preparation for the rule, are not directly included, but are indirectly included as part of incremental equipment costs. The Primary, Low Benefits, and High Benefits Estimates are in view of projections of energy prices from the Annual Energy Outlook (AEO) 2013 Reference case, Low Estimate, and High Estimate, respectively. In addition, incremental equipment costs reflect a medium constant projected equipment price in the Primary Estimate, a decline rate for projected equipment price trends in the Low Benefits Estimate, and an increasing rate for projected equipment price trends in the High Benefits Estimate. The methods used to derive projected price trends are explained in section IV.F.1.

** The interagency group selected four sets of SCC values for use in regulatory analyses. Three sets of values are based on the average SCC from the three integrated assessment models, at discount rates of 2.5, 3, 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 temperature change further out in the tails of the SCC distribution. The values in parentheses represent the SCC in 2015. The SCC time series 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.

VI. 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 (October. 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: There are external benefits resulting from improved energy efficiency of covered electric motors which 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 emissions of greenhouse gases. DOE attempts to quantify some of the external benefits through use of Social Cost of Carbon values.

In addition, DOE has determined that today's regulatory action is a "significant regulatory action" under section 3(f)(1) Executive Order 12866. DOE presented to the Office of Information and Regulatory Affairs (OIRA) in the OMB 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 (January 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, OIRA 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 final rule is consistent with these principles, including the requirement that, to the extent permitted by law, benefits justify costs and that net benefits are maximized.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) requires preparation of an initial regulatory flexibility analysis (IRFA) for any rule that by law must be proposed for public comment, and a final regulatory flexibility analysis (FRFA) for any such rule that an agency adopts as a final rule, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's Web site (*http://energy.gov/gc/office-general-counsel*). DOE reviewed the December 2013 NOPR (78 FR 73590) and today's final rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003.

As a result of this review, DOE has prepared a FRFA for electric motors. As presented and discussed in the following section, the FRFA describes impacts on electric motor manufacturers and discusses alternatives that could minimize these impacts. A statement of the reasons for establishing the standards in today's final rule, and the objectives of, and legal basis for these standards, are set forth elsewhere in the preamble and not repeated here. Chapter 12 of the TSD contains more information about the impact of this rulemaking on manufacturers.

1. Description and Estimated Number of Small Entities Regulated

For manufacturers of electric motors, the Small Business Administration (SBA) has set a size threshold, which defines those entities classified as ''small businesses'' for the purposes of the statute. DOE used the SBA's small business size standards to determine whether any small entities would be subject to the requirements of the rule. 65 FR 30836, 30850 (May 15, 2000), as amended at 65 FR 53533, 53545 (September 5, 2000) and codified at 13 CFR part 121. The size standards are listed by North American Industry Classification System (NAICS) code and industry description and are available at *http://www.sba.gov/content/table-small-business-size-standards*. Electric motor manufacturing is classified under NAICS 335312, ''Motor and Generator 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 equipment covered by this rulemaking, DOE conducted a market survey using publicly available information. DOE's research involved industry trade association membership directories (including NEMA [93]), information from previous rulemakings, UL qualification directories, individual company Web sites, and market research tools (*e.g.,* Hoover's reports [94]). DOE also asked stakeholders and industry representatives if they were aware of any other small manufacturers during manufacturer interviews and DOE public meetings. DOE used information from these sources to create a list of companies that could potentially manufacture electric motors covered by this rulemaking. As necessary, DOE contacted companies to determine whether they met the SBA's definition of a small business manufacturer. DOE screened out companies that do not offer equipment covered by this rulemaking, do not meet the definition of a ''small business,'' or are completely foreign-owned and -operated.

DOE initially identified 60 potential manufacturers of electric motors sold in the United States. After reviewing publicly available information on these potential electric motor manufacturers, DOE determined that 33 were either large manufacturers or manufacturers that did not sell electric motors covered by this rulemaking. DOE then contacted the remaining 27 companies to determine whether they met the SBA definition of a small business and whether they manufactured the equipment that would be affected by today's standards. Based on these efforts, DOE estimates that there are 13 small business manufacturers of electric motors covered by this rulemaking in the United States.

a. Manufacturer Participation

As stated in the December 2013 NOPR (78 FR at 73670), DOE attempted to contact the 13 identified small businesses to invite them to take part in a small business manufacturer impact analysis interview. Of the electric motor manufacturers DOE contacted, 10 responded, and three did not. Eight of the 10 responding manufacturers declined to be interviewed. Therefore, DOE was able to reach and discuss potential standards with two of the 13 small business manufacturers. DOE also obtained information about small business manufacturers and potential impacts while interviewing large manufacturers.

b. Electric Motor Industry Structure and Nature of Competition

Eight major manufacturers supply approximately 90 percent of the market for electric motors. None of the major manufacturers of electric motors covered in this rulemaking is a small business. DOE estimates that approximately 50 percent of the market is served by imports. Many of the small businesses that compete in the electric motor market produce specialized motors, many of which have not been regulated under previous standards. Most of these low-volume manufacturers do not compete directly with large manufacturers and tend to occupy niche markets for their equipment, which are currently not required to comply with existing electric motor standards but would be required to comply with the standards in this final rule. There are a few small business manufacturers that produce general purpose motors; however, these motors already meet premium efficiency levels, which correspond to the efficiency levels being selected for the majority of electric motors covered in today's final rule.

c. Comparison Between Large and Small Entities

For electric motors, small manufacturers differ from large manufacturers in several ways that affect the extent to which a manufacturer would be impacted by selected standards. Characteristics of small manufacturers include: lower production volumes, fewer engineering resources, less technical expertise, and less access to capital.

A lower-volume manufacturer's conversion costs would need to be spread over fewer units than a larger competitor. Smaller companies are also more likely to have more limited engineering resources, and they often operate with lower levels of design and manufacturing sophistication. Smaller companies typically also have less experience and expertise in working with more advanced technologies. Standards that required these technologies could strain the engineering resources of these small manufacturers, if they chose to maintain a vertically integrated business model.

[93] *http://www.nema.org/Products/Pages/Motor-and-Generator.aspx.*

[94] *http://www.hoovers.com.*

Small manufacturers of electric motor can also be at a disadvantage due to their lack of purchasing power for high-performance materials. For example, more expensive low-loss steels are needed to meet higher efficiency standards, and steel cost grows as a percentage of the overall equipment cost. Small manufacturers who pay higher per-pound prices would be disproportionately impacted by these prices. Lastly, small manufacturers typically have less access to capital, which may be needed by some to cover the conversion costs associated with new technologies.

2. Description and Estimate of Compliance Requirements

In its market survey, DOE identified three categories of small manufacturers of electric motors that may be impacted differently by today's final rule. The first group, which includes approximately five of the 13 small businesses, consists of manufacturers that produce specialty motors that were not required to meet previous Federal standards, but would need to do so under the expanded scope of today's final rule. DOE believes that this group would likely be the most impacted by expanding the scope of equipment required to meet premium efficiency levels. The second group, which includes approximately five different small businesses, consists of manufacturers that produce a small amount of covered equipment and primarily focus on other types of motors not covered in this rulemaking, such as single-phase or direct-current motors. Because generally less than 10 percent of these manufacturers' revenue comes from covered equipment, DOE does not believe new standards will substantially impact their business. The third group, which includes approximately three small businesses, consists of manufacturers that already offer premium efficiency general purpose and specialty motors. DOE expects these manufacturers to face conversion costs similar to large manufacturers, in that they will not experience high capital conversion costs as they already have the design and production experience necessary to bring their motors up to premium efficiency levels. It is likely, however, that some of the specialty equipment these manufacturers produce will be included in the expanded scope of this rule and is likely to result in these small businesses incurring additional certification and testing costs. These manufacturers could also face equipment development costs if they have to redesign any motors that are not currently meeting the premium level.

At TSL 2, the level adopted in today's notice, DOE estimates capital conversion costs of $1.88 million and equipment conversion costs of $3.75 million for a typical small manufacturer in the first group (manufacturers that produce specialized motors previously not covered by Federal standards). Meanwhile, DOE estimates a typical large manufacturer would incur capital and equipment conversion costs of $3.29 million and $7.25 million, respectively, at the same TSL. Small manufacturers that predominately produce specialty motors would face higher relative capital conversion costs at TSL 2 than large manufacturers because large manufacturers have been independently pursuing higher efficiency motors as a result of the efficiency standards prescribed by EISA 2007 (10 CFR 431.25) and, consequently, have built up more design and production experience. Large manufacturers have also been innovating as a result of the small electric motors rulemaking at 75 FR 10874 (March 9, 2010). This rule did not apply to non-general purpose small electric motors that many of these small business manufacturers produce. Many large manufacturers of general purpose motors offer equipment that was covered by the 2010 small electric motors rule, as well as equipment that falls under this rule. Small manufacturers pointed out that this fact would give large manufacturers an advantage in that they already have experience with the technology necessary to redesign their equipment and are familiar with the steps they will have to take to upgrade their manufacturing equipment and processes. Small manufacturers, whose specialized motors were not required to meet the standards prescribed by the small electric motors rule and EISA 2007 have not undergone these processes and, therefore, would have to put more time and resources into redesign efforts.

The small businesses whose equipment lines consist of a high percentage of equipment that are not currently required to meet efficiency standards would need to make significant capital investments relative to large manufacturers to upgrade their production lines with equipment necessary to produce motors that can satisfy the levels being adopted today. As Table VI.1 illustrates, these manufacturers would have to drastically increase their capital expenditures to purchase new lamination die sets, and new winding and stacking equipment.

For small manufacturers in the second group (manufacturers whose revenue from covered equipment in this rulemaking is less than 10 percent of total company revenue), DOE believes that these small manufacturers would lose no more than 10 percent of their company revenue. This lower bound is because these manufacturers could always choose not to make the investments necessary to convert the newly covered electric motors subject to standards in today's final rule. This lower bound is similar to the lower bound estimate of the entire electric motor industry at TSL 2, the TSL adopted in this final rule.

For small manufacturers in the third group (manufacturer that produces general purpose motors currently covered by Federal standards), DOE predicts that these small manufacturers would not have any conversion costs or decrease in revenue since they already manufacture electric motors that are compliant with the standards being adopted for this final rule.

TABLE VI.1—ESTIMATED CAPITAL AND PRODUCT CONVERSION COSTS AS A PERCENTAGE OF ANNUAL CAPITAL EXPENDITURES AND R&D EXPENSE

	Capital conversion cost as a percentage of annual capital expenditures (percent)	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	14	31	2
Typical small manufacturer that produces specialty motors previously not covered by Federal standards	188	490	75

TABLE VI.1—ESTIMATED CAPITAL AND PRODUCT CONVERSION COSTS AS A PERCENTAGE OF ANNUAL CAPITAL EXPENDITURES AND R&D EXPENSE—Continued

	Capital conversion cost as a percentage of annual capital expenditures (percent)	Product conversion cost as a percentage of annual R&D expense (percent)	Total conversion cost as a percentage of annual revenue (percent)
Typical small manufacturer who revenue from covered equipment is less than 10% of total company revenue	NA	NA	* ≤ 10
Typical small manufacturer that produces general purpose motors currently covered by Federal standards	0	0	0

* The most these manufacturers would lose is 10% of their annual revenue if they choose not to invest in upgrading the equipment they currently manufacture, which is not covered by Federal energy conservation standards, but that would now be covered by the standards prescribed in this final rule.

Table VI.1 also illustrates that small manufacturers whose equipment lines contain many motors that are not currently required to meet Federal standards face high relative equipment conversion costs compared to large manufacturers, despite the lower dollar value. In interviews, these small manufacturers expressed concern that they would face a large learning curve relative to large manufacturers, due to the fact that many of the equipment types have not had to meet Federal standards. In its market survey, DOE learned that for some manufacturers, the expanded scope of specialized motors that would have to meet the levels adopted by today's rule could affect nearly half the equipment they offer. They would need to hire additional engineers and would have to spend considerable time and resources redesigning their equipment and production processes. DOE does not expect the small businesses that already manufacture motors meeting the levels adopted by today's rule or those small businesses that offer very few alternating-current motors to incur these high costs.

Manufacturers also expressed concern about testing and certification costs associated with new standards. They pointed out that these costs are particularly burdensome on small businesses that produce a wide variety of specialized equipment. As a result of the wide variety of equipment they produce and their relatively low output, small manufacturers are forced to certify multiple small batches of motors, the costs of which are spread out over far fewer units than large manufacturers.

Small manufacturers that produce equipment not currently required to meet efficiency standards also pointed out that they would face significant challenges supporting current business while making changes to their production lines. While large manufacturers could shift production of certain equipment to different plants or equipment lines while they made updates, small businesses would have limited options. Most of these small businesses have only one plant and would have to find a way to continue to fulfill customer needs while redesigning production lines and installing new equipment. In interviews with DOE, small manufacturers said that it would be difficult to quantify the impacts that downtime and the possible need for external support could have on their businesses.

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 Rule

Section VI.B.2 analyzes impacts on small businesses that would result from DOE's adopted final rule. Though TSLs lower than the one serving as the basis for today's final rule would be likely 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 it had been considering.

In addition to the other TSLs that DOE considered, the final rule TSD includes a regulatory impact analysis (RIA). For electric motors, the RIA discusses the following policy alternatives: (1) Consumer rebates, (2) consumer tax credits, (3) manufacturer tax credits, (4) voluntary energy efficiency targets, (5) early replacement, and (6) bulk government purchases. While these alternatives may mitigate to some varying extent the economic impacts on small entities compared to the standards, DOE determined that the energy savings of these alternatives are significantly smaller than those that would be expected to result from the adopted standard levels. Accordingly, DOE is declining to adopt any of these alternatives and is adopting the standards set forth in this rulemaking. (See chapter 17 of this final TSD for further detail on the policy alternatives DOE considered.)

DOE only received one public comment regarding the impact of the rule on small manufacturers. Baldor asked why DOE does not consider impacts on the many small manufacturers outside of the U.S. (Baldor, Pub. Mtg. Tr., No. 87 at pp. 176–177). Under the Regulatory Flexibility Act, the term ''small business concern'' is defined by reference to SBA's regulations. SBA's regulations state that a small business concern is ''a business entity organized for profit, with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor''. 13 CFR 121.105(a)(1). As a result, under the Regulatory Flexibility Act, DOE must assess impacts on domestic small businesses. DOE did not receive any comments suggesting that small business manufacturers would not be able to achieve the efficiency levels required at TSL 2, the selected standards in today's final rule.

C. Review Under the Paperwork Reduction Act

Manufacturers of electric motors that are currently subject to energy conservation standards must certify to DOE that their equipment complies with any applicable energy conservation standards. In certifying compliance, manufacturers must test their equipment according to the DOE test procedures for electric motors,

including any amendments adopted for those test procedures. 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. DOE intends to address revised certification requirements for electric motors in a separate rulemaking.

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 rule fits within the category of actions included in Categorical Exclusion (CX) B5.1 and otherwise meets the requirements for application of a CX.(10 CFR part 1021, App. B, B5.1(b); 1021.410(b) and Appendix B, B(1)–(5)). The 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 rule. DOE's CX determination for this rule is available at *http://cxnepa.energy.gov/*.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism'' 64 FR 43255 (August10, 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 equipment that is the subject of today's final rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. 61 FR 4729 (February 7, 1996). Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

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

DOE has concluded that this final rule would likely require expenditures of $100 million or more. Such expenditures may include: (1) Investment in research and development and in capital Expenditures by electric motor 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 electric motors, starting at the compliance date for the applicable standard.

Section 202 of UMRA authorizes a Federal agency to respond to the content requirements of UMRA in any other statement or analysis that accompanies the final rule. 2 U.S.C. 1532(c). The content requirements of section 202(b) of UMRA relevant to a private sector mandate substantially overlap the economic analysis requirements that apply under section 325(o) of EPCA and Executive Order 12866. The **SUPPLEMENTARY INFORMATION** section of today's final rule and the ''Regulatory Impact Analysis'' section of the TSD accompanying the final 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 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(d), (f), and (o) and 6316(a), today's final rule would establish energy conservation standards for electric motors that are designed to achieve the maximum improvement in energy efficiency that DOE has determined to be both technologically feasible and economically justified. A full discussion of the alternatives considered by DOE is presented in the ''Regulatory Impact Analysis'' section of the TSD for today's final rule.

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

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

I. Review Under Executive Order 12630

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

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

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

K. Review Under Executive Order 13211

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

DOE has concluded that today's regulatory action, which sets forth energy conservation standards for electric motors, is not a significant energy action because the new and amended standards are not likely to have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects on the final rule.

L. Review Under the Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (OSTP), issued its Final Information Quality Bulletin for Peer Review (the Bulletin). 70 FR 2664 (January14, 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*.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule prior to its effective date. The report will state that it has been determined that the rule is a ''major rule'' as defined by 5 U.S.C. 804(2).

VII. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of today's final rule.

List of Subjects in 10 CFR Part 431

Administrative practice and procedure, Confidential business information, Energy conservation, Commercial and industrial Equipment, Imports, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, and Small businesses.

Issued in Washington, DC, on May 8, 2014.

David T. Danielson,

Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, DOE amends part 431 of chapter II of title 10 of the Code of Federal Regulations, as set forth below:

PART 431—ENERGY CONSERVATION PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291–6317.

■ 2. Amend § 431.12 by revising the definitions of ''NEMA Design A motor'' and ''partial electric motor'' to read as follows:

§ 431.12 Definitions.

* * * * *

NEMA Design A motor means a squirrel-cage motor that:

(1) Is designed to withstand full-voltage starting and developing locked-rotor torque as shown in NEMA MG 1–2009, paragraph 12.38.1 (incorporated by reference, see § 431.15);

(2) Has pull-up torque not less than the values shown in NEMA MG 1–2009, paragraph 12.40.1;

(3) Has breakdown torque not less than the values shown in NEMA MG 1–2009, paragraph 12.39.1;

(4) Has a locked-rotor current higher than the values shown in NEMA MG 1–2009, paragraph 12.35.1 for 60 hertz and NEMA MG 1–2009, paragraph 12.35.2 for 50 hertz; and

(5) Has a slip at rated load of less than 5 percent for motors with fewer than 10 poles.

* * * * *

Partial electric motor means an assembly of motor components necessitating the addition of no more than two endshields, including bearings, to create an electric motor capable of operation in accordance with the applicable nameplate ratings.

* * * * *

■ 3. Revise § 431.25 to read as follows:

§ 431.25 Energy conservation standards and effective dates.

(a) Except as provided for fire pump electric motors in paragraph (b) of this section, each general purpose electric motor (subtype I) with a power rating of 1 horsepower or greater, but not greater than 200 horsepower, including a NEMA Design B or an equivalent IEC Design N motor that is a general purpose electric motor (subtype I), manufactured (alone or as a component of another piece of equipment) on or after December 19, 2010, but before June 1, 2016, shall have a nominal full-load efficiency that is not less than the following:

TABLE 1—NOMINAL FULL-LOAD EFFICIENCIES OF GENERAL PURPOSE ELECTRIC MOTORS (SUBTYPE I), EXCEPT FIRE PUMP ELECTRIC MOTORS

Motor horsepower/Standard kilowatt equivalent	Nominal full-load efficiency					
	Open motors (number of poles)			Enclosed motors (number of poles)		
	6	4	2	6	4	2
1/.75	82.5	85.5	77.0	82.5	85.5	77.0
1.5/1.1	86.5	86.5	84.0	87.5	86.5	84.0
2/1.5	87.5	86.5	85.5	88.5	86.5	85.5
3/2.2	88.5	89.5	85.5	89.5	89.5	86.5
5/3.7	89.5	89.5	86.5	89.5	89.5	88.5
7.5/5.5	90.2	91.0	88.5	91.0	91.7	89.5
10/7.5	91.7	91.7	89.5	91.0	91.7	90.2
15/11	91.7	93.0	90.2	91.7	92.4	91.0
20/15	92.4	93.0	91.0	91.7	93.0	91.0
25/18.5	93.0	93.6	91.7	93.0	93.6	91.7
30/22	93.6	94.1	91.7	93.0	93.6	91.7
40/30	94.1	94.1	92.4	94.1	94.1	92.4
50/37	94.1	94.5	93.0	94.1	94.5	93.0
60/45	94.5	95.0	93.6	94.5	95.0	93.6
75/55	94.5	95.0	93.6	94.5	95.4	93.6
100/75	95.0	95.4	93.6	95.0	95.4	94.1
125/90	95.0	95.4	94.1	95.0	95.4	95.0
150/110	95.4	95.8	94.1	95.8	95.8	95.0
200/150	95.4	95.8	95.0	95.8	96.2	95.4

(b) Each fire pump electric motor that is a general purpose electric motor (subtype I) or general purpose electric motor (subtype II) manufactured (alone or as a component of another piece of equipment) on or after December 19, 2010, but before June 1, 2016, shall have a nominal full-load efficiency that is not less than the following:

TABLE 2—NOMINAL FULL-LOAD EFFICIENCIES OF FIRE PUMP ELECTRIC MOTORS

Motor horsepower/standard kilowatt equivalent	Nominal full-load efficiency							
	Open motors (number of poles)				Enclosed motors (number of poles)			
	8	6	4	2	8	6	4	2
1/.75	74.0	80.0	82.5	.....	74.0	80.0	82.5	75.5
1.5/1.1	75.5	84.0	84.0	82.5	77.0	85.5	84.0	82.5
2/1.5	85.5	85.5	84.0	84.0	82.5	86.5	84.0	84.0
3/2.2	86.5	86.5	86.5	84.0	84.0	87.5	87.5	85.5
5/3.7	87.5	87.5	87.5	85.5	85.5	87.5	87.5	87.5
7.5/5.5	88.5	88.5	88.5	87.5	85.5	89.5	89.5	88.5
10/7.5	89.5	90.2	89.5	88.5	88.5	89.5	89.5	89.5
15/11	89.5	90.2	91.0	89.5	88.5	90.2	91.0	90.2
20/15	90.2	91.0	91.0	90.2	89.5	90.2	91.0	90.2
25/18.5	90.2	91.7	91.7	91.0	89.5	91.7	92.4	91.0
30/22	91.0	92.4	92.4	91.0	91.0	91.7	92.4	91.0

TABLE 2—NOMINAL FULL-LOAD EFFICIENCIES OF FIRE PUMP ELECTRIC MOTORS—Continued

Motor horsepower/standard kilowatt equivalent	Nominal full-load efficiency							
	Open motors (number of poles)				Enclosed motors (number of poles)			
	8	6	4	2	8	6	4	2
40/30	91.0	93.0	93.0	91.7	91.0	93.0	93.0	91.7
50/37	91.7	93.0	93.0	92.4	91.7	93.0	93.0	92.4
60/45	92.4	93.6	93.6	93.0	91.7	93.6	93.6	93.0
75/55	93.6	93.6	94.1	93.0	93.0	93.6	94.1	93.0
100/75	93.6	94.1	94.1	93.0	93.0	94.1	94.5	93.6
125/90	93.6	94.1	94.5	93.6	93.6	94.1	94.5	94.5
150/110	93.6	94.5	95.0	93.6	93.6	95.0	95.0	94.5
200/150	93.6	94.5	95.0	94.5	94.1	95.0	95.0	95.0
250/186	94.5	95.4	95.4	94.5	94.5	95.0	95.0	95.4
300/224	.....	95.4	95.4	95.0	.....	95.0	95.4	95.4
350/261	.....	95.4	95.4	95.0	.....	95.0	95.4	95.4
400/298	.....	.....	95.4	95.4	.....	.....	95.4	95.4
450/336	.....	.....	95.8	95.8	.....	.....	95.4	95.4
500/373	.....	.....	95.8	95.8	.....	.....	95.8	95.4

(c) Except as provided for fire pump electric motors in paragraph (b) of this section, each general purpose electric motor (subtype II) with a power rating of 1 horsepower or greater, but not greater than 200 horsepower, including a NEMA Design B or an equivalent IEC Design N motor that is a general purpose electric motor (subtype II), manufactured (alone or as a component of another piece of equipment) on or after December 19, 2010, but before June 1, 2016, shall have a nominal full-load efficiency that is not less than the following:

TABLE 3—NOMINAL FULL-LOAD EFFICIENCIES OF GENERAL PURPOSE ELECTRIC MOTORS (SUBTYPE II), EXCEPT FIRE PUMP ELECTRIC MOTORS

Motor horsepower/ Standard kilowatt equivalent	Nominal full-load efficiency							
	Open motors (number of poles)				Enclosed motors (number of poles)			
	8	6	4	2	8	6	4	2
1/.75	74.0	80.0	82.5	.....	74.0	80.0	82.5	75.5
1.5/1.1	75.5	84.0	84.0	82.5	77.0	85.5	84.0	82.5
2/1.5	85.5	85.5	84.0	84.0	82.5	86.5	84.0	84.0
3/2.2	86.5	86.5	86.5	84.0	84.0	87.5	87.5	85.5
5/3.7	87.5	87.5	87.5	85.5	85.5	87.5	87.5	87.5
7.5/5.5	88.5	88.5	88.5	87.5	85.5	89.5	89.5	88.5
10/7.5	89.5	90.2	89.5	88.5	88.5	89.5	89.5	89.5
15/11	89.5	90.2	91.0	89.5	88.5	90.2	91.0	90.2
20/15	90.2	91.0	91.0	90.2	89.5	90.2	91.0	90.2
25/18.5	90.2	91.7	91.7	91.0	89.5	91.7	92.4	91.0
30/22	91.0	92.4	92.4	91.0	91.0	91.7	92.4	91.0
40/30	91.0	93.0	93.0	91.7	91.0	93.0	93.0	91.7
50/37	91.7	93.0	93.0	92.4	91.7	93.0	93.0	92.4
60/45	92.4	93.6	93.6	93.0	91.7	93.6	93.6	93.0
75/55	93.6	93.6	94.1	93.0	93.0	93.6	94.1	93.0
100/75	93.6	94.1	94.1	93.0	93.0	94.1	94.5	93.6
125/90	93.6	94.1	94.5	93.6	93.6	94.1	94.5	94.5
150/110	93.6	94.5	95.0	93.6	93.6	95.0	95.0	94.5
200/150	93.6	94.5	95.0	94.5	94.1	95.0	95.0	95.0

(d) Each NEMA Design B or an equivalent IEC Design N motor that is a general purpose electric motor (subtype I) or general purpose electric motor (subtype II), excluding fire pump electric motors, with a power rating of more than 200 horsepower, but not greater than 500 horsepower, manufactured (alone or as a component of another piece of equipment) on or after December 19, 2010, but before June 1, 2016 shall have a nominal full-load efficiency that is not less than the following:

TABLE 4—NOMINAL FULL-LOAD EFFICIENCIES OF NEMA DESIGN B GENERAL PURPOSE ELECTRIC MOTORS (SUBTYPE I AND II), EXCEPT FIRE PUMP ELECTRIC MOTORS

Motor horsepower/ standard kilowatt equivalent	Nominal full-load efficiency							
	Open motors (number of poles)				Enclosed motors (number of poles)			
	8	6	4	2	8	6	4	2
250/186	94.5	95.4	95.4	94.5	94.5	95.0	95.0	95.4
300/224	.....	95.4	95.4	95.0	.....	95.0	95.4	95.4
350/261	.....	95.4	95.4	95.0	.....	95.0	95.4	95.4
400/298	.....	.....	95.4	95.4	.....	.....	95.4	95.4
450/336	.....	.....	95.8	95.8	.....	.....	95.4	95.4
500/373	.....	.....	95.8	95.8	.....	.....	95.8	95.4

(e) For purposes of determining the required minimum nominal full-load efficiency of an electric motor that has a horsepower or kilowatt rating between two horsepower or two kilowatt ratings listed in any table of energy conservation standards in paragraphs (a) through (d) of this section, each such motor shall be deemed to have a listed horsepower or kilowatt rating, determined as follows:

(1) A horsepower at or above the midpoint between the two consecutive horsepowers shall be rounded up to the higher of the two horsepowers;

(2) A horsepower below the midpoint between the two consecutive horsepowers shall be rounded down to the lower of the two horsepowers; or

(3) A kilowatt rating shall be directly converted from kilowatts to horsepower using the formula 1 kilowatt = ($^{1}/_{0.746}$) horsepower. The conversion should be calculated to three significant decimal places, and the resulting horsepower shall be rounded in accordance with paragraph (e)(1) or (e)(2) of this section, whichever applies.

(f) The standards in Table 1 through Table 4 of this section do not apply to definite purpose electric motors, special purpose electric motors, or those motors exempted by the Secretary.

(g) The standards in Table 5 through Table 7 of this section apply only to electric motors, including partial electric motors, that satisfy the following criteria:

(1) Are single-speed, induction motors;

(2) Are rated for continuous duty (MG 1) operation or for duty type S1 (IEC);

(3) Contain a squirrel-cage (MG 1) or cage (IEC) rotor;

(4) Operate on polyphase alternating current 60-hertz sinusoidal line power;

(5) Are rated 600 volts or less;

(6) Have a 2-, 4-, 6-, or 8-pole configuration,

(7) Are built in a three-digit or four-digit NEMA frame size (or IEC metric equivalent), including those designs between two consecutive NEMA frame sizes (or IEC metric equivalent), or an enclosed 56 NEMA frame size (or IEC metric equivalent),

(8) Produce at least one horsepower (0.746 kW) but not greater than 500 horsepower (373 kW), and

(9) Meet all of the performance requirements of one of the following motor types: A NEMA Design A, B, or C motor or an IEC Design N or H motor.

(h) Starting on June 1, 2016, each NEMA Design A motor, NEMA Design B motor, and IEC Design N motor that is an electric motor meeting the criteria in paragraph (g) of this section and with a power rating from 1 horsepower through 500 horsepower, but excluding fire pump electric motors, manufactured (alone or as a component of another piece of equipment) shall have a nominal full-load efficiency of not less than the following:

TABLE 5—NOMINAL FULL-LOAD EFFICIENCIES OF NEMA DESIGN A, NEMA DESIGN B AND IEC DESIGN N MOTORS (EXCLUDING FIRE PUMP ELECTRIC MOTORS) AT 60 HZ

Motor horsepower/ standard kilowatt equivalent	Nominal full-load efficiency (%)							
	2 Pole		4 Pole		6 Pole		8 Pole	
	Enclosed	Open	Enclosed	Open	Enclosed	Open	Enclosed	Open
1/.75	77.0	77.0	85.5	85.5	82.5	82.5	75.5	75.5
1.5/1.1	84.0	84.0	86.5	86.5	87.5	86.5	78.5	77.0
2/1.5	85.5	85.5	86.5	86.5	88.5	87.5	84.0	86.5
3/2.2	86.5	85.5	89.5	89.5	89.5	88.5	85.5	87.5
5/3.7	88.5	86.5	89.5	89.5	89.5	89.5	86.5	88.5
7.5/5.5	89.5	88.5	91.7	91.0	91.0	90.2	86.5	89.5
10/7.5	90.2	89.5	91.7	91.7	91.0	91.7	89.5	90.2
15/11	91.0	90.2	92.4	93.0	91.7	91.7	89.5	90.2
20/15	91.0	91.0	93.0	93.0	91.7	92.4	90.2	91.0
25/18.5	91.7	91.7	93.6	93.6	93.0	93.0	90.2	91.0
30/22	91.7	91.7	93.6	94.1	93.0	93.6	91.7	91.7
40/30	92.4	92.4	94.1	94.1	94.1	94.1	91.7	91.7
50/37	93.0	93.0	94.5	94.5	94.1	94.1	92.4	92.4
60/45	93.6	93.6	95.0	95.0	94.5	94.5	92.4	93.0
75/55	93.6	93.6	95.4	95.0	94.5	94.5	93.6	94.1
100/75	94.1	93.6	95.4	95.4	95.0	95.0	93.6	94.1
125/90	95.0	94.1	95.4	95.4	95.0	95.0	94.1	94.1
150/110	95.0	94.1	95.8	95.8	95.8	95.4	94.1	94.1
200/150	95.4	95.0	96.2	95.8	95.8	95.4	94.5	94.1
250/186	95.8	95.0	96.2	95.8	95.8	95.8	95.0	95.0

TABLE 5—NOMINAL FULL-LOAD EFFICIENCIES OF NEMA DESIGN A, NEMA DESIGN B AND IEC DESIGN N MOTORS (EXCLUDING FIRE PUMP ELECTRIC MOTORS) AT 60 HZ—Continued

Motor horsepower/ standard kilowatt equivalent	Nominal full-load efficiency (%)							
	2 Pole		4 Pole		6 Pole		8 Pole	
	Enclosed	Open	Enclosed	Open	Enclosed	Open	Enclosed	Open
300/224	95.8	95.4	96.2	95.8	95.8	95.8	.....	.....
350/261	95.8	95.4	96.2	95.8	95.8	95.8	.....	.....
400/298	95.8	95.8	96.2	95.8	.....	.....	.....	.....
450/336	95.8	96.2	96.2	96.2	.....	.....	.....	.....
500/373	95.8	96.2	96.2	96.2	.....	.....	.....	.....

(i) Starting on June 1, 2016, each NEMA Design C motor and IEC Design H motor that is an electric motor meeting the criteria in paragraph (g) of this section and with a power rating from 1 horsepower through 200 horsepower manufactured (alone or as a component of another piece of equipment) shall have a nominal full-load efficiency that is not less than the following:

TABLE 6—NOMINAL FULL-LOAD EFFICIENCIES OF NEMA DESIGN C AND IEC DESIGN H MOTORS AT 60 HZ

Motor horsepower/standard kilowatt equivalent	Nominal full-load efficiency (%)					
	4 Pole		6 Pole		8 Pole	
	Enclosed	Open	Enclosed	Open	Enclosed	Open
1/.75	85.5	85.5	82.5	82.5	75.5	75.5
1.5/1.1	86.5	86.5	87.5	86.5	78.5	77.0
2/1.5	86.5	86.5	88.5	87.5	84.0	86.5
3/2.2	89.5	89.5	89.5	88.5	85.5	87.5
5/3.7	89.5	89.5	89.5	89.5	86.5	88.5
7.5/5.5	91.7	91.0	91.0	90.2	86.5	89.5
10/7.5	91.7	91.7	91.0	91.7	89.5	90.2
15/11	92.4	93.0	91.7	91.7	89.5	90.2
20/15	93.0	93.0	91.7	92.4	90.2	91.0
25/18.5	93.6	93.6	93.0	93.0	90.2	91.0
30/22	93.6	94.1	93.0	93.6	91.7	91.7
40/30	94.1	94.1	94.1	94.1	91.7	91.7
50/37	94.5	94.5	94.1	94.1	92.4	92.4
60/45	95.0	95.0	94.5	94.5	92.4	93.0
75/55	95.4	95.0	94.5	94.5	93.6	94.1
100/75	95.4	95.4	95.0	95.0	93.6	94.1
125/90	95.4	95.4	95.0	95.0	94.1	94.1
150/110	95.8	95.8	95.8	95.4	94.1	94.1
200/150	96.2	95.8	95.8	95.4	94.5	94.1

(j) Starting on June 1, 2016, each fire pump electric motor meeting the criteria in paragraph (g) of this section and with a power rating of 1 horsepower through 500 horsepower, manufactured (alone or as a component of another piece of equipment) shall have a nominal full-load efficiency that is not less than the following:

TABLE 7—NOMINAL FULL-LOAD EFFICIENCIES OF FIRE PUMP ELECTRIC MOTORS AT 60 HZ

Motor horsepower/ standard kilowatt equivalent	Nominal full-load efficiency (%)							
	2 Pole		4 Pole		6 Pole		8 Pole	
	Enclosed	Open	Enclosed	Open	Enclosed	Open	Enclosed	Open
1/.75	75.5	.....	82.5	82.5	80.0	80.0	74.0	74.0
1.5/1.1	82.5	82.5	84.0	84.0	85.5	84.0	77.0	75.5
2/1.5	84.0	84.0	84.0	84.0	86.5	85.5	82.5	85.5
3/2.2	85.5	84.0	87.5	86.5	87.5	86.5	84.0	86.5
5/3.7	87.5	85.5	87.5	87.5	87.5	87.5	85.5	87.5
7.5/5.5	88.5	87.5	89.5	88.5	89.5	88.5	85.5	88.5
10/7.5	89.5	88.5	89.5	89.5	89.5	90.2	88.5	89.5
15/11	90.2	89.5	91.0	91.0	90.2	90.2	88.5	89.5
20/15	90.2	90.2	91.0	91.0	90.2	91.0	89.5	90.2
25/18.5	91.0	91.0	92.4	91.7	91.7	91.7	89.5	90.2
30/22	91.0	91.0	92.4	92.4	91.7	92.4	91.0	91.0
40/30	91.7	91.7	93.0	93.0	93.0	93.0	91.0	91.0

TABLE 7—NOMINAL FULL-LOAD EFFICIENCIES OF FIRE PUMP ELECTRIC MOTORS AT 60 HZ—Continued

Motor horsepower/ standard kilowatt equivalent	Nominal full-load efficiency (%)							
	2 Pole		4 Pole		6 Pole		8 Pole	
	Enclosed	Open	Enclosed	Open	Enclosed	Open	Enclosed	Open
50/37	92.4	92.4	93.0	93.0	93.0	93.0	91.7	91.7
60/45	93.0	93.0	93.6	93.6	93.6	93.6	91.7	92.4
75/55	93.0	93.0	94.1	94.1	93.6	93.6	93.0	93.6
100/75	93.6	93.0	94.5	94.1	94.1	94.1	93.0	93.6
125/90	94.5	93.6	94.5	94.5	94.1	94.1	93.6	93.6
150/110	94.5	93.6	95.0	95.0	95.0	94.5	93.6	93.6
200/150	95.0	94.5	95.0	95.0	95.0	94.5	94.1	93.6
250/186	95.4	94.5	95.0	95.4	95.0	95.4	94.5	94.5
300/224	95.4	95.0	95.4	95.4	95.0	95.4	.....	.....
350/261	95.4	95.0	95.4	95.4	95.0	95.4	.....	.....
400/298	95.4	95.4	95.4	95.4	.....	.....	.....	.....
450/336	95.4	95.8	95.4	95.8	.....	.....	.....	.....
500/373	95.4	95.8	95.8	95.8	.....	.....	.....	.....

(k) For purposes of determining the required minimum nominal full-load efficiency of an electric motor that has a horsepower or kilowatt rating between two horsepower or two kilowatt ratings listed in any table of energy conservation standards in paragraphs (h) through (l) of this section, each such motor shall be deemed to have a listed horsepower or kilowatt rating, determined as follows:

(1) A horsepower at or above the midpoint between the two consecutive horsepowers shall be rounded up to the higher of the two horsepowers;

(2) A horsepower below the midpoint between the two consecutive horsepowers shall be rounded down to the lower of the two horsepowers; or

(3) A kilowatt rating shall be directly converted from kilowatts to horsepower using the formula 1 kilowatt = ($^{1}/_{0.746}$) horsepower. The conversion should be calculated to three significant decimal places, and the resulting horsepower shall be rounded in accordance with paragraph (k)(1) or (k)(2) of this section, whichever applies.

(l) The standards in Table 5 through Table 7 of this section do not apply to the following electric motors exempted by the Secretary, or any additional electric motors that the Secretary may exempt:

(1) Air-over electric motors;

(2) Component sets of an electric motor;

(3) Liquid-cooled electric motors;

(4) Submersible electric motors; and

(5) Inverter-only electric motors.

[**Note:** The following letter from the Department of Justice will not appear in the Code of Federal Regulations.]

APPENDIX TO FINAL RULE

U.S. Department of Justice
Antitrust Division
William J. Baer
Assistant Attorney General
RFK Main Justice Building
950 Pennsylvania Ave. NW.
Washington, DC 20530–0001
(202) 514–2401/(202) 616–2645 (Fax)

February 3, 2014

Eric J. Fygi
Deputy General Counsel
Department of Energy
Washington, DC 20585

Dear Deputy General Counsel Fygi:

I am responding to your December 11, 2013 letter seeking the views of the Attorney General about the potential impact on competition of proposed energy conservation standards for certain types of commercial and industrial electric motors. Your request was submitted under Section 325(o)(2)(B)(i)(V) of the Energy Policy and Conservation Act, as amended (ECPA), 42 U.S.C. 6295(o)(2)(B)(i)(V), which requires the Attorney General to make a determination of the impact of any lessening of competition that is likely to result from the imposition of proposed energy conservation standards. The Attorney General's responsibility for responding to requests from other departments about the effect of a program on competition has been delegated to the Assistant Attorney General for the Antitrust Division in 28 CFR § 0.40(g).

In conducting its analysis the Antitrust Division examines whether a proposed standard may lessen competition, for example, by substantially limiting consumer choice, by placing certain manufacturers at an unjustified competitive disadvantage, or by inducing avoidable inefficiencies in production or distribution of particular products. A lessening of competition could result in higher prices to manufacturers and consumers, and perhaps thwart the intent of the revised standards by inducing substitution to less efficient products.

We have reviewed the proposed standards contained in the Notice of Proposed Rulemaking (78 Fed. Reg. 235, December 6, 2013). We have also reviewed supplementary information submitted to the Attorney General by the Department of Energy, including a transcript of the public meeting held on the proposed standards on December 11, 2013. Based on this review, our conclusion is that the proposed energy conservation standards for certain commercial and industrial electric motors can advance the Department of Energy's goal of energy conservation without causing a significant adverse impact on competition.

Sincerely,
William J. Baer.

[FR Doc. 2014–11201 Filed 5–28–14; 8:45 am]

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Part III

The President

Presidential Determination No. 2014–09 of May 19, 2014—Unexpected Urgent Refugee and Migration Needs Relating to South Sudan

Executive Order 13668—Ending Immunities Granted to the Development Fund for Iraq and Certain Other Iraqi Property and Interests in Property Pursuant to Executive Order 13303, as Amended

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Presidential Documents

Title 3—

The President

Presidential Determination No. 2014–09 of May 19, 2014

Unexpected Urgent Refugee and Migration Needs Relating to South Sudan

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States, including section 2(c)(1) of the Migration and Refugee Assistance Act of 1962 (the ''Act'') (22 U.S.C. 2601(c)(1)), I hereby determine, pursuant to section 2(c)(1) of the Act, that it is important to the national interest to furnish assistance under the Act, in an amount not to exceed $50 million from the United States Emergency Refugee and Migration Assistance Fund, for the purpose of meeting unexpected urgent refugee and migration needs resulting from the crisis in South Sudan, including by contributions to international, governmental, and nongovernmental organizations and payment of administrative expenses of the Bureau of Population, Refugees, and Migration of the Department of State.

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

THE WHITE HOUSE,
Washington, May 19, 2014

[FR Doc. 2014–12649
Filed 5–28–14; 11:15 am]
Billing code 4710–10

Presidential Documents

Executive Order 13668 of May 27, 2014

Ending Immunities Granted to the Development Fund for Iraq and Certain Other Iraqi Property and Interests in Property Pursuant to Executive Order 13303, as Amended

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act, as amended (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), section 5 of the United Nations Participation Act, as amended (22 U.S.C. 287c) (UNPA), and section 301 of title 3, United States Code,

I, BARACK OBAMA, President of the United States of America, have determined that the situation that gave rise to the actions taken in Executive Order 13303 of May 22, 2003, to protect the Development Fund for Iraq and certain other property in which the Government of Iraq has an interest has been significantly altered. Recognizing the changed circumstances in Iraq, including the Government of Iraq's progress in resolving and managing the risk associated with outstanding debts and claims arising from actions of the previous regime, I hereby terminate the prohibitions contained in section 1 of Executive Order 13303 of May 22, 2003, as amended by Executive Order 13364 of November 29, 2004, on any attachment, judgment, decree, lien, execution, garnishment, or other judicial process with respect to the Development Fund for Iraq and Iraqi petroleum, petroleum products, and interests therein, and the accounts, assets, investments, and other property owned by, belonging to, or held by, in the name of, on behalf of, or otherwise for, the Central Bank of Iraq. This action is not intended otherwise to affect the national emergency declared in Executive Order 13303 of May 22, 2003, as expanded in scope by Executive Order 13315 of August 28, 2003, which shall remain in place. This action is also not intended to affect immunities enjoyed by the Government of Iraq and its property under otherwise applicable law.

I hereby order:

Section 1. The prohibitions set forth in section 1 of Executive Order 13303 of May 22, 2003, as amended by Executive Order 13364 of November 29, 2004, are hereby terminated.

Sec. 2. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA and the UNPA as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government. All agencies of the United States Government are hereby directed to take all appropriate measures within their statutory authority to carry out the provisions of this order.

Sec. 3. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Sec. 4. This order shall be transmitted to the Congress and published in the *Federal Register*.

THE WHITE HOUSE,
May 27, 2014.

[FR Doc. 2014–12651
Filed 5–28–14; 11:15 am]
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H.R. 862/P.L. 113–107
To authorize the conveyance of two small parcels of land within the boundaries of the Coconino National Forest containing private improvements that were developed based upon the reliance of the landowners in an erroneous survey conducted in May 1960. (May 24, 2014; 128 Stat. 1162)
Last List May 28, 2014

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